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On the Involvement of Federal Bank Examiners in Political Activities

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Senate Banking Committee

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Report to the Chairman Committee on Banking, Housing, and Urban Affairs United States Senate

On the Involvement of Federal Banking Examiners In Political Activities

September 16, 1999

Introduction

On Friday afternoon, January 29, 1999, officers from a large national bank contacted the Senate Banking Committee with a significant concern: Bank examiners from the Office of the Comptroller of the Currency (OCC) had asked the bank for the names of bank officers that the OCC could cite publicly as supporters of the Community Reinvestment Act (CRA). The bank was undergoing an examination by the OCC at the time.

The bank was understandably alarmed that the traditionally non-partisan regulators to whom it must answer also seemed to be part of a contentious public and congressional debate. Concerned with fulfilling the exacting, but objective, requirements imposed by federal banking regulations, the bank was now faced with a secondary question: Whether it would have to adopt publicly a stance on political issues and whether its stance on any issue -- for or against -- would be a factor in its current and future regulatory evaluations.

That afternoon, staff of the Senate Banking Committee contacted the OCC about these activities. Officials from the OCC soon assured Committee staff that the project to gather the names of "pro-CRA" bankers was undoubtedly inappropriate and had promptly been terminated after the Committee inquiry. In addition, OCC officials delivered internal documents that briefly outlined how the name gathering project had begun as part of a White House "CRA Team" project in late 1998. Committee staff asked for additional information, which the OCC promised to provide.

Over the next five months, the Committee sent a total of ten letters to the Secretary of the Treasury (Treasury), the OCC, the Office of Thrift Supervision (OTS), the Federal Reserve Board, and the Federal Deposit Insurance Corporation (FDIC), requesting additional or follow-up material. In addition, Committee staff met with counsel from the Treasury and officials from the OCC and OTS, and received communications from the FDIC and the Federal Reserve.

The FDIC and Federal Reserve both informed the Committee that they were not involved in gathering the names of "pro-CRA" bankers and had not attended meetings at the White House regarding the "CRA Team" project. In addition, the OTS informed the Committee that, while some of its officials had attended White House CRA meetings and OTS staff had gathered the names of "pro-CRA" officers or employees of institutions under its jurisdiction, no officers or employees were directly contacted by OTS staff.

This report summarizes the results of the staff inquiry, provides findings and offers recommendations to ensure that such a breach of the wall shielding bank examiners from political influence does not recur in the future.

Background

Based on materials provided to the Committee by the Treasury and OCC, the Committee has developed the following time line of activities leading to January 29, 1999. Because evidence gathered only refers to staff members from the OCC involved in acquiring the names of “pro-CRA” bankers *and* contacting banks in the course of acquiring such names, the following time line focuses on OCC activities, although the general events leading up to the name-gathering project are applicable to the OTS as well.

In November 1998 the White House, through National Economic Council (NEC) Senior Advisor Sarah Rosen, established a “CRA Team” project and began holding a series of regular meetings on CRA among senior Treasury, OCC, OTS and White House personnel in anticipation of legislative activity regarding CRA in the 106th Congress. These meetings were designed to identify as many issues as possible regarding CRA and assign responsibility to various Administration agencies for responding to these issues.

As early as November, however, questions about the nature of these meetings were being raised -- but not heeded -- by some officials at the OCC. In an e-mail message to Ray Natter, OCC Deputy Chief Counsel, on November 19, 1998, about who should attend a December 14 meeting at the White House, Michael Bylsma, OCC Director of Community and Consumer Law, noted that he “suspect[ed], but [did not] know yet, that [the meeting] might be a political strategy session.” But Bylsma was also “sure [that the meeting would] focus on the substance of potential [CRA] amendments.” Concerns about the nature of the White House’s activities, especially as they affected the banking regulatory authorities, would arise several times thereafter, but no action to address these concerns would be taken.

On December 8, 1998, officials at the OCC were asked by the Treasury to attend a “CRA meeting” with Democratic staffers from the Senate Banking Committee. In responding to the request, Chris Lewis, Senior Advisor to the Comptroller of the Currency, sent an e-mail message to John Hardage, OCC Deputy Director of Congressional Liaison, that OCC Chief Counsel Julie Williams “would prefer that we p[r]ovide technical assistance only *and not attend political strategy sessions*. We have been responsive to the Senate staff requests to date. A ‘roll up your sleeves’ meeting may not be appropriate for us at this time.” (Emphasis added.)

