

In the fall of 2008, the U.S. economy nearly collapsed thanks to an unprecedented wave of mortgage foreclosures. In this series the Center revisits the subprime lenders, Wall Street banks and government regulators that were most responsible for the crash — and finds few if any have been held accountable.



The Center for
Public Integrity

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In 2009, the Center published a free ebook with a list of the top 25 subprime lenders from 2005 through 2007 whose bad loans led to the near collapse of the economy. The ebook can be found at: www.publicintegrity.org/about/our-work/books.

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About the Series

On September 15, 2008, Lehman Brothers Holdings Inc. filed for Chapter 11, the largest bankruptcy in the nation's history. The move set off a series of dramatic actions in Washington, D.C., and on Wall Street as bankers and regulators sought to avoid a shutdown of the global economy. To mark the five-year anniversary, the Center published a three-part series on what has happened since the meltdown.

Key Findings | Part One

- The CEOs of the banks that got into the biggest trouble during the financial crisis are living in luxury.
- None of the top banking CEOs or senior executives has been prosecuted for actions taken that led to the crisis.
- The CEOs have faced little liability for the financial wreckage that happened on their watch. Company insurance policies and shareholders have covered most legal settlements.

Key Findings | Part Two

- Top executives from the 25 biggest pre-crisis subprime lenders — including at least 14 founders or CEOs

— are back in the mortgage business at mortgage companies that are less regulated than banks.

- Many of these lenders make loans that don't meet the strict standards required to earn a government guarantee — loans banks have largely abandoned.
- Mortgage lending remains far safer than before the crisis with many of the worst loan products banned outright. But lenders are beginning to loosen their standards, and experts say the industry will find ways over the coming years to offer ever-riskier products.

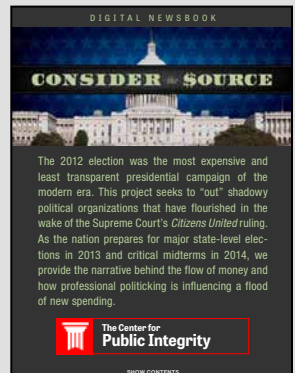
Key Findings | Part Three

- Most of the leaders of the agencies charged with oversight of the financial system — the SEC, Federal Reserve, Treasury, FDIC, and OTS — have moved on.
- Many former regulators are cashing in on their experience — helping companies navigate reforms made after the crisis, writing books on their experiences, making a killing on the speaking circuit — or have retired quietly.
- Five years later, most regulators have admitted mistakes made in the events leading up to the financial crisis and things they could have done better.



The Center for Public Integrity

The Center for Public Integrity was founded in 1989 by Charles Lewis. We are one of the country's oldest and largest nonpartisan, nonprofit investigative news organizations. Our mission: To enhance democracy by revealing abuses of power, corruption and betrayal of trust by powerful public and private institutions, using the tools of investigative journalism.



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From left: Former Lehman Brothers CEO Richard Fuld's mansion in Greenwich, Conn., Fuld being sworn in during a Sept. 2010 Financial Crisis Inquiry Commission hearing on Capitol Hill. Pictometry, Carolyn Kaster/AP

Ex-Wall Street chieftains living large in post-meltdown world

By Alison Fitzgerald

Published Online: September 10, 2013

FIVE YEARS after the near-collapse of the nation's financial system, the economy continues a slow recovery marred by high unemployment, hesitant con-

sumers and sluggish business investment.

Many of the top Wall Street bankers who were largely responsible for the disaster — and whose compa-

nies either collapsed or accepted billions in government bailouts — are also unemployed. But since they walked away from the disaster with millions, they're juggling their ample free time between mansions and golf, skiing and tennis.

Meantime, the major banks that survived the crisis, largely because they were saved with taxpayer money after being deemed “too big to fail,” are now bigger and more powerful than ever.

The Center for Public Integrity looked at what happened to five former Wall Street kingpins to see what they are up to these days. None are in jail, nor are any criminal charges expected to be filed.

Certainly none are hurting for money.

Take Richard Fuld. Five years after Lehman Brothers Holdings Inc., the 158-year-old company he ran, collapsed under the weight of bad investments and sent a tidal wave of panic through the global financial system, Fuld is living comfortably.

Online Interactive Graphic:

Tour the homes of some of Wall Street's biggest former bankers. ▶

He has a mansion in Greenwich, Conn., a 40-plus-acre ranch in Sun Valley, Idaho, as well as a five-bedroom home in Jupiter Island, Fla. He no longer has a place in Manhattan, since he sold his Park Avenue apartment in 2009 for \$25.87 million.

The other four bankers the Center caught up with — Jimmy Cayne (Bear Stearns), Stanley O'Neal (Merrill Lynch), Chuck Prince (Citigroup) and Ken Lewis (Bank of America) are also living in quiet luxury.

Meltdown primer

A quick crisis refresher: During the early years of the last decade, U.S. home values were soaring, fueled by ultra-low interest rates.

Wall Street investors, eager to get in on the party, developed an enormous appetite for bonds backed by the mortgages of everyday homeowners. Firms like Lehman would buy up thousands of mortgages, pool them together into a security, and sell the cash flow from the mortgage payments to investors, including pension funds and hedge funds.

The bonds were thought to be almost as safe as U.S. Treasuries, but they carried a higher interest rate.

The demand was so great that eventually mortgage lenders loosened their underwriting standards and made loans to people who couldn't afford them, just to satisfy hungry investors.

When the housing market turned down in 2007 and homeowners began to default on their loans, the whole system began to crumble.

In March 2008, Bear Stearns almost collapsed and was sold. Six months later, Lehman failed, setting off a chain reaction that killed dozens more banks and mortgage lenders. Weeks later, Congress approved a \$700 billion bailout of the financial system and soon nearly every major financial institution was on the dole.

The ensuing recession destroyed as much as \$34 trillion in wealth and sent the unemployment rate soaring above 10 percent for the first time in 25 years.

“Every single one of these companies was insolvent,” said Neil Barofsky, the former special inspector general overseeing the bailout, which was called the Trouble Asset Relief Program.

“Clearly there was a large underpinning of fraud,” said Barofsky, a former federal prosecutor, who argues the government didn't adequately

pursue criminal charges against those who caused the crisis. “There was never really a comprehensive investigation. The Justice Department largely outsourced this to the Securities and Exchange Commission.”

Five years after the meltdown, the potential for a criminal prosecution of any of those involved in the events leading up to the collapse has faded as the statute of limitations for financial fraud ran out.

The five ultra-rich former Wall Street chieftains have simultaneously faded into luxurious obscurity while the survivors — Jamie Dimon of JPMorgan Chase & Co. and Lloyd Blankfein of Goldman Sachs — have only consolidated their power as they alternate between being seen as great villains or near statesmen depending on the changing fortunes of their companies.

Fuld checks in

Five years after Lehman Brothers declared bankruptcy, Fuld is keeping a low profile. He's not giving interviews or lectures, and he's not done an apology tour.

At times he picks up the phone and calls up former Lehman co-workers — those whom he considers friends — to check in.

Kevin White, a former managing director at Lehman, says he hears from Fuld about once a month. The former CEO asks about White's family, checks on how business is at the hedge fund White founded after Lehman, offers to help, and perhaps introduce him to someone.

"Dick's a family man and he's someone who takes this whole Lehman bankruptcy very personally," White says. He admits that some of his former colleagues hate Fuld and don't understand why White stays in touch.

Fuld has been widely criticized, by former Lehman workers and in official investigations, for allowing the firm to drown itself in too much debt. When it went bankrupt, for every dollar of capital Lehman held, it was borrowing at least \$30. Some reports say the rate was higher than 40 to 1.

That gave it no cushion to absorb losses when the market began to decline.

The myriad investigations into



Photo: Carolyn Kaster/AP

Richard Fuld, former CEO of Lehman Brothers Holdings Inc.

- Fuld earned **about \$69.5 million** in 2007, the year before Lehman Brothers filed for bankruptcy in Sept. 2008. From 2000 to 2007, he was awarded **about \$889.5 million** and cashed out **about \$529 million** of that before the company went bankrupt.
- He owns homes in Greenwich, Connecticut, Jupiter Island, Florida, and a ranch in Sun Valley, Idaho.
- Fuld has since started a consulting firm called Matrix Advisors LLC.

the causes of the crisis revealed that under Fuld's watch, Lehman executives toyed with the company's finances to make that leverage look better than it really was using what some Lehman employees called an "accounting gimmick" called Repo

105, according to the official bankruptcy report by Anton Valukas of the law firm Jenner & Block.

The tactic allowed the company to characterize a short-term loan as an asset sale and then use the money from that false sale to cut debt. By doing so, Lehman appeared to have less debt and more cash. Lehman used Repo 105 transactions to cut the debt on its books by as much as \$50 billion just before it announced quarterly earnings, giving investors a false impression of the bank's financial health.

In a legal filing in an investor lawsuit, Fuld and other Lehman executives said investors were informed that Lehman's leverage was often higher than it was at the end of each quarter.

"Lehman specifically disclosed that its balance sheet 'will fluctuate from time to time' and could be and at times was larger than its balance sheet reported at quarter- or year-end," the filing said.

Fuld, in testimony before the Financial Crisis Inquiry Commission, blamed Lehman's failure on the government's decision not to give it a bailout.

"Lehman was forced into bankruptcy not because it neglected to act responsibly or seek solutions to

the crisis, but because of a decision, based on flawed information, not to provide Lehman with the support given to each of its competitors," he testified.

"There is sufficient evidence ... that Fuld was at least grossly negligent," Valukas wrote in his report.

Negligence isn't necessarily a crime, however, so Fuld has faced no punishment for the wreckage caused by his company's collapse, save perhaps banishment to irrelavance.

Last year a federal judge approved a \$90 million settlement of a class action suit brought by Lehman investors against Fuld and several other company executives and directors. The judge, Lewis Kaplan, questioned whether the settlement, which will be paid entirely by Lehman's insurers, was fair given that none of the individuals would pay out of pocket. He agreed to the deal, however, because litigation expenses for a trial were likely to deplete the funds available for compensating the investors.

Fuld quietly opened his own advisory firm called Matrix Advisors in a Third Avenue office building in Manhattan, across the street from the headquarters of Avon, the cosmetics company. He's landed a few

clients, according to news reports, SEC filings and court records. Matrix advised AT&T Inc. on its failed bid to purchase T-Mobile. And it has consulted with GlyEco, a company that recycles the chemical glycol, and Ecologic Transportation Corp., a company that rents out environmentally friendly cars.

He was recently spotted at Doubles, the private dining club in the Sherry-Netherland Hotel in Manhattan, according to a former Lehman employee.

Still, companies haven't been eager to have their names associated with Fuld, so landing clients hasn't been easy, according to two people familiar with the business.

Fuld, through his lawyer, declined several interview requests for this story. He wasn't in his office when a reporter paid a visit in July. His assistant, through a security guard, declined to say where he was.

Even if business is slow, it may not matter much to Fuld. Unlike many of his former employees, and unlike the millions of people still out of work after the 2008 financial collapse, Fuld has money.

When Lehman Brothers filed for bankruptcy on Sept. 15, there was a sense that if Fuld had mismanaged Lehman to death, at least he had

lost a load of cash in the process as the value of his company stock dropped to nothing.

