

## U.S. drops criminal probe of former Countrywide chief Angelo Mozilo

**Mozilo's actions in the mortgage meltdown — which led to \$67.5-million settlement against him — did not amount to criminal wrongdoing, federal prosecutors have determined.**

By E. Scott Reckard, Los Angeles Times

4:11 PM PST, February 18, 2011

Federal prosecutors have shelved a criminal investigation of Angelo R. Mozilo after determining that his actions in the mortgage meltdown — which led to \$67.5-million settlement against him — did not amount to criminal wrongdoing.

As the former chairman of Countrywide Financial Corp., Mozilo helped fuel the boom in risky subprime loans that led to the crippling of the banking industry and the near-collapse of the financial system.

A federal grand jury in Los Angeles began probing Mozilo in 2008, and four months ago he agreed to pay a \$22.5-million fine and to repay \$45 million in what the government said were ill-gotten gains to former Countrywide shareholders. The payments settled a civil action by the Securities and Exchange Commission.

But the criminal investigation has wound down without indictments of Mozilo or others at his Calabasas company, according to people familiar with both the prosecution and the defense teams, all of whom spoke on condition of anonymity because they were not authorized to discuss the matter.

"Sometimes the public thinks all you have to do is to indict someone and that's it," one of the federal sources said. "But you have to be able to prove your case, and it can be worse losing a case than not bringing one at all."

advertisement



The 72-year-old Mozilo hung up the phone when contacted for comment at his home in the Lake Sherwood golf community of Ventura County.

The criminal investigation into Mozilo was never announced publicly, and as a rule federal prosecutors make no formal announcement when such cases are closed.

One defense attorney, however, said the government would probably keep a close watch on civil litigation by Countrywide shareholders against Mozilo and could still decide to bring charges depending on what develops in those cases.

"He may have to testify, and you never know what may come up," the attorney said.

Asst. U.S. Atty. Stephen A. Cazares, who spearheaded the Countrywide criminal probe, could not be reached for comment. A spokesman for U.S. Atty. Andre Birotte Jr. said the office would have no comment "at this time."

Countrywide, at one time the nation's top mortgage company, collapsed under the weight of soured loans and was acquired by Bank of America Corp. — which also has suffered heavy financial damage from Countrywide loans.

Mozilo and others involved in the mortgage boom "should go to jail," said Bruce Marks, founder of the nonprofit Neighborhood Assistance Corp. of America, which provides counseling to homeowners facing foreclosure.

"And they should throw away the keys," Marks added. "By not prosecuting them you have blessed their activities and allowed them to continue," he said, contending that many former originators of abusive loans are now buying up foreclosed properties for cash.

Along with avoiding criminal charges, Mozilo also escaped paying two-thirds of the SEC settlement. Though he was required to come up with the \$22.5-million fine himself, Bank of America and insurance companies covered the \$45 million in restitution to shareholders.

The SEC accused Mozilo and former Countrywide executives David Sambol and Eric P. Sieracki of downplaying the risks of subprime and other high-risk mortgages they were writing to homeowners and selling to investors.

E-mails released by the SEC quoted Mozilo denigrating various risky loans that Countrywide and other lenders provided, especially subprime mortgages that didn't require down payments from borrowers who had abysmal credit.

"In all my years in the business, I have never seen a more toxic product," Mozilo said in one message.

Defense attorneys said the comments were part of an internal corporate debate and had been taken out of context. They said the financial markets were well aware of Countrywide's products and their risks.

Columbia University law professor John Coffee said mortgage cases like Mozilo's were muddled by the numerous parties involved, unlike Enron and other "cook the books" cases in which executives were convicted.

Countrywide's model was to make or buy mortgages only to sell them off immediately to Fannie Mae or Wall Street as fodder for securities.

Given that model, Coffee said, blame could be assigned to an entire chain of players: mortgage brokers who falsified applications; investment bankers who concocted complex and "opaque" mortgage bonds; rating firms that provided high ratings on the bonds but said they were lied to; and institutional investors that relied on dubious ratings because the securities carried above-market interest while promising to be risk-free.

"All share responsibility, but none are culpable enough by themselves to compare with [Enron's] Ken Lay, Jeff Skilling or the WorldCom CEO," Coffee said.

Los Angeles defense lawyer Jan Handzlik agreed, saying it was easier to prove greed and negligence against mortgage and Wall Street executives than criminal intent. He noted that federal prosecutors have convicted "some of the low-hanging fruit," such as mortgage brokers, appraisers, lending officers and individual borrowers — people who "directly defrauded a bank for personal gain."

Civil cases, such as those brought by the SEC, carry a lower burden of proof, noted Jacob S. Frenkel, a former SEC enforcement lawyer and white-collar fraud prosecutor. Criminal cases require a much higher burden — beyond a reasonable doubt — to win convictions, he said.

"It exposes the tension between the public clamoring for punishment after a major economic calamity and the reality that criminal cases are based on evidence, of which criminal intent is the fundamental piece," he said.

The criminal investigation came to light in mid-2008 as grand jury subpoenas were served to executives with Countrywide and two other failed lenders, New Century Financial Corp. of Irvine and IndyMac Bank of Pasadena. No criminal charges have been filed in any of those cases, and it was not known whether they are still active, although defense attorneys described New Century's as dormant.

Prosecutors were trying to determine whether fraud or other crimes contributed to the mortgage debacle. But they pointed out even then that such cases were complex, difficult to

prove and likely to take years to develop.

In recent testimony before the Financial Crisis Inquiry Commission and in a civil lawsuit in Los Angeles County Superior Court, Mozilo defended Countrywide as an all-American success story.

In the court case, a wrongful-dismissal suit brought by a former executive, Mozilo said the goal for him and Countrywide's co-founder, the late David Loeb, was "changing the lives of the American people" by making home loans to customers who could not have qualified for them through other lenders.

"It was founded by two people driven ... to make a difference," Mozilo said.

Mozilo and Loeb founded Countrywide in 1969 as a Federal Housing Administration and Veterans Administration lender. The company became the largest supplier of loans to government-sponsored mortgage financing company Fannie Mae.

Cocky, flashy and always tan, Mozilo was the face of the mortgage industry to many Americans, chatting with CNBC anchor Maria Bartiromo even as competitors collapsed and reassuring analysts that his company would weather the storm and emerge stronger.

Mozilo still faces several civil suits, including actions filed by investors in Countrywide mortgage-backed securities.

On another front, a congressional committee has reopened an investigation of whether Countrywide's VIP lending program, nicknamed "Friends of Angelo," provided improper favors to legislators and their staffs, other public officials and business associates.

Rep. Darrell Issa (R-Vista), chairman of the House Oversight Committee, issued a subpoena to Bank of America for all materials related to the VIP program, saying he believed Countrywide "orchestrated a deliberate and calculated effort to use relationships with people in high places in order to manipulate public policy and further their bottom line."

[scott.reckard@latimes.com](mailto:scott.reckard@latimes.com)

Copyright © 2011, [Los Angeles Times](#)