

the lawsuit's proceeds between them, while shutting out ordinary investors. Essentially, the lead plaintiff agreed to an unreasonably high attorneys' fee, with the understanding that the law firm would funnel a portion of that fee back to the lead plaintiff. Thus, the lawyers were overcompensated and the lead plaintiffs received a disproportionate share of the proceeds of the lawsuit. Ordinary investors, who the class action system is designed to protect, bore the costs of these illegal arrangements.

Today, William Lerach, once a name partner at the law firm of Milberg, Weiss, Bershad, Hynes & Lerach LLP, reports to the United States Penitentiary in Lompoc, California, after pleading guilty to entering into this type of illegal kickback arrangement with lead plaintiffs. Next month, his former law partner Melvyn Weiss will be sentenced for the same crime. But there is reason to believe that this criminal activity is not limited to a few bad actors. Indeed, Mr. Lerach, unrepentant about having defrauded thousands of investors out of millions of dollars, has tried to defend himself on the basis that "everybody does it." "Believe me," Mr. Lerach told the Wall Street Journal, "it was industry practice."

There have been many calls for reform to address this potentially widespread criminal practice. Last month, The Washington Post editorialized in response to the Milberg Weiss scandal that "What is needed now is a sober discussion about how best to achieve a fairer, more balanced legal system through comprehensive tort reform.... Smart and ethical businesspeople and lawyers—and, yes, there are many who fit the bill—would be wise to start working together to craft such a fix." This bill opens that discussion.

The bill that I introduce today seeks to prevent securities litigation abuse by making two major reforms that directly address the two core problems that have led to this scandal—the potential for backdoor arrangements between lead plaintiffs and class counsel, and the resulting risk that lead plaintiffs will enter fee agreements that pay the lawyers more than the market rate.

The bill would require sworn certifications from lead plaintiffs and their attorneys disclosing: (a) any payments or promises of payment made by the attorney to the plaintiff in connection with the action; (b) any other legal representations of the plaintiff by the attorney; (c) any campaign contributions the attorney has made to any elected official with authority to retain counsel for the plaintiff; and (d) any other conflicts of interest. This disclosure would put an end to secret agreements where plaintiffs' lawyers pay kickbacks to the lead plaintiffs who retain them. These secret arrangements divorced the interests of both the lawyers and the lead plaintiffs from the interests of the class as a whole. Full dis-

closure will prevent this situation from recurring.

The bill would also require courts to employ a competitive bidding process as one of the criteria in the approval of the lead class counsel. In current practice, courts usually defer to the lead plaintiff's choice of class counsel after reviewing the prospective lead counsel's prior work on the case, experience, knowledge, and resources. The bill would require that courts also consider the prospective lead counsel's fees, and have courts solicit competitive bids so that those fees are based on market rates. The class members deserve to be represented at a reasonable market rate. Money that goes to the lawyers is money that never makes it to the ordinary shareholders who are the victims of securities fraud. Currently, courts review attorneys' fees for reasonableness before the fees are paid at the conclusion of the case. This provision would allow courts to negotiate a reasonable fee at the threshold of the litigation.

Finally, the bill would commission a study of the last 5 years of fee awards in securities class actions to determine the average hourly rate for lead counsel. Courts may be able to use this information to better rein-in excessive attorneys' fees.

It is important that corporations be held accountable through securities fraud litigation when they cheat ordinary shareholders out of their hard-earned money. But it is equally important that attorneys be held accountable when they do the same thing. The recent securities litigation kickback scandals ought to spur Congress to action, especially because, at least according to Mr. Lerach, defrauding shareholders has become "industry practice" for securities plaintiffs' lawyers. Fortunately, Mr. Lerach and Mr. Weiss have been brought to justice, but their shareholder victims will never see all of the money out of which they were cheated by these attorneys' crimes. The Securities Litigation Attorney Accountability and Transparency Act will help prevent these crimes against ordinary Americans from being repeated in the future. I urge my Senate colleagues to quickly convene hearings on this very serious problem and move this new legislation forward.