A week after the December 14 meeting at the White House, the NEC e-mailed at least 22 senior Treasury, OCC and OTS officials, identifying a number of explicit areas for research and response and designating which agencies were to take the lead or be involved in these activities. Under the heading “CRA Success Stories,” the White House e-mail noted that the OCC, OTS and Treasury were to be involved, with OCC taking the lead. For the task, “[i]dentify list of bankers willing to make statements in support of CRA,” the White House e-mail noted that Treasury was to be the lead agency “with input from OCC and OTS.” Among the nearly two dozen specific items listed in this e-mail, the OCC and OTS were to be involved in some fashion in ten of them.

On December 21, Amy Friend, OCC Assistant Chief Counsel, e-mailed Chris Lewis to ask “[w]hich of these requests [from the White House] are you already working on? Do we need to discuss how to proceed with any of [these] requests that you are not working on?” On the same day, Lewis responded to Friend:

We need to discuss which of these requests are appropriate for the office to be responsive to, how to transmit appropriate information and how to manage internal support for our response. Response to these, and likely follow-on requests, will impact various agency divisions and I think we need to develop an efficient mechanism for handling the work load going forward. In general, *we need to be careful to not be perceived to be in cahoots with WH political strategizing*. (Emphasis added.)

Half an hour later, this e-mail was transmitted from Friend to Ray Natter, with the notation, “Though[t] you’d be interested in this.” So, by this time, at least six OCC senior staff were aware of the possibility that the agency could become enmeshed in political activities -- about which the agency’s Chief Counsel had already specifically warned.

Another White House/NEC “CRA Team” meeting was scheduled for January 11, 1999, where attendees were brought up to date on the progress that had been made since the December meeting and assignments had been made. On January 13, Chris Lewis e-mailed Dave Hammaker, OCC Deputy Comptroller for Compliance Operations, and Stephen Cross, OCC Deputy Comptroller for Community and Consumer Policy:

The [Treasury] has asked for a short list of bankers that would most likely say positive things about their institution’s experience with CRA if asked by the media. Could you both get back to me with some recommendations[?] I think we need no more than 10-12 suggestions total and they can be at the SVP, EVP or CEO level.

Two days later, on January 15, Dave Hammaker forwarded Lewis’ note to a number of the OCC’s national banker examiners with a notation that responses were due January 22, 1999. That same day, Hammaker was asked by a Large Bank Compliance Specialist:

Are you at liberty to share the purpose of the request? I ask because I can give you names that start with the CRA Director and add others depending upon the area of focus. If this relates to recent news about Congressional action to the Act, we may want and need to be more selective in our responses OR at least put them on notice about the potential request. . . .

Hammaker forwarded this e-mail to Lewis, who responded:

My understanding is that the Department simply wants to construct a list of pro-CRA bankers that their public affairs folks can refer reporters to when needed over the next few months as the Department defends its support of the Act. So, in a[ns]wer to [the] question - *yes the request is related to congressional activity*. I think we want to generally shoot for the most senior CRA responsible person in institutions. And, if possible, I think that we want to avoid notice to the bank. *I am, personally, not wholly comfortable with the request. But, the Comptroller would like us to be responsive to the Department request (within measure).* (Emphasis added.)

On January 19, Hammaker responded to Lewis:

If you have a few minutes could we chat about this[?] I am concerned about supplying names that could be released public[l]y without first telling the banks what we are doing. Or do I have this all mixed up[?]

Lewis e-mailed Hammaker that he would call him in the morning; however, the Committee does not know what Lewis told Hammaker and, regardless, the name-gathering project, and the involvement of OCC examination staff, did not end at that time.

Over the next two weeks, bank examiners from around the country responded to the January 13/15 e-mails with the names of “pro-CRA” bankers. However, examination staff raised a number of questions along the way, some of which should have alerted OCC policy staff about the impropriety of using examination staff to fulfill the Treasury’s request.

