



Transcript

536: The Secret Recordings of Carmen Segarra

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Prologue.

Ira Glass Hey there everybody, today we have secret recordings taped inside one of the most powerful institutions in this country. It's a place we pretty much almost never get a glimpse inside. And they're revealing, and in lots of ways very disturbing. But to understand what they're about and why they're so interesting, you actually need a little context. So I need to take you back to the financial crisis.

After the financial meltdown in 2008, there was a lot of attention and a lot of blame heaped on the one institution that was in a position to notice the problems that led to the meltdown and do something about them before disaster hit. That institution is the Federal Reserve –The Fed –and, in particular, its office in New York City, the Federal Reserve Bank of New York. It's responsible for regulating the banks on Wall Street, which is to say some of the biggest banks in the world. It's supposed to monitor what they do, it's supposed to make sure they don't break rules or take risks that could bring down the financial system.

After they failed at that so spectacularly with the financial crisis, even the people at the Fed admitted they should've done a better job. And to figure out how to do a better job, one of the things they did is they commissioned a report –a secret report –that you and I were never supposed to see.

David Beim Well it was supposed to be completely confidential, as you can probably gather from the tone it is totally candid and highly self-critical.

Ira Glass This is David Beim, author of the secret report. These days, actually, anybody can read this confidential and candid report because a government commission released the report to the public. Some people at the Fed were surprised at that. But they got lucky. Because the report was released in a flood of hundreds of other documents, the press didn't really notice it. Nobody paid attention to this report.

The report was written back in 2009. The president of the New York Fed, Bill Dudley, asked Beim to do an investigation. Beim had been a banker. He was a finance professor from Columbia. And he'd studied the New York Fed in the past.

Dudley gave Beim a team of Fed managers and they went around interviewing people at the New York Fed. And what they found were a whole range of problems, all of them distressing to read about. They found deference to the banks, they found an unwillingness to take action, extreme passivity, and they found what experts call "regulatory capture." Regulatory capture is when a regulator gets too cozy with the company he's supposed to be monitoring. He's a watchdog who licks the face of an intruder, and plays catch with the intruder, instead of barking at him. Beim says that people inside the Fed told him yeah, capture was an issue for them.

David Beim In fact I had one footnote where one of the senior officers told him he had only been only working at the Fed for three weeks on a particular account when quote "I saw the capture set in."

Ira Glass Keep in mind Beim says this senior officer, he wasn't making an observation about somebody else. He was talking about *himself* succumbing to capture, and his team. And this idea that somebody in the Fed could become captured so quickly, this was such a unsettling thought, that even in this secret, highly confidential, totally candid report, Beim says...

David Beim Some of the most senior officers in the Fed wanted that footnote taken out, and we didn't take it out, but there were some people embarrassed by it.

Ira Glass Beim's report lays out recommendations for how the New York Fed could become more effective. And one of his recommendations was to hire a new kind of employee: outspoken, unafraid, somebody who would not get captured. And after that the Fed *did* go on a hiring spree. It needed more examiners because Congress gave the Fed more responsibilities in the wake of the crisis.

And one of the people they hired was a lawyer named Carmen Segarra. And whether they meant to or not, with Carmen Segarra they got the kind of employee Beim said they needed: confident, independent-minded. For over ten years she'd worked for big banks in the private sector, Citigroup, MBNA... But starting at the Fed, after the financial crisis, she was idealistic.

Carmen Segarra Having seen so many of my friends that work in different divisions of banks, but also that work in all sorts of other industries, you know teachers, police officers, getting laid off and suffering the consequences of the crisis, I felt like I had the correct skillset to be able to go into a place like the Fed and actually contribute and make a difference.

Ira Glass Which brings us to the secret recordings. For over a hundred years, the Fed has done everything it could to keep its behind-the-scenes interactions with banks from

being seen by the public. But what Carmen Segarra witnessed going on at the Fed was so alarming, she started secretly making recordings of what she experienced as a bank examiner –recordings that raise serious questions about whether the Fed has changed enough since 2008 to protect us from another financial disaster.

This is a spoiler but just to put it out there: things went very badly for Carmen Segarra in her new job. She’s currently suing the Fed over this. So what you’re going to hear today is a dispute between an employee and her bosses, though of course what we’re interested in is not the he-said-she-said of all that but in what her secret recordings show us about how the Fed works.

Throughout this hour you’re going to hear her recordings of what she saw at the Fed and you’re going to hear more from David Beim’s 2009 report, which lays out the way the Fed should be operating. He explained the changes the Fed needed to make. With Carmen’s tapes, we get to see if they actually made those changes. And it is not reassuring. From WBEZ Chicago, it’s This American Life, I’m Ira Glass. Stay with us.

Act One.

Ira Glass We produced today’s show in collaboration with our colleagues at ProPublica. Investigative reporter Jake Bernstein takes it from here. A little footnote before we begin for policy nerds: we know that officially in this context that we have today the Federal Reserve is not properly called a “regulator,” it’s called a “supervisor.” We’re using the word “regulator” throughout this hour because it’s easier for us normal people to understand. Ok here’s Jake.

Jake Bernstein Here’s a little-known fact about being a bank examiner: you actually spend your days working *inside* the banks you’re examining. Like, you have a desk there, and your own phone. At some of the biggest banks, examiners even have half a floor reserved just for them to constantly track what the bank is doing. And in the past, many of those Fed examiners inside the banks have been generalists. If they needed an expert, in liquidity risk or market risk or whatever, they had to call one in from Fed HQ.

But one of the reforms after the financial crisis was to hire lots of experts and station them inside the banks too. Carmen Segarra was one of these experts. Her expertise was helping big banks with the procedures and systems they need to comply with the many rules and regulations they face, here and overseas. She’d done it for over a decade. Like any good overachiever she speaks four languages: French, Italian, Spanish, English...she’s currently learning Dutch. She has degrees from Harvard, Cornell, and Columbia, and studied international law at the Sorbonne.

When Carmen showed up at the Fed for her first day at the end of October, 2011, she didn’t know which bank she was going to be assigned to. Then she bumped into her supervisor.

Carmen Segarra He said do you know where you're going? And I said no. And he said you're going to Goldman. And my thought was uh oh!

Jake Bernstein Goldman being, of course, Goldman Sachs.

