

Leadership Council

March 20, 2009

Anna Burger
Chair
Change to Win
International
Secretary-Treasurer
Service Employees
International Union (SEIU)

The Honorable Max Baucus
Chairman, Senate Committee on Finance
The Honorable Charles Grassley
Ranking Member, Senate Committee on Finance

Edgar Romney
Secretary-Treasurer
Change to Win
Executive Vice President
UNITE HERE

The Honorable Charles Rangel
Chairman, House Committee on Ways and Means
The Honorable Dave Camp
Ranking Member, House Committee on Ways and Means

Joseph Hansen
International President
United Food and
Commercial Workers
International Union (UFCW)

Dear Chairman Baucus and Senator Grassley; Chairman Rangel and Representative Camp,

James P. Hoffa
General President
International Brotherhood
of Teamsters (IBT)

As you finalize critical tax legislation to recover the unwarranted and outrageous bonuses to failing managers of AIG and other bailout recipients, I ask urgent attention to the \$3.6 billion in bonuses that Bank of America allowed Merrill Lynch to secretly and prematurely pay in December 2008. Without an amendment, Bank of America/Merrill managers will retain the most egregious bonus fiasco on Wall Street, one 20 times greater than at AIG.

Geralyn Luttj
International Vice President
United Food and
Commercial Workers
International Union (UFCW)

As you know, the just-approved House bill imposes a 90 percent surtax on bonuses granted to employees who earn more than \$250,000 at companies that have received at least \$5 billion from the government's financial rescue program. The bonus tax, if approved by the Senate and signed into law, would be retroactive to December 31, 2008. Essentially, this covers bonuses for the 2008 calendar year but paid in 2009.

Douglas J. McCarron
General President
United Brotherhood
of Carpenters
and Joiners
of America (UBC)

In apparent violation of Congressional intent, Merrill's extraordinary 2008 bonus debacle would not be covered as a consequence of two arcane technicalities not envisioned in the current bill.

Terence M. O'Sullivan
General President
Laborers' International Union
of North America (LIUNA)

Bruce Raynor
General President
UNITE HERE

First, Merrill secretly accelerated \$3.6 billion in 2008 bonus payments to early December 2008, prior to the closing of its acquisition by Bank of America and the disclosure of its \$13 billion fourth quarter loss. This premature payment was unprecedented at Merrill, which typically pays bonuses in January. In fact, Merrill informed Congress in a November 24, 2008 letter that, "incentive compensation decisions for 2008 have not yet been made" and that directors would do so at "year-end." This claim proved misleading.

Arturo S. Rodriguez
President
United Farm Workers
of America (UFW)

Andrew L. Stern
International President
Service Employees
International Union (SEIU)

Second, although Merrill had been approved for \$10 billion in TARP funds at the time of the bonus payouts, receipt of the money was deferred pending the outcome of the Bank of America acquisition. There is no question that taxpayers subsidized the Merrill bonuses as a result of TARP funds granted to Bank of America.

Bank of America had already received \$25 billion in TARP funds at the time of the Merrill bonus payments. And the bank subsequently received another \$20 billion in TARP funds expressly as a result of Merrill's rapidly deteriorating financial condition, a decline exacerbated by the premature payout of nearly \$4 billion in undeserved bonuses.

Moreover, Bank of America, which had already agreed to acquire Merrill, was complicit in the Merrill bonus payments as a result of a secret agreement uncovered by New York Attorney General Andrew Cuomo. According to this secret Agreement, 2008 bonus awards at Merrill were to be arrived at "in consultation with [Bank of America]." As New York Attorney General Cuomo informed a New York Court, "Despite its representations to the contrary, Bank of America clearly could have influenced, if not controlled, the timing of Merrill's bonuses."

I appreciate your prompt consideration of this matter.

Sincerely,

A handwritten signature in cursive script, appearing to read "Anna Burger".

Anna Burger

Cc: Rep. Barney Frank, Chairman, House Committee on Financial Services
Rep. Spencer Bachus, Ranking Member, House Committee on Financial Services
Sen. Christopher Dodd, Chairman, Senate Committee on Banking, Housing, and Urban Affairs
Sen. Richard Shelby, Ranking Member, Senate Committee Banking, Housing, and Urban Affairs