

to extend my sincere thanks and appreciation to him for all of his good work. I have no doubt that even in his retirement, Ben Cozzi will continue to stay involved and make a difference. I extend my very best wishes to him, his wife, Elizabeth; his children, Jennifer and Christopher; as well as their grandchildren, John, Isabelle, and Diego for many more years of health and happiness.

REMEMBERING FRED FOSTER

HON. FRANK R. WOLF

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 17, 2011

Mr. WOLF. Mr. Speaker, I bring to the attention of the House the recent passing of an outstanding public servant, civic leader, and local business owner in Front Royal, Virginia. Frederick P. "Fred" Foster died February 7 at age 74.

I had the pleasure of working with Fred on the redevelopment of the Avtex Superfund site in Front Royal. He was a tireless and passionate advocate for his hometown and county and will be greatly missed.

Mr. Speaker, I submit an article from the Northern Virginia Daily about the life of Fred Foster.

[From the *nvdaily.com*, Feb. 10, 2011]

FOSTER ACTIVE PART OF SOCIETY

(By Ben Orcutt)

FRONT ROYAL.—Frederick P. "Fred" Foster was remembered on Wednesday as a man who got things done.

Foster, 74, died on Monday at Winchester Medical Center. A jewelry store owner, former town councilman and civic leader, Foster was noted for his ability to tackle issues and see them through.

"Just his determination and vision," said his son, Philip T. "Phil" Foster. "When he saw something that he needed to do or that thought that needed to be done or identified a problem, he had the tenaciousness to see it through."

Phil Foster, 51, said his father had been ill for the past four years and was on dialysis daily. Foster said his father had chronic obstructive pulmonary disease and most likely died of a heart-related ailment.

"We haven't seen a death certificate or anything," Phil Foster said.

Fred Foster opened Fosters Jewelers at 130 E. Main St. in Front Royal in 1984. Phil Foster said he and his father were partners and they opened a second store in Winchester in 1987.

"We're going to miss him," Phil Foster said.

Others said Wednesday they will miss him as well.

Marvin "Cotton" Owens, 72, graduated from Warren County High School in 1956 with Fred Foster. Owens said the two were like brothers for a time and that Fred Foster gave him his first job as a teenager.

"He was one of the leaders in retail in Front Royal for many a year," Owens said of Foster. "There's so many memories. I guess his personality, his good humor. He thought a lot of this town. I don't know how many people knew it. He really thought a lot of Front Royal and wanted to do everything he could to promote Front Royal and make it a better place, especially for businesses."

William P. "Bill" Barnett will second that. Barnett said Foster was an integral part of the Citizens Economic Development Action Committee that tried to help turn around the economy of Warren County years ago.

Foster also was one of the main catalysts behind the redevelopment of the Avtex Superfund site, now known as Royal Phoenix, Barnett said.

"Fred was passionate about Front Royal and Warren County," Barnett said. "His passion was very [infectious]. His enthusiasm and his persistence were very instrumental in making an impact on the community, whether it was while he served on the Town Council or the redevelopment committee. When he decided to get involved in something, he got involved in it 100 percent and just gave everything he had. . . . We're going to miss Fred."

Craig Laird, owner of Royal Oak Computers on Main Street in Front Royal, agreed.

"Fred was a mainstay of Main Street," Laird said. "During the reconstruction of downtown in the mid 1980s, he was affectionately called the mayor of Main Street. He was a dear, dear friend and he will be greatly missed."

As president of Save Our Gateway, Laird also recalled when Foster was a member of the council in 2003 and deliberately missed meetings to help prevent the panel from having a quorum on a vote on Wal-Mart's commercial rezoning request on Strasburg Road.

"His bravery at standing up for his principles will also be remembered," Laird said.

Even though they were on opposite sides of the Wal-Mart issue, Councilman Hollis L. Tharpe, who served on the panel with Foster for two years, spoke highly of him.

"He was for the citizens," Tharpe said. "I don't think personally he ever had anything on his agenda, but every vote that he took, he took it the way he thought that the citizens would be best served. He was always available to talk to, whether it was town business or personal. He always had that big smile on his face even when he didn't like voting for something that he did."