Carmen Segarra The look on his face was like he was very much looking for my reaction. And I think after so many years of practicing law, when you see someone that is just looking to see what your reaction is going to be, my first instinct is "let me make sure that I don't give a reaction." Which is very difficult because I have a very expressive face. I know this is a radio show so you guys you know can't see that.

Brian Reed We can vouch, we're looking at it. You do have an expressive face.

Carmen Segarra Poker face is a real problem for me!

Jake Bernstein That was Brian Reed, by the way, the This American Life producer working with me on this story. You'll hear him in some of these interviews.

When Carmen embedded at Goldman Sachs, it was probably the firm that for Americans most symbolized what was wrong with Wall Street, deservedly or not. In 2010, the year before she started, the SEC hit it with one of the biggest fines in history at the time: more than half a billion dollars, for misleading investors in a deal right before the financial crisis. That same year, Goldman executives were hauled before Congress and berated for contributing to the collapse of the economy.

One popular view of Goldman was captured in this mild little metaphor, from a Rolling Stone article which compared the firm to, quote, "a great vampire squid wrapped around the face of humanity, relentlessly jamming its blood funnel into anything that smells like money."

So Carmen was part of this new wave of expert examiners. And soon after she arrived, she says, her bosses started asking the team if they were getting any opposition from the old guard, the generalists at the Fed who'd been working there for years. Many of these old guard examiners had a jargon-y and confusing-sounding job title you'll hear now and then as we talk about this. They were called "business line specialists."

Carmen says it didn't take long before she did start to notice pushback from the old guard – exactly what her bosses anticipated. For instance at one meeting, she says –and this is documented in the minutes from the meeting –a senior executive from Goldman was talking about all sorts of things, and mentioned that Goldman's view was, that once clients were wealthy enough, certain consumer laws didn't apply to them.

Carmen Segarra I was shocked. A senior compliance officer from Goldman Sachs saying something like that is a natural red flag. I mean, you definitely want to take a look at what it is that they're doing there.

Jake Bernstein Maybe Goldman was doing nothing wrong. But this is a big part of a bank examiner's job: to follow up on leads like this. And after that meeting, Carmen sat down with examiners who'd been there from the Fed, but also from the FDIC and the New York State banking authority. Carmen told them she wanted to follow up on that comment. And then a Fed examiner piped up.

Carmen Segarra This colleague at the Fed basically said, you know, "oh that point? Oh you didn't hear that." And, you know, I looked over at the New York bank examiner and the FDIC bank examiner and we sort of looked at each other we said "yes we did. We did hear that!"

Jake Bernstein One of the other people in this conversation confirmed this for me. The Fed examiner responded, "well, he – the Goldman executive – he didn't mean it."

Carmen Segarra I was floored. It was the moment when I realized oh, so this is what, this is what pushback looks like.

Jake Bernstein Carmen says this wasn't an isolated incident. In December –not even two months into her job –a business line specialist came to Carmen and told her that her minutes from a key meeting with Goldman executives were wrong, that people didn't say some of the things Carmen noted in the minutes. The business line specialist wanted her to change them. Carmen didn't.

That same day, Carmen was called into the office of a guy named Mike Silva. Silva had worked at the Fed for almost twenty years. He was now the senior Fed official stationed inside Goldman. What Mike Silva said to Carmen made her very uncomfortable. She scribbled notes as he talked to her.

Carmen Segarra Even looking at my own meeting minutes, I see the handwriting is like nervous handwriting. It's like you can tell. He started off by talking about he wanted to give me some mentoring feedback. And then he started talking about the importance of credibility. And he said, you know, credibility at the Fed is about subtleties and about perceptions, as opposed to reality.

Brian Reed Wait he said that?

Carmen Segarra Yes.

Brian Reed What does that even mean?

Carmen Segarra I found it to be completely incredible. For somebody to tell me that credibility is about perception as opposed to reality? I mean, I come from the world of legal and compliance, we deal with hard evidence. It's like, we don't deal with, you know, perceptions.

Jake Bernstein What else did he say?

Carmen Segarra It was interesting because he said the Fed takes most seriously those employees which are the most quiet ones. And that it was important essentially that I understand this because otherwise I would be frozen out.

Jake Bernstein Mike Silva would go on to play a big part in Carmen's tenure at the Fed. We reached out to him several times but he didn't want to take part in this story, because of the fact that Carmen's suing, because there's a regulation that makes the Fed's dealings with Goldman confidential. So it's impossible to know his side of this. Though, remember, this isn't a story about a personnel dispute between Carmen and her superiors. It's about what she did next and what that reveals about how the New York Fed works.

Carmen says she was so shaken by these incidents –someone telling her she didn't hear something she knew she heard, another colleague asking to alter minutes that Carmen believed were accurate, and then the Fed's top guy at Goldman telling her that perceptions are more important than reality –she says it was like reality itself was being questioned at the Fed. She realized she wanted a clear record of what was really happening in case there were ever any disputes about it. So she went to the Spy Store, bought a tiny audio recorder, put it on her keychain, and started switching it on secretly at important meetings.

Carmen Segarra Um, Mike had called me into his office...

Jake Bernstein This is one of the first recordings she made. It's with her supervisor. His name is Johnathan Kim. She's talking to him about the meeting that she had with Mike Silva and how upset she was by what he'd told her.

Carmen Segarra ... credibility at the Fed is about subtleties, perceptions as opposed to realities...

Jake Bernstein Kim had done Carmen's job before her, and told her he'd experienced opposition from the same people. Kim's advice was to be patient. The Fed was trying to change, and moving the Fed, he said, in an unfortunate metaphor, was slow like moving the Titanic.

Meanwhile in those early months, Carmen started looking at one deal that had caught the attention of the Fed's team at Goldman. It's a deal that gave her a chance to really see the Fed in action, to see what the Fed did when faced with a situation where Goldman had done something regulators thought was questionable. Carmen remembers the moment she first learned about the deal.

Carmen Segarra Friday Jan 6th, at 3:54 PM we get an email from Goldman, sort of alerting us to this transaction that they're planning to close.

Jake Bernstein The email said that Goldman wanted to notify the Fed about a fast-moving negotiation between it and a large Spanish bank. The Spanish bank has operations all over the world; it's called Banco Santander. Santander and Goldman both declined to comment about the deal for our story.

