

THE ULTIMATE OXYMORON

MARCH 2007

On February 13th the Bank of America Corporation began to offer credit cards to customers without Social Security numbers (illegal immigrants). File this one under slippery slope. For year's banks all across the country have been offering checking accounts and mortgages to "undocumented immigrants." Credit cards were a natural progression of business as usual. The story made its way through the talk radio circuit with some tepid attention paid by the major networks. I received calls and emails from listeners all over the country wanting to know if I was aware of Bank of America's actions and my reaction. The reading on the overriding tone of American's feelings was of shock. It didn't surprise me in the least.

After all we have witnessed and covered through the years regarding Wall Street and the banking industry, I don't know how anyone could be surprised by this. The reality is that if Reuters reported tomorrow that that Bank of America or any other major bank gave Kim Jong IL a free toaster after granting him a concentration camp equity loan, I wouldn't be taken aback in the least. If you do a Bank of America Google search of the *Markowski Monthly* online archives you will be directed to 15 different columns. On my personal archives, where I store all of my show prep for the past seven years, I have 253 stories.

Nothing surprises me anymore.

This past month the media got its *Aquaman underoos* in a bunch over the "**Bananas Funds Terror**" story. This story was another example of the media not allowing facts to get in the way of a good headline. The Chiquita Brands is \$4.5 billion corporation based out of Cincinnati, Ohio. Chiquita formerly had operations in the country of Columbia, which is known as the kidnapping capital of the world. (Didn't you see *Romancing the Stone*?) In 2003, Chiquita told the government that it was making payments to both left and right paramilitary groups to protect the lives of its employees from Ralph, Ira, and Zolo types. After management discovered that these groups were designated as foreign terrorist organizations they voluntarily told the Department of Justice what they did. The payments made by Chiquita which totaled under \$2 million over a seven year period of time were made and motivated over concern for the well-being and safety of their employees and Chiquita is now paying a \$25 million fine.

Let us compare the sins of Chiquita with that of Bank of America. I bet you didn't know that this past fall, Bank of America paid a \$7.5 million fine to settle a money-laundering probe that according to Manhattan District Attorney Robert Morgenthau involved about \$3 billion from South America. Morgenthau also stated that it is estimated that \$19 billion is laundered through New York annually. This investigation was a part of an ongoing probe into New York based financial institutions for laundering money to finance terrorists.

Who thinks that Bank of America was doing any laundering for the safety and well-being of its employees? Why would the press spend some much time and effort skewering Chiquita, yet let Bank of America off the hook? Follow the money. It has been my contention that advertising dollars go along way when it comes to favorable press coverage. According to its 2006 10-K, Bank of America spent over \$2.3 billion on marketing. Chiquita did not have a breakdown of marketing on its 10-K so I spoke with Chiquita's Director of Corporate Communications Mike Mitchell. He told me that "*advertising and marketing makes up a tiny fraction of the company's \$461 million Selling and General Administrative budget.*"

John Hielscher of the Sarasota Herald Tribune has written a piece about a former Bank of America stockbroker, turned whistleblower. David M. Willms contends that Bank of America

forced him to resign last year because he complained to superiors about the malfeasance and illegalities of the other brokers in the office. Willms who was with Bank of America for 12 years, describes in his complaint an office populated by young brokers whose only concern is earning hefty commissions by selling investors inappropriate investments. Willms states that Bank of America management ignored him when he pointed out the inappropriate transactions that violated federal securities laws and pointed out three specific instances. First, Willms shows where a broker representing a couple, needlessly split the purchase of \$1.1 million in mutual funds into 6 different families of funds boosting his commission to \$40,000. Another was when an elderly couple was sold a \$1 million variable annuity. Willms being a supervisor refused to sign off on the transaction, although the broker put it through anyway and the Bank of America office manager back-dated the paperwork to approve it.

And last, in an example of fee double dipping, a broker sold an 87 year old woman corporate bonds worth \$725,000 pocketing \$15,600 in commissions. Then the broker proceeded to place the assets in a fee-based account where he would receive a percentage fee.

On March 16, Bank of America Securities settled fraud charges filed by the SEC by agreeing to pay \$26 million in disgorgement and penalties to settle allegations that it allowed the misuse of its research reports, and that it knowingly published skewed or false analyses. Back in 2004, during its investigation of the firm, the SEC censured and fined Bank of America \$10 million after the company failed to hand over documents. According to the suit filed by the SEC, Bank of America failed to monitor communications between its marketing director of equity research and its research analysts. This allowed Bank of America position traders to get their hands on forthcoming research reports and subsequently used this information to trade for the firm's account before the firm's clients were able to view the reports.

The SEC also stated that Bank of America failed to prevent conflicts of interest that led to deliberately misleading analysis. Bank of America offered incentives to research analysts to support its investment banking efforts. Bank of America investment bankers, according to the SEC, guided analysts to produce skewed reports that resulted in the publication of materially false and misleading research reports. The SEC also states that Bank of America had written policies and procedures to prevent conflicts of interest; the firm just didn't enforce them. In another classic example of Wall Street justice, Bank of America under the terms of the settlement will pay \$26 million in penalties (Pretty light for a company that did over \$78 billion in revenue last year). But even more telling is that Bank of America will pay the fine to itself. The fine will be put into a "*Fair Fund*" to benefit the firm's customers. So basically, a company that misled its clients and knowingly published faulty research is going to pay a *parking ticketesque* fine to themselves. Try that next time you get a parking ticket. "*Excuse me Judge...I will pay the fine by placing the fine in a fund to maintain the up-keep of my automobile.*" "*Higher Standards*" indeed!

Bank of America announced on February 22 that they will embark on a new marketing campaign. "Bank of Opportunity" was the new slogan unveiled in advertisements at the Academy Awards. Bank of America did not specify the overall price tag of the new campaign; but they did say it would surpass last years \$2.3 billion.

Bank of America in my opinion is an oxymoron. The word America has a different meaning for each individual and can conjure up serious emotion and feeling. I feel that the flagscape advertising motif that Bank of America employs is blasphemous. Could be me! Call me crazy, but I don't feel that it is appropriate for a bank that uses an American symbol in its advertising should be laundering money for our enemies, not to mention mistreat its citizens. I get equally enraged when advisors use the church and scripture to line their pockets.

After Bank of America announced that they would be offering credit cards to illegals, William Gheen, the director of the National Illegal Immigration Boycott Coalition, stated that his group collected hundreds of e-mails from people vowing to cancel accounts and move mortgages. Does anybody think that a couple of hundred e-mails are going to force policy changes? The

Pew Hispanic Center estimates that there were between 11.5 to 12 million illegal immigrants nationwide a year ago. That's a lot of credit cards!

People need to comprehend that Bank of America like the other big investment banks have one concern only, their bottom line. Don't be fooled by any banks folksy advertising campaign. They are what they are. Comedian Chris Rock, in one of his stand up routines commented on the Siegfried and Roy tiger attack incident. Mr. Rock made fun of the media and its shock that the tiger went "crazy". *"That tiger didn't go crazy that tiger went tiger."* The same thing can be said for the big banks. Don't be surprised or shocked by anything they do. They might want you to think that their job is to serve you. The reality is that their job is to serve their bottom line.