

**NOMINATIONS TO THE  
DEPARTMENT OF TRANSPORTATION,  
THE DEPARTMENT OF COMMERCE,  
THE FEDERAL TRADE COMMISSION, AND  
THE FEDERAL MARITIME COMMISSION**

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**HEARING**

BEFORE THE

**COMMITTEE ON COMMERCE,  
SCIENCE, AND TRANSPORTATION  
UNITED STATES SENATE**

ONE HUNDRED ELEVENTH CONGRESS

FIRST SESSION

DECEMBER 15, 2009

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SENATE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

ONE HUNDRED ELEVENTH CONGRESS

FIRST SESSION

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**TUESDAY, DECEMBER 15, 2009**

U.S. SENATE,  
COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION,  
*Washington, DC.*

The Committee met, pursuant to notice, at 3:50 p.m. in room SR-253, Russell Senate Office Building, Hon. John D. Rockefeller IV, Chairman of the Committee, presiding.

**OPENING STATEMENT OF HON. JOHN D. ROCKEFELLER IV,  
U.S. SENATOR FROM WEST VIRGINIA**

The CHAIRMAN. This hearing is now open, due to my prompt arrival.

I'm going to put my statement in the record, and want to proceed to Senator Leahy, but first the Ranking Member, Senator Kay Bailey Hutchison from Texas, may have some words to say.

[The prepared statement of Senator Rockefeller follows:]

PREPARED STATEMENT OF HON. JOHN D. ROCKEFELLER IV,  
U.S. SENATOR FROM WEST VIRGINIA

I want to welcome and congratulate our nominees. I appreciate your commitment to public service and look forward to seeing you all confirmed shortly so you can get to work.

We will start today with Julie Brill, the President's nominee to be a Commissioner of the Federal Trade Commission, who has spent her career in state Attorneys General offices advocating on behalf of consumers.

My hope is that Ms. Brill will help the FTC work more closely with state Attorney General divisions to leverage and increase enforcement against those who target consumers, especially the most vulnerable. Ms. Brill's experience fighting in the trenches will serve her well.

Also nominated to be Commissioner of the FTC is Edith Ramirez, who brings extensive experience in complex business litigation. I appreciate her critical eye for mergers and business combinations which may potentially harm consumers.

And now we turn to one of our very own: David Strickland—nominated to be the next Administrator of the National Highway Traffic Safety Administration.

Most of the members of this committee not only know Mr. Strickland, they consider him a trusted advisor and friend.

During 8 years as a Senior Counsel for consumer and auto safety issues, Mr. Strickland has served three Chairmen, including me.

David's booming voice and infectious laugh complement a sharp intellect, meticulous preparation, and the ability to build consensus on complex issues.

David's expertise on automobile issues helped the Senate write the bill that raised gas mileage standards for the first time in 30 years. He helped write the Landmark

Safety Bill in 2005 requiring electronic stability control and other safety features in all cars in coming model years.

In 2004, Mothers Against Drunk Driving named Mr. Strickland its “Congressional Staffer of the Year” for his efforts to reduce drunk driving.

Now, he will take his safety expertise to a new venue, but continue his work to prevent injuries and save lives on our Nation’s highways.

Mr. Strickland is the right person for this job. And, as part of the job, I think he will enjoy being interrogated at the witness table during future hearings. I know I will enjoy it.

Next, we have Nicole Lamb-Hale, who has been nominated to be the Assistant Secretary for Manufacturing and Services at the Department of Commerce.

The current state of our economy requires our businesses to make the world their market. We look forward to Ms. Lamb-Hale stepping up to invigorate companies and help produce new American jobs.

We also welcome Michael Khouri, nominee to be Administrator of the Federal Maritime Commission, which we need to promote fair and open shipping practices in international commerce.

Thank you again to our nominees for your testimony today and your continued public service. I look forward to your speedy confirmation.

**STATEMENT OF HON. KAY BAILEY HUTCHISON,  
U.S. SENATOR FROM TEXAS**

Senator HUTCHISON. Well, I was just going to observe that you did not get nearly the reception that your former staffer, David Strickland, got when he entered the room.

[Laughter.]

Senator HUTCHISON. So, you’d better be very careful, Mr. Chairman.

[Laughter.]

The CHAIRMAN. Well, I didn’t bring—one reason for that, I didn’t bring my whole family with me.

[Laughter.]

Senator HUTCHISON. He got a standing ovation, the whole room. So, go forward.

The CHAIRMAN. Senator Leahy, please.

**STATEMENT OF HON. PATRICK J. LEAHY,  
U.S. SENATOR FROM VERMONT**

Senator LEAHY. Well, thank you, Mr. Chairman. I should note that several people have said the former staffer is much better looking, but, of course, I would not say that.

[Laughter.]

Senator LEAHY. I would only repeat what everybody’s been saying.

But, Chairman and Senator Hutchison and Senator Inouye and other members of the Committee, I’m really privileged to be here to introduce Julie Brill, and the historic interest in consumer protection of this committee is well served by this nomination.

President Obama selected her after considering her work as the Senior Deputy Attorney General at the Consumer Protection Division of North Carolina Department of Justice, but I’ve known Julie for 20 years of work as an Assistant Attorney General in Vermont. She’s the pride of Randolph, Vermont, a beautiful little town, not far from where I was born, where she continues to reside.

And, Senator Hutchison, I should also note that you have a claim to her, since she was born in Houston, Texas. We try to cover everything we can.

[Laughter.]

Senator LEAHY. Her background and credentials are impeccable. After graduating from Princeton, she earned her law degree at New York University. She served as a law clerk to one of our most distinguished Vermont Federal judges, Honorable Franklin Billings. She was recruited to work at the well-known New York law firm of Paul, Weiss, Rifkind, Wharton & Garrison before she returned to Vermont and to public service. She was the Vermont Assistant Attorney General in the Civil Division, representing the people of Vermont and our State agencies. She was promoted to be General Counsel of the Vermont Department of Bank and Insurance and Securities before returning to the Attorney General's office to work for another 17 years in behalf of consumers.

She worked, initially, with Attorney General Jeff Amestoy, then went on to become our Chief Justice, and then, for a dozen years, with a highly respected current Attorney General, Bill Sorrell, a man who had originally been Chittenden County State's Attorney, a office that is often steppingstone to the U.S. Senate, or at least has been.

She made time to serve as a—that's an inside joke, Mr. Chairman.

The CHAIRMAN. Yes, I—

[Laughter.]

The CHAIRMAN.—right?

Senator LEAHY. She also made time to serve as an Adjunct Professor at Columbia Law School. She's won numerous awards. And when you consider her work in agriculture, tobacco, food, and pharmaceuticals, you see that this is somebody you should be very proud of.

I will put my full statement in the record, but she is here with her husband and Randolph; is best known as a proud mother of two teenage boys; a far better tennis player than I'll ever be. I know that State Attorneys General are so pleased with this. I think she's going to contribute significantly to the work of the Commission and Chairman Leibowitz's active agenda.

So, I come here to thank her, thank Mark, thank the family for having her do this.

And, Mr. Chairman, I rarely ever appear before this committee. I think the last time, it was 15 or 20 years ago. But, I do, with a sense of pride. I've made a special exception to be here, with a sense of pride—my respect for you and for the other members of the Committee is well known—and offer a wonderful, wonderful person for this position.

[The prepared statement of Senator Leahy follows:]

PREPARED STATEMENT OF HON. PATRICK LEAHY, U.S. SENATOR FROM VERMONT

Chairman Rockefeller, Senator Hutchison, and members of the Committee, I am privileged to be before you today to introduce Julie Brill. Your historic interest in consumer protection is well served by this nomination.

President Obama selected Julie after considering her work as the Senior Deputy Attorney General of the Consumer Protection Division of the North Carolina Department of Justice. I have known Julie for her 20 years of work as an Assistant Attorney General in Vermont. She is the pride of Randolph, Vermont, where she continues to reside. Senator Hutchison, I should also note that you have a claim to her since she was born in Houston.

Her background and credentials are impeccable. After graduating from Princeton University, she earned her law degree at New York University.

She served as the law clerk to one of our most distinguished Vermont Federal judges, the Honorable Franklin Billings. She was recruited to work at the well-known New York law firm of Paul, Weiss, Rifkind, Wharton and Garrison, which she did for a year, before returning to Vermont and to public service.

She served as a Vermont Assistant Attorney General in the Civil Division representing the people of Vermont and our state agencies. She was promoted to be General Counsel of the Vermont Department of Banking, Insurance and Securities for a time before returning to the Attorney General's Office to work for another 17 years on behalf of consumers.

She worked initially with Attorney General Jeff Amestoy, who went on to become Vermont's Chief Justice, and for a dozen years with our highly-respected current Attorney General Bill Sorrell.

She also made time to serve as an Adjunct Professor at Columbia Law School and as part of that school's Social Justice Initiatives Program. She has won numerous awards, and spoken and written extensively.

When you consider her work on agriculture, tobacco, food, and pharmaceuticals, you will see that this is someone in whom the Committee can have confidence to protect consumers and to get the job done. I especially appreciate the work she accomplished when she served as Co-Chair of the National Association of Attorneys General Privacy Working Group, and her interest in identity theft.

With all these accomplishments, Julie is best known in Randolph as the proud mother of two teenage boys—and for her tennis.

I thank her for her willingness to serve. Both the Federal Trade Commission (FTC) and consumers will benefit greatly from her confirmation and appointment.

I know that State Attorneys General are elated with this nomination and the prospect of someone with a perspective from State government serving on the FTC.

Those who work on consumer protection issues across the country know that Julie Brill will contribute significantly to the work of the Commission and to Chairman Leibowitz's active agenda. Her expertise, intelligence and passion will make a difference for all Americans.

I come today to congratulate Julie on her nomination and to thank Mark and their family for their willingness to share this gifted woman with us through her continued public service. I commend her nomination to the Committee, urge its swift consideration, and that it be favorably reported to the Senate.

The CHAIRMAN. Well, thank you, Senator Leahy. That's a very nice thing to say. But, Senator Inouye, myself, and others are wondering why have you stayed away so long?

[Laughter.]

Senator LEAHY. Nobody invited me.

[Laughter.]

The CHAIRMAN. That was true with the White House recently, too.

[Laughter.]

Senator LEAHY. Of course, I do get there more, probably, than necessary.

[Laughter.]

Senator LEAHY. Another inside joke. I'll explain it later on.

The CHAIRMAN. Yes——

[Laughter.]

Senator LEAHY. But, I have been tied up with another committee in a different building.

The CHAIRMAN. Judiciary, something like that?

Senator LEAHY. No, Appropriations.

[Laughter.]

The CHAIRMAN. Oh.

Senator LEAHY. Senator Inouye keeps me very busy.

The CHAIRMAN. I see. That's the one with all the money, right?

[Laughter.]



Senator LEAHY. That's right. West—that's the one that was considered an adjunct of West Virginia for a while.

[Laughter.]

Senator LEAHY. Now it's moot.

[Laughter.]

Senator LEAHY. Now, it has found the weather of Hawaii to be much better, and it has moved closer to Hawaii.

[Laughter.]

Senator LEAHY. That's another inside joke, which I'll explain later on.

[Laughter.]

The CHAIRMAN. Senator Leahy, thank you very, very much.

Senator LEAHY. Thank you for sharing.

The CHAIRMAN. And now, I ask unanimous consent that Senator Stabenow's statement be included, as if read.

[The prepared statement of Senator Stabenow follows:]

PREPARED STATEMENT OF HON. DEBBIE STABENOW, U.S. SENATOR FROM MICHIGAN

**Introduction of Ms. Nicole Lamb-Hale**

Mr. Chairman, it is a great pleasure to introduce Ms. Lamb-Hale, a real leader from my state of Michigan, who is President Obama's nominee to be Assistant Secretary of Manufacturing and Services at the Department of Commerce.

Ms. Lamb-Hale is currently the Deputy General Counsel of the Department of Commerce. In this role, she assists the General Counsel, who is the chief legal officer for the Department and legal advisor to the Secretary, Secretarial Officers and other officers of the Department. Prior to joining the Obama Administration, she was the Managing Partner of the Detroit office of the law firm of Foley & Lardner LLP, where she specialized in business restructuring in the manufacturing sector.

Ms. Lamb-Hale has been active in civic and community affairs throughout her career. She served as Vice-Chair of the Board of Directors of the Michigan Land Bank Fast Track Authority, by appointment of Michigan Governor Granholm, and as a member of the Board of Trustees of Leadership Detroit. Ms. Lamb-Hale has been a frequent lecturer on restructuring matters with a particular emphasis in recent years on the automotive industry. She was named a "Super Lawyer" for three successive years and one of "Metro Detroit's Most Influential Women" by a leading business publication. Ms. Lamb-Hale received her B.A. with high honors from the University of Michigan and her J.D. from Harvard.

Ms. Lamb-Hale will have a unique opportunity to help our manufacturers. With nearly one-quarter of all manufacturing workers in Michigan depending on exports for their jobs, I've spoken to Ms. Lamb-Hale about the importance of letting small businesses know that they can get help exporting. In fact, she was just in Detroit last week moderating a panel on Federal programs that assist exporters. But more needs to be done, and I am glad Ms. Lamb-Hale shares my commitment to helping our small businesses.

I am confident that having lived and worked in Michigan, Ms. Lamb-Hale will effectively bring together her real-life experiences and the resources at Commerce to lead the reemergence of a strong manufacturing sector in this country. I look forward to working with her and continuing my efforts with the Administration on implementing a 21st century manufacturing strategy. Mr. Chairman, thank you again for the opportunity to introduce Ms. Lamb-Hale.

The CHAIRMAN. And then I would like to call on Senator Dan Inouye to introduce the nominee who seems to have many family members here.

**STATEMENT OF HON. DANIEL K. INOUE,  
U.S. SENATOR FROM HAWAII**

Senator INOUE. Mr. Strickland? Mr. Strickland?

Mr. Chairman and members, it's a great honor to be here in support of President Barack Obama's nomination, David Lorenzo Strickland—Did you know his middle name was Lorenzo?

[Laughter.]

Senator INOUE.—to serve as Administrator of NHTSA, National Highway Traffic Safety Administration. He's a good man, he's a successful man, and all of that is because of his family and friends.

And, with your permission, Mr. Chairman, may I ask half the audience to stand up, because—

[Laughter.]

The CHAIRMAN. Any half, or just—

Senator INOUE. No, the family there.

[Laughter.]

The CHAIRMAN. Oh.

Mr. STRICKLAND. You want them to stand?

Senator INOUE. Oh, yes.

[Laughter.]

[Applause.]

Senator INOUE. If I were smart, I would stop my statement right now.

[Laughter.]

Senator INOUE. Mr. Chairman, as I indicated, Mr. Strickland is a bright, talented professional who will greatly benefit the Obama Administration and the public, and will bring strength and credibility to that agency.

As we all know, David Strickland—Lorenzo, if I may call you that now—

[Laughter.]

Senator INOUE.—served on this committee. He was a very important member of this committee. And supported by him, the Commerce Committee pursued a very aggressive, pro-consumer agenda and accomplished the passage, with bipartisan support, of several monumental bills to promote the safety of the American public.

During the 110th Congress, David Strickland had a hand in at least seven Senate Commerce Committee measures that became law, and key among these were the first reauthorization of the Consumer Protection Safety Commission in 18 years—we had to wait for David to come along—

[Laughter.]

Senator INOUE.—the first mandated increase in the Passenger Car Fuel Economy—that's the CAFE bill; for the first time in 30 years. If it weren't for David, we'd still be waiting.

He's a proven expert in a broad range of issues handled by NHTSA. During the consideration of the Highway Bill Authorization in 2005, I had the privilege of working with then-Chairman Ted Stevens to develop the reauthorization of that agency, and I was lucky, because I had a staff member helping me—David Lorenzo Strickland. The Committee's work was hailed by many as the most comprehensive initiative in automotive safety in years. And, David Strickland, advised me on the proposal and was my lead staff negotiator during the conference.

His work on vehicle safety, as well as the programs to lower drunk driving rates and increase primary seatbelt usage, under-

score his leadership, knowledge, and skill. And during the 2008 Corporate Average Fuel Economy, the so-called CAFE debate, David worked closely with every constituency involved and provided expert advice to me and to all the members of this committee.

As NHTSA moves forward with implementing the new fuel economy standards, I believe David Strickland is particularly well-suited to oversee the agency's work in this area. His expertise is well respected both on the Capitol and by safety advocates. And he has a long list of people who are endorsing him, and they don't usually endorse nominees: Mothers Against Drunk Driving—you know, they don't endorse every candidate here; Safe Kids; the Governors Highway Safety Association; the Criminal Justice and Highway Safety Coalition. All of these groups have endorsed David Lorenzo Strickland.

NHTSA, Mr. Chairman, needs a leader who understands issues related to vehicle safety and fuel economy, listens to all constituencies, and makes sound public policy decisions that will improve the safety of every member of the driving public. David Strickland has the knowledge, the ability to lead this agency, and will do an exceptional job, should he be confirmed for this position.

And I wish to express my personal appreciation to David Lorenzo for his commitment to public service to our Nation, and our Nation will benefit greatly from his continued service.

Mr. Chairman and members, I wholeheartedly support David Lorenzo Strickland's nomination and respectfully urge that this committee and the full Senate expeditiously confirm his nomination.

And I think you're going to be nominated, and you will be—  
Mr. STRICKLAND. Thank you, Senator.

Senator INOUE.—approved, sir.

[Laughter.]

Mr. STRICKLAND. Thank you, sir.

Senator INOUE. Can we vote on him now?

[Laughter.]

Senator INOUE. No? Oh, OK.

[Laughter.]

Senator INOUE. David, I tried.

[The prepared statement of Senator Inouye follows:]

PREPARED STATEMENT OF HON. DANIEL K. INOUE, U.S. SENATOR FROM HAWAII

It is a great honor to be here today in support of President Barack Obama's nomination of David Lorenzo Strickland to serve as the Administrator of the National Highway Traffic Safety Administration (NHTSA). David is a bright, talented professional who will greatly benefit the Obama Administration and the American public, and will bring strength and credibility to this agency.

David served on the Senate Committee on Commerce, Science and Transportation as my Senior Counsel for the Consumer Affairs Subcommittee for the 109th and the 110th Congresses. Supported by David's efforts, the Commerce Committee pursued a very aggressive pro-consumer agenda and accomplished the passage, with bipartisan support, of monumental legislation to promote the safety of the American public. During the 110th Congress alone, David had a hand in at least seven Commerce Committee measures that became law. Key among these were the first reauthorization of the Consumer Protection Safety Commission in 18 years, and the first mandated increase in passenger car fuel economy in more than 30 years.

David is a proven expert on the broad range of issues handled by NHTSA. During consideration of the Highway Bill Reauthorization in 2005, I worked with then-

Chairman Ted Stevens to develop the reauthorization of the agency. In particular, I was responsible for drafting the vehicle safety regulations section that included mandating electronic stability control in every passenger vehicle. The Committee's work was hailed by many as the most comprehensive initiative on automotive safety in years. David advised me on this proposal and was my lead staff negotiator during the conference. His work on vehicle safety, as well as the programs to lower drunk driving rates and increase primary seat belt usage, underscore his leadership, knowledge, and skills.

During the 2008 Corporate Average Fuel Economy (CAFE) debate, David worked closely with every constituency involved and provided expert advice to me and to other Senate and House members, including Senators Feinstein and Pryor, and Speaker Pelosi, who were passionately involved in this landmark legislation. As NHTSA moves forward with implementing the new fuel economy standards, I believe David is particularly well suited to oversee the agency's work in this area.

David's expertise is well respected both on Capitol Hill and by safety advocates, including Mothers Against Drunk Driving, SAFEKIDS, the Governors Highway Safety Association, and the Criminal Justice and Highway Safety Coalition, all of whom have endorsed his nomination.

NHTSA needs a leader who understands issues related to vehicle safety and fuel economy, listens to all constituencies, and makes sound public policy decisions that will improve the safety of every member of the driving public. David has the knowledge and the ability to lead this agency, and will do an exceptional job should he be confirmed for the position.

I wish to express my personal appreciation to David for his commitment to public service. Our nation will benefit greatly from his continued service. I wholeheartedly support David's nomination and respectfully urge this committee and the full Senate to expeditiously confirm his nomination.

[Laughter.]

Mr. STRICKLAND. Thank you, sir.

The CHAIRMAN. Would all the panelists please come forward?

Senator HUTCHISON. Mr. Chairman, while they're coming forward, may I submit my opening statement for the record?

The CHAIRMAN. Of course.

Senator HUTCHISON. Thank you.

[The prepared statement of Senator Hutchison follows:]

PREPARED STATEMENT OF HON. KAY BAILEY HUTCHISON, U.S. SENATOR FROM TEXAS

Thank you, Mr. Chairman, for holding today's hearing. We will consider a number of nominees chosen to fill a variety of important positions.

I want to join the Chairman in recognizing one of his Committee staffers, David Strickland. David has worked on highway safety and consumer affairs issues for 8 years and he has made many important contributions to legislation that has passed through this committee. His policy focus on NHTSA and automotive safety will serve him well in his new position.

I also would like to welcome the nominees for the Federal Trade Commission (FTC), Ms. Julie Simone Brill and Ms. Edith Ramirez. The FTC has immense jurisdiction, covering both consumer protection and antitrust issues in a broad range of industries.

We have focused a large amount of attention recently on the actions of the FTC, especially as they relate to consumer protection during the financial crisis. It is very important that we fill the Commissioner vacancies to enable the agency to do its job most effectively on behalf of the American consumers.

This committee will likely consider an FTC reauthorization bill in the months ahead. I have significant concerns regarding what is expected to be an effort to considerably expand the authority of the agency. I am very interested to hear the nominees' views on this matter.

I also would like to welcome Ms. Nicole Lamb-Hale, who has been nominated to be Assistant Secretary for Manufacturing and Services at the Department of Commerce. This position plays an important role in ensuring that U.S. industry remains strong and globally competitive, which is crucial to our economy. I look forward to hearing her ideas for the organization.

And finally, I am happy to welcome Mr. Michael Khouri, who is the Republican nominee to the Federal Maritime Commission (FMC). Safe and efficient maritime

commerce is vital to the U.S. economy. Port and maritime activity accounts for over 13 million jobs, generating \$649 billion in personal income.

The Port of Houston, in my home state of Texas, is one of the busiest ports in the world and ranks first in the United States in foreign waterborne tonnage.

The FMC has the important task of ensuring the stability and security of maritime commerce and I look forward to hearing the nominee's priorities for the Commission.

I thank all of our nominees for their willingness to serve and look forward to hearing from them.

The CHAIRMAN. Ms. Brill, we'll start with you.  
All be welcome, please.

**STATEMENT OF JULIE BRILL, COMMISSIONER-DESIGNATE,  
FEDERAL TRADE COMMISSION**

Ms. BRILL. Thank you.

Chairman Rockefeller, Ranking Member Hutchison, Senator Inouye, Committee members, thank you so much for inviting me here and for considering my nomination to the Federal Trade Commission.

I am joined here today by several members of my family whom I'd like to introduce, if I may: my husband, Mark Miller; my sons, Zachary and Noah; my sister, Mimi Brill; my brother-in-law, David Rountree; and my two nieces, Grace and Isobel.

I'd like to thank so many of the Committee members and your staffs for taking time recently to meet with me. I'd also like to thank each of the current Commissioners, and particularly the Chairman, for their support.

I have spent the past 20 years enforcing the law on behalf of consumers, first in Vermont, and more recently in North Carolina. I have been privileged to work with two outstanding Attorneys General: Vermont Attorney General Bill Sorrell and North Carolina Attorney General Roy Cooper. If confirmed, I hope to bring to the Commission what they have taught me: passion for aggressively protecting consumers, humility and grace in exercising authority, and the need to carefully balance the interests and concerns of businesses, consumers, and other stakeholders in legislative, regulatory, and law enforcement initiatives.

During our meetings, several of you asked what my top priority as a Commissioner would be. The FTC works on a broad range of issues facing consumers, such as data security, privacy, spyware, energy, and competition in the healthcare and pharmaceutical industries. I have worked on these critical areas throughout my career and will continue to do so at the Commission. If confirmed, my top priority will be focusing on economic scams that have been so pernicious to consumers during the economic crisis.

As you well know, while the financial picture on Wall Street is improving, Main Street continues to suffer. Coupled with high unemployment rates, the economic crisis creates an atmosphere where consumers are particularly vulnerable to unscrupulous business practices that falsely promise to help. Simply put, these consumers have a target on their back.

The FTC has been cracking down on those who hunt for easy prey. We can build on this work and focus on the dramatic rise in scams designed to take advantage of consumers' economic insecurity. At the same time, we must continue our efforts to educate con-

sumers so they can better protect themselves by making responsible choices.

The FTC is the Nation's premier consumer protection agency. The State AGs are the FTC's longstanding partners in law enforcement. I hope to assist in building upon the bonds that already exist between these two preeminent law enforcement communities.

I feel truly honored and privileged that you are considering my nomination for the position of Commissioner of the FTC. If I am fortunate to be confirmed, I will be proud to serve and work to protect the Nation's consumers.

Thank you.

[The prepared statement and biographical information of Ms. Brill follows:]

PREPARED STATEMENT OF JULIE BRILL, COMMISSIONER-DESIGNATE,  
FEDERAL TRADE COMMISSION

Chairman Rockefeller, Ranking Member Hutchison, Committee members: thank you so much for inviting me here and for considering my nomination to the Federal Trade Commission.

I am joined here today by several members of my family, whom I'd like to introduce: My husband, Mark Miller; my sons, Zachary and Noah; my sister, Mimi Brill; my brother-in-law, David Rountree; and my two nieces, Grace and Isobel.

I'd like to thank so many of the Committee members and your staffs for taking time recently to meet with me. I enjoyed our discussions and have already learned much, especially your thoughts about the appropriate goals and direction of the Federal Trade Commission.

I'd also like to thank each of the current Commissioners and particularly the Chairman for their support.

I have spent the past 20 years enforcing the law on behalf of consumers, first in Vermont and more recently in North Carolina. I have been privileged to work with two outstanding Attorneys General—Vermont Attorney General Bill Sorrell and North Carolina Attorney General Roy Cooper. If confirmed, I will bring to the Commission what they have taught me: passion for aggressively protecting consumers, humility and grace in exercising authority, and the need to carefully balancing the interests and concerns of businesses, consumers, and other stakeholders in legislative, regulatory and law enforcement initiatives.

During our meetings, several of you asked what my top priority as a Commissioner would be. The FTC works on a broad range of issues facing consumers, such as data security, privacy, spyware, energy, and competition in the health care and pharmaceutical industry. I have worked on these critical areas throughout my career, and will continue to do so at the Commission. If confirmed, my top priority will be focusing on economic scams that have been so pernicious to consumers during the economic crisis. These are issues like "get rich quick" scams, foreclosure "rescue" and "assistance" scams, bogus government grant schemes, debt settlement scams, credit repair scams, and unscrupulous debt collection practices.

As you well know, while the financial picture on Wall Street is improving, Main Street continues to suffer. The Mortgage Bankers Association reports that currently more than 14 percent, or 1 in 7 homes, are either in foreclosure or the homeowner has missed at least one mortgage payment. These trends are the worst in the nearly 40 years the MBA has been tracking them. And the downtrend continues: another industry group calculates that nearly 23 percent of all residential mortgages are in a negative equity, or "underwater".

Coupled with high unemployment rates, the economic crisis creates an atmosphere where consumers are vulnerable. Consumers who find themselves with mortgages they cannot afford, with homes that are being foreclosed upon, without jobs, or with involuntarily reduced hours at work—are all particularly vulnerable to unscrupulous business practices that falsely promise to help. Simply put, these consumers have a target on their backs.

The FTC has been cracking down on those who hunt for easy prey. We can build on this work, and focus on the dramatic rise in scams designed to take advantage of consumers' economic insecurity. At the same time, we must continue our efforts to educate consumers so they can better protect themselves by making responsible choices.

The FTC is the Nation's premier consumer protection agency. The State AGs are the FTC's longstanding partners in law enforcement. With my extensive experience with State Attorneys General, I can help build upon the bonds that already exist between these two preeminent law enforcement communities.

I feel truly honored and privileged that you are considering my nomination for the position of Commissioner of the FTC. If I am fortunate to be confirmed, I will be proud to serve and work to protect the Nation's consumers.

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#### A. BIOGRAPHICAL INFORMATION

1. Name (Include any former names or nicknames used): Julie Simone Brill.
2. Position to which nominated: Commissioner of the Federal Trade Commission.
3. Date of Nomination: November 17, 2009.
4. Address (List current place of residence and office addresses):
 

Residences: Information not released to the public.

Office: Consumer Protection Division, North Carolina Department of Justice, 114 W. Edenton Street, Raleigh, NC 27602.
5. Date and Place of Birth: March 12, 1959; Houston, Texas.
6. Provide the name, position, and place of employment for your spouse (if married) and the names and ages of your children (including stepchildren and children by a previous marriage).
 

Spouse: Mark E. Miller, Director, Marketing and Business Development, DuBois & King, 28 North Main Street, Randolph, VT 05060; children: Zachary Miles Miller, age 16; Noah Davis Miller, age 14.
7. List all college and graduate degrees. Provide year and school attended.
 

B.A. degree: 1981, Princeton University.

J.D. degree: 1985, New York University School of Law.
8. List all post-undergraduate employment, and highlight all management-level jobs held and any non-managerial jobs that relate to the position for which you are nominated.
 

A. *Senior Deputy Attorney General and Chief, Consumer Protection and Antitrust Division, North Carolina Department of Justice*—Raleigh, NC, Feb. 2009–Present.

As one of the North Carolina Attorney General's top appointees, I work with the Department of Justice Executive Team to develop and execute the North Carolina Department of Justice's litigation, legislative and regulatory strategies for all consumer protection, antitrust and utilities matters.

The following management level work I perform in this position directly relates to the position of Commissioner of the Federal Trade Commission:

  - Developing the strategic plan for a 60-person division that is one of the most highly regarded consumer protection and antitrust State Attorney General divisions in the Nation.
  - Managing a multi-million dollar budget and large staff.
  - Managing a division of a state agency through a state-wide financial crisis.
  - Crafting and executing the division's legislative agenda, including working with a vast array of stakeholders and legislators. Legislative issues include efforts to assist consumers during the current economic crisis through improvements in foreclosure procedures, debt collection, and debt buying laws. Other legislative efforts involve securities transactions oversight, identity theft, security freezes, credit reporting, and telecommunications issues.
  - Creating the strategic plan for law enforcement efforts of the division, including marshalling resources and supervising investigations involving financial fraud, predatory lending, telemarketing fraud, business closures, security breaches, false advertising, gasoline price gouging, and utility rate filings involving rate increases and consumption reduction incentives.
  - Along with a few other top consumer protection state law enforcers, crafting the states' strategic plan for multistate investigations in a wide range of areas, including pharmaceuticals, financial fraud, and privacy.
  - Assisting in formulating multistate legislative and regulatory policy positions on a wide range of consumer protection issues.

- Participating in high-level discussions with Federal officials to articulate the states' position on wide variety of issues, including preemption, financial regulation, and privacy.

B. *Adjunct Professor, Columbia Law School*—New York, NY, September 2008–Present.

- I co-teach a course entitled “State Attorneys General”.
- I am a core member of the National State Attorneys General Program, part of Columbia Law School’s Social Justice Initiatives Program.

The following non-management level work I perform in this position directly relates to the position of Commissioner of the Federal Trade Commission:

- I have a deep understanding of the law enforcement efforts and policy concerns of State Attorneys General, including the challenges they face in consumer protection and antitrust enforcement.

C. *Assistant Attorney General and Director, Antitrust Vermont Attorney General’s Office*—Montpelier, VT, October 1991–Feb 2009.

For 17 years I developed and executed Vermont’s litigation, legislative and regulatory strategies in a wide variety of areas affecting consumers and businesses, including privacy, credit reporting, financial services, tobacco, solid waste, agriculture, food, drugs, and other health related industries.

The following management and non-management level work I performed in this position directly relates to the position of Commissioner of the Federal Trade Commission:

- Serving as part of a small core group of State Assistant Attorneys General around the Nation that established strategic plans for consumer protection pharmaceutical litigation and legislative efforts by the State Attorneys General. Efforts included:
  - serving as chair, co-chair and/or member of the states’ executive committees in major consumer protection pharmaceutical litigation;
  - crafting innovative resolutions for state litigation, including a groundbreaking \$28 million counter-advertising program;
  - developing creative state legislative responses to pharmaceutical issues;
  - defending the same creative state laws in the face of industry court challenge; and
  - organizing national pharmaceutical conferences sponsored by the National Association of Attorneys General and the National State Attorneys General Program of Columbia Law School.
- Serving as co-chair of the National Association of Attorneys General Privacy Working Group. Efforts included:
  - setting the strategic direction for State Attorneys General offices on privacy and identity theft issues;
  - developing state positions concerning privacy and identity theft issues to present to Congress and Federal regulators;
  - crafting creative state legislative solutions to privacy issues, including security breach, security freeze, and Social Security Number protection legislation; and
  - coordinating state multi-state litigation efforts, including serving on States’ Executive Committees in the ChoicePoint and TJ Maxx security breach investigations.
- Managing Vermont’s litigation and legislative efforts against the tobacco industry, which consisted of:
  - creatively crafting the state’s two major lawsuits against the industry;
  - working with various state agencies and local public health organizations on both litigation and policy issues related to tobacco;
  - shepherding unique tobacco-related bills through the Vermont legislature;
  - effectuating Vermont’s participation in the Master Settlement Agreement; and
  - serving as co-lead litigator in an innovative multistate lawsuit against RJ Reynolds Company over its claims for new “reduced risk” cigarette products,



culminating in a five-week trial in October 2008 and January 2009 in Burlington, Vermont.

- Directing Vermont's antitrust efforts, including major litigation efforts involving the state's largest vertically integrated solid waste company, and the Nation's largest dairy processors.

D. *General Counsel*, Vermont Department of Banking, Insurance and Securities—Montpelier, VT, July 1990–October 1991.

I counseled the Vermont state agency primarily responsible for regulation of the financial industry, and supervised the Department's litigation and enforcement actions.

The following management and non-management level work I performed in this position relates to the position of Commissioner of the Federal Trade Commission:

- Gaining a solid background in the law and regulations relating to banking, securities and insurance.
- Experiencing first-hand the complex relationships between financial regulators and the financial industry.

E. *Assistant Attorney General, Civil Law Division Vermont Attorney General's Office*—Montpelier, VT, June 1988–July 1990.

I served as legal counsel to several state agencies, providing advice on issues concerning economic development, housing, employment discrimination and community planning.

The following non-management level work I performed in this position relates to the position of Commissioner of the Federal Trade Commission:

- Serving as lead counsel in an antitrust action involving the state's two largest supermarket chains, and successfully negotiating another chain's entrance into the Vermont market to alleviate effects of the merger.

F. *Litigation Associate, Paul, Weiss, Rifkind, Wharton and Garrison*—New York, NY, January 1987–June 1988.

As an associate in the firm's litigation department, I provided legal advice and representation concerning a broad variety of business matters, including representation in a RICO matter, oil and gas development disputes, a Fortune 400 Family divorce, and general corporate litigation.

The following non-management level work I performed in this position relates to the position of Commissioner of the Federal Trade Commission:

- Gaining a good understanding of the issues and concerns affecting large corporations and small businesses, as well as individual clients, in the face of government regulation, enforcement actions and other legal problems.

G. *Federal Judicial Law Clerk, U.S. District Court for the District of Vermont Chambers of Hon. Franklin S. Billings, Jr.*—Rutland, VT, October 1985–October 1986.

I served a one-year appointment as judicial law clerk to a Federal district court judge in Vermont.

The following non-management level work I performed in this position relates to the position of Commissioner of the Federal Trade Commission:

- Observing and participating in the Federal trial deliberative judicial process.

H. *Summer Associate, Paul, Weiss, Rifkind, Wharton & Garrison*—New York, NY, June 1985–July 1985.

I. *Summer Associate, Strook & Strook & Lavan*—New York, NY, June 1983–August 1983.

J. *Law Clerk and Research Assistant, Eisner & Levy*—New York, NY, October 1982–June 1983.

K. *Law clerk and Research Assistant, Service Employees International Union, Local 925*—Boston, MA, June 1982–August 1982.

9. Attach a copy of your resume. A copy is attached.

10. List any advisory, consultative, honorary, or other part-time service or positions with Federal, State, or local governments, other than those listed above, within the last 5 years: None.

11. List all positions held as an officer, director, trustee, partner, proprietor, agent, representative, or consultant of any corporation, company, firm, partnership, or other business, enterprise, educational, or other institution within the last 5 years.

A. Vice-Chair, American Bar Association Antitrust Section, Consumer Protection Committee: 2004–Present.

B. Chair, Princeton Alumni Schools Committee, Vermont section, 2003–2009.

12. Please list each membership you have had during the past 10 years or currently hold with any civic, social, charitable, educational, political, professional, fraternal, benevolent or religious organization, private club, or other membership organization. Include dates of membership and any positions you have held with any organization. Please note whether any such club or organization restricts membership on the basis of sex, race, color, religion, national origin, age, or handicap.

A. American Bar Association, Antitrust Section: Vice-Chair, 2004 to present. No restrictions on membership based on sex, race, color, religion, national origin, age, or handicap.

B. Princeton Alumni Schools Committee: Chair, Vermont section, 2003–2009. No restrictions on membership based on sex, race, color, religion, national origin, age, or handicap.

C. Vermont Bar Association: Chair, Womens' Section, approximately 1996–2001. No restrictions on membership based on sex, race, color, religion, national origin, age, or handicap.

D. Vermont Leadership Institute, Snelling Center for Government at University of Vermont: Associate, 1998–1999. No restrictions on membership based on sex, race, color, religion, national origin, age, or handicap.

E. Vermont State Democratic party: member, 1988 to present. No restrictions on membership based on sex, race, color, religion, national origin, age, or handicap.

13. Have you ever been a candidate for and/or held a public office (elected, non-elected, or appointed)? If so, indicate whether any campaign has any outstanding debt, the amount, and whether you are personally liable for that debt.

Yes, I have held two appointed public offices:

A. Senior Deputy Attorney General and Chief, Consumer Protection and Antitrust Division, North Carolina Department of Justice Raleigh, NC, Feb. 2009 to present.

B. Assistant Attorney General and Director, Antitrust, Vermont Attorney General's Office, Montpelier, VT, October 1991 to Feb. 2009.

No, I have never run a campaign, and I do not have any outstanding debt associated with any public office.

14. Itemize all political contributions to any individual, campaign organization, political party, political action committee, or similar entity of \$500 or more for the past 10 years. Also list all offices you have held with, and services rendered to, a state or national political party or election committee during the same period.

I have never made a political contribution of \$500 or more.

In 2002, I volunteered for the Vermont gubernatorial campaign of then-Vermont Lieutenant Governor Doug Racine.

From time to time over the past 10 years I have assisted the Orange County (VT) and Vermont State Democratic Party through volunteer activities to assist local candidates for office.

15. List all scholarships, fellowships, honorary degrees, honorary society memberships, military medals, and any other special recognition for outstanding service or achievements.

A. National Association of Attorneys General Privacy Subcommittee Award, 2001, for role in creating proposed NAAG privacy principles.

B. Privacy International's Brandeis Award, 2001, for work at state and Federal levels on privacy issues.

C. Vermont Leadership Institute, Snelling Center for Government at University of Vermont, 1998–1999.

D. National Association of Attorneys General Marvin Award, 1995, for demonstrated leadership, expertise and achievement in advancing the goals of the National Association of Attorneys General.

E. New York University School of Law Root Tilden Scholarship, 1981–1985: three year full scholarship to law school for demonstrated commitment to public service.

F. New York University School of Law Sol D. Kapelson Prize, 1985, for highest excellence in legal writing in labor law.

G. Princeton University, economics degree awarded magna cum laude, 1981.

16. Please list each book, article, column, or publication you have authored, individually or with others. Also list any speeches that you have given on topics relevant to the position for which you have been nominated. Do not attach copies of these publications unless otherwise instructed.

*Publications List*

Brill and Lobb, *State Attorneys General and Pharmaceuticals: Writing a New Prescription to Curtail Drug Costs*, National State Attorneys General Program, Columbia Law School (2007).

Brill and Asay, *Addressing the Costs and Benefits of Prescription Drugs*, National Association of Attorneys General (2005).

Brill, "State Fair Credit Reporting laws: The Case for Dual Regulation", *Consumer Protection Update*, American Bar Association (2003).

Brill, "Fair Credit Reporting Act Preemption: Why We Don't Need It", *Electronic Banking Law and Commerce Report*, Glasser LegalWorks (2003).

Amestoy and Brill, "State Constitutions from the Attorney General's Perspective: An Institutional Schizophrenia," *Emerging Issues in State Constitutional Law*, National Association of Attorneys General (1988).

*Assessing Reforms in South Korea*, Asia Watch (1988).

*A Stern, Steady Crackdown: Legal Process and Human Rights in South Korea*, Asia Watch (1987).

Op-ed column: "Press South Korea on Labor Abuses," *New York Times* (Jan. 12, 1987).

Article: "Guatemalan Refugees: Will Mexico's 'Welcome' Last?," *The Nation* (May 19, 1984).

*Presentations List*

American Bar Association Consumer Protection Seminar, "Privacy in the Age of Facebook", Washington, D.C., June 18, 2009.

American Bar Association Antitrust Section Spring Meeting, "Patrolling Advertising Frontiers: State Attorney General Highlights", Washington, D.C., March 25, 2009.

Harvard Privacy Symposium, "State Attorneys General Privacy Legislation and Enforcement Actions", Cambridge, MA, August 21, 2008.

American Bar Association Antitrust Section Spring Meeting, "Falsity Developments in Consumer Protection Litigation", Washington, D.C., March 26, 2008.

American Law Institute/American Bar Association Advanced Course of Study: Privacy Law, "Data Breach and Crisis Management", Washington, D.C., March 13, 2008.

Harvard Privacy Symposium, "Role of States in Privacy Policy", Cambridge, MA, August 23, 2007.

Dartmouth Medical School Dept of Family and Community Medicine, Dartmouth Institute for Health Policy and Clinical Practice, Pharmaceuticals Health and Health Economics guest lecturer, Hanover, NH, May 18, 2007.

Columbia Law School National State Attorneys General Program, Pharmaceutical Conference, "Marketing to Doctors—Payments to Gain Loyalty", New York, NY, May 11, 2007.

American Bar Association Antitrust Section Spring Meeting, "Developments in Deception", Washington, D.C., April 19, 2007.

Columbia Law School National State Attorneys General Program, State Attorneys General Consumer Protection and Antitrust Leadership conference, "The Art of Public Litigation", New York, NY, March 1, 2007.

American Bar Association Section of Antitrust Law Consumer Protection Conference, "Fraud, Deception & Unfairness: Enforcers' Theories of Liability", Washington, D.C., January 30, 2007.

American Bar Association Business Law Section Annual Meeting, "You Had a Security Breach", Honolulu, HI, August 7, 2006.

Conference of Western Attorneys General ID Theft Summit, "Best Practices Showcase", Park City, UT, April 10, 2006.

American Bar Association Annual Meeting, "Information Security and Dealing with Security Breaches", Chicago, IL, October 25, 2005.

American Bar Association Annual Meeting, "Information Security and Dealing with Security Breaches," Chicago, IL, August 6, 2005.

American Bar Association Section on Antitrust Law's Consumer Protection and Computer and Internet Committees Teleseminar, "Data Leaks and Identity Theft: Best Practices in Protecting against Security Breaches Post-ChoicePoint and LexisNexis", July 6, 2005.

Practicing Law Institute 10th Annual Consumer Financial Services Litigation Institute "Federal Preemption Developments", New York, NY, March 1, 2005.

National Association of Attorneys General Presidential Initiative Pharmaceutical Summit, "Pharmaceutical State Best Practices" and "Litigation Roundtable", Chicago, IL, January 25–26, 2005.

National Association of Attorneys General Consumer Protection Seminar, "State Attorney General Pharmaceutical Cases: Views from State Attorneys General, Industry and Advocates", Chicago, IL, September 20, 2004.

American Bar Association Consumer Protection Committee Teleseminar, "State Attorneys General Pharmaceutical Cases", July 27, 2004.

Columbia Law School National State Attorneys General Program, "The Newest federalism: State Attorneys General in Cases of National Significance", New York, NY, December 5, 2003.

International Association of Privacy Officers, "FCRA: Where Are We Now?", Chicago, IL, October 30, 2003.

American Bar Association Antitrust Section Meeting Spring Meeting, "Advertising Law Update", Washington, D.C., April 3, 2003.

American Enterprise Institute-Brookings Joint Center for Regulatory Studies, Financial Privacy Symposium participant, Washington, D.C., January 8, 2003.

International Association of Privacy Officers, "State Enforcement", Chicago, IL, October 2002.

National Academy of Public Administration, "Personal Privacy in the Digital Age: The Challenge to State and Local Governments", Roanoke, VA, May 20, 2002.

American Bar Association Antitrust Section Spring Meeting, "Advertising Law Update", Washington, D.C., April 24, 2002.

Vermont Bar Association, "Is the Gaze on You? Current Issues in Privacy", Burlington, VT, January 25, 2002.

Harvard Law School Public Interest Law symposium, "Public Interest Law Careers", Cambridge, MA, November 28, 2001.

National Academy of Public Administration, "Personal Privacy in the Digital Age: The Challenge to State and Local Governments", Roanoke, VA, October 29, 2001.

Federal Reserve Board, "State Perspectives on Financial Privacy", Boston, MA, February 20, 2001.

Vermont Attorney General Financial Privacy Conference, "State Attorney Generals and Financial Privacy", Burlington, VT, January 8, 2001.

National Association of Attorneys General Consumer Protection Seminar "Internet Privacy Developments" and "State Legislative Developments", Denver, CO, November 24, 2000.

Vermont Bar Association, "Digital & Electronic Signatures: The Future of E-Commerce and Consumer Protection", Burlington, VT, Sept. 8, 2000.

U.S. Senate Forum on Technology and Innovation, "Financial Records Privacy", Washington, D.C., May 24, 2000.

Consumer Federation of America Annual Consumer Assembly, "Privacy Issues", Washington, D.C., March 17, 2000.

In addition to the above presentations, over the past 15 years, I have made presentations at conferences attended by pharmaceutical industry management and outside counsel to explain state pharmaceutical disclosure laws and state pharmaceutical enforcement efforts.

17. Please identify each instance in which you have testified orally or in writing before Congress in a governmental or non-governmental capacity and specify the date and subject matter of each testimony.

Congressional Testimony:

U.S. Senate, Committee on Banking, Housing and Urban Affairs, June 26, 2003, hearing on "Affiliate Sharing and the Fair Credit Reporting Act".

U.S. House of Representatives, Committee on Financial Services, Subcommittee on Financial Institutions and Consumer Credit, June 4, 2003 hearing on "Fair Credit Reporting Act: How it Functions for Consumers and the Economy".

18. Given the current mission, major programs, and major operational objectives of the department/agency to which you have been nominated, what in your background or employment experience do you believe affirmatively qualifies you for appointment to the position for which you have been nominated, and why do you wish to serve in that position?

I have devoted my career to developing legislative, litigation and policy solutions to consumer protection and antitrust issues affecting consumers and competition at the state and national level.

Through my leadership roles within the State Attorney General community, I have developed sophisticated approaches to consumer protection and antitrust law enforcement efforts, including marshalling law enforcement officials' scarce resources to achieve our goals.

I have broad experience in working with Congress, Congressional staff, state legislators, and state legislative staff to craft legislative solutions to consumer protection and antitrust issues that are currently facing the Federal Trade Commission, and that the FTC will address in the future.

I have broad experience developing regulatory solutions to consumer protection and antitrust problems, and working with Federal and state agencies to develop such regulatory solutions. I have written many consumer protection and antitrust regulations myself.

I have intimate knowledge of the enforcement priorities, focus and challenges facing state law enforcement officials, who are critical partners of the Federal Trade Commission in the joint mission to protect consumers and competition.

I have wide experience in working with a great variety of stakeholders on legislative and regulatory issues, including working closely with both business and consumer groups.

I have experience managing a large consumer protection division, including management of the division through a budget crisis.

Greater detail about how my background and employment experience affirmatively qualifies me for appointment as Commissioner is contained in my response to Question A8, above.

I would like to become a Commissioner of the Federal Trade Commission because this position would allow me to engage in antitrust and consumer protection policy work at the highest level. The FTC is the Nation's premier consumer protection and antitrust agency. Serving as Commissioner would allow me to extend and expand the work I've performed throughout my career, and would allow me to play an integral part in addressing the problems facing consumers and competition throughout the Nation in this current period of economic downturn, and in the years to come. Serving as part of the leadership team for the Federal Trade Commission, and having the opportunity to establish the policy direction for this wonderful agency, would be among the highest honors that the President and Congress could bestow upon me.

19. What do you believe are your responsibilities, if confirmed, to ensure that the department/agency has proper management and accounting controls, and what experience do you have in managing a large organization?

If confirmed, my responsibilities as Commissioner would be to ensure that the FTC has proper management and accounting controls would include ensuring that the agency has established appropriate metrics for measuring the true outcomes of its efforts to protect consumers and competition. As Commissioner I would establish procedures to measure the actual outcome of the remedies fashioned by the Commission to determine whether the remedies chosen actually brought about the anticipated outcomes.

In addition to ensuring that the FTC has developed appropriate metrics for measuring its efforts and outcomes in protecting consumers and competition, it would be my responsibility, if confirmed as Commissioner, to assess whether the agency has appropriate staffing levels to fulfill its increasingly important and complex mission in protecting competition and consumers. If confirmed, I would like to examine historic staffing levels, attorney case loads, and consumer complaint trends, among other metrics, to determine whether current staffing levels are appropriate to meet the FTC's critical missions.

As noted above, I currently manage and set strategic goals for a large and diverse consumer protection and antitrust division, with disparate missions and subject areas, and a variety of professional staff. Although the scale of the Federal Trade Commission's mission is much larger—both in terms of its staff size and geographic

reach—my experience in managing and establishing policy for a large public division with a variety of different, yet complementary missions, would prove invaluable in my role as part of the leadership team for the FTC.

My staff of 60+ employees in the North Carolina Department of Justice consists of attorneys, investigators, paralegals, administrative support staff, and consumer protection outreach specialists. The division is responsible for enforcing the state's consumer protection and antitrust laws, and developing legislative proposals and regulatory policies in these areas. In addition, the division is charged with representing the interests of consumers in utilities matters. In my role as Senior Deputy Attorney General and chief of this division, I manage a multi-million dollar budget.

I managed a much smaller governmental unit in the Vermont Attorney General's office, but again the subject matter included both consumer protection and antitrust, the same different yet complementary missions that Congress has given the FTC.

Throughout my career I have managed complex single state and multi-state litigation and investigations that employed teams of attorneys, economists, other experts, and support staff.

20. What do you believe to be the top three challenges facing the department/agency, and why?

The top three challenges facing the Federal Trade Commission are as follows:

A. *Addressing consumer protection issues that result from the current economic crisis.* Consumers now find themselves facing greater hardships than at any time in the past 20 years. Many consumers face the loss of their home, either as a result of predatory lending practices that have placed them in unsuitable and unsustainable mortgages, or as a result of losing their job and simply being unable to pay their mortgage. The Nation's economic crisis creates an atmosphere conducive to further abuses of consumers. Consumers who find themselves without jobs, with involuntarily reduced hours at work, with canceled credit cards, with mortgages they cannot pay, or with homes that are being foreclosed upon, are all particularly vulnerable to unscrupulous business practices that promise to alleviate their hardship. The Nation is seeing a dramatic rise in scams designed to take advantage of consumers' economic insecurity, including employment and "get rich quick" scams, foreclosure "rescue" and "assistance" schemes, bogus government grant schemes, debt settlement scams, credit repair scams, and unscrupulous debt collection practices.

The Federal Trade Commission must address the current economic crisis on behalf of consumers. The most important task is to rout out those who engaged in predatory lending in the recent past, and to provide much needed restitution to victims of these practices. The Federal Trade Commission also must provide relief to consumers who are being victimized by individuals and businesses that seek to take unfair advantage of the hardship they are facing through other economic scams. The FTC should increase its enforcement efforts and sharpen its regulation of such unscrupulous business practices.

B. *Improving competition in the pharmaceutical market by regulating "pay for delay", or "reverse payment" arrangements between pharmaceutical manufacturers.* The Nation spends about \$235 billion per year on pharmaceuticals. Generic entry into the market serves as an important competitive check on pharmaceutical prices. Congress has encouraged generic entry through the Hatch Waxman Act. But Congress's efforts to encourage generic entry and thereby keep drug prices down has been undermined by the growing practice of branded drug manufacturers providing payments to their potential generic competitors to not produce and market the generic, through so-called "pay for delay" or "reverse payment" agreements. The Federal Trade Commission has taken a leadership role in bringing these practices to light, in prosecuting anti-competitive agreements where appropriate, and in asking Congress to further address these issues.

In order to promote competition and maintain downward pressure on prices in this critical sector of the economy, the FTC must continue to take a leadership role in ensuring that branded pharmaceutical manufacturers are not able to improperly keep their generic competition out of the market through inappropriate "pay for delay" agreements.

C. *Providing appropriate consumer protections in the area of online behavioral and social marketing.* In the past year, consumers purchased about \$300 billion of goods and services online, making the web-based marketplace a critically important sector of the Nation's economy. Consumers who visit websites and purchase products online provide a vast amount of information to marketers and

advertisers about their finances, health and general online behavior. Recently, web-based marketers and advertising agencies have developed increasingly sophisticated tools to target their marketing at consumers based upon this wealth of personal information. Consumers are largely unaware of these practices.

In a similar vein, consumers have indicated that their purchasing decisions are heavily influenced by testimonials, blogs and other forms of so-called “social marketing” on the web, which consumers believe are created by ordinary consumers like themselves. Consumers are unaware that sometimes companies generate and pay for these seemingly