

## Articles

# Financial Crisis and German Criminal Law: Managers' Responsibility for Highly-Speculative Trading in Obscure Asset-Backed Securities Based on American Subprime Mortgages

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### A. Call for Criminal Prosecution in Public; in Contrast to this the Public Prosecution's Hesitation to Prosecute Speedily and Publicly

#### I. Call for Criminal Prosecution in Public

"Should bankers be publicly hanged for what they have done?" During a visit to Abu Dhabi in March 2009, the author came upon this sarcastic question while reading the well-known United Arab Emirates' journal "The National." The aforesaid question was part of an interview with Paul Koster, chief executive of the Dubai Financial Services Authority, concerning the financial crisis. He answered in the negative by saying, "There will be court cases, but public hanging is a bit extreme."<sup>1</sup> His statement has, in a way, anticipated the result of the paper at hand: There should be criminal proceedings in Germany as well; however, they should not result in draconian criminal consequences.

Already in January 2009, during the World Economic Forum in Davos, Switzerland, the British manager John Neill called for severe punishment.<sup>2</sup> He argued that the producers of toxic securities should be treated like other preparers of poison; they should be sent to prison, if necessary. The State has to clarify that such conduct results in criminal

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<sup>1</sup> See Rupert Wright and Sara Hamdan, *Time is Right for Regulator*, THE NATIONAL, March 26, 2009, at page 3.

<sup>2</sup> See Jörg Eigendorf and Olaf Gersemann, *The Procrastinators of the Magic Mountain*, DIE WELT, January 30, 2009, at page 3.

responsibility. John Neill's statement does not only hold for producing toxic securities, but all the more for trading these financial products. Stated more precisely: Gambling away billions of Euros of a bank's money by buying dubious asset-backed securities based on American subprime mortgages without sufficient information on their structure and value,<sup>3</sup> even more causes criminal responsibility, because such highly speculative investments may result in the endangerment or even destruction of the bank in question's economic basis.

Moreover, Christian Wulff, Prime Minister of the German State of Lower-Saxony, in March 2009 demanded that public prosecution and criminal courts take a hard line on those managers responsible for the financial crisis.<sup>4</sup> He argued, "Blowing a bank's money contrary to managers' duties is a criminal offence." In the author's view, this holds at least in case of threatening the bank's financial existence.

Furthermore, Erich Samson, full professor of criminal law (Bucerius Law School, city of Hamburg), stated in 2009, "Georg Funke [former Chief Executive Officer (CEO) of the German Bank Hypo Real Estate] actually should have to face pre-trial custody at anytime,"<sup>5</sup> since that bank would have become insolvent due to highly speculative derivative-activities with Lehman-Brothers unless the German federal authorities had not granted a huge bail-out.<sup>6</sup>

Finally, referring to this statement, the German defense counsel Gerhard Strate informed his colleagues during the 60<sup>th</sup> Meeting of the German Attorneys at Law in May 2009 that he had filed a request for prosecution against the CEO of the HSH Nordbank (a bank owned by the State of Hamburg and the State of Schleswig-Holstein).<sup>7</sup> Giving reasons for his request, Gerhard Strate referred to the nearly unbelievable amount of damage caused by irresponsible gambling in the securities market—costing the company billions of Euros.

Such statements correspond with the predominating public opinion in Germany. People are seriously scandalized and expect criminal proceedings against the responsible bankers as a demand of justice, particularly since the taxpayers have to bear the costs of numerous and large financial bail-outs by the German Federation and/or the German States. From the author's point of view, the people's legal loyalty would be severely strained if there

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<sup>3</sup> See *infra* Part C, II 1, III Firstly, Fourthly as to this decisive aspect (lack of sufficient information).

<sup>4</sup> Ulrich Clauss, *Courage to Error: Christian Wulff*, DIE WELT, March 3, 2009.

<sup>5</sup> *Bank Managers Have to Reckon With Large Criminal Liability*, FRANKFURTER ALLGEMEINE ZEITUNG, May 27, 2009, at page 21.

<sup>6</sup> See *infra* Part B, I.

