

were reamed out by their superiors if they tried to block the bad loans. This dynamic is an independent reason why recordkeeping at the nonprime lenders is often horrific.

Finally, lenders like Bank of America, Citibank, and WaMu acquired major nonprime lenders that were notorious for their predatory and fraudulent lending. These banks then often place the employees they obtained via these mergers in charge of loan servicing. It was utterly predictable that they would continue their unethical practices when they functioned as loan servicers—particularly because the alternative would be to admit that their loan servicing files were a shambles. Far better to simply file false affidavits and claim that everything was in order—which is exactly what many of the largest loan servicers did ten thousand times a month.

This is one of the reasons that my colleague Randy Wray and I have called for Bank of America to be placed promptly into receivership. A minor blue collar thief can go to prison for life under some “three strikes” laws—a huge bank doesn’t even suffer a major loss of reputation when it commits a hundred thousand felonies. The U.S. now has its own version of crony capitalism that has produced recurrent, intensifying financial crises—just as crony capitalism does in many nations. The difference is that our economy is so massive that when we have a crisis many nations suffer. When a nation’s elites are able to cheat with impunity the result is always disastrous.

What should President Obama and Congress be doing right now to regulate the banks in a meaningful and fair way?

Economists, white-collar criminologists, and regulators agree that the key is to stop, or at least limit, perverse incentives. Intensely criminogenic environments lead to epidemics of control fraud. There are six key components of what makes an environment dangerously criminogenic.

A. Size matters. A tremendous bubble in the price of persimmons won’t harm the U.S. economy. Real estate bubbles, by contrast, could cause losses that were a large percentage of the U.S. GDP. That’s how you get a Great Recession. Accounting control frauds are particularly dangerous because of they can grow so rapidly and because they tend to cluster in the assets that are most ideal for accounting fraud. The combination of clustering and rapid growth means that epidemics of accounting control fraud can hyper-inflate massive bubbles. Akerlof & Romer and my work have long warned specifically about this danger.

The federal regulatory and prosecutorial agencies are filled with “chief economists,” but there are no “chief criminologists”, no comprehensive federal data on the most destructive white-collar crimes, and virtually zero federal funding for research into the elite financial frauds that have caused trillions of dollars of losses in the U.S. over the last 20 years. We need to do the opposite—hire chief criminologists, keep comprehensive data on the worst frauds, and fund research so that we can actively identify the industries at greatest risk of developing the next epidemic of control fraud. (And this needs to be done not only for banks. The FDA, for example, needs help in spotting frauds that maim and kill.) We then need to act, quickly, to stop those epidemics in their tracks. We did this in 1990-91 as S&L regulators when we stopped the rapid spread of “liar’s” loans at several California S&Ls.

B. Deregulation, desupervision (the rules remain in place but the anti-regulators running the regulatory agencies don’t enforce them) and de facto decriminalization (the three “de’s”) produce the ideal criminogenic environment. The regulators are the “cops

on the beat” when it comes to sophisticated frauds. If you remove the cops of the beat, cheaters prosper and honest businesses are driven from the markets. President Obama largely kept in place the failed anti-regulators he inherited from President Bush. Indeed, Obama promoted Geithner—an abject failure as a regulator in his capacity as President of the NY Fed—and renominated Bernanke, an even greater failure. Obama should fire Attorney General Holder and Treasury Secretary Geithner and ask Chairman Bernanke to resign. He should appoint regulators and prosecutors who have a track record of success.

C. Executive compensation. There is a consensus that executive compensation should be based on long-term (real) profitability. In reality, executive compensation is overwhelmingly based on short-term reported income. (It’s actually worse than that—if the short-term results are bad corporations commonly gimmick the compensation system to reward the senior officers’ failures.) Everyone agrees that short-term reported accounting income is easy to inflate through accounting fraud and virtually everyone agrees that this creates strong, perverse incentives. Since, the current crisis began, the percentage of bonus compensation based on short-term reported income has increased—executive compensation has become more perverse.

Note that executive compensation also allows the CEO to convert the firm’s assets to his personal benefit using seemingly normal corporate mechanisms, which makes it far harder to prosecute the CEO for looting the firm. All bonus income that takes annual income above \$200,000 should be paid after five years—if the firm’s reported income turns out to be real. There should be “clawback” provisions to recover bonuses even after those five years if they were based on corporate income inflated by fraud or “window dressing.”

D. Professional compensation is perverse. Accounting control frauds deliberately exploit this to create the Gresham’s dynamic that allow them to suborn the outside professionals—appraisers, attorneys, auditors, and rating agencies—who are supposed to prevent fraud, but who actually become the frauds’ most valuable allies. Honest professionals don’t get hired, the unethical professionals prosper. This process creates “echo” epidemics of control fraud. Fraudulent nonprime lenders, for example, shaped financial incentives to be perverse to create endemic appraisal and loan broker fraud. The banks should not be able to hire or fire the appraisers, credit rating agencies, and auditors—except for fraud or serious incompetence. Those professionals can only be truly independent if they are assigned to work for the bank by a truly independent entity.

