

Statement of
The Honorable Patrick Leahy

United States Senator
Vermont
May 4, 2010

Statement Of Senator Patrick Leahy (D-Vt.),
Chairman, Senate Judiciary Committee
Hearing Before The Judiciary Subcommittee On Crime And Drugs,
On "Wall Street Fraud And Fiduciary Duties: Can Jail Time Serve As An Adequate Deterrent For
Willful Violations?"
May 4, 2010

As the Senate continues to debate the Wall Street reform bill, I thank Senator Specter for holding this important hearing. In these difficult economic times, we must make every effort to ensure accountability for the massive wave of fraud on Wall Street and beyond that has so undermined our economy, and we must protect taxpayers from ongoing fraud that could slow our economic recovery. Often the best way to deter the kind of reckless and outrageous conduct that can bring down financial institutions and harm so many Americans is to ensure that those who commit these crimes actually go to jail.

Criminals who jeopardize our financial institutions and break the law must be investigated, prosecuted and held accountable for their actions. Fraud can eviscerate the life savings of hardworking Americans, while those who commit these crimes walk away free of punishment, or with fines and penalties that they simply dismiss as the cost of doing business. Today's hearing will explore the important question of whether those who handle financial transactions for so many Americans have a fiduciary duty, and whether they should be criminally liable for violating that duty.

I am working toward a similar goal of criminal accountability and fraud prevention in an amendment I will propose today to the Wall Street reform bill. The amendment is supported by Senators Grassley, Kaufman and Specter, and will strengthen law enforcement's capacity to investigate and prosecute the kinds of financial fraud. The amendment will strengthen protections for whistleblowers, who often serve as an early warning system to stop fraud before it damages financial institutions and the economy.

Every month, we learn of more scandals in the financial industry, as leading financial institutions and money managers, like some of those in charge of Goldman Sachs, are charged with participating in multimillion dollar fraud schemes. It is time to hold people accountable. That means providing the tools and resources that law enforcement needs to investigate, restore order, and ensure justice. Our amendment protects criminal investigations from outside interference, empowers law enforcement and prosecutors with new tools for fighting fraud, and strengthens protections for whistleblowers who detect and expose financial fraud.

The amendment we will propose will increase sentences for those who commit financial institution fraud and securities fraud. Despite the enormous losses in many securities fraud cases, a preliminary analysis by the United States Sentencing Commission suggests that securities fraud offenders may often receive shorter sentences than other white collar offenders who cause similar harm. Our amendment will direct the Sentencing Commission to review and amend the sentencing guidelines for these types of fraud, taking into account the importance of sending people to jail as a deterrent and the potential and actual harm to the public from these offenses.

This amendment also protects criminal investigations by ensuring that regulators, investigators, and prosecutors work together to stop financial fraud. It requires regulators to consult with prosecutors to ensure that important regulatory steps do not inadvertently undermine criminal investigations and prosecutions.

The amendment provides law enforcement with additional tools for the effective investigation, prosecution, and punishment of individuals who commit financial fraud. It allows those who move money overseas to evade taxes to be charged with money laundering, which can result in increased charges and sentences. Our amendment also extends the statute of limitations for securities fraud cases from five years to six years, which will allow law enforcement to bring more and stronger securities fraud cases, and thereby increase deterrence, victim restitution, and respect for the rule of law on Wall Street. Tax fraud and securities fraud schemes are often difficult to identify and extremely complex, meaning that the statute of limitations can expire before prevent important cases can be charged. Tax fraud already has a six-year statute of limitations. Securities fraud is equally complex and hard to detect, so it should as well.

I am pleased that the legislation reported by the Banking and Agriculture Committees establishes strong new whistleblower protections. Senator Grassley and I have worked hard with those Committees to strengthen these whistleblower protections. With the right protections, whistleblowers can help root out the kinds of massive Wall Street fraud that have harmed so many Americans. The amendment I will offer today goes further still to extend important protections for whistleblowers who step forward to report fraud and abuse, often at great risk to their careers and livelihoods.

For more than three decades, I have fought in Congress to combat fraud and protect taxpayers. Last year, I authored the Fraud Enforcement and Recovery Act with Senator Grassley and Senator Kaufman. That legislation is the most significant anti-fraud legislation in more than a decade. Since its enactment, it has provided law enforcement with new tools to detect and prosecute financial and mortgage fraud. I also worked with Senators Grassley, Kaufman, Specter, Sanders, and others to add important new measures to the health reform legislation enacted earlier this year, to tackle the fraud that has contributed greatly to the skyrocketing cost of health care.

The amendment that we will introduce today is an important next step. It builds on these anti-fraud efforts to make sure that those responsible for committing fraud in the financial industry are held fully accountable for their actions. Those on Wall Street must be held to the same standards for criminal accountability as those on Main Street. I commend Senator Grassley, Senator Kaufman, and Senator Specter for their hard work on these issues. I hope all Senators

will support this bipartisan amendment. I thank Senator Specter for holding today's important hearing.

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