

107<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 5496

To permit certain funds assessed for securities laws violations to be used to compensate employees who are victims of excessive pension fund investments in the securities of their employers, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 26, 2002

Mr. TIAHRT introduced the following bill; which was referred to the Committee on Financial Services, and in addition to the Committee on House Administration, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To permit certain funds assessed for securities laws violations to be used to compensate employees who are victims of excessive pension fund investments in the securities of their employers, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Justice for Victims  
5 of Corporate Fraud Act”.

1 **SEC. 2. SECURITIES AND EXCHANGE COMMISSION AUTHOR-**  
2 **ITY TO PROVIDE RELIEF.**

3 (a) PROCEEDS OF S.E.C. ENFORCEMENT AC-  
4 TIONS.—If in any administrative or judicial proceeding  
5 brought by the Securities and Exchange Commission  
6 against—

7 (1) a corporation, or any officer, director, or  
8 principal shareholder of such corporation, for any  
9 violation of the securities laws; or

10 (2) the accounting firm performing audit serv-  
11 ices for such corporation, any subsidiary or affiliate  
12 of such firm, or any general or limited partner of  
13 such firm, subsidiary, or affiliate, for any violation  
14 of the securities laws with respect to any audit serv-  
15 ices performed for or in relation to the corporation  
16 described in paragraph (1);

17 the Commission obtains an order providing for an account-  
18 ing and disgorgement of funds, such disgorgement fund  
19 (including any addition to such fund required or permitted  
20 under this section) shall be allocated in accordance with  
21 the requirements of this section.

22 (b) PRIORITY FOR FORMER EMPLOYEES OF COR-  
23 PORATION.—The Commission shall, by rule, establish an  
24 allocation system for the disgorgement fund. Such system  
25 shall provide that, in allocating the disgorgement fund  
26 amount to the victims of the securities laws violations, the

1 first priority shall be given to individuals who were em-  
2 ployed by the corporation described in subsection (a)(1)  
3 or a subsidiary or affiliate of such corporation, and who  
4 were participants in an individual account plan established  
5 by such corporation, subsidiary, or affiliate. Such alloca-  
6 tions among such individuals shall be in proportion to the  
7 extent to which the nonforfeitable accrued benefit of each  
8 such individual under the plan was invested in the securi-  
9 ties of such corporation, subsidiary, or affiliate.

10 (c) ADDITION OF CIVIL PENALTIES.—Any civil pen-  
11 alty assessed and collected in any proceeding described in  
12 subsection (a) shall be added to and become part of the  
13 disgorgement fund pursuant to section 308 of the Sar-  
14 banes-Oxley Act of 2002 (15 U.S.C. 7246), and shall be  
15 allocated pursuant to subsection (b) of this section.

16 (d) ACCEPTANCE OF FEDERAL CAMPAIGN CON-  
17 TRIBUTIONS.—

18 (1) IN GENERAL.—Section 313 of the Federal  
19 Election Campaign Act of 1971 (2 U.S.C. 439a) is  
20 amended by inserting before “or may be used” the  
21 following: “may be transferred to any disgorgement  
22 fund which is required to be allocated in accordance  
23 with the requirements of the “Justice for Victims of  
24 Corporate Fraud Act”.

1           (2) EFFECTIVE DATE.—The amendment made  
2           by paragraph (1) shall apply with respect to any  
3           amounts received by a candidate at any time before,  
4           on, or after the date of the enactment of this Act.

5           (e) ACCEPTANCE OF ADDITIONAL DONATIONS.—The  
6           Commission is authorized to accept, hold, administer, and  
7           utilize gifts, bequests, and devises of property, both real  
8           and personal, to the United States for the disgorgement  
9           fund. Gifts, bequests, and devises of money and proceeds  
10          from sales of other property received as gifts, bequests,  
11          or devises shall be deposited in the disgorgement fund and  
12          shall be available for allocation in accordance with sub-  
13          section (b).

14          (f) DEFINITIONS.—As used in this section:

15               (1) COMMISSION.—The term “Commission”  
16               means the Securities Exchange Commission.

17               (2) SECURITIES LAWS.—The term “securities  
18               laws” means the Securities Act of 1933 (15 U.S.C.  
19               78a et seq.), the Securities Exchange Act of 1934  
20               (15 U.S.C. 78a et seq.), the Trust Indenture Act of  
21               1939 (15 U.S.C. 77aaa et seq.), the Investment  
22               Company Act of 1940 (15 U.S.C. 80a–1 et seq.), the  
23               Investment Advisers Act of 1940 (15 U.S.C. 80b et  
24               seq.), the Securities Investor Protection Act of 1970

1 (15 U.S.C. 78aaa et seq.), and the Sarbanes-Oxley  
2 Act of 2002 (15 U.S.C. 7201 et seq.).

3 (3) DISGORGEMENT FUND.—The term  
4 “disgorgement fund” means a disgorgement fund es-  
5 tablished in any administrative or judicial proceeding  
6 described in subsection (a).

7 (4) SUBSIDIARY OR AFFILIATE.—The term  
8 “subsidiary or affiliate” when used in relation to a  
9 person means any entity that controls, is controlled  
10 by, or is under common control with such person.

11 (5) OFFICER, DIRECTOR, OR PRINCIPAL SHARE-  
12 HOLDER.—The term “officer, director, or principal  
13 shareholder” means any person that is subject to the  
14 requirements of section 16 of the Securities Ex-  
15 change Act of 1934 (15 U.S.C. 78p) in relation to  
16 the corporation described in section 2(a), or any  
17 subsidiary or affiliate of such corporation.

18 (6) NONFORFEITABLE; ACCRUED BENEFIT; IN-  
19 DIVIDUAL ACCOUNT PLAN.—The terms “nonforfeit-  
20 able”, “accrued benefit”, and “individual account  
21 plan” have the meanings provided such terms, re-  
22 spectively, in paragraphs (19), (23), and (34) of sec-  
23 tion 3 of the Employee Retirement Income Security  
24 Act of 1974 (29 U.S.C. 1002(19), (23), (34)).

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