

Statement of
The Honorable Patrick Leahy

United States Senator
Vermont
September 17, 2009

Statement of Senator Patrick Leahy (D-VT),
Chairman, Senate Committee on the Judiciary,

Hearing On "Evaluating S. 1551: The Liability for Aiding and Abetting Securities Violations Act
of 2009"
Before the Subcommittee on Crime and Drugs

September 17, 2009

Today's hearing focuses on yet another case where the Supreme Court has misinterpreted the clear intent of Congress. This important hearing will examine laws designed to deter and punish those who assist and participate in fraud schemes. In the wake of scandals like Enron, the Madoff case, and the widespread financial fraud that contributed to our current economic crisis, we need to start holding those who take part in fraud accountable. I have long supported efforts to ensure that we give our Federal agencies the tools they need to help address fraud. The Supreme Court has made this issue more difficult to address in the wake of their divided decision in *Stoneridge v. Scientific Atlanta*.

Last year, I chaired a Senate Judiciary Committee hearing where we examined corporate misconduct and fraud. One of the cases we examined was *Stoneridge*. The court held that pension funds and other investors in companies ruined by fraudulent managers cannot recoup the money they lost from those who knowingly facilitated the fraud. Justice Stevens' dissent criticized the majority for thwarting the intent of Congress because it passed the law "with the understanding that Federal courts respected the principle that every wrong would have a remedy." With this ruling, the Supreme Court has left everyday Americans with nowhere to go for redress. I believe Justice Stevens was correct in his dissent. The decision would allow enablers of fraud, such as the accountants who were involved in the Enron scandal, to escape any responsibility. We cannot tolerate such actions, and we cannot deny those who deserve their day in court their constitutional right.

This Supreme Court decision has real world consequences on the livelihoods and lives of thousands of Americans. Unfortunately, it will not have any impact on the corporation that should be punished. I believe that this hearing will allow us to begin doing what is necessary to address the issues of fraud. In just this Congress, I introduced several pieces of legislation, among them the Fraud Enforcement and Recovery Act, which gives our Federal Government important new tools to combat fraud and which the President signed into law this spring, but much more still remains to be done. We should continue to act and make sure that those who aid

in fraudulent behavior are caught and held fully accountable and that individuals are not held to a lower standard than corporations. I thank Senator Specter for holding this hearing today and look forward to consideration of his proposed legislation to hold those who participate in fraud accountable.

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