

RIGGED **JUSTICE 2.0:** **GOVERNMENT** OF THE BY & FOR BILLIONAIRES\$



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EXECUTIVE SUMMARY

Our country is supposed to operate on the principle of Equality under the Law. People or corporations that break the law should be held accountable – regardless of how wealthy, powerful, or well-connected they are.

But just having laws on the books does not guarantee equal justice for all. Laws aren't effective if they aren't enforced strictly and consistently - or if they aren't enforced at all.

Our justice system's soft touch with huge corporations and billionaires is not a new phenomenon. But under President Trump, it is far worse than it has ever been. The Trump administration has treated their billionaire buddies and corporate campaign contributors like the old friends they are: handing them the keys to government regulatory decisions and neutering the federal government's enforcement tools to address and prevent corporate crime.

And this is no accident. This administration has become a government run by corporate billionaires to benefit corporate billionaires. It has worked tirelessly to put personnel and policies in place that undermine government enforcement efforts at the expense of workers, consumers, taxpayers, public health, and the environment. These efforts include:

- Installing corporate insiders in leadership positions across the government – including a former coal lobbyist atop the Environmental Protection Agency (EPA); a former oil industry lobbyist to head the Interior Department; a former Wall Street insider to run the Securities and Exchange Commission (SEC); and a former for-profit college official in a key high-level position at the Department of Education
- Cutting hundreds of staff responsible for enforcing federal laws that protect the security of our financial markets, the safety of our workplaces, and the quality of our air and water
- Adopting corporate-friendly enforcement policies that handcuff the government's ability to hold white-collar criminals accountable, including new policies at the Departments of Labor and Justice (DOL and DOJ) that allow corporate wrongdoers to admit their crimes but completely avoid penalties for ripping off workers or bribing foreign governments

This administration's approach to enforcement has widened the gap between our country's two justice systems. This new report from Senator Warren and Rep. Jayapal, the second in a series, highlights how the federal government has failed to hold corporations and their executives accountable for crimes and misbehavior. It examines trends across the

Trump administration and includes information on specific cases in which the Trump administration failed to hold companies accountable for flouting federal laws, ripping off, or injuring Americans. Examples of the decline in enforcement, and its impact include:

- A rapid decline in the number of white collar crime enforcement actions, bringing enforcement activity to a 20-year low - down 33.5 percent from 2013, and down 41 percent from 1998
- A decline in monetary penalties and enforcement actions across nearly every federal government agency, including drops in penalties of more than 80% during the administration's first 20 months at the DOJ, the EPA, and the Federal Communications Commission (FCC)
- A failure to punish banks and financial firms that break the law, including a more than 50% decline in the number of cases brought by the Consumer Financial Protection Bureau (CFPB), SEC, and DOJ

But the decline in enforcement is more than just a statistic. It involves real-life cases of gross corporate malfeasance where the government let corporate lawbreakers off the hook.

Examples of these cases include:

- **SYNGENTA SEEDS LLC:** In December 2016, the Obama administration sought penalties of over \$4.8 million against Syngenta Seeds for exposing 19 workers to an insecticide that causes abdominal pain, dizziness, vomiting, and skin and eye problems. Over a year later, after amending the complaint to add a second alleged violation that exposed an additional 42 workers to the same pesticide –the Trump administration settled the case, imposing only a \$150,000 civil penalty, and failing to require Syngenta to admit guilt.
- **JPMORGAN CHASE, CITIGROUP, BARCLAYS, UBS, AND DEUTSCHE BANK:** Each of these banks have, within the last six years, faced criminal convictions for market-manipulation schemes. But in December 2017, the Department of Labor granted valuable new waivers from required misconduct penalties for each of them, allowing them to continue managing millions of dollars in corporate retirement plans. Absent these waivers, their criminal convictions would have banned them from these management activities.
- **CITIGROUP:** In January 2019, after Citigroup discriminated against minority borrowers by failing to offer the same mortgage discounts they offered to other borrowers, the Office of the Comptroller of the Currency (OCC) opted not to fine the bank, letting it off with merely a warning and imposing no other consequences.

INTRODUCTION

Three years ago, Senator Elizabeth Warren released *Rigged Justice: 2016*, an investigative report detailing how weak enforcement had allowed corporations and their executives to get away virtually scot-free with cheating working families and breaking the law. The report offered numerous examples of the federal government rewarding corporate misconduct with a light slap on the wrist, allowing these companies to continue raking in billions in profits at the expense of the American families that were hurt by their crimes.

The report highlighted the development of two legal systems – one for the rich and powerful, and one for everyone else. While the might of the federal government is brought down upon individuals accused of crimes like theft, burglary, and non-violent drug crimes, corporate wrongdoers face no such punishment. This weak-kneed enforcement is pervasive across government, from prosecuting financial and environmental crimes to policing public health and safety laws. For corporations and their billionaire executives, all too often, crime pays.

