

Statement of
The Honorable Edward Kaufman

United States Senator
Delaware
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Senate Judiciary Committee Hearing on Mortgage Fraud, Securities Fraud, and the Financial
Meltdown: Prosecuting those Responsible
Statement of Senator Ted Kaufman (D-DE)
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Good afternoon, everyone. I am honored to call to order this hearing of the Senate Committee on the Judiciary. And I thank Chairman Leahy for permitting me to chair this hearing.

Today we're going to examine the contributions of financial fraud to our current economic crisis, and to explore the efforts of law enforcement to find out what happened and bring the perpetrators to justice.

Three distinguished witnesses join us today to discuss these issues: Assistant Attorney General Lanny Breuer, SEC Director of Enforcement Robert Khuzami, and FBI Assistant Director Kevin Perkins.

Between the spring of 2007 and this past summer, the net worth of U.S. households dropped nearly 14 trillion dollars. 14 Trillion, with a "T."

Of course, an economic collapse of that magnitude was spurred by a wide spectrum of activity. Much of that behavior, though terribly misguided and indeed inexcusable, was not criminal.

The honest home buyer who, enticed by the promise of perpetually rising home prices, took out a mortgage that he could not really afford, may have shown bad judgment but did not break any laws.

In all likelihood, neither did the investment manager who lost a great deal of her clients' money because she failed to appreciate the full extent of the risk caused by mortgage-backed securities.

On the other end of the spectrum, however, was conduct that has all the earmarks of financial crime.

I'm talking about loan originators who encouraged borrowers to lie on loan applications; or middlemen and banks that knew the loans were bad but accepted them anyway for bundling and

re-selling as securities; or investment banks that, stuck with toxic assets as housing prices began to plummet, consciously failed to disclose their true value or their risks to shareholders.

These people should be targets of FBI and SEC investigations. And if convicted, they should go to jail.

If we want to restore the public's faith in our financial markets and the rule of law, we must identify, prosecute, and send to prison the participants in those markets who broke the law. Their fraudulent conduct has severely damaged our economy, and harmed countless hard working Americans.

This is why, last May, I joined with Chairman Leahy, Senator Grassley, and others to help pass the Fraud Enforcement and Recovery Act.

FERA was instrumental in ensuring that additional tools and resources were provided to those charged with enforcement of our nation's laws against financial fraud.

Since the passage of FERA, some real progress has been made. The FBI, the Department of Justice, and the SEC have all redoubled their efforts and redeployed resources.

Just last month, President Obama created an interagency financial fraud enforcement task force. His decision to do so reflects the fact that mortgage, securities, and corporate fraud schemes not only devastated our economy but also have led to the widespread view that Wall Street does not play by the same rules as Main Street.

I'm pleased to see that the Task Force's mission is not just to hold accountable those who helped bring about the last financial crisis, but also to help prevent another crisis from happening.

We must deter those in the mortgage industry, on the trading desks, and in the board rooms who in the future might be tempted to put greed ahead of the law, thus setting the stage for another meltdown.

Of course, deterrence comes from successful investigation and prosecution, and meaningful punishment.

And successful investigation of these complex cases means, among other things, being smart about where to look, and what to look for.

At lower levels, we are starting to see results. The FBI reports that mortgage fraud investigations nationwide now total more than 2800.

To give just one example, in Northern California, the U.S. Attorney's Office recently secured a 53-count indictment against seven individuals who ran a scheme using straw buyers, appraisers, escrow agents and notaries to obtain millions in fraudulent mortgages from victim banks.

In addition, unwitting purchasers were laden with mortgages they had no prospect of paying, in amounts that vastly exceeded the values of the underlying homes.

I also read with interest on Monday that the SEC filed fraud charges against three former top officers of New Century Financial Corporation, for misleading investors as New Century's subprime mortgage business was collapsing in 2006. According to press accounts, a parallel criminal investigation is ongoing.

The message is being sent that this sort of crime does not pay.

But I, like many Americans, remain frustrated that the responsible agencies have not been able to bring more high-level crooks to account.

I understand that unraveling sophisticated financial fraud is an enormously complex undertaking. And these cases can be difficult to make, particularly when trying to prove criminal intent beyond a reasonable doubt from the historical record alone.

But I have called this hearing because enough time has passed that America deserves a full accounting, though necessarily an interim one, from those who are tasked with enforcing our criminal laws.

In the midst of the housing boom-and-bust cycle, did Wall Street executives and hedge fund managers commit financial fraud? If so, why haven't we seen any convictions yet?

Are the agencies being smart and effective in deploying their resources? Do they have an adequate sense of urgency? Is there enough transparency in the markets for law enforcement even to know whether laws are being followed?

Many on Wall Street have argued that there was no criminality, merely a collective delirium brought about by soaring profits and faulty assumptions regarding risks.

My recurring nightmare is that I see some people on Wall Street inside a burning house; they see smoke, and maybe even a flame or two. But instead of sounding an alarm, they keep grabbing the money, convinced they still have time to get out before the house burns down. Even if they make it, where does that leave the rest of us?

I hope that this hearing will provide answers to these questions, and more.

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