Behind the Bailout:
How U.S. Chamber Created the 2008 Financial Crisis

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Introduction

Now one of the loudest voices for the government's $700 billion bailout of the nation's financial system, the U.S. Chamber of Commerce is hoping that few will remember that for the past decade it shamelessly led the fight to eliminate corporate accountability – one of the major factors that led to the current financial crisis.

AIG in particular was charged over $20 million by U.S. Chamber to fight for deregulation and strip post-Enron reforms, allowing AIG to more freely move in the markets (see case study below). This all took place at the same time that AIG and its CEO, Hank Greenberg, were being investigated by numerous agencies on a variety of fraud charges.

U.S. Chamber represents the largest corporations – not small businesses or the American public. The lobbying behemoth's work helped bring about the current economic crisis which could end up costing taxpayers hundreds of billions of dollars. This downturn only reinforces the need for transparency and accountability inside America's biggest corporations, which U.S. Chamber has consistently opposed.

U.S. Chamber has worked tirelessly to limit the rights of shareholders, roll back the reforms of Sarbanes-Oxley, limit corporate disclosures to investors, and filed lawsuits against government agencies to protect corporate boardrooms while preventing consumers from holding these same boardrooms accountable.

U.S. Chamber's "pay-to-play" membership scheme[1] – where it charges its members extra for special lobbying and advocacy efforts – has turned the Washington lobby into a hired gun for corporations such as AIG, Enron, and Qwest, poster children for massive corporate fraud. Since 1998, U.S. Chamber has spent over $380 million to lobby on their behalf.[2]

This issue brief will examine how U.S. Chamber has created the current economic climate by lobbying for less regulation, transparency, and accountability. Today, U.S. Chamber has become the loudest voice supporting a government bailout, even though their previous actions and rhetoric have all demanded the opposite. And even in this bailout, U.S. Chamber has lobbied to include provisions that give complete immunity to those who have committed fraud, protect executive golden parachutes, and deprive families from protecting their mortgages through bankruptcy.

U.S. Chamber: Evading Accountability

Under the guise of "tort reform," U.S. Chamber tried to protect reckless financial institutions that committed subprime fraud. In July 2008, U.S. Chamber's tort reform arm, the Institute for Legal Reform, released a study that claimed securities class-actions

[1] "Political Cover: Major Business Lobby Wins Back Its Clout By Dispensing Favors," Wall Street Journal, 9/11/01
[2] OpenSecrets.org

were skyrocketing and proposed a raft of measures to immunize corporations from accountability and regulation. However, the report omitted one critical word: "subprime." In fact, according to independent economists at NERA Economic Consulting, more than half of the class action filings were "related to the subprime collapse," a fact that U.S. Chamber failed to mention. The rising numbers of subprime securities class actions was actually the first indication that something was seriously amiss in corporate America. The U.S. Chamber chose not only to ignore this red flag, but to try and use it for its own political gain.[3] Many corporations involved in subprime lending are now under FBI investigation for fraud.[4]

U.S. Chamber created its "Commission on the Regulation of U.S. Capital Markets in the 21st Century," – a clever guise to build support for rolling back financial protections. Simultaneously, another "independent" group was formed called the Committee on Capital Markets Regulation, nicknamed the "Paulson Commission" because of the strong endorsement it received from the Treasury Secretary.[5] Coincidentally, U.S. Chamber released its findings the day after the Paulson Commission. Not surprisingly, both committees had similar recommendations: deregulate, roll back Sarbanes-Oxley, and have less prosecution of criminal and civil offenses. However, the Paulson Commission quickly received a new nickname – the "Greenberg Commission" – when it was discovered that former AIG CEO Hank Greenberg provided its funding.[6] Greenberg likely funded U.S. Chamber's project as well (see case study below).

