# THE TIMING OF THE SCHNEIDERMAN ATTACK

I find this article odd for the way it mentions nothing of Bank of America's attempts to game the legal system to stay in business, much less Tom Miller, Shaun Donovan, and Kathryn Wylde's increasing attacks on Eric Schneiderman. Because his conclusion: that BoA may go under and if it does it may take the economy with it, explains why everyone just intensified their attacks on Schneiderman.

The article, by Tom Leonard, purports to weigh the prospect of economic chaos. On the plus side, Leonard looks at prospects China might not be as bad as some people have been thinking, the promise of QE3, and news that small banks may be returning to health. On the negative, he notes that manufacturing and housing continue to decline.

But none of that matters, Leonard suggests, as much as the fate of Bank of America.

> But the most perplexing economic risk factor of all may be the case of the embattled Bank of America, which found itself at the center of a swirl of rumors on Tuesday. How Bank of America fares in the days to come could tell us more about the future of the U.S. economy than any other single factor.

And on that count, Leonard writes, we have reason to worry. He looks at Bank of America's desperate attempts yesterday to refute the analysis of Henry Blodget, who said BoA is probably worth $100 to $200 billion less than it claims to be—potentially, that is, insolvent.

A big part of Blodget's analysis rests on this Zero Hedge argument (though I saw the graphic at Ritholtz's site first), which in turn notes that the key analyst—who happens to be a former Merrill Lynch employee—who thinks BoA can get away with just $8-11 billion to clean up what it will owe investors for the shitpile it (and

Countrywide) sold them basically just took BoA's estimates about the quality of the shitpile **rather than looking at the underlying files**. Zero Hedge quotes from a filing the Federal Home Loan Banks filed last month in NY (the bold is ZH's; the screaming red highlighting is mine):

> To get from $61.3 billion to a "reasonable" settlement range of $8.8 to $11 billion, Mr. Lin made two more assumptions. **He assumed that only 36% of loans that go into default will have breached Countrywide's representations and warranties about the quality of its underwriting**. **That assumption is difficult to understand**. Mr. Lin did not do any independent analysis of this assumption. Instead, he simply adopted Bank of America's estimates of this percentage, which in turn appear to have been based on a completely different portfolio of loans that were subject to the underwriting standards imposed by Fannie Mae and Freddie Mac. Moreover, **Mr. Lin's assumption is inconsistent with widely publicized reports by professional loan auditors that even Countrywide loans that are merely delinquent (that is, behind on payments but not yet in default) have a "breach rate" of well over 60% and often as high as 90%.**

So to recap: Leonard says we should be worried because if this analysis is correct–if BoA is actually insolvent–it'll take the economy down.

Now, I'll set aside for the moment the underlying analysis Leonard does–his take that BoA's continued existence is more important than the manufacturing decline and continued housing depression. And I recognize that he posted this last night before the news that Eric Schneiderman got kicked out of Tom Miller's tree house broke widely.

But even without last night's news, you can't separate the ongoing pressure on Schneiderman from the underlying issue–whether the analysis which BoA used, which depended on their own internal review of completely incomparable files, to declare themselves solvent is valid.

Because what Schneiderman is insisting on doing, both in the $8.5 billion proposed securitization settlement and the $20 billion proposed servicing settlement, is to try to look at the files.

Schneiderman is insisting on doing the analysis that BoA's handpicked analyst didn't do.

Now what do you suppose it means that BoA's surrogates have gotten so angry and panicked and, well, dickish, as Schneiderman continues to insist on actually looking at BoA's books before making a settlement with them? And do you really think it's a coinkydink that increasing numbers of Wall Street vultures are raising doubts about what's in those books at precisely the time Obama's surrogates are increasing pressure on Schneiderman to drop the legal efforts to do so?

I think the timing tells us everything we need to know about the quality of BoA's analysis. The only question, really, is whether they'll be able to abuse the legal system so as to continue to hide that reality.

Update: Schneiderman just sent out email vowing to continue:

> You might have been following the latest developments related to the national settlement of the mortgage probe, including this story in today's Huffington Post about our tough fight for a comprehensive resolution to this crisis.
>
> Let me tell you directly: I am deeply committed to pursuing a full investigation into the misconduct that led to the collapse of America's housing market, and to seeking a resolution that gives homeowners meaningful relief, allows the housing market to begin to recover, and gets our economy moving again.
>
> Our ongoing investigation into the housing crisis cannot be shut down to accommodate

efforts to settle quickly and give banks and others broad immunity from further legal action. If you have any thoughts or concerns about this critical issue, please contact me at 1-800-771-7755, or send a message via Facebook or Twitter.

Thank you for your support,

Eric T. Schneiderman