



**NASAA**

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July 9, 2003

The Honorable Richard H. Baker  
Chairman  
Capital Markets, Insurance and Government Sponsored Enterprises  
Subcommittee  
341 Cannon House Office Building  
Washington, D.C. 20515

RE: HR 2179

Dear Chairman Baker:

As stated in my June 5 testimony, NASAA fully supports the provisions in The Securities Fraud Deterrence and Investor Restitution Act designed to strengthen the Securities and Exchange Commission's enforcement authority.

However, we oppose Section 8(b) in H.R. 2179 because it could have the unintended effect of actually reducing the success that state securities regulators have had in bringing enforcement actions against violators of securities laws.

State securities regulators, who are often referred to as the local cops on the beat, remain vigilant in their effort to bring enforcement actions against those individuals and firms who violate securities laws. A primary and routine objective of state securities regulators is to obtain restitution for investors as part of enforcement actions. For example, in the 2001/2002 reporting period, state securities regulators collectively obtained orders for over \$309 million in restitution. During the same period, roughly \$71 million was ordered in civil and administrative fines and penalties. State securities enforcement cases often impose conduct remedies, fines or penalties *and* restitution to investors.

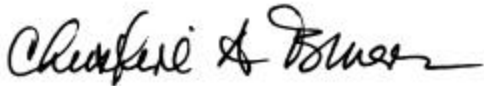
I am concerned that the Section 8 provision, as currently drafted, would serve to undermine these proven results in the future. Specifically, Section 8(b) of the legislation would direct the states to remit to the SEC civil penalty and disgorgement monies ordered in a state enforcement action if the action also includes a conduct remedy (such as enhanced supervision of a broker-dealer) that goes beyond federal law.

<sup>1</sup> NASAA, the oldest international organization devoted to investor protection, was organized in 1919. It is a voluntary association with a membership consisting of the 66 state, provincial and territorial securities administrators in the 50 states, the District of Columbia, Canada, Mexico and Puerto Rico. In the U.S., NASAA is the national voice of the 50 state securities agencies responsible for investor protection and the efficient functioning of the capital markets at the grassroots level.

While we all share the goal of making more money available for investor restitution, this particular provision could inhibit state options in enforcement actions, which would weaken the efforts of state securities regulators to protect investors. In addition, civil penalty funds rightfully belong to the citizens of the state and decisions regarding their use are best made by the state legislature so they can be tailored to the unique circumstances of each state. Penalties collected in a state securities enforcement action, through the efforts of state officials who are paid with state funding, should be distributed by state officials.

If you have questions or need additional information, please do not hesitate to contact me or Deborah Fischione House, NASAA's Director of Policy at 202-737-0900.

Sincerely,

A handwritten signature in black ink, appearing to read "Christine A. Bruenn". The signature is fluid and cursive, with a long horizontal stroke at the end.

Christine A. Bruenn  
NASAA President  
Maine Securities Administrator