PUBLIC CITIZEN

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Dear Senator,

On behalf of Public Citizen's 300,000 members and supporters, we respectfully ask you to co-sponsor The Stronger Enforcement of Civil Penalties Act (SEC Penalties Act), S. 3416.

This important legislation, introduced by Senators Jack Reed and Chuck Grassley, would improve the ability of the Securities and Exchange Commission to respond to fraud. Currently, the SEC can only require firms to disgorge ill-gotten gains. Individuals and firms face penalties of only $150,000 and $750,000 respectively. Instead, the Reed-Grassley legislation allows the SEC to fine companies up to three times the ill-gotten gain, and increases penalties on individuals and firms to $1 million and $10 million respectively. For repeat offenders, the damages would be triple these figures.

The "decimal dust" of current fines, as Sen. Grassley called them, cannot credibly serve as meaningful punishment and deterrent. Indeed, firms found in violation of securities laws, including those who pledge not to repeat the offense, too often become repeat offenders. This is a clear indication that current SEC penalty authority is seen as a mere slap on the wrists. Explained Sen. Reed, "We need to end the cycle of misconduct where such institutions can look at the bottom line and see they can break the law, get caught, pay a nominal fine, and still profit." The New York Times found 51 cases over a 15 year period where 19 Wall Street firms broke antifraud rules that they agreed never to breach as part of a previous settlement. [2] These firms included many of the largest U.S. investment banks.

U.S. District Court Judge Jed Rakoff has rejected several SEC penalties as inappropriately low given the scale of the undenied theft.[3] Judge Rakoff has castigated the SEC for settlements where firms neither admit nor deny wrongdoing. Greater penalty powers will help to improve the SEC's bargaining power when it assesses its probability of courtroom success along with the costs of litigation with the well-heeled private securities bar.

Inadequate penalties also reinforce the public's justifiable concern over the government's ability to hold corporate violators responsible for their wrong-doing. Without a "big stick," the SEC is less able to engage industry from a needed position of authority.

The SEC is currently investigating the integrity of JP Morgan's disclosures of the "London Whale's" losses, selective disclosures during the Facebook IPO, and now the LIBOR rate-fixing fraud. Collectively,

[2] New York Times: http://www.nytimes.com/2011/11/08/business/in-sec-fraud-cases-banks-make-and-break-promises.html?_r=1&ref=todayspaper&pagewanted=all

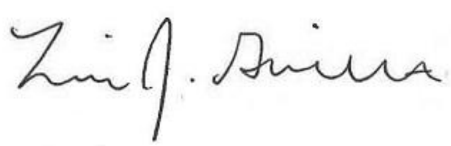
[3] U.S. District Court,l opinon of Judge Rakoff, http://www.nysd.uscourts.gov/cases/show.php?db=special&id=138

these recent, large-scale issues demonstrate that financial law enforcers should be given appropriate tools when they determine wrong-doing. The American investor deserves no less.

We applaud the bi-partisan effort by Senators Grassley and Reed. This piece of legislation is an important step in assuring the American public that those who commit fraud and violate securities laws will be held accountable for the severity of their crimes. We note that the call for regulatory zeal voiced in recent hearings unifies members of the Senate. We hope that you will co-sponsor this measure and call Senate leadership for expedited deliberation.

Your consideration is appreciated. For more information, contact Bartlett Naylor at bnaylor@citizen.org, or 202.454.5186.

Sincerely,



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