Where's Eliot Spitzer Now That We Need Him?

Wanted: Bulldog

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The former governor of New York might have some rocky moments in his confirmation hearings, but if Obama really wanted to police Wall St – which of course he doesn't – he'd replace current SEC chief Mary Schapiro with Eliot Spitzer. Schapiro is another Wall Street toady who believes that the markets can regulate themselves. As the head of the Financial Industry Regulatory Authority, or Finra, she stood by while the financial giants increased their leverage to unsustainable levels and spread their derivatives-contagion to every part of the system.

Schapiro also missed the Madoff scandal, the auction-rate bond fraud, the blow up at Lehman Brothers, and the mortgage meltdown. She was blindsided at every turn. Her dismal performance as a private-sector regulator proves that she's the wrong person for the job. Even the far-right Wall Street Journal has lambasted Schapiro. In an article titled "Obama's pick to head SEC has record of being a Regulator with a Light Touch" the WSJ relayed this revealing anecdote:

> The Financial Services Institute, a trade group, was meeting, and Ms. Schapiro addressed the crowd about Finra's efforts to fight frauds aimed at senior citizens. Frank Congemi, a financial adviser, asked what Finra was doing to regulate "packaged products" such as complex mortgage securities. Mr. Congemi says that Ms. Schapiro replied: "We have rating agencies that rate them." The credit-rating agencies, by this time, were being heavily criticized for having given triple-A ratings to mortgage bonds that became unsalable as foreclosures rose.
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> Mr. Congemi says that at the May 7 meeting he retorted: "What is that going to do to markets and people's trust when these things go to zero?" He says Ms. Schapiro replied that she couldn't answer hypothetical questions. (Wall Street Journal, Obama's pick to head SEC has record of being a Regulator with a Light Touch")

This story sums up Schapiro's do-nothing attitude perfectly. She's doomed to follow in the footsteps of her feckless predecessor, Christopher Cox, who stuck his head in the sand while the five biggest investment banks levered up to 30 to 1 and brought the whole global house of cards crashing to earth. Schapiro will undoubtedly torpedo any effort to police the markets or to bring charges against any of the Wall Street Godfathers.

And what is the SEC up to now? Where are the regulators and what steps have been taken to clean up Wall Street?

Nothing. Obama hasn't changed a thing. Treasury is full of bank loyalists and the SEC is loaded with brokerage-friendly flunkies. The only difference is that the SEC's rubber stamp has been passed from laughing stock Cox to lapdog Schapiro. Other than that, it's business as usual.

If Spitzer was running the SEC, the Pinkertons would be swarming the investments houses right now, thumbing through the off-balance sheet paperwork, overturning filing cabinets and tasering bloated banksters as they scuttle away clutching their briefcases stuffed with taxpayer loot.

The public is not in the mood for any more lame excuses or windy oratory from President Inspiration. Just get on with it. Governing is more than just gliding from one teleprompter to the next pointing at rainbows and promising Utopia. There has to be action, accountability, and justice.

What people want is to see a cop on every corner of lower Manhattan. They want regulators snooping through e mails and digging through trash cans to uncover any scrap of evidence that will build a case for investor fraud or criminal malfeasance. They want bloodhoundsposted in every boardroom, in every penthouse, on every private jet; breathing down the necks of every CEO, every CFO, and every dodgy, derivatives-peddling scam-artist.

This is not the time for namby-pamby, weak-kneed Schapiro. Spitzer's tough tactics made him big business's most hated man. In fact, in January 2005, the president of the US Chamber of Commerce described Spitzer's approach as "the most egregious and unacceptable form of intimidation we've seen in this country in modern times."

If that isn't a ringing endorsement for SEC chief, than what is?

In March 2008, Spitzer resigned as Governor of New York when he was caught with a high-priced prostitute named Ashley Dupre. The story made headlines across the country. Spitzer accepted full responsibility for his conduct and did not challenge the allegations even though the information was gathered via a federal wiretap.

The Spitzer case brings up some unsettling questions about Bush's surveillance programs; mainly whether they are really being used to investigate potential terrorists or simply a means of destroying political enemies. Spitzer made a name for himself by sticking it to bigshot business tycoons and Wall Street kleptocrats, the very type of people who fill out Bush's campaign donor list. That's why many people believe that the Bush Justice Department was simply carrying out a vendetta on behalf of Spitzer's many powerful enemies.