<sup>7</sup> *Bank Managers*, *supra* note 5.

were no criminal proceedings against such bankers. Criminal proceedings and criminal convictions *inter alia* have the purpose of demonstrating the inviolability of the legal system and thus of reinforcing the people's confidence in the law,<sup>8</sup> not to mention the deterrent effect of prosecuting criminal offences.<sup>9</sup>

*II. In Contrast: Until Now Hardly No Criminal Proceedings by the German Public Prosecution Authorities Being Notified Publicly*

In spectacular cases of economic crime, the German public prosecution authorities occasionally quickly initiate criminal proceedings, sometimes even in a demonstrative manner (e.g. by way of searches and seizures respectively by arresting prominent accused persons).

Case example: The German top manager Wolfgang Zumwinkel, at that time CEO of the German postal service, was one of the innumerable accused in the so-called Liechtenstein-Affair concerning tax fraud. The prosecution authorities arrested him in a demonstrative manner accompanied by television transmission.<sup>10</sup> In this case, the state's treasury's loss was only a little more than one million Euro—"peanuts" compared with the damage caused by such bank managers involved in trading toxic securities like Lehman Brothers Papers, because in the latter cases typically lots of billions of Euros loss are in question.

Regarding the financial crisis, the public has until now actually not been notified of criminal proceedings against bank managers by the German public prosecution authorities.<sup>11</sup>

In the light of the unbelievable amount of damage caused by managers who gambled away the banks' money, the lack of (publicly notified) criminal proceedings *prima facie* is a mystery. However, the author assumes that the following reasons may be decisive for such hesitation within the public prosecutors' office—even though, insofar, the public prosecutors in charge probably act in an unconscious manner.

Firstly, according to its personal and material resources, the public prosecution is absolutely unable to carry out criminal procedure investigations against every suspect

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<sup>8</sup> See VOLKER KREY, GERMAN CRIMINAL LAW GENERAL PART, TEXTBOOK IN GERMAN AND ENGLISH [VOLUME I: BASICS], margin nos. 118, 129, 134-138, 139, 140, 142-144, 146 (2002) (concerning such purposes of punishment).

<sup>9</sup> See *id.* margin nos. 127, 128, 144, 146 (relating to deterrence as purpose of punishment).

<sup>10</sup> See, Joachim Jahn, *Two Years Probation for Zumwinkel*, FRANKFURTER ALLGEMEINE ZEITUNG, March 5, 2010, at <http://www.fazfinance.net/Aktuell/Steuern-und-Recht/Zwei-Jahre-Bewaehrungsstrafe-fuer-Zumwinkel-4498.html> (arresting the accused in this way, was rightly criticized by the trial court in the criminal proceedings against Wolfgang Zumwinkel).

<sup>11</sup> See *infra*, Part Three, IV. (regarding an important exception that recently occurred where the public prosecution in charge carried out searches and seizures at the Landesbank Baden-Württemberg December, 7<sup>th</sup> 2009).

banker. Even if the public prosecution's authorities were willing to restrict their prosecutorial activities to prime suspect bank managers, in the long run those resources could become seriously overloaded as well.

Secondly, in order to fight the financial crisis, limit the damage to the banks concerned, and rescue their economic existence, cooperation with criminal bankers involved may typically be necessary for the affected banks due to such managers' experience and knowledge of the obscure asset-backed securities in question.

Thirdly, to put it bluntly, in political circles the following view seems to predominate: Comprehensive and rigorous criminal proceedings against the suspect bank managers could unsettle the banking industry seriously. Moreover, such an approach could cause "acts of defiance" among the responsible managers and could endanger the handling of the financial crisis. Here, a self-perception of the bankers concerned is presumed to be characterized not by sorrow but by the arrogant attitude, "We hold systemic-relevance and thus de facto immunity."

Fourthly, if the public prosecution started proceedings against responsible bankers who are also members of the boards of managing directors (*Vorstand*), consequently, there would have to be criminal investigations against suspect members of the respective supervisory boards (*Aufsichtsrat/Verwaltungsrat*) as well. Unfortunately, members of the latter boards typically are inter alia politicians up to State ministers and—due to the German system of worker participation—trade union officials. In principle, there might not be a real political approval for criminal proceedings against such persons.

In fact, according to the author's information, the German public prosecution authorities typically refer to the lack of criminal intent and thus set aside criminal proceedings against bank managers being suspected of highly speculative purchase of toxic derivatives. However, this approach is not convincing, which shall be discussed below.<sup>12</sup>

## **B. The Financial Crisis – Economic Background and Damage**

### *I. German Banks' Amount of Loss*

The above mentioned German bank Hypo Real Estate<sup>13</sup> has suffered more than one hundred billion Euros loss caused by managers gambling away the bank's money. Due to its systemic-relevance, the German Federation has *de facto* nationalized the Hypo Real Estate by stock purchase in order to rescue Hypo Real Estate from insolvency.

