

## **DEUTSCHE BANK, SECURITIZATION FRAUD AND FORECLOSURE FRAUD**

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On April 13, 2011, the Permanent Subcommittee on Investigations of the U.S. Senate released a report titled "Wall Street and The Financial Crisis: Anatomy of a Financial Collapse."

Section VI of the Report, pages 318 to 639, is titled "Investment Bank Abuses: Case Study of Goldman Sachs and Deutsche Bank." Part B of this section, pages 330 to 375, focuses on Deutsche Bank and is titled "Running the CDO Machine: Case Study of Deutsche Bank."

The Deutsche Bank case study section is divided into the following areas:

- (1) Subcommittee Investigation and Findings of Fact
- (2) Deutsche Bank Background
- (3) Deutsche Bank's \$5 Billion Short
  - (a) Lippmann's Negative View of Mortgage Related Assets
  - (b) Building And Cashing In the \$5 Billion Short
- (4) The "CDO Machine"
- (5) Gemstone
  - (a) Background on Gemstone
  - (b) Gemstone Asset Selection
  - (c) Gemstone Risks and Poor Quality Assets
  - (d) Gemstone Sales Effort
  - (e) Gemstone Losses
- (6) Other Deutsche Bank CDOs

## (7) Analysis

The Analysis Section, pages 374 – 375, states the following clear condemnation of Deutsche Bank's practices:

Deutsche Bank was the fourth largest issuer of CDOs in the United States. It continued to issue CDOs after mortgages began losing money at record rates, investor interest waned, and its most senior CDO trader concluded that the mortgage market in general and the specific RMBS securities being included in the bank's own CDOs were going to lose value. Mr. Lippmann derided specific RMBS securities and advised his clients to short them, at the same time his desk was allowing the very same securities to be included or referenced in Gemstone 7, a CDO that the bank was assembling for sale to its clients. In fact, the bank was selling some assets that Mr. Lippmann believed contained "crap." While the Gemstone CDO was constructed and marketed by the bank's CDO Desk, which is separate from the trading desk controlled by Mr. Lippmann, both desks knew of Mr. Lippmann's negative views. The bank managed to sell \$700 million in Gemstone 7 securities which then failed within months, leaving the bank's clients with worthless investments.

This case history raises several concerns. The first is that Deutsche Bank allowed the inclusion of Gemstone 7 assets which its most senior CDO trader was asked to review and saw as likely to lose value. Second, the bank sold poor quality assets from its own inventory to the CDO. Third, the bank aggressively marketed the CDO securities to clients despite the negative views of its most senior CDO trader, falling values, and the deteriorating market. Fourth, the bank failed to inform potential investors of Mr. Lippmann's negative views of the underlying assets and its inability to sell over a third of Gemstone's securities. Each of these issues focuses on the poor quality of the financial product that Deutsche Bank helped assemble and sell. Still another concern raised by this case history is the fact that the bank made large proprietary investments in the mortgage market that resulted in multi-billion-dollar losses – losses that, in this instance, did not require taxpayer relief but, due to their size, could have caused material damage to both U.S. investors and the U.S. economy.

"Mr. Lippmann" in the above summary refers to Greg Lippmann, Deutsche Bank's top global CDO trader. Regarding Mr. Lippman, the Senate report finds the following (on page 330):

By the middle of 2006, Mr. Lippmann repeatedly warned and advised his Deutsche Bank colleagues and some of his clients seeking to buy short positions about the poor quality of the assets underlying many CDOs. He described some of those assets as "crap" and "pigs," and predicted the assets and the CDO securities would lose value.

At one point, Mr. Lippmann was asked to buy a specific CDO security and responded that it "rarely trades," but he "would take it and try to dupe someone" into buying it. He also at times referred to the industry's ongoing CDO marketing efforts as a "CDO machine" or "ponzi scheme."

"Gemstone" in the above summary refers to a CDO that the Subcommittee chose to examine in detail called Gemstone CDO VII Ltd. (Gemstone 7). The Subcommittee report states the following (on page 331) regarding Gemstone 7:

In October 2006, Deutsche Bank began assisting in the gathering of assets for Gemstone 7, which issued its securities in March 2007. It was the last in a series of CDOs sponsored by HBK Capital Management (HBK), a large hedge fund which acted as the collateral manager for the CDO. Deutsche Bank made \$4.7 million in fees from the deal, while HBK was slated to receive \$3.3 million. It was not the last CDO issued by Deutsche Bank. Even after Gemstone 7 was issued in March of 2007, Deutsche Bank issued 9 additional CDOs.

Gemstone 7 was a hybrid CDO containing or referencing a variety of high risk, subprime RMBS securities initially valued at \$1.1 billion when issued. Deutsche Bank's head global trader, Mr. Lippmann, recognized that these RMBS securities were high risk and likely to lose value, but did not object to their inclusion in Gemstone 7. Deutsche Bank, the sole placement agent, marketed the initial offering of Gemstone 7 in the first quarter of 2007. Its top tranches received AAA ratings from Standard & Poor's and Moody's, despite signs that the CDO market was failing and the CDO itself contained many poor quality assets.

Nearly a third of Gemstone's assets consisted of high risk subprime loans originated by Fremont, Long Beach, and New Century, three lenders known at the time within the financial industry for issuing poor quality loans and RMBS securities. Although HBK directed the selection of assets for Gemstone 7, Mr. Lippmann's CDO Trading Desk was involved in the process and did not object to including certain RMBS securities in Gemstone 7, even though Mr. Lippmann was simultaneously referring to them as "crap" or "pigs." Mr. Lippmann was also at the same time advising some of his clients to short some of those same RMBS securities. In addition, Deutsche Bank sold five RMBS securities directly from its inventory to Gemstone 7, several of which were also contemporaneously disparaged by Mr. Lippmann.

