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Special Investigation: How America's Biggest Bank Paid Its Fine for the 2008 Mortgage Crisis—With Phony Mortgages!

Alleged fraud put JPMorgan Chase hundreds of millions of dollars ahead; ordinary homeowners, not so much.

By David Dayen

OCTOBER 5, 2017

Illustration by Tim Robinson.

You know the old joke: How do you make a killing on Wall Street and never risk a loss? Easy—use other people's money. Jamie Dimon and his underlings at JPMorgan Chase have perfected this dark art at America's largest bank, which boasts a balance sheet one-eighth the size of the entire US economy.

After JPMorgan's deceitful activities in the housing market helped trigger the 2008 financial crash that cost millions of Americans their jobs, homes, and life savings, punishment was in order. Among a vast array of misconduct, JPMorgan engaged in the routine use of "robo-signing," which allowed bank employees to automatically sign hundreds, even thousands, of foreclosure documents per day without verifying their contents. But in the United States, white-collar criminals rarely go to prison; instead, they negotiate settlements. Thus, on February 9, 2012, US Attorney General Eric Holder announced the National Mortgage Settlement, which fined JPMorgan Chase and four other mega-banks a total of $25 billion.

JPMorgan's share of the settlement was $5.3 billion, but only $1.1 billion had to be paid in cash; the other $4.2 billion was to come in the form of financial relief for homeowners in danger of losing their homes to foreclosure. The settlement called for JPMorgan to reduce the amounts owed, modify the

loan terms, and take other steps to help distressed Americans keep their homes. A separate 2013 settlement against the bank for deceiving mortgage investors included another $4 billion in consumer relief.

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A *Nation* investigation can now reveal how JPMorgan met part of its $8.2 billion settlement burden: by using other people's money.

Here's how the alleged scam worked. JPMorgan moved to forgive the mortgages of tens of thousands of homeowners; the feds, in turn, credited these canceled loans against the penalties due under the 2012 and 2013 settlements. But here's the rub: In many instances, JPMorgan was forgiving loans *on properties it no longer owned.*

The alleged fraud is described in internal JPMorgan documents, public records, testimony from homeowners and investors burned in the scam, and other evidence presented in a blockbuster lawsuit against JPMorgan, now being heard in US District Court in New York City.

JPMorgan no longer owned the properties because it had sold the mortgages years earlier to 21 third-party investors, including three companies owned by Larry Schneider. Those companies are the plaintiffs in the lawsuit; Schneider is also aiding the

federal government in a related case against the bank. In a bizarre twist, a company associated with the Church of Scientology facilitated the apparent scheme. Nationwide Title Clearing, a document-processing company with close ties to the church, produced and filed the documents that JPMorgan needed to claim ownership and cancel the loans.

JPMorgan, it appears, was running an elaborate shell game. In the depths of the financial collapse, the bank had unloaded tens of thousands of toxic loans when they were worth next to nothing. Then, when it needed to provide customer relief under the settlements, the bank had paperwork created asserting that it still owned the properties. In the process, homeowners were exploited, investors were defrauded, and communities were left to battle the blight caused by abandoned properties. JPMorgan, however, came out hundreds of millions of dollars ahead, thanks to using other people's money.

"If the allegations are true, JPMorgan screwed everybody," says Brad Miller, a former Democratic congressman from North Carolina who was among the strongest advocates of financial reform on Capitol Hill until his retirement in 2013.

In an unusual departure from most allegations of financial bad behavior, there is strong evidence that Jamie Dimon, JPMorgan's CEO and chairman, knew about and helped to implement the mass loan-

forgiveness project. In two separate meetings in 2013 and 2014, JPMorgan employees working on the project were specifically instructed not to release mortgages in Detroit under orders from Dimon himself, according to internal bank communications. In an apparent public-relations ploy, JPMorgan was about to invest $100 million in Detroit's revival. Dimon's order to delay forgiving the mortgages in Detroit appears to have been motivated by a fear of reputational risk. An internal JPMorgan report warned that hard-hit cities might take issue with bulk loan forgiveness, which would deprive municipal governments of property taxes on abandoned properties while further destabilizing the housing market.