And he did lose plenty.

Fuld's 10.8 million shares of the company that may have once been worth more than \$900 million, according to a study by Harvard University Professor Lucian Bebchuk, became worthless.

However, he wasn't exactly on his way to the poor house. From 2000 through 2007, Fuld took home as much as \$529 million from his Lehman job. That includes his salary and cash bonuses, as well as the Lehman shares granted him by the company that he sold before the bankruptcy in September 2008.

That total comes from an analysis by Oliver Budde, a former Lehman associate general counsel who left the firm in 2006 because, he says, Lehman was underreporting its executive compensation to shareholders.

That income allowed Fuld to buy some very high-end real estate.

In Greenwich, he has an \$8 million, nine-bedroom home with a guest house. He and his wife, Kathleen, bought the house in 2004 after they sold their previous Greenwich home to Robert Steel, a Goldman Sachs executive who became under-

secretary of the Treasury in 2006 under Henry Paulson. Steel then became CEO of Wachovia, which nearly collapsed 11 days after Lehman and was sold to Wells Fargo at the direction of federal regulators.

When he's looking to get out of Greenwich, Fuld can head south to Jupiter Island, Fla., a ritzy barrier island that's home to Tiger Woods and Greg Norman. He transferred ownership of the \$10.6 million beachfront home, with a pool and tennis court, to his wife in November 2008, a common strategy for protecting assets from legal judgments.

He also spends a lot of time at his 40-plus-acre ranch in Ketchum, Idaho, in the center of the Sun Valley resort area. The spot offers "ultimate privacy," according to Daryl Fauth, CEO of Blaine County Title in Ketchum.

The ranch is located just five minutes from downtown Ketchum, east of the Baldy Mountain ski resort and west of the Reinheimer Ranch, a 110-acre spread that's owned by the Idaho Foundation for Parks and Lands and can't be developed. The house is situated on a bend in a river that runs through the property.

Fuld even managed to make a killing in real estate during the depths of the collapse. A Park Av-

enue apartment that he and his wife bought in 2007 for \$21 million was sold in 2009 for a \$4.8 million gross profit.

What he hasn't done is make any public statement or gesture or obvious effort to rehabilitate his image. He hasn't made any public overtures to major charities.

He appears to have wound down his family foundation after Lehman went bankrupt, distributing the last \$10,948 in 2009, according to tax filings. And last summer Fuld sued his estranged son-in-law seeking to recover money he had lent the younger man to buy a home with Fuld's daughter.

Fuld was looking to be paid in cash and stock by those he advised, according to a person familiar with the company. That's the type of agreement he struck with Ecologic, which paid him a \$10,000-per-month retainer and granted him options to buy 2.29 million shares of its stock at 25 cents per share.

Jimmy's playing bridge

While Fuld has tried to stay in the business, Jimmy Cayne of Bear Stearns has withdrawn completely.

Cayne, who lives in a \$25 million apartment in New York's Plaza Ho-

tel, can be found almost every day in cyberspace hosting an online bridge game.

Last month in the Hyatt Regency hotel in Atlanta, Cayne sat for hours in a crowded ballroom with orange, brown and yellow swirled carpet competing for the coveted Spingold Cup.

Cayne sat in a crisply pressed shirt with his team — two Italians and two Israelis — chomping a cigar and talking in hushed tones over one of the dozens of folding tables. He likely pays his players more than \$100,000 a year each to help him remain atop the world rankings, according to two people who have played in tournaments against him.

He's ranked 22nd in the world, according to the American Contract Bridge League. Last month he lost in the round of 16 of the Spingold knockout match.

That he's opted for bridge over finance is telling, as Cayne was much criticized for spending more time on golf and bridge than on dealing



Photo: Undated Bear Stearns handout/AP

Jimmy Cayne, former CEO of Bear Stearns

- Cayne retired from his CEO position in January 2008 after the company said it lost \$1.7 billion in bad home loan bets. From 2000 until his retirement in 2008, he brought home **about \$376.6 million**.
- He has residences in New York City's Plaza Hotel, a second New York City apartment on Park Avenue, Long Branch, New Jersey and Boca Raton, Florida.
- Cayne now spends his time playing bridge online and in tournaments.

with the crises that were crushing his firm.

While at Bear, Cayne would leave every Thursday and take a helicopter to his New Jersey beach house for long weekends of golf at the Hollywood Golf Club. He'd emerge from

the chopper behind sunglasses and chomping the trademark cigar, according to people who saw him there.

Cayne had survived the bankruptcy of two Bear Stearns hedge funds the summer before but succumbed to the inevitable when, in the fourth quarter of 2007, the company had to write down \$1.9 billion in bad home loan bets, leading to its first quarterly loss ever.

He retired as CEO in January 2008, two months before the firm collapsed under the weight of its subprime mortgage investments, but remained as board chairman. As the market became doubtful that the mortgage bonds on Bear's books were worth what the company claimed, companies pulled their business, suddenly and en masse.

Bear Stearns was sold on March 16, 2008, in a late night deal to JPMorgan Chase & Co., which eventually paid \$1.2 billion, about what it would have cost to buy the company's Madison Avenue headquarters.

The company's leverage ratio was 38 to 1 or higher, according to Phil Angelides, the chairman of the Financial Crisis Inquiry Commission. Cayne acknowledged in his testimony before the commission that it was too high.

"That was the business," he said.

"That was really industry practice."

He told Angelides that he believed in Bear so strongly that he almost never sold its stock. "I rarely sold any of the firm's stock except as needed to pay taxes," he testified on May 5, 2010.

Like Fuld, Cayne lost about \$900 million on paper when Bear's stock plunged, but he took home plenty before the crash. He earned \$87.5 million in cash bonuses from 2000 to 2007 and sold stock worth about \$289.1 million in those years, according to Bebchuk's study.

In addition to the Plaza Hotel condo, he and his wife have a second apartment on Park Avenue. They put that home on the market last month for \$14.95 million. When they want to get out of the city, they can head to their \$8.2 million mansion on the Jersey Shore, about a mile from the Hollywood Golf Club, or their \$2.75 million condo at the Boca Beach Club in Boca Raton, Fla.

Cayne, like many of his fellow CEOs, has apparently worked to shield his assets from potential liability.

In November and December 2009, he transferred ownership of four pieces of real estate to four separate limited liability companies, called Legion Holdings I, II, III and

IV, for a total of \$21. Some of the LLCs share Cayne's Plaza Hotel mailing address in public tax records.

"I take responsibility for what happened. I'm not going to walk away from the responsibility," Cayne told the FCIC.

He hasn't had to take any for the demise of Bear, however. He's paid no judgments or settlements from any lawsuits, according to his lawyer, David Frankel.

Chuck Prince is helping his friends

While Fuld went down with his ship and Cayne remained until close to the end, two of their CEO brethren were pushed aside earlier — when the subprime collapse began taking its toll on profits — only to watch their companies falter from a distance.

Charles O. Prince III resigned as CEO of Citigroup on Nov. 5, 2007, when the company announced it had lost between \$8 billion and \$11 billion on subprime mortgage bets.

"Given the size of the recent loss-



Photo: Diane Bondareff/AP

Chuck Prince, former CEO of Citigroup

- Prince resigned in November 2007 when the company announced it lost as much as \$11 billion on subprime mortgage-backed securities. His golden parachute was **\$28 million**, on top of **\$65.2 million** in salary and bonuses since 2000 — a total of **\$93.2 million**.
- He has two homes: one in Nantucket, Massachusetts, and another in North Palm Beach, Florida.
- He's on the boards of Xerox Corp. and Johnson & Johnson Inc.

es in our mortgage-backed securities business, the only honorable course for me to take as Chief Executive Officer is to step down," he said in a statement. Prince walked away with a golden parachute worth about \$33.6 million.

From 2000 through his resignation, Prince took home \$65.2 million in cash salary and bonuses, according to an analysis by the Center. There are no SEC reports showing that he sold any shares from 2000 through 2008. It's unclear whether he's sold any since he resigned. Citigroup shares were priced at more than \$300 the week Prince resigned and today hover at about \$50 after a 1-for-10 reverse stock split.

His downfall came only months after he famously justified Citi's continued involvement in subprime:

"When the music stops, in terms of liquidity, things will be complicated. But as long as the music is playing, you've got to get up and dance. We're still dancing," he told *The Financial Times* in July 2007.

Prince was succeeded by Vikram Pandit, a former hedge fund manager whose firm was acquired by Citi just months earlier for \$800 million. While Pandit was trying to right the listing ship, the company continued to provide Prince with an office, an administrative assistant and a car and driver for up to five years, a package worth \$1.5 million a year, according to SEC filings.

By the end of 2008, Citigroup had received \$45 billion in bailout money from the U.S. Treasury and

the Federal Reserve had guaranteed hundreds of millions of dollars of its debt.

Prince apologized for the disaster that the financial crisis caused in testimony to the FCIC in 2010. "I'm sorry the financial crisis has had such a devastating impact for our country," he testified. "I'm sorry about the millions of people, average Americans, who lost their homes. And I'm sorry that our management team, starting with me, like so many others, could not see the unprecedented market collapse that lay before us."

After Citigroup, Prince joined the global consulting firm Stonebridge International, which was founded by former National Security Advisor Sandy Berger. The company merged in 2009 with the Albright Group, founded by former Secretary of State Madeleine Albright to form Albright Stonebridge Group.

Prince described his move to Albright Stonebridge as "helping my friends with their activities," in a 2009 interview. When pressed about what his exact job was he said, "I'm just a friend."

He's no longer listed as an executive on the company's website and a spokeswoman for the company did not respond to an email and phone

call seeking an update on his status.

He serves on the boards of directors of Xerox Corp. and Johnson & Johnson Inc. He's represented by the Harry Walker Agency as a speaker for hire on topics including "Corporate Governance: A Five-Point Plan to the Best Business Practices," and "Inside the Current Financial Crisis."

Last year Prince, along with Citigroup and several members of the company's pre-2008 board, settled a class action lawsuit for \$590 million that accused them of misleading investors about the amount of subprime-related securities the company held on its books and underreporting losses related to those investments. Prince and the other defendants didn't admit any wrongdoing in the settlement.

It's unclear how often Prince went to the office held for him at Citi, but what is clear is that Prince had plenty of other places to spend his time.

He has a \$3.6 million Nantucket getaway and a \$2.7 million house in a Jack Nicklaus golf community in



Photo: Susan Walsh/AP

Stanley O'Neal, former CEO of Merrill Lynch

- O'Neal was fired in November 2007 after Merrill Lynch lost \$8 billion on mortgage-backed securities, and was given a golden parachute of **\$161.5 million**.
- He has a Park Avenue apartment in New York City and a home in Edgartown, Massachusetts, on Martha's Vineyard.
- O'Neal is on the board of Alcoa Inc.

North Palm Beach, Fla., called Lost Tree Village.

Stan O'Neal goes to the Vineyard

Prince's ouster from Citigroup was prefaced just days earlier by the departure of Stanley O'Neal from

Merrill Lynch.

O'Neal had taken over Merrill when it was mostly a retail brokerage firm and turned it into a major manufacturer of collateralized debt obligations, a type of security, backed by home mortgages.