This email raised questions for Carmen. First of all, an alert like this was unusual. Goldman had employees conducting deals all over the world every day, and hardly ever wrote emails to the Fed about them. And then there was the timing, late in the afternoon on Friday, January 6th –a date which may not mean anything to you, but Carmen knew that it was Three Kings Day, one of the biggest national holidays in Spain.

Carmen Segarra My first reaction was why are we getting this email? And then my second thought was Banco Santander, closing a deal on the equivalent of Christmas Eve in Spain? That's interesting.

So you know we get back to work after the weekend, and Mike Silva is quite upset about this transaction.

Jake Bernstein Mike Silva, remember, was the Fed's top official inside Goldman –the one who talked to Carmen about perceptions versus reality. It's helpful to know a bit about Mike Silva before you hear how the Fed reacted to this deal. From everything we can tell, he seems like a regulator who's trying to do a good job. In the tapes, Silva talks about the Fed's duty to serve the public. He'd been in the Navy, volunteered with disabled veterans, and he'd gone to Iraq after the invasion to help get the country's national bank on its feet. And at a staff meeting once, he told his employees a story from the darkest days of the financial crisis about what motivated him as a regulator.

Mike Silva I have to tell you that night that the reserve fund broke the buck and we got that word...

Jake Bernstein It was a moment when it looked like the financial system was going to come crashing down. Big firms were frantically calling the Fed, terrified that economic Armageddon had arrived. When this happened, Silva was chief of staff for Tim Geithner who, at the time, was president of the New York Fed.

Mike Silva And when I realized that nobody had any idea how to respond to that, I went into the bathroom and threw up. Because I realized this is it, it's just this small group of people, and right now at this moment we have no clue. I never want to get close to that moment again.

Jake Bernstein Silva told his staff that this was a very powerful experience that still influenced his thinking. And you could hear that in the recordings after the unusual deal came down late that Friday afternoon involving the overseas bank, Banco Santander. What upset Mike Silva about it was that it seemed like the entire purpose of the transaction was for Goldman Sachs to help Banco Santander appear healthier than it actually was.

All banks have to keep some capital on hand. The more deals and loans they do, the more capital they have to keep around, as a safety cushion, in case things go bad. Santander was under pressure from its own regulators back in Europe to hold more capital. And this deal with Goldman Sachs helped solve the problem for Santander. Not by giving Santander more capital, but by taking stuff off their books, and putting it onto Goldman's books. Having less stuff meant Santander needed less capital. Mission accomplished.

One Fed employee likened it to Goldman getting paid to hold onto a briefcase. And as best as they could tell, Goldman was paid a lot: at least \$40 million with the potential to make hundreds of millions in the end. Mike Silva referred to the deal this way.

Mike Silva It's pretty apparent when you think this thing through that it's basically window dressing that's designed to help Banco Santander artificially enhance its capital.

Jake Bernstein To be clear, the deal appeared to be perfectly legal. Silva knew that. But still, he wondered, did they want banks doing these sorts of transactions in the future? If this kind of deal took off and became more popular, could it be a problem?

And in a sense, this is what you'd hope a Fed manager would be doing in the aftermath of the financial crisis. Mike Silva learned about this new kind of deal that had come into the world—one with potential risks that they didn't fully understand yet. And he set his team to work scrutinizing it.

Carmen and the others began to pore over documents for this complex transaction, which had tentacles in Brazil, Spain, the US and the Middle East. And one of the things that caught Carmen's eye was a short paragraph that the banks had written into the agreement. It said that Goldman had to notify the Fed about the Santander deal and obtain a, quote, "no objection." In other words, it looked like Goldman was required to get the Fed to officially sign off on the deal, before it could close. Maybe because Goldman and Santander worried that regulators might find this new kind of transaction hard to swallow. But now the two banks *had* closed the deal. Did Goldman satisfy that part of the contract? Here's what Mike Silva had to say about it.

Mike Silva The one thing I know as a lawyer that they never got from me was a no objection.

Woman Right

Woman Oh ok. So you literally have to say I do not object?

Mike Silva Exactly, give them some sort of.

Carmen Segarra Mmm hm. Mmm hm.

Woman And to Carmen's point...

Jake Bernstein The fact that Goldman didn't get this approval from the Fed didn't endanger the financial system or Goldman itself. It's a small thing. But later if the deal ever went bad, it would look like the Fed had approved it. It's right there in the paperwork. They could get dragged into the mess.

The Fed team called a big meeting with Goldman executives to question them about the Santander deal. Before they went in, they held a prep session. And Silva told Carmen and the team this was one of the things he wanted to ask Goldman about .

Mike Silva I never gave you a no objection. What happened? So that'll be interesting.

Carmen Segarra He was excited about it and he was the one who wanted to ask that particular question. He sort of said can I be the one who asks it, and I said "sure!"

Jake Bernstein So Mike Silva was rallying his team. Goldman had embarked on this new kind of deal, and there was a lot of interest in it from different parts of the Fed, he said. They needed to understand it better and he wanted Goldman to know that the Fed was paying close attention

Mike Silva My own personal thinking right now is that we're looking at a transaction that's legal but shady. I want to put a big shot across their bow on that. Poking at it, maybe we find something even shadier than we already know. So let's poke at this thing, let's poke at it with our usual poker faces, you know. I'd like these guys to come away from this meeting confused as to what we think about it. I want to keep them nervous.

Several people Ok.

Mike Silva Does that make sense?

Woman Yeah yeah, it does.

Jake Bernstein People are amped, they're excited about this.

Carmen Segarra Yeah, his team was definitely excited. They thought "oh, we're definitely going to do something here!" This is, it felt like this was action for them, you know?

Jake Bernstein Let's regulate!

Carmen Segarra Yeah, let's regulate.

Woman This is fun.

Carmen Segarra Yeah, well I think that he's gonna have a lot of fun.

Jake Bernstein This is what Carmen and her colleagues said to each other as they marched over to the conference room. They dialed up more people on the phone...

[Sound of phone dialing]

Jake Bernstein and the meeting began. And this, this is something we never get to hear: Federal Reserve examiners going mano a mano with a bank. Goldman executives kicked it off with a summary about the Santander deal and the examiners started asking questions. Some of them specific and technical, others quite broad, touching on the big issue Mike Silva had raised about whether banks should be doing deals like this at all.

Thirty minutes went by...

Man Were there any similar transactions?

