



NORTH AMERICAN SECURITIES ADMINISTRATORS ASSOCIATION, INC.

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July 11, 2019

The Honorable Katie Porter
United States Representative
1117 Longworth House Office Building
Washington, DC 20515

Re: H.R. 3641, the “Stronger Enforcement of Civil Penalties Act of 2019”

Dear Congresswoman Porter:

On behalf of the North American Securities Administrators Association (NASAA),¹ I am writing to express support for H.R. 3541, the “Stronger Enforcement of Civil Penalties Act of 2019.”

Federal securities laws currently limit the amount of civil penalties that the Securities and Exchange Commission (“SEC”) can impose on an institution or individual. Specifically, under existing law, the SEC can only penalize individual violators a maximum of \$181,000 and institutions \$905,000 per offense.² However, hearings and experience have established that the present statutory limit on the SEC’s authority to pursue civil penalties significantly ties the hands of the agency in performing its enforcement duties.³

The Stronger Enforcement of Civil Penalties Act would increase the federal statutory caps to \$1 million per violation for individuals and \$10 million per violation for entities. The bill would add a fourth tier of monetary penalties that triples the penalty cap for recidivists who have been held criminally or civilly liable for securities fraud within the preceding five years. Further, under the bill, the SEC would be able to assess these penalties through administrative action, not just in federal court.

For enforcement to be effective as a deterrent, the costs to violators must be meaningful as a punishment. When it comes to protecting investors from bad actors, aggressive enforcement actions that penalize violators, disgorge ill-gotten gains, and provide compensatory damages and restitution for aggrieved investors, are the best deterrent and the only proven remedy.

¹ The oldest international organization devoted to investor protection, NASAA was organized in 1919. Its membership consists of the 67 state, provincial, and territorial securities regulatory agencies of the United States, Canada, and Mexico. NASAA is the voice of securities agencies responsible for grass-roots investor protection and efficient capital formation.

² 15 U.S.C. §§ 77h-1(g), 78u-2(b), 80a-9(d), 80b-3(i). The penalty amounts are adjusted for inflation pursuant to 17 C.F.R. § 201.1004. Further, in some cases, the SEC may calculate penalties equal to the gross amount of ill-gotten gains, but only if the matter goes to federal court, not when the SEC handles a case administratively.

³ See: Senate Committee on Banking, Housing and Urban Affairs, Subcommittee on Securities, Insurance and Investment. Hearing entitled “Strengthening the S.E.C.’s Vital Enforcement Responsibilities.” May 7, 2009.

NASAA is pleased to support the Stronger Enforcement of Civil Penalties Act. However, prior to passing the bill, we urge that Congress consider further strengthening the legislation by expanding the new tier of penalties it establishes for repeat offenders to include persons who, in the previous five years, have become subject to an enforcement action by a *state* securities authority.

Thank you for your consideration of NASAA's views. Please do not hesitate to contact me, or Michael Canning, NASAA Director of Policy & Government Affairs, at (202) 737-0900, if we may be of any additional assistance.

Sincerely,

A handwritten signature in blue ink, appearing to read "Michael S. Pieciak".

Michael S. Pieciak
NASAA President,
Commissioner, Vermont Department of Financial Regulation