March 4, 2013, WTE Column. Editor's Headline: "Not too big to fail"

A few years ago when I acquired the modest home where I now reside, my youngest son helped with the down payment. I have since refinanced to a lower interest rate to pay down the familial debt. In both instances I dealt with bankers and mortgage companies that were decent and helpful.

Other homeowners, alas, were not so lucky. My middle son and spouse purchased an upscale home in California at the height of the housing-market bubble, with a mortgage featuring a low "teaser rate." Within a couple of years, it morphed into a high-interest loan. They were assured that, by expiration of the teaser, they could refinance: the home would have appreciated enough to make it happen.

The family pays a high-interest mortgage—and high real-state taxes—on a house that has since devalued by 25 percent. To refinance at lower interest rate, they'd have to come up with $50,000 to make up for its declined value.

"We could sell our home," says my son. "But we'd lose all we put into it. Our down-payment. The improvements. If we sold, we'd have nothing: no house, no money."

The couple and their two young children struggle on, hoping things will improve. Meanwhile, they are being taken to the cleaners. A tight job market has diminished their earnings. I help when I can, for I suspect they live on credit cards, another devil's bargain with the finance industry.

Millions of American families are even worse off. They lost their homes, their savings, their credit ratings. All because cynical mortgage lenders, crooked investment firms, and unscrupulous bankers decided they could make a lot of bucks before the bubble bust—which they knew was bound to happen; indeed, they bet on it. In 2011 alone, more than two million homes were foreclosed, causing skyrocketing poverty rates and upsurges in homeless children. They are now labeled "entitlement recipients" when the real entitlement goes to big business.

"Since the crisis began, the number of people using food stamps has jumped by eighteen million, a 70 percent increase. At the same time, the upper 1 percent of the American population has continued to increase its share of America's total income and wealth, to the highest levels since the late 1920s," reports Charles Ferguson in "Predator Nation." He deems the 2008 financial crisis the worst setback for America—for the entire globe—since the Great Depression.

"Gangster Bankers: Too Big to Jail" reads the headline in the Feb. 14 issue of Rolling Stone. The article discusses a December 2012 U.S. Justice Department decision to forego persecution of executives of the British-based bank HSBC for "the largest drug-and-terrorism money-laundering case ever." The Department issued a fine—$1.9 billion, or about five weeks' profit—but “they didn't extract so much as one dollar or one day in jail from any individual, despite a decade of stupefying abuses.”

“They violated every goddamn law in the book,” Jack Blum, an attorney and former Senate investigator, is quoted. “They took every imaginable form of illegal and illicit business.”

The Justice Department worried that assertive action against HSBC “might undermine the world economy.”

Alongside the HSBC settlement, Rolling Stone highlights another cushy deal, to another huge international firm, the Swiss bank UBS, which “admitted to a key role in perhaps the biggest antitrust/price-fixing case in history, the so-called LIBOR scandal.” This was a massive interest-rate-rigging conspiracy involving hundreds of trillions (“trillions,” with a “t”) of dollars in financial products. Two minor players did face charges, but the Justice Department worried aloud about global stability. Why no criminal charges against the company?

“Our goal here is not to destroy a major financial institution.”

Yet UBS was busted in 2009 in a major tax-evasion case. “This is a bank that has broken the law before,” commented a reporter.

Were I not familiar with “Predator Nation,” I would have found Rolling Stone hard to believe. The book details similar cases.

Author Charles Ferguson shows that the problem began with deregulation and the weakening of antitrust laws under Ronald Reagan. Deregulation, “the greatest bank robbery,” was continued under subsequent presidents, Democrat and Republican.

For a quarter century now, we’ve been in the grips of “post-deregulation financial criminality,” he asserts. Worse, the bad guys get away with their ill-gotten gains. Criminals that function within big banks “are almost never prosecuted, and literally never imprisoned.” Bernard Madoff and Martha Stewart went to prison; not so the politically powerful executives of Goldman Sachs, JPMorgan, Chase, Citigroup, and Lehman Brothers.

While in the 1980s Savings and Loan scandals, “significant numbers of politically powerful bankers were prosecuted,” the expansion and consolidation of the financial sector, the rising power of money in national politics, and further deregulation created “unprecedented opportunities for bankers to make money improperly” in the 1990s. “The largest, oldest, and most important firms in finance” were able to act with impunity.

They knew they acted fraudulently toward their clients. The lure of fast cash—lots of it—

was too strong. “As deregulation progressed, the industry became ever more unethical and dangerous.”

The extent of the fraud, and the vast criminal element that drove—indeed, continues to drive—the system remains unknown to most Americans. Those on the losing side may blame themselves; in reality, they are at the mercy of forces they have no way of ascertaining. The worst of it: After the bubble burst, those responsible got off with a slap on the wrist: their fines were paid mostly through their insurance coverage. They enjoy million of their ill-gotten dollars while their victims continue to suffer.

Although we have the evidence of criminal behavior, there has not been a single criminal prosecution of a senior financial executive related to the financial crisis. Nor has there been any serious attempt by the federal government to use civil suits, asset seizures, or restraining orders to extract fines or restitution from the people responsible for plunging the world economy into a recession, observes the author.

Back in November 2011, the New York Times published findings that, since 1996, some 51 cases the major banks had settled involved securities fraud. They had been previously caught violating the same law. They promised the SEC not to do it again—and then did it again. Ferguson examines in detail a few of the most notorious cases, Enron and Citicorp being among them.

Both political parties are responsible, says Ferguson. The two parties have formed a kind of cartel, a duopoly. “Both parties take in huge amounts of money . . . Politicians in both parties enrich themselves and betray the interests of the nation,” he writes.

Americans are angry at the hijacking of their earnings—and their dreams. The Tea Party movement and Occupy Wall Street both are reactions to the “utterly cynical innovation on the part of . . . America’s new oligarchy,” writes Ferguson, noting that both parties “mobilize support for themselves by exploiting cultural polarization.“

Anger, however justified, remains ineffectual. We need to educate ourselves. Besides his book, Ferguson has produced an award-winning film, “Inside Job.” We should view the film and read the book, for “America is turning into a rigged game . . . one that resembles a third-world dictatorship more than a wealthy democracy.”