



SECURITIES INVESTOR PROTECTION CORPORATION  
805 FIFTEENTH STREET, N. W., SUITE 800  
WASHINGTON, D. C. 20005-2215  
(202) 371-8300 FAX (202) 371-6728  
WWW.SIPC.ORG

June 22, 2001

The Honorable John D. Dingell  
Committee on Energy and Commerce  
United States House of Representatives  
Washington, D.C. 20515-6615

Dear Congressman Dingell:

On behalf of SIPC and Debbie Dudley Branson, SIPC's Acting Chairman, I am responding to your letter of June 20, 2001, concerning the U.S. General Accounting Office ("GAO") Report, SECURITIES INVESTOR PROTECTION: Steps Needed to Better Disclose SIPC Policies to Investors (GAO-01-653), May 25, 2001. You note in your letter that the GAO Report was prepared in response to your letters asking GAO "to examine [among other things] the operations of SIPC [and] the policies and procedures used by SIPC to determine the legitimacy of investor claims. . . ." While your letter goes on to state that "the GAO report found significant deficiencies on the part of SIPC" in fact those deficiencies had nothing to do with SIPC's operations or the policies and practices which you asked GAO to investigate. Indeed, GAO found that SIPC policies and practices were supported by the statute (the Securities Investor Protection Act of 1970, 15 U.S.C. §78aaa *et seq.*) and by numerous court decisions. The deficiencies GAO did note had to do with SIPC's failure to adequately publicize information about its policies and practices, particularly concerning the need to document complaints of unauthorized trading. Your letter notes that GAO recommended that "as part of SIPC's ongoing effort to revise the informational brochure and website [SIPC should] include a full explanation of the steps necessary to document an unauthorized trade claim." Your letter states that you strongly agree with this. I am pleased to report that SIPC has already fully carried out that recommendation. Our new brochure, a copy of which is enclosed for your information, specifically and clearly recommends how customers should go about documenting unauthorized trades. While our updated website is not scheduled to be "rolled out" until next month, the new brochure is now available on our existing website.

Your letter also states that you strongly agree with the GAO recommendation that SIPC amend its "advertising bylaw to require that the official explanatory statement about a firm's

The Honorable John D. Dingell

Page 2

June 22, 2001

membership in SIPC include a statement that SIPC coverage does not protect investors against losses caused by changes in the market value of their securities." This recommendation is materially different from the recommendation contained in the draft GAO report which SIPC was given in late March or early April and to which SIPC responded. That draft report did not recommend any change to SIPC's "official explanatory statement." Rather, it recommended that SIPC's advertising bylaw be amended to "require that any statement about a firm's membership in SIPC include a statement that SIPC coverage does not protect investors against losses caused by changes in the market value of their securities." This difference is critical. As originally worded, the recommendation, if adopted, would have required SIPC to mandate that firms not only state to the public that they are members of SIPC but that they also explain about SIPC. As noted in our April 27, 2001, letter to Mr. Richard Hillman of GAO, reprinted at pages 79-81 of the GAO report, SIPC simply does not have the power to require anything more than that its members notify the public of their membership in SIPC. Under the new formulation of the GAO recommendation, SIPC is being asked merely to tell its members that if they choose to use an explanatory statement about their SIPC membership, then that explanatory statement must include a statement to the effect that SIPC coverage does not protect investors against market loss. This, we believe, SIPC does have the power to do. The GAO report, at pages 70-71, acknowledges this significant change in its recommendation. There is some question as to whether the statement recommended by GAO might be misleading in light of the fact that SIPC is market neutral, *i.e.* it returns securities to customers regardless of whether they have increased or decreased in value. But in light of the changed GAO recommendation, we do, as noted above, have the power to comply with that recommendation and our Board of Directors will consider this matter in the near future.

Much of your letter deals with GAO's recommendations to the SEC. We have no quarrel with any of those recommendations and strongly support those that deal with providing more and better information to the investing public. However, one recommendation deserves special comment and action, not just by the SEC but especially by the Congress. As your letter states, GAO would:

"Require firms that SEC determines to have engaged or are engaging in systematic or pervasive unauthorized trading to prominently notify their customers about the importance of documenting disputed transactions in writing."

This strikes me as somewhat akin to closing the barn door after the horse has escaped. If the SEC determines that a firm has engaged or is engaging "in systematic or pervasive unauthorized

The Honorable John D. Dingell  
Page 3  
June 22, 2001

trading" that firm should be closed down immediately. Congress should take action to give the SEC whatever legal and financial resources it needs to put such firms out of business.

Congressman Dingell, we thank you for your interest in the SIPC program and for your earnest efforts over the years to protect investors. We would be pleased to work with you and your staff to further our mutual interest in protecting investors and increasing their confidence in America's securities markets.

Very truly yours,



Michael E. Don  
President

MED:ved

Enclosure

cc: The Honorable Laura Unger  
Acting Chairman, Securities and Exchange Commission

Debbie Dudley Branson, Esquire  
Acting Chairman, Securities Investor Protection Corporation

The Honorable W. J. "Billy" Tauzin, Chairman  
Committee on Energy and Commerce

The Honorable Michael G. Oxley, Chairman  
Committee on Financial Services

The Honorable John J. LaFalce, Ranking Member  
Committee on Financial Services

The Honorable Phil Gramm  
United States Senate

The Honorable David M. Walker, Comptroller General  
U.S. General Accounting Office

The Honorable Paul E. Kanjorski  
Committee on Financial Services