By 2006, it was the biggest underwriter of CDOs on Wall Street and a year later the company had \$55 billion worth of subprime loans on its own books that no one wanted to buy.

As the losses mounted, O'Neal made overtures, first to Bank of America, then to Wachovia, about buying Merrill Lynch — without the approval of the board, according to a 2010 interview O'Neal gave to Fortune Magazine. When in October 2007 Merrill announced it was writing off \$8 billion of its mortgage-backed securities, and then news broke that O'Neal was thinking of selling the firm, it was over. He was fired.

O'Neal floated out of Merrill comfortably, however, buoyed by a golden parachute worth \$161.5 million. In the eight years leading up to his ouster, O'Neal earned \$68.4 million in cash salary and bonuses, and he sold Merrill stock at a profit of at least \$18.7 million, according to a Center review of annual reports and SEC filings.

He was succeeded by John Thain,

a former CEO of the New York Stock Exchange, who convinced Bank of America to buy Merrill Lynch for \$50 billion just as Lehman was imploding and taking much of the financial system with it.

(Thain himself was eventually fired after it became public that he spent more than \$1 million renovating his Merrill office — including \$87,700 for a pair of guest chairs — as the company was on the verge of bankruptcy.)

O'Neal, however, is flush. On top of his \$161.5 million, he and his wife have a Park Avenue apartment. NBC anchor Tom Brokaw sold his apartment in the building for \$10.75 million in 2011. O'Neal transferred full ownership to his wife in November 2008, a common strategy to protect the home from any legal judgments.

The couple also owns a \$12.4 million vacation home in Martha's Vineyard through an LLC called KZ Vineyard Land.

Today he sits on the board of Alcoa Inc., the world's top producer of aluminum and is on the audit and corporate governance committees.

Ken Lewis moves to Florida

Kenneth Lewis survived the September 2008 bloodbath and even

came out looking like a hero to some when he arranged Bank of America's hasty purchase of Merrill Lynch — O'Neal's former employer — for \$50 billion on the same weekend that Lehman failed, possibly saving it from the same fate as Lehman.

It soon became clear that Merrill was no bargain. That, combined with Lewis' ill-advised purchase of subprime giant Countrywide Financial just as the housing market went into free fall, led Bank of America to start hemorrhaging cash.

It eventually got \$45 billion in bailout money from the federal government to stanch the bleeding.

Lewis knew of Merrill's excess losses before shareholders approved the final deal, according to his 2009 testimony to then-New York Attorney General Andrew Cuomo. He said he kept the losses hidden under pressure from Treasury Secretary Henry Paulson who worried that, if the deal fell through, it would hurt the already wounded market and overall economy.



Photo: Susan Walsh/AP

Kenneth Lewis, former CEO of Bank of America

- Lewis retired in September 2009 and got a payout of **\$83 million** in addition to the estimated **\$138.8 million** he took home in cash, bonuses and stock sales between 2000 and 2008 — for a total of **\$221.8 million**.
- He's sold two homes in the past two years: one in Charlotte, North Carolina and another in Aspen, Colorado. He owns a condo in Naples, Florida.

Bank of America last month was accused by the Justice Department in a civil lawsuit of understating the risks that the loans included in \$850 million of mortgage-backed securities would default. The Justice Department said the company was so hungry for loans to securitize that it let its quality controls slide and

didn't adequately verify borrowers' incomes or ability to repay. The suit did not name Lewis as a defendant.

The company already settled a civil fraud suit with the SEC for \$150 million and another lawsuit brought by pension fund investors for \$62.5 million.

Lewis retired in September 2009 with a going-away package worth \$83 million, even though the company was largely dependent on the federal government for its survival. He had already banked at least \$86.4 million from Bank of America stock sales between 2000 and 2008, according to SEC filings. He also brought in \$52.4 million in salary and bonuses in that time.

He and his wife Donna sold their house in Charlotte, N.C., in January for \$3.15 million and their mountainside mansion in Aspen for \$13.5 million, \$3.35 million less than what they paid for it in 2006.

They appear now to have only one home, a \$4.1 million condo in a beachfront high-rise in Naples, Fla.

The winners

While Lewis and several of the CEOs that led their companies into the thicket of mortgage-backed securities have ended up rich but un-

employed, two have seen their fortunes soar.

Jamie Dimon and Lloyd Blankfein, the leaders of JPMorgan Chase & Co. and Goldman Sachs Group Inc., today stand atop the global financial system, their banks bigger and more powerful than ever and their personal fortunes growing.

Blankfein was a magnet for scorn and envy before the crisis when Goldman awarded him a \$68 million bonus in 2007, just as the economy was going bad. He then became the target for much of the public wrath that followed the collapse of the economy when he flippantly declared that Goldman was doing "God's work" by lending money to businesses.

His reputation plummeted to its lowest point in 2010 after revelations that Goldman Sachs packaged and sold mortgage securities that appeared designed to fail, and then shorted the bonds, making a killing for the firm while customers lost money.

The company was sued by the SEC over one such deal, called Abacus, and Goldman settled the case for \$550 million without admitting any wrongdoing.

While Blankfein was the villain, Dimon was treated as a rock-star statesman.

He was welcome at the White House and lauded as one of the only bankers who didn't need a bailout — even though he took one, allegedly at the direction of Paulson.

Obama sang his praises in February 2009, just weeks after entering the Oval Office.

“There are a lot of banks that are actually pretty well managed, JPMorgan being a good example,” Obama said. “Jamie Dimon, the CEO there, I don't think should be punished for doing a pretty good job managing an enormous portfolio.”

Dimon's popularity in the White House began to fade because he was a vocal opponent of many of the financial reforms being advocated in response to the crisis. Then in 2012, JPMorgan announced it had lost billions because of bad bets by a rogue derivatives trader in London.

Dimon came under investigation for minimizing the issue to investors — he called the problem “a tempest in a teapot.” The company was sued by the SEC, and Dimon had to testify before Congress. Last spring he barely survived a shareholder vote that would have separated his two jobs, chairman of the board and chief executive.

Last month the company said it was under civil and criminal inves-

tigation by the Justice Department over its subprime mortgage-backed securities.

When he hit the nadir of his troubles, Dimon reportedly sought advice from Blankfein on how to weather the storm and maintain his and his company's reputation.

Earlier this summer, Blankfein held forth before a roomful of journalists and lobbyists at Washington's swank Mayflower Hotel where, like an elder statesman, he was asked about everything from immigration reform to his first job selling hot dogs at Yankee Stadium. *BusinessWeek* Magazine wrote a story about the fashion impact of his new beard.

Through the ups and downs, neither CEO has suffered financially.

Blankfein was paid \$21 million last year and he was the highest-paid chief executive of the 20 biggest financial companies, according to Bloomberg. Dimon earned about half that, or \$11.5 million, as a result of the derivatives loss that became known as the “London whale.” Blankfein owns about \$256 million of Goldman shares, according to Forbes magazine.

Dimon bought a Park Avenue apartment in 2004 for \$4.9 million and bought a second unit in the same

building this year for \$2 million. He also owns a \$17 million estate in Mt. Kisko, N.Y. Blankfein's Central Park West penthouse is valued at \$26.5 million, according to New York property records. Late last year, he and his wife also bought a 7.5-acre estate in the Hamptons with a pool and tennis court for \$32.5 million. Forbes estimates Dimon owns \$223 million of JPMorgan stock.

While Dimon and Blankfein held on to their power, the banks they lead, and other U.S. megabanks, have grown larger and more powerful.

JPMorgan's assets — one common measure of bank size — have grown to \$2.44 trillion from \$1.78 trillion shortly before Lehman failed in 2008. Bank of America's assets have ballooned to \$2.13 trillion from \$1.72 trillion, while Wells Fargo more than doubled to \$1.44 trillion from \$609 billion five years ago. Goldman Sachs, which wasn't on the list of top 50 bank holding companies in 2008 because it was a pure investment bank at the time, is now the nation's fifth largest with \$939 billion in assets.

Citigroup, beset by financial problems, is the only one of the top five banks whose balance sheet has shrunk in those years.

Total assets don't even adequately measure the full size of these institutions because the measure does not take into account derivatives contracts or off-balance-sheet items that could still put the banks at risk. If those assets were counted, JPMorgan's size would rise to \$3.95 trillion, according to a worksheet prepared by FDIC Vice Chairman Thomas Hoenig.

'Bad guys everywhere'

Since that epic month in 2008 that began with the bankruptcy of Lehman early Monday, Sept. 15, and ended with the \$80 billion bailout of insurance giant American International Group and the sales of Merrill Lynch to Bank of America, Wachovia to Wells Fargo and Washington Mutual to JPMorgan, thousands of hours and millions of pages have been filled trying to determine what happened.

The most comprehensive, the Financial Crisis Inquiry Report, said the financial collapse was avoidable.

"The captains of finance and the public stewards of our financial system ignored warnings and failed to question, understand, and manage evolving risks within a system essential to the well-being of the Ameri-

can public. Theirs was a big miss, not a stumble,” the report said.

That those “captains of finance” have suffered few consequences of that “big miss” is now part of the legacy of the crisis, and has cast a shadow over the U.S. justice system, which prosecutes small-time offenders but appears to turn away from what many see as crimes of the wealthy.

“This is the greatest white-collar fraud and most destructive white-collar fraud in history and we have found ourselves unable to prosecute any elite bankers,” said Bill Black, an economics and law professor at the University of Missouri and author of *The Best Way to Rob a Bank is to Own One*. “That’s outrageous.”

U.S. Attorney General Eric Holder appeared to confirm that view earlier this year when he said he’s hesitant to criminally prosecute big banks because he’s afraid of the damage such a move could do to the economy.

“When we are hit with indications that if you do prosecute, if you do bring a criminal charge, it will have a negative impact on the national economy, perhaps even the world economy ... that is a function of the fact that some of these institutions have become too large,” he said dur-

ing a Senate Judiciary Committee hearing in March.

Since that time, the Justice Department has walked back those statements and assured lawmakers and the public that they have aggressively investigated and pursued any criminal acts related to the financial crisis.

The hurdle, officials say, is that to prove a crime, they must prove intent. That means if the government wanted to bring charges against any of the CEOs of the companies that led the nation to financial disaster, prosecutors would have to prove to a jury beyond a reasonable doubt that these individuals intended to commit fraud.

“They tend to have to work in a much more black and white misconduct universe,” said Jordan Thomas, a former lawyer for the SEC who worked with Justice on many financial fraud cases. Proving criminal misconduct is such a high hurdle that the government has resorted mostly to civil charges, where the burden of proof is lower. That doesn’t mean, Thomas says, that nobody did anything wrong.

“The financial crisis had bad guys everywhere,” he said. ■

Ben Wieder contributed to this report.

Subprime lending execs back in business five years after crash

By Daniel Wagner

Published Online: September 11, 2013

ANDY POLLOCK rode the last subprime mortgage wave to the top then got out as the industry collapsed and took the U.S. economy with it. Today, he's back in business.

Pollock was president and CEO of First Franklin, a subprime lender whose risky loans to vulnerable consumers hastened the downfall of Merrill Lynch after the Wall Street investment bank bought it in 2006 for \$1.3 billion. He was still running First Franklin for Merrill in 2007 when he told Congress that the company had “a proven history as a responsible lender” employing “underwriting standards that assure the quality of the loans we originate.”