Jean Plauger, owner of Jean's Jewelers on Main Street, also agreed about Foster's contributions, especially downtown. "A lot of things got done down here definitely because of Fred," she said.

"They call him the godfather of Main, the mayor of Main Street," she said. "Fred had a presence down here."

HONORING TWIN SISTERS HELEN ASHE AND ELLEN TURNER

HON. JOHN J. DUNCAN, JR.

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 17, 2011

Mr. DUNCAN of Tennessee. Mr. Speaker, I wish today to honor two of the most beloved people in my District.

Twin sisters Helen Ashe and Ellen Turner have been serving the homeless and winning over hearts in the City of Knoxville since they founded the Love Kitchen in 1986.

The Love Kitchen served just 22 meals the day it opened, but 25 years later, it now serves more than 2,000 meals each week to the homeless and homebound.

I have known Helen and Ellen for many years, and they are the kindest, most gracious and selfless people I know.

They live their life by the Love Kitchen's slogan: "Everybody is God's Somebody."

Over the years, their hard work and devotion to the less fortunate stoked the volunteer spirit of one of this Nation's great cities and turned the pair into local celebrities.

As the holidays near, it has become tradition to see Helen and Ellen on local television

pleading for help so that no one in need is turned away. And the good people of East Tennessee always deliver, donating supplies and offering volunteers in droves.

In fact, a few years ago my wife Lynn volunteered at the Love Kitchen, and she will never forget the experience.

Helen and Ellen always exercise a remarkable humility, redirecting any deserved attention showered on them back to the Love Kitchen and those it serves.

Today, they were guests on The Oprah Winfrey Show, and I am so thrilled and thankful that Ms. Winfrey took notice of these extraordinary sisters. Now, millions more outside of Tennessee have been touched and hopefully moved to similar community service by their story.

Reflecting on her upbringing as the daughter of a share cropper, Helen told the Knoxville News Sentinel in 2008, "The three truths daddy taught us were: There is but one Father, and that is the Father in heaven. There is but one race, and that is the human race, and he taught us not to take the last piece of bread from the table, because somebody may come by that is hungry."

Mr. Speaker, I urge my Colleagues and other readers of the RECORD to join me in recognizing Helen Ashe and Ellen Turner for their compassionate, life-long devotion to community service and unwavering faith in God.

On the occasion of their appearance on The Oprah Winfrey Show, I request that the Knoxville News Sentinel article celebrating their service to Knoxville be reprinted in the RECORD below.

[From the Knoxville News Sentinel, Dec. 31, 2008]

DRINNEN: "EVERYBODY IS GOD'S SOMEBODY" AT THE LOVE KITCHEN

(By Beth Drinnen)

"Everybody is God's Somebody." That's the slogan at The Love Kitchen in East Knoxville, and from the moment you walk in the building, you start to feel it. Complete strangers greeted me with smiles and a couple of "good morning, honey's," as I was wrapped in warm, welcoming hugs by both Helen Ashe and her twin sister, Ellen Turner, founders of The Love Kitchen.

Helen and Ellen were born in Abbeville, S.C. Their parents were share croppers. "We've been working since we were 8 years old," said Helen proudly. "My sister and I used to wash dishes for a contractor. He built a little step so that we could reach the sink easier. We made 50 cents a week," she said as she looked at Ellen and smiled.

The sisters moved to Knoxville in 1946 when they were 18 years old. "That's what our parents gave us as a graduation gift," said Ellen. "Our parents saved up a little bit of money and we were to choose where we wanted to live." They chose Knoxville because their favorite aunt, one of their father's sisters, Eva Ice, lived here.

"The three truths that my Daddy taught us were: There is but one Father, and that is the Father in Heaven. There is but one race, and that is the human race, and he taught us not to take the last piece of bread from the table, because somebody may come by that is hungry," said Helen.

People going hungry had always weighed on Helen's mind. "Every single day I would tell Ellen, 'One day, I'm going to do something about it,'" Ellen nodded her head.

"One night," Helen began, "I had a dream . . ."

