

legislation that we intend to incorporate into the bill at the Banking Committee mark-up.

On a separate but related issue, we are aware of the Commission's long-standing concern with respect to the potential scienter requirements under a national standard for litigation. We understand that this concern arises out of certain district courts' interpretation of the Private Securities Litigation Reform Act of 1995. In that regard, we emphasize that our clear intent in 1995—and our understanding today—was that the PSLRA did not in any way alter the scienter standard in federal securities fraud suits. It was our intent, as we expressly stated during the legislative debate in 1995, particularly during the debate on overriding the President's veto, that the PSLRA adopt the pleading standard applied in the Second Circuit. Indeed, the express language of the statute itself carefully provides that plaintiffs must "state with particularity facts giving rise to a strong inference that the defendant acted with the required state of mind"; the law makes no attempt to define that state of mind. We intend to restate these facts about the '95 Act in both the legislative history and the floor debate that will accompany S. 1260, should it be favorably reported by the Banking Committee.

Sincerely,

ALFONSE M. D'AMATO,
*Chairman, Committee
on Banking, Housing
& Urban Affairs.*

PHIL GRAMM,
*Chairman, Subcommittee
on Securities.*

CHRISTOPHER J. DODD,
*Ranking Member, Sub-
committee on Securi-
ties.*

SECURITIES AND EXCHANGE
COMMISSION,
Washington, DC, March 24, 1998.

Hon. ALFONSE M. D'AMATO,
*Chairman, Committee on Banking, Housing,
and Urban Affairs,*

U.S. Senate, Washington, DC.

Hon. PHIL GRAMM,

*Chairman, Subcommittee on Securities,
U.S. Senate, Washington, DC.*

Hon. CHRISTOPHER J. DODD,

*Ranking Member, Subcommittee on Securities,
U.S. Senate, Washington, DC.*

DEAR CHAIRMAN D'AMATO, CHAIRMAN GRAMM, AND SENATOR DODD: You have requested our views on S. 1260, the Securities Litigation Uniform Standards Act of 1997, and amendments to the legislation which you intend to offer when the bill is marked-up by the Banking Committee. This letter will present the Commission's position on the bill and proposed amendment.*

The purpose of the bill is to help ensure that securities fraud class actions involving certain securities traded on national markets are governed by a single set of uniform standards. While preserving the right of individual investors to bring securities lawsuits wherever they choose, the bill generally provides that class actions can be brought only in federal court where they will be governed by federal law.

As you know, when the Commission testified before the Securities Subcommittee of the Senate Banking Committee in October 1997, we identified several concerns about S. 1260. In particular, we stated that a uniform standard for securities fraud class actions that did not permit investors to recover losses attributable to reckless misconduct

would jeopardize the integrity of the securities markets. In light of this profound concern, we were gratified by the language in your letter of today agreeing to restate in S. 1260's legislative history, and in the expected debate on the Senate floor, that the Private Securities Litigation Reform Act of 1995 did not, and was not intended to, alter the well-recognized and critically important scienter standard.

Our October 1997 testimony also pointed out that S. 1260 could be interpreted to preempt certain state corporate governance claims, a consequence that we believed was neither intended nor desirable. In addition, we expressed concern that S. 1260's definition of class action appeared to be unnecessarily broad. We are grateful for your responsiveness to these concerns and believe that the amendments you propose to offer at the Banking Committee mark-up, as attached to your letter, will successfully resolve these issues.

The ongoing dialogue between our staffs has been constructive. The result of this dialogue, we believe, is an improved bill with legislative history that makes clear, by reference to the legislative debate in 1995, that Congress did not alter in any way the recklessness standard when it enacted the Reform Act. This will help to diminish confusion in the courts about the proper interpretation of that Act and add important assurances that the uniform standards provided by S. 1260 will contain this vital investor protection.

We support enactment of S. 1260 with these changes and with this important legislative history.

We appreciate the opportunity to comment on the legislation, and of course remain committed to working with the Committee as S. 1260 moves through the legislative process.

Sincerely,

ARTHUR LEVITT,
Chairman,
ISAAC C. HUNT, JR.,
Commissioner.
LAURA S. UNGER,
Commissioner.

Mr. THOMAS. Mr. President, I ask unanimous consent that the conference report be agreed to, the motion to reconsider be laid upon the table, and any statements relating to the conference report appear at this point in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The conference report was agreed to.

Mr. THOMAS. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DASCHLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. THOMAS). Without objection, it is so ordered.

Mr. DASCHLE. Mr. President, I want to congratulate the Presiding Officer for his work in disposing of the conference report on S. 1260, the securities litigation legislation. I appreciate very much that at long last this legislation is now going to become law. This is a bill that is widely supported on both sides of the aisle.