Chairman of the Federal Reserve Ben Bernanke, left, sits at the witness table during a September 2007 House Financial Services Committee hearing on the ongoing mortgage foreclosure problems as John Robbins, center, and Harry Dinham, past president of the National Association of Mortgage Brokers, right, talk.
Susan Walsh/AP

The next year, federal banking regulators said First Franklin was among the lenders with the highest foreclosure rates on subprime

loans in hard-hit cities. Standard & Poor's ranked some of its loans from 2006 and 2007 among the worst in the country. Lawsuits filed by AIG and others who bought the loans quoted former First Franklin underwriters saying that the company was "fudging the numbers" and calling its loan review practices "basically criminal," with bonuses for people who closed loans that violated its already-loose lending standards.

Merrill closed First Franklin in 2008 after the subprime market imploded and demand for risky loans dried up. For Pollock and his contemporaries, who have survived decades of boom and bust in the mortgage trade, the recent near-toppling of the global economy was a cyclical, temporary downturn in a business that finally is beginning to rebound.

Five years after the financial crisis crested with the bankruptcy of Lehman Brothers Holdings Inc., top executives from the biggest subprime lenders are back in the game. Many are developing new loans that target borrowers with low credit scores and small down payments, pushing the limits of tighter lending standards that have prevailed since the crisis.

Some experts fear they won't know where to stop.

The Center for Public Integrity in

2009 identified the top 25 lenders by subprime loan production from 2005 through 2007. Today, senior executives from all 25 of those companies or companies that they swallowed up before the crash are back in the mortgage business. Most of these newer "non-bank" lenders are making or collecting on loans that may be too risky to qualify for backing by the U.S. government. As the industry regains its footing, these specialty lenders represent a small but growing portion of the market.

The role of big subprime lenders in teeing up the financial crisis is well documented.

Lawsuits by federal regulators and shareholders have surfaced tales of predatory lending, abusive collection practices and document fraud. A commission charged by Congress to look at the roots of the crisis said lenders "made loans that they knew borrowers could not afford and that could cause massive losses to investors in mortgage securities."

Risky loans, a Senate investigation concluded, "were the fuel that ignited the financial crisis."

As borrowers defaulted at increasing rates in 2006 and 2007, global financial markets tightened, then froze. The result was the worst economic crash since the Great De-

pression. Today, millions of Americans still face foreclosure. Yet few subprime executives have faced meaningful consequences.

“Old habits die hard, especially when there’s no incentive to do things differently,” says Rachel Steinmetz, a senior underwriter-turned-whistleblower who worked at subprime lender GreenPoint Mortgage, later bought by Capital One, until June 2006. “The same shenanigans are going on again because the same people are controlling the industry.”

To be sure, loans offered by their new companies face unprecedented scrutiny by regulators and investors. Many of the riskiest practices from the subprime era have been outlawed.

“We could never, ever go back to the kinds of products we were selling. They were disastrous,” says John Robbins, who founded three mortgage lenders — two before the crisis, and one in 2011, from which he recently stepped down. The new Holy Grail for some lenders, according to Robbins: a mortgage that complies with new rules yet “creates some opportunity to lower the bar a little bit and allow consumers the opportunity to buy homes [who] really deserve them.”

Robbins is one of several execu-

tives identified in the Center’s investigation who have gathered up their old teams and gotten back into the mortgage business. Others have tapped the same private investors who backed out-of-control lending in the previous decade.

The lenders vary in how willing they are to accept lower down payments, weaker credit scores or other factors that can make a loan more risky.

New Penn Financial allows interest-only payments on some loans and lets some borrowers take on payments totaling up to 58 percent of their pre-tax income. (The maximum for prime loans is 43 percent.) PennyMac’s non-government loans make up a tiny portion of its total lending and have virtually the same underwriting standards as prime mortgages, but are bigger than government agencies would allow. And Rushmore Home Loans today so far offers only mortgages that could likely get a government guarantee, though a company website says it “intends to expand and enhance current product offering.”

The newer loan offerings remain fairly safe, but companies gradually are growing more flexible about what documentation they require and how big borrowers’ payments

must be, says Guy Cecala, publisher of the trade magazine *Inside Mortgage Finance*. “You’re going to see a little more risk coming into the system” Cecala says, as lenders permit smaller down payments and finance more investment properties.

Riding out the storm

After First Franklin closed in 2008, Pollock remained in his five-bedroom, \$2.4 million home in ritzy Monte Sereno, Calif. He led a consulting firm that became a temporary haven for at least 15 former First Franklin employees.

By 2013, Pollock was co-CEO of Rushmore Loan Management Services, a company that traditionally collected payments on loans and is now originating loans. The company offers adjustable rate mortgages and down payments as low as 5 percent. A company spokeswoman said Rushmore’s loans meet government standards and that some government programs allow low down payments to encourage homeownership.

Pollock is among at least 14 founders or CEOs of top subprime lenders whose post-crisis employers want to serve consumers who might not be able to qualify for bank loans.

Also on the list is Amy Brandt, who at age 31 became CEO of WMC Mortgage Corp., then owned by General Electric. Brandt’s properties include a \$2 million, 13,600-square-foot mansion in a Dallas suburb that *Forbes* magazine once ranked as America’s most affluent, with a landscaped pool and waterfall and a wood-paneled home theater.

In July, she was named chief operating officer of Prospect Mortgage, backed by private equity firm Sterling Partners. The firm is run by a former executive of IndyMac and American Home Mortgage and chaired by a former CEO of the government-sponsored mortgage finance giant Fannie Mae. Prospect’s mortgage offerings include interest-only loans whose payments can increase sharply after a few years.

Jim Konrath, the founder and former CEO of Accredited Home Lenders, which cratered so quickly when the housing bubble burst that a private-equity firm that had agreed to buy it tried to back out of the deal, is today chairman of LendSure Financial Services, a company that advertises “serving customers along the credit continuum, and doing so in a way that is both profitable and fair.”

The company’s founders “suc-

cessfully emerged from the latest industry downturn — and navigated others before it,” LendSure assures visitors to its website.

In 2011, California state regulators accused Konrath and LendSure of collecting illegal upfront fees from people seeking loan modifications and failing to maintain required records. Konrath paid \$1,500 and was required to take a class and pass a professional responsibility exam. David Hertzell, a lawyer for the company, said Konrath was not “actively involved” in the decision and was penalized because the company was operating under his broker’s license.

With LendSure based in San Diego, Konrath has been able to keep his secluded, 4,200-square-foot house in nearby Poway, as well as a ski chalet near Lake Tahoe.

And there’s Scott Van Dellen, former CEO of the homebuilder-lending division owned by IndyMac — a California bank whose collapse was the nation’s costliest. Last December, a jury agreed that he and two other former executives should pay \$169 million to federal regulators, finding that they negligently approved risky loans to homebuilders. (IndyMac’s insurers may pay some or all of the judgment, which is sub-

ject to a possible appeal.)

Van Dellen’s new company, Yale Street Mortgage, is located in the same Pasadena ZIP code as IndyMac and provides loans to real estate investors who want to “buy, fix and flip” single-family homes and small apartment buildings.

Lender yes, bank no

Most of the bad loans that brought about the crash in 2008 were made by lenders that were not owned by banks. These companies cannot accept deposits — their loans are funded by investors, including private equity firms, hedge funds and investment banks. In the run-up to the crash, big Wall Street investment banks binged on subprime lenders, spending billions to buy them up and resell their loans just as the market turned.

Lehman Brothers, for example, bought BNC Mortgage in 2004 and financed subprime loans offered by other companies. Jim Harrington was a senior vice president with Lehman from 1999 through 2008 and is now a managing director for Resurgent Capital Services, which collects mortgage and other debts and specializes in “challenging loan portfolios.”

At Lehman, Harrington was charged with determining how much risk was posed by a lenders' legal compliance and lending decisions. He says he was not a "key decision maker or a key source of setting credit policy" at Lehman, but more of "a spoke in the wheel."

As the mortgage industry undergoes another wave of consolidation, non-bank lenders are again attractive targets for investors seeking to enter the mortgage business overnight. They also remain far less regulated than banks that take deposits. Banks tend to offer only the safest home loans — those that qualify automatically for government backing.

New regulations have made lending standards so tight, industry officials argue, that many Americans who should qualify for home loans are effectively shut out of the market.

"The American consumer is underserved at this point," says Robbins, the three-time mortgage CEO. "How do we serve the low- to moderate-income community as an industry when you have these kinds of daunting regulations?"

Many of the most problematic loans from before the crisis have been banned, including "liar loans," which didn't require borrowers to

prove their income; and balloon loans, which offer low payments for a number of years then sock borrowers with a giant, one-time payoff at the end.

Non-bank lenders now face on-site examinations by the Consumer Financial Protection Bureau and can be punished for making deceptive loans, or loans that borrowers clearly cannot repay. The CFPB found recently that many lenders lack basic systems to ensure that they comply with the law.

Still, lenders are finding other ways to offer loans to people who can only make a small down payment or who have lower credit scores than traditional banks will accept. Such loans, known in the post-meltdown era as "non-prime" or "below-prime," go to borrowers who would not meet the standards of government-backed mortgage companies Fannie Mae and Freddie Mac.

Carrington Holding Co., for example, will lend to borrowers with credit scores as low as 580, so long as they can prove adequate income and savings. The average credit score for a prime mortgage borrower now tops 700. Christopher Whalen, executive vice president and managing director at Carrington, says borrowers with banged-up cred-

it histories are safe bets if they can show they have the income and savings to afford payments.

So far, non-prime loans by non-bank lenders are only a sliver of the market — 5 percent, by some estimates. But the industry is mushrooming in size. The two fastest-growing lenders are not owned by banks.

To get a sense of the growth, one need only look at the volume of non-government-backed loans that are being pooled into mortgage bonds. Loans in these pools tend to be too risky to satisfy banks' stringent lending requirements.

Companies are expected to issue more than \$20 billion of the non-guaranteed bonds this year, up from \$6 billion in 2012, according to an April report from Standard & Poor's. By comparison, in 2005, just as home values began to dip and foreclosures to rise, companies bundled \$1.19 trillion in mortgage-related investments that were not backed by the government.

In the industry's mid-2000s heyday, bartenders could become loan officers and quickly draw six-figure salaries while loose lending standards allowed housecleaners and field laborers to buy \$300,000 homes with loans whose teaser rates

rocketed upward after a few years, forcing them into foreclosure.

Those days are gone. Marquee-name lenders like Countrywide, IndyMac and New Century have closed their doors. While the scenery may be different, the cast of characters hasn't changed.

"Five years down the road and we're back in the thick of it again. It's a weird place to be," says Cliff Rossi, who was a high-level risk management executive at Countrywide, Washington Mutual and Freddie Mac before the crisis.

Rossi got his start during the savings and loan debacle that felled 747 lenders in the 1980s and 1990s, he says, and left the industry during the 2008 crisis. He currently teaches finance at the University of Maryland's Robert H. Smith School of Business.

"In that intervening 20 years we forgot what we learned in the 80s," he says. "I fear right now, human nature being what it is, that downstream we could find ourselves in the same situation."

Most of the 25 executives identified by the Center refused to be interviewed for this story.

