April Fools: The Fox To Guard The Banking Henhouse

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The Federal Reserve, which has been credited with creating the current housing bubble and bust just as it created the credit bubble of the Roaring Twenties and the bust of 1929, is now to be given vast new powers to oversee regulation of the banking industry and promote "financial market stability." At least, that is the gist of a Treasury Department proposal to be presented to Congress on Monday, March 31, 2008. Adrian Douglas wrote on LeMetropoleCafe.com, "I would like to think that this is some sort of sick April Fools joke, but, alas, they are serious! What happened to free markets?"1

In fact, what happened to regulating the banks? The Treasury's plan is *not* for the private Federal Reserve to *increase* regulation of the banking system it heads. *Au contraire*, regulation will actually be *decreased*. According to *The Wall Street Journal*:

> "Many of the [Treasury's] proposals, like those that would consolidate regulatory agencies, have nothing to do with the turmoil in financial markets. And some of the proposals could actually reduce regulation. According to a summary provided by the administration, the plan would consolidate an alphabet soup of banking and securities regulators into a powerful trio of overseers responsible for everything from banks and brokerage firms to hedge funds and private equity firms. . . . Parts of the plan could reduce the power of the Securities and Exchange Commission, which is charged with maintaining orderly stock and bond markets and protecting investors. . . . The blueprint also suggests several areas where the S.E.C. should take a lighter approach to its oversight. Among them are allowing stock exchanges greater leeway to regulate themselves and streamlining the approval of new products, even allowing automatic approval of securities products that are being traded in foreign markets."2

"securities products" include the mortgage-backed securities, collateralized debt obligations, credit default swaps, and other forms of the great Ponzi scheme known as "derivatives" that have been largely responsible for bringing the banking system to the brink of collapse. But these suspect products are not to be more heavily scrutinized; rather, their approval will actually be "streamlined" and may be *automatic* if they are being traded in "foreign markets." *The Journal* observes that the Treasury's proposal was initiated last year by Secretary Henry Paulson not to "regulate" the banks but "to make American financial markets more competitive against overseas markets by modernizing a creaky regulatory system. His goal was to streamline the different and sometimes clashing rules for commercial banks, savings and loans and nonbank mortgage lenders." "streamlining" the rules evidently meant eliminating any that “clashed” with the Fed’s goal of allowing U.S. banks to be more “competitive” abroad. *The Journal* continues:

> “While the plan could expose Wall Street investment banks and hedge funds to greater scrutiny, it carefully avoids a call for tighter regulation. The plan would not rein in practices that have been linked to the housing and mortgage crisis, like packaging risky subprime mortgages into securities carrying the highest ratings. . . . And the plan does not recommend tighter rules over the vast and largely unregulated markets for risk sharing and hedging, like credit default swaps, which are supposed to insure lenders against loss but became a speculative instrument themselves and gave many institutions a false sense of security.”

Regulating fraudulent, predatory and overly-speculative banking practices has been left to the States, not necessarily by law but by default. According to then-Governor Eliot Spitzer, writing in January of 2008, state regulators tried to regulate these shady practices but were hamstrung by federal authorities. In a February 14 *Washington Post* article titled “Predatory Lenders; Partner in Crime: How the Bush Administration Stopped the States from Stepping in to Help Consumers,” Spitzer complained:

> “several years ago, state attorneys general and others involved in consumer protection began to notice a marked increase in a range of predatory lending practices by mortgage lenders. Some were misrepresenting the terms of loans, making loans without regard to consumers’ ability to repay, making loans with deceptive ‘teaser; rates that later ballooned astronomically, packing loans with undisclosed charges and fees, or even paying illegal kickbacks. These and other practices, we noticed, were having a devastating effect on home buyers. In addition, the widespread nature of these practices, if left unchecked, threatened our financial markets.

> “Even though predatory lending was becoming a national problem, the Bush administration looked the other way and did nothing to protect American homeowners. In fact, the government chose instead to align itself with the banks that were victimizing consumers. . . . [A]s New York attorney general, I joined with colleagues in the other 49 states in attempting to fill the void left by the federal government. Individually, and together, state attorneys general of both parties brought litigation or entered into settlements with many subprime lenders that were engaged in predatory lending practices. Several state legislatures, including New York’s, enacted laws aimed at curbing such practices . . . .