Jake Bernstein Forty-five minutes...

Man What risks do you see to Goldman?

Jake Bernstein And still Mike Silva had not hit Goldman with the question he'd been so eager to ask about the requirement that Goldman was supposed to get the Fed to okay the deal before it went through. In their presentation, Goldman executives had briefly brought it up on their own. They claimed that the clause didn't actually require them to get Fed approval. It just seemed that way.

Silva wasn't satisfied. Finally, after more than an hour he went for it. It's the only time in the whole meeting he brings it up. We play it now, not because this is an important piece of financial policy, but to give you a chance to hear what it sounds like – at least on this one day – when the top Fed official onsite at Goldman Sachs questions Goldman Sachs.

Mike Silva Just to button up one point. I know the term sheet called for a notice to your regulator. The original term sheet also called for expression of non-objection, sounds like that dropped out at some point, or...?

Jake Bernstein That's everything he says on the topic in this meeting. Here it is again:

Mike Silva ...sounds like that dropped out at some point, or...?

Jake Bernstein That's it? That's him poking Goldman on this?

Carmen Segarra [sighs] Yeah, that's what passes for poking. That's what passes for poking at the Fed.

Jake Bernstein I mean I can't imagine that making them very nervous.

Carmen Segarra Yeah, it come...yeah. It's just not the way that I would have asked it.

Jake Bernstein In that moment, Carmen says, she saw clearly that when some of her colleagues talked about holding Goldman to account they meant something very different than what she thought it should mean.

Carmen Segarra You acknowledge that these are facts. Fact, this was required. Fact, I didn't give it. And then you ask, you know, "What are the consequences?"

Jake Bernstein After the meeting, the Fed team went back to their floor and Mike Silva called a debrief.

Mike Silva Why don't we have a quick pow-wow right here?

Jake Bernstein This was just the regulators, nobody from Goldman. So they could be frank. So Carmen was puzzled when one of her colleagues said how impressed he was with Goldman.

Unidentified Man I would just say that from a process perspective, I think there's a lot to be said for the thoroughness of the process that they engaged in.

Jake Bernstein This surprised Carmen because it seemed premature. They were only at the beginning of their factfinding. They'd requested documents and minutes of meetings that Goldman still had to give them. They were federal regulators. Their job was to ask questions and demand answers...and yet these colleagues sounded almost apologetic about it.

Unidentified man I would add to his comments in that I think we don't want to discourage Goldman from disclosing these types of things in the future, and therefore maybe you know some comment that says don't mistake our inquisitiveness, and our desire to understand more about the marketplace in general, as a criticism of you as a firm necessarily. Like I don't want to, I don't want to hit them on the bat with the head, and they say screw it we're not gonna disclose it again, we don't need to.

Jake Bernstein Wait a second, you guys are the Federal Reserve, doesn't Goldman have to give you what you ask for?

Carmen Segarra Absolutely.

Jake Bernstein So where's he coming from?

Carmen Segarra A place of fear.

Jake Bernstein Fear of ticking off Goldman. Though Carmen couldn't imagine why anyone at the Fed would be afraid.

Carmen Segarra The Fed has both the power to get the information and the ability to punish the bank if it chooses to withhold it. And some of these powers involve criminal action. So there's no reason to be afraid.

Brian Reed Did you get the sense that other people around you were taken aback by that comment at the time, or did that seem like not such a strange comment for someone to make?

Carmen Segarra No, I think business line specialists were very much in agreement with that comment.

Unidentified man Don't mistake our inquisitiveness, and our desire to understand more about the marketplace in general, as a criticism of you as a firm necessarily.

Carmen Segarra I mean, they were all sort of afraid of Goldman and I think they were a little bit confused as to who they were working for.

What I was sort of seeing and experiencing was this level of deference to the banks. This level of fear. And just not really showing a lot of interest in putting two and two together. It's not like we would walk out of a meeting and they would be like "Oh my God, when they said that, what did that mean? Let's go research it." It was like "Oh well, next meeting."

Brian Reed I mean the obvious question from what you're describing is: is that regulatory capture?

Carmen Segarra You know, if that isn't I don't know what is.

Jake Bernstein Regulatory capture. Again, it's when a regulator gets too cozy with the banks they're regulating. It was one of the problems David Beim spotted at the New York Fed in 2009 when he wrote his secret report for them, about what the Fed needed to fix after the financial crisis. Remember that report? From the beginning of the show?

Beim found that one of the causes of regulatory capture at the Fed was simple. Examiners see bank employees every day at work. It's just human nature to try to get along with them. And many examiners feel that the easiest way to get information is by cultivating a friendly relationship. Being non-confrontational. Beim says it's tricky walking the line between being friendly and being captured.

I spoke with one former Fed examiner who said he and his co-workers used to joke about one of their Fed colleagues deserving an employee of the month award ... not from the Fed, but from the bank they regulated. And employees of the Fed do go to work for banks. A quick Internet search reveals at least seven former Fed bank examiners who now work at Goldman. They include the colleague who, according to Carmen, asked her to change her meeting notes.

As Beim and his team spoke to Fed employees about what went wrong leading up to the financial crisis, one problem in particular arose again and again. And that problem was the Fed's culture. That's the epiphany of Beim's report. It was that basic. Culture. He was surprised.

David Beim Yeah I was. I was interested that what started out looking like a financial discussion was going to turn into a cultural discussion. What the culture expected of people and what the culture induced people to do.

Jake Bernstein For instance, there was a kind of fear Beim writes about in his report. Not fear of the banks like Carmen was just talking about. But fear inside the Fed itself. Fed employees told Beim's team they were afraid of contradicting their bosses. Afraid of saying what they really thought. Afraid of having views that were too different from what everyone else had. Beim lists these fears in his report.

David Beim So I could just read the fear of speaking up list of quotations. And it goes like this: "Don't want to be too far outside from where management is thinking. The organization does not encourage thinking outside the box. After you get shot down a couple of times, you tend not to go there anymore. Until I know what my boss thinks, I don't want to tell you."

Jake Bernstein According to Beim's report, this culture of fear paralyzed the Fed in the years leading up to the financial crisis and prevented it from taking action. It's not that the Fed regulators didn't notice the problems accumulating in the financial system that eventually brought it down.

David Beim They were aware of those problems coming. There were lengthy presentations on subjects like that within the organization. It's just that none of those meetings ever ended with anyone saying, "and therefore let's take the following steps right now."

