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Consumer Federation of America



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March 2, 2005

The Honorable Richard J. Durbin
United States Senate
Washington, D.C. 20510

Dear Senator Durbin:

The undersigned national consumer organizations applaud you for offering amendments to the Senate bankruptcy bill (S. 256) that would better protect employees and retirees in the event of a corporate bankruptcy. The inclusion of these amendments will bring much-needed balance to a harsh and one-sided bill that would harm many families that have suffered genuine financial misfortune.

The raft of corporate scandals in the last few years has exposed many flaws in a system of market oversight that used to be the envy of the world. Many investors lost faith in our markets, tens of thousands of employees lost their jobs and workers and retirees have lost significant portions of their pension plans.

It is essential that Congress take a comprehensive approach to reform. The Sarbanes-Oxley Act to reform corporate accounting practices took an important first step. It is bringing much-needed improvements to the quality and independence of the audits of public companies and help to restore investor confidence. But this law was never intended to give employees and retirees more power to combat the tactics of corporate officers who systematically loot their corporations and line their pockets, even as their companies' financial position starts to deteriorate. To do that, one must change corporate bankruptcy laws.

These amendments will help employees and retirees prevent corporate officers from pillaging their earnings and retirement savings in two of important ways:

- It increases the power of bankruptcy judges to nullify fraudulent transfers of benefits and money by corporate officers, and to examine off-book transactions. This will increase the ability of employees to recover assets that have been stripped.

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- It increases the ability of employees to recover the value of company stock, when the stock was purchased because employees were not allowed to choose other investment options.

These amendments are the important “next step” in reforming our corporate accountability laws. It is being introduced at a time when Congress is poised to pass a personal bankruptcy law that will make it more difficult for moderate-income individuals who have been harmed by economic disruption, corporate scandals and personal misfortune to get a financial fresh start. We commend you for focusing on the kind of bankruptcy reform that will help, not hurt, employees, retirees and working families.

Sincerely,

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