At CS Financial, chief marketing officer Neal Mendelsohn referred questions about chief operating

officer Paul Lyons to Ameriquest, where Lyons was director of whole loan sales until 2007, when the company stopped lending, according to his LinkedIn profile.

“There’s just the lingering stink of it that’s really kind of troubling,” Mendelsohn says of Lyons’ difficulty in shaking his past association with Ameriquest. The company’s practices were widely condemned before the crisis; in 2006, it agreed to pay \$325 million to settle charges of widespread, fraudulent and misleading lending.

Van Dellen, the former IndyMac executive who is lending to flippers, hung up on a reporter and ignored an emailed interview request.

From Countrywide to Penny Mac

Mortgage companies don’t just make money by pocketing the interest people pay on their home loans. In fact, many resell most of the loans they originate to other investors. Much of the lenders’ income comes from fees charged for everything they do: originating loans, bundling them into bonds and collecting payments from borrowers. They don’t necessarily need the loans to be repaid to make money.

PennyMac, a fast-growing company founded by former Countrywide Home Loans CEO and IndyMac director Stanford Kurland, is a sprawling concern that earns fees by originating loans in call centers and online. It consists of two intertwined companies: a tax-free investment trust that holds mortgage investments and an investment advisor that manages the trust and other investment pools, among other activities.

PennyMac buys loans from pre-approved outside sales offices, bundles them and sells off the slices. The company manages other people’s mortgage investments, collects borrowers’ payments and forwards them to investors. It forecloses on properties and amasses portfolios of loans and mortgage-backed securities as investments.

By the second quarter of this year, it was among the fastest-growing lenders, extending \$8.9 billion in loans, up from \$3.5 billion in last year’s second quarter, the company says. Ninety-seven percent of the loans were purchased from outside lenders.

Most emerging non-bank lenders are smaller than their pre-crisis predecessors and specialize in a handful of these activities. That’s beginning to change as more of them

follow PennyMac's lead, expanding their offerings and cobbling together companies that can make money at every stage of the mortgage finance process. They accomplish this through aggressive acquisitions or by buying the assets of bankrupt companies.

Among PennyMac's first big investments was a joint venture with the Federal Deposit Insurance Corp. to buy and service \$558 million in loans from a failed bank. PennyMac paid roughly 29 cents on the dollar for the loans, and says the investment has performed well.

It's not nearly as big as Kurland's former company, Countrywide, which made \$490 billion in loans in 2005. But Kurland and his team appear to have grand ambitions.

Countrywide made the most high-cost loans in the years before the crash and is among the lenders considered most responsible for fueling the mid-2000s housing boom. It was founded in 1968, and by 1992, became the biggest home lender in the country.

"After spending 27 years of my career at Countrywide and assisting in growing the company into a large, widely-known enterprise that was highly regarded and well respected by regulators, peers, consumers and

other stakeholders, I faced the most difficult business and personal, decision of my career," Kurland said in an emailed statement. "In 2006, as a result of irreconcilable differences with the company's prevailing management, I was terminated from Countrywide without cause and left the company."

PennyMac spokesmen declined to elaborate on his reasons for leaving.

After Kurland's departure in late 2006, to boost production, Countrywide "eliminated every significant checkpoint on loan quality and compensated its employees solely based on the volume of loans originated, leading to rampant instances of fraud," according to a civil complaint filed last year by the Justice Department against Bank of America, which purchased Countrywide in 2008.

Kurland and other Countrywide alumni formed the tax-free PennyMac investment trust in 2009 "specifically to address the opportunities created by" the real estate crash, according to public filings. The 14 members of its senior management team had spent a combined 250 years in the mortgage business, the filings say.

This year, the former Country-

wide executives who manage the investment trust sold separate stock in their investment advisory and lending firm, PennyMac Financial Services, which earns millions of dollars in fees for managing the publicly traded, tax-free trust. PennyMac Financial Services also manages separate mortgage funds for big-money investors.

The company's name is so similar to those of government-controlled mortgage giants Freddie Mac and Fannie Mae that regulators forced PennyMac to add a disclaimer to its offering documents for potential investors, stating that it is not a government enterprise. Regulators also questioned PennyMac's assertion that its managers' experience was purely a strength, and suggested that "the failures of Countrywide while under the management of these individuals" should be considered a risk factor.

PennyMac said in a separate written statement that the complexity of the mortgage business demands experienced and expert leaders. They said Kurland and his team "have demonstrated sensible leadership over decades in the mortgage industry" and noted that the venture is supported by major banks, government agencies, regulators and investors.

Kurland, who reportedly sold stock worth nearly \$200 million before leaving Countrywide in 2006, last year earned about \$6.1 million in total compensation from the two PennyMac companies. Some of the pay isn't available to him until a few years after it is recorded. His stake is worth about \$150 million, the company says.

Kurland still owns the \$2 million, 9,000-square-foot house he bought in 1995 with a Countrywide loan. He's also managed to keep a \$4.9 million beachfront house in Malibu.

For many Countrywide borrowers, life has been considerably more difficult.

Fighting foreclosure

Brenda Fore, a former office supervisor who lives in rural West Virginia, has been on government disability benefits since a drunk driver struck and injured her in 1998. Her husband, George, has suffered from a traumatic brain injury since 2010, also caused by a drunk driver, while working at a trucking company.

The Fores are trying to stay in the home that they've lived in for 33 years, where they raised two children and several grandchildren. The home was sold in foreclosure

when their loan payments nearly doubled.

Fore's house had been paid off for years, but she decided in 2006, when rates were low, to take out another mortgage to help her daughter buy a mobile home. The trailer sits in Brenda's yard because her daughter makes too little money working at a homeless shelter to afford a separate lot.

Fore, 60, refinanced, getting a loan from Countrywide that was based on an inflated appraisal, according to a lawsuit she filed in state court. The appraiser hired by Countrywide estimated the home's value at \$92,000, Fore says. An appraiser hired by her lawyer more recently said the house is worth about \$61,000. Unlike fast-growth markets in the Sunbelt, home prices in West Virginia were relatively stable throughout the crisis.

Fore also got a second "piggy-back" loan from Countrywide at a much higher rate.

Without the high appraisal value, her lawyer says, Fore could not have qualified for the second mortgage. She says she did not have a fair opportunity to look over the paperwork and identify any problems because Countrywide did not provide her with copies of the closing docu-

ments until 10 days after the close, according to a lawsuit filed in state court in 2011.

Fore's monthly payment doubled in 2007 because of the Countrywide loan, she says, from roughly \$400 per month to more than \$800. By that time, Bank of America had bought Countrywide. Fore asked Bank of America to change the loan terms until her husband's workers' compensation settlement cleared. The bank told her to keep mailing her payments, but repeatedly mailed them back to her — and deemed her loan to be in default.

One Sunday, she says, she returned to her house to find a pamphlet stuck in the fence notifying her that the house would be put up for sale.

"I thought, 'Oh, well, what are we going to do now?'" Fore says. "There wasn't a whole lot we could do."

Only after the family home was sold in foreclosure did the bank tell her that it had rejected her request for a loan modification.

Since then, Fore's lawyer has offered to settle with the bank, seeking to have the foreclosure sale reversed so that she and George can remain in the house.

A Bank of America spokeswoman said the bank does not comment on

open litigation. The company is negotiating a possible resolution that would keep the Fores in their home, the lawyer says.

Waiting for the recovery

The Fores are just one example of the wreckage caused by the subprime mania of the last decade. Millions of people across the country lost their homes and tens of millions more lost jobs and economic security.

Meanwhile, many subprime executives left their companies. Some saw where the industry was headed and quit. Others were ousted by their boards or investors. Many of them didn't go far.

Bob Dubrish — a founder and CEO of Option One Mortgage, a top subprime lender owned by H&R Block that was shut down in 2007 — teamed up with a firm backed by Lewis Ranieri, who was instrumental in developing mortgage bonds, the type of investments that fueled the economy's spin off the rails in 2008. In early 2012, Dubrish was put in charge of wholesale lending for Ranieri's lender.

Ranieri, through his company Ranieri Partners, had helped launch the mortgage investment firm Shellpoint Partners LLC, known to invest-

ors in its mortgage bonds as Shelly-Mac. He then purchased New Penn Financial, a Pennsylvania lender. New Penn rose from the ashes of one of American International Group's subprime subsidiaries. AIG is the global insurance giant that received the biggest single taxpayer bailout of any financial company.

Standard & Poor's, the credit rating company, was not impressed with the company's speedy expansion.

"We view New Penn's aggressive growth targets for all of its production channels, coupled with the recent appointment of a head of correspondent lending as a potential weakness," the company said in a report. The correspondent lending head, Lisa Schreiber, had run the wholesale division of American Home Mortgage, another of the top 25 subprime lenders from 2009.

Dubrish, a former college football player, lives in the same \$1.5 million home in Villa Park, Calif. (town nickname: "The Hidden Jewel"), he bought in 2000.

His boss at New Penn is CEO Jerry Schiano, who founded Wilmington Finance before the crisis. Schiano ran Wilmington until 2007, despite selling it to AIG subsidiary American General Finance for \$121

million in 2003. In 2010, Wilmington and another of AIG's companies paid \$6.1 million to settle charges by the Justice Department that it illegally overcharged black borrowers during Schiano's tenure, between 2003 and 2006. The companies denied wrongdoing.

Getting back on the horse

Another industry veteran looking to return is Thomas Marano, who led the mortgage finance division at Bear Stearns and was on the board of its subsidiary, EMC Mortgage. He then took over the mortgage subsidiary of GMAC, another top sub-prime lender. Lawsuits filed by federal regulators allege that Marano's unit was so hungry for new loans to securitize that they weakened their standards and slipped bad loans into pools of mortgages that were resold to investors.

Asked recently about his plans, Marano said he's toying with the idea of launching or buying a non-bank mortgage company.

"I've been modeling the numbers on ... those opportunities and I'm intrigued with that possibility," he told *The Wall Street Journal*. The mortgage business "is a pretty hot space right now so I'm really looking

at those two options, really doing it on my own or doing it with someone who's got more of the infrastructure established."

There are numerous reasons for Marano and his compatriots to launch mortgage companies right now.

Interest rates, while ticking up a bit lately, are still near all-time lows, fueling a boom in refinancing. The government wants to dial back its role in housing finance and encourage private investment.

Separately, a recent Internal Revenue Service ruling makes it easier for some big, consolidated mortgage companies to avoid paying most taxes. The IRS decides what investments can be held by Real Estate Investment Trusts, companies that buy real estate investments, sell shares to investors and enjoy tax advantages. This summer, the IRS said that REITs can avoid paying taxes on certain income from collecting mortgage payments. Mortgage servicing income is a crucial revenue stream for many lenders, particularly as rates rise and the refinancing boom slows.

PennyMac is the most prominent REIT among the new, non-bank lenders but many key pre-crisis companies were also set up this way:

IndyMac was originally formed as a REIT to invest in Countrywide's loans. American Home Mortgage was a giant REIT with taxable subsidiaries to carry out its lending.

Those companies succumbed quickly because they were highly leveraged — meaning they relied on lots of borrowed money but had relatively little cash in reserve. Concerned that the strategy could harm regular investors, the Securities and Exchange Commission proposed tightening regulation of REITs in 2011, a move that would have limited their ability to use leverage. The industry balked, and the commission has so far failed to act.