Carmen Segarra I mean they're meetings without a clear agenda, they're meetings without clear objectives.

Jake Bernstein Carmen was used to the private sector, where she says meetings ended with specific action items. People knew what they were supposed to do.

Carmen Segarra None of that happens at the Fed. It's like the information is discussed, and then it just ends up in like a vacuum floating on air, not acted

upon. And the mere act of having this meeting, for them, is almost like akin to having done something about it.

Jake Bernstein Take the issue in the Santander deal that was most important to Mike Silva. The question of whether Goldman should be doing these new kinds of deals –deals whose whole purpose was to make foreign banks look better to their regulators.

As months passed, you can hear on Carmen’s recordings the team debating what to do about it, what action they should take. As best as we can tell, the most forceful action they consider is a letter to Goldman. And not even a stern letter necessarily. The simple *fact* of a letter, one guy says, will send the message they need.

Unidentified man The only downside risk is that they choose to ignore us. We’re not obligating them to do anything necessarily.

Jake Bernstein He says Goldman generally takes these letters seriously but banks do ignore them sometimes. We don’t know if the Fed ever sent the letter. But even if they never did, Mike Silva said they’d already accomplished something important: they’d brought it up in conversations with Goldman, and held that meeting you heard.

Mike Silva At a minimum, we made them, I guarantee they’ll think twice about the next one, because by putting them through their paces and having that large fed crowd come in. You know we fussed at ‘em pretty good.

Jake Bernstein In case you didn’t hear that, Silva said: “I guarantee they’ll think twice about the next one. We fussed at ‘em pretty good.”

Ira Glass Jake Bernstein from ProPublica. Coming up: Everything you’re hearing, we ran all this by the Fed. Their response when our program continues.

Act Two.

Ira Glass It’s This American Life, I’m Ira Glass. Today on our show we’re hearing never-before-heard recordings made secretly by a bank examiner named Carmen Segarra at the New York Fed. They give an unprecedented look inside this very secretive, very powerful, very important financial regulator. A note: we have done the normal sorts of editing to these recordings – for pacing and clarity – we do to any recordings on our show. Again, here’s investigative reporter Jake Bernstein.

Jake Bernstein We first approached the New York Fed to request an interview in July. They declined. We then told them we had Carmen’s secret recordings and invited them to comment on the sections we’re using here on the radio. They declined to comment but two Fed officials came to This American Life’s office to listen and take notes. We sent them thirteen pages of questions. They sent us a two-page statement. It begins, “The New

York Fed categorically rejects the allegations being made about the integrity of its supervision of financial institutions.”

Unlike the Beim report, their statement acknowledges no problems at the Fed. They say that in 2011, they began implementing some of Beim’s recommendations, and they list a few. But that list doesn’t include any of the recommendations Beim made about the central problem he saw: the problem of the Fed’s culture, the fear of speaking up, and the deference to the banks. We asked many questions about this. The Fed didn’t respond to those directly but did say in its statement, quote: “examiners are encouraged to speak up and escalate any concerns they may have regarding the New York Fed or the institutions that we supervise.”

They point out that the Fed has lots of ways, quote, “to help ensure that its employees freely express their views and concerns, including the Ethics Office, employee hotline and internal ombudsman.” We asked questions about regulatory capture. Again, the Fed didn’t respond directly but said they ensured examiner independence by regularly rotating people from bank to bank.

David Beim writes in his report that when it comes to hiring bank examiners, the Fed, quote, “should be willing to take chances on individuals with the confidence to speak their convictions, even at the risk of getting somewhat disruptive personalities.” Beim says they should be like the kid who cries out that the emperor has no clothes.

David Beim He’s the only one who dares say it because he doesn’t have ordinary social instincts, he doesn’t act politely. And somebody like that has to – or a number of people like that – have to be employed by organizations that want to be able to catch a big systemic problem brewing. They’re willing to say what they think is right, even if people don’t like them as a result. They don’t care.

Jake Bernstein Apparently, Carmen’s style of examining did make her a disruptive personality to some Fed employees. You can hear her in the recordings, when she feels she has the facts, speaking critically of Goldman.

Carmen Segarra Having worked on the international regulatory set up at more than one bank in my life, I can really tell you that in comparison to their peers, they are behind. And it’s not by a little, it’s by a lot. And it’s a real problem. And it’s really obvious.

Jake Bernstein Carmen was also vocal with her bosses and co-workers about the shortcomings she saw in the Fed’s management. She complained that managers were not settling disputes between the new wave of experts like Carmen and other examiners. Again and again in the tapes, Carmen asked her managers to intervene.

Carmen Segarra I think that management needs to do a better job of managing those people.

Jake Bernstein But not much changed. And then, on a Tuesday in late February, Carmen went in for her weekly meeting with her supervisor, Johnathan Kim. For a while, it was like any other meeting. They talked about examinations and things like that. But then about an hour into the conversation, Kim surprised Carmen by switching the subject to her job performance.

Johnathan Kim I want to manage your sort of career and expectations, right? I want you to be successful. Ok? There are –there's information that's coming in, there's opinions that are coming in. Right?

Jake Bernstein Kim tells her she does a good job looking at issues, identifying problems, figuring out what to do next –in short, the duties of a bank examiner. But then he goes on...

Johnathan Kim I'm never questioning about the knowledge base or the assessments or those things, it's really about how you are perceived, right? So if there's more a general sort of feedback that says that it's not only one person, it's not only two persons, but many more people who are perceiving that you're –um, you have more sharper elbows, right? Or that you're sort of breaking eggs. And obviously I don't know what the right word is.

Jake Bernstein Kim wouldn't tell Carmen who the complaints came from. But she assumed it was the old guard –the business line specialists. Kim told Carmen she needed to approach things differently. She needed to be more, to use Kim's word, relational.

Johnathan Kim I think the message has come back to me saying you know that you really need to make these changes quickly in order for you to be successful-

Carmen Segarra Not fired?

Johnathan Kim Successful as part of the team.

Carmen Segarra Not fired basically?

Johnathan Kim Well, I don't want to even get there. Right? Because, and here's why...

Carmen Segarra Well I think it would be unfair to fire me when I am, at the end of the day, doing a good job.

Johnathan Kim Well, there's, look, I'm here to change sort of the definition of what a good job is, right?