The gap between America's two legal systems has transformed into a chasm during the first two years of the Trump administration. Corporations have seized power in the current administration and used their well-funded lobbying efforts, plus their ability to get their own lobbyists, executives, and other insiders into key administration roles, to exert nearly complete control over the federal government.

The Trump administration has actively worked to undermine enforcement efforts across the government, including defunding enforcers and cutting their staff to the bone, changing the rules to make it harder to detect and punish corporate criminals, and simply refusing to take action to address corporate wrongdoing. As a result, in the first two years of the Trump administration, enforcement actions have plummeted. Corporate criminals have gotten away with stealing from our bank accounts, putting our health and safety at risk, and damaging our environment.

This report from Senator Warren and Rep. Jayapal provides a snapshot of the current state of enforcement and lack of corporate accountability in the federal government under President Trump. Its purpose is to highlight the corporate takeover of the Trump administration and uncover the administration's nearly complete failure to enforce laws preventing corporate crime. The report offers examples of the continued decline in the federal government's ability and willingness to hold the rich and powerful accountable for their actions.

FINDINGS

I. GOVERNMENT OF THE BILLIONAIRES

The laws passed by Congress to hold corporations and their executives responsible for actions that harm consumers, investors, workers, and the environment do not enforce themselves. The President must appoint qualified, determined individuals to lead enforcement efforts across the government, and must ensure that their enforcement units are adequately funded. And agencies must adopt policies that lead to accountability for corporations that break the law instead of those that make it difficult for federal officials to impose consequences.

However, during the first two years of the Trump administration, dozens of former executives, lobbyists, and other industry insiders have been tasked with regulating their corporate benefactors; cheaters and polluters have spent billions to lobby their former colleagues; agencies have shed crucial staff; and the rich and powerful have rigged the rules to make it even harder to hold them accountable. It is easier than ever for corporations to cheat the American people and get away with it.

A. BILLIONAIRES TAKE OVER THE TRUMP ADMINISTRATION

Despite campaign promises to “drain the swamp,”¹ the Trump administration is filled with former lobbyists and corporate insiders, including numerous former industry officials now in charge of enforcing federal law against their former colleagues. These agency officials worked for years to get corporate criminals off the hook – and now they are the foxes guarding the henhouse, responsible for conducting that enforcement themselves.

During the first five months of the Trump administration, nearly 70% of newly nominated sub-cabinet officials had corporate ties.² Corporate interests flocked to Washington D.C., with over 190 former lobbyists, special interests, and corporate insiders joining President Trump's transition team and administration in the nine months after the 2016 election.³ President Trump has rightfully been described as having “one of the most” corporate-friendly cabinets in history.⁴

The corporate takeover of this administration includes a slew of former lobbyists, executives, and industry insiders who are or were in charge of regulating and enforcing the law against their former industries. Table 1 lists some of these key officials.

TABLE 1: INDUSTRY INSIDERS TURNED TRUMP ADMINISTRATION REGULATORS

OFFICIAL	POSITION	BACKGROUND
Andrew Wheeler	Administrator, EPA	Former coal industry lobbyist and critic of limits on greenhouse gases
Jay Clayton	Chairman, SEC	Represented prominent Wall Street firms including Goldman Sachs and Deutsche Bank
Susan Bodine	Head, Office of Enforcement and Compliance Assurance at EPA	Former energy industry lobbyist
Diane Auer Jones	Principle Deputy Undersecretary for Postsecondary Education	Former lobbyist for a for-profit college
Joseph Otting	Comptroller of the Currency	CEO of OneWest Bank, fined and subject to a consent order for its shady mortgage and foreclosure practices
David Bernhardt	Secretary of the Interior	Former lobbyist and lawyer for mining and oil interests
Patrick Shanahan	Acting Secretary of Defense	Former executive and 30-year employee at Boeing
Alex Azar	Secretary of Health and Human Services	President of the U.S. division of major drug company Eli Lilly
Makan Delrahim	Assistant Attorney General, Antitrust	Former lobbyist and lawyer for large corporations, lobbied DOJ

B. CUTTING STAFF TO THE BONE

Agencies must have the requisite staff and the proper tools to enforce laws protecting consumers from corporate criminals looking to make a quick buck. Companies have armies of highly paid attorneys, and agencies don't stand a chance if they pursue wrongdoers without adequate resources.