Did Dimon also know that JPMorgan, as part of its mass loan-forgiveness project, was forgiving loans on properties it no longer owned? No internal bank documents confirming that knowledge have yet surfaced, but Dimon routinely takes legal responsibility for knowing about his bank's actions. Like every financial CEO in the country, Dimon is obligated by law to sign a document every year attesting to his knowledge of and responsibility for his bank's operations. The law establishes punishments of $1 million in fines and imprisonment of up to 10 years for knowingly making false certifications.

Dimon signed the required document for each of the years that the mass loan-forgiveness project was in operation, from 2012 through 2016. Whether or not he knew that his employees were forgiving loans the bank no longer owned, his signatures on those documents make him potentially legally responsible.

The JPMorgan press office declined to make Dimon available for an interview or to comment for this article. Nationwide Title Clearing declined to comment on the specifics of the case but said that it is "methodical in the validity and legality of the documents" it produces.

Federal appointees have been complicit in this as well. E-mails show that the Office of Mortgage Settlement Oversight, charged by the government with ensuring the banks' compliance with the two federal settlements, gave JPMorgan the green light to mass-forgive its loans. This served two purposes for the bank: It could take settlement credit for forgiving the loans, and it could also hide these loans—which JPMorgan had allegedly been handling improperly—from the settlements' testing regimes.

"No one in Washington seems to understand why Americans think that different rules apply to Wall Street, and why they're so mad about that," said former congressman Miller. "*This* is why."

Lauren and Robert Warwick were two of the shell game's many victims. The Warwicks live in Odenton, Maryland, a bedroom community halfway between Baltimore and Washington, DC, and had taken out a second mortgage on their home with JPMorgan's Chase Home Finance division. In 2008, after the housing bubble burst and the Great Recession started, 3.6 million Americans lost their jobs; Lauren Warwick was one of them.

Before long, the Warwicks had virtually no income. While Lauren looked for work, Robert was in the early stages of starting a landscaping business. But the going was slow, and the Warwicks fell behind on their mortgage payments. They tried to set up a modified payment plan, to no avail: Chase demanded payment in full and warned that foreclosure loomed. "They were horrible," Lauren Warwick told *The Nation*. "I had one [Chase representative] say, 'Sell the damn house—that's all you can do.'"

Then, one day, the hounding stopped. In October 2009, the Warwicks received a letter from 1st Fidelity Loan Services, welcoming them as new customers. The letter explained that 1st Fidelity had purchased the Warwicks' mortgage from Chase, and that they should henceforth be making an adjusted mortgage payment to this new owner.

Lauren Warwick had never heard of 1st Fidelity, but the letter made her more relieved than suspicious. "I'm thinking, 'They're not taking my house, and they're not hounding me,'" she said.

Larry Schneider, 49, is the founder and president of 1st Fidelity and two other mortgage companies. He has worked in Florida's real-estate business for 25 years, getting his start in Miami. In 2003, Schneider hit upon a business model: If he bought distressed mortgages at a significant discount, he could afford to offer the borrowers reduced mortgage payments. It was a win-win-win: Borrowers remained in their homes, communities were stabilized, and Schneider still made money.

"I was in a position where I could do what banks didn't want to," Schneider says. In fact, his business model resembled what President Franklin Roosevelt did in the 1930s with the Home Owners' Loan Corporation, which prevented nearly 1 million foreclosures while turning a small profit. More to the point, Schneider's model exemplified how the administrations of George W. Bush and Barack Obama could have handled the foreclosure crisis if they'd been more committed to helping Main Street rather than Wall Street.

The Warwicks' loan was one of more than 1,000 that Schneider purchased without incident from JPMorgan's Chase Home Finance division starting

in 2003. In 2009, the bank offered Schneider a package deal: 3,529 primary mortgages (known as "first liens") on which payments had been delinquent for over 180 days. Most of the properties were located in areas where the crisis hit hardest, such as Baltimore.

Selling distressed properties to companies like Schneider's was part of JPMorgan's strategy for limiting its losses after the housing bubble collapsed. The bank owned hundreds of thousands of mortgages that had little likelihood of being repaid. These mortgages likely carried ongoing costs: paying property taxes, addressing municipal-code violations, even mowing the lawn. Many also had legal defects and improper terms; if federal regulators ever scrutinized these loans, the bank would be in jeopardy.

