

February 12, 2009

Dear Ms. Ryan:

Thank you very much for e-mailing me about the appalling failure of the Securities and Exchange Commission (SEC) and other government regulators to prevent or detect the Bernard Madoff Ponzi scheme or act forcefully to protect investors. Being asleep at the wheel is an understatement in describing the lack of regulatory oversight in this case. The Bush Administration's approach to regulation bordered on criminal negligence and created an atmosphere that allowed someone to swindle \$50 billion from thousands of Americans and people around the world.

The Financial Services Committee, of which I am a member, has held two hearings so far this year to investigate how such a failure could happen. We have heard from Harry Markopolos, the whistleblower ignored by the SEC, the SEC, the Financial Industry Regulatory Authority (FINRA) and the Securities Investor Protection Corporation (SIPC). It was shocking to learn that Mr. Markopolos had warned the SEC almost 10 years ago that Madoff was running a multi-billion dollar Ponzi scheme. His warnings were dismissed out of hand. Madoff was an industry insider and apparently the SEC simply assumed he could do no wrong, even in the face of credible evidence to the contrary handed to them on a silver platter by Mr. Markopolos. I don't believe we will have a full idea of how and why this happened, or whether there was criminal negligence, until the SEC's Inspector General concludes his investigation.

The SEC and FINRA weren't the only ones who didn't pick up on the red flags. Some money managers apparently ignored their fiduciary duty and simply turned over the whole of their clients' money to Madoff without performing any due diligence, sometimes without their clients' knowledge. These money managers also need to be held accountable. As we look to strengthen and modernize our financial regulatory system, we will need to ensure that all investment advisers and broker-dealers are closely monitored by their regulator and answerable to their investors. I also believe that we can no longer trust the financial industry to regulate itself, and that FINRA should be eliminated, giving the SEC direct regulatory authority over broker-dealers.

The SEC and the FBI are working to recover assets for Madoff's many investors, but the losses are huge and, there likely won't be much left to recover, particularly for those who had invested much of their life savings. Many charities, including The Elie Wiesel Foundation for Humanity, Steven Spielberg's Wunderkinder Foundation and the Picower Foundation have had the rug pulled out from under them, and can no longer provide services or have had to scale back their services. Because it was a fraud, SIPC will pay out up to \$100,000 in cash and up to \$500,000 overall to Madoff's victims, but any payout is likely to take months or years, and for many who have been virtually wiped out, this may not be enough. I along with many other Members, are gauging what can be done to help those who have lost much of their retirement savings. Today, any taxes paid on phantom profits since

2005 can be recouped from the IRS because people were paying taxes on a fraudulent profit. I think Congress should also look at helping those who paid taxes on phantom profits prior to 2005.

Thank you again for your letter on this outrageous scandal that has affected so many people. As we work to modernize and strengthen our regulatory oversight of the financial services industry, I am going to demand that the incoming chairperson of the SEC revamp its enforcement and oversight divisions. Your opinion helps me better serve you here in Congress.

All the best,

Jackie Speier
Member of Congress

P.S. If you would like to have more information on the work I'm doing on your behalf in Congress I encourage you to visit my website at www.speier.house.gov. You also may sign up to receive my e-newsletter providing legislative and district updates. Any information you provide my office is strictly confidential and will only be used by my office to stay in touch with you.