Couple of things, ok, that I would suggest: Have a sense of humility, right? Because a lot of the things that you say, and this is the way you're coming across,

I think I know you well enough that that's not what you're saying, right? But if I were to be a new person, I would say Carmen, you're very arrogant. Right?

Carmen Segarra Mmm hmm.

Jake Bernstein We asked Carmen how much of this she thought might have to do with her being a woman and minority and she says it's hard to say how much of a factor it was. She says it's impossible for her to know if things would have played out differently if she were a guy.

We reached out to Johnathon Kim, but he didn't respond, so we couldn't talk to him about this meeting. But we did listen to forty-six hours of recordings of Carmen at her job. Which Carmen says is everything she ever recorded. It's a grab-bag of different kinds of meetings and there are key meetings that for one reason or another she says she didn't record. Carmen pre-approved the selections we're using in this story, though there was nothing we wanted to use that she said we couldn't.

Listening to Carmen's recordings, you can sometimes hear her do the things that Johnathon Kim is talking about. He talks about sharper elbows, breaking eggs. There are times where Carmen cuts people off, including her bosses; times when she sounds riled up or brusque.

It's clear that the friction she's running into from other Fed employees is real. Her managers acknowledge it. And there's a recording of Fed experts like her who work inside other banks where they gripe about facing this same pushback. But Carmen's the kind of person who doesn't let it slide. She complains about her colleagues a lot, though she's never unprofessional.

One of Carmen's colleagues while she was at the Fed told me Carmen did ask direct questions –sometimes embarrassingly direct –but this person said they were all questions that needed to be asked and that Carmen was “a breath of fresh air.” I also spoke to three people who worked with Carmen at jobs she'd had before the Fed, and none of them remembered Carmen behaving unprofessionally, disrespectfully or arrogantly. And it's clear that other Fed employees in her position were experiencing similar tensions with their colleagues. There's a recording of a meeting with Fed experts like her who work inside other banks that at one point turns into a gripe session about this very issue.

Before we go back to this meeting with Johnathan Kim, I just want to read you something. This is from David Beim's report, from page twenty-two. He writes that the only way bank regulators can be effective at spotting the next financial crisis is if the Fed's culture, quote, “opens up and encourages people to speak up more.” According to Beim, this all depends on managers: “They need to encourage dissent rather than stifle it.” “This is a cultural issue of the greatest importance.”

And yet, nearly two and a half years after David Beim personally handed these prescriptions to the president of the New York Fed, in this meeting with Carmen Segarra, Johnathan Kim said this...

Johnathan Kim So what I would ask you to think about a little bit more is not being so conclusory.

Carmen Segarra Mmm hmm. I'm writing this down so I remember.

Johnathan Kim Like this is it. They're definitely going in that direction. Right? And you use the word "definitely" a lot too. [Laughs] If you use that, then you want to have a consensus view of definitely, not only your view.

Jake Bernstein There are a handful of behaviors that Beim singles out as being particularly destructive to the Fed's mission, and one is consensus. On page nine he notes that consensus is usually a healthy goal that leads to better decisions but then he goes on, "Achieving consensus has costs...One is delay, ideas get vetted to death...Consensus leadership is seen by some as a way to deflect accountability...Building consensus can result in a whittling down of issues or a smoothing of exam findings....so that only the most black and white issues will be taken forward as concerns with the bank. Compromise often results in less forceful language and demands on the banks involved."

Again that was 2009. Here's Johnathon Kim in 2012.

Johnathan Kim So a lot of it is consensus building. Right? Hey, you know what do you think? Oh, ok. That's a good thought, it's a possibility, right?

Jake Bernstein At this point, Carmen had been at the Fed less than four months. Four months since she had walked through the doors of the country's most powerful financial regulator, excited to join an institution dedicated to safeguarding the financial system. It was not working out like she'd hoped. And what was jarring to Carmen was the Fed had the authority it needed to be a good regulator. But it chose not to exercise that authority.

Carmen Segarra I mean it's almost like a giant afraid of its own power.

Jake Bernstein She doesn't think the Fed should transform itself into a domineering schoolmarm for the financial system...badgering the banks over every little infraction.

Carmen Segarra I think it would've been just as scary if I had gone in there and found like an aggressive Fed that was really mean and sort of you know trying to nitpick. I think that all that power sort of being abused, that's a very scary thing. But when you find the opposite, the absence of exercise of power, the absence of the exercise of responsibility, then you are just like this is a problem because you've been made the overarching regulator, and the country is looking to you to make things better after the crisis, and if you can't do it, then we need to talk about who can.

Jake Bernstein Carmen's reluctance to obediently join the consensus at the Fed led to a showdown between her and her bosses. The issue was an aspect of Goldman Sachs's business that had earned it lots of scorn: conflicts of interest.

Newscaster There were fireworks on display in Delaware Chancery Court

Jake Bernstein This is a Bloomberg report from March 2012.

Newscaster When judge Leo Strine rebuked investment banking firm Goldman Sachs for the way it handled a potential conflict of interest in advising natural gas pipeline operator EL Paso. The entire episode has led to a reevaluation of how investment banking firms should handle conflicts of interest.

Jake Bernstein This is one of several deals around the time when Carmen was at the Fed that put Goldman in the news for having conflicts of interest. In this deal, Goldman was getting paid to advise one company –an energy firm called El Paso –as El Paso was being purchased by another company, Kinder Morgan. The conflict was this: Goldman owned a large stake in Kinder Morgan.

Newscaster Some shareholders are extremely angry that Goldman stands basically on both sides of this transaction. They're up for a twenty million dollar fee for advising El Paso, and at the same time the firm has a four billion dollar stake in purchaser Kinder Morgan.

Jake Bernstein Just to clarify: Kinder Morgan wanted to buy El Paso as cheaply as possible. This would make tons of money for Goldman since it had a large investment in Kinder Morgan. Meanwhile, El Paso, which wanted to be bought for as much as possible, of course, was paying millions to Goldman for advice on the sale. Hence Goldman's conflict.

As if that wasn't enough, it eventually came out that the lead Goldman banker advising El Paso had a personal stake in Kinder Morgan worth hundreds of thousands of dollars. Carmen says this deal and others like it led to one of the first assignments her bosses gave her when she started at the Fed: to examine how Goldman handled – or failed to handle – conflicts of interest.