In short, the troubled mortgages were the financial equivalent of toxic waste. To deal with them, Chase Home Finance created a financial toxic-waste dump: The mortgages were listed in an internal database called RCV1, where RCV stood for "Recovery."

Unbeknownst to Schneider, the package deal that Chase offered him came entirely from this toxic-waste dump. Because he'd had a good relationship with Chase up to that point, Schneider took the deal. On February 25, 2009, he signed an agreement to buy the loans, valued at $156 million, for only

$200,000—slightly more than one-tenth of a penny on the dollar. But the agreement turned sour fast, Schneider says.

Among a range of irregularities, perhaps the most egregious was that Chase never provided him with all the documentation proving ownership of the properties in question. The data that Schneider did receive lacked critical information, such as borrower names, addresses of the properties, even the payment histories or amounts due. This made it impossible for him to work with the borrowers to modify their terms and help them stay in their homes. Every time Schneider asked Chase about the full documentation, he was told it was coming. It never arrived.

Here's the kicker: JPMorgan was still collecting payments on some of these loans and even admitted this fact to Schneider. In December 2009, a Chase Home Finance employee named Launi Solomon sent Schneider a list of at least $47,695.53 in payments on his loans that the borrowers had paid to Chase. But 10 days later, Solomon wrote that these payments would not be transferred to Schneider because of an internal accounting practice that was "not reversible." On another loan sold to Schneider, Chase had taken out insurance against default; when the homeowner did in fact

default, Chase pocketed the $250,000 payout rather than forward it to Schneider, according to internal documents.

Chase even had a third-party debt collector named Real Time Resolutions solicit Schneider's homeowners, seeking payments on behalf of Chase. In one such letter from 2013, Real Time informed homeowner Maureen Preis, of Newtown Square, Pennsylvania, that "our records indicate Chase continues to hold a lien on the above referenced property," even though Chase explicitly confirmed to Schneider that it had sold him the loan in 2010.

JPMorgan jumped in and out of claiming mortgage ownership, Schneider asserts, based on whatever was best for the bank. "If a payment comes in, it's theirs," he says; "if there's a code-enforcement issue, it's mine."

The shell game entered a new, more far-reaching phase after JPMorgan agreed to its federal settlements. Now the bank was obligated to provide consumer relief worth $8.2 billion—serious money even for JPMorgan. The solution? Return to the toxic-waste dump.

Because JPMorgan had stalled Schneider on turning over the complete paperwork proving ownership, it took the chance that it could still claim credit for forgiving the loans that he now owned. Plus the

settlements required JPMorgan to show the government that it was complying with all federal regulations for mortgages. The RCV1 loans didn't seem to meet those standards, but forgiving them would enable the bank to hide this fact.

The Office of Mortgage Settlement Oversight gave Chase Home Finance explicit permission to implement this strategy. "Your business people can be relieved from pushing forward" on presenting RCV1 loans for review, lawyer Martha Svoboda wrote in an e-mail to Chase, as long as the loans were canceled.

Chase dubbed this the "pre DOJ Lien Release Project." (To release a lien means to forgive the loan and relinquish any ownership right to the property in question.) The title page of an internal report on the project lists Lisa Shepherd, vice president of property preservation, and Steve Hemperly, head of mortgage originations, as the executives in charge. The bank hired Nationwide Title Clearing, the company associated with the Church of Scientology, to file the lien releases with county offices. Erika Lance, an employee of Nationwide, is listed as the preparer on 25 of these lien releases seen by *The Nation*. Ironically, Schneider alleges, the releases were in effect "robo-signed," since the employees failed to verify that JPMorgan Chase owned the loans. If Schneider is right, it means that JPMorgan

relied on the same fraudulent "robo-signing" process that had previously gotten the bank fined by the government to help it evade that penalty.

On September 13, 2012, Chase Home Finance mailed 33,456 forgiveness letters informing borrowers of the debt cancellation. Schneider immediately started hearing from people who said that they wouldn't be making further payments to him because Chase had forgiven the loan. Some even sued Schneider for illegally charging them for mortgages that he (supposedly) didn't own.