Even while an examination was currently in progress, on January 15, a Large Bank Compliance Specialist Team Leader sent this e-mail to a Compliance Operations Analyst:

I would assume that since we aren’t yet completed with the [bank’s] examination and the fact that they have already challenged the state-by-state PE struction [sic] proposed last summer, that we may not forward any names [from the bank].

On January 18, a Community Bank Compliance Specialist included in his e-mail reply about the bank that he worked with that, although his bank was pro-CRA, “most any banker out there, if pressed, is going to be able to tell you some of the inconveniences and expenses which they would attribute to CRA.”

On January 21, the Examiner in Charge of a large national bank responded that her bank’s “policy is not to comment on anything regarding regulators to the press (positive or negative). That has always been the answer in the past. We have asked a couple of times in the past, and that was the standard response. . . .”

On January 22, a Large Bank Compliance Specialist Team Leader asked Hammaker:

[I]s this request asking for banks to say positive things about their examination experience/regulator or what has been accomplished because of the CRA?

On January 27, Hammaker responded that “the name would be made public by [Treasury] as bankers that support the whole concept of CRA.”

On January 22, a Large Bank Compliance Specialist wrote:

Depending upon the purpose of the request, you may ask that I offer you some other names or check with the [bank’s] reps to determine if their views are ‘pro CRA.’ Hopefully, the media request is not a pure ‘blind request’ -- otherwise, the responses are likely to be mixed.

On January 26, a Community Bank Compliance Specialist Team Leader submitted a list of names to the OCC and wrote that “*our examiners asked* [the banks whose names were submitted] if they would mind if someone contacted them about their experiences with the revised CRA.” (Emphasis added.)

On January 26, a preliminary spreadsheet of “pro-CRA” bankers was prepared and submitted to Dave Hammaker, containing 18 names from 11 different banks. On January 27, Dave Hammaker sent an e-mail to the examiners who had submitted the names of pro-CRA bankers asking for “some additional feedback.” Because the names could be made public at some time, Hammaker thought it

would be a good idea if we checked with the respective banks and people to make sure they understand that their name is on this list and that the list could be made public at some point. . . . I need to get [the] final list up to Chris Lewis by Friday so let me [know] ASAP if there [are] any problems here.

In response to Hammaker's e-mail, a Community Bank Compliance Specialist Team Leader responded:

The examiners have contacted each bank on the list [we have] submitted and explained that the agency was looking for bankers that had positive things to say about CRA and asked if they would mind being contacted and that the list might be made public. It is a go from [our] side. (Emphasis added.)

A Community Bank Compliance Specialist responded that he had "talked with [a bank officer] just now, and he has no objections with the furnishing of his name to Treasury for these purposes."

On January 29, a Community Bank Compliance Specialist e-mailed that he had "spoken with [a bank officer who] has no problem with [his bank] being characterized as 'pro-CRA', and very much encourages that." Later that day, Hammaker responded to the e-mail that Treasury would need both a banker's name and the bank and asked him if it were "OK to give [Treasury] his actual name." The Compliance Specialist responded that "[the banker] is fine w/that."

Then, on January 29, after some bank officials began to question the purpose for which the list was to be used, problems began to arise that should have clearly aroused concern with the OCC policy staff.

A Large Bank Compliance Specialist wrote to Hammaker that the banker's names would have to be removed: "The challenge is *the unknown factors around the 'use' of the banker names since this could reflect a political position on CRA.*" (Emphasis added.)

About noon on January 29, Hammaker e-mailed Lewis that he would have a list of pro-CRA bankers that afternoon.

I have a list of names but I have had the folks checking back to make sure the bank and banker understands what the list might be used for. Right now about half have said OK. A couple have said *no and several are discussing it with their legal counsel.* (Emphasis added.)

Later that afternoon, a Large Bank Compliance Specialist Team Leader wrote to Hammaker about problems with her bank. "[T]hey want to see something in writing before committing. . . . What would you like my next step to be?" Hammaker responded: "That's interesting. Maybe we don't want to do anything. *Folks in DC don't want this to get out of control* so maybe we just pass on [this bank]. *Not exactly sure what we would give them in writing. . . .*" (Emphasis added.) The Team Leader responded that "they still want to see [the request] in writing and . . . the email [doesn't] give them enough background to meet their needs."