A number of Senators have had a lot of opportunities to take some respon-

sibility for the fact that this passed. I want to cite one Senator, in particular, who deserves great credit. That is the Senator from California, Senator BOXER. She has been a persistent advocate and one who has been extraordinarily engaged in this matter now for some time. I talked with her again this morning because she was calling about the status of the legislation. I was able to report that it was my expectation we would be able to finish our consideration of the bill today, and thanks to the agreement we have been able to reach on both sides of the aisle with Senators who have been as involved as the Senator from Wyoming has, we have now reached this point.

I congratulate all who have had a part to play in our success, and particularly the Senator from California, for her persistence, for her leadership, and the effort she has made to bring us to this point.

I yield the floor and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DEWINE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

HONORING WALTER SELLERS

Mr. DEWINE. Mr. President, I rise today to pay tribute to the distinguished career of Walter G. Sellers of Wilberforce, Ohio—who has recently completed his term as president of Kiwanis International.

Mr. Sellers is the first African-American to serve as Kiwanis International President. For 32 years, he was a member of the Kiwanis Club in Xenia, Ohio. In 1990, he was elected to the Kiwanis International Board of Trustees. He served as Vice President and Treasurer before becoming President.

All Ohioans are proud of Mr. Sellers' outstanding stewardship of one of the largest service clubs in the world. But we also know that his service to our community extends beyond his work with the Kiwanis organization. He has served as President of the Xenia Board of Education and President of the Ohio School Boards Association. And he has done great work on many other public-service boards in Ohio.

Walter Sellers has dedicated his life to improving the lives of the people of Ohio, especially in the field of education. We are all extremely grateful for his efforts—and I ask my colleagues to join me in wishing him all the best in his next endeavors.

Mr. President, on a personal note, I have known Walt Sellers for many, many years as a community leader in my home county of Greene County. I also have known Walt for the great work he has done at Central State. I know when I served on the Board of Trustees at Central State in the late

* We understand that Commissioner Johnson will write separately to express his differing views. Commissioner Carey is not participating.

1970s, Walter was there to help guide. So he has been a great asset to that wonderful institution as well.

STAFF TRIBUTE TO SENATOR
JOHN GLENN

Mr. DEWINE. Mr. President, as my colleagues well know, my distinguished colleague from Ohio, JOHN GLENN, is busily preparing for his extraordinary and inspirational return to space. As our best wishes are with him and his wife Annie as they begin the next chapter in their wonderful lives, I would like to take a moment to read a fine tribute to Senator GLENN by those who also dedicated their lives to public service—as members of JOHN GLENN's staff. I am honored to read the following letter addressed to him:

OCTOBER 9, 1998.

The Hon. JOHN GLENN,
U.S. Senator, Washington, DC.

DEAR SENATOR: As your four terms in the United States Senate come to a close and as you prepare to return to space for the first time since your historic 1962 orbital flight, those who have had the honor and the privilege to serve as members of your Senate staff would like to express our gratitude to you.

Although there have been many staff changes over the years, you have allowed us to pursue extraordinary careers in government and experience opportunities that few can ever know. Some of us have been on your staff since 1975 and many more have served well beyond the average tenure. Beyond our professional careers, you and Annie have made us feel welcome. You generously shared your time with us as our families and children have grown. Your commitment to family is evident in your 55 years of marriage to Annie and that example must have contributed to the eight office marriages in which both spouses first met as staff members.

We have always been proud to assist a public servant who is held in such high regard. We witnessed that admiration and respect firsthand as we accompanied you in your travels throughout the country and around the world and when we see the many people who come to your offices to conduct business.

Your patriotic service in war and peace, in space and in the Senate is an inspiration to us. While you remind us that there may be no cure for the common birthday, you have proven time and again that with determination and hard work dreams do come true.

Thank you for helping our dreams come true, too. Godspeed John Glenn.

Mary Jane Veno, 1975; Christine S. McCreary, 1975; Patricia J. Buckheit, 1975; Ernestine J. Hunter, 1975; Barbara Perry, 1975; Diane Lifsey, 1975; Kathy Connolly, 1975; Linda K. Dillon, 1977; Dale Butland, 1980; Peggy McCauley, 1980.

Ron Grimes, 1984; Kathleen Long, 1984; Don Mitchell, 1984; Michael Slater, 1985; Rosemary Matthews, 1985; Peter McAlister, 1987; Jack Sparks, 1989; Micolle C. Dauray, 1989; Shannon L. Watson, 1989; Tonya McKirgan, 1990.

Suzanne McKenna, 1990; Sebastian O'Kelly, 1990; Vicki Butland, 1991; Nathan Coffman, 1992; Holly Koerber, 1993; Mike Entinghe, 1993; Vickie Eckard, 1993; Bryce Level, 1993; J.P. Stevens, 1994.

