



**Congress of the United States**  
**House of Representatives**

May 2, 2008

The Honorable John Conyers, Jr.  
Committee on the Judiciary  
2138 Rayburn House Office Building  
Washington, D.C. 20515

Dear Chairman Conyers:

On May 19, 2008, trial attorney William Lerach is expected to report to federal prison to begin serving the prison term he received after pleading guilty to charges of criminal conspiracy in conjunction with a class action scheme involving his former law firm, formerly known as Milberg Weiss. This development will be the latest milestone in a steadily unfolding scandal that points to a cancerous growth within our nation's economy -- an economic threat the United States Congress has a responsibility to address at a time when middle class families and small businesses are struggling.

According to federal investigators, Milberg Weiss officials masterminded a \$250 million illegal kickback scheme involving their clients, and then lied in court about their actions. "The scope and the breadth of this conspiracy was breathtaking," said U.S. District Judge John Walter, who sentenced Mr. Lerach, adding that the crimes involved go "to the core of our judicial system."

More disturbingly, Mr. Lerach himself told the *Wall Street Journal* his illegal conduct and that of his law partners was an "industry practice." At his sentencing, one of his supporting letters quoted Mr. Lerach as saying, "Everybody was paying plaintiffs so they could bring their cases."

The Milberg Weiss trial lawyer scandal has implications for every American, particularly at a time when our economy is struggling and the triple threat of excessive regulation, taxation, and litigation is pushing jobs overseas. The costs of the crimes involved in the Milberg Weiss scandal are ultimately borne by innocent American taxpayers, workers, and employers -- the very Americans being tossed about in the current economic storm. If in fact Mr. Lerach's crimes are an "industry practice," then the Milberg Weiss scandal has revealed a clear and present threat to our nation's prosperity. The United States Congress has an obligation to take action -- by holding hearings to determine the extent of the trial lawyer scandal and the threat to our economy, identifying appropriate legislative remedies, and sending them to the President without delay.

It has already been documented that securities class action lawsuits such as those that bankrolled Milberg Weiss are cheating American taxpayers by disproportionately clogging the court system and consuming a wasteful share of judicial resources. Federal securities class actions are brought more than four times as often as any other single type of federal class action, and account for almost half of all such class actions in the United States (*Comm. on Capital Markets Regulation, Interim Report 74, Nov. 2006*). Securities class action lawsuits are also on the rise, with the number of filings in 2007 increasing 58 percent over the previous year's number (*Stephanie Plancich et al., NERA Econ. Consulting, Recent Trends in Shareholder Class Actions: Filings Return to 2005 Levels as Subprime Cases Take Off; Average Settlements Hit New High 2; Dec. 2007*).

Evidence also exists that the threat of such litigation has been preventing the creation of new American jobs and pushing them instead to other nations. International employers with the potential to invest and create high-paying jobs in the United States have been turning elsewhere, driven away from America's shores by the fear of becoming ensnared in the sort of bogus, predatory litigation perfected by Milberg Weiss during its rise to power. A recently-released study by the London-based firm Lovells found that international employers believe the threat of becoming embroiled in frivolous, job-killing litigation is greater in the United States than in any other major nation (*Lindeman, Ralph; "In-House Counsel for EU Companies Cite Disputes in U.S. as Key Concern," Bureau of National Affairs' Daily Report for Executives; March 20, 2008*). The study, according to BNA, indicated international employers are troubled by "the complex relationship [in the United States] between state and federal courts, legal costs, the time involved, the extreme and demanding discovery process, the inability to recover costs even if one is successful and the potential for punitive damages." Respondents also cited the "multiplicity of courts, prosecutors and regulators at the state and federal levels as well as a tradition of targeting corporations as well as individuals in criminal cases -- effectively using criminal investigation and prosecution as a form of regulation," according to BNA.

Even the far-left publication "Mother Jones" has written that "[l]arge corporations have long argued that class action lawyers are nothing more than extortionists who shake down big companies every time their stocks fall, forcing them to settle or risk fiscal ruin from a big jury verdict. Given what's known now about how Lerach operated his law firm, it's hard to say that the perception is only spin." (*Mencimer, Stephanie; "The Fall of a Corporate Crime Fighter," Feb. 14, 2008*)

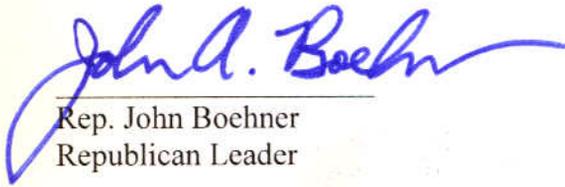
The Republican-led Congress responded aggressively to the Enron and WorldCom scandals earlier this decade. Now the Democrat-led Congress needs to do its job and examine the scandal at Milberg Weiss, which potentially has deeper and more far-reaching implications. Nearly three months have passed since Mr. Lerach was sentenced, but this Congress has yet to conduct even a single hearing to determine the extent to which crimes such as his are occurring in the rest of the industry.

If in fact the crimes committed by Mr. Lerach and his colleagues are an "industry practice," as Mr. Lerach himself confessed, then the United States Congress is sitting idle while criminal behavior in the trial lawyer industry threatens American jobs and feeds like a parasite on the prosperity of working families. The American people deserve answers.

- How many of these cases are brought as a result of illegal payments to plaintiffs?
- What other types of conflicts exist between trial lawyers and the injured investors they purport to represent?
- What reforms should Congress enact to eradicate these abuses from our judicial system?

We respectfully request that the House Committee on the Judiciary schedule a hearing by May 19 to begin the process of answering these questions in a complete and bipartisan way.  
Thank you for your attention to this important matter.

Sincerely,

  
Rep. John Boehner  
Republican Leader

  
Rep. Lamar Smith  
Ranking Republican  
Committee on the Judiciary

cc: The Honorable Nancy Pelosi (D-CA)  
Speaker of the House