> “Not only did the Bush administration do nothing to protect consumers, it embarked on an aggressive and unprecedented campaign to prevent states from protecting their residents from the very problems to which the federal government was turning a blind eye. . . . The administration accomplished this feat through an obscure federal agency called the Office of the Comptroller of the Currency (OCC). . . . In 2003, during the height of the predatory lending crisis, the OCC invoked a clause from the 1863 National Bank Act to issue formal opinions preempting all state predatory lending laws, thereby rendering them inoperative. The OCC also promulgated new rules that prevented states from enforcing any of their own consumer protection laws against national banks. The federal government’s actions were so egregious and so unprecedented that all 50 state attorneys general, and all 50 state banking superintendents, actively fought the new rules. But the unanimous opposition of the 50 states did not deter, or even slow, the Bush administration in its goal

> of protecting the banks. In fact, when my office opened an investigation of possible discrimination in mortgage lending by a number of banks, the OCC filed a federal lawsuit to stop the investigation."

Less than a month after publishing this editorial, Spitzer was out of office, following a surprise exposé of his personal indiscretions by the Justice Department. Greg Palast observed that Spitzer was the single politician standing between a $200 billion windfall from the Federal Reserve guaranteeing the mortgage-backed junk bonds of the same banking predators that were responsible for the subprime debacle. While the Federal Reserve was trying to bail them out, Spitzer had been trying to regulate them, bringing suit on behalf of consumers.3 But Spitzer has now been silenced, and any other state attorneys general who might get similar ideas will be deterred by the federal oversight under which banking regulators are to be "consolidated."

The Federal Reserve under Alan Greenspan deliberately enabled and permitted the derivatives debacle to take down the dollar and America's credibility. Greenspan is now lauded, feted and awarded at the White House and on network television, and takes a victory lap tour promoting and signing his book and celebrating his multimillion dollar book deal, enjoying his knighthood status in England and hero status on Wall Street. And as the falling debris of the American economy still piles up around us, the very agency that enabled disaster is now seeking to consolidate ultimate authority and accountability to itself, and through centralization and arrogation of power, eliminate all those pesky little Constitutional and State regulations and agencies, recalcitrant governors and the last few whistle blowers, so that the further abuse of power can be streamlined through one agency only. That agency is to consist of an alliance of the banking powers and the executive branch, a perfect formula for the institutionalization of continual abuse.

Perhaps Spitzer was lucky that he was the target only of a character assassination. When Louisiana Senator Huey Long challenged the Federal Reserve and fought for the State's right to oversee its own financial affairs in the 1930s, he was assassinated with bullets. Long's local assertion of decentralized State powers, as provided for in the Tenth Amendment to the Constitution, enabled the State of Louisiana to loosen the grip of the corporations on the State's wealth and allowed the setting up of schools and public institutions that elevated the people of the State and placed its "common wealth" back into the hands of its citizens, while providing employment and education. The Constitution reserves to the States and the people all those powers not specifically delegated to the federal government, arguably including the creation of money itself, which is nowhere specifically mentioned in the Constitution beyond creating coins. (See E. Brown, "Another Way Around the Credit Crisis: Minnesota Bill Would Authorize State Banks to Monetize; Productivity," www.webofdebt.com/articles, March 23, 2008.) But in this latest attempt at expanding the Federal Reserve's already over-expansive powers, we see clear evidence that the Wall Street and global banking powers have no intention of allowing their plans to be reined in by the Constitutional powers of the States and the people. Instead, they intend to fill up the moat and pull up the draw bridge on their feudal powers, and let the serfs shiver outside the gates for as long as they will put up with it.

NOTES

1
Adrian Douglas, "PPT to Come Out of the Closet," www.lemetropolecafe.com (March 29, 2008).

2
Edmund Andrews, "Treasury's Plan Would Give Fed Wide new Power," New York Times (March 29, 2008).

3
Greg Palast, "Eliot's Mess" www.gregpalast.com (March 14, 2008).

Ellen Brown, J.D., developed her research skills as an attorney practicing civil litigation in Los Angeles. In Web of Debt, her latest book, she turns those skills to an analysis of the Federal Reserve and "the money trust." She shows how this private cartel has usurped the power to create money from the people themselves, and how we the people can get it back. Her eleven books include the bestselling Nature's Pharmacy, co-authored with Dr. Lynne Walker, which has sold 285,000 copies. Her websites are www.webofdebt.com and www.ellenbrown.com.

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