

ONE HUNDRED ELEVENTH CONGRESS  
**Congress of the United States**  
**House of Representatives**  
COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM  
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**Statement of Rep. Darrell Issa, Ranking Member**  
**Joint Full Committee and Domestic Policy Subcommittee hearing on**  
**“Bank of America and Merrill Lynch: How Did a Private Deal Turn Into a Federal**  
**Bailout? Part II.”**  
**June 25, 2009**

Mr. Chairman, thank you for calling today’s hearing, and thank you for your leadership on the Committee’s investigation of the role of the federal government in the Bank of America – Merrill Lynch transaction.

I appreciate Chairman Bernanke’s appearance before the Committee today. Mr. Bernanke’s testimony is necessary to uncover the truth as to our government’s behavior in response to the financial crisis. I want to make clear at the outset that today’s hearing is not about “gotcha” politics. Rather, it is about learning the truth. This is the Committee on Oversight and Government Reform, and this hearing is about both – oversight as to what happened – and reform as to how to ensure that an appropriate framework is in place to avoid the abuse of power in the future.

I also want to make clear that I respect the *motives* of both Chairman Bernanke and former-Secretary Paulson. It is clear that their actions occurred at a time when financial markets faced serious threats, and they thought they were acting in the best interest of the U.S. and world economy. However, I question the *appropriateness of their actions* and the *wisdom of their judgment*.

Through this Committee’s investigation, we have learned that the federal government, led by Mr. Bernanke and Mr. Paulson, threatened to fire Ken Lewis and Bank of America’s Board of Directors if they exercised their legal right to attempt to back out of their agreement to acquire Merrill Lynch. Whether Bank of America’s use of the clause in the contract may not have been successful, and whether Bank of America conducted sufficient due diligence in its decision to acquire Merrill Lynch, is of secondary concern to inappropriate government action. Some on the Committee want to know whether Ken Lewis was quick to report the threat to his shareholders. I, on the other hand, am concerned about the threat itself. The fact remains that Mr. Lewis had a fiduciary duty to exercise all legal options at his disposal if he thought they were in the best interests of his shareholders.

We have also learned that, subsequent to the transaction, the federal government refused to provide a written statement committing to provide Bank of America taxpayer money, despite private assurances that taxpayer dollars were coming, because the government did not want a “disclosable event.” Bank of America’s shareholders, and ultimately the American people, deserved better.

The Committee's investigation has also revealed that the Federal Reserve deliberately kept other regulators in the dark regarding the negotiations with Bank of America. The Federal Reserve's cover-up of important information and willingness to exclude key regulatory partners such as the SEC and OCC raises troubling questions about its willingness to work collaboratively with its partners in the federal government.

One person not in the dark, however, was Timothy Geithner. Mr. Geithner was involved in discussions with senior officials at the Federal Reserve and Treasury Department regarding Lewis's intention to back out of the deal. According to internal Bank of America notes, Mr. Geithner conveyed his support of the Bernanke-Paulson threat to Bank of America officials as well.

We will likely hear today that the government's actions were necessary to contain "systemic risk." If anything, however, the Federal Reserve's actions only served to spread systemic risk to Bank of America, its shareholders, and its depositors, which required a taxpayer bailout later anyway.

The government's troubling behavior did not start with the Bank of America transaction. We know that on October 13, 2008, Mr. Bernanke, Mr. Paulson, Mr. Geithner, and Ms. Bair called the nine CEOs of the biggest banks in America to an now famous meeting at the Treasury Department. During this meeting, government officials told the banking executives that the government was going to invest in their companies, told them how much the government was going to pay, and told them what the banks could do with the money. When one executive – a private citizen representing a then-private company – dared to object, he was told that he would not be allowed to leave the room without signing the government's document. This behavior is intolerable in a free and civil society.

Mr. Chairman, I did not approve of the Paulson/Geithner/Bernanke policy under the Bush Administration, and I do not approve of it today. Unfortunately, this troubling pattern of behavior has continued under the Obama/Geithner/Bernanke administration. President Obama's policies are Bush on steroids. We have witnessed the federal government nationalize the auto industry and openly demonize those bondholders who dared to exercise their contractual rights.

Finally, we ought to apply the lessons we are learning about the federal government's abuses of power in response to the current crisis to debates about grandiose plans to increase regulatory power across the financial sector. The Federal Reserve's actions ought to be a note of caution to those who want to dramatically increase its power and authority.

Thank you again, Mr. Chairman, for calling this hearing and I look forward to continuing to work with you to bring the actions of government officials in both the last Administration and the current Administration to light.