

The story, however, does not end there. Following these transactions, Goldman Sachs and other investment banks underwrote billions of Euros in bonds for Greece. The questions being raised include whether some of these bond offering documents disclosed the true nature of these swaps to investors, and, if not, whether the failure to do so was material.

These bonds were issued under Greek law, and there is nothing necessarily illegal about not disclosing this information to bond investors in Europe. At least some of these bonds, however, were likely sold to American investors, so they may therefore still be subject to applicable U.S. securities law. While “qualified institutional buyers,” QIBs, in the United States are able to purchase bonds, such as the ones issued by Greece, and other securities not registered with the SEC under Securities Act of 1933, the sale of these bonds would still be governed by other requirements of U.S. law. Specifically, they presumably would be subject to the prohibition against the sale of securities to U.S. investors while deliberately withholding material adverse information.

The point may be not so much what happened in Greece, but yet again the broader point that financial transactions must be transparent to the investing public and verified as such by outside auditors. AIG fell in large part due to its credit default swap exposure, but no one knew until it was too late how much risk AIG had taken upon itself. Why do some on Wall Street resist transparency so? Lehman shows the answer: everyone will flee a listing ship, so the less investors know, the better off are the firms which find themselves in a downward spiral. At least until the final reckoning.

Who is to blame for this state of affairs, where major Wall Street firms conclude that hiding the truth is okay? Well, there is plenty of blame to go around. As I said previously, both Congress and the regulators came to believe that self-interest was regulation enough. In the now-immortal words of Alan Greenspan, “Those of us who have looked to the self-interest of lending institutions to protect shareholder’s equity—myself especially—are in a state of shocked disbelief.” The time has come to get over the shock and get on with the work.

What about the professions? Accountants and lawyers are supposed to help insure that their clients obey the law. Indeed they often claim that simply by giving good advice to their clients, they are responsible for far more compliance with the law than are government investigators. That claim rings hollow, however, when these professionals now seem too often focused on helping their clients get around the law.

Experts such as Professor Peter Henning of Wayne State University Law School, looking at the Lehman examiner’s report on the Repo 105 trans-

actions, are stunned that the accountant Ernst & Young never seemed to be troubled in the least about it. Of course, the fact that a Lehman executive was blowing a whistle on the practice in May 2008 did not change anything, other than to cause some discomfort in the ranks.

While saying he was confident he could clear up the whistleblower’s concerns, the lead partner for Lehman at Ernst & Young wrote that the letter and off-balance sheet accounting issues were “adding stress to everyone.”

As Professor Henning notes, one of the supposed major effects of the Sarbanes-Oxley Act was to empower the accountants to challenge management and ensure that transactions were accounted for properly. Indeed, it was my predecessor, then-Senator BIDEN, who was the lead author of the provision requiring the CEO and CFO to attest to the accuracy of financial statements, under penalty of criminal sanction if they knowingly or willfully certified materially false statements. I don’t believe this is a failure of Sarbanes-Oxley. A law is not a failure simply because some people subsequently violate it.

I am deeply disturbed at the apparent failure of some in the accounting profession to change their ways and truly undertake the profession’s role as the first line of defense—the gatekeeper—against accounting fraud. In just a few years time since the Enron-related death of the accounting firm Arthur Andersen, one might have hoped that “technically correct” was no longer a defensible standard if the cumulative impression left by the action is grossly misleading. But apparently that standard as a singular defense is creeping back into the profession.

The accountants and lawyers weren’t the only gatekeepers. If Lehman was hiding balance sheet risks from investors, it was also hiding them from rating agencies and regulators, thereby allowing it to delay possible ratings downgrades that would increase its capital requirements. The Repo 105 transactions allowed Lehman to lower its reported net leverage ratio from 17.3 to 15.4 for the first quarter of 2008, according to the examiner’s report. It was bad enough that the SEC focused on a misguided metric like net leverage when Lehman’s gross leverage ratio was much higher and more indicative of its risks. The SEC’s failure to uncover such aggressive and possibly fraudulent accounting, as was employed on the Repo 105 transactions, provides a clear indication of the lack of rigor of its supervision of Lehman and other investment banks.

The SEC in years past allowed the investment banks to increase their leverage ratios by permitting them to determine their own risk level. When that approach was taken, it should have been coupled with absolute transparency on the level of risk. What the Lehman example shows is that increased leverage without the account-

ants and regulators and credit rating agencies insisting on transparency is yet another recipe for disaster.

