

# Frederick Leatherman Law Blog

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## The Real Estate Forfeiture Settlement Is A Mirage

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In [one of his articles](#) yesterday at Firedoglake, David Dayen mentioned that the settlement agreement has not been reduced to writing.

That is astonishing.

Let me repeat. That. Is. Astonishing.

The biggest problem with settlement agreements in particular, and all agreements in general, is reaching a so-called 'meeting of the minds' regarding the details and 'chiseling them into s

reducing them to writing. As I used to warn my clients when I was practicing law, we do not have an agreement until it has been reduced to writing, thoroughly reviewed, and signed by each of the parties. That has obviously not happened in this case.

Experience has taught us that humans dealing in good faith make mistakes, no matter how careful they are, and the potential for mistakes, misunderstandings and subsequent disagreements about the terms of an agreement cannot be overestimated. That potential becomes a certainty when one or more parties to an agreement is dealing in bad faith.

That, my friends, is why we have a law called the Statute of Frauds, which requires that certain types of agreements be in writing or they are invalid and unenforceable.

For example, contracts regarding the sale of real estate must be in writing or they are invalid and unenforceable.

Given the absence of a written agreement and the vagueness regarding its terms, which is virtually incomprehensible to me, I cannot help but wonder if everyone involved in the settlement talks is being less than candid when they say an agreement was reached.

Obama would not be the first person to declare publicly that an agreement had been reached when, in fact, that was a false statement.

Why would he do that?

To pressure reluctant parties to settle. It is a variation on the old ploy, "I have scheduled a press conference in two hours at which I intend to announce that we have reached a global agreement that settles all claims in this case and provides desperately needed relief to homeowners. These discussions have gone on long enough. Agree to these terms now because they are not going to get better and if you do not, I will announce publicly that we would have had a deal except for you. Then you can explain to your constituents why there is no deal."

Recall that he wanted to announce a global settlement during his SOTU address.

Why would the attorneys general agree?

A better question to ask would be how could they could not agree, given the severe financial limitations of state budgets these days and the practical impossibility of assembling and compensating a team of hundreds of dedicated professionals to work for many years investigating and prosecuting the numerous interstate and international crimes that have been committed. We are talking about millions of people who were defrauded during a period of close to twenty years and probably documents numbering in the hundreds of millions, if not billions. Imagine the resources that would be required to investigate and, figuratively speaking, get your arms around this vast coast-to-coast conspiracy that eventually went international in the form of exotic financial instruments of mass destruction that may yet still blow-up the world economy.

Practically speaking, only the Department of Justice has the capacity to investigate and prosecute the heinous crimes committed by the criminal banksters, and that has not and will not happen t

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Obama, Holder, and Breuer have decided not to do it.

This is why we have not seen a realistic and credible effort by any organization to thoroughly investigate this case. The little investigation we have seen by dedicated professionals working alone or in small groups has produced a few snapshots of wrongdoing in individual cases and resulted in a few lawsuits and indictments of low-hanging-fruit underlings, but that is all.

Having been involved in defending people in many complicated paper-intensive white collar racketeering and fraud cases, I do not believe the state attorneys general had the ponies they needed to ride in the race. Obama called their bluff and they caved.

I respect those who tried to do something, but I am not happy about their decision to not only acquiesce in approving of this apparent settlement agreement, but to try and sell it publicly. We are not stupid and we deserve to know the truth.

The truth is that Eric Holder, Lanny Breuer, and Barack Obama are corrupt and the proof is in the pudding, so to speak. The Department of Justice has refused to investigate and they casually brush aside all questions by saying no provable crimes were committed.

Come on, now. How in the hell could they know that, if they have not investigated the case? It is long past time to, figuratively speaking, slam them up against the wall, call bullshit, and hold them politically accountable for their lies. They insult our intelligence when they tell us that no provable crimes were committed.

I am an experienced trial lawyer with knowledge and experience defending people charged with white collar crimes and I know what it takes to prove a case. I am calling them on their bullshit.

I suspect Obama desperately needed two things: Money and a favorable settlement for the banks.

If you have been paying attention, you would know that Wall Street donations to Obama's campaign for reelection have slowed to a trickle and he cannot win reelection without substantial financial support from the criminal banksters.

He needed to do something dramatic to open the spigot and restore the flow of their cash into his coffers.

He also needed to find a way to conceal their identities and how much they were giving so that we the people would not know that the money was a payoff for effectively cutting off bank liability for Forfeiture Gate.

What else has happened recently, aside from this ridiculous unwritten settlement agreement with a few numbers waved around that kind of sound impressive until one considers the vast scope of this criminal conspiracy?

Obama announced that he 'regrettably' must accept Super PAC money in order to compete with Romney, the presumptive Republican nominee for president. Super PACs are instruments of mass electoral corruption because there are no limits on the amount of money they can contribute

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donors can remain anonymous. That means the criminal banksters can anonymously pay him off with millions.