One of the Fed's guidelines is that banks of Goldman's size and complexity need to have a conflicts of interest policy that applies to everyone at the firm. The Fed has criteria for what such a policy should look like. Carmen was familiar with this. She'd worked for years at banks that had policies, she says. And she'd helped put policies, including conflicts of interest policies, into action.

So what Carmen found when she looked into whether Goldman had a conflicts of interest policy was shocking to her.

Carmen Segarra They really didn't have a firm-wide conflicts of interest policy. They didn't have anything close to being adequate on that score.

Jake Bernstein For instance, one thing Carmen looked into was something you'd think would be a basic building block of a good policy: a definition of the thing the policy is about.

Carmen Segarra Do you have in the policy the definition of a conflict of interest, and what that is, and what that means?

Jake Bernstein During her examination, Carmen asked Goldman's head of conflicts if their policy had a definition of what a conflict is. And Goldman's head of conflicts answered:

Woman No.

Carmen Segarra Ok.

Jake Bernstein That's right. According to the person in charge of evaluating conflicts of interest at Goldman Sachs, the firm's policy did not have a definition of what constituted a conflict. This was just one detail in a stack of evidence Carmen collected showing that Goldman Sachs lacked a proper policy.

There was the meeting in November, where Fed examiners asked Goldman for the conflicts of interest policy and Goldman told them one didn't exist. According to the meeting minutes, one Goldman executive said, quote, "It's probably more than one document – there is no one policy per se." Goldman eventually gave Carmen these documents. We've reviewed them ourselves. They're policies for individual divisions at Goldman. The documents clearly state that two of Goldman's six divisions had no conflict of interest policies for the period she was examining. Another division's policy, Goldman acknowledged, wasn't complete. For the three divisions that did have complete policies, Carmen says they weren't up to snuff. They didn't meet the Fed's criteria. In other words: Goldman had no firm-wide policy at that time.

Carmen worked on this examination for nearly seven months. She has records showing that there were at least fifteen meetings where conflicts of interest were covered. Her supervisors attended many of them. And she believed they were on board with her conclusion. Until, one day, they weren't.

It was a Friday in May 2012. Carmen says a colleague came to her very upset. He'd been in a meeting that morning with the Fed team at Goldman that Carmen had missed. The Fed's top guy at Goldman, Mike Silva, had said that Goldman didn't have a conflict of interest policy – which Silva himself confirmed later in an email that we've seen – and another examiner had challenged him and said they did. After the meeting, according to Carmen's colleague...

Carmen Segarra Mike seemed to be sort of backtracking and saying well that he was considering adopting the view that Goldman had a conflicts of interest policy and I could not believe what I had heard, because it's so many months, so many meetings, and just so much evidence!

Jake Bernstein So when Carmen heard that Silva was about to change his view, she immediately wrote him and Johnathon Kim an email. Goldman Sachs does not have a firm-wide conflict of interest policy, she reminded them. And she and her legal and compliance team were actually preparing a formal finding about it to issue to the bank. A formal finding in this world is the Fed using its regulatory power to force the bank to do something. In this case, get together a policy that met the Fed's guidelines.

Silva and Kim both wrote back saying that she was getting ahead of herself. Her conclusion still had to be vetted. Considering the more than a dozen meetings they'd already had on the topic, the hundreds of pages of documents she'd amassed, and Goldman executives' own statements on the subject, Carmen was stunned at what she was reading.

Carmen Segarra Are you serious? It's like this has been vetted to death at this point. What do you mean? What remains to be...how many times do you have to ask? And in how many ways do you have to ask Goldman these questions before you are convinced that the answer that you are consistently getting is in fact the truth?

Jake Bernstein In his email to Carmen, Silva said, quote, "In light of your repeated and quite adamant assertions that Goldman has no written conflicts of interest policy, you can understand why I was surprised to find a 'Conflicts of Interests Section' in Goldman's Code of Conduct." End quote.

We've seen this Conflict of Interests Section. It's just a few paragraphs long and very general. Carmen says it didn't come close to meeting all the Fed's criteria for a policy. We showed it to two experts: former Fed examiners familiar with the Fed's guidance on this issue. They both said it wouldn't qualify as a policy. One said it looked more like a vision-type statement.

Silva also cited a report Goldman had released, talking about how it was improving its conflicts policy. Also not a policy, Carmen says. She'd seen that document and the document itself explained that it was a report on what Goldman needed to do to improve. It doesn't claim to be a policy itself.

We reached out to Goldman Sachs with ten pages of detailed questions. Goldman replied with a three paragraph statement. In it, they point out that Carmen Segarra had unsuccessfully interviewed for jobs at Goldman three years in a row. Carmen says this is true, and that she interviewed at a bunch of banks multiple times.

In our questions, we asked point blank whether Goldman had a firm-wide conflicts of interest policy for the period Carmen was examining. Goldman doesn't answer that question but says instead, quote, "Goldman Sachs has long had a comprehensive approach for addressing potential conflicts." And, quote, "a quick Google search ... shows publicly available Goldman Sachs documents outlining the management of conflicts. Ms. Segarra's supervisors made that same discovery." Then the statement goes to quote from the Mike Silva email I just told you about.

Before Carmen could respond to Mike Silva's email, she was summoned to his office by his deputy. She made an excuse to grab something from her desk, and flicked on her recorder. Silva and his deputy motioned her to a small table and Silva got straight to the point.

Carmen Segarra Mike Silva sort of said you know you have to come off the view that Goldman doesn't have any kind of conflict of interest policy.

Mike Silva Carmen you have to come off the view that Goldman doesn't have any kind of conflict of interest policy. We can say they have to improve it. Maybe they have to improve it a lot.

Jake Bernstein The recording is muddy. Silva says, "We can say they have to improve it, maybe they have to improve it a lot." Then he says, "but we're losing credibility saying they don't have one at all." Silva tells Carmen this isn't just coming from him. That lawyers – presumably the Fed's lawyers – say her conclusion's not valid. To claim that Goldman doesn't have a policy, he says, is, quote, "patently wrong."

What Carmen does in this meeting is exactly what David Beim called for Fed examiners to do: she stands by her convictions, stands by her expert opinion, she stands up to her boss. Even as he tells her she's wrong.

Mike Silva Carmen, I don't understand why the fixation on whether they do or don't have a policy.