When Lauren and Robert Warwick got their forgiveness letter from Chase, Lauren almost passed out. "You will owe nothing more on the loan and your debt with be cancelled," the letter stated, calling this "a result of a recent mortgage servicing settlement reached with the states and federal government." But for the past three years, the Warwicks had been paying 1st Fidelity Loan Servicing—not Chase. Lauren said she called 1st Fidelity, only to be told: "Sorry, no, I don't care what they said to you—you owe us the money."

JPMorgan's shell game unraveled because Lauren Warwick's neighbor worked for Michael Busch, the speaker of the Maryland House of Delegates. After reviewing the Warwicks' documents, Kristin Jones, Busch's chief of staff, outlined her suspicions to the Maryland Department of Labor, Licensing and

Regulation. "I'm afraid based on the notification of loan transfer that Chase sold [the Warwicks'] loan some years ago," Jones wrote. "I question whether Chase is somehow getting credit for a write-off they never actually have to honor."

After Schneider and various borrowers demanded answers, Chase checked a sample of over 500 forgiveness letters. It found that 108 of the 500 loans—more than one out of five—no longer belonged to the bank. Chase told the Warwicks that their forgiveness letter had been sent in error. Eventually, Chase bought back the Warwicks' loan from Schneider, along with 12 others, and honored the promised loan forgiveness.

Not everyone was as lucky as the Warwicks. In letters signed by vice president Patrick Boyle, JPMorgan Chase forgave at least 49,355 mortgages in three separate increments. The bank also forgave additional mortgages, but the exact number is unknown because the bank stopped sending homeowners notification letters. Nor is it known how many of these forgiven mortgages didn't actually belong to JPMorgan; the bank refused *The Nation*'s request for clarification. Through title searches and the discovery process, Schneider ascertained that the bank forgave 607 loans that

belonged to one of his three companies. The lien-release project overall allowed JPMorgan to take hundreds of millions of dollars in settlement credit.

Most of the loans that JPMorgan released—and received settlement credit for—were all but worthless. Homeowners had abandoned the homes years earlier, expecting JPMorgan to foreclose, only to have the bank forgive the loan after the fact. That forgiveness transferred responsibility for paying back taxes and making repairs back to the homeowner. It was like a recurring horror story in which "zombie foreclosures" were resurrected from the dead to wreak havoc on people's financial lives.

Federal officials knew about the problems and did nothing. In July 2014, the City of Milwaukee wrote to Joseph Smith, the federal oversight monitor, alerting him that "thousands of homeowners" were engulfed in legal nightmares because of the confusion that banks had sown about who really owned their mortgages. In a deposition for the lawsuit against JPMorgan Chase, Smith admitted that he did not recall responding to the City of Milwaukee's letter.

If you pay taxes in a municipality where JPMorgan spun its trickery, you helped pick up the tab. The bank's shell game prevented municipalities from knowing who actually owned distressed properties and could be held legally liable for maintaining

them and paying property taxes. As a result, abandoned properties deteriorated further, spreading urban blight and impeding economic recovery. "Who's going to pay for the demolition [of abandoned buildings] or [the necessary extra] police presence?" asks Brent Tantillo, Schneider's lawyer. "As a taxpayer, it's you."

Such economic fallout may help explain why Jamie Dimon directed that JPMorgan's mass forgiveness of loans exempt Detroit, a city where JPMorgan has a long history. The bank's predecessor, the National Bank of Detroit, has been a fixture in the city for over 80 years; its relationships with General Motors and Ford go back to the 1930s. And JPMorgan employees knew perfectly well that mass loan forgiveness might create difficulties. The 2012 internal report warned that cities might react negatively to the sheer number of forgiven loans, which would lower tax revenues while adding costs. Noting that some of the cities in question were clients of JPMorgan Chase, the report warned that the project posed a risk to the bank's reputation.