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<sup>12</sup> See *infra*, Part C, II 4, III Fourthly.

<sup>13</sup> See *supra*, Part A, I (in the context of footnote 5).

*Landesbanken*, i.e. banks of German States like Bavaria, North Rhine-Westphalia,<sup>14</sup> etc., furthermore HSH Nordbank have each suffered billions of Euros in losses which would have resulted in their insolvency if the German Federal and State authorities had not rescued such banks by investing taxpayers' money.

Even the Dresdner Bank, formerly number two in Germany, suffered losses in the billions of Euros by trading dubious asset-backed-securities. In the meantime, it has been taken over by the Commerzbank. That transaction nearly resulted in the latter bank's insolvency because of the financial risks in the business records of the Dresdner Bank. The German Federation had to bolster the Commerzbank with 10 billion Euros.

All in all, the German Federal financial supervisory authority (*BaFin*) has put the German banks' risks caused by toxic securities and credits in the context of the financial crisis to an amount of 800 billion Euros.<sup>15</sup> However, this alarming estimation, contained in a secret dossier, was meanwhile played down by politicians and bankers.

Recently, in October 2009, the US bank Merrill Lynch presented research on the risks due to toxic securities held by German banks.<sup>16</sup> This research evaluates the amount of such risks up to 650 billion Euros and so confirms, in a way, the alarming result of the mentioned BaFin-dossier.

## *II. Economic Background*

### *1. Subject Matter of the Mentioned Toxic Asset-Backed-Securities*

At their core, American subprime mortgage debt securities are questionable investments. The real value of these instruments is completely vague and their face amount was questionable from the beginning:

Firstly, due to dubious estimations on the annual appreciation of US homes up to 25%. This expectation alone should have made every serious economist suspicious.

Secondly, the financial crisis was based inter alia on a grotesque false estimation concerning the constant value of typical US homes. In principle, American homes are very poorly constructed. They are wooden houses without basements and without any

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<sup>14</sup> See Marcus Lutter, *Banking Crisis and Board Liability*, 30 ZEITSCHRIFT FÜR WIRTSCHAFTSRECHT 197, 199 (2009).

<sup>15</sup> See *German Banks Risk 816 Billion Euros*, WIRTSCHAFTSWOCHEN, April 25, 2009, at <http://www.wiwo.de/unternehmen-maerkte/risiken-deutscher-banken-bei-816-milliarden-euro-395230/>.

<sup>16</sup> See *Merrill Lynch Study: Billions Tied Up in German Banks*, HANDELSBLATT, October 18, 2009, at <http://www.handelsblatt.com/finanzen/aktienanalysen/merrill-lynch-studie-milliarden-wertberichtigungsbedarf-bei-deutschen-banken;2470428>.

sufficient thermal insulation. Such simple houses rot very fast if the owners do not care constantly and efficiently for their homes. Unfortunately, in the USA this necessary care is neglected in too many cases.

Thirdly, contrary to the legal situation in Germany, the US home buyer, in principle, is not personally liable for the loan granted by the bank. If he is unable to repay the loan, he may deliver his home's front door keys to the bank eliminating all financial liabilities.<sup>17</sup>

This lack of personal liability reduces the mortgages' real value significantly since it might be very difficult or even impossible for German banks to enforce US mortgages being certified in derivatives.<sup>18</sup>

So, a German bank holding asset-backed securities based on US mortgages in the end only has the real estate's market value as securing asset. Market prices, as had to be expected, have collapsed in the meantime due to the aforesaid aspects. Thus, investing billions of Euros of a bank's money in such US asset-backed securities by managers factually equals gambling away money on a huge scale.

## *2. Some Reasons for Such Speculative Investments*

These highly-speculative investments were trendy among bankers during the past several years. The offenders were blinded by short-term high profits resulting in high bonus payments for investment bankers; this may be labeled as excessive greed without any consideration of the long-term financial interests of the bank concerned.