When I step back and look at this deal, I do not see an enforceable deal. I see the mirage of a deal. I do not believe anything has changed. The forfeitures relying on forged documents will continue. The states will get some bankster cost-of-doing-business bribe money to shut-up and few, if any, homeowners will ever see the ridiculous and insulting \$1800 bribe.

And that, my friends, is yet another monstrous con.

Classic Obama extend and pretend.

And to the state attorneys general, I say: Tell us the truth and save your self-respect and professional reputations. Do not go down with this con.

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## 9 Responses to *The Real Estate Forfeiture Settlement Is A Mirage*

1.  [Frederick Leatherman](#) says:  
[February 11, 2012 at 12:44 pm](#)

In my previous [post](#), I urged the state attorneys general to proceed with criminal charges and reject the deal that Obama was pushing them to accept.

I still believe they should do that although, given their lack of adequate resources to investigate and prosecute the criminal banksters, they are at an enormous disadvantage.

Nevertheless, I believe they should try to do the best they can despite their limited resources because no one else will and the people victimized deserve no less.


Assuming they have 'agreed' to this shitty 'deal,' they apparently still have the option to pursue criminal charges, but I do not think they will as the wind has been removed from their sails and they have other things to do.

No, I think they have been bought off for what is, in effect, 30 pieces of silver and they will move on to doing what they normally do.

Call me naive, but I just wish they would tell us the truth about how this thing went down, including whether and why they agreed to this awful and insulting deal. I would respect them, if they did, even if I disagreed with them, and I think many other people feel the same way.

After all, we know the feds are the only ones equipped to protect us from world-class predator criminals and we know they have suspended the rule of law and joined the predators.

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2.  [Lambert Strether](#) says:  
[February 11, 2012 at 8:12 pm](#)

It's not a mirage. It's a con.

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- o  [masonblue](#) says:  
[February 11, 2012 at 11:03 pm](#)


Hi, Lambert.

Welcome to my sight.

Yep, you're right and that's the conclusion I reached.

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3.  *Formerly T-Bear* says:  
[February 12, 2012 at 2:54 pm](#)

Whether it's identified as Law or Justice, it has been compromised ever since Nixon's use of "Law and Order" to con the voters into supporting his political agenda. The country died with Nixon's ascent to the presidency. Reagan confirmed Nixon's legacy also using the fraud of "moral majority", patterned after the earlier "silent majority". Effectively, the law is dead, its integrity sold to the highest bidder, only its ghost, a faltering memory of its presence remains. In its place, the ideology of the Heritage Foundation has surreptitiously insinuated itself, substituting authoritarian dictate to displace the reasoned considerations developed over millennia. Emotion and belief stand where once statute held sway, consistency no longer a barrier to willful or wanton exercise. Louis Carol's "Mad Hatter's tea party" has become the model, watch out for red queens! and "supreme courts" that decide by seance.

At some moment in the future, this business will have consequences far beyond the wildest dreams of the perpetrators who have thrown away about three millennium of development and experience of property law, and have left in their wake of destruction of the law, property records so contaminated as to be useless in a court of law, had that entity survived as well. The country no longer has a trustable forum for the settlement of conflict, henceforth it is the right of might that prevails, or whoever draws their gun first.

No political organization can long survive under such conditions; expect the effective end of constituted government although the camouflage and deception may keep the pretense in place for an extended time. The historic constituted Republic ceased to exist with the election of 2000 and has continued to this day as a fraud upon the public, a government having neither constituted legitimacy nor untainted credentials. How this will play out may be known reasonably soon. The abject failure to provide effective governance will soon enough produce economic collapse, bringing down the edifices of power in a complex incapable of responding. What remaining wealth and power will not long know a time without a master, nature abhors a vacuum, the great wealth will turn cannibalistic upon itself and consume itself, a golden, diamond encrusted ouroboros. Enjoy the spectacle, it is paid for already, that was your stolen future.

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- o  *masonblue* says:  
[February 12, 2012 at 4:38 pm](#)

Amen.

Well said.

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4. [Quelle Surprise! Administration and State Attorneys General Lied, Mortgage Settlement Release Described as "Broad" « naked capitalism](#) says:  
[February 13, 2012 at 5:38 pm](#)

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[...] in an earlier post why this is completely outside the pale, and we'll turn the mike over to Frederick Leatherman for a recap: David Dayen mentioned that the settlement agreement has not been reduced to [...]

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◦ [Frederick Leatherman](#) says:

[February 14, 2012 at 3:23 pm](#)

Thanks for the link, Yves.

Much obliged.

Fred

[Reply](#)



5. [Blurtman](#) says:

[February 13, 2012 at 6:41 pm](#)

Dear Frederick,

Recall that only 2.5 months after taking office, President Obama on the Jay Leno show declared that no crimes were committed by Wall Street. Indeed, how could he have known then when it was absolutely impossible to have conducted any type of investigation?

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◦ [Frederick Leatherman](#) says:

[February 14, 2012 at 3:21 pm](#)

He's a psychic who plays eleventy dimensional chess? /s

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