But in its first nine months, the administration shed nearly 16,000 workers throughout the executive branch - including hundreds of enforcement and compliance personnel.⁵

- The EPA lost 73 members of its enforcement and compliance division as of September 2018, bringing on only four new hires to replace them.⁶
- In the first few months of the Trump administration, Occupational Safety and Health Administration (OSHA) lost 40 inspectors responsible for enforcing federal health and safety requirements in the workplace and had made zero new hires to fill the empty positions as of late 2017.⁷
- As of late 2017, the Bureau of International Labor Affairs – responsible for enforcing our country's trade agreements and protecting American workers – had failed to staff at least five enforcement positions and three attaché positions at United States Embassies abroad.⁸
- The co-director of the SEC's enforcement division expected his staff to “be down as much as maybe 100 spots” due to cuts at the agency – and that's just in the enforcement division.⁹

By reducing staffing, this administration has “completely undermine[d] the mission of the agenc[ies] and hamstrung agencies' ability to hold corporate wrongdoers accountable.”¹⁰ As one lawyer at the EPA put it, “these kinds of cuts in personnel would make enforcement...incredibly difficult.”¹¹

C. RIGGING THE RULES

Congress can pass laws in an effort to hold corporations accountable, but the executive branch is responsible for implementing these laws, and executive branch officials wield tremendous power over the rules, guidelines and departmental policies that can either incentivize or discourage aggressive enforcement action. Little-noticed changes in agency policy can fundamentally change officials' ability to pursue and punish corporate entities that have broken the law – and the Trump administration has adopted numerous new policies, rules, and guidelines that undermine agency enforcement efforts and favor corporate lawbreakers.

ENVIRONMENTAL PROTECTION AGENCY: LIMITING CITIZENS' RIGHTS TO ENFORCE THE LAW

Major environmental statutes contain provisions for citizen suits allowing an individual, a state, or another interested party to sue the EPA if it fails to fulfill a legal requirement.¹² Environmental laws are often highly prescriptive, providing detailed instructions and deadlines for regulations required to implement their provisions – precisely to ensure that government officials implement them correctly. If the EPA misses such a deadline, an interested party can bring a citizen suit to require compliance.¹³ For example, after the EPA failed to set required Clean Water Act limits for

“the largest source of toxic discharges from coal plants,” the Environmental Integrity Project filed a notice of intent to sue. The citizen suit led to a consent decree, which eventually resulted in agency issuance of a 2015 rule setting pollution limitations.¹⁴

In the past, the EPA has issued regulations years after their deadlines, often jump-started in response to such citizen lawsuits brought by public interest groups. For the public, these citizen suits are often the first step toward enforcing important provisions that protect the water we drink and the air we breathe.

But on October 16, 2017, then-EPA Administrator Scott Pruitt issued a directive that prohibits the settlement of such citizen suits without first consulting affected industry members about the terms of the settlement.¹⁵ And a supplement to the directive instructed EPA attorneys that even if they did reach a settlement, these settlements could not include attorneys’ fees and costs.¹⁶

This policy directive is likely to hobble the EPA’s actions to enact and enforce federally mandated requirements meant to hold polluters accountable for how they treat the environment. Now, when an outside party brings a citizen suit, the EPA will be forced to consult with industry officials – often those from the polluting industries causing the problem – before making a decision on how to proceed. Massive corporations who pollute Americans’ air and water could end up with veto power over new rules that look out for consumers. Increasing industry influence over EPA rulemaking and enforcement actions will effectively cripple the citizen suits that have spurred the agency to take action in the past.

In the case of the Clean Water Act coal ash citizen suit described above, an association of energy companies initially tried to intervene to prevent limitations on toxic discharges from coal plants, but a federal court rejected their intervention.¹⁷ Under this new directive, such interference would not only be allowed – it would be required.

Former Administrator Pruitt’s reversal on citizen suits limits the important rights of outside parties to compel the EPA to take action against polluters. The new policies are nothing more than “a way of refusing to enforce our nation’s critical environmental laws.”¹⁸ Even the EPA’s own lawyers criticized the move, writing in a letter that the policy change “do[es] the public a great disservice.”¹⁹

‘SELF-REPORTING’ SAFE HARBORS CREATE MASSIVE LOOPHOLES

In November 2017, the DOJ announced a new enforcement policy for the Foreign Corrupt Practices Act (FCPA) that allows corporations to avoid criminal prosecution for

illegally bribing foreign officials as long as they self-report their crimes after the fact.²⁰ This encourages corporations to look the other way when their employees may be breaking the law by bribing overseas officials, safe with the knowledge that they can seek forgiveness down the road. It incentivizes a culture of “don’t ask, don’t tell” at huge companies, and ultimately, treats corporate wrongdoers with kid gloves.

