

# **Making White Collar Crime Legal: Organizational and Sociological Structures that Protect and Enhance the Financial Elite**

by Jason Makansi

## **Statement of Research**

To truly comprehend the irony of a large percentage of “white collar crime,” particularly the “crime” that leads to economic meltdowns, it is necessary to acknowledge the degree to which what we consider white collar crime is actually “legal” because of the organizational structures that protect and enhance the financial elite. Some of the evidence for this lies in the fact that every time an economic calamity erupts, a few white collar criminals are “hung in the public square” but most of the rest scatter like rats to the “next big thing.” In fact, our major corporate, political, and even educational institutions can be considered temporary resting places for members of an elite financial and political class who are able to “restructure” through regulation, accounting standards, lobbying, etc, for future obscene gains in profits and personal wealth. This isn’t unlike a statistic I remember from the early 1980s when I lived in New York City: The same few thousand offenders are responsible for over 90% of the violent crimes committed against residents of the city.

Consider the following:

- One of the little recognized reasons for the meltdown of the merchant energy business in the 2001-2002 time frame was because the Financial Accounting Standards Board (FASB) allowed energy companies to use their own models to value their power plant and natural gas asset vis a vis the emerging electricity trading market.
- The securitization market imploded in 2008 in part because securitization products had the “virtue of not having real market prices” attached to them. They could be valued according to models which made for nice consistent profit reports.
- According to R. Bookstaber in *A Demon of Our Own Design*, “The most prominent names in this business [takeover boom of the 1980s] included Ivan Boesky, who would be arrested, and Robert Rubin, who would later be Secretary of the Treasury.”

Countless other examples abound. In fact, white collar crime has become “legal” because the organizational and political structures are established and constantly adapted by a financial and political elite group of individuals that is miniscule (compared to the people they affect); that cycle in and out of

corporate, government, and quasi-government (e.g. think tanks) organizations; and that write the rules of the game and then exploit those rules for maximum profit.

This research sets out to demonstrate that the “invisible hand” of the economy has a face and that the only way to recognize this face is to (1) analyze this elite group from a sociological and organizational perspective and (2) understand that the global economy is now post-services and fully a transactions-based economy. The economy is driven by the money made through transactional fees. Traders, dealmakers, and market makers rule. Therefore the fastest way to increase profits is not to function as an intermediary who adds value by bringing a buyer and a seller together or making the transaction more “efficient” (the traditional role of a trader) but instead to artificially inflate the value of the “deal” to maximize the extraction of fees. Accounting “standards,” financial regulation, and the lobbying to ensure both are favorably disposed towards a transactions-oriented economy. The objective is to promote churn and volatility.

One of the values of this research will be to apply the concepts and framework of analysis to the emerging trading market in carbon, which promises to be the largest trading market ever devised. It is hoped that this research and its dissemination will help the public and its elected officials avoid the consequences of ill-conceived global climate regulation.

Finally, this research aims to “look ahead” by identifying and understanding how these same tactics are being nurtured and applied to the emerging global carbon trading market but also “looks back” by relating current manifestations of making white collar crime legal to previous scholarly research into past financial catastrophes, such as the Savings & Loan debacle, the Junk Bond scandal, and the meltdown of the Enron Corporation and the entire merchant energy sector. Established sociological theories, including the process of “normalization” and “anomie,” are used to explain why such white collar criminals are motivated towards deviant behavior.

## Reading List

1. Edwin Southerland, *White Collar Crime*, Holt, Reinhart , and Winston, 1949
2. C Wright Mills, *The Power Elite*, Oxford University Press, 1956
3. G William Domhoff, *Who Rules America?*, McGraw Hill Inc, 2005
4. Kitty Calavita et al, *Big Money Crime: Fraud and Politics in the Savings and Loan Crisis*, University of California Press, 1999
5. Mary Zey, *Banking on Fraud, Drexel, Junk Bonds, and Buyouts*, Adaline Transaction, 1993
6. David Kauzlarich, *Journal of Human Justice*, Volume 5, Number 1, 1993

7. R Michalowski, *Social Problems*, Volume 34, 1987, p. 34+
8. R Kramer, *Crime and Delinquency*, Volume 48, 2002. P. 263+
9. D Rothe, *Critical Criminology*, Vol. 17, 2009, p 3+
10. W Chambliss, *Criminology*, Vol. 27, 1989, p. 183+
11. Norman B. Macintosh and Trevor Hopper (editors), *Accounting, the Social and the Political: Classics, Contemporary, and Beyond*, Elsevier. 2005.
12. Elton G. McGoun and William Dunkak, "Finance Models as Metaphors," *International Review of Financial Analysis*, 149 (2003) 1-13
13. Elton McGoun and Piotr Zielonka, "The Platonic Foundations of Finance and the Interpretation of Finance Models," *The Journal of Behavioral Finance*, Vol. 7, No. 1, 43-57. 2006
14. Elton McGoun, "The Inherent Manipulability of Markets," *Accountancy Business and the Public Interest*, Vol. 7, No. 2. 2008
15. Charles R. Morris, *The Trillion Dollar Meltdown: Easy Money, High Rollers, and the Great Credit Crash*, Public Affairs/Perseus Books Group, 2008
16. Kevin Phillips, *Bad Money: Reckless Finance, Failed Politics, and the Global Crisis of American Capitalism*, Viking/Penguin, 2008
17. Charles Wheelan, *Naked Economics: Undressing the Dismal Science*, W W Norton & Co, 2002
18. Victor Nee and Richard Swedberg (editors), *The Economic Sociology of Capitalism*, Princeton University Press, 2005
19. Jason Makansi, "Faith based Economics: Financial Engineering, the Transactions-based Economy, and the Cyclic Destruction of Global Capitalism," *Accountancy Business and the Public Interest*, Vol. 8, No. 2, 115-138. 2009.
20. Yoav Vardi and Ely Weitz, *Misbehavior in Organizations: Theory, Research, and Management*, Lawrence Erlbaum Associates, Mahwah, NJ. 2005 (selected readings)
21. Floyd Norris, "Confronting High Risk and Banks," *The Wall Street Journal*, December 11, 2009
22. Matt Taibbi, "The Great American Bubble Machine," [www.rollingstone.com](http://www.rollingstone.com), July 2, 2009
23. Paul Krugman, "How Did Economists Get It So Wrong?" *The New York Times Magazine*, September 6, 2009.

24. William K Black, *How the Servant Became a Predator: Finance's Five Fatal Flaws,* *Huffington Post*, October 12, 2009.
25. R L Bradley, *Capitalism at Work: Business, Government, and Energy*, M&M Scrivener Press, 2009.
26. Janine Wedel, *Shadow Elite, How the World's New Power Brokers Undermine Democracy, Government, and the Free Market*, Basic Books, 2009.
27. R A Cloward, "Illegitimate Means, Anomie, and Deviant Behavior," from *The Study of Society: An Integrated Anthology* (Peter Rose, ed), Random House, 1967.