Is Geithner Next?

Clamor To Jail Banksters Grows

by EIR Staff

Aug. 6—In the wake of the explosive exposés of drug-money laundering and criminal interest-rate rigging by some of the world's major banks, the clamor is growing for finally prosecuting and jailing that class, which Ferdinand Pecora[1] called the "banksters." At the top of many people's lists is HSBC, formerly known as the (dope-running) Hongkong and Shanghai Bank, which has admitted to massive money-laundering, and whose case has been forwarded for criminal action to the U.S. Justice Department by the Senate Permanent Subcommittee on Special Investigations. But the banks caught manipulating the Libor rate (London Interbank Offered Rate) are also being targetted, especially as many have already been prosecuted for financial crimes—and let off with a slap on the wrist.

zocalopublicsquare.org

Journalist James B. Stewart, in a July 20 op-ed, wrote about UBS "it's hard to imagine a better corporate candidate for a criminal indictment. . . ."

Weighing in for the prosecution of HSBC, and shutting down its U.S. operations, is the authoritative investigator of drug-money laundering, Jack Blum. Blum, who spent 14 years as a Senate invstigator with the Antitrust Subcommittee and the Foreign Relations Committee investigating financial crimes, published his case in an op-ed that appeared in *Politico* Aug. 1. His voice is added to those of former anti-drug prosecutor Neil Barofsky and former New York Governor and Attorney General Eliot Spitzer, who have been waging very public campaigns for submitting the big banks, and their protectors, to law enforcement.

Additional voices have also been raised in Congress in favor of prosecutions. One of the most cogent calls came from Rep. Peter Welch (D-Vt.), who was quoted in a July 20 *New York Times* op-ed by James B. Stewart, an author and journalist noted for exposing financial criminals like Michael Milken, and who presented a strong case on one major offender, the Union Bank of Switzerland (UBS).

The question of whether Obama protector Attorney General Eric Holder would actually carry out prosecutions—and why he hasn't done so yet—is also being raised within liberal Democratic circles, who are finding it increasingly difficult to defend Wall Street sycophant Obama. There is a solution to that, of course: Get Obama out of office on Constitutional grounds now.

Blum: Prosecute HSBC

The following excerpts give the core of Blum's argument in his Aug. 1 op-ed.

"After reading the Senate Permanent Investigations Subcommittee report, I am convinced that HSBC should be criminally prosecuted. So should its responsible officers and board members. The report and follow-up hearings have shown that the bank has knowingly violated many criminal laws. Individuals convicted of similar violations are now in jail—with sentences of up to 40 years. The only case that comes close to matching the range of crimes that HSBC committed is the Bank of Credit and Commerce International—the bank of crooks and criminals, which I investigated back in the late 1980s. It was closed and its leadership was prosecuted. HSBC deserves the same treatment.

"The Justice Department is now reportedly negotiating a deferred prosecution agreement with the bank. HSBC might have to pay a $1 billion fine, according to some news reports, and promise not to violate the law again.

"For HSBC, given the size of its profits, the length of time over which it broke the law and the seriousness of the offenses, a billion-dollar settlement is like a parking ticket. One 20th of one year's profits as a fine for 10 years of flagrant criminal behavior makes no sense.

"The bankers who went along with the crimes

1. For more on Ferdinand Pecora, see: "In the Wake of Libor: Its Past Time for a New Pecora Commission," *EIR*, Aug. 3, 2012.

should also be charged. They were clear in their directions to underlings—get a 15 percent return on equity and disregard the law if you have to. They fired compliance officers who tried to do their job. They fired employees who raised questions and who complained about lack of resources.

"The corporate leadership must be charged—if only to protect the integrity of the compliance function. If compliance officers can be fired with impunity for doing their jobs, why have them? Regulators and prosecutors have ignored the problem of mistreated compliance officers in past cases. Martin Woods, the Wachovia Bank compliance officer in London, was fired for bringing bulk money laundering for the Mexican cartels to management's attention. When they failed to listen, he spoke to regulators.

wordpress.com

Financial crimes investigator Jack Blum wrote in an Aug. 1 op-ed: "After reading the Senate Permanent Investigations Subcommittee report, I am convinced that HSBC should be criminally prosecuted."

"No one at Wachovia was even reprimanded for firing him. HSBC must have been encouraged by that Wachovia outcome. . . .

"Congress included a provision in the laws against money laundering that requires the government to revoke the banking license of firms that violate the law. Prosecutors have, in the past, danced away from prosecution because the Justice and Treasury departments have thought that law too draconian. Banks now expect that, no matter how bad their behavior, paying a fine and promising to be good will cover any misdeed.

"We now have a long list of banks that have entered into deferred prosecution agreements. These clearly don't provide the necessary deterrence. . . .

