

Opening Statement
Chairman Michael G. Oxley
House Committee on Financial Services
Subcommittee on Capital Markets

It's only FAIR: Returning Money to Defrauded Investors

February 25, 2003

Subcommittee Chairman Baker, thank you for holding this important hearing and focusing our attention on the SEC's ability to return funds to defrauded investors. As this Committee continues its efforts to restore investor confidence and mend the damage done by recent corporate scandals, we must examine the Commission's success rate in collecting disgorgement and penalty sums and determine whether changes are necessary to better protect investors.

To address the corporate malfeasance and Wall Street conflicts of interest that dominated financial news last year, Congress responded with bipartisan corporate responsibility legislation.

The Sarbanes-Oxley Act established numerous reforms to enhance investor confidence, improve corporate responsibility, increase accounting oversight and require the availability of real-time financial disclosure. These improvements are now becoming a reality in corporate boardrooms all across America and on Wall Street.

Under Sarbanes-Oxley, the SEC was given enormous new responsibilities; the Act's success depends on the Commission's ability to execute and uphold these reforms. I am pleased to see that funds were recently appropriated for the SEC to hire additional staff, increase enforcement capabilities and improve the Commission's capacity to review issuers' financial statements.

With its new authority and additional resources, the Commission is newly outfitted to protect investors and fight securities fraud. It's critical that we follow through on that effort by returning recovered money to defrauded investors.

Chairman Baker, you added a very important provision to last year's corporate accountability legislation which allows the SEC to return the civil penalties paid by securities law violators to victims of securities fraud. This provision, titled the Federal Account for Investor Restitution, which we've shortened to FAIR Fund, will increase the amount of money the Commission is able to return to the pockets of injured investors. But it appears more work needs to be done.

Prior to Sarbanes-Oxley, civil penalty funds collected by the SEC were sent to the Treasury's general fund to be spent on any given Washington program.

The FAIR fund puts money back where it should be. This must be a fundamental goal as the Commission continues to crack down on corporate fraud.

In particular, returning money to defrauded investors must be an important component of the settlement that the Commission and the states have been working on for so long now.

Today's investors include middle-income families working and saving for retirement, for their children's educations, or to buy a home. They led the way to the tremendous growth and success of America's financial market over the past several years. They are the heart and soul of today's market. And when

their confidence is restored, when they believe that America's stock market continues to be the place to help make their dreams come true, they will be the ones who bring it back.

Investigating and punishing those guilty of securities fraud, depriving them of any ill-gotten gains, and making injured investors whole to the greatest extent possible is absolutely essential to enhancing investor confidence. I thank my good friend, Subcommittee Chairman Baker, for his leadership in creating the FAIR fund and for helping to reassure investors that the U.S. market is a fundamentally fair place.

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