REITs and other non-bank lenders are regulated more loosely than banks, according to Kenneth Kohler, an attorney with Morrison & Foerster, who wrote about them in a 2011 client bulletin.

Regulation in all corners has increased, but “there is no question that the burden of the new requirements is substantially higher on banks,” Kohler wrote.

Banks are overseen by at least two regulators — one responsible for their financial strength, the other for their business involving consumers. Non-bank mortgage lenders, by contrast, are overseen at the federal

level mainly by the Consumer Financial Protection Bureau, which can only consider potential violations of consumer protection laws.

In March of 2007, Robbins, then chairman of the Mortgage Bankers Association, warned during a congressional hearing that banning risky mortgages would kill the dream of homeownership for millions of Americans.

“Assertions that delinquency rates are at crisis levels and a greater percentage of borrowers are losing their homes are not supported by the data,” he said.

Lenders were “responding to consumer demand for product diversity, particularly in high-cost markets,” he said, by offering loans whose total balance could actually increase over time because borrowers were permitted to choose how much they paid.

Before the crisis, Robbins had founded two companies, which were sold for a total of \$431 million. Mortgage losses tied to the second company, American Mortgage Network, helped sink Wachovia as the financial crisis peaked in October 2008. The bank was sold under regulators' orders to Wells Fargo. Less than two weeks later, Wells received \$25 billion of taxpayer bailout money.

Today, Robbins says he sought to warn his colleagues that lending without proper documentation would have “dire consequences.” He wanted in 2007 to draw a line between irresponsible lending and new kinds of loans that properly account for risk, he said in a recent interview. After Wachovia bought American Mortgage Network in 2005, Robbins says, he “really had no control or say” over what loans it offered.

“You want new products, you want innovation and you don’t want to stifle it — as long as you realize there has to be a solid foundation to underwrite the loan,” he says.

Until this summer, Robbins was CEO of Bexil American Mortgage, a company he founded in 2011 that employs executives from Robbins’ two previous subprime ventures. Bexil is offering adjustable rate mortgages and allowing down payments as low as 3 percent.

Robbins remains committed to the mortgage industry.

“I love this business, helping to provide the American dream to our customers and getting paid well to do it,” he told *Mortgage Banking* magazine last year. He said he wanted back in at the bottom of the market — what he called “the fun

and exciting time in our business.”

Bexil, which he launched with a private investor in 2011, was a chance to start fresh. It lacks the massive legal liabilities that continue to mire what’s left of the old subprime lenders.

The ‘toxic business model’

Dan Alpert, managing partner with the investment bank Westwood Capital LLC, says there is a reason why the same players keep getting back in the game: There was no meaningful effort by the government to identify bad actors and hold them accountable.

“Had there been prosecutions,” Alpert says, companies wouldn’t touch anyone deemed responsible “with a 10-foot pole. The only thing people are concerned about is the loss of their freedom. They can lose all their money and make more money, but they take it quite seriously when jail is staring at them,” he says.

Whalen of Carrington Holding Co., says many of these arguments are misguided. Carrington began a decade ago as a small hedge fund and now has 3,000 employees who manage investments, lend and service home loans and manage and

sell real estate. He warns against painting mortgage industry professionals too broadly.

“Are they really in a legal sense bad people, or did they just mess up? Were they just trying to do deals?” he asks. He cautions against focusing too much blame on individuals like Carrington chief operating officer Dave Gordon, who ran capital markets and servicing for Fremont Investment & Loan until 2007.

Blaming only mortgage lenders ignores the roles of overeager or disingenuous borrowers, Wall Street traders with voracious appetites for mortgage investments and even the Federal Reserve, whose easy money policies in the early 2000s encouraged lending and sent global investors on a quest for higher-yielding investments, Whalen says.

“I’m not absolving everybody from responsibility for doing stupid things, but you can’t paint everyone in this industry as though they were just doing this on their own,” he says, because mortgage lenders “don’t operate in a vacuum.” He says the U.S. economy slowed sharply after the terrorist attacks in 2001 and policymakers decided to help inflate the economy by boosting the housing sector.

He says new rules and fearful investors make it difficult to imagine offering irresponsible loans.

“That old kind of subprime lending is gone,” Whalen says. “We have prime and slightly-less-than prime. That’s it.”

“That won’t last,” says Susan Wachter, a real estate finance professor at the Wharton School.

The companies rely mainly on fees from originating and servicing loans, an income stream that grows only if lending increases, Wachter says. To boost lending, she says, companies eventually will have to “undercut competitors by getting people into those loans on whatever terms possible.”

“That toxic business model is still out there,” she says, and it’s being exploited by the same people who “were feeding toxic mortgages into the system” during what she calls “the 2007 frenzy.”

The conclusion seems obvious to Brenda Fore, who is fighting to take back the house where she spent her adult life.

“If it’s being built by the fellows who screwed it up last time, you’re going to have the same result,” she says. “The system was dysfunctional before, so its offspring are going to be dysfunctional as well.” ■

Ex-SEC chief now helps companies navigate post-meltdown reforms

By *Lauren Kyger, Alison Fitzgerald and John Dunbar*

Published Online: September 12, 2013

ON MARCH 11, 2008, Christopher Cox, former chairman of the Securities and Exchange Commission, said he was comfortable with the amount of capital that Bear Stearns and the other publicly traded Wall Street investment banks had on hand.

Days later, Bear was gone, becoming the first investment bank to disappear in 2008 under the watch of Cox's SEC. By the end of the year, all five banks supervised by the SEC were either bankrupt, bought or converted to bank holding companies.

Under Cox's leadership from 2005 to 2009, the SEC was widely criticized for falling asleep on the job during the events leading up to the financial meltdown. SEC defenders say the agency was understaffed, underfunded and simply didn't have the authority to be an effective watchdog.

Cox is one of the slew of regulators and overseers who became household names during the financial crisis of 2008 — a cast of characters whose jobs were to protect consumers, monitor banks and financial firms, rescue the ailing industry and punish wrongdoing in the years that followed.

Cox took his Washington expertise to the private sector, helping banks and other companies navigate the new regulatory landscape that the crisis spawned. Other former top regulators — like Hank Paulson, Timothy Geithner and Sheila Bair — have written books based on their experience and joined the lecture circuit. John Reich has retired since his agency, the Office of Thrift Supervision, was eliminated. Federal Reserve Chairman Ben Bernanke is the only top regulator still on the job,



From left: Treasury Secretary Henry Paulson, Federal Reserve Chairman Ben Bernanke, Security and Exchange Commission (SEC) Chairman Christopher Cox, and Federal Housing Finance Agency Director James Lockhart testify on Capitol Hill before the Senate Banking Committee in September 2008. Susan Walsh/AP

though he is expected to be gone soon.

SEC chief, friend of business

Cox is now president of Bingham Consulting, LLC, a firm that, among other things, defends businesses from the Consumer Finance Protection Bureau and “consumer

protection matters,” according to its website.

The CFPB was created by the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 as a response to the financial crisis and tasked with protecting consumers from potentially harmful financial products and services.

Bingham Consulting’s experience

includes “representing non-bank financial institutions in some of the first investigations and inquiries initiated by the CFPB.”

The consulting firm has advised big names including Verizon, American Airlines, Intel, Toyota, Deutsche Bank, and others. Cox says he’s worked on Internet tax issues, real estate leasing and helped clients in multi-state attorneys general matters.

Looking back, Cox now says the capital standards that gave him comfort before the crisis fell short. “In hindsight, every federal and state regulator could have done more, because existing capital standards proved inadequate,” he said in an email.

The SEC succeeded, however, in its oversight of broker-dealers and securities markets before and during the meltdown, he said, pointing out that U.S. stock exchanges remained open and working throughout the crisis.

While chairman in 2006

WHAT HE SAID BEFORE, DURING, AFTER CRISIS



Photo: AP

Christopher Cox

BEFORE

“We have a good deal of comfort about the capital cushions at these firms at the moment.”

Remarks to reporters — March 11, 2008

DURING

“The fate of Bear Stearns was the result of a lack of confidence, not a lack of capital.”

Letter to Basel Committee on Banking Supervision —
March 20, 2008

AFTER

“In hindsight, every federal and state regulator could have done more, because existing capital standards proved inadequate.”

Email response to the Center for Public Integrity —
September 4, 2013

and 2007, the agency adopted policies that ultimately “delayed cases and produced fewer and smaller corporate penalties,” according to a 2009 investigation by the Government Accountability Office.

These new policies required the enforcement side to establish nine factors to consider before recommending a company pay a penalty for a violation and they also required that enforcers get the commission’s approval for a range of penalties before beginning settlement talks with a company.

Some SEC attorneys saw the Commission as “less as an ally in bringing enforcement actions and more of a barrier,” according to the report. From fiscal 2005 to 2008, total annual penalties fell 84 percent from \$1.59 billion in 2005 to \$256 million in 2008.

Cox disputes those findings.

“During my tenure at the SEC, we imposed unprecedented penalties in enforcement actions,” he said. The agency in 2006 fined AIG \$800 million, the largest penalty in SEC history.

Cox, an appointee of President George W. Bush, left the SEC when President Barack Obama took office in early 2009.

He moved back to Orange Coun-

ty where he bought a \$5.3 million home in 2011, according to public records, and settled into a comfortable life in the private sector.

Paid speeches, book deals and think tanks

Treasury Secretary Henry “Hank” Paulson was the face and voice of the financial crisis of 2008, appearing on television almost daily advocating for the authority to bail out U.S. banks while at the same time trying to calm the public and the markets to prevent the situation from getting worse.

Today, Paulson, whose previous career as chairman of Goldman Sachs made him a very wealthy man, has kept a lower profile, having left banking behind.

His focus is on the Paulson Institute at the University of Chicago, a think tank he founded in 2011 that focuses on U.S.-China relations and specifically environmental protection and economic growth. He’s writing a book about U.S.-China relations to be published later this year by Business Plus.

Meantime, the Bobolink foundation, Paulson’s \$90 million family fund devoted to environmental causes, donated \$3.7 million last year

to environmental groups including The Nature Conservancy and the American Bird Conservancy.

Paulson became the locus of the meltdown story early on the morning of Saturday, Sept. 20, 2008, when he delivered to Congress a three-page request for \$700 billion to help rescue ailing financial institutions. The succinct piece of legislation — which led to the creation of the Troubled Asset Relief Program — demanded there be no oversight or second-guessing of his plans.

His every move and mood were filmed and broadcast and then archived on YouTube: Paulson forcefully advocating the bailout plan on CBS' Face the Nation; appearing near panic when it first failed in a House vote a week later; continuing to push for the bailout in meetings on Capitol Hill; and finally, calling the CEOs of the nine biggest financial services firms to the Treasury building and forcing them to accept bil-

WHAT HE SAID BEFORE, DURING, AFTER CRISIS



Photo: AP

Hank Paulson

BEFORE

“A consequence of our regulatory structure is an ever-expanding rulebook in which multiple regulators impose rule upon rule upon rule. Unless we carefully consider the cost/benefit tradeoff implicit in these rules, there is a danger of creating a thicket of regulation that impedes competitiveness.”