Still later that afternoon, a Large Bank Compliance Specialist wrote Hammaker that his bank official

is uncomfortable with being on a list that may be published without knowing how the list is going to be used and what text would be published with the list. . . . I agree with her *there seems to be the potential for the list to get used for some purposes that [have] not been made clear to everyone.* At this point, I would take [the bank officer] off of the list unless she can be provided some assurances of how the list would be used and what the list would indicate. (Emphasis added.)

That afternoon, January 29, after the OCC had been contacted by the Senate Banking Committee, in response to a concern that had been raised with the Committee by a national bank, the OCC in Washington alerted its examination staff that had been involved in the name-gathering project,

not [to] contact your bankers to determine what they would say about their experience with CRA. *Your recommendation should have been based on your experience, not on discussions with your banks.* (Emphasis added.)

This is the first record we have from the OCC asserting that examiners were not being asked to make contact with the banks, contrary to the extensive record that such contacts were frequent and expected -- the rule rather than the exception.

A week later, on February 5, the Comptroller of the Currency issued a memorandum to the "Executive Committee and Comptroller's Staff" regarding "Contacts with Banks." The memorandum noted in pertinent part:

There is a real possibility . . . that contacts we may have with a national bank through the examination process concerning legislative or political issues might be misperceived as implying that the bank should take a particular position on such issues. Accordingly, *it is imperative that no communications be made with the banks we supervise that could be perceived as suggesting that the examination process is in any way colored by political considerations.* (Emphasis added.)

Committee Inquiry

Upon learning of these activities, the Committee began a review to determine:

- (a) How the name-gathering project began;
- (b) Who was involved, particularly from the enforcement branches of the OCC and OTS;
- (c) Whose names were gathered and what was done with them; and
- (d) How to prevent a recurrence of activity involving examination personnel in political efforts in the future.

The OCC

In addition to providing the Committee with documents to create the time line above, the OCC responded to written questions from the Committee. In March 1999, the OCC provided the following information to the Committee:

-- About 61 staff members and officials at the OCC were involved in some manner in the White House/NEC "CRA Team" project or in fulfilling the Treasury's request that the OCC produce a list of names of bankers or banks who would say positive things about CRA. Of those 61 staff members, 36 were national bank examiners.

-- Michael Barr, Deputy Assistant Secretary of the Treasury for Community Development Policy, contacted Chris Lewis, Senior Advisor to the Comptroller, to initiate the request that the OCC prepare a list of "pro-CRA" bankers.

-- Comptroller Hawke first learned of the Treasury's request from Chris Lewis "late in the week of January 25th," when the name-gathering project was coming to a conclusion and nearly two weeks after it had begun. According to Comptroller Hawke, the topic of gathering names was "mentioned relatively briefly," and he responded to Lewis that the two of them "could probably sit down and come up with some names off the top of their heads." Comptroller Hawke informed the Committee that there was no discussion of using national bank examiners or contacting banks to gather this information in his discussion with Lewis.

-- In the course of this conversation, the Comptroller was not informed that numerous OCC staff were already working on this project, including 36 bank examiners, some of whom were contacting bank officials at that very time to seek permission to include their names on a list of "pro-CRA" bankers. Indeed, it does not appear that the Comptroller was made aware of these activities until after the OCC received an inquiry from the Senate Banking Committee itself, at which time an "Alert" was e-mailed to staff who had been involved in the project directing that no banks or bank officials be contacted about the name-gathering project.

-- On February 5, 1999, the Comptroller issued a memorandum to "the Executive Committee and Comptroller's Staff" concerning these activities. A copy of the memorandum is included in the Appendix to this report.

In subsequent correspondence with the Comptroller and the OCC, the Committee sought clarification of some of the e-mail that had been sent between OCC staff members and additional information concerning the Comptroller's position on the use of examination staff for political purposes. Below is a summary of the relevant information provided to the Committee:

1. An important area of concern is the discrepancy between Chris Lewis' first e-mail on the subject -- dated January 13 and sent to Dave Hammaker, who supervised all Compliance Specialists, asking "for a short list of bankers that would most likely say positive things about their institution's experience with CRA if asked by the media" -- and Comptroller Hawke's recollection that he had first heard about the Treasury's request "late in the week of January 25th." In fact, the date when the Comptroller apparently first learned of the request, corroborated by Chris Lewis, was at a 2 p.m. meeting with Lewis on Friday, January 29; this is consistent with the Comptroller's recollection.

