

Above the law

Barry Grey
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In the latest scandal involving the criminal activities of major banks, the US Justice Department on Tuesday announced a \$1.9 billion settlement with British-based HSBC on charges of money laundering on a massive scale for Mexican and Colombian drug cartels.

The deal was specifically designed to avert criminal prosecution of either the bank, the largest in Europe and third largest in the world, or any of its top executives. Even though the bank admitted to laundering billions of dollars for drug lords, as well as violating US financial sanctions against Iran, Libya, Burma and Cuba, the Obama administration avoided an indictment by means of a “deferred prosecution agreement.”

The agreement was in keeping with the policy of the US government of shielding top bankers from any accountability for illegal activities that led to the collapse of the financial system in 2008 and ushered in the global recession. Not a single leading executive of a major bank has been prosecuted, let alone jailed, for fraudulent activities that triggered the present crisis, leading to the destruction of millions of jobs and the decimation of working-class living standards in the US and around the world.

Under the protection of the state, the frenzied speculation and swindling continue unabated, underpinning record profits for the banks and bigger-than-ever multi-million-dollar compensation packages for top bankers.

In a front-page article on Tuesday, the *New York Times* outlined internal discussions within the Obama administration that led to the decision not to indict HSBC. The *Times* reported that prosecutors at the Justice Department and the New York District Attorney’s office pushed for a compromise in which the bank would be indicted not for money laundering, but for the lesser charge of violating the Bank Secrecy Act.

Even this, however, was too much for the Obama

administration. The Treasury Department, headed by former New York Federal Reserve President Timothy Geithner, and the Office of the Comptroller of the Currency, the federal regulatory agency charged with policing major banks including HSBC, vetoed any prosecution on the grounds that a serious legal blow to HSBC would jeopardize the financial system.

What does this mean? HSBC, in its pursuit of profit, facilitated the activities of drug cartels that have been the target of the so-called “drug war”—a war prosecuted by the Mexican military at the behest of and with the collaboration of Washington—in which over 60,000 people have died. This is in addition to the human suffering caused by the narcotics trade in the US and around the world.

It was allowed to pay a token fine—less than 10 percent of its profits for 2011 and a fraction of the money it made laundering the drug bosses’ blood money. Meanwhile, small-time drug dealers and users, often among the most impoverished and oppressed sections of the population, are routinely arrested and locked up for years in the American prison gulag.

The financial parasites who keep the global drug trade churning and make the lion’s share of money from the social devastation it wreaks are above the law. As the *Times* put it, “certain financial institutions, having grown so large and so interconnected, are too big to indict.”

Here, in a nutshell, is the modern-day aristocratic principle that prevails behind the threadbare trappings of “democracy.” The financial robber barons of today are a law unto themselves. They can steal, plunder, even murder at will, without fear of being called to account. They devote a portion of their fabulous wealth to bribing politicians, regulators, judges and police—from the heights of power in Washington down to the local police precinct—to make sure their wealth is protected and they remain immune from criminal

prosecution.

The role of so-called “regulators” such as the Federal Reserve, the Securities and Exchange Commission (SEC) and the Office of the Comptroller of the Currency is to run interference for the bankers. They are well aware that crimes are being committed on a daily basis, but turn a blind eye because criminality is intrinsic to the operations of Wall Street and the profits it takes in.

There is evidence that HSBC and other major banks stepped up their money laundering for drug cartels and other criminal outfits in response to the financial crisis that began to emerge in earnest in 2007 and exploded in September of 2008 with the collapse of Lehman Brothers.

Following a similar “deferred prosecution” deal with Wachovia Bank in 2010 for its drug money laundering operations, Antonio Maria Costa, who then headed the United Nations office on drugs and crime, said that the flow of crime syndicate money represented the only “liquid investment capital” available to the banks at the height of the crisis. “Inter-bank loans were funded by money that originated from the drugs trade,” he said.

There can be little doubt that US regulators and political leaders gave their tacit consent to these operations as part of their rush to rescue Wall Street from the consequences of its own money-mad speculative binge.

The incestuous relationship between bank regulators and the banks comes into full view in the case of another recent bank scandal. Last week, Deutsche Bank was named by three ex-employees in a complaint to the SEC alleging that it fraudulently concealed \$12 billion in losses between 2007 and 2009.

The *Financial Times* noted in passing that Robert Khuzami, the head of enforcement at the SEC, has recused himself from the probe because, before taking his post at the federal agency, he was Deutsche Bank’s general counsel for the Americas from 2004 to 2009. In other words, he was in charge of legally defending the bank at the very time it was, according to whistle blowers, engaging in accounting fraud.

This was also the period when Deutsche Bank and other major banks were making billions by poisoning the world financial system with toxic mortgage-backed securities. Last year, the Senate Permanent Subcommittee on Investigations devoted 45 pages of a

voluminous report on the financial crash to the fraudulent activities of Deutsche Bank.

The report noted that the bank’s top trader in collateralized debt obligations had referred to securities the bank was selling as “crap” and “pigs,” and called the banking industry’s CDO operations a “Ponzi scheme.”

That such a man should be put in charge of policing the banks is, in fact, par for the course. The man who recommended that the Obama administration give Khuzami the job, Richard Walker, the current chief counsel at Deutsche Bank, was himself a former head of enforcement at the SEC.

Last June, when JPMorgan Chase CEO Jamie Dimon testified before the Senate on unreported losses of at least \$5 billion, sitting behind him was the bank’s chief counsel, Stephen Cutler, who had graduated to that post after serving as SEC enforcement chief.

This Augean stable of crime and corruption, which involves every official institution of American capitalism, cannot be reformed. The stranglehold of the financial aristocracy over economic life can be ended only through the mass mobilization of the working class to expropriate the bankers and place the major banks and financial institutions under public ownership and democratic control.

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