"In addition, there is the outrageous issue of the Treasury revolving door. HSBC hired Stuart Levey as a group managing director and chief legal officer. He had been Treasury undersecretary for terrorism and financial intelligence. He was a senior official at the Justice Department just before this. Though there was a one-year gap between his leaving Treasury and his HSBC start date, the investigation was already under way when he was at Treasury. Levey should be barred from meeting with or discussing the case with anyone in the administration.

"Americans have been asking why there have been virtually no prosecutions of banks or bankers in the wake of the financial crisis. We have all heard complaints about the difficulty of making the case and identifying responsible individuals. Here is a case that cries out for real prosecutorial action."

And Then There's UBS

In his op-ed, James B. Stewart goes after UBS to make his case that the days of non-prosecution of bankers must end. He leads with a quote from Representative Welch saying: "The Justice Department has to decide: Is the day of consent decrees and settlements, where you pay a fine, one passed on to shareholders, are those days over? Are the days of jail time here?"

While citing HSBC and Barclays as well, Stewart points out that "in many ways UBS is in a league of its own given its track record for scandals. Should UBS be implicated in the Libor rate-fixing conspiracy, it's hard to imagine a better corporate candidate for a criminal indictment. . . .

"As the Justice Department points out in its guidelines for charging a corporation with a crime: 'A corporation, like a natural person, is expected to learn from its mistakes,' and 'a history of similar misconduct may be probative of a corporate culture that encouraged, or at least condoned, such misdeeds, regardless of any compliance programs. Criminal prosecution of a corpo-

ration may be particularly appropriate where the corporation previously had been subject to noncriminal guidance, warnings or sanctions.

"The bank's recidivism seems rivaled only by its ability to escape prosecution:

"UBS obtained a deferred prosecution agreement in 2009 for conspiring to defraud the United States of tax revenue by creating more than 17,000 secret Swiss accounts for United States taxpayers who failed to declare income and committed tax fraud.... In return for the deferred prosecution agreement, UBS agreed to pay $780 million in fines and penalties and disclose the identities of many of its United States clients. At the same time it settled Securities and Exchange Commission charges that it acted as an unregistered broker-dealer and investment adviser to American clients and paid a $200 million fine. In October 2010 the government dropped the charges, saying UBS had fully complied with its obligations under the agreement.

welch.house.gov

Rep. Peter Welch (D-Vt.) is quoted on the non-prosecution of bankers: "The Justice Department has to decide: ... Are the days of jail time here?"

"In May 2011, UBS admitted that its employees had repeatedly conspired to rig bids in the municipal bond derivatives market over a five-year period, defrauding more than 100 municipalities and nonprofit organizations, and agreed to pay $160 million in fines and restitution. An S.E.C. official called UBS's conduct a how-to primer for bid-rigging and securities fraud. UBS landed a nonprosecution agreement for that behavior, and the Justice Department lauded the bank's remedial efforts to curb anticompetitive practices.

"In what the S.E.C. called at the time the largest settlement in its history, in 2008 UBS agreed to reimburse clients $22.7 billion to resolve charges that it defrauded customers who purchased auction-rate securities, which were sold by UBS as ultrasafe cash equivalents even though top UBS executives knew the market for the securities was collapsing.... Besides reimbursing clients and settling with the S.E.C., UBS paid a $150 million fine to settle consumer and securities fraud charges filed by New York and other states. It again escaped prosecution.

"There's more—including UBS's prominent role and big losses in the mortgage-backed securities debacle that helped bring on the financial crisis. The federal agency overseeing Fannie Mae and Freddie Mac sued UBS for securities law violations, accusing it of materially false statements and omissions. The agency is seeking $1 billion in damages....

"In the continuing global interest rates investigations, UBS last summer revealed that it had received conditional immunity from the Justice Department and other authorities. It was shown this leniency even though the Justice Department has pointedly said that Barclays, not UBS, was the first bank to cooperate.

"A corporation can avoid criminal conviction and fines for antitrust crimes by being the first to confess participation in a criminal antitrust violation, fully cooperating with the division, and meeting other specified conditions, according to the Justice Department.

"The department's antitrust division stresses that it makes only one grant of immunity per conspiracy, so it isn't clear how both Barclays and UBS managed to get it....

"UBS said its antitrust immunity was tied only to yen-related rates. That means it could still be prosecuted for antitrust crimes related to other currencies. Barclays obtained antitrust immunity only for a conspiracy involving the euro interbank offered rate, suggesting that the Justice Department is treating the cases as separate conspiracies.

"In the Libor scandal, UBS's conditional immunity applies only to the company, not to individuals....

"Last week the *New York Times* reporters Ben Protess and Mark Scott wrote that the Justice Department was building criminal cases against several individuals and institutions implicated in the Libor scandal, even as rumors swirled that more generous settlements with major banks were in the works.

"If prosecutions are forthcoming, it will be a welcome sign that banks and their employees will be held accountable for their misdeeds. As the recent wave of scandals suggests, years of leniency have failed to bring the hoped-for results or respect for the law...."