However, on January 13, 1999, Chris Lewis responded to a national bank examiner's question about the nature of this request -- i.e., whether it "relate[d] to recent news about Congressional action to the Act" -- with the response:

...yes the request is related to congressional activity. I think we want to generally shoot for the most senior CRA responsible person in institutions. And, if possible, I think that we want to avoid notice to the bank. I am, personally, not wholly comfortable with the request. *But, the Comptroller would like us to be responsive to the Department request (within measure).* (Emphasis added.)

Chris Lewis wrote to the Committee on May 19, 1999, that his reference to the Comptroller in that e-mail was with respect to

informational requests of the Senate and House Banking Committees and the Treasury Department related to bank CRA and community development activities. In those discussions, the Comptroller advised me to generally be responsive to CRA-related informational requests of both the Department and the Committee staffs. My comment in the 1/13/99 e-mail was . . . not in response to the specific Department request for a list of pro-CRA bankers.

This might be a plausible explanation of the discrepancy if the text of the January 13 e-mail were not so direct and specific. In a separate letter sent to the Committee at the same time as Lewis' May 19 response, Comptroller Hawke said that he did not believe

the Treasury's request was "improper." In his view, the impropriety attached to the involvement of compliance staff in the process.

When Lewis told Comptroller Hawke at his 2 p.m. meeting of the OCC's involvement in fulfilling the Treasury's request, he is not reported to have mentioned the involvement of compliance staff. The information provided to the Committee does not indicate that the Comptroller was made aware of compliance staff involvement until later in the day -- perhaps when the OCC was called by the Senate Banking Committee and asked about it.

2. Committee staff also asked about Chris Lewis' comment in his January 13, 1999, e-mail that he was "not wholly comfortable with the [Treasury's] request."

Lewis wrote to the Committee that he believed the Treasury Department's request for the OCC to prepare a list of "pro-CRA" bankers

struck me as a poor use of OCC resources and a request that the Department was capable of fulfilling on their own. It also struck me as a request that risked pulling the OCC more into Treasury political strategizing than I felt comfortable with. In retrospect, I regret not bringing forward my misgivings directly to the Comptroller.

The record shows, however, that the OCC had been very involved in the Treasury's "political strategizing" since late 1998, when the White House/NEC began convening a large and wide-ranging "CRA Team," involving personnel at Treasury, the OCC, OTS, and the White House. Senior OCC personnel attended at least one NEC meeting in 1998 and at least two meetings in 1999, before the involvement of OCC examination staff in the name-gathering project was discovered.

Moreover, concern about becoming involved in "political strategizing" had been raised on several prior occasions:

-- On November 19, 1998, Michael Bylsma wrote to Ray Natter that he believed a December 14, 1998, White House/NEC meeting "might be a political strategy session."

-- On December 8, 1998, Chris Lewis sent e-mail to John Hardage that OCC Chief Counsel Julie Williams had advised the OCC only to provide "technical assistance" to CRA-related requests and "not attend political strategy sessions."

-- On December 21, 1998, Chris Lewis e-mailed Amy Friend, regarding the White House/NEC assignments: "In general, we need to be careful to not be perceived to be in cahoots with [White House] political strategizing."

Thus, it appears that senior members of the OCC had been both quite involved in Treasury's political activities, and aware of the potential impropriety of such involvement, for a number of months.

This raises the question whether the OCC (and similar agencies, like the OTS) should be viewed as a quasi-independent regulatory authority, tasked with enforcing existing law, or should it also be involved in "political strategizing," using its staff resources to pursue the political agenda of whatever Administration happens to be in power.

3. The Comptroller was asked whether he believed it was proper for OCC compliance staff members to be involved in any way in fulfilling the Treasury Department's request.