Speech at the Economic Club of New York —
November 20, 2006

DURING

“When we get through this difficult period, which we will, our next task must be to address the problems in our financial system through a reform program that fixes our

lions in government capital injections.

Weeks after the bailout passed, President Barack Obama moved into the White House and former New York Federal Reserve Bank President Timothy Geithner assumed Paulson's job.

The discussion in Washington turned from bailout to reform, and Paulson remained engaged. Even before the crisis, he had been speaking publicly about financial regulation, both at Treasury and when he was CEO of Goldman Sachs.

In 2004, while Paulson was CEO, Goldman Sachs wrote to the SEC to argue in favor of loosening the constraints on how much investment banks could leverage their capital. The rule change was a key to why so many investment banks failed, or nearly did, in 2008.

When Paulson was appointed Treasury secretary in 2006, New York financiers went into a mild panic because their city was beat-

WHAT HE SAID BEFORE, DURING, AFTER CRISIS



Photo: AP

DURING [CONTINUED]

outdated financial regulatory structure, and provides strong measures to address other flaws and excesses.”

Senate Banking Committee Testimony —
September 24, 2008

AFTER

“I came to the Treasury Department in 2006 concerned about the size and increasing complexity of America's biggest banks. During the crisis, lacking other options, we turned to the big banks to help us rescue some of their ailing brethren. In the process they became even bigger. So, in stemming the crisis, we added to an already significant problem.”

Excerpt from Paulson's book
On the Brink (new edition) — 2013

en out by London and Hong Kong in the race for initial public stock offerings. Industry leaders, politicians and Paulson pointed their fingers at excessive regulations.

Paulson assembled a team of industry leaders and academics in early 2007 to come up with a plan to stanch the loss of investment banking business overseas. New York Mayor Michael Bloomberg and Sen. Charles Schumer, D-N.Y., commissioned their own study and called for reform. The U.S., according to some critics, was in a deregulatory race to the bottom against China, Dubai and London.

The race was over in March 2008 when Bear Stearns, the fifth-largest investment bank in the U.S., nearly collapsed and was sold to JPMorgan Chase & Co. with the help of the Federal Reserve.

After leaving Treasury, Paulson advocated for a regulator that would have broad oversight of the entire financial system so they could spot risks no matter where they appeared. He also called for a regulator to have the authority to take over and wind down any financial firm, regardless of size.

“Had the government had such authority in early 2008, three of the important events that rattled

markets — Bear Stearns, Lehman Brothers and AIG — could have been handled very differently, with far less impact on the stability of our financial system and our economy,” he said in testimony to the House Committee on Oversight and Government Reform in 2009.

In his interview with the Financial Crisis Inquiry Commission, he recommended the creation of what became the Consumer Financial Protection Bureau, making it clear that the worldwide financial crisis led to a shift in the former secretary’s views on regulation. Paulson declined to be interviewed for this story. In a newly published prologue to his book about the crisis, however, he defended the bank bailouts as “absolutely necessary” even though he found them “deeply distasteful.”

“Think of all the suffering and stagnation the U.S. experienced that came even after we stabilized the financial system,” he writes. “I can only imagine what might have happened had we not acted so decisively.”

Timothy Geithner

While America’s largest financial institutions were on the brink of falling like dominos, Timothy Geithner emerged from the shadows of the

Federal Reserve Bank of New York to become one of the most influential regulators in power during the financial crisis.

Since leaving the Treasury Department in January 2013, he is, not surprisingly, writing a book and cashing in on his government exposure on the lecture circuit.

In the midst of the crisis, Geithner was often seen alongside Bernanke and Paulson and became a familiar face as a key decision maker. He had a direct hand in selling Bear Stearns to JPMorgan, letting Lehman Brothers go bankrupt and later bailing out insurance giant AIG.

In speeches and testimonies during and following the crisis, Geithner said the government's primary concern was providing relief for Main Street, not Wall Street.

However, the dozens of books, reports and investigations into the crisis have painted a picture of Geithner as more concerned with the needs of big banks than consumers.

WHAT HE SAID BEFORE, DURING, AFTER CRISIS



Photo: AP

Timothy Geithner

BEFORE

“Financial institutions face strong incentives to monitor and limit their risk profile and the risk-taking of their leveraged counterparties to some efficient level where benefits balance costs at the margin. This is good for the firm and also good from society’s perspective.”

Speech in Hong Kong — September 15, 2006

DURING

“AIG highlights very broad failures of our financial system. Our regulatory system was not equipped to prevent the buildup

On Sept. 15, 2008, the same day Lehman Brothers filed for bankruptcy, AIG was on the brink of col-

lapse after insuring billions of dollars-worth of credit default swaps to companies across the globe. The swaps were like insurance against investment losses. The Federal Reserve and Treasury Department feared that letting AIG fail “would have posed unacceptable risks for the global financial system and for our economy,” said Bernanke in testimony to Congress.

That day Geithner reached out to big banks in an effort to convince them to provide the failing insurance giant with private financing. One look at AIG’s books and the banks balked, saying the company’s liquidity needs were greater than its assets.

The music stopped and Geithner was left holding “a bag of sh*t,” as he called it himself on a phone call with AIG’s stunned regulator — John Reich of the OTS — according to Reich’s testimony to Congress.

Geithner took matters into his own hands and the New York Federal Reserve Bank pumped \$85 bil-

WHAT HE SAID BEFORE, DURING, AFTER CRISIS



Photo: AP

DURING [CONTINUED]

of dangerous levels of risk. Compensation practice rewarded short-term profits over long-term financial stability, overwhelming the checks and balances in the system.”

Testimony before the Committee on Financial Services — March 24, 2009

AFTER

“The U.S. government is still exposed to substantial risk of losses on its investments in AIG. That risk was inevitable, was unavoidable and we cannot know at this point what the scale of those losses will be.”

Testimony before the House Committee on Oversight and Government Reform — January 27, 2010

lion into AIG, a move that skirted the edges of the law, according to a report by the Special Inspector Gen-

eral for the Troubled Asset Relief Program, Neil Barofsky.

AIG's counterparties — those that were owed — including Goldman Sachs, Deutsche Bank, and Merrill Lynch, were paid face value for their credit default swaps that otherwise would have been worthless in what many investors called a backdoor bailout of the investment firms. Eventually the government invested \$182.3 billion in AIG, according to the Treasury.

Sheila Bair, who was chairwoman of the Federal Deposit Insurance Corp. during the crisis and who battled Geithner regularly, called him “bailouter in chief” in her book “Bull by the Horns.” Geithner declined a request to be interviewed for this story through his spokeswoman.

Geithner was tapped by Obama to take over the Treasury from Hank Paulson in 2009.

Since his return to private life, Geithner joined the Council on Foreign Relations as a distinguished fellow but has yet to publish anything, according to the CFR website.

He signed a deal in March with The Crown Publishing Group to write a “behind-the-scenes account of the American response to the global financial crisis,” according to a press release. Geithner tapped

Time Magazine's senior national correspondent, Michael Grunwald, to help him write the book.

Geithner has also hit the speaking circuit, becoming an exclusive speaker for the Harry Walker Agency, which also represents former President Bill Clinton. Geithner banked \$400,000 for three talks this summer, according to a report in the Financial Times. He made \$200,000 speaking at a Deutsche Bank conference, and \$100,000 each at the annual meetings of private equity firms Blackstone Group and Warburg Pincus. That's more than double his annual salary of \$199,700 as Treasury Secretary.

Geithner's spokeswoman declined to comment on specific speaking engagements or fees.

Sheila Bair

Bair, former chairwoman of the Federal Deposit Insurance Corp. which pays off depositors if their bank fails, became the folk hero of the financial crisis because she appeared to be the only top regulator in Washington advocating for borrowers and small banks.

A plain-spoken Kansan who got her start in politics working for former Republican Sen. Bob Dole,

also of Kansas, Bair emerged from the crisis beloved by many on Capitol Hill but with few friends among those she dealt with every day. Bair advocated for simple solutions to the problems that the captains of finance suggested were unbearably complex.

Since she left the FDIC, she has, of course, written a book: *Bull by the Horns*. In it, she has no shortage of advice and criticism for almost everyone.

“I did take people to task, but only when I thought there was a good reason for it,” she said in an interview at *Fortune Magazine’s* Most Powerful Women Summit in October 2012. “There were fundamental policy disagreements that I think people should understand, because they’re really still at the heart of the approach we’re using now to try to reform the system.”

Today Bair works from an office in the sparkling white headquarters of the Pew Charitable Trusts in Washington, D.C., where she leads an organization called The Systemic Risk Council. The group of former regulators, bankers and academics is calling for stringent financial regulations, including higher bank capital requirements.

For Bair, the problems in the U.S.

banking system come down to one thing: capital.

She had been warning against the movement in the middle of the decade to relax capital and leverage rules wherever she could find a podium. As early as 2006, Bair was arguing against international banking reforms — known as Basel II — which would have allowed banks to cut their capital and increase borrowing.

When the banking crisis hit, Bair was thrust into the middle early with the failure of IndyMac.

The Bair-led FDIC took over the bank, made depositors whole and then took an unorthodox approach to IndyMac’s troubled mortgage portfolio, halting foreclosures and trying to renegotiate the terms of the loans so that people could keep their homes.

Under her program, known as “mod-in-a-box,” the FDIC would first cut the interest rates, then extend the loan term to as long as 40 years, and then defer part of the principal in an effort to ensure borrowers’ payments didn’t exceed 38 percent of income.

When the crisis exploded in September and began toppling ever-bigger banks, Bair insisted on having a seat at the negotiating table with Paulson, Geithner and the Wall Street titans where she looked after

depositors while the captains of finance worried about their creditors and shareholders.

She cast herself as the outsider — outside of Wall Street and outside of the boys' club — and in doing so became the hero of those who saw the Treasury and the Federal Reserve as looking out for their banker buddies while Sheila was looking out for them.

The FDIC resolved 375 failed banks from the beginning of 2008 through Bair's departure in July 2011, costing the deposit insurance fund an estimated \$78.2 billion, according to FDIC data.

"The regulators have too much of a tendency to view their jobs as making the banks profitable, as opposed to protecting the public," she said.

John Reich and the 'watchdog with no bite'

The SEC was criticized for its performance during the crisis but the Office of Thrift Supervision was euthanized.

OTS, under its leader John Reich, was chief regulator of Washington Mutual, which became the largest bank failure in U.S. history.

"OTS was supposed to serve as our first line of defense against unsafe and unsound banking practices," said

Sen. Carl Levin, D-Mich., at a 2010 congressional hearing investigating the causes of the financial crisis. "But OTS was a feeble regulator. Instead of policing the economic assault, OTS was more of a spectator on the sidelines, a watchdog with no bite."

Twenty seven banks with \$385 billion in accumulated assets failed under OTS supervision between 2008 and 2011. The agency had jurisdiction over IndyMac, which failed in the summer of 2008, and Countrywide Financial, the mortgage lending giant whose losses almost sank Bank of America, which bought it in 2008.

Its performance was so bad, it was abolished as part of the Dodd-Frank Wall Street Reform and Consumer Protection Act.