Similarly, in March 2018, the Department of Labor launched the “Payroll Audit Independent Determination” – or PAID - Program, a self-reporting program that allows companies to avoid paying any penalties when they rip off their employees and commit wage and hour law violations — as long as they self-report them later on.²¹ This program allows employers to deprive workers of minimum wage and overtime pay, and gives them a get-out-of-jail-free card to avoid paying any penalties for the misbehavior.²²

DEPARTMENT OF JUSTICE: STEERING PENALTIES AWAY FROM COMMUNITIES HIT BY FINANCIAL FRAUD

After the 2008 financial crash, the federal government reached multi-billion dollar settlements with the large financial institutions that perpetrated massive financial fraud.²³ The DOJ acted on the principle that the biggest victims of the financial crisis were the American families that suffered from the economic recession that followed, and that countless local community organizations were better suited to help those victims than the government. To help consumers, the Justice Department included settlement provisions that required corporations to send money to third-party charitable organizations, certified by the Department of Housing and Urban Development that would provide services for struggling families impacted by the corporate misconduct.²⁴

These settlement provisions helped families that were hit the hardest deal with the aftermath of the financial crisis. For example, DOJ required that Credit Suisse provide \$2.8 billion in consumer relief, including financing for affordable housing, after the bank misled investors in mortgage-backed securities in the years leading to the financial crisis.²⁵ But on June 5, 2017, then-Attorney General Jeff Sessions issued a memorandum to U.S. Attorneys and DOJ section and division chiefs directing them not to enter into any settlements that provided for a “payment or loan to any non-governmental entity.”²⁶ This new policy prohibits the exact type of settlement agreements designed to help consumers recover from the damage caused by illegal corporate activity.

DEPARTMENT OF JUSTICE: STEERING CORPORATE POLLUTERS' FUNDS AWAY FROM CLEANUP

A similar Department of Justice policy eliminates “supplemental environmental projects” (SEPs) that require polluters to contribute toward projects that mitigate the damage to the environment caused when they violate the law.²⁷ If a company is guilty of illegally polluting the water or air of a community in Ohio, for example, the Department of Justice can direct part of the settlement funds to clean up the affected community instead of putting the money into the treasury in Washington D.C.

The DOJ's new policy eliminates SEPs. Per the new policy, DOJ recently proposed reducing—by \$3 million—a \$15 million settlement against Harley Davidson for the sale of devices that allow motorcycles to emit excessive levels of pollutants.²⁸ This \$3 million would have been used to pay for a pollution-mitigation project implemented by the American Lung Association. Instead, the fine was retracted – preventing Harley Davidson from having to fully pay for its illegal actions and forcing citizens to breathe dirtier air.²⁹

The DOJ's sharp turn on third-party settlements limits agency flexibility to assist consumers and could have severe consequences for the department's enforcement efforts.

DEPARTMENT OF HEALTH AND HUMAN SERVICES: CENTERS FOR MEDICARE AND MEDICAID SERVICES WEAKENS NURSING HOME PROTECTIONS FOR SENIORS AND THE DISABLED

Beginning in 2017, the Centers for Medicare and Medicaid Services (CMS) systematically instituted a new policy “emasculat[ing] enforcement,” making it more difficult to impose fines and other enforcement actions against nursing homes that harm their residents.³⁰

Since 2013, more than 6,000 nursing homes have been “cited at least once for a serious violation,” of health and safety standards, including “failing to protect residents from avoidable accidents, neglect, [and] mistreatment.”³¹ Yet instead of seeking to hold homes accountable and protect residents, CMS is “scaling back the use of fines” against these homes.³²

The new policy on fines is a clear favor to corporate wrongdoers, and was “requested by the nursing home industry.”³³ The guidelines will discourage enforcement actions in situations, “even when they have resulted in a resident's death,”³⁴ and leave vulnerable residents at the mercy of nursing homes that continue to violate federal law.³⁵

And in June 2017, in an additional move that would make it almost impossible to hold bad actors accountable, CMS issued a proposed rule that would make it more difficult for residents at nursing homes that fail to provide adequate care to go to court.³⁶ The final rule, which undoes an Obama-era protection, is expected to be finalized after review from the White House budget office in the coming weeks.³⁷

DEPARTMENT OF JUSTICE: WIPING OUT KEY GUIDANCE FOR PROSECUTORS OPENS LOOPHOLES FOR FRAUDSTERS AND POLLUTERS

Agencies rely on guidance documents – interpretations of agency rules – to provide greater detail and clarity about the requirements of federal regulations. This guidance benefits both the regulator and the regulated: a company cannot follow a law it does not understand, and an agency will not enforce an unclear requirement.