## **C. Criminal Responsibility Under German Law**

### *1. Focusing on "Breach of Trust" as Criminal Offence Against Property*

Below, criminal offences like "delay in filing for insolvency" and fraud by selling toxic securities in bad faith shall be excluded. Rather, subject matter is criminal breach of trust ("*Untreue*") under Sec. 266 German Criminal Code. This provision reads:

Whoever abuses his authorization, being granted by law, official mandate or private legal act, to dispose of third parties' property or to obligate a third party, or breaches duties, being imposed upon him by law, official mandate, private legal act or fiduciary relationship, to safeguard third parties' pecuniary interests, and thereby causes financial

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<sup>17</sup> See *supra*, note 14 at 198.

<sup>18</sup> See *Deutsche Bank Nat'l Trust Co. v. Steele*, 2008 WL 111227 (S.D. Ohio 2008). In the meantime, an increasing number of US-Courts have required the original mortgage certificates as basis for enforcing measures.

loss to the third party whose pecuniary interests he is responsible for, will be punished by imprisonment of up to five years or by fine.<sup>19</sup>

## II. Legal Interpretation of the Misdemeanor "Breach of Trust"

1. The first modality of "breach of trust" – abusing his authorization by the perpetrator, e.g. a banker, is characterized by a legally effective disposition of third parties' property or a legally effective obligation of third parties, both via breach of restrictions *inter partes* imposed by law and/or contract in favour of the respective victim, e.g. the aggrieved bank.<sup>20</sup>

*Case example:* M, CEO of a German bank, grants a high risk loan amounting to three million Euros. Its repayment is highly doubtful due to the credit user's serious financial problems; additionally, there are no adequate securities.

*Case scenario one:* M acted in bad faith since he was informed of the financial risk.

*Case scenario two:* M acted without any sufficient knowledge of the financial risk.

In both scenarios, the loan approval is legally effective since the CEO has the legal power to obligate the bank. However, there is a breach of his fiduciary duties towards the bank (restrictions *inter partes*). Such restrictions result from the German Stock Corporation Act. Its Sec. 93 subsection 1 (sentences 1 and 2) reads,

Members of the board of managing directors have to perform their duties with the care that an ordinarily prudent person in a like position would exercise under similar circumstances. No breach of duties is given when the respective member making business decisions could reasonably believe to be adequately informed and to act in the best interests of the corporation.<sup>21</sup>

By the way, the cited sentence 2 has been laid down in view of the US Business Judgment Rule.<sup>22</sup>

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<sup>19</sup> Emphases added by the author.

<sup>20</sup> Volker Krey & Uwe Hellmann, *Vermögensdelikte*, in STRAFRECHT BESONDERER TEIL [BAND 2], margin nos. 541, 545 (15<sup>th</sup> ed. 2008).

<sup>21</sup> Emphasis added by the author.

<sup>22</sup> See Nikolaus Bosch and Knut Werner Lange, *Unternehmerischer Handlungsspielraum des Vorstandes zwischen zivilrechtlicher Verantwortung und strafrechtlicher Sanktion*, 64 JURISTENZEITUNG 225, 229 (2009). See also Hopt and Roth, § 93, in GROßKOMMENTAR ZUM AKTIENGESETZ, margin no. 25 (4<sup>th</sup> ed., 2009).

As to the mentioned case example, in scenario one a breach of trust in the modality "abusing his authorization by the perpetrator" is self-evidently given, since there is no acting in the best interest of the corporation due to bad faith. However, such cases are rare and, if they arise, the perpetrator's knowledge is hard to prove.

More relevant in practice are cases like scenario two. It clarifies the essential aspect of differentiation between legal business transactions with adequate risks on the one hand and illegal hazardous business transactions on the other hand. The decisive question is whether or not the manager's business decision was based on adequate information. The additional rule applying to cases of granting large loans under Sec. 18 of the German Banking Act is dominated by this aspect as well: In principle, banks are only allowed to grant large credits when the debtor discloses his financial circumstances.

So, in its core the Business Judgment Rule laid down in the German Stock Corporation Act only assures non-liability under civil law and exclusion from criminal responsibility when managing directors make business decisions based on adequate information. Satisfying this legal element requires both a thorough search for information and its sufficient control. Where such duties are neglected, business transactions resemble gambling away the bank's money.

2. Beside the required abuse of authorization, the perpetrator's special status as bearer of fiduciary duties (i.e. a specific obligation to take care of third parties' pecuniary interests, in German: *Vermögensbetreuungspflicht*) is an additional legal element of breach of trust.<sup>23</sup> Concerning managing directors making business decisions, this element is not in dispute.

