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A Lawyer Skilled at Scandal Cleanup Presses for Tougher Banking Rules

By ANNIE LOWREY

WASHINGTON — Sitting in a corner office high above K Street here, Dennis M. Kelleher, one of the most powerful lobbyists on financial regulatory reform, looks every bit the corporate lawyer and high-ranking Senate aide he formerly was: tailored suit, quick smile, assertive tone.

But Mr. Kelleher does not work for banks. He works against them.

“What is at stake is whether the American people are at risk of another Great Depression,” Mr. Kelleher, who is 54, said in a recent interview. “We exist to fight back against the forces trying to make us forget just how bad it was.”

Mr. Kelleher is the president of Better Markets, a nonprofit organization that pushes for a stringent interpretation of the Dodd-Frank financial regulatory law, which passed in 2010 but whose specific rules and regulations are currently the focus of an intense, complex and expensive behind-the-scenes battle.

Think of Better Markets as Occupy Wall Street’s suit-wearing cousin.

Mr. Kelleher, a Harvard Law School alumnus and a former partner at Skadden, Arps, Slate, Meagher & Flom — is a wisecracking, fast-talking operator who just happens to think that banks would devastate the economy if given the chance.

The financing for the K Street office comes not from small donations but from millions contributed by Michael Masters, an Atlanta-based hedge fund manager who believes that the markets are as imperfect as the people participating in them, and therefore need stricter rules.

Better Markets does not march against banks, or bring loudspeakers to their lobbies. It instead writes detailed comment letters to regulators, meets with them, files friend-of-the-court briefs, puts out studies and testifies before Congress.

The goal, Mr. Kelleher said, was to present an alternative argument to the one made by the banks and their small army of lobbyists. “For a long time, there had been no organization dedicated solely to going to toe-to-toe with the financial industry, on any issue, no matter how complex or obscure,” he said. “That’s what we do.”

Still, Better Markets and the handful of other advocates for the public interest — Americans for Financial Reform, the A.F.L.-C.I.O. and a few think tanks among them — remain seriously outmanned.

Take lobbying on the Volcker Rule, a controversial portion of the Dodd-Frank law that would prevent depository institutions from making certain speculative bets. From July 2010 to October 2011, financial institutions met with federal agencies to discuss it some 351 times, according to an analysis by Kimberly D. Krawiec, a law professor at Duke. Public interest groups, including Better Markets, held just 19.

“It’s David versus Goliath,” said Byron Dorgan, the former North Dakota senator and Mr. Kelleher's former employer. "But at least David's there."

Since JPMorgan Chase announced that it had lost $2 billion or more on a failed hedge, Mr. Kelleher has made an effort to be everywhere: in its crisis, he saw his opportunity to stress that banks need tougher controls.

"Jamie Dimon's poor fortune is good news for financial reform and taxpayers," said Mr. Kelleher, referring to the bank's chief executive. "Because, as it is unendingly noted, he's the best banker in the world," he said wryly. "The universe, maybe. It can get intergalactic with the compliments."

He raced to New York for a television appearance. He spoke with more than two dozen reporters, and corresponded with several more. In Better Markets' 16 months of existence, Mr. Kelleher has become a favorite source for the media, speaking in long, quotable peals and in a broad-voweled Massachusetts accent.

In his sound bites, the JPMorgan affair is a "debacle." Investment banks need to remember the "hierarchy of guilt" for the crisis. (They are at the top.) A weak rule on swaps is an "indefensible retreat" from tougher regulation and a "poster child for the pernicious effect of industry's army of lobbyists."

He also met with the heads of the Securities and Exchange Commission and the Commodity Futures Trading Commission.

"It's good to get some balance into the mix," said Gary S. Gensler, the chairman of the commodities commission. "My mom and your mom don't usually have somebody who's going to spend the time reading the detailed rules, and do not necessarily have the same resources or desire to be into the minute details that the large financial interests on the other side of this debate do."

The industry's lobbyists argue that they, too, are on the side of reform — just not excessive reform. "The industry is in favor of better regulation," said T. Timothy Ryan Jr., the president of the Securities Industry and Financial Markets Association.

Excessive regulation, he argues, would raise costs for businesses and individuals. "The banks are in much better shape, because many of them have been earning some money, retaining those earnings, and upping their capital," Mr. Ryan said. "If we produce through regulations banks that make no money, it's not going to strengthen the financial system."

If any thread runs through Mr. Kelleher's career, it is a knack for showing up just after a crisis. After growing up in modest circumstances in central Massachusetts, Mr. Kelleher enlisted in the Air Force and served as a crash rescue firefighter. As a corporate lawyer, he specialized in the legal cleanup after a scandal — as when an executive was caught committing fraud, or a company was caught cooking its books.

A partner in Skadden's Boston office, he had been quietly involved in Democratic politics while working in corporate law. In 1996, he took a year off to work on one of Senator Edward M. Kennedy's committee staffs. In 2004, he came back to Washington and never left, working for Senator Barbara A. Mikulski, the liberal aggressive Maryland Democrat and then Mr. Dorgan.

On Capitol Hill, Mr. Kelleher worked on a broad range of issues — Afghanistan, health care and safety-net programs. He won a reputation as loquacious and assertive, twisting arms for the more reticent Mr. Dorgan and wearing down interlocutors in long negotiations.

"Dennis was generally acknowledged to be a star," said Ted Kaufman, the former Delaware Senator who served as an adviser to Vice President Joseph R. Biden Jr. for years before taking his vacated Senate seat in 2009. “He was really, really smart, and really knew how to make an argument,” he said.

When Mr. Dorgan retired, Mr. Kelleher fielded calls from lobbyists and law firms, but decided to keep working for the public. Mr. Masters, the hedge fund manager who had met Mr. Kelleher when he testified on Capitol Hill, convinced him to help him start a nonprofit, Better Markets.

Both Mr. Masters and Mr. Kelleher felt that there were far too few public intellectuals or research groups capable of providing detailed counterpoints to the investment banks and other financial firms.

So Mr. Masters agreed to finance Better Markets for a minimum of five years. His financial contribution — the organization shows $3 million in financing in a 2010 regulatory filing — has raised speculation that he built the organization to soak up information in Washington or to influence the rule-writing process. (Hedge funds may reap the benefits if investment banks are strictly regulated, after all.)

But Mr. Masters said he had been shocked by the lack of understanding of financial markets on Capitol Hill, and said the crisis proved the need for more stringent regulation. He also dismissed the notion that his motivations were financial. “If I wanted to alter my portfolio positions, I could do it in 24 hours,” said Mr. Masters said.

The odds remain against Better Markets and its fellow public-interest advocates, Mr. Kelleher concedes.

“It’s a battle in which the Wall Street lobbying and public-relations machine will have a decisive advantage,” said Mr. Kaufman, the former Delaware senator. “With the regulators, you don’t have to win. You just have to gum them up. And that is exactly what Wall Street has done.”