



Department of Justice

STATEMENT OF
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BEFORE THE
U.S. SENATE COMMITTEE
ON BANKING, HOUSING AND URBAN AFFAIRS

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Mr. Chairman and Members of the Committee, I am pleased to appear today to report to you on the progress being made by the Department of Justice in fighting fraud against financial institutions.

As you know, the President recently announced additional administration initiatives designed to intensify the effort to pursue those who have looted federally insured financial institutions for their own selfish purposes. I was pleased that much of the President's package was incorporated into an amendment to the Crime Bill passed by the Senate (S. 1970) three weeks ago and by the House just two days ago (H.R. 5401). We appreciate the cooperative efforts of this Committee in helping us build constructive weapons to utilize against savings and loan fraud.

I would like to focus this morning on the Bush Administration's record in this area, an object of considerable attention of late, as well as some legislative issues.

Immediately following my confirmation as Attorney General in August, 1988, I undertook a full and comprehensive review of our efforts in the white collar crime area. During the course of that review, and as a result of consultations with the United States Attorney in Dallas, those involved with the Dallas Bank Fraud Task Force, and officials of the Federal Bureau of Investigation (FBI) involved in investigations of the savings and

loan industry, it became apparent that we were woefully understaffed in this area. Following meetings with the Interagency Bank Fraud Enforcement Working Group, I directed that plans be prepared to commit the resources necessary to nearly double the number of investigators, prosecutors and support personnel devoted to rooting out criminality involved in the savings and loan collapse.

President Bush presented our request for additional resources to the Congress in February, 1989, within three weeks of his inauguration, as part of his overall plan to address the savings and loan problem. His request sought a \$50 million increase in FY 90 appropriations to investigate and prosecute savings and loan fraud. When I testified on February 9, 1989, before this Committee in support of his request, I underscored the gravity of the problem and expressed my view that "existing investigative and prosecutive resources have not been sufficient to address all the serious criminality called to the attention of the Department of Justice."

Using available resources, our investigators and prosecutors had already vastly increased their efforts during 1989 and, by the time we received our 1990 request in December of last year, we were able to announce our plans to staff task forces in a total of 27 cities across the nation where our study and review had indicated they were most needed.

The base upon which these task force efforts are building is substantial. From October 1, 1988 to date, for example, our efforts have resulted in the indictment of 328 defendants, the conviction of 231 persons and a total of \$57 million ordered in restitution in major (i.e. involving fraud losses over \$100,000 or officers, directors or shareholders) savings and loan fraud cases. Only five persons have been acquitted of criminal charges during this period and over three-quarters (78%) of those sentenced have received prison terms.

A further word is in order concerning the Dallas Bank Fraud Task Force, to which I have previously referred, since it is the model for our expanded efforts. Established in August, 1987, because of the intense concentration of thrift fraud cases in the Dallas Area, it has since brought charges against a total of 80 defendants and secured 56 convictions. Three quarters of those sentenced have received prison terms, running as high as 30 years in the case of the former chief executive officer of Vernon Savings & Loan. In addition, restitution of over \$11.5 million has been ordered.

These are, as I am sure you recognize, unusually difficult cases to successfully pursue. They are not "shelf items" or "one size fits all" investigations and prosecutions. They are not normally achieved by utilizing search warrants, breaking down the door, seizing the evidence and leading the defendant away in

handcuffs. On the contrary, these investigations most often involve complicated paper trails leading to highly sophisticated schemes which disguise illegality under the veneer of legitimate business and financial transactions.

They typically involve extraordinarily complex transactions, which must be thoroughly investigated before even a threshold determination that a crime has been committed can be made. Thousands of documents must be examined. Hundreds of witnesses must be interviewed and re-interviewed. Time consuming grand jury investigation is almost always necessary to obtain essential documentary evidence and witness testimony. Complex and protracted, multi-week criminal trails, requiring prosecutors and investigators to expend literally thousands of hours and infinite patience, are standard procedure. The FBI estimates that as long as four years can be consumed in just one of these matters.

With the vastly expanded workload resulting from the exposing of financial institution failures in the 1980s, we recognize that it is doubly important for our law enforcement efforts to be properly prioritized and carefully targeted so as to maximize the impact of successful prosecutions. To that end, while we were still in the process of staffing our increased efforts this spring, I met with Tim Ryan, Director of the Office of Thrift Supervision (OTS), the day after he assumed office to map out a joint effort between the regulatory agencies and the

Department of Justice to winnow through the mass of referrals that had already been made to ensure that we were focusing upon the most significant cases as our first priority.

As a result, federal regulators have now identified 100 institutions which will receive our priority attention. To date, we have indicted 51 individuals from these institutions, and we have convicted 39. Since multiple indictments may flow from each institution, we cannot identify them specifically for you at this stage of our investigations.

