ing for trouble," said Manhattan U.S. Attorney Preet Bharara during his speech. "It is a dangerous thing to walk the line—and to train others to do it." (Later that day, a partner at a major Wall Street law firm confided to me, "That was a message that needed to be given.")

And that, in a nutshell, describes the problem with Shapiro's tenure at the SEC: Too often, she acted like an invited guest who didn't want to upset her wealthy hosts.

Shapiro has moved on, and Mary Jo White of Debevoise & Plimpton appears poised to take over. In the past, as the former U.S. attorney for the Southern District of New York, White was willing to go toe-to-toe with mobsters and terrorists. But more recently she's spent a decade advocating for our financial giants.

White needs to establish immediately that she isn't scared of big banks and their stable of talented and relentless lawyers. She needs to infuse the agency with a new attitude—make it a place where people swagger. A transformation in culture will take time, but there are a few things that White can set into motion during her first year.

■ **ESTABLISH A CADRE OF TRIAL LAWYERS:** The SEC doesn't try many cases, and when it does, its record isn't good. Last year it lost its fraud case against Brian Stoker, who was a midlevel Citigroup employee charged with tricking large investors into buying a problem-plagued collateralized debt obligation. It also got a disappointing result in the trial of Bruce Bent and Bruce Bent II, who ran Reserve Management Co. Inc. and were cleared of charges of fraud. One person familiar with the Stoker case told me that the SEC could have won if its lawyers had had more trial experience. Following the practice of prosecutors' offices, the SEC should establish a trial unit staffed with ambitious young lawyers who try small cases. After years of courtroom experience, they'll be ready for the big ones. And better trials will lead to better settlements.

■ **PUT THE BRAKES ON INDEMNIFICATION:** Even when the SEC takes the rare step of going after individuals at big companies, it rarely exacts a penalty that hurts. Thanks to ubiquitous indemnification clauses, officers and directors almost never pay any settlements out of their own pockets. Nearly a decade ago, it looked as if the SEC was going to change that pattern when it required officers and directors at Worldcom to reach into their own pockets to settle cases. But the agency didn't follow through in later settlements.

■ **TARGET EXECUTIVES FOR "RECKLESS DISREGARD":** The biggest criticism of the SEC's response to the financial crisis is that it hasn't brought charges against any high-level Wall Street officials. Yes, fraudulent intent can be hard to prove, but the SEC has other tools. Nearly four decades ago, when Stanley Sporkin ran the enforcement division, he successfully went after high-level executives by charging them with reckless disregard for the truth. In contrast to fraud cases, you don't necessarily need a smoking-gun email to prove a pattern of looking the other way.

■ **GET SERIOUS ABOUT DODD-FRANK RULE-MAKING:** Two-and-a-half years after the passage of the Dodd–Frank Wall Street Reform and Consumer Protection Act, the SEC has implemented only a third of the rules required under that law, according to a recent study by Davis Polk & Wardwell. Part of the problem is that the agency appears paralyzed by fear and indecision. When the U.S. Court of Appeals for the District of Columbia struck down the SEC's new rules on shareholder proxy access in 2011—finding that the SEC hadn't done a proper cost-benefit analysis—it made the SEC skittish about proposing other rules that would alienate big business.

"They need to figure out a way to do an economic analysis that supports strong effec-

ILLUSTRATIONS BY WILLIAM RIESER; JON KOPALOFF/GETTY IMAGES (ARMSTRONG)

TOUR DE FORCE

Armstrong's A-List Lawyers

Lance Armstrong has always believed that the best defense is a litigation-filled offense. When he was dogged by persistent doping rumors during the course of his seven consecutive Tour de France wins, from 1999 to 2005, Armstrong responded by using his high-powered team of lawyers to sue or intimidate his accusers. Now, in the wake of his televised admission that he had used performance-enhancing drugs, Armstrong has been stripped of his records by the United States Anti-Doping Agency (USADA), and faces liability on several fronts. There's an open whistleblower suit brought by former teammate Floyd Landis. Dallas promotions company SCA Promotions has also filed a $12 million suit to reclaim bonuses paid to Armstrong after winning the Tour de France in 2002, 2003, and 2004. In light of his recent admissions, we wanted to look back and see how passionately Armstrong's lawyers defended their client. —VICTOR LI

tive rules and can withstand legal challenge," says Barbara Roper, director of investor protection at the Consumer Federation of America. "I'm concerned that too often they're writing rules that the industry won't bother to challenge. We still have two-thirds of the Dodd-Frank rules to write, including those regulating asset-backed securities, credit rating agencies, and derivatives."

For example, the SEC has been tasked with proposing a better system to overhaul a credit rating system that's rife with conflicts. To date, the agency has simply issued a study that does nothing more that summarize comments it has received on this topic. White needs to tackle this rule-making with conviction and courage.

■ **FORCE DEFENDANTS TO ADMIT THEY DID SOMETHING WRONG:** Until U.S. District Judge Jed Rakoff in Manhattan confronted this issue, SEC defendants viewed the practice of entering into "neither admit nor deny" settlements as a basic right. Actually, they still do. Sure, big corporations will fight like crazy to avoid admitting they did anything wrong, but the public interest requires accountability for wrongdoing.

Changes like these will be hard, but they're necessary. "The degree of difficulty cannot be an excuse for not getting critically important things done," says Dennis Kelleher, the chief executive officer of Better Markets Inc., a nonprofit group that promotes financial reform. "I think [change] is both possible and absolutely essential if there is any hope of avoiding another financial crisis and catastrophe."

I'm hoping White has the desire and resolve to change the mind-set at the SEC. She needs to make it clear that Wall Street and other big businesses can no longer dictate the terms of government oversight. And if she makes an appearance at a SIFMA conference in the next few years, I hope she gives one hell of a speech.

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Sneak Peek

A look at some of the early Am Law 100 revenue numbers.

It's Am Law 100 reporting season, and while it's too soon to state conclusively how firms fared in 2012, revenue growth, on average, appears poised to remain in the single digits. According to reporting by *The American Lawyer,* 71 percent of firms had revenues that increased by less than 10 percent. Here's a look at the highest and lowest gainers thus far.

FIRM	GROSS REVENUE (in millions)	% CHANGE from 2011
Bracewell	$325	+ 19.7
Baker & Hostetler	$510	+ 16
Fenwick	$260	+ 13
Paul Weiss	$877	+ 12.4
Bryan Cave	$624	+ 11.9
Kutak	$190	+ 10.5
McDermott	$851	+ 3.1
Goodwin Procter	$715.5	+ 3
Sedgwick	$212	+ 3
Lathrop	$140.5	+ 1.8
Jenner	$387.5	– 0.4
Schulte	$370.5	– 1.9

HIGHEST GAINS

LOWEST GAINS

Source: Americanlawyer.com