NATIONAL ASSOCIATION OF Manufacturers

Jay Timmons

Executive Vice President

May 13, 2010

Dear Senators:

The National Association of Manufacturers (NAM), the nation's largest industrial trade association representing small and large manufacturers in every industrial sector and in all 50 states, urges you to oppose the amendment (SA 3776) offered by Senator Arlen Specter (D-PA) to financial services bill S. 3217 related to private civil actions for aiding and abetting in securities litigation.

Manufacturers strongly support the U.S. Supreme Court's 2008 *Stoneridge* decision, which protects manufacturers from unfairly being held liable in securities litigation solely because they might have deeper pockets than the company that engaged in securities fraud. The decision also reaffirmed that defendants may not be sued for aiding and abetting another corporation's violations; only the Securities and Exchange Commission or certain state prosecutors may bring such actions.

The Specter amendment overturns *Stoneridge* and re-opens the door to frivolous lawsuits. Specifically, it does not require defendants to have "actual knowledge" that their conduct is assisting a fraud; rather, it requires only that defendants have "actual knowledge *of the improper conduct underlying* the violation." Hence, despite recent modifications to the amendment, defendants could still be subject to liability claims even when they have no knowledge that the conduct of their business partners is unlawful.

Exposing manufacturers and other defendants to increased liability claims in securities litigation could chill legitimate commerce, harm the economy, encourage frivolous claims, increase the costs of litigation, encourage coercive settlements and cost jobs.

The NAM's Key Vote Advisory Committee has indicated that all votes related to the Specter amendment (SA 3776), including procedural motions, may be considered for designation as Key Manufacturing Votes in the 111th Congress. Thank you for your consideration.

Sincerely,

Jay Timmons

Key Manufacturing Vote

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