Just days before the scandal broke, the Washington Post published an article by Spitzer which linked the Bush administration to the mortgage fiasco. He showed how Bush had blocked all efforts to save loan applicants from being fleeced by mortgage lenders. Spitzer was joined by many other state attorneys general who noticed early on that predatory lending was on the rise and that there was a concerted effort to keep the mortgage swindle going whether applicants had the ability to make their payments or not.

Here's some of that Spitzer op-ed in the Washington Post:

> "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….
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> In 2003, during the height of the predatory lending crisis, the Office of the Comptroller of the Currency (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
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> 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.
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> Throughout our battles with the OCC and the banks, the mantra of the banks and their defenders was that efforts to curb predatory lending would deny access to credit to the very consumers the states were trying to protect. The curbs we sought… would have stopped the scourge of predatory lending practices that have resulted in countless thousands of consumers losing their homes and put our economy in a precarious position.
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> When history tells the story of the subprime lending crisis and recounts its devastating effects on the lives of so many innocent homeowners, the Bush administration will not be judged favorably. The tale is still unfolding, but when the dust settles, it will be judged as a willing accomplice to the lenders who went to any lengths in their quest for profits. So willing, in fact, that it used the power of the federal government in an unprecedented assault on state legislatures, as well as on state attorneys general and anyone else on the side of consumers." (Eliot Spitzer, "Predator Lenders' Partner in Crime" Washington Post)

If the allegations are true, then the Bush administration was directly and maliciously involved in duping thousands, if not millions, of credulous borrowers into fraudulent loans.

Spitzer gave his enemies all the ammo they needed to put him away for good, and they took full advantage of it. No one expected that he would pop up just a year later.

Last Sunday, Spitzer was interviewed on Fareed Zakaria's GPS on CNN. The ex-Gov showed a better grasp of the details of the financial situation than of any of the 535 members of Congress. Spitzer understands the problems and knows what needs to be done to fix them. Here's a small part of the interview:

> Fareed Zakaria: What made you look at AIG and say something is wrong here?
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> Eliot Spitzer: Their fundamental accounting structure was wrong, and when we prosecuted them we brought a case that they had allegedly manufactured fictitious reinsurance contracts designed to create the appearance of capital on the books which was not there and this was was a structure that had been designed and orchestrated at the very top of the company.
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> Fareed Zakaria: So they were basically fudging the numbers to make it look like they had a stronger balance sheet than they actually had?

> Spitzer: Precisely. That is exactly right. The underlying effort was to create the illusion of financial strength that was not actually there. And as we dug more deeply into the underlying structure and organization and accounting that was ongoing at the company we knew there was a problem. Four people have been convicted in this and the former CEO was called an unindicted co-conspirator in the federal courtroom by the federal prosecutor. So, this was a fundamental effort to alter the facts and lie to the public."
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> ZAKARIA: So, do you think the problems that AIG got into later on stemmed from some of the same practices that you were trying to get at?
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> SPITZER: They stemmed from an effort at the very to to gin up returns whenever, wherever possible, and to push the boundaries in a way that would garner returns almost regardless of risk. Back then, I told people that AIG is at the center of the web. The financial tentacles of this company stretched to every major investment bank. The web between AIG and Goldman Sachs is something that should be pursued. And as I've written…

Consider what Spitzer is saying; that the lumbering Goliath, AIG, is at the very center of the gigantic derivatives fraud which took trillion of dollars of undercapitalized credit default swaps (CDS) and sold them (as insurance) to myriad other financial institutions to help them maintain artificially high ratings on complex securities whose real value was always in doubt since the underlying collateral was connected to uncreditworthy borrowers who were more likely to default or go into foreclosure. These CDS are the paper claims to fictive wealth which greatly inflated the world's biggest speculative bubble. These unregulated swaps are the tissue that holds together the failing shadow banking system which both Geithner and Bernanke are committed to preserve. Spitzer understands how this complex system works and what it will take to bring it under control. This alone should put him at the top of the list of candidates for the SEC.

If the Obama team was serious about defending the little guy and restoring confidence in the markets, then a real bulldog has to run the SEC. But since the real objective appears to be keeping the same basic power-structure in place at all costs; the present course will do just fine. One unmistakable sign of imperial decline is the inability to make critical changes when the country's future depends on it.

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