



February 17, 2009

Co-Chair John Fonfara  
Co-Chair Vickie Nardello  
Senator Kevin Witkos  
Representative Sean Williams

Energy and Technology Committee:

My name is Thomas Devine, with my family I run a bioheat and heating oil business in Norwalk, CT. I am here in **support of S.B. 506**. My family has been delivering heat resources to consumers in Fairfield County for approximately 91 years. We are part of an industry that distributes some 700 million gallons of fuel to 682,000 households in CT. After some consideration I have come to the conclusion that a ban on price programs would be good for the consumer as well as for those who must deliver the product to the consumer.

Let me tell you a story – it is a story about a phone call I received. One of my customers called to inquire about price. She asked for my ADVICE regarding next years prices, she felt I knew more than she because I “was closer to it”, “it” being the oil market. So I discussed options she had available from Devine Bros. and I gave her an OFFER in terms of a price. I told her I could SELL to her a FUTURE CONTRACT or a OPTION CONTRACT. The difference between the two; with the FUTURE OFFER she actually is securing the oil and the price will not change for the duration of the contract, however if she chose the OPTION OFFER the price of oil may move up or down according to the market but never accede the price OFFER enclosed in the OPTION CONTRACT. The other major difference between the FUTURE and the OPTION OFFER is; with the FUTURE OFFER she must pay for the oil in full at the time the deal is done as apposed to the OPTION OFFER she would only have to pay for the cost of a CALL OPTION for the amount of oil she wants to secure – The cost being \$.40 per gallon for an at the money CALL that would take her through December 2009. For her case specifically, the CALL OPTION would cost \$460.00. I then explained to her that this is only the cost to buy the OPTION – this \$460.00 does not cover any cost of the oil that she must buy from us during the year. After I explained all this to her she told me she would have to consider these options and call me back. I told her I could not guarantee this pricing for more that two days – but she could use the information I had given her as a bench mark for her future inquiries. I told her that when she calls back the pricing may be higher or it may be lower; I explained to her that the cost of the CALL OPTION may also be higher or lower because there is a time value to it but also a volatility value to it as well. I am not licensed or formally trained to do any of what I have described.

So let me explain to you what I do. With others in my family, I run a full service bioheat and heating oil company. This means we are available to our customers twenty four hours a day to get them heat and or hot water. We deliver bioheat or heating oil to homes on an automatic dispatch basis in order to ensure our customers have a continued supply of

product to heat their homes. We are licensed to; replace boilers, furnaces, air conditioners, oil tanks, clean tune and test heating equipment as well as replace heating controls, zone valves, nozzles filters and strainers, we are expert trouble shooters in the heating and cooling arena. This is what we do. We also have developed into what has become the BROKERS of oil and derivatives, as my story displays.

**Why have we experienced such development? Because we oil companies are trying to satisfy the demands of our scared customer base. The consumers who were scared to death when Goldman Sachs made predictions of \$200.00 per barrel last summer. The consumer craved these financial instruments because they were scared of \$6.00 a gallon heating oil. The customer paid the price while Wall Street created markets when creating frenzy for the media. Even the Federal Government's Commodity Future Trading Commission's believed the hype and did nothing - Now this arm of oversight may be absorbed by the Securities Exchange Commission because it is believed by some in Washington that it is more of an appropriate commission for the type of work that needs to be done.**

**So who got hurt? Me and my customer's, your - constituents. I urge you to review heating oil costs put out by CT's Office of Policy and Management. I went back to the year 2000 and the contracts have brought virtually no savings to the consumer. As a matter of fact it cost them; this year alone I have customers that have lost over \$2.20 per gallon, for an average user of oil heat that is over \$2,000. Much more than any savings they could have gotten on average since the year 2000 . Doesn't government have some role to protect its' citizenry?**

I am apart of an industry made up of family businesses such as my families' that can almost be referred to as "mom and pop shops". I question the skill set of oil dealers to effectively translate to the consumer the risks involved in buying FUTURES, and DERIVATIVES - OPTIONS such as PUTS and CALLS, COLLARS etc. Not that I belittle our industry but this is not our expertise, nor is it what we are licensed to do. Such skill sets are had by licensed securities brokers, not heating oil dealers.

In your consideration of passing this bill refer to the Securities act of 1933 or more recently, Connecticut law under chapter 672a Uniform Securities Act. The definition of "Security" means any... evidence of indebtedness, put, call, and straddle. The definition includes a "certificated security" which parallels what we as dealers do with 42,000 gallons of heating oil. It also defines "advice" and "offer" to "sell" which is what we do. Any company engaging in futures contracts, puts, calls, straddle positions, option contracts needs to be properly overseen by the Department of Banking – not by the Department of Consumer Protection where jurisdiction now rests. DCP has good people, hard working people, but people whose background, training and experience isn't in overseeing complex financial mechanisms of the commodities industry.

Let me close by pointing out another story, one that can be found on page 5 of the Fairfield County Business Journal. It appears that another oil dealer may be in trouble, I say "another" because it reminds me of the F&S Oil Company closure in Waterbury where thousands of customer handed money over for, what they thought was an investment in the price of oil for the future - but lost it all because the company closed.

intentional misrepresentation of a contract's terms; breach of fiduciary duty; and violating the federal Commodities Exchange Act and the Connecticut Unfair Trade Practices Act. Who will lose ultimately? The thousands of consumers who invested money with this dealer will lose.

I am an oil distributor caught in an oil broker's world. I don't belong in this world and nor does any other company in my industry. Ultimately the consumer is affected and gets hurt.

**Please support S.B. 506.**

Thank you.

Respectfully,

  
Tom Devine