Reputational risk was the exact opposite of what JPMorgan hoped to achieve in Detroit. So the bank decided to delay the mass forgiveness of loans in Detroit and surrounding Wayne County until after the $100 million investment was announced. Dimon himself ordered the delay, according to the minutes

of JPMorgan Chase meetings that cite the bank's chairman and CEO by name. Dimon then went to Detroit to announce the investment on May 21, 2014, reaping positive coverage from *The New York Times*, *USA Today*, and other local and national news outlets. Since June 1, 2014, JPMorgan has released 10,229 liens in Wayne County, according to public records; the bank declined to state how many of these were part of the lien-release project.

Both of Larry Schneider's lawsuits alleging fraud on JPMorgan Chase's part remain active in federal courts. The Justice Department could also still file charges against JPMorgan, Jamie Dimon, or both, because Schneider's case was excluded from the federal settlement agreements.

Few would expect Jeff Sessions's Justice Department to pursue such a case, but what this sorry episode most highlights is the pathetic disciplining of Wall Street during the Obama administration.

JPMorgan's litany of acknowledged criminal abuses over the past decade reads like a rap sheet, extending well beyond mortgage fraud to encompass practically every part of the bank's business. But instead of holding JPMorgan's executives responsible for what looks like a criminal racket, Obama's Justice Department negotiated weak settlement after weak settlement. Adding

insult to injury, JPMorgan then wriggled out of paying its full penalties by using other people's money.

The larger lessons here command special attention in the Trump era. Negotiating weak settlements that don't force mega-banks to even pay their fines, much less put executives in prison, turns the concept of accountability into a mirthless farce. Telegraphing to executives that they will emerge unscathed after committing crimes not only invites further crimes; it makes another financial crisis more likely. The widespread belief that the United States has a two-tiered system of justice—that the game is rigged for the rich and the powerful—also enabled the rise of Trump. We cannot expect Americans to trust a system that lets Wall Street fraudsters roam free while millions of hard-working taxpayers get the shaft.

DAVID DAYEN David Dayen is the author of *Chain of Title: How Three Ordinary Americans Uncovered Wall Street's Great Foreclosure Fraud*, which won the Studs and Ida Terkel Prize.

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ACTIVISM DRUG WAR AND DRUG POLICY OPIOID EPIDEMIC

Fighting the Opioid Epidemic by Targeting Big Pharma's Bottom Line

The Teamsters are fighting the profit-driven medical industry that is tearing their communities apart.

By Michelle Chen

OCTOBER 3, 2017

Teamsters protest outside McKesson's shareholders meeting in Irving, Texas, on July 26, 2017. *(AP Photo / LM Otero)*

Opioids now kill over 100 Americans every day. In a single year, opioids kill more Americans than died in the entire Vietnam and Iraq Wars. And while the underground drug trade is fueling this epidemic of medicalized self-destruction, the flow of black-market opioids is inseparable from its above-

ground counterpart—the pharmaceutical companies that peddle the legal and FDA-approved pain killers like OxyContin and Vicodin. And now workers on the front lines of this crisis are challenging the nation's biggest pushers to stop pumping deadly drugs into their neighborhoods.

The Teamsters, whose members have struggled with the crisis of both illegal and legal opioid abuse, are wielding their shareholder power to link Big Pharma's primary distributors to the logistical chain swelling opioid markets to a breaking point. At the August shareholder's meeting of pharmaceutical wholesaler McKesson, the union leadership, as direct share owners, called for reforms to the company's supply-chain monitoring and rejected a pay raise for its CEO. They have issued a similar call before the board of drug giant AmerisourceBergen, demanding that the company investigate its sales practices and review its executive-compensation levels.

The Teamsters might be known for a tough blue-collar image, but members have lately been sharing heart-rending stories of how the trauma of opioid addiction has consumed their families. Many of the Rust Belt strongholds where their locals have community ties have seen a surge of overdose deaths, along with the joblessness and dwindling treatment resources that deepen their exposure to

the crisis. The Teamsters see the massive opioid death toll as having structural roots in the overprescribing of painkillers. A profit-driven medical industry has for years been feeding medication dependencies that often rapidly spiral into illegal heroin use. The pattern of induced dependency is perpetuated by a severe lack of comprehensive, community-based social supports for treatment, preventive care, and basic economic aid in many struggling working-class regions.