Ellen quickly interrupted. "No, you let me tell that," she said, her eyes shining. "We

got a phone call early one morning," Ellen continued, "And my husband and I were still in bed. He said, 'Honey, Helen's on the phone and I can't understand a word she's saying.' I got on the phone and it was Helen, and honey, she was just babbling away. I said 'Honey, is Al okay?' Al was her husband, and I thought he was dead the way she was carrying on. I said, 'Helen, calm down.' And she said, 'Sis, I had an encounter with God last night. And I'm going to have that feeding program; I'm going to have a place where people can come and get something to eat.'" Ellen looked proudly at her sister. "And she does," she grinned.

The Love Kitchen first opened its doors in 1986 in the basement of a local church. They eventually moved out of that space and into several more before moving into their current location at 2418 Martin Luther King Jr. Ave., in 1994.

The bulk of their ministry involves delivering food to homebound people. The Love Kitchen delivers food each Thursday to approximately 2,200 homes. In addition to the meals they deliver, The Love Kitchen serves breakfast on Wednesday and lunch on Thursday to approximately 40 to 110 people each day. Wednesday afternoons are dedicated to handing out anywhere from 60 to 150 food bags to the homeless or needy in the community. The bags usually contain enough food to last the recipients a week. They also hand out hygiene bags to new patrons at the Kitchen, and recently handed out approximately 300 blankets to the homeless.

If Helen and Ellen are the heart of The Love Kitchen, the volunteers are the lifeblood. Most begin volunteering because they want to help the less fortunate, but wind up staying because they love Helen and Ellen so much. The University of Tennessee's chapter of Phi Gamma Delta Fraternity has been sending volunteers to help pack food bags for the past fifteen years. "It's good to come here and . . . do something nice for someone less fortunate," said volunteer and Phi Gamma Delta Tyler Bowland.

"I like to come to see Helen and Ellen," said volunteer and Phi Gamma Delta Matt Baumgartner, then he laughed. "Seeing what they do here everyday, I think it's a good thing to come and help her out!" He smiled, "They have been a blessing to a lot of people."

RE-INTRODUCTION OF THE EQUITABLE TREATMENT OF INVESTORS ACT

HON. SCOTT GARRETT

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 17, 2011

Mr. GARRETT. Mr. Speaker, late in the 111th Congress, I introduced, with co-sponsors, Mr. KING of New York and Ms. ROSELEHTINEN of Florida, the Equitable Treatment of Investors Act (H.R. 6531). This bill reaffirmed and clarified the key protections for securities investors intended by Congress in the 1970 enactment of the Securities Investor Protection Act (SIPA) and major amendments to that Act in 1978.

Today I reintroduce that legislation with clarifying amendments. The central purpose of the legislation is to reaffirm the original Congressional intent on two key aspects of the administration of SIPA in the liquidation of a bankrupt broker-dealer firm. First, as a general matter, the determination of customer "net equity" shall rely on the final account statement received from the debtor prior to closing, plus

any additional supporting documents, such as trade confirmations. Second, and again as a general matter, avoidance actions, or "clawbacks", to recover property transferred to the customer prior to closing shall be prohibited. While I emphasize these clarifications simply reaffirm current law, the actions and interpretations of SIPA being made by the Securities Investor Protection Corporation (SIPC) and the Trustee appointed for the Bernard L. Madoff Investment Securities LLC (BLMIS) liquidation proceeding make the passage of this legislation important and necessary.

In this legislation, there are important exceptions to those two general customer protections that deny that beneficial treatment to any customer who knew of or was complicit in the fraudulent activity of the debtor and to any customer who, as a registered professional in the securities markets, with the requisite knowledge of these matters, knew or should have known of the debtor's fraudulent activities and failed to notify appropriate regulatory authorities. This portion of the bill's language is meant to assure that SIPC and the receivership Trustee have fully adequate legal powers to act against customers undeserving of SIPA's investor protections.