Our effort is being supervised and monitored by James G. Richmond, the U.S. Attorney for the Northern District of Indiana and former Chairman of the Attorney General's Advisory Committee of U.S. Attorneys. Jim serves, full-time, as Special counsel for Financial Institutions, reporting directly to the Deputy Attorney General. Mr. Richmond's sole responsibility as the Special Counsel is to coordinate all matters concerning the investigation and prosecution of financial institution fraud. Additionally, he will ensure that our resources continue to be properly allocated to the most significant financial institution fraud cases. I also have directed the establishment of a Financial Fraud Coordinating Unit within the Deputy Attorney General's office to support the Special Counsel's efforts.

The Secretary of the Treasury and I also have established an interagency group of senior officials to continue prioritizing the significant savings and loan allegations and a "rapid response team" to concentrate immediate and joint enforcement efforts.

In addition, our cooperative efforts with the regulatory agencies have demonstrated the potential for significant monetary recoveries as well. However, I must remind the Committee, as I did in 1989, that there is reason to doubt that recoveries will ever recoup a significant amount of the losses sustained by financial institutions. By the time we or the regulatory agencies are able to assert civil claims, seek restitution or forfeiture of assets, those assets have frequently been dissipated, due to declining real estate values, overzealous spending habits, or fraudulent transfers intended to conceal assets.

When I first appeared before this Committee to discuss the S&L collapse, Senator Bob Graham asked me:

"What would you like us to use as the report card, the standard of your success or failure?"

And I responded:

1. that we had provided the Dallas Task Force with the resources needed to handle its work;
2. that we had replicated the Dallas Task Force in other areas of need;
3. that a substantial number of those involved in these criminal activities had been prosecuted and convicted and that substantial sentences had been imposed on them;
4. that, using the civil fine mechanism, civil actions to recover and/or forfeit assets had returned a significant amount to those wronged by illicit activities; and
5. that the public had been reassured a much higher level of deterrence had been built into our criminal justice system to avoid a repetition of the past.

I believe we have made substantial progress in each of these areas, as I have tried to point out to you this morning.

As for the legislative response to the President's additional initiatives designed to intensify this effort, we appreciate the cooperative, bi-partisan efforts of the Senate, in particular, Senator Heinz, Senator Gore and Senator Wirth, and of the House, in building constructive weapons to utilize against savings and loan fraud. I'd like to take a minute to discuss the legislation so that the Department's concerns will be considered during the future conference committee hearings.

First, I'd like to thank the members of this Committee for working with us to fashion a workable alternative to the amendment initially introduced by Senator Wirth and Senator Graham. In the Special Counsel, we believe we have established an effective system of accountability, and we think the changes made in the amendment just adopted are constructive.

I'd also like to thank Senator Roth for working with Senator Simon and Senator Dixon and with us to forge a compromise on his qui tam provision. I believe that the product of our efforts will enable us to fulfill our responsibilities, while also utilizing information and expertise from the private sector.

The key provision of the President's package, which we were pleased to see contained in the bills adopted by the Senate and the House, would allow the Department of Justice to accept the assistance of trained, experienced personnel from elsewhere in

the Executive Branch. This provision would enable us to utilize, for example, the expertise of the IRS and the Secret Service in pursuing financial fraud cases.

Another provision in H.R. 5401, which would amend 18 U.S.C. 3056 to expand the investigatory jurisdiction of the United States Secret Service, is of considerable concern to the Department. The issue of how to best enlist the aid of the Secret Service in the fight against financial institution fraud has been a difficult one to resolve. I am happy to say, however, that due to a considerable show of cooperation among all parties concerned, including the FBI and the Secret Service, a compromise has been reached which will allow the full use of all available Secret Service personnel in the fight against savings and loan wrongdoers.

The Department supports the DeConcini amendment to the Senate Treasury Appropriations bill which allows the Attorney General to accept, and the Secret Service to offer, agents to assist the investigative effort under our supervision. This provision will grant to the Secret Service the same investigative authority as the FBI with regard to financial institution fraud. The Secret Service may conduct any kind of investigation, civil or criminal, which United States law enforcement personnel are authorized to conduct, subject to the supervision of the Attorney General.

We have stated our opposition to the National Commission on Financial Institution Reform, Recovery and Enforcement provision contained in the House bill. Apart from the constitutional problems brought about by the "hybrid" nature of the Commission's membership, we think parallel investigations of S&L fraud, in which the same witnesses are sought and the same issues investigated, raise dangers. As I think I have demonstrated, we have been very active and aggressive in pursuing financial fraud. It would serve little benefit for a Commission to track or overlap our activities. We think the oversight process in the House and Senate Banking and Judiciary Committees is sufficient to assess our progress, and we would hope the Committee agrees.

White collar crime -- or "crime in the suites" -- is, and always has been, one of my top priorities as Attorney General. We pledge to you and to the American people a relentless effort to continue to prosecute those responsible for financial institution fraud, and to pursue the assets which they have stolen from the taxpayers of this country and the institutions which they have subverted and suborned.

I will be pleased to respond to any questions which you might have.