These agency guidance documents are “non-binding,” but they establish important precedents and guidelines that allow agencies to enforce the law and prevent industry from taking advantage of loopholes.³⁸ But on January 25, 2018, Associate Attorney General Rachel Brand issued a memorandum instructing DOJ attorneys not to use such documents to compel any regulated party into “taking any action or refraining from taking any action” beyond what is required by the letter of the law – in other words, rendering them moot.³⁹

This new policy will force the Department to “step[] away from guidelines that have been essential for effective enforcement of civil rights laws for 40 years.”⁴⁰ Industry lawyers have concluded that the policy “has major implications” for efforts to enforce the Clean Air Act, the Clean Water Act, the False Claims Act, wage and hour laws, and other federal laws.⁴¹ The simple fact is that “[c]ivil prosecutors [now] have one less tool in their enforcement toolbox.”⁴²

DEPARTMENT OF EDUCATION SCALES BACK SYSTEMIC CIVIL RIGHTS ISSUES AND DISMISSES 1,200 CASES

In June 2018, a leaked guidance document from the Department of Education (the Department) revealed a new policy cutting back on efforts to identify systemic civil rights issues that impact entire groups of students. Under the old policy, for example, after the department received reports that a black student at a school in California had received harsher punishment for a fight than a white student, a follow-up investigation led to evidence that black students across the district “received disproportionately higher levels of discipline than white students.”⁴³ In 2016, the Department

entered into a settlement agreement to “end the racially discriminatory impact of the district’s discipline policies.”⁴⁴

Under this new policy, put in place under Education Secretary Betsy DeVos, the Department will, in many cases no longer be required to broaden inquiries “to identify systemic issues and whole classes of victims.”⁴⁵ In the above case, the Department likely would have resolved the individual case of discrimination without ever discovering the widespread problems in the district. As a result of this policy, the civil rights office in the Department immediately closed more than 1,200 civil rights investigations,⁴⁶ including a years-long look into whether school officials in DeSoto County, Mississippi administer corporal punishment more often to black students than white students.⁴⁷

FAILURE TO ENFORCE CONSUMER PROTECTION LAWS AT THE CONSUMER FINANCIAL PROTECTION BUREAU

On November 24, 2018, Donald Trump named Mick Mulvaney as the Acting Director of the CFPB replacing Richard Cordray, who had served as Director since 2012.⁴⁸ Under Mr. Mulvaney, and then his successor at CFPB, Kathleen Kraninger, the number of CFPB enforcement actions have plummeted, declining from 47 in 2016 to just nine in 2018.⁴⁹ Mr. Mulvaney stopped the agency from examining lenders for servicemembers,⁵⁰ stripping the CFPB of an important tool for preventing harmful loan practices. He also announced a “more collaborative” approach with businesses that the agency supervises and regulates, re-orienting the CFPB’s mission away from aggressive consumer protection and toward corporate kowtowing.⁵¹ Mulvaney even fired the agency’s entire 25-member Consumer Advisory Board.⁵²

The list goes on. Mulvaney dismantled the CFPB’s Office of Fair Lending and Equal Opportunity.⁵³ And just a few months ago, the CFPB announced that it would roll back its payday lender rule, removing protections for the most vulnerable Americans who are frequently ripped off when they are forced to rely on predatory payday lenders.⁵⁴

In its short history prior to their leadership at CFPB, the agency returned over \$12 billion to consumers.⁵⁵ But Mr. Mulvaney and Director Kraninger have essentially turned this agency over to the conmen, rip-off artists, and shady corporations that it is supposed to police.

II. GOVERNMENT BY THE BILLIONAIRES: MASSIVE DECLINES IN ENFORCEMENT ACTIVITY

The deregulatory zeal of the corporate cronies in charge of President Trump’s administration has resulted in a government-wide decline in actions to protect consumers, the economy, and the environment. Enforcement efforts are down across the board, and white collar criminals are able to cheat Americans with impunity. As the former SEC Chairman under George W. Bush put it, the administration’s current approach to enforcement “could embolden some to keep breaking the law.”⁵⁶

The number of white collar enforcement actions hit a 20-year low under President Trump’s administration.⁵⁷ During the first seven months of the 2018 fiscal year, the total number of cases had declined by a third compared to the number of cases in 2013, and by over 40 percent from two decades ago.⁵⁸ These declines in the number of cases have coincided with a decline in penalties: federal penalties imposed on the largest 100 publicly traded companies plummeted to just \$1.1 billion in 2017, a decline of over 90% from the average annual penalties (\$17 billion) imposed under President Obama.⁵⁹

This decline has affected virtually every government agency. According to a study by Public Citizen comparing the Trump administration with the Obama administration, 11 of 12 agencies led by a Trump official for most of 2017 saw a decline in the monetary penalties imposed on corporate criminals.⁶⁰ In 11 of those agencies, the number of enforcement actions against corporate criminals also dropped. The sole exception was the Office of Foreign Assets Control.⁶¹

These aren’t small declines in enforcement activity. Drops in enforcement included:⁶²