#### SUBMITTED RESOLUTIONS

SENATE RESOLUTION 569—EX-PRESSING THE SENSE OF THE SENATE REGARDING THE EARTHQUAKE THAT STRUCK SICHUAN PROVINCE OF THE PEOPLE'S REPUBLIC OF CHINA ON MAY 12, 2008

Mrs. BOXER (for herself, Ms. MURKOWSKI, Mr. BIDEN, Mr. LUGAR, Mr. CASEY, Mr. CARDIN, Mr. FEINGOLD, Mr. KERRY, Mrs. MURRAY, Mr. LIEBERMAN, Mr. DODD, Mr. WHITEHOUSE, Mr. DUR-

BIN, Ms. CANTWELL, Mr. ISAKSON, Mrs. CLINTON, Mr. SANDERS, Mrs. FEINSTEIN, Mr. LEAHY, Mr. OBAMA, and Mr. MENENDEZ) submitted the following resolution; which was considered and agreed to:

S. RES. 569

Whereas, on May 12, 2008, a powerful earthquake measuring 7.9 on the Richter Scale struck Wenchuan County in the Sichuan Province of the People's Republic of China, leaving at least 34,000 people dead, 245,000 people injured, and an estimated 5,000,000 people homeless;

Whereas authorities of the Government of the People's Republic of China report that approximately 9,500 people remain buried in Sichuan Province and another 29,000 people remain missing;

Whereas authorities of the Government of the People's Republic of China report that the final death toll is expected to exceed 50,000;

Whereas authorities of the Government of the People's Republic of China also report that as many as 4,700,000 homes were destroyed in Sichuan, Gansu, and Shaanxi Provinces and nearly 80 percent of the buildings collapsed in Beichuan County;

Whereas the sheer devastation caused by the earthquake and inclement weather has made rescue efforts exceptionally difficult, particularly in the areas hardest hit by the earthquake;

Whereas authorities of the Government of the People's Republic of China report that 158 relief workers were killed in landslides while working to repair roads in the areas most devastated by the earthquake;

Whereas the Seismological Bureau of the People's Republic of China reports that the earthquake has affected more than half of China's provinces and municipalities;

Whereas authorities of the Government of the People's Republic of China report that more than 2,000 aftershocks have occurred in the aftermath of the earthquake, some greater than a magnitude of 6.0 on the Richter Scale;

Whereas authorities of the Government of the People's Republic of China also report that 6,898 schoolrooms collapsed in Sichuan Province, trapping and killing hundreds of young students and their teachers;

Whereas the earthquake of May 12, 2008, was China's deadliest natural disaster since 1976, when hundreds of thousands of people were killed by an earthquake that struck the city of Tangshan;

Whereas, on May 12, 2008, President George W. Bush said that the United States "stands ready to help in any way possible"; and

Whereas the Prime Minister of China, Wen Jiabao, said on May 13, 2008, that "[t]he death toll and damage are more serious than we expected and we need more people here to help": Now, therefore, be it

*Resolved*, That the Senate—

(1) mourns the horrific loss of life and terrible human suffering caused by the earthquake in the People's Republic of China on May 12, 2008;

(2) expresses its deep condolences to the people of the People's Republic of China and to all those affected by this enormous tragedy;

(3) expresses its profound sorrow for the families of all who lost loved ones, including those who suffered the heartbreaking loss of having their children trapped in schools that collapsed;

(4) calls on the President to respond to any requests for humanitarian assistance made by the Government of the People's Republic of China; and

(5) stands ready to support the provision of additional resources, as necessary, to assist those impacted by the earthquake.