3. Finally, breach of trust requires the victim's injury, more precisely: economic loss. Up to now, German jurisdiction and legal scholars insofar deemed sufficient cases where only a mere concrete endangerment of pecuniary interests was given. Whether or not this extension of the objective legal elements (*actus reus*) is convincing<sup>24</sup> may be set aside, since in case of granting bad loans as well as in case of speculating with toxic derivatives, a real economic loss of the aggrieved bank is given due to the following reasons:

Pursuant to the latest decisions of the German Federal Supreme Court of Justice, in such cases the real financial loss results from a view with respect to the balance sheet.<sup>25</sup> As to

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<sup>23</sup> See *supra* Part C, II, 1. The insight that the mentioned first modality of breach of trust requires such *Vermögensbetreuungspflicht* as well is prevailing legal opinion in case law and among legal scholars. See also Krey/Hellmann, *supra* note 20, at margin no. 541-543.

<sup>24</sup> BVerfG, NEUE ZEITSCHRIFT FÜR STRAFRECHT 560 (2009) (affirmative in principle); BGHSt 53, 199 (203, 204) (answering in the negative *inter alia*).

<sup>25</sup> See BGHSt 53, 199 (202, 203). See also Bundesgerichtshof Strafsachen, 3 StR 576/08, from 13 August 2009, margin no. 25, available at <http://www.bundesgerichtshof.de>.



bad loans with high repayment risk respectively to toxic asset-backed securities based on American subprime mortgages, an allowance for depreciation (downgrading, in German commercial law: *Wertberichtigung*) on the assets side is legally demanded. From a factual and a legal view, there is a real loss, based on the difference between the face amount of such bad credit claims respective toxic derivatives on the one hand and the depreciated amount on the other hand.

4. Concerning the required intent as mental legal element (*mens rea*), in Germany the so-called *dolus eventualis* is sufficient.<sup>26</sup> Under the common definition of intent as acting with knowledge and willfulness,<sup>27</sup> *dolus eventualis*, is given when the perpetrator seriously takes into account that his act could fulfill the legal elements of the offense and accepts this fact.<sup>28</sup> Such acceptance has to be assumed where the perpetrator either does not care about fulfilling those legal elements or wants to act at all costs.<sup>29</sup> So, *dolus eventualis* is something in between the Anglo-American recklessness and intent.<sup>30</sup> However, it has to be conceded that the component of willfulness of *dolus eventualis* generally may be assumed where the component of knowledge is given.<sup>31</sup>

### *III. Speculative Purchase of Toxic Derivatives as Breach of Trust*

Firstly, the subsumption of such cases under the legal element abusing the perpetrator's authorization is self-evident because the banker acted without adequate information. Any German bank manager, purchasing those derivatives on a large scale, could not rely on sufficient information since even US rating agencies were unable to evaluate the risk of asset-backed securities based on American subprime mortgages: Rating mortgages regarding private homes was not part of the rating agencies' typical field of business activities and therefore not part of their expertise<sup>32</sup>—not to mention the question of the rating agencies' reliability due to their high dependency on banks.

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<sup>26</sup> VOLKER KREY, GERMAN CRIMINAL LAW GENERAL PART, TEXTBOOK IN GERMAN AND ENGLISH [Volume II], margin nos. 331, 336, 337, 346-364 (2003).

<sup>27</sup> See *id.* margin nos. 336, 358.

<sup>28</sup> See *id.* margin nos. 346 *et seq.*, 349, 353, 358 *et seq.*

<sup>29</sup> See *id.* margin no. 364.

<sup>30</sup> See Carolin Wever, *Fahrlässigkeit und Vertrauen im Rahmen der arbeitsteiligen Medizin*, in VERGLEICHENDE BETRACHTUNGEN ZUM MATERIELLEN STRAFRECHT ... IN DEUTSCHLAND UND IM ANGLO-AMERIKANISCHEN RECHTSKREIS 121-139 (2005) (referencing Anglo-American law).

<sup>31</sup> *Supra* note 26, at margin no. 359.

<sup>32</sup> Lutter, *supra* note 14, at 198.

Secondly, the mentioned perpetrator's special status as bearer of fiduciary duties (*Vermögensbetreuungspflicht*)<sup>33</sup> is also given.