After U.S. Chamber member Enron fell in scandal and corruption, the corporate lobby immediately began a campaign *against* regulation in an effort to blunt the impact of the Enron collapse. In the wake of the Enron debacle, U.S. Chamber began a hard-hitting campaign *against* regulation and enforcement. U.S. Chamber targeted the SEC and other agencies for overzealous regulation by claiming "an accounting error should never be seen as a crime." Other business groups and lobbyists, such as long-time ally Business Roundtable, were apparently appalled at the U.S. Chamber campaign and refused to join it.[7]

U.S. Chamber sought lighter sentences for those involved in the Enron scandal. In 2005, U.S. Chamber filed a "friend-of-the-court" brief arguing for lighter sentences for top Merrill Lynch officials who were involved in the Enron scandal.[8]

U.S. Chamber sued the SEC to block reforms designed to protect mutual fund investors. In 2005, U.S. Chamber filed a lawsuit against the Securities and Exchange Commission (SEC) to block a reform measure designed to protect the interests of consumers investing in mutual funds. According to Reuters, "the chamber sued the SEC

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[3] http://www.instituteforlegalreform.com/issues/docload.cfm?docId=1213; http://www.nera.com/image/BRO_Recent_Trends_0708_731_FINAL.pdf
[4] http://www.fbi.gov/page2/jan08/financial_fraud013108.html
[5] http://www.capmktsreg.org/; "Levitt Loves Sarb-Ox," Forbes, 2/8/07
[6] "Group: Sarbanes-Oxley Needs to Loosen Up", USA Today, 11/29/2006
[7] http://www.businessweek.com/magazine/content/05_17/c3930086_mz013.htm
[8] "Chamber Files Brief On Enron Losses," Washington Post, 3/29/05

to try to block implementation of a mutual fund governance rule that requires that fund board chairmen, and 75 percent of fund directors, be 'independent,' or free of direct ties to fund managers."[9]

In Their Own Words: U.S. Chamber CEO Tom Donohue

U.S. Chamber's own rhetoric about deregulation does not match its current lobbying for a government bailout. CEO Tom Donohue has continually railed against government intervention in business while lobbying for less transparency and accountability.

1/21/2002 – U.S. Chamber asks for government cooperation, but not to help recover from its mistakes: "There is every right for business to go to government to look for cooperative ways to resolve problems. There is no right for business to go to government to take care of their follies and their errors."[10]

4/2002 – U.S. Chamber op-ed claiming the free market, and not Enron, was actually on trial: "What government must NOT do is attempt to eliminate or reduce risk from the free market system by attempting to over regulate retirement savings and pension programs. The free market cannot—and will not—tolerate government controls over when and how people invest their money... Improving transparency and accountability is one thing. Eliminating risk and investment choices is quite another."[11]

9/20/2002 – U.S. Chamber criticizing Sarbanes-Oxley legislation and its increased oversight and accountability measures: "I'm an old man, and I've never seen a feeding frenzy like the one we've had on corporate accountability. Business should stop apologizing for being the one institution in America that really works." (said post-Enron)[12]

12/2/2004 – U.S. Chamber op-ed stating post-Enron reforms "go too far": "From the beginning, the U.S. Chamber of Commerce has welcomed strong action to catch lawbreakers, enhance market transparency, and restore investor trust. However, the pendulum has swung too far. Regulators continue to impose rules that reach beyond the intent of Sarbanes-Oxley without regard to empirical data, deliberation, or any serious thought to the unintended consequences. . . . It's time to pause and take a deep breath before piling on additional regulations that hurt our economy. While protecting the integrity of our markets is critical, we must also protect a free enterprise system that encourages and rewards strong business leadership and bold decision making."[13]

4/12/2005 – U.S. Chamber letter to the editor, linking regulation to the increased risk of economic downturn: "When regulations cause -- even unintentionally -- more

[9] "U.S. SEC, Top Business Lobby Clash on Enforcement," Reuters, 3/9/06
[10] http://www.reason.com/news/show/32748.html
[11] http://www.uschamber.org/press/opeds/0204donohueenron.htm
[12] "Sarbanes-Oxley Act Draws Criticism," UPI, 9/20/02, http://securities.stanford.edu/news-archive/2002/20020920_Headline08_Lonsdale.htm
[13] http://www.uschamber.org/press/opeds/041202tjd_usatodaycorpgov.htm

problems than they solve, when the costs of those regulations far exceed the benefits and when politicians start making management decisions, our economy and standard of living are at risk."[14]

Case Study: AIG

AIG is the quintessential example of U.S. Chamber serving as a hired gun for a large corporation. U.S. Chamber received over $20 million from AIG to fight for deregulation and strip post-Enron reforms. At the same time, AIG and its CEO, Hank Greenberg, were being investigated by numerous agencies on a variety of fraud charges. This case example is just one example of U.S. Chamber fighting for less regulation, oversight, and accountability.