E. The federal government has permitted banks to inflate their reported incomes and “net worth” for the purpose of evading the mandatory statutory duty under the Prompt Corrective Action (PCA) law to close deeply insolvent banks. Congress, at the behest of the Chamber of Commerce, the banking trade associations, and Chairman Bernanke, successfully extorted the Financial Accounting Standards Board (FASB) to scam the accounting rules so that the banks could fail to recognize on their accounting reports over a trillion dollars in losses.

When banks understate their losses massively they, by definition, overstate their net worth massively. The PCA’s provisions kick in when net worth falls, so the accounting lies have gutted the PCA. The accounting lies also allow the banks to (once again) report high fictional income when they are experiencing large, real losses. This accounting

scam allows the bank executives to collect hundreds of billions of dollars in bonuses. We should end the accounting scam and enforce the PCA.

We are also secretly subsidizing banks and hiding their losses through massive loans from the Federal Reserve backed by toxic collateral. We should end those subsidies and force them to post good collateral.

F. Systemically dangerous institutions (SDIs) have often become far larger and more dangerous since the crisis. The administration is taking no serious steps to protect us against the roughly 20 SDIs even though the administration claims that when one of them next fails it is likely to cause a global financial crisis. Why are we juggling 20 live grenades? The only question is when the next pin will drop out and we’ll be blown up.

The good news about the SDIs is that they have reason to exist. They would be far more efficient if they shrank in size to levels at which they no longer endangered the global economy. We should do three things about the SDIs. One, stop their growth—immediately. Two, order them to shrink over the next five years to a size at which they no longer are SDIs. Let them decide what operations to sell. Three, intensively regulate the SDIs during those five years. That includes placing any insolvent SDIs in “pass through receiverships”—which does not prompt crises.

If there were one questionable banking practice that you could stop today, what would that be?

The foreclosure frauds.

You have spent decades examining what goes on in banks. Do think that bankers, either through culture or genetics, are ethically-challenged?

When you allow a *Gresham’s dynamic* to operate and when entry to an industry is easy (as it was for loan brokers and mortgage bankers), you concentrate the least ethical business leaders in the industry that is most criminogenic. In the last decade, banking has been severely criminogenic in the U.S. and much of the world. The unethical banking leaders became dominant. Their banks, which followed the four-part recipe for maximizing fictional accounting income, became far larger and drew the greatest praise from the business boosters than dominated the financial media. They made their reputations and their fortunes through fraud.

#### PERSONAL EXPLANATION

**HON. KAY GRANGER**

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, December 22, 2010*

Ms. GRANGER. Madam Speaker, on rollcall Nos. 662 and 661, I was absent from the House. Had I been present, I would have voted “no.”

#### THANK YOU FOR ALLOWING ME TO SERVE

**HON. CAROLYN C. KILPATRICK**

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, December 22, 2010*

Ms. KILPATRICK of Michigan. Dear Madam Speaker, as I leave Congress as the people’s representative for the 13th Congressional District of Michigan, I thank God, who is the head

of my life, for allowing me the blessing of serving in perhaps the most august, deliberate, elected body in the world. I am humbled and honored that the great citizens of Michigan and the people of Detroit chose me for so many years to fight and serve them for more than three decades as a public servant. The many friendships, relationships, and associations I have formed will remain with me forever.

I finally want to thank perhaps the most underappreciated team in any elected body—the staff who have worked for me for those years in the State of Michigan and on Capitol Hill. The tireless dedication, devotion and work will never be forgotten by me or the people to whom you have been so effective and efficient for so long.

I hope and pray for all of my colleagues that we may bring a better world to all Americans, and never flinch from fighting for justice and democratic ideals. We made history. We made difficult decisions. We fought the good fight. We have difficult days ahead, and I remain faithful to protecting the Constitution of the United States and the goals of our great nation.

God bless.

#### PERSONAL EXPLANATION

##### HON. DEAN HELLER

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 22, 2010

Mr. HELLER. Madam Speaker, on rollcall No. 658, I was unavoidably detained. Had I been present, I would have voted "yes."

#### PERSONAL EXPLANATION

##### HON. ERIK PAULSEN

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 22, 2010

Mr. PAULSEN. Madam Speaker, on rollcall No. 658 (H.R. 6540) my flight was delayed due to weather and had I been present, I would have voted "yes."

#### ACCOMPLISHMENTS IN THE 110TH AND 111TH CONGRESS

##### HON. JOHN J. HALL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 22, 2010

Mr. HALL of New York. Madam Speaker, I would like to submit the following: As the Representative for New York's 19th Congressional District, I had numerous significant accomplishments in all aspects of meeting local community needs, individual constituent services, and enacting federal legislation on behalf of my constituents.