Kevin Cooper, 1995; Alberta Easter, 1995; Holly Kinnamon, 1996; Jan Papez, 1995; Ayris Price, 1996; David McCain, 1997; Yolanda Brock, 1997; Jill Jacobs, 1997; Dan Emerine, 1997.

Marc Saint Louis, 1997; Coleen Mason, 1997; Rochelle Sturtevant, 1997; Elizabeth Stein, 1997; John Hoctor, 1997; Rob Mosher, 1997; Mary Goldberg, 1998; Maggie Diaz, 1998; Christopher Davis, 1998.

Mr. President, all of us share the sentiments expressed in this heart-warming tribute. It is a reminder of how fortunate we are to have the opportunity to work with dedicated staff who share our pride in representing our fellow citizens in the United States Senate.

ASTHMA

Mr. DEWINE. Mr. President, I rise today to talk about a landmark report released a week ago about asthma, and about how well we as a Nation are dealing with it. The report, called "Asthma in America", frankly concludes that we are doing a poor job. Asthma is a disease that we know how to treat and that we know how to manage. But every year, thousands of Americans die from asthma—and millions more have to be rushed to hospitals to treat emergency asthma symptoms. Let me repeat—we have people dying from asthma—even though we know how to treat this disease. This really is something that we as a nation must address.

Mr. President, there's been enough public attention about asthma that I would hope we all know the basics by now. But let me restate some basic facts. Asthma is a chronic lung disease caused by inflammation of the lower airways. During an asthma attack, these airways narrow—making it difficult and sometimes impossible to breathe.

Nearly 15 million Americans have asthma—and 5 million of them are children. For some reason, the prevalence of asthma is rising—in the last two decades, the number of asthma cases have doubled.

The good news for the 15 million Americans with asthma is that we know a lot about how to treat and manage the disease. We know how to handle asthma attacks once they occur. The most common way, of course, is to use one of the types of asthma inhalers, inhalers such as the one I carry with me just about every day. Millions of Americans use this type of inhaler. Importantly, we now know a lot about how to prevent asthma attacks. Through drug therapy and through avoiding many well-known triggers that cause asthma attacks, we know enough to make sure these attacks and other complications from asthma are rare indeed. In fact, our knowledge is comprehensive enough that the National Institutes of Health have set some ambitious—but reachable—goals for asthma treatment. For example, one of the NIH goals is zero missed days of school or work. Given what we know, we should be able to reach this and the other goals NIH has set. At a minimum, we should be able to come close.

But the bad news for Americans with asthma is that we are not managing this disease well—and we are not com-

ing anywhere close to meeting the NIH goals. This is the bad news that was spelled out very clearly in the Asthma in America report. Let me go over a few of the findings from the report.

The NIH goal is that Americans with asthma miss zero days of work or school. But the report tells us that 49 percent of children with asthma and 25 percent of adults with asthma missed school or work because of the disease last year.

The NIH goal is that the sleep of people with asthma should not be disrupted by difficulty to breathe. But the report tells us that almost one in three asthma patients awoken with breathing problems at least once a week.

The NIH goal is that we have only a small need for emergency room visits or hospitalizations due to asthma attacks. But the report tells us that nearly six million Americans were hospitalized, treated in emergency rooms, or required other urgent care for asthma in the last year. One out of every three children with asthma—about 1.5 million of them—had to go to an emergency room because of asthma.

The NIH goal is that individuals with asthma should be able to maintain normal activity levels. But the Asthma in America survey shows that 48 percent of asthma patients say that asthma limits their ability to participate in sports and recreational activities, and 36 percent have difficulty maintaining their usual levels of physical activity.

Mr. President, all of this is simply unacceptable. If we know how to do better, we must do better. As a nation, we need to seriously evaluate why these shortcomings in the treatment of asthma remain—despite the fact that we do know better. All of us—policy-makers; doctors; health insurance companies and HMOs; people with asthma and parents of children with asthma—all of us need to look at this report and try to figure out what's going wrong.

The report released Tuesday should be viewed as a wake-up call. We knew there were some problems with how well we deal with asthma, but I don't think anybody realized it was this bad. We must and can do better.

For example, Asthma in America suggests that one of the reasons we are not meeting the national goals for asthma is lack of knowledge among patients. Many of the survey participants were not able to state what the underlying cause of asthma is, how asthma medication should be used, and how to prevent asthma attacks from occurring. It is clear that we should be doing a better job of educating patients, their families and health care providers about the importance of properly managing asthma.

As a United States Senator, as an American with asthma, and as the father whose children have had asthma, I intend to look at this issue to see what I can do personally and what the federal government can do to address the shortcomings in asthma treatment this