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Lawmakers frustrated by BofA's lack of answers

Video

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Video



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Lawmakers frustrated by BofA documentation

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CHARLOTTE, N.C. -- Lawmakers frustrated over Bank of America's lack of answers about the Merrill Lynch merger say they might revoke the bank's attorney-client privilege and force bank big shots to talk.

Bank of America says it has handed over tons of documents and is working with lawmakers.

But, the Committee on Oversight and Government Reform says the documents

are irrelevant and redacted.

Some include e-mails about Wal-Mart discounts and pecan sales. That's not exactly what investigators are looking for.

It is stuff like that that frustrates investigators and puts CEO Ken Lewis' future on thin ice.

Who knew what and when did they know it? Answers Congress, state and federal investigators want to know regarding BofA's Merrill Lynch merger.

Word of millions in losses coupled with billions in bonuses weren't made public until after the merger.

"They overloaded the court with a bunch of documentation, none of which answers the questions," said UNC-Charlotte banking professor Tony Plath.

Because of that, a government oversight committee says it might make Bank of America's big wigs talk, revoking the bank's attorney client privilege.

But legal experts tell NewsChannel 36 it's a threat that's rarely -- if ever -- carried out.

Investigators say Bank of America used attorney-client privilege as a way to allegedly withhold key information from shareholders, and now as a shield to protect itself against possible criminal and civil charges.

Charlotte School of Law Professor Jim Bolin is not involved in the legal battles but offers this perspective: "A company can't both say, 'We took the action we took because we relied upon the advice from our lawyers' and refuse to reveal what that advice is."

Bank of America isn't going to give attorney-client privilege away, because if it does?

"You could potentially waive the privilege as to all the information you've gotten advice from counsel about," Bolin said.

Given possible criminal charges, Plath says BofA likely lined up CEO Ken Lewis' replacement during Monday's board meeting.

"The legal woes with Bank of America are going to continue to escalate until senior management defines who was accountable and the board takes action for that. In other words, they want a new management team," Plath said.

BofA says it's working with Congress to answer their questions and provide documentation.

Lawmakers say if BofA doesn't help, they'll get what they need through hearings and subpoenas.