- A 94 percent drop in monetary penalties at the Environmental Protection Agency
- A 90 percent drop in monetary penalties at the Department of Justice
- A nearly 85 percent drop in monetary penalties and an over 50 percent drop in the number of enforcement actions at the Federal Communications Commission (FCC)
- A 68 percent drop in monetary penalties and a 44 percent drop in the number of enforcement actions at the SEC
- A 48 percent drop in the number of enforcement actions at the Federal Trade Commission (FTC)

The Internal Revenue Service (IRS) has substantially decreased the number of audits and investigations of the richest Americans. In 2018, the agency conducted audits of less than half of the largest corporations for the first time in history, down from 96% in 2010, and audited barely 16,000 millionaires, down from 39,000 in 2015 and 28,000 in 2016.⁶³

At the EPA, things are even worse. In 2018, the agency collected just \$72 million in civil fines, 85 percent below its average total of over \$500 million per year in the 20 years prior to the Trump administration. And the agency conducted fewer industrial facility inspections in 2018 than any year in the last decade, and only half the number conducted in 2010.⁶⁴

The Trump administration has given extra special treatment to their allies at the biggest banks and financial institutions. President Trump's DOJ brought a mere 17 cases against the banking industry, compared to 71 during the same amount of time in the Obama administration, and compared to the Obama administration SEC, the SEC under President Trump has collected barely a quarter of the penalties from financial institutions.⁶⁵ Under President Trump, the SEC has charged less than half as many banks and 40 percent fewer public companies.⁶⁶

III. GOVERNMENT FOR THE BILLIONAIRES: RIGGED JUSTICE 2019 CASES

When our government adopts two separate justice systems – one for most Americans and another for big corporations and their CEOs – ordinary Americans pay the price. When financial regulations, environmental laws, and public health and safety measures aren't diligently enforced, companies have a green light to hurt individuals and communities while getting off with a slap on the wrist. Examples of this special treatment for corporations include:

1. JPMORGAN GETS OFF THE HOOK FOR RIGGING INTEREST RATES.

From 2007 to 2012, JPMorgan Chase & Co. traders allegedly rigged the benchmark for interest-rate derivatives – a benchmark that pension funds and local governments “rely on” to help hedge against future interest rate changes.⁶⁷ The benchmark, the ISDAfix, determines the value of derivatives worth trillions of dollars, and yet many traders at JPMorgan were “openly joking about” rigging prices.⁶⁸ In May 2016, Citigroup agreed to pay \$250 million to settle similar allegations.⁶⁹ In June 2018, however, the Commodity Futures Trading Commission (CFTC) let JPMorgan off with a penalty a fraction of that size: \$65 million – and to add insult to injury for JPMorgan's victims, the bank was not forced to admit to any wrongdoing.⁷⁰

2. CFPB DROPS CASES AND REDUCES PENALTIES AGAINST PREDATORY PAYDAY LENDERS.

In April 2017, the CFPB accused payday lender Golden Valley Lending of deceiving customers by making small short-term loans at interest rates over 900%, violating federal and state laws and charging “four times as much” as the infamous Cosa Nostra mob.⁷¹ Another payday lender, Security Finance, allegedly used aggressive collection tactics and engaged predatory practices by harassing and attempting to embarrass borrowers.⁷² But in January 2018, just a month after Mick Mulvaney took over at the agency, the CFPB dropped an ongoing lawsuit against Golden Valley Lending against the advice of career officials and with no explanation.⁷³ Five months later, in June, the agency cut by more than half its penalty against Security Finance, reducing the fine from \$11 million to \$5 million – again, with no explanation other than a vague statement that “the legal case [was] shaky.”⁷⁴

3. DOJ'S SWEETHEART DEAL WITH PHARMACEUTICAL MANUFACTURER AGERION.

Over the course of several years, drugmaker Aegerion allegedly engaged in fraudulent and deceptive behavior designed to increase the use of Juxtapid, a cholesterol drug that cost nearly \$300,000 per patient.⁷⁵ Aegerion allegedly promoted the drug for use among patients who did not need it, helping the company earn over \$100 million in net sales from the drug in 2016.⁷⁶

Despite these profits, the Department of Justice settled with Aegerion for a fine of just \$28.8 million.⁷⁷ The settlement was so weak that a federal judge rejected it as “not in the public interest,” noting that it illustrated “the shocking disparity between the treatment of corporations and individuals in our criminal justice system.”⁷⁸ DOJ eventually settled for just over \$35 million.⁷⁹

