SIGTARP | Office of the Special Inspector General for the Troubled Asset Relief Program

Advancing Economic Stability Through Transparency, Coordinated Oversight and Robust Enforcement

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Media Inquiries: 202-927-8940
Twitter: @SIGTARP
Web: www.SIGTARP.gov

FORMER CEO OF MASSIVE TARP RECIPIENT BANK OF AMERICA BARRED FOR THREE YEARS FROM SERVING AS OFFICER OR DIRECTOR OF ANY PUBLIC COMPANY

New York State Office of the Attorney General Reaches Settlement with Bank of America and Former Bank CEO Kenneth Lewis

$25 Million Settlement Reached for Alleged Concealment and Misrepresentation of Material Financial Forecasts while Seeking a Merger with Merrill Lynch in 2008

Bank of America Agrees to Corporate Governance Reforms

Attorney General Will Continue to Pursue Claims of Fraud against Bank's Former Chief Financial Officer Joe L. Price

WASHINGTON, DC - The Office of the Special Inspector General for the Troubled Asset Relief Program (SIGTARP) today announced that a $25 million settlement has been reached with Bank of America Corporation and its former Chairman and Chief Executive Officer, Kenneth D. Lewis, regarding the bank's actions as it sought to merge with Merrill Lynch & Co. in 2008. The settlement was first announced by the New York State Office of the Attorney General (OAG) on Wednesday, March 26. Despite its top executives' specific knowledge of mounting losses at Merrill Lynch that were forecast at more than $9 billion, Bank of America failed to disclose that information to shareholders prior to their vote on a proposed merger with Merrill Lynch. It was also alleged that Lewis and bank Chief Financial Officer Joe L. Price misrepresented to shareholders the impact that the merger with Merrill would have on Bank of America's future earnings.

"SIGTARP's investigation with the New York Attorney General's office revealed that Bank of America duped shareholders by not disclosing massive losses at Merrill Lynch and snookered the federal government into investing billions of taxpayer dollars into the company through the TARP bailout by falsely claiming that the bank would back out of the Merrill merger if the government didn't make the investment," said Christy Romero, Special Inspector General for TARP (SIGTARP). "The $25 million settlement against Bank of America and former CEO Ken Lewis and Lewis' ban from serving as an officer or director of a public company for three years send a powerful message that accountability of individuals and institutions for their actions during the financial crisis will continue to be pursued. This settlement of one of SIGTARP's most important investigations makes it clear that the bank and its former CEO cannot get away with hiding information from shareholders and looking to taxpayers to 'fill the hole' of Merrill's losses with bailout money. SIGTARP and our law enforcement partners will aggressively investigate and bring justice for violations of the law related to TARP."

On April 4, the New York Attorney General intends to file a summary judgment motion against the remaining defendant in the case, Joe L. Price, Bank of America's former Chief Financial Officer.

The settlement with Bank of America also requires the bank to continue numerous corporate governance reforms, including the strengthening of the oversight functions of its board of directors' Audit and Disclosure committees, and the retention of independent disclosure counsel who shall advise the bank's directors on the adequacy of the company's disclosures in its public filings. The bank will also create a board-level Corporate Development Committee to provide greater oversight of certain of the bank's acquisition-related activities for at least another five years. Under the agreement, Bank of America will pay $15 million to reimburse the costs incurred during the course of the OAG's investigation and subsequent litigation of this matter.

After a lengthy investigation of the conduct of Bank of America and its top executives concerning the Bank's efforts to consummate a merger in late 2008 with Merrill Lynch, the bank and two of its top executives were sued by former New York Attorney General Andrew Cuomo under the Martin Act and the Executive Law. The lawsuit alleges that they fraudulently withheld from investors material financial information that forecast rapidly-escalating, multibillion dollar losses at Merrill for its 2008 fourth quarter, while at the same time asking shareholders to approve a merger with Merrill. Despite concealing these forecasted losses from investors as immaterial, the bank then immediately sought massive financial assistance from the federal government, claiming that there had been a "material adverse change" in Merrill's financial condition over the previous three months. Bank of America continued to conceal Merrill's forecasted losses until mid-January 2009, when disclosure of Merrill's multibillion dollar fourth quarter losses led to a $50 billion sell-off in the shares of Bank of America.

This case is being investigated by SIGTARP. Litigation and settlement of this case is being handled by New York Attorney General's office Executive Deputy Attorney General for Economic Justice Karla G. Sanchez and Senior Enforcement Counsel Philip G. Barber

About SIGTARP

The Office of the Special Inspector General for the Troubled Asset Relief Program investigates fraud, waste, and abuse in connection with TARP.

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