

HOW HILLARY HELPED BANKS FORECLOSE ON 5 MILLION FAMILIES

Let me be clear at the outset: *I think what follows is a bullshit argument.* But I think it is less unfair of an argument than Hillary's claim that, by voting to withhold the second tranche of TARP funding on January 15, 2009, Bernie Sanders voted against the auto bailout.

As you'll recall, in October 2008, the Bush Administration threw some vaguely laid out plans on some cocktail napkins over the wall to Congress and got it to release \$700 billion dollars to bail out the banks. Between the time the new Congress got sworn in but before Obama became President, Republicans in the Senate wrote a bill to withhold the second tranche, or \$350 billion, of those funds. In the days before the vote, Larry Summers threw two more cocktail napkins of promises to Congress. Bernie was one of seven Democrats who voted not to release the funds based on a series of what were effectively ideas on cocktail napkins.

One of the things on those cocktail napkins, though, was a promise from the Obama Administration that actual human persons facing a crisis, rather than just banks, would get some of the second tranche of money.

The Obama Administration will commit substantial resources of \$50-100B to a sweeping effort to address the foreclosure crisis. We will implement smart, aggressive policies to reduce the number of preventable foreclosures by helping to reduce mortgage payments for economically stressed but responsible homeowners, while also reforming our bankruptcy laws and strengthening existing housing initiatives like Hope for Homeowners. Banks receiving support under the Emergency Economic

Stabilization Act will be required to implement mortgage foreclosure mitigation programs.

Of course, it was just a cocktail napkin, and by voting to release the funds without tying them to actual legislation requiring the Administration actually use the funds in a such a way as to help homeowners, Hillary – and all the other Democrats who voted to give their new President funds without real limits on how they could spend it – gave away any leverage they had to actually force the Administration to implement such a plan.

Last year David Dayen described how the Administration not only never spent \$50 billion – they only ever spent \$12.8 billion – but the number of people helped was far lower than promised, and most people “helped” actually weren’t helped at all.

On January 15, 2009, Obama’s chief economic policy adviser, Larry Summers, wrote to convince Congress to release the second tranche of TARP funds, promising that the incoming administration would “commit \$50-\$100 billion to a sweeping effort to address the foreclosure crisis ... while also reforming our bankruptcy laws.” But the February 2009 stimulus package, another opportunity to legislate mortgage relief, did not include the bankruptcy remedy either; at the time, the new administration wanted a strong bipartisan vote for a fiscal rescue, and decided to neglect potentially divisive issues. Having squandered the must-pass bills to which it could have been attached, a cramdown amendment to a housing bill failed in April 2009, receiving only 45 Senate votes.

Senate Majority Whip Dick Durbin, who had offered the amendment, condemned Congress, declaring that the banks

“frankly own the place.” In fact, the administration had actively lobbied Congress against the best chances for cramdown’s passage, and was not particularly supportive when it came up for a vote, worrying about the impacts on bank balance sheets. Former Treasury Secretary Timothy Geithner admitted in his recent book, “I didn’t think cramdown was a particularly wise or effective strategy.” In other words, to get the bailout money, the economic team effectively lied to Congress when it promised to support cramdown.

[snip]

According to a recent Government Accountability Office report, 64 percent of all applications for loan modifications were denied. Employees at Bank of America’s mortgage servicing unit offered perhaps the most damning revelations into servicer conduct. In a class-action lawsuit, these employees testified that they were told to lie to homeowners, deliberately misplace their documents, and deny loan modifications without explaining why. For their efforts, managers rewarded them with bonuses—in the form of Target gift cards—for pushing borrowers into foreclosure.

Because of all this, HAMP never came close to the 3–4 million modifications President Obama promised at its inception. As of August 2014, 1.4 million borrowers have obtained permanent loan modifications, but about 400,000 of them have already re-defaulted, a rate of about 30 percent. The oldest HAMP modifications have re-default rates as high as 46 percent.

Effectively, because Congress didn’t force the Administration to adopt cramdown (which would

have resulted in real modifications which would have meant more people kept their homes and didn't lose their wealth), Treasury could instead use the promise to "foam the runways" to help the banks string out losses and therefore avoid accountability for their recklessness.

This was a direct result of voting to give the Executive continued free rein on what to do with massive amounts of bailout money. So was bailing out the car industry, but the vote in January was primarily about whether to continue letting the Executive spend billions without clear guidelines.

So Hillary, according to her own logic, voted to help banks foreclose on 5 million people, which resulted in a tragic loss of wealth for American families.

Again, I think this is a bullshit argument. I assume Hillary intended to get real foreclosure relief (indeed, one domestic policy on which she was better than Obama in 2008 did just that). Though for someone who claims to know how to "get things done," she showed no awareness of how to do that here. Nevertheless, it is the kind of bullshit argument she is making.

And having gone there – having permitted herself to engage in this kind of bullshit argument – she makes such arguments fair game for Donald Trump to make about her in June.

Ultimately, I think this vote was about whether the Executive should be able to operate without real limits. Bernie voted against that, Hillary voted for it (which makes it similar, in many ways, to the Iraq War vote in 2003, and had equally foreseeably bad results). Hillary will never make such votes for freeing the Executive of meaningful restraints again. But it's pretty clear she's a fan of letting the Executive operate without them.

That, to me, is the meaningful, non-bullshit, takeaway from that vote.