OCC Chief Counsel Julie Williams responded that the OCC does not restrict compliance and examination staff from "intra-agency and inter-agency discussion concerning policy issues that relate to their duties and responsibilities at the OCC." However, Williams also distinguished this general policy from the matter raised by the Committee inquiry: contacts by compliance staff with national banks "that might have been misperceived as implying that the bank should take a particular position concerning a controversial political issue."

Comptroller Hawke personally responded to the Committee that the Treasury's request "did not request or require contact with banks," but only a list of individuals who were pro-CRA and would likely express positive views of CRA if asked by the press. This request for "factual information," according to Comptroller Hawke, was not improper. But he added, ". . . it was unnecessary, and therefore a misjudgment, to involve compliance staff in responding to the request[] . . ."

Reading these answers together, it appears that the only thing the OCC found inappropriate was its bank examiners' contact with banks themselves, not the involvement of compliance and examination staff in helping fulfill the Treasury's request. The Comptroller said only that the involvement of compliance staff was "unnecessary, and therefore a misjudgment." Had involvement of compliance staff been "necessary," would it then have been permissible -- so long as the compliance staff did not contact banks themselves? The Chief Counsel's response suggests that she believes this to be the case, and the Comptroller's response is, at best, ambiguous.

This raises a policy issue whether compliance staff should *ever* be involved in these kinds of political efforts. While it may be appropriate and necessary to involve the compliance staff in discussions about how to enforce existing law, make improvements in

the law, etc., it is a far different matter to involve compliance staff in “political strategizing,” even when such activities do not involve contact between the national bank examiners and banks themselves.

Such involvement of compliance staff could send bank examiners a “message” about how to pursue their activities; how they might behave towards banks or their officers who are outspoken either in favor or opposition to the Administration’s political goals, etc. Thus, it seems a valid question whether compliance staff should be insulated altogether from this kind of “political strategizing.”

4. Key to the inquiry was the need to know whether any banks contacted by bank examiners were undergoing any OCC examinations when they were contacted. The OCC identified eight national banks that were contacted by examiners, and of those three were undergoing OCC examinations at the time of the contact, and an additional bank was “part of the OCC’s Large Bank Program,” with “examining staff assigned on a full time basis, conducting safety and soundness related exam work.”

In addition, the OCC was asked whether any other banks, not contacted by OCC bank examination staff but included on the OCC list of bankers, were undergoing any OCC examinations. The OCC identified three such banks, two of which were undergoing examinations at the time.

The mere fact that so many banks were undergoing examinations of some sort lends support to the view that examination staff should *not* have been involved in contacting banks, and raises the more significant question whether examination staff should have been involved *at all* in fulfilling the Treasury’s request.

The OTS

The OTS responded to written questions from the Committee regarding its involvement in the name-gathering project. Unlike the OCC, the OTS insists that it was made clear to staff, including examination staff who were asked to provide the names of “pro-CRA” institution officials, that no bank officials were to be contacted in the course of gathering the names.

-- Five policy-making officials from the OTS attended or were involved with the White House/NEC “CRA Team” project, including Ellen Seidman, Director of the OTS.

-- OTS examination staff were asked on two occasions to identify “pro-CRA” institutions or officials. One occurred during a Compliance Team Meeting for the West Region held January 19-21, 1999. At that meeting, participants were informed that OTS in Washington was seeking names of “pro-CRA” institutions or officials but were specifically told “not to make any contact with institutions concerning this internal effort.” The OTS estimates that this request was a minor part of the meeting and took “a couple of minutes” to communicate.

-- In addition to the West Region request, the Midwest Region also asked three Compliance Examination Managers to identify, “based upon their own experience,” any “pro-CRA” institutions. When the Midwest Region liaison asked whether the request could be sent to compliance staff for input, he was informed, “NO. We aren’t allowed to lobby one way or the other. . . .”

-- The OTS produced a list of “CEO’s supporting CRA” that included names of institutions or officials; however, the OTS reports that they “did not provide these names to Treasury, the White House or any other executive branch agency.”

Formal Agency Policies

On April 1, 1999, the OCC institutionalized the principle that OCC staff should be kept free from such political activities, as outlined in the Comptroller’s February 5, 1999, memorandum. The OCC added a new policy to its Policies and Procedures Manual that “OCC employees should have no communications with national banks that could be perceived as suggesting that the examination process is in any way influenced by political issues or considerations.” In informing the Committee of its new policy, the OCC also said that it would be included as part of the OCC’s ongoing ethics training.

