

The author discusses “The Tragic Downfall of the Consumer Financial Protection Bureau”

Former CFPB attorney weighs in

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I would like to thank Jacob Gaffney for calling HousingWire readers’ attention to my National Review article, “[The Tragic Downfall of the Consumer Financial Protection Bureau](#).” His post speculated about my reasons for [writing the article](#). “Highlighting the heavy politicization of the CFPB,” as Jacob observed, was a goal, but only one of many.

The first was pure storytelling – the anecdotes are interesting, funny, and sad, and the time was right to tell them. Also, I enjoy helping the general public understand complicated issues, like I did in my 2014 Wall Street Journal article, “[How the Wolf of Wall Street Really Did It](#),” and my 2016 Weekly Standard article, “[The Rogue Regulator](#).”

“Tragic Downfall” was a story set in the CFPB as much as a story *about* the CFPB. The facts allowed me to illustrate many important ideas: absolute power corrupts absolutely; intellectual diversity is healthy, while groupthink weakens organizations; sunlight and transparency make institutions stronger, while secrecy promotes decay and dishonesty; and extreme partisanship hurts our society and government institutions. Finally, the article contains a very human story about how Washington can change even the best people – what “Mr. Smith Goes to Washington” might have looked like if its director had been Ingmar Bergman rather than Frank Capra.

The clarity with which I came to view the forest rather than the trees was a gradual process that took many years. For example, it wasn’t always obvious that the CFPB was destined to be a one-party government agency, or just how detrimental that would be to its mission. Nor that the bureau’s investigation process made guilt and consumer harm almost irrelevant to prosecution and punishment – which is quite Orwellian, and exactly what the founding fathers sought to prevent.

I certainly hope that readers don’t consider my article to be, in Jacob’s words, “the rants of a disgruntled former employee.” I consider my target audience to be the left as much as the right. Preaching to the choir is not a challenge, and not very interesting.

Since the article’s publication, a surprising number of current CFPB employees – both friends and strangers – have reached out to thank me. From these conversations, I fear morale may be even worse than I thought. It is heartbreaking to hear an employee – not low level – say the only reason for coming to work is the paycheck. Less surprising were the many business people who told me they had lost all hope before learning that others were experiencing similar nightmares they could not make public.

Jacob's article did get one important point wrong. The CFPB *is* staffed with many able-bodied regulators, and I never implied otherwise. Their biggest complaint is that their superiors make them do their jobs in what they feel is an unprofessional manner. One of the first things these employees usually say to me is "I really do believe in the mission, but..."

Anyone who has read my articles carefully knows that my point is never "the CFPB is bad and should be shut down," and rarely that the agency is unfair to businesses (nobody seems to care about that anymore) – it's usually that something specific the CFPB is doing hurts rather than helps consumers.

For example, how could a regulator harm consumers more than by sending businesses the message that their compliance efforts have little effect on their guilt or punishment? Why bother trying to improve if the most successful companies are always guilty, the smaller companies receive little scrutiny, and the standard penalty is “whatever you can afford to pay?”

On the other hand, I would compliment the CFPB when it did things well if its External Affairs Division didn't exaggerate and advertise the bureau's accomplishments so aggressively. I couldn't possibly add anything to the CFPB's own self-congratulation.

It is unfortunate that anyone who criticizes the CFPB is labeled an “enemy” or “hater,” and that supporters feel obligated to say everything the bureau does is magnificent. My National Review article has attracted so much attention because people who have seen the real CFPB rarely have the luxury of writing about it honestly and objectively. Someday soon, other knowledgeable writers will be free to express themselves and offer the bureau advice without fear of reprisal. That will be a good day for CFPB employees, businesses, consumers, and the Constitution.



Lawyer and published author, Rubin is currently taking time off to focus on writing. Formerly Senior Counsel and Chief Advisor, Regulatory Policy, on the staff of the House Financial Services Committee; Partner at Hunton & Williams; Enforcement Attorney at the Consumer Financial Protection Bureau; Senior Special Counsel at the US Securities and Exchange Commission; Managing Director at investment bank; and criminal prosecutor.