**SENATE RESOLUTION 570—CONGRATULATING ALBANIA AND CROATIA ON BEING INVITED TO BEGIN ACCESSION TALKS WITH THE NORTH ATLANTIC TREATY ORGANIZATION AND EXPRESSING SUPPORT FOR CONTINUING TO ENLARGE THE ALLIANCE**

Mr. VOINOVICH (for himself, Mr. LUGAR, Mr. LIEBERMAN, and Mr. BIDEN) submitted the following resolution; which was considered and agreed to:

S. RES. 570

Whereas the North Atlantic Treaty Organization (NATO) met in April 2008 to enlarge the alliance, to reaffirm the purpose of NATO to defend the populations, territories, and forces in the Euro-Atlantic region, and to further strengthen the ability of NATO to confront existing and emerging 21st-century security threats;

Whereas NATO invited Albania and Croatia to begin accession talks to join NATO and indicated that those talks will begin immediately, with the aim of signing Accession Protocols by the end of July 2008 and completing the ratification process without delay;

Whereas NATO expressed recognition of the hard work and commitment demonstrated by other countries that aspire to join NATO and commended those countries for their efforts to build multiethnic societies;

Whereas NATO agreed that Ukraine and Georgia have made valuable contributions to NATO operations, expressed clear support for the applications for Membership Action Plans from Ukraine and Georgia as the next step to full membership, and stated that NATO will begin a period of intensive engagement with Ukraine and Georgia to assess those applications for the December 2008 meeting;

Whereas NATO invited Bosnia and Herzegovina and Montenegro to begin an Intensified Dialogue on the full range of political, military, financial, and security issues relating to their aspirations to join NATO;

Whereas NATO expressed the desire to develop an ambitious and substantive relationship with Serbia, making full use of Serbia's membership in the Partnership for Peace, and to make more progress toward integrating Serbia into the Euro-Atlantic community, including through an Intensified Dialogue following a request by Serbia; and

Whereas NATO's ongoing enlargement process has been a historic success in advancing stability and cooperation and reaching the transatlantic goal of ensuring that Europe is whole and free, and united in peace, democracy, and common values: Now, therefore, be it

*Resolved*, That the Senate—

(1) congratulates Albania and Croatia on being invited by the North Atlantic Treaty Organization (NATO) to begin accession talks and recognizes the historic nature of that achievement, earned through years of hard work and a demonstrated commitment to common security and the shared values of NATO members;

(2) expresses strong support for the timely completion of the accession process with Albania and Croatia;

(3) fully supports the invitations to initiate an Intensified Dialogue between NATO and Bosnia and Herzegovina, Montenegro, and Serbia;

(4) continues to strongly support the aspirations of Ukraine and Georgia to become integrated into the Euro-Atlantic community, as reaffirmed in Senate Resolution 523, 110th Congress, agreed to April 28, 2008;

(5) supports the enlargement of NATO and believes that continued engagement with all countries that aspire to join NATO will strengthen security for all countries in the Euro-Atlantic region;

(6) supports the declaration of NATO at the Bucharest Summit, which states that NATO's door should remain open to European democracies willing and able to assume the responsibilities and obligations of membership, in accordance with Article 10 of the North Atlantic Treaty, signed at Washington April 4, 1949 (TIAS 1964); and

(7) affirms the statement in that declaration that any decision with respect to the membership of countries in NATO will be made through consensus, by members of NATO, and no country outside of NATO has a vote or veto with respect to such decisions.

**AMENDMENTS SUBMITTED AND PROPOSED**

SA 4786. Mr. BYRD submitted an amendment intended to be proposed by him to the House amendment numbered 1 to the amendment of the Senate to the bill H.R. 2642, making appropriations for military construction, the Department of Veterans Affairs, and related agencies for the fiscal year ending September 30, 2008, and for other purposes; which was ordered to lie on the table.

SA 4787. Mr. BYRD submitted an amendment intended to be proposed by him to the House amendment numbered 2 to the amendment of the Senate to the bill H.R. 2642, supra; which was ordered to lie on the table.

SA 4788. Mr. BYRD submitted an amendment intended to be proposed by him to the House amendment to the amendment of the Senate to the bill H.R. 2642, supra; which was ordered to lie on the table.