I kept my annual promise of holding at least one public event in every town and city in the district to give my constituents an opportunity to speak directly with me about their opinions and concerns. I hosted Town Hall Meetings, Congress on Your Corners, business roundtables, issues forums and workshops throughout all 4 years of my Congressional

service. In addition to these events, I attended numerous community events hosted by local organizations, senior centers, fire departments, schools, etc. I also did a series of "work-a-day" events where I worked alongside a constituent in a local job so I could better understand the day to day challenges they face. Some of these events included working with a nurse at an area hospital, an assembly line worker at a manufacturing plant, a ride along with a delivery truck driver, weatherization installation at a home, installation of a geothermal heat/cooling system at a new senior housing development, and installation of solar energy panels on the roof of an elementary school.

The Congressional offices in Carmel, Goshen, and Washington responded to thousands of constituent opinions and information requests. Hundreds of casework problems were resolved for individuals and families who had problems with federal agencies when applying for Veterans benefits, Social Security and Medicare payments, and expediting passport applications.

The Congressional office provided hundreds of Capitol tours for school classes and families visiting Washington DC, fulfilled flag requests, nominated students to our nation's military service academies, and assisted with federal grant applications.

I cosponsored and voted for important legislation to create and save jobs, cut taxes on middle class families, improve the process for Veterans applying for well deserved benefits, reform financial services regulation, and health insurance reform designed to improve accessibility and affordability. I authored legislation that dramatically improved the Veterans benefits system, streamlining the process for veterans to receive the care and compensation they earned in service to our nation. My legislation is widely regarded as the most sweeping reform of the VA in a generation.

I was proud to bring millions of federal dollars home for local projects that create and save jobs, improve water quality, improve traffic safety and public transportation, build local infrastructure, and save local property tax dollars.

I voted against my own pay raise each time it came before the House, and donated my raise to local non-profit organizations rather than accepting it.

#### MEETING LOCAL COMMUNITY NEEDS

##### ECONOMIC DEVELOPMENT: LOCAL JOBS AND SMALL BUSINESS DEVELOPMENT

I worked actively to bring new jobs to the area and save local jobs that were at risk of leaving including:

Kolmar—Successfully assisted in keeping the largest manufacturing company in Western Orange County from leaving the state, thereby retaining hundreds of local jobs in an economically depressed area.

Pepsi Bottling—Successfully assisted with efforts to keep the company's facilities in Northern Westchester when they were considering a move out of state.

SpectraWatt—Instrumental in negotiations to bring a new solar energy manufacturing company to Dutchess County, replacing almost a hundred jobs that had been outsourced overseas. Labor Secretary Hilda Solis visited the site to discuss the local benefits with business and labor leaders. Although recent reports indicate the company is struggling, discussions are still ongoing to keep the jobs in Dutchess County.

I successfully advocated for Stewart Air National Guard Base to receive 8 new C-17 aircraft and all of the support services and local economic development opportunities that go with it. The Air Force made this award after a very competitive national process. I also brought US Transportation Secretary Ray LaHood to Stewart Airport for a meeting with local business and community leaders to discuss how the airport could be more of an economic engine for the region.

I hosted several small business seminars to inform local businesses about the opportunities created by the federal economic stimulus legislation, including direct tax reductions and capital availability. These events were attended by hundreds of people. In addition, numerous roundtables were held with local business leaders to provide me with direct input as to what they needed to create growth opportunities. These meetings served as the basis for small business tax cut legislation I introduced, several provisions were enacted into law.

Job Opportunity and Training Fairs were held to provide assistance in getting a job including interviewing skills, resume writing, networking, employer connections, adult and continuing education, green jobs, and entrepreneurship and one-on-one consultation. Many local employers attended and were able to talk directly with job seekers who were in attendance.

I brought House Education and Labor Committee Chairman George Miller to the district for a public meeting to inform the community about the provisions of the new Direct Student Loan legislation and how they will make it easier for more students to attend college.

I held workshops for local constituents to provide them with information regarding how to prevent home foreclosure as well as mortgage refinancing options. I brought together local banks and housing counselors for presentations as well as direct individual counseling opportunities.

#### ENERGY INDEPENDENCE:

I sponsored a series of energy independence forums throughout the district to provide practical information to municipalities, businesses, and individuals interested in developing domestic energy resources. These forums focused on wind, solar, hydro and tidal power, as well as biofuels and conservation. I also held an event which brought together solar manufacturers, retailers, and prospective buyers to create markets for local suppliers. Many local projects were developed as a result of the information provided and the introductions made between local providers and businesses.

I helped bring more than \$517m for weatherization funding and energy efficiency grants to New York. This money directly benefited local families who were able to save money on their energy bills by weatherizing their homes, and it created local jobs.

#### VETERANS

Many Veterans meetings were held throughout the district so I could gain input from local veterans regarding the challenges they face navigating the VA claims and benefits processes generally, as well as a specific challenges resulting from PTSD. Based on what I heard from local Veterans and VSOs, I successfully introduced legislation that significantly streamlined the benefits process, and advocated for a VA rules change regarding handling of PTSD claims. The rules change