The Starr Foundation is one of the largest foundations in the United States. It is chaired by Hank Greenberg, CEO of AIG until 2005. AIG gave $23 million to U.S. Chamber through the Starr Foundation to push anti-regulatory efforts. The majority of this money, $15 million, was pledged in 2003 immediately after the passage of Sarbanes-Oxley to initiate a "capital campaign for educational and research programs." Effectively, this money was to begin setting the groundwork to roll back post-Enron reforms.

The money was given from Starr to U.S. Chamber's own foundation, which freely moves money to the corporate arm. Of U.S. Chamber's 17 foundation grants, seven came from a variety of corporations totaling $2.2 million. The remaining 10 grants to U.S. Chamber, equaling $24.25 million, all came from Greenberg and the Starr Foundation.[15]

AIG was using the Starr Foundation to funnel money into U.S. Chamber to push for deregulation and protect the insurer from future accounting scandals it would later face.

Additionally, Greenberg sat on U.S. Chamber's board until his ouster from AIG in 2005. In 2006, U.S. Chamber placed new AIG CEO Martin Sullivan on their board, continuing the long-standing relationship with the corporation.

Donohue said of Greenberg, "I feel very sorry for my friend Hank Greenberg. But more than that I feel very sorry for the environment that we are creating, where people are unwilling to take risks, where capital is moving offshore, where companies are being taken public in London, not here."[16]

Greenberg had reason to be concerned and use U.S. Chamber to roll back "cumbersome" regulations. Greenberg engaged in a variety of financial shenanigans while at AIG. In 2006, AIG paid $1.6 billion to settle a variety of financial charges that had commentators

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[14] http://www.uschamber.org/press/opeds/050412_wp_donohue.htm
[15] http://www.nonprofitquarterly.org/cohenreport/2007/04/11/starr-crossed-foundation-dollars-used-to-further-corporate-interests/
[16] "Key U.S. lobbyist defends AIG ousted boss: Officials 'out of bounds'," Financial Times, 4/4/05

describing AIG as "the new Enron." Two years later, five insurance executives were found guilty of fraud.[17] Also, in January 2008, AIG agreed to pay $12.5 million to several states after state insurance commissioners found that the company had conspired with other insurance brokers to submit fake bids.[18]

Conclusion

Over the last decade, U.S. Chamber has spearheaded and accelerated the movement for less corporate accountability and less regulation. During this same time period, there have been major corporate fraud convictions, accounting scandals, and the biggest economic crisis since the Great Depression at a great cost to the American people.

Since July 2002, the Department of Justice has obtained nearly 1,300 corporate fraud convictions, including convictions of more than 200 chief executive officers and corporate presidents, more than 120 corporate vice presidents, and more than 50 chief financial officers.[19] Additionally, according to SEC Commissioner Paul Atkins, the string of accounting failures at companies such as Enron, WorldCom, Adelphia, and Tyco cost U.S. households nearly $60,000 each on average as some $5 trillion in market value was lost.[20]

The cost of fraud to American taxpayers reinforces the need for corporate transparency and accountability. U.S. Chamber has created the current environment and are now asking to be bailed out after putting CEOs over investors and profits over accountability.

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[17] Christian Science Monitor, 4/1/2005; BusinessWeek, 4/11/2005
[18] Florida Office of Insurance Regulation, 1/29/2008
[19] http://www.usdoj.gov/dag/cftf/corporate-fraud2008.pdf
[20] "Accounting failures have cost Americans $60,000 on average, SEC commissioner says Associated Press," 11/14/2002