4. CFTC AND DOL WAIVED “BAD ACTOR” PENALTIES FOR MARKET MANIPULATION BY DEUTSCHE BANK, HSBC, AND UBS AG.

In January 2018, the CFTC fined three massive banks – Deutsche Bank, HSBC, and UBS AG – a total of \$46.6 million in penalties for “spoofing,” a practice allowing the banks to artificially increase the values of commodities and raise their return on investment.⁸⁰ The law includes a “bad actor” penalty for banks engaged in market manipulation, banning corporate criminals from sitting on the CFTC's advisory committees and prohibiting the SEC from eliminating a set of rules governing new securities sales.⁸¹ But despite these banks' wrongdoing, the CFTC still waived the bad actor penalty, allowing the three corporate criminals to continue advising the federal government on policy, saving the

companies millions of dollars, and letting them skip steps in the regulatory process for securities sales.⁸²

Similarly, JPMorgan Chase, Citigroup, Barclays, UBS, and Deutsche Bank have all recently received criminal convictions for market-manipulation schemes.⁸³ As a result, they should be subject to ongoing sanctions from the Department of Labor, placing limitations on their ability to continue managing retirees' money. But in December 2017, the Department of Labor granted new waivers to all five of these banks, allowing them to continue managing corporate retirement plans and individual-retirement accounts for 3-5 years.⁸⁴

5. DISMISSAL OF DEFERRED CRIMINAL CHARGES FOR HSBC.

In 2012, DOJ reached a settlement with HSBC after the bank allegedly let nearly \$900 million from illegal drug sales enter the American financial system.⁸⁵ For five years, HSBC faced deferred criminal charges over allegations that it blatantly ignored money laundering by criminal gangs and allowed transactions that violated economic sanctions.⁸⁶ The agreement was set to expire in 2017 if HSBC avoided bad behavior and corrected the misconduct that led to these allegations.

In 2017, despite HSBC's claims of improvement, an outside corporate monitor expressed "significant concerns about the pace of...progress" and revealed that "instances of potential financial crime" were being investigated.⁸⁷ But later that year, the Department of Justice, led by then-Attorney General Jeff Sessions, sought and secured dismissal of the deferred charges, letting the bank off the hook despite the terms of the agreement.⁸⁸

6. EPA SEEKS DRASTICALLY REDUCED PENALTY FOR WORKER EXPOSURE TO PESTICIDE.

In December 2016, the EPA under President Obama sought penalties of over \$4.8 million against Syngenta Seeds for exposing 19 workers to the insecticide chlorpyrifos, sending 10 of those employees to the hospital.⁸⁹ Exposure to this insecticide can cause nausea, dizziness, vomiting, blurred vision, and loss of consciousness.⁹⁰ The EPA later amended that complaint to add an additional incident with the same pesticide, causing exposure of an additional 42 workers.⁹¹

In February 2018, under Administrator Scott Pruitt, the EPA announced that Syngenta would pay only a \$150,000 civil penalty, plus \$400,000 for "worker protection training sessions."⁹² – These final penalties amounted to less than 15% of the initial amount sought.

7. CITIGROUP GETS OFF EASY ON MONEY LAUNDERING CHARGES.

From 2010 to 2012, Banamex USA, a unit of Citigroup, failed to conduct appropriate due diligence on thousands of suspicious transactions worth billions of dollars, as the bank grew to dominate the market for remittances from the United States to Mexico.⁹³ Banamex allegedly generated more than 18,000 internal alerts of suspicious financial transactions, yet the bank conducted less than 10 investigations, filing only six suspicious activity reports.⁹⁴

But in May 2017, the Department of Justice agreed to settle claims of money laundering against Citigroup for less than \$100 million, not even 8% of what HSBC paid in a similar settlement from 2012.⁹⁵ Furthermore, Citigroup did not have to plead guilty and will receive a non-prosecution agreement.⁹⁶

8. CFPB FINES SCAMMER OF VETERANS \$1.

For eight years, Mark Corbett allegedly played a role in illegally exchanging veterans' pensions for high-interest "cash advances." The CFPB accused Corbett of "broker[ing] illegal contracts with misleading terms" and failing to deliver "the promised funds to consumers in a timely fashion."⁹⁷ Mr. Corbett ripped off dozens of veterans – and ultimately got away with it.

The CFPB uses money collected from corporate criminals to compensate victims, yet in January 2019, under new Director Kathy Kraninger, the agency fined Mr. Corbett \$1 – 100 pennies – for violating the law and taking advantage of veterans.⁹⁸ He was subject to no additional penalties.

