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ATTORNEY GENERAL RAOUL OPPOSES EFFORT TO PREVENT SEC FROM REQUIRING FRAUDULENT ACTORS TO RETURN PROFITS

Raoul, 23 Attorneys General File Amicus Brief with Supreme Court Supporting Courts' Ability to Require Fraudulent Actors to Turn Over Illegal Profits

Chicago — Attorney General Kwame Raoul, leading a bipartisan coalition of 24 attorneys general, today filed an amicus brief with the Supreme Court arguing that the Securities and Exchange Commission (SEC) should be allowed to ask courts to require defendants to return money obtained by defrauding investors.

The brief, filed in Liu v. Securities and Exchange Commission, argues that disgorgement, requiring bad actors to return their gains, is critical to redressing harm and deterring future misconduct. Restricting the SEC from seeking this remedy in its enforcement efforts will harm investors, lead to unfair and dysfunctional securities markets and embolden wrongdoers.

"Individuals who defraud investors should not be able to keep the profits they obtain by breaking the law," Raoul said. "The SEC's ability to ask courts to force wrongdoers to repay stolen money not only holds defendants fully accountable, but it also serves as a powerful deterrent to those who would seek to engage in securities fraud."

Disgorgement is one of the surest ways to restore losses to those who have been harmed by fraudulent actions. In fiscal year 2019, fraudulent actors were ordered to repay more than $3.2 billion in enforcement actions brought by the SEC. Additionally, requiring wrongdoers to return their profits deters future misconduct and promotes confidence in securities markets. Through disgorgement, states and the SEC are able to provide relief to victims of Ponzi schemes and other scams often sold to investors.

In the brief, Raoul and the coalition argue that preventing the SEC from using disgorgement in court actions would permit bad actors to keep their ill-gotten gains and perpetuate their scams. Without disgorgement, wrongdoers have little incentive to stop violating securities laws. As a result, investors may lose confidence in the markets.

Joining Raoul in the brief are the attorneys general of Alaska, Colorado, Connecticut, Delaware, Hawaii, Indiana, Maryland, Massachusetts, Michigan, Minnesota, Nevada, New Jersey, New Mexico, New York, Oregon, Pennsylvania, Rhode Island, South Carolina, South Dakota, Vermont, Virginia, Washington and the District of Columbia.