Footnote #1325 on page 347 shows the disdain for the products the traders were selling was widespread among the traders, as a trader sends a parody of a rap song to his boss at Deutsche:

Mr. Lippmann's negative views were shared by his traders. In an email originally sent by one of the traders on his desk, Rocky Kurita, the CDO business is set to a song, "CDO Oh Baby," by VanillaIce with the following lyrics: "Yo vip let's kick it! CDO oh baby, CDO oh baby. All right, stop, collaborate and listen. Spreads are wide with a technical invasion. Home Eq Subs were trading so tightly. Until Hedge Funds BotProtection daily and nightly. Will they stop? Yo I don't know. Turn up the Arb and let's go. To the extreme Macro Funds do damage like a vandal. Now, BBs are trading with a new handle. Print, even if the housing bubble looms. There are never ends to real estate booms. If there is a problem, yo, we'll solve it. Check out the spreads while my structurer revolves it. CDO oh baby, CDO oh baby." 11/8/2005 email from Jordan Milman to Greg Lippmann, DBSI\_PSI\_EMAIL00686597-601 (forwarding an 11/8/2005 email from Rocky Kurita at Deutsche Bank).

Amerquest Mortgage Securities, Inc. (AMSI) loans were part of the Deutsche Bank warehouse inventory that were included in Gemstone 7. On page 362 of the report, the Subcommittee finds that Mr. Lippmann was also very disdainful of the Amerquest loans, but that he bought them to sell to investors:

On April 6, 2006, Mr. Lippmann called AMSI 2005-R7 M8 a "crap name." In a June 16, 2006 email, Mr. Lippmann called

AMSI generally a "weakish name." On December 12, 2006, Gemstone 7 purchased \$5 million of another RMBS, AMSI 2005-R11 M10, with no objection from the Lippmann trading desk. (footnotes omitted)

The Report has very many examples of Mr. Lippman and his colleagues and traders sending emails to each other wherein they repeatedly refer to loans and securities as "absolute pigs" and "generally horrible" and "crap" as Deutsche Bank was buying these very loans and securities to sell to investors. "Doesn't this deal blow?" Lippman asks one of his traders (page 361), as they forge ahead with the deal.

The Subcommittee Report records in painful, exhaustive detail the building and collapse of mortgage securitization and in particular the role of two of the largest entities, Deutsche Bank and Goldman Sachs, in causing investors to lose billions while they reaped the largest profits in the history of their companies.

The Subcommittee Report focused on the financial collapse and Wall Street. The aftermath of that financial collapse was widespread unemployment and foreclosures.

If the Subcommittee had extended its investigation, it would have found that the trusts with the loans from the four mortgage companies identified as "crap" by Deutsche Bank's traders became the top foreclosure litigants in the country as Deutsche Bank itself became known as "America's Foreclosure King."

When Deutsche Bank, as trustee, foreclosed, it was no more honest with courts and foreclosure defendants than it had been with investors. To prove to courts and homeowners that the trusts owned the mortgages in foreclosure actions, Deutsche Bank most often relied on documents produced by Lender Processing Services ("LPS") to create mortgage assignments to the trusts when the mortgages had been originated by Ameriquest, Fremont, Long Beach and New Century.

LPS employees signed thousands of mortgage assignments as if they were officers of Ameriquest, Fremont, Long Beach and New Century.

Both the Alpharetta, Georgia and the Mendota Heights, Minnesota offices of LPS produced these Assignments.

On these Assignments, the dates that the trusts acquired the mortgages are falsely stated.

These false Assignments were prepared from 2007 to at least February, 2010. When LPS stopped producing the Assignments, employees of other mortgage servicing companies continued these practices.

The Deutsche Bank trusts needed these Assignments because they failed to get Mortgage Assignments from the loan originators to the trusts – even though Deutsche Bank promised investors and the SEC they would get these mortgage assignments.

On tens of thousands of these LPS produced Assignments, the mortgage servicer is identified as American Home Mortgage Servicing. On the documents produced by LPS subsidiary Docx in Alpharetta, the servicer is identified in a box in the upper left-hand corner as "AHMA" or "AHCIT."

AHMA is an abbreviation for American Home Mortgage Acquisition, the company that became American Home Mortgage Servicing in Coppell, Texas. American Home Mortgage Acquisition, owned by billionaire investor Wilbur Ross, (the "King of Bankruptcy") purchased the \$45.3 mortgage servicing business of bankrupt American Home Mortgage in September, 2007.

AHCIT is an abbreviation for American Home Citigroup. In February, 2009, Citigroup sold its servicing rights on 185,000 loans to American Home Mortgage Servicing (AHMSI) for \$1.5 billion. Citigroup was one of the primary servicers of the Amerquest loans.

Only a few courts have recognized that the LPS assignments were fraudulent and forged, even after former employees of Docx admitted on a segment of CBS "60 Minutes" to forging over 4,000 documents each day for several years.

No criminal charges have been filed against Deutsche Bank, Lender Processing Services or American Home Mortgage Servicing and all three of these corporations continue to pursue forecloses in courts throughout the United States using fraudulent mortgage assignments to trusts created by Deutsche Bank and sold to investors as the bank was shorting these same investments.

