

Western New England University

Digital Commons @ Western New England University

Media Presence

School of Law Faculty Scholarship

7-18-2015

Close the Revolving Door Between Washington and Wall Street

Lauren Carasik

Western New England University School of Law, lcarasik@law.wne.edu

Follow this and additional works at: <https://digitalcommons.law.wne.edu/media>



Part of the [Law and Society Commons](#)

Recommended Citation

Lauren Carasik, Close the Revolving Door Between Washington and Wall Street, ALJAZEERA AMERICA (July 18, 2015), <http://america.aljazeera.com/opinions/2015/7/close-the-revolving-door-between-washington-and-wall-street.html>

This Editorial is brought to you for free and open access by the School of Law Faculty Scholarship at Digital Commons @ Western New England University. It has been accepted for inclusion in Media Presence by an authorized administrator of Digital Commons @ Western New England University.

Close the revolving door between Washington and Wall Street

Holder's return to corporate law firm undermines public trust

July 18, 2015 2:00AM ET

by [Lauren Carasik](#) @LCarasik

Just months after stepping down from the Justice Department, former U.S. Attorney General Eric Holder is rejoining Covington & Burling, a Washington, D.C.-based white shoe law firm, where he worked from 2001 to 2009 before joining the Barack Obama administration. At least five other lawyers, who worked at the Justice Department [under Holder](#), including former enforcement chief Lanny Breuer, have also landed at the firm.

Holder's return to Covington is emblematic of the revolving door between government and the reins of corporate power that undermines public trust and erodes the integrity of the financial industry. His tenure as the nation's top prosecutor was marked by withering criticism of failure to prosecute the banks represented by Covington, including Wells Fargo, JPMorgan Chase, Bank of America and Citigroup. Despite the catastrophic affect of the 2008 financial crisis, not a single bank executive has been prosecuted. Holder instead relied on deferred and non-prosecution agreements, and extrajudicial settlements — back room deals that escaped judicial review. Many did not require an admission of guilt. He also allowed banks to classify fines, which represented a fraction of their earnings, as "[remedial payments](#)," making them tax deductible as a cost of doing business and passed along to shareholders.

Critics say Holder went easy on the banks to remain in good standing with his former colleagues, in anticipation of his eventual return. In fact, the firm [held a corner office](#) for Holder, making no secret of its intent to recruit him back. Holder maintains that his approach to financial malfeasance was "appropriately aggressive." His supporters cite the high fines levied on some banks as evidence of his zealotry. True, Holder pioneered the concept of [collateral](#)

[consequences](#), inviting prosecutors to consider the economic effect of prosecutions on workers. But instead of protecting the public, it circumvented justice and transparency, creating the impression that justice was up for sale to those who can afford it, including Covington clients.

Holder will be barred from appearing before the DOJ for two years, and the influence and expertise derived from his tenure there should be firewalled from his new work, though the boundary is porous. During that time, he intends to build his practice working with corporate clients and continue his public interest focus, devoting time to civil rights and pro bono work. Of course, there are other employment venues for those committed to principles of equal justice. They just don't pay millions a year. Holder made \$2.5 million in 2009. His new salary is undisclosed, but Holder is expected to earn big alongside the bankers that he [refused to prosecute](#).

In a June 15 letter, Americans for Financial Reform, a coalition of groups advocating for a more accountable and equitable financial system, urged [Obama](#) to step up oversight of the financial industry through better appointments to the Securities and Exchange Commission (SEC). "Too often, nominees to serve on the SEC have been 'revolving door' insiders with a history of moving back and forth between Wall Street firms seeking to escape accountability and the agency charged with defending the public interest," the group said.

Obama has failed to clean up Wall Street and deliver structural reform to stop industry leaders from peddling influence that undermines Main Street.

Their appeal has so far fallen on deaf ears. Sen. Elizabeth Warren, D-Massachusetts, and her progressive allies in Congress are fighting to stop Obama's expected nomination of another Covington attorney, [Keir Gumbs](#), to the Securities and Exchange Commission (SEC) to replace outgoing Commissioner, Luis Aguilar. Gumbs, who served as counsel to a SEC Commissioner before

joining Covington, is widely expected to join hands with SEC Chair Mary Jo White, whom Warren excoriated in a [June 2 letter](#) for her “disappointing” leadership at the agency.

Gumbs’ ties to extractive and fossil fuel industries are particularly troubling. As recently as April, he represented their trade association, the American Petroleum Institute, [before the SEC](#). The Commission is currently gearing up to issue a new rule on section 1504 of the Dodd Frank Act, Obama’s landmark financial reform law aimed at increasing transparency in the industry. [A federal court](#) vacated the agency’s original rule implementing section 1504 in 2013 after extractive industry giants fought the disclosure requirements. Gumbs also [co-authored a guide](#) for corporations on how to avoid political spending disclosures earlier this year. His appointment would reinforce charges of [regulatory capture](#) of the agency.

Financial industry executives who leave for a stint in government can be handsomely rewarded for their financial sacrifices. In January, investment banker Antonio Weiss [withdrew](#) from consideration for a top Treasury Department post after his nomination came under fire. But the confirmation process [revealed lucrative payouts](#) to financial industry insiders who move to government jobs, greasing the wheels of influence: Weiss was slated to reap “[\\$21 million in unvested income and deferred compensation](#),” though his case is [hardly an outlier](#). That an employer would pay millions to a departing employee without a belief that his future position would inure to the firm’s benefit [defies logic](#).

Obama has failed to clean up Wall Street and deliver structural reform to stop industry leaders from peddling influence that undermines Main Street. The list of those who have waltzed between the halls of political power and the corridors of high finance under his watch is long. It includes former Federal Reserve Chairman Ben Bernanke, who in April joined Citadel, a \$25 billion hedge fund, and former Treasury Secretary Tim Geithner, who in 2013 took a similar job at the private equity firm Warburg Pincus. Neither committed ethical violations in taking up their new posts, but they [owe some of their appeal to the financial industry](#) to the insider information and insights gained during their tenure.

Holder's return to Covington has not stoked much outrage in part because the American public has come to expect these cozy relationships.

Those entrusted with policy-making and regulatory authority over the financial industry should have a proven track record of working for the public interest, not personal enrichment. Yet government positions are filled with insiders beholden to the interests of financial giants who are "too big to fail." Until the revolving door between government and corporate power is blocked, the U.S. government will remain captured by the interests of big money. The bottom 99 percent of Americans will continue to be regarded as "too little to matter."

Lauren Carasik is a clinical professor of law and the director of the international human rights clinic at the Western New England University School of Law.

The views expressed in this article are the author's own and do not necessarily reflect Al Jazeera America's editorial policy.