9. OCC IGNORES STAFF RECOMMENDATIONS AND FAILS TO PUNISH CITIGROUP FOR RACIAL DISCRIMINATION

In 2014, Citigroup admitted that the bank had treated minority borrowers worse than other customers, "failing to give minority customers mortgage discounts that were available to many other borrowers."⁹⁹ According to reports, "following a review, OCC staff agreed in early 2017 that the loans were racially skewed and recommended public sanctions."¹⁰⁰ But instead, in January 2019, the Office of the Comptroller of the Currency decided not to fine Citigroup and instead issued a mere warning – with zero consequences for the harmful behavior.¹⁰¹

10. CFPB AND FTC TAKE NO ACTION TO HOLD EQUIFAX ACCOUNTABLE FOR MASSIVE DATA BREACH

On September 7, 2017, Equifax announced that it had exposed the sensitive personal information of approximately 143 million consumers – a number that would eventually rise above 150 million.¹⁰² An investigative report by Sen. Warren found that “Equifax set up a flawed system to prevent and mitigate data security problems,” “ignored numerous warnings of risks to sensitive data,” and “failed to notify consumers, investors, and regulators about the breach in a timely and appropriate fashion.”¹⁰³ The company profited off the breach, making money off consumers and businesses who sought to protect their data.¹⁰⁴ For months, Equifax hid the truth about the breach from the public, revealing five months later that passport information was stolen.¹⁰⁵ In the six months immediately following the breach, the CFPB received more than 20,000 complaints related to Equifax. As of April 28, 2019, the CFPB had received more than 56,000 complaints related to Equifax since the company announced one of the largest data breaches in history.¹⁰⁶

Yet 20 months after the breach, neither the CFPB nor the FTC has taken any action against Equifax related to the breach.

11. DEPARTMENT OF EDUCATION LETS FAILED ACCREDITOR GO BACK TO WORK

The Accrediting Council for Independent Colleges and Schools (ACICS) is the largest accrediting body overseeing for-profit colleges, responsible for offering the stamp of approval that students rely on and that opens up the spigot of federal student loan dollars. In 2015, for-profit Corinthian Colleges, accredited by ACICS, shut down all 28 of its schools after being fined \$30 million for misrepresenting job placement data, grade, and attendance records.¹⁰⁷ In 2016, for-profit ITT Technical Institute, also accredited by ACICS, shut down 130 campuses after a series of sanctions and investigations that had led to the Department of Education prohibiting ITT from enrolling new students who used federal financial aid.¹⁰⁸

In late 2018, another ACICS-accredited institution, Education Corporation of America (ECA), collapsed, leaving thousands of students on the hook. In 2016, acknowledging ACICS’s failure to properly oversee these for-profit colleges and the role it played in the harm caused to thousands of students, the Obama administration found that ACICS could no longer serve in its role as accreditor.¹⁰⁹ But just two years later, in November 2018 and under the leadership of several officials with ties to the for-profit college industry, the Department of Education restored federal recognition to

ACICS – allowing this failed accreditor to continue giving its flawed stamp of approval to bogus for-profit colleges.¹¹⁰

12. EDUCATION DEPARTMENT LOOKS THE OTHER WAY AS LOAN SERVICERS RIP OFF STUDENTS

From 2015 to 2017, student loan servicers repeatedly failed to tell borrowers about their repayment options, miscalculated borrower payments, and mistakenly placed borrowers into expensive forbearance without giving them other options.¹¹¹ In 2019, a report from the Department of Education’s Inspector General found that the Office of Federal Student Aid (FSA) utterly failed to hold these loan servicers accountable for cheating thousands of students.¹¹²

The Inspector General’s report noted that despite being fully aware of hundreds of servicer violations, FSA “rarely used available...accountability provisions to hold servicers accountable.”¹¹³ The IG went on to criticize the office’s failure to “provide servicers with an incentive to take actions to mitigate the risk of continued servicer noncompliance that could harm students.”¹¹⁴

IV. CONCLUSION

This country's government is rigged in favor of the rich and powerful— and the Trump administration has turned this power gap into a chasm.

When the rich and powerful take over the federal government, exerting outsized influence and drowning out all other voices, Americans lose faith in their government. When the wealthy and well-connected gain access to their own special criminal justice system — a system where criminal conduct is rewarded with a wink and a warning — Americans lose faith in their government. When agencies have the tools to protect the American people, yet choose time and time again not to use them against corporate criminals, Americans lose faith in their government.

The evidence is clear. Corporate interests have exerted control to de-fang federal enforcement efforts. This is not a one-off problem; it is a clear pattern that requires an immediate and comprehensive solution.

In 2018, Senator Warren and Rep. Jayapal introduced the Anti-Corruption and Public Integrity Act, the largest anti-corruption bill since Watergate, legislation that would clean out the halls of Washington and restore power to the American people. The bill would slam shut the revolving door between industry and government; it would end lobbying as we know it; it would reduce corporate influence over federal agencies; and it would require radical transparency from federal officials. In short, it would take back control from corporate criminals and place it in the hands of ordinary Americans.

These reforms are urgently needed to reduce the corporate stranglehold over our executive branch and restore a criminal justice system that fails hold the rich and powerful accountable.

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