Inquiries were also made with the OTS, FDIC and Federal Reserve asking whether those agencies had a similar existing policy and, if not, whether they planned to adopt one. All agencies responded that, pursuant to the request, they had adopted formal policies prohibiting “political communications” in the course of the agencies’ examination processes.

Copies of all four agencies’ policies are included in the Appendix to this report.

Findings and Conclusions

- The White House, through the National Economic Council, established a CRA Team project in late 1998 that was designed to undertake both substantive and political activities regarding CRA in anticipation of upcoming congressional consideration of CRA.

- The White House involved senior officials from the Treasury, OTS, and OCC in these meetings. Although the OTS and OCC are organizationally under the jurisdiction of the Treasury, they are intended to be regulatory agencies chiefly responsible for overseeing the nation's banks and thrift institutions in an independent, non-partisan manner. Involvement in advancing partisan goals injects politics into the supervisory function.
- The OTS and OCC were assigned a number of substantive tasks by White House and Treasury officials, including the creation of a list of "pro-CRA" bank and thrift officers and institutions; it was expected that if individuals from this list were contacted by the press, they would say positive things about CRA.
- Under the direction of senior officers, the OCC aggressively undertook its task to compile this list and assigned a number of its national bank examiners to provide names for inclusion on the final list.
- In the course of creating the list, the OCC examiners contacted a number of bank officers to ask permission to include their names on the final list.
- The Senate Banking Committee was contacted by a large national bank concerned that OCC examination personnel were asking for the names of the bank's officers to be used for what appeared to be a political purpose. After representatives from the Senate Banking Committee asked the OCC about this matter, the OCC promptly alerted its examination staff to cease any further contacts or activities related to the name-gathering project.
- With the exception of the January 15 e-mail from Chris Lewis, Senior Advisor to the Comptroller of the Currency, no evidence was obtained by the Committee implicating Comptroller Hawke in the involvement of OCC examination personnel in these political activities. Moreover, Comptroller Hawke unequivocally declares that his involvement was limited to putting an end to the practice.
- The OTS also compiled a list of "pro-CRA" officials or institutions and asked some of its compliance staff to assist in the project. However, the OTS asserts that it was also careful to specify that no institutions or officials were to be contacted and that any names gathered be sent to OTS in Washington.
- At the request of the Chairman of the Senate Banking Committee, all four principal financial regulatory institutions (the OCC, OTS, FDIC and Federal Reserve) have adopted formal policies to ensure that their examination processes are kept free from any appearance of being influenced by political considerations.

Recommendations

- The OCC and OTS should emphasize to compliance staff, on a continuing basis, the importance of maintaining the examination process free from the influence of political considerations.
- The senior officials of the OCC and OTS need to be more vigilant to insulate regulatory activities from any political activities that may arise from policy-making at the Treasury or the White House.
- The Committee should review whether the independence of the OCC and the OTS can be maintained as subsidiary agencies under the Department of the Treasury, as envisioned by the Financial Institutions Reform, Recovery, and Enforcement Act (FIRREA) of 1989, or whether this episode demonstrates the inability to preserve the non-partisan independence of these agencies under the current organizational arrangements.

Officials Named in Report

Name -- Title

Barr, Michael -- Assistant Secretary of the Treasury for Community Development Policy

Bylsma, Michael -- OCC Director of Community and and Consumer Law

Cross, Stephen -- OCC Deputy Comptroller for Community and Consumer Policy

Friend, Amy -- OCC Assistant Chief Counsel

Hammaker, Dave -- OCC Deputy Comptroller for Compliance Operations

Hardage, John -- OCC Deputy Director of Congressional Liaison

Hawke, John -- Comptroller of the Currency

Lewis, Chris -- Senior Advisor to Comptroller of the Currency

Natter, Ray -- OCC Deputy Chief Counsel

Rosen, Sarah -- Senior Advisor, National Economic Council, The White House

Seidman, Ellen -- Director, Office of Thrift Supervision

Williams, Julie -- OCC Chief Counsel

Appendix