Thirdly, the required economic loss of the aggrieved bank results from the aforesaid necessity to carry out a depreciation (downgrading) of the assets in cases of toxic asset-backed securities.<sup>34</sup> By all means, this holds if an allowance for depreciation to a significant extent is in question.

Fourthly, at least in cases of purchasing toxic securities up to such amounts causing the danger of financial distress, the required intent is typically fulfilled. At the latest since early 2008, when purchasing the respective securities, knowledge and willfulness as to their toxic nature should be provable. On the one hand, the deciding bank managers knew and took into account that the purchase of those securities was not based on adequate information. Accordingly, many offenders' typical excuse for these risky transactions is, "We did not know what we were buying." This is not a good excuse, because it implies the perpetrator's intent.

Other offenders argue, "We blindly trusted in the rating agencies." As mentioned, referring to rating agencies alone cannot compensate the banker's disregard of independent and thorough search for information. Yet, this aspect is largely neglected by German prosecution authorities.

Pursuant to the author's information, the public prosecution typically accepts the bank managers' trust in the rating agencies' estimation and therefore negates the perpetrator's criminal intent.<sup>35</sup> However, this is no adequate solution due to the above-mentioned reasons (the rating agencies' lack of expertise in rating the respective US-mortgages,<sup>36</sup> furthermore, such agencies' dubious reliability because of their high dependency on banks).<sup>37</sup>

On the other hand, the intent's element of willfulness is given as well. The perpetrator's acceptance that the aggrieved bank may suffer high losses is to be assumed, when he either did not care about such a result or was speculating at any cost. In both scenarios,

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<sup>33</sup> See *supra*, Part C, II, 2.

<sup>34</sup> See *supra*, Part C, II, 3 in connection with footnote 25.

<sup>35</sup> See *supra*, Part A, II.

<sup>36</sup> See *supra*, Part C, III, Firstly.

<sup>37</sup> See *supra*, Part A, II; see also Klaus Lüderssen, *Finanzmarktkrise, Risikomanagement und Strafrecht*, STRAFVERTEIDIGER 486, 492 (2009).

the perpetrator aims for short-term high profits leading to high bonus payments without any regard to the bank's risks. In principle, this attitude should be provable.

#### D. Closing Words

There should be criminal proceedings against bank managers for purchase of the toxic derivatives in question, causing high losses.<sup>38</sup> Yet, such proceedings should not result in long-lasting imprisonment. Rather, prison on probation<sup>39</sup> or a high criminal fine, if adequate up to millions of Euros, may be sufficient. In some cases, even terminating the proceedings after the defendant has paid a high sum of money to the treasury may be adequate.<sup>40</sup> Inherently, the enforcement of criminal proceedings would reinforce the people's confidence in the law, whereas draconian sentencing could be detrimental to the national economy.

Refraining from criminal prosecution in cases where bank managers purchased large amounts of obscure asset-backed securities based on American subprime mortgages, however, would send a dangerous signal towards the investment banking industry.

Thus, from the author's standpoint, it is laudable that the public prosecution recently has carried out searches and seizures as part of a large criminal investigation for purchasing such toxic securities at the Landesbank Baden-Württemberg (the largest German State Bank), even including the private homes of members of the board of managing directors.<sup>41</sup>

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<sup>38</sup> *But see id.* at 487 and 494 (dissenting Lüderssen). In his opinion both, the legal and economic aspects were absolutely not clarified and therefore the criminal courts had to contain themselves. However, this standpoint is not convincing as demonstrated above; in addition, it has to be emphasized that in Germany every transaction by banks has to be documented in records.

<sup>39</sup> *See Strafgesetzbuch* (StGB - German Criminal Code) § 56 b subs. 2 no 2. In connection with the obligation (*Auflage*) to pay a certain sum of money to the treasury.

<sup>40</sup> *See Strafprozessordnung* (StPO - German Criminal Procedure Code) § 153. *See also* Volker Krey, *The Public Prosecution's Role in Criminal Proceedings under the Rule of Law*, 46 RECHTSPOLITISCHES FORUM (LEGAL POLICY FORUM) 10 (Institut für Rechtspolitik an der Universität Trier ed., 2009).

<sup>41</sup> *See Embezzlement Suspicion: Police Comb through CBBW*, SÜDDEUTSCHE ZEITUNG, December 7, 2009, available at <http://www.sueddeutsche.de/finanzen/501/496813/text/>.