Jake Bernstein He says he doesn't understand her fixation about whether Goldman has a policy or not.

Mike Silva Why can't we just say they have basic pieces of a policy but they have to dramatically improve it?

Jake Bernstein He asks why can't we just say they have basic pieces of a policy but they have to dramatically improve it?

Carmen suggests two ways to handle their disagreement. She can meet with anybody at the Fed who doesn't see this the way she does, and walk them through the evidence. Or, she tells Silva, she can formally submit her findings and conclusions, and they can

override them. They're her bosses, after all. She says she's the low person on the totem pole.

We have no idea why Silva didn't go for that. Why he needed his underling to agree. Carmen speculates that if she submitted her conclusions, it would create a formal record that her bosses didn't want. And if someday Goldman had other conflicts of interest problems and there were some sort of Congressional or outside investigation, it could make the Fed look bad.

In the meeting, Silva will not let it go. He asks her over and over to change her conclusion, repeating at least seven times some version of "why do you have to say they don't have a policy?"

Mike Silva Why do we have to say they don't have a policy? They have one. We can say it's a miserable one.

Jake Bernstein Silva and Carmen went back and forth. Finally, after more than thirty minutes of this, Silva asks one last time:

Mike Silva Can you tell me again why do you have to say there's no policy?

Jake Bernstein Can you tell me again why do you have to say there's not a policy? Why can't you just say there was a very poor policy? Carmen says she was desperate to get out of that office. She relented.

Carmen Segarra Ok, I can work with you on that. I hear your plea, I hear your plea. I can say it's a poor policy.

Jake Bernstein "Ok, I can work with you on that," she says. "I hear your plea. I hear your plea. I can say it's a poor policy." Only she doesn't stop there. She can't help herself.

Carmen Segarra Between you and me and these four walls...

Jake Bernstein "Between you and me and these four walls," she says...

Carmen Segarra No way, no way this is a policy.

Jake Bernstein "No way, no way this is a policy."

Carmen Segarra I will work with you. I will say they have a very poor policy, ok, but professionally I cannot agree.

Jake Bernstein "I will work with you," she says, "I will say they have a very poor policy, but professionally I cannot agree." At this point, you can hear the life drain out of

Silva's voice. He wearily tells her that he doesn't want to put her in a position where she has to say something she doesn't agree with. The conversation was over.

Mike Silva All right. Thanks for coming in.

Jake Bernstein "All right," Silva says. "Thanks for coming in."

In 2009, David Beim wrote in his report on how the New York Fed must change to prevent the next financial crisis, quote: "Because so many seem to fear contradicting their bosses, senior managers must now repeatedly tell subordinates that they have a duty to speak up even if that contradicts the boss. Evaluation of employees at year-end might include specific categories like "willingness to speak up," "willingness to contradict me." Mike Silva was actually part of the team that worked with Beim to come up with these recommendations.

The following week, he had Carmen in for a meeting... and he fired her.

In the two-page statement the Fed sent us last week, they say Carmen's concerns about the conflict of interest policy were, quote, "taken seriously and escalated by senior members of the team while she was inside Goldman Sachs."

We asked a number of questions about consensus at the Fed and this is the closest thing they say in response, quote, "Because of the potential impact of our decisions and actions, we review our determinations very thoroughly ...To vet ideas and conclusions, we have developed a multi-step 'checks and balances' review process, in which the supervisory team and its lead supervisor play a key role."

It's been almost two-and-a-half years since Carmen was fired. Last December, Mike Silva left the Fed. He now works for GE Capital. Johnathan Kim is still at the Fed. As for Carmen, in October 2013, she sued the New York Fed as well as Mike Silva and Johnathan Kim for wrongful termination. She claims she was fired for simply performing her duties as a bank examiner. She sued for monetary damages and for her job back. In the statement the Fed sent us last week, they say, quote, "The decision to terminate Ms. Segarra's employment with the New York Fed was based entirely on performance grounds, not because she raised concerns as a member of an examination team about any institution." In the spring, a judge threw Carmen's suit out, saying the law Carmen sued the Fed under did not apply in this case. Carmen is going to appeal.

I've done interviews with other former Fed employees, and they all say there are competent, conscientious people working at the Fed. Carmen agrees with that. And on her recordings we heard people like that. And in the aftermath of the financial crisis, the Fed has tried to fix some things. In its statement to us it says it's always trying to improve. People who work with banks told us the Fed and other regulators have gotten tougher recently.

But culture is insidious. It's tough to change. Employees who worked at the Fed as recently as last year told me they witnessed some of the same cultural problems David Beim documented and Carmen Segarra encountered: the same deference to the banks and lack of inquisitiveness and mismanagement.

We don't know if the culture at the New York Fed is improving. And because it's such a secretive place, we probably won't know unless someone comes out with more secret recordings or Congress forces them to answer some questions ... or there's another financial crisis.

Ira Glass Jake Bernstein. His online version of the story is at ProPublica.org. At our website we'll be posting the questions we sent to the Fed and to Goldman Sachs as well as their full responses. That's at thisamericanlife.org.

[music]

Credits.

Ira Glass Our story was produced today by Brian Reed who also did research and reporting on the story. Our show was produced with help from Alex Blumberg, Ben Calhoun, Sean Cole, Stephanie Foo, Chana Joffe-Walt, Sarah Koenig, Miki Meek, Jonathan Menjivar, Robyn Semien, Alissa Shipp, and Nancy Updike. Our Senior Producer is Julie Snyder, production help from J.P. Dukes. Seth Lind is our Operations Director, Emily Condon is our Production Manager, Elise Bergerson's our Office Manager. Adrienne Mathiowetz runs our website.

Our partners at ProPublica: Tom Detzel, Steve Engelberg, Robin Fields, Dick Tofel, Abby Nearing, and Nicole Collins Bronzan. Thanks today to Rob Rosenthal, Mark Phillips, and Lou Teti. Research help today from Christopher Swetala, musical help from Damien Graef.

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[FUNDING CREDITS]

Thanks as always to our program's co-founder Mr. Torey Malatia. You know, whenever he and I need to get a cab together Torey always says you know the best way to get a cab is to walk into the middle of the street, stand directly in the cab's path, they will totally see us and come to a halt:

[tape] the only downside risk is that they choose to ignore us.

I'm Ira Glass. Back next week with more stories of This American Life.