**TEXT OF AMENDMENTS**

SA 4786. Mr. BYRD submitted an amendment intended to be proposed by him to the House amendment numbered 1 to the amendment of the Senate to the bill H.R. 2642, making appropriations for military construction, the Department of Veterans Affairs, and related agencies for the fiscal year ending September 30, 2008, and for other purposes; which was ordered to lie on the table; as follows:

In lieu of the language proposed to be inserted, insert the following:

**TITLE I**

**OTHER SECURITY, MILITARY CONSTRUCTION, AND INTERNATIONAL MATTERS**

**CHAPTER 1**

**DEPARTMENT OF AGRICULTURE**

**FOREIGN AGRICULTURAL SERVICE**

**PUBLIC LAW 480 TITLE II GRANTS**

For an additional amount for "Public Law 480 Title II Grants", \$850,000,000, to remain available until expended.

For an additional amount for "Public Law 480 Title II Grants", \$395,000,000, to become available on October 1, 2008, and to remain available until expended.

**CHAPTER 2**

**DEPARTMENT OF JUSTICE**

**GENERAL ADMINISTRATION**

**OFFICE OF INSPECTOR GENERAL**

For an additional amount for the Office of the Inspector General, \$4,000,000, to remain available until September 30, 2009.

**LEGAL ACTIVITIES**

**SALARIES AND EXPENSES, GENERAL LEGAL ACTIVITIES**

For an additional amount for "Salaries and Expenses, General Legal Activities", \$1,648,000, to remain available until September 30, 2009.

**SALARIES AND EXPENSES, UNITED STATES ATTORNEYS**

For an additional amount for "Salaries and Expenses, United States Attorneys", \$5,000,000, to remain available until September 30, 2009.

**UNITED STATES MARSHALS SERVICE**

**SALARIES AND EXPENSES**

For an additional amount for "Salaries and Expenses", \$18,621,000, to remain available until September 30, 2009.

**FEDERAL BUREAU OF INVESTIGATION**

**SALARIES AND EXPENSES**

For an additional amount for "Salaries and Expenses", \$164,965,000, to remain available until September 30, 2009.

For an additional amount for "Salaries and Expenses", \$82,600,000, to become available on October 1, 2008 and to remain available until September 30, 2009.

**DRUG ENFORCEMENT ADMINISTRATION**

**SALARIES AND EXPENSES**

For an additional amount for "Salaries and Expenses", \$22,666,000, to remain available until September 30, 2009.

**BUREAU OF ALCOHOL, TOBACCO, FIREARMS AND EXPLOSIVES**

**SALARIES AND EXPENSES**

For an additional amount for "Salaries and Expenses", \$4,000,000, to remain available until September 30, 2009.

**FEDERAL PRISON SYSTEM**

**SALARIES AND EXPENSES**

For an additional amount for "Salaries and Expenses", \$9,100,000, to remain available until September 30, 2009.

**CHAPTER 3**

**MILITARY CONSTRUCTION**

**MILITARY CONSTRUCTION, ARMY**

For an additional amount for "Military Construction, Army", \$1,170,200,000: *Provided*, That such funds may be obligated and expended to carry out planning and design and military construction projects not otherwise authorized by law: *Provided further*, That of the funds made available under this heading, \$1,033,000,000 shall remain available until September 30, 2009, and \$137,200,000 shall remain available until September 30, 2012: *Provided further*, That funds made available under this heading for military construction projects in Iraq shall not be obligated or expended until the Secretary of Defense certifies to the Committees on Appropriations of both Houses of Congress that none of the funds are to be used for the purpose of providing facilities for the permanent basing of U.S. military personnel in Iraq.

**MILITARY CONSTRUCTION, NAVY AND MARINE CORPS**

For an additional amount for "Military Construction, Navy and Marine Corps", \$300,084,000: *Provided*, That such funds may be obligated and expended to carry out planning and design and military construction projects not otherwise authorized by law: *Provided further*, That of the funds made available under this heading, \$270,785,000 shall remain available until September 30, 2009, and \$29,299,000 shall remain available until September 30, 2012.

**MILITARY CONSTRUCTION, AIR FORCE**

For an additional amount for "Military Construction, Air Force", \$361,900,000: *Provided*, That such funds may be obligated and