

August 19, 2019

The Honorable Richard P. Donoghue  
United States Attorney  
Eastern District of New York  
271 Cadman Plaza East  
Brooklyn, NY 11201

Dear Mr. Donoghue:

I write to request information regarding recent reports that “well-connected lawyers” representing two major banks implicated in the 2008 financial crisis used their “access to the top echelons of the Trump DOJ” to reduce the fines imposed on their clients for their roles in the crisis.

ProPublica reported earlier this month that senior Department of Justice (DOJ or Main Justice) officials appointed by President Trump forced staff prosecutors in your office to reduce the amount Barclays Capital Inc. (Barclays) would have to pay to settle a lawsuit stemming from its role in the 2008 housing crisis.<sup>1</sup> As a result, the final settlements reportedly left “billions of dollars in potential recoveries on the table” and dismissed civil charges against two former Barclays executives who did not have to “admit wrongdoing” and “might not have to pay a dime out of their own pockets.”<sup>2</sup>

Based on investigations conducted by your office, in the years leading up to the crisis, Barclays “repeatedly deceived investors” and “engaged in a fraudulent scheme to sell tens of billions of dollars” of residential mortgage-backed securities (RMBS).<sup>3</sup> More than half of the \$31 billion of mortgage loans securitized by Barclays allegedly defaulted.<sup>4</sup> Despite the tremendous harm it inflicted on the U.S. and global economy, Barclays was required to pay only \$2 billion in civil

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<sup>1</sup> ProPublica, “How Trump’s Political Appointees Overruled Tougher Settlements With Big Banks,” Jesse Eisinger and Kevin Wack, August 2, 2019, <https://www.propublica.org/article/trump-political-appointees-overruled-settlements-with-barclays-royal-bank-of-scotland>.

<sup>2</sup> ProPublica, “How Trump’s Political Appointees Overruled Tougher Settlements With Big Banks,” Jesse Eisinger and Kevin Wack, August 2, 2019, <https://www.propublica.org/article/trump-political-appointees-overruled-settlements-with-barclays-royal-bank-of-scotland>.

<sup>3</sup> U.S. Department of Justice, “Barclays Agrees to Pay \$2 Billion in Civil Penalties to Resolve Claims for Fraud in the Sale of Residential Mortgage-Backed Securities,” press release, March 29, 2018, <https://www.justice.gov/opa/pr/barclays-agrees-pay-2-billion-civil-penalties-resolve-claims-fraud-sale-residential-mortgage>.

<sup>4</sup> ProPublica, “How Trump’s Political Appointees Overruled Tougher Settlements With Big Banks,” Jesse Eisinger and Kevin Wack, August 2, 2019, <https://www.propublica.org/article/trump-political-appointees-overruled-settlements-with-barclays-royal-bank-of-scotland>.

penalties to settle the lawsuit.<sup>5</sup> When prosecutors in your office initially decided to bring criminal charges against Barclays in 2016, they “wanted a fine of about \$5 billion.”<sup>6</sup> However, a cadre of DOJ officials appointed by President Trump – former Deputy Attorney General Rod Rosenstein, Deputy Associate Attorney General Stephen Cox, and former Principal Deputy Associate Attorney General Jesse Panuccio – reportedly intervened and instructed your prosecutors to “settle the case with a narrow range around \$2 billion,” and to drop civil charges against two former Barclays employees, allowing the bank to potentially cover the \$2 million fine against them.<sup>7</sup>

The American public has a right to know how and why political appointees are influencing the settlement process to help banks avoid consequences. In order to get a better understanding of the circumstances surrounding these settlement agreements, I ask that you provide answers to the following questions no later than September 2, 2019.

1. How did DOJ and the other settling parties arrive at the \$2 billion payment amount for Barclays?
  - a. Was this settlement consistent with initial goals established by prosecutors in your office? If not, why not?
  - b. Did officials from Main Justice provide recommendations or orders regarding these settlements? If so, who provided them, and what was the nature of these suggestions, recommendations, or orders?
2. Please provide any internal review or analysis DOJ (or any other agency) conducted to quantify the financial cost to the government and taxpayers related to the Barclays’ fraudulent conduct.
  - a. Did Main Justice perform a separate analysis from your office related to the Barclays settlements? If so, please provide a copy of each analysis.
3. Please provide copies of all email or other communications between Main Justice and your office related to the settlement agreements for Barclays. This should include the “spreadsheet[s] that listed the dollar range”<sup>8</sup> of the settlements that Main Justice provided to your office.

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<sup>5</sup> U.S. Department of Justice, “Barclays Agrees to Pay \$2 Billion in Civil Penalties to Resolve Claims for Fraud in the Sale of Residential Mortgage-Backed Securities,” press release, March 29, 2018, <https://www.justice.gov/opa/pr/barclays-agrees-pay-2-billion-civil-penalties-resolve-claims-fraud-sale-residential-mortgage>; U.S. Department of Justice, “Royal Bank of Scotland Agrees to Pay \$4.9 Billion for Financial Crisis-Era Misconduct,” press release, August 14, 2018, <https://www.justice.gov/opa/pr/royal-bank-scotland-agrees-pay-49-billion-financial-crisis-era-misconduct>.

<sup>6</sup> Bloomberg, “Barclays Wins Its DOJ Gamble With \$2 Billion Mortgage Settlement,” Stephen Morris and Gavin Finch, March 28, 2018, <https://www.bloomberg.com/news/articles/2018-03-29/barclays-agrees-to-pay-2-billion-to-settle-u-s-rmbs-suit>.

<sup>7</sup> ProPublica, “How Trump’s Political Appointees Overruled Tougher Settlements With Big Banks,” Jesse Eisinger and Kevin Wack, August 2, 2019, <https://www.propublica.org/article/trump-political-appointees-overruled-settlements-with-barclays-royal-bank-of-scotland>.

<sup>8</sup> *Id.*

Thank you for your attention to this matter.

Sincerely,



Elizabeth Warren  
United States Senator