The union's critiques parallel legal actions by states and counties against pharmaceutical distributors, which accuse the industry of flooding the markets that supply painkiller addiction and overburdening Medicaid-funded treatment programs. McKesson recently reached a $150 million settlement with the Justice Department over its allegedly systematic failure to report suspicious mass deliveries (on top of a $13.25 million civil penalty in 2008 over similar regulatory violations).

Teamsters General Secretary-Treasurer Ken Hall, whose home state of West Virginia has one of the highest opioid-related death rates, says Big Pharma should act to address the nationwide epidemic it helped cause. "Our nation's health-care companies should be in the business of saving lives, not destroying them," Hall said in a statement to *The Nation*. But drug wholesalers "have lavished

executives with hundreds of millions in compensation over the past decade and funded industry lobbying efforts to weaken regulatory enforcement as tens of thousands of Americans fatally overdosed on an oversupply of painkillers that they pumped into our communities."

The "Big Three" drug wholesalers—McKesson, Cardinal Health, and AmerisourceBergen—which collectively control about 85 percent of the market, have repeatedly denied contributing to the crisis. Yet there is ample evidence the industry has repeatedly circumvented reporting rules. Aided by a spigot of campaign cash, the pharmaceutical lobby has kept federal oversight of drug marketing anemic.

At every link in the supply chain, from interstate truck routes to warehouses to neighborhood pharmacies, Teamsters workers both occupy and operate the front lines of the crisis.

Teamsters member and officer Travis Bornstein of Ohio broached the issue of combating the opioid epidemic at the Teamster's 2016 convention. He spoke publicly about his son Tyler's death from a heroin overdose, after tumbling from a student-athlete career to addiction to painkillers and then street drugs. He perished after repeated relapses, while facing a devastating wait time for a state-funded treatment program.

Initially, Bornstein recalled feeling "embarrassed of my son," viewing his death as a reflection of a father's "moral failure." He gradually learned that his personal crisis flowed from a wider epidemic afflicting about 200,000 fellow Ohioans. The opioid scourge, he warned, was "in every workplace, craft, or division, that our union represents...this epidemic is having a direct impact on our members." (Truck drivers, in fact, who operate on exhausting, socially isolating work schedules, are especially prone to narcotics addiction). Moreover, a strong link has emerged between labor-force attrition and opioid prescriptions. According to the Brookings Institution, "Over the last 15 years, the labor force participation rate fell more in counties where more opioids were prescribed." Whether the painkiller epidemic is a cause or an effect of an eroding economy, it strikes at the heart of the low-wage workforce the Teamsters represent.

There's work to be done by labor groups on a grassroots level: As worker-led institutions, unions can provide support and resources for workers and campaign to combat stigma. In Ohio, the Teamsters have helped Bornstein launch a community organization promoting drug rehabilitation. In Washington, labor is also denouncing the Trump administration for failing to tackle opioids, among many other public-health issues. Candidate Trump cynically coddled addiction-stricken voting districts

by promising to fix the crisis, and although Congress has recently moved to tighten medication regulations, Trump's campaign-trail vow has foundered. His push to smother the Affordable Care Act and defund the Centers for Disease Control threaten to destroy efforts to develop a systematic public-health response.

Beyond mutual aid and campaigning, labor is leveraging its role as financial stakeholder by hammering executives of the top drug distributors, who collectively draw hundreds of millions a year from legal drug trafficking. There may be a political pivot ahead: McKesson's board recently voted in favor of the Teamsters' proposal to establish an independent commission to investigate marketing practices and review CEO compensation. In response, Hall hailed the move, but noted that reforming the industry had to be paired with "real executive pay reform that establishes accountability and promotes responsible, sustainable business practices over the long term."

While the opioid industry can't police itself, workers' communities bear witness to the social disaster plaguing the distribution and consumption ends of the gray market in painkillers. In workplaces, schools, and emergency rooms, rehab programs alone won't quell the rising death toll. The health-care system manufactures its own pathology,

because the corporate and political institutions driving the market fail to see that every dose of painkillers they push could lead to immeasurable pain in communities across the country.

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