

111TH CONGRESS
1ST SESSION

H. R. 4283

To prohibit United States attorneys and assistant United States attorneys from acting as or working for corporate monitors for specified periods after their service with the Government terminates.

IN THE HOUSE OF REPRESENTATIVES

DECEMBER 11, 2009

Mr. COHEN (for himself, Mr. ANDREWS, Mr. PAYNE, Mr. CONYERS, Mr. HOLT, Mr. WATT, Mr. ADLER of New Jersey, Ms. LINDA T. SÁNCHEZ of California, Mr. PALLONE, and Mr. PASCRELL) introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To prohibit United States attorneys and assistant United States attorneys from acting as or working for corporate monitors for specified periods after their service with the Government terminates.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Transparency and In-
5 tegrity in Corporate Monitoring Act of 2009”.

1 **SEC. 2. PROHIBITION ON POST-EMPLOYMENT SERVICE AS**
2 **CORPORATE MONITOR.**

3 (a) PROHIBITION.—Any person who is a United
4 States attorney or an assistant United States attorney,
5 who participates in the investigation or prosecution of an
6 organization for a criminal offense with respect to which
7 a deferred prosecution agreement or a nonprosecution
8 agreement is made, and who—

9 (1) in the case of a United States attorney, be-
10 fore the end of the 2-year period beginning on the
11 date on which his or her service as such United
12 States attorney terminates, or

13 (2) in the case of an assistant United States at-
14 torney, before the end of the 1-year period beginning
15 on the date on which his or her service as such as-
16 sistant United States attorney terminates,
17 acts as or is employed by a corporate monitor with respect
18 to that deferred prosecution agreement or that non-
19 prosecution agreement, shall be subject to the penalties
20 under subsection (b).

21 (b) PENALTIES.—

22 (1) CIVIL PENALTY.—The Attorney General
23 may bring a civil action in the appropriate United
24 States district court against any person who engages
25 in conduct described in subsection (a) and, upon
26 proof of such conduct by a preponderance of the evi-

1 dence, such person shall be subject to a civil penalty
2 of not more than \$50,000 for each violation or the
3 amount of compensation which the person received
4 or was offered for the prohibited conduct, whichever
5 amount is greater. The imposition of a civil penalty
6 under this subsection does not preclude any other
7 criminal or civil statutory, common law, or adminis-
8 trative remedy, which is available by law to the
9 United States or any other person.

10 (2) INJUNCTIVE RELIEF.—If the Attorney Gen-
11 eral has reason to believe that a person is engaging
12 in conduct described in subsection (a), the Attorney
13 General may petition an appropriate United States
14 district court for an order prohibiting that person
15 from engaging in such conduct. The court may issue
16 an order prohibiting that person from engaging in
17 such conduct if the court finds that the conduct is
18 described in subsection (a). The filing of a petition
19 under this section does not preclude any other rem-
20 edy which is available by law to the United States
21 or any other person.

22 (c) DEFINITIONS.—In this section:

23 (1) DEFERRED PROSECUTION AGREEMENT.—
24 The term “deferred prosecution agreement” means
25 an agreement between a Federal prosecutor and an

1 organization to conditionally defer prosecution of
2 that organization in a criminal case in which charges
3 are filed.

4 (2) NONPROSECUTION AGREEMENT.—The term
5 “nonprosecution agreement” means an agreement
6 between a Federal prosecutor and an organization to
7 conditionally decide not to file criminal charges
8 against the organization.

9 (3) ORGANIZATION.—The term “organization”
10 means a person or entity other than an individual.

11 (4) CORPORATE MONITOR.—The term “cor-
12 porate monitor” means a person or entity outside
13 the Department of Justice that is selected to oversee
14 the implementation of a deferred prosecution agree-
15 ment or nonprosecution agreement.

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