Reich had a long record of advocating deregulation before he was tapped to lead the bank regulator. As vice chairman of the FDIC he advocated for the Economic Growth and Regulatory Paperwork Reduction Act, which eliminated "outdated or unnecessary regulations that impose costly, time-consuming burdens on the banking industry," according to a 2003 FDIC annual report.

In the report, Reich appears in a photo, pictured at right, with then-OTS director James Gilleran and three bank lobbyists using pruning

shears and a chainsaw to symbolically cut through a stack of regulatory paperwork draped in red tape. Reich was later handed Gilleran's job as director of the OTS by President George W. Bush in 2005.

Reich retired in 2009 after 49 years in the banking industry. He did not respond to requests to be interviewed for this story.

One of his top deputies was Darrel Dochow, the OTS West Region Director who had direct authority over Washington Mutual, Countrywide and IndyMac.

Decades earlier he was a senior regulator at the now-defunct Federal Home Loan Bank Board, the primary regulator of thrifts during the savings & loan crisis, when 747 thrifts failed from 1989 to 1995 at an estimated cost of \$87.5 billion.

As the head of supervision and regulation of the FHLBB in 1989, Dochow was the regulator of Lincoln Savings and Loan when it failed, the most expensive of the S&L crisis.

"Dochow was the most infamous professional regulator in America," said William Black, who was Director of Litigation at the Federal Home Loan Bank Board and testified to Congress about Dochow during the S&L Crisis.

As federal regulators were preparing a file against Lincoln's CEO, Charles Keating Jr., Dochow ordered his staff "to cease all examinations of Lincoln Savings, all supervisory acts with regards to Lincoln Savings and the formal enforcement investigation that was ongoing," according to Black, who wrote a book about the S&L crisis that detailed Dochow's interactions with Keating. Black is now a law and economics professor at the University of Missouri in Kansas City.

The move delayed the failure of Lincoln and prosecution of Keating, who was later convicted of fraud and spent four and a half years in prison.

The FHLBB was renamed the Office of Thrift Supervision and Dochow was demoted, according to Black and media reports. He worked his way back up the OTS ladder over the next 18 years until he was named head of the West Region in 2007.

His return to the top was short lived.

In July 2008, IndyMac failed under OTS supervision, costing the government \$8.9 billion after panicked depositors caused a run on the bank. Treasury Department inspector general Eric Thorson found that Dochow had allowed IndyMac to "improperly" backdate a capital

contribution of \$18 million by six weeks so that it would meet minimum capital requirements in the spring of 2008.

“During our inquiry, we also discovered that OTS had allowed other thrifts to record capital contributions in an earlier period than received,” Thorson said in a December 2008 letter to Sen. Charles Grassley, R-Iowa.

Then in September 2008 WaMu, with more than \$300 billion in assets, \$188 billion in deposits and 43,000 employees, failed.

Sheila Bair, then Chairwoman of the FDIC and Janet Yellen, then president of the Federal Reserve Bank of San Francisco, said the OTS actively tried to block them from their oversight duties in the months leading up to the IndyMac and WaMu failures.

“Bank supervision is a hard job and hindsight is a good teacher,” Dochow said in a 2010 testimony before Congress, “There are things that I wish I could change. I am deeply saddened when an institution fails because of the impact felt by all customers, communities, employees, and other stakeholders including taxpayers. Over my years in public service, I worked very hard to do the very best job possible in ac-

cordance with agency policies and practices.”

He could not be reached for comment for this story.

A report by the Senate Permanent Subcommittee on Investigations said the OTS repeatedly failed to restrain WaMu’s high-risk lending practices and origination of poor quality home loans. “Over a five year period from 2004 to 2008, OTS identified over 500 serious deficiencies at WaMu, yet failed to take action to force the bank to improve its lending operations,” the report stated.

Thorson said Dochow approved a board resolution in 2008 “that did not require WaMu to correct its deficiencies” although his OTS colleagues raised concern that the resolution should not be passed.

Dochow was placed on administrative leave during the Treasury Department’s investigations and later retired.

Alan Greenspan

Alan Greenspan was no longer chairman of the Federal Reserve when the meltdown hit, but his monetary policies have been blamed for contributing to the collapse.

The bespectacled, smirking Greenspan weathered his first storm

— the 1987 “Black Friday” market crash — and continued to lead the U.S. through subsequent drops in the market over his 18-year tenure as Fed Chairman. As he steered the economy around the dot com bubble and through the terrorist attacks of 2001, he picked up nicknames like “the oracle” and “the maestro.”

But the biggest drop in history was around the corner.

On the morning of Sept. 29, 2008, the House of Representatives struck down a \$700 billion bailout plan proposed by the Bush Administration following a month marked with the bankruptcy of Lehman, the failure of Washington Mutual, and the bailout of AIG among other catastrophic events. The Dow Jones industrial average plunged 778 points and \$1.2 trillion vanished from the market that day.

Greenspan, who had left the Federal Reserve in 2006, suddenly found himself defending his poli-

WHAT HE SAID BEFORE, DURING, AFTER CRISIS



Photo: AP

Alan Greenspan

BEFORE

“What we have found over the years in the marketplace is that derivatives have been an extraordinarily useful vehicle to transfer risk from those who shouldn’t be taking it to those who are willing to and are capable of doing so.”

Testimony before the Senate Banking Committee —
July 16, 2003

DURING

“Those of us who have looked to the self-interest of lending institutions to protect,

cies rather than being praised for them — a dramatic role reversal for the man who was awarded the “Presidential Medal of Freedom” in 2005, the nation’s highest civilian

honor. Bush called him, “one of the most admired and influential economists in our nation’s history,” in a speech honoring the winners of the award that year.

Greenspan’s ideology called for as little government regulation in the free markets as possible — including exotic investments like derivatives and credit default swaps. His policy of extended periods with low interest rates is largely credited with helping to inflate the housing bubble whose explosion triggered the crisis.

He believed market participants would discipline themselves and each other to ensure their investments were safe and their reputations remained intact.

“More than 30 years of deregulation and reliance on self-regulation by financial institutions, championed by former Federal Reserve chairman Alan Greenspan and others, supported by successive administrations and Congresses, and actively pushed by the powerful financial industry at every turn, had stripped away key safeguards, which

WHAT HE SAID BEFORE, DURING, AFTER CRISIS



Photo: AP

DURING [CONTINUED]

shareholders equity, myself especially, are in a state of shocked disbelief.”

Testimony before the Committee on Oversight and Government Reform — October 23, 2008

AFTER

“I was right 70% of the time but I was wrong 30% of the time.”

Testimony before the Financial Crisis Inquiry Commission — April 7, 2010

could have helped avoid catastrophe,” said the Financial Inquiry Commission Report in 2011.

He was the only individual regulator blamed in the report.

Greenspan testified in front of Congress in 2008 admitting his ideology contained a “flaw” and that he was “shocked” when he realized it.

In his post-Fed years Greenspan

has been busy on the speaker circuit, writing books and consulting.

In 2007 he published his memoir, *The Age of Turbulence: Adventures in a New World*, which debuted at the top of the *New York Times* best seller list.

He's represented by the Washington Speakers Bureau, which specializes in booking high level speakers including Madeleine Albright, Tony Blair, George W. Bush, Sarah Palin and Rudy Giuliani. Greenspan was reportedly paid \$250,000 to speak at a Lehman Brothers event for 15 executives in 2006.

He also became an adviser to Paulson & Co, the hedge fund firm run by John Paulson, and formed Greenspan Associates, LLC, a private advising company that is headquartered in Washington, D.C.

Greenspan declined to be interviewed for this story at the request of the publishers of his next book.

Ben Bernanke, ready to ride off into the sunset

No regulator's career was more defined by the financial crisis than current chairman of the Federal Reserve, Ben Bernanke.

On Oct. 24 2005, the bald-headed, grey-bearded academic stood to

the left of Bush in the Oval Office as he was officially nominated to succeed Greenspan as Federal Reserve chairman. Neither Bush nor Greenspan nor Bernanke knew at that moment that the appointment would eventually mean guiding the nation through the worst financial crisis since the Great Depression. Bernanke's background as a scholar of the event prepared him for the task.

Bernanke took over the Fed in February 2006. By April of that year the housing bubble had peaked and the nation was knee-deep in subprime mortgages.

As the housing market deteriorated, Bernanke maintained the Fed had the subprime problem under control. He testified in front of Congress as late as March 2007 saying, "the impact on the broader economy and financial markets of the problems in the subprime market seems likely to be contained."

They weren't and as the financial system spiraled out of control. Bernanke worked closely with Paulson to convince Congress to approve the \$700 billion bank bailout.

Throughout 2008, as the financial system spiraled out of control and the economy tumbled, Bernanke knocked interest rates to zero.

He then took hold of Section 13(3) of the Federal Reserve Act that grants the Fed Board broad emergency powers, and used those powers in ways they'd never been used before.

He opened Fed lending to non-banks, he offered financing at discounts to companies such as General Motors Corp., he began having the Fed buy assets in an array of categories and taking collateral for loans that was not highly rated.

Five years after the collapse of Lehman Brothers, Bernanke is just beginning to talk about reducing the Fed's purchase of assets, suggesting he believes the economy may be able to grow on its own, without Fed support.

Bernanke's extraordinary actions were foreshadowed by his own words four years earlier. As a Fed governor he wrote a groundbreaking research paper called "Monetary Policy Alternatives at the Zero Bound," which contemplated what options were available

WHAT HE SAID BEFORE, DURING, AFTER CRISIS



Photo: AP

Ben Bernanke

BEFORE

"The impact on the broader economy and financial markets of the problems in the subprime market seems likely to be contained."

Testified before the Joint Economic Committee of Congress — March 28, 2007

DURING

"Let me say a word about GSEs [Fannie Mae and Freddie Mac]. The GSEs are adequately capitalized. They are in no danger of failing."

Hearing before the Committee on Financial Services — July 16, 2007

to monetary policy makers who were trying to jump start economic activity when interest rates were already at zero.

“We also find evidence supporting the view that asset purchases in large volume by a central bank would be able to affect the price or yield of the targeted asset,” the paper read.

Obama has suggested he’ll replace Bernanke at the helm of the central bank when his current term expires in January. The remarks have set off a loud public debate about who will be named his successor with former Treasury Secretary Lawrence Summers and Fed Vice Chair Janet Yellen among the front runners.

As for Bernanke’s future, no word of a new book deal — at least not yet. ■

WHAT HE SAID BEFORE, DURING, AFTER CRISIS

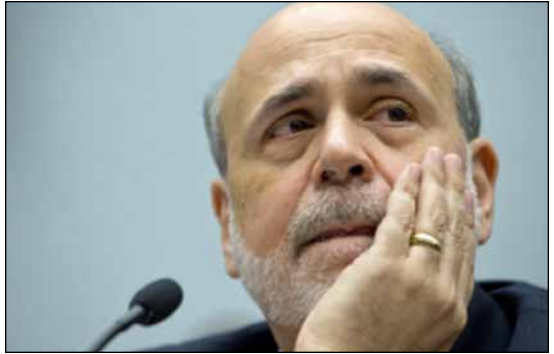


Photo: AP

AFTER

“What I did not recognize was the extent to which the system had flaws and weaknesses in it that were going to amplify the initial shock from subprime and make it into a much bigger crisis.”

Financial Crisis Inquiry Commission testimony —
September 2, 2010

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