While this clarifying legislation is intended to have general application to all broker-dealer bankruptcies involving debtor fraud, introduction at this time is directly related to the failure of SIPC and its Trustee to fairly and adequately act to provide statutorily mandated and intended SIPA protections to the several thousand innocent customers defrauded by Bernard Madoff in the operations of his investment advisory and broker-dealer firm, BLMIS. Compounding the grievous shortcomings of SIPC to respond promptly and usefully to these customers' financial plight is the well-documented failures by the SEC and FINRA, the regulatory overseers of BLMIS, to detect and end the Madoff fraud over a period of 25 or more years.

Given the colossal regulatory oversight failure and SIPC neglect in assessing broker-dealer firms at a level commensurate with the dramatic growth of the securities markets and the participating broker-dealer firms, it would be reasonable to expect that SIPC and the SEC would have made exceptional efforts to make a rapid and comprehensive response to the financial needs of the Madoff victims. That has not been the case. Quite the contrary, in fact, has occurred. SIPC has denied protection to over half the accounts at closing, in direct violation of the legal mandates of SIPA as currently in affect; provided full protection to only 25% of accounts; taken nearly two years to pay advances to the limited group deemed eligible; and threatened to claw back funds from roughly 1000 innocent customers.

So that my colleagues may judge for themselves the urgent need for this Congressional intervention, let me highlight key factors supporting this need for action.

The legislative record surrounding the enactments of the 1970 Act and the 1978 amendments is replete with statements from the legislative floor managers, active supporters, committee reports, the Treasury, the SEC, and securities industry spokespeople likening the intended SIPC protection to the bank customer protection offered by the FDIC. Likewise, the legislative history emphasizes protection of all innocent customers from brokerage failure, with particular mention of small,

unsophisticated customers, and the need for prompt action by SIPC in payment of advances for relief of individuals, understandably devastated by the sudden loss of key financial assets.

Critically, Congress recognized the need for restoring investor confidence in the financial markets at a time when the financial industry was under tremendous duress and overwhelmed by the paperwork crunch caused by the processing of physical securities. Theft and misplacement of securities, failures of trade executions, and insolvencies were commonplace. Amidst the backdrop of several popular Ponzi schemes and brokerage failures was SIPC born.

For the customer of a bankrupt broker-dealer firm to qualify for SIPC protection, it is necessary for the customer's account at closing to have a positive "net equity" determined by subtracting any outstanding obligation of the customer to the firm from the amount the firm "owed" the customer. For the forty years of SIPC's existence, it has been the standard practice in making that simple calculation to use the firm's most recent account statement to the customer, usually supported by trade confirmations, if any, relevant to the final statement's presentation of holdings and values. Not surprisingly, this is the outcome required by law. Under the legal regime governing the relationship between brokers and customers, it is indisputable that the broker owes the customer the amount reflected on the customer's account statement. Indeed, in a world where customers and, generally speaking, brokers do not hold physical securities, it could not be any other way.

Given the move away from the possession and trading ownership of actual securities to a "book entry" system based on the essential trust of validity of those account statements, no customer would, therefore, have any reason to believe they would not be protected based upon their account statements and confirmations. In the SIPC receivership for the Madoff firm, however, the practices have been inconsistent with the law and quite different and contrary to the repeated assertions of SIPC and its Trustee, never to the ultimate benefit of the innocent individual customer.

Rather than using the customer's final account statement—consistent with "reasonable expectations" of a customer—the SIPC Trustee has ignored the statutory requirement of SIPA and has devised a "cash-in/cash-out" formulation (CICO) to determine a customer's "net equity". To suggest that the Securities Investor Protection Act would have the effect of denying customers their legal right to rely on their account statement is counterintuitive. This formulation was developed from a position of hindsight once the Trustee, his lawyers, and forensic accountants were inside the Madoff firm and learned that no trades had been made by the firm for customers.

Even though customers had regularly received monthly account statements showing trades and holdings in "real securities" (often blue chips in the Dow 100) that were supported periodically by trade confirmations in those stocks, the Trustee declared that all transactions were "fictitious" and that statutory words such as "owed" and "positions" had no meaning. He further has asserted that in a Ponzi scheme the customer has no basis for "reasonable expectation"—a public utterance which will destroy the public's confidence in