Mr. President, last week’s revelations about Lehman Brothers reinforce what I have been saying for some time. The folly of radical deregulation has given us financial institutions that are too big to fail, too big to manage, and too big to regulate. If we have any hope of returning the rule of law to Wall Street, we need regulatory reform that addresses this central reality.

As I said more than a year ago:

At the end of the day, this is a test of whether we have one justice system in this country or two. If we don’t treat a Wall Street firm that defrauded investors of millions of dollars the same way we treat someone who stole \$500 from a cash register, then how can we expect our citizens to have faith in the rule of law? For our economy to work for all Americans, investors must have confidence in the honest and open functioning of our financial markets. Our markets can only flourish when Americans again trust that they are fair, transparent, and accountable to the laws.

The American people deserve no less.

I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. UDALL of Colorado. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. KAUFMAN). Without objection, it is so ordered.

Mr. UDALL of Colorado. Mr. President, before I speak to the topic that brought me to the floor tonight, I want to acknowledge the Presiding Officer’s remarks on the situation with Lehman Brothers and others on Wall Street. I know that the Senator is on a mission, and nothing would make him happier, nor me happier, if the story of Lehman Brothers is a story that is told for the last time, much less written for the last time.

I listened with great interest to the narrative that is now unfolding, and with that interest also the sense of horror and outrage and anger that the Presiding Officer clearly carries. A crime is a crime, as it was pointed out, whether it is \$500 from a cash register or literally billions, in fact trillions of dollars of net worth that we have seen taken from Americans and American families.

I commend the Presiding Officer for his leadership, and I think he put it well when he pointed out if you are too big to fail, you are too big to exist, and too bad. Never again should that happen. So I wanted to acknowledge the Presiding Officer.

#### SOLAR UNITING NEIGHBORHOODS ACT

Mr. UDALL of Colorado. Mr. President, I want to speak about a bill that is born from the forward-thinking ideas of our constituents—a bill that will

help spur our Nation's new energy economy and create jobs. To that end, tomorrow I will introduce the Solar Uniting Neighborhoods Act, or the SUN Act.

Last year, I began traveling across Colorado as part of a workforce tour to listen directly to Coloradans and hear their innovative policy ideas to create jobs. These ongoing efforts not only make me proud to be a Coloradan but they help me identify ways the Federal Government can help—or in some cases get out of the way—in supporting economic development and investing in Colorado. The SUN Act comes from directly visiting with Coloradans. It was one of the several job creation proposals developed after I hosted an energy jobs summit last month in Colorado.

Our summit brought together leading clean energy stakeholders from the worlds of business and public interest and government. Many of our top elected officials were there, including Energy Secretary Steven Chu, Governor Bill Ritter, Senator MICHAEL BENNET, and Congressman ED PERLMUTTER. They were there to discuss ways to sensibly spur job growth in our emerging clean energy economy. In the coming weeks, I will be introducing further legislation developed in part from the creative ideas that flowed from the clean energy summit.

The SUN Act will bring common sense to our Tax Code, get government out of the way of developing solar energy and spur job growth in every community across the United States. Americans currently qualify for a 30-percent Federal tax credit for the cost of installing solar panels on their homes. These solar panels are a great way to convert sunlight to electricity, and over time they save American families money on their utility bills. A few years ago, I installed panels on my own home to take advantage of the Sun, which is very strong in the great State of Colorado. But I have come to understand that this option isn't available for all American families who want to receive their electricity from solar power. Why? Well, there can be difficulties attaching solar panels to your home, which is why more and more neighborhoods and towns are creating so-called "community solar" projects. In those projects, instead of attaching the panels on every roof on the block, an increasing number of families have decided to place those same solar panels together in one open and unobstructed sunny area near their homes. By grouping these solar panels, you can reduce the cost by 30 percent compared to installing a panel or a set of panels on every roof in the neighborhood. Moreover, community solar projects streamline maintenance and optimize energy production by avoiding trees, buildings, and other obstructions. Whether used by neighbors living at the end of a cul-de-sac or developed by a rural energy cooperative, creating these group solar projects to share en-

ergy is a great way to lower the cost of making electricity through the marvelous technology of photovoltaic units.

But there is a problem. Our Tax Code gets in the way. Why? Well, we have seen the Federal Tax Code discourage neighborhood solar projects because it requires the panels to be on your property. To put it simply, Federal law is telling Americans they need to have their solar panels affixed to their roofs instead of being able to partner with their neighbors on a community solar project. So this discourages innovation and slows the growth of solar power as an alternative energy source.

Back to the reason why I am introducing the SUN Act. It makes a small change in the Tax Code so that we no longer will be constrained in this innovative solar energy opportunity. By eliminating the requirement that the solar panel be on one individual's property, it frees Americans to work together on community projects where each individual can claim a tax credit on part of a shared project. This simple turnkey solution makes it easier to adopt and use clean renewable energy.

As more and more Americans are realizing, weaning ourselves off sources of foreign energy is a bipartisan imperative no matter what you think about global warming. Back in 2004, Colorado took a big step forward into the emerging clean energy economy when we approved a renewable electricity standard—a so-called RES. I know the Presiding Officer supports such a concept. It wasn't an easy transition. There were a lot of skeptics who feared setting a goal for renewable energy would result in job losses. I remember it well. I cochaired the campaign for this RES in the State of Colorado with the Republican Speaker of our Statehouse, Lola Spradley, who is a close friend. She and I toured the State during election season in a bipartisan effort. It was a surprise to a lot of people, who thought Republicans and Democrats only fight and disagree. We in fact agreed, and we had a wonderful time campaigning together. We passed the RES.

Colorado has initiated other efforts as well and we have easily created over 20,000 jobs. We have the fourth highest concentration of renewable energy and energy research jobs in our country. Estimates are that the solar energy requirement in the RES—because the RES allows for wind, biomass, and other kinds of renewable energies—created over 1,500 jobs.

So what does this tell us? It tells us what we already know well—that American capitalism can take the seeds of an idea and create positive economic change. So wherever possible, our Federal Government should encourage, not hinder, such entrepreneurial ideas and entrepreneurs.

Other important issues are at play as well. As we find our way out of the current recession, we are witness to the emergence of powerful economic com-

petitors abroad, and we have an increasingly dangerous alliance on foreign fossil fuels. So with these factors in mind for our own economic and national security, Americans must become the world leader in adopting clean energy and creating homegrown jobs.

The story must be told that clean energy is one of the greatest economic opportunities of the 21st century. Fortunately, that is a promise we can meet as the global demand for clean energy is growing by \$1 trillion every year. Let me say that again—\$1 trillion every year. And what excites me about this bill, like many measures currently being debated here in our Chamber, is that it will create jobs for Americans in every neighborhood where these community solar projects are developed.

This bill reduces many of the barriers which currently prevent Americans from adopting solar energy, opens up new markets and creates a simple structure to allow people to utilize clean energy for their home.

As I close, I can tell you there is nothing more thrilling than making electricity, which I do in my own home. And then, when you need to use it at your home, you use it there. And also, when it is not needed, you send it back on the grid for your neighbors to use. So I urge my colleagues in both parties to join me in supporting this legislation.

I thank the Presiding Officer for his attention.

I yield the floor.

#### HONORING OUR ARMED FORCES

PRIVATE FIRST CLASS ERIC D. CURRIER

Mrs. SHAHEEN. Mr. President, I rise today with a heavy heart to pay tribute to the life and service of Marine PFC Eric D. Currier of Londonderry, NH. This young soldier died from wounds inflicted by an enemy sniper in Helmand Province, Afghanistan, on February 17, 2010. Private First Class Currier was just 21 years old at the time of his death. A rifleman, he was a member of the 3rd Battalion, 6th Marine Regiment, 2nd Marine Division, II Marine Expeditionary Force based at Camp Lejeune, NC, and was deployed to Afghanistan in January.

Eric was born in Massachusetts but moved to my home State of New Hampshire when he was in the eighth grade. He continued his schooling in Londonderry and graduated from Londonderry High School in 2007. Like many in northern New England, Eric was an avid outdoorsman. He began fishing with his grandfather at the age of three. He enjoyed camping trips with his brothers and was a skilled hunter. He spent many summer days boating, fishing and swimming while staying with his grandparents on Plum Island in Massachusetts. Eric even met his future wife, Kaila Parkhurst, while canoeing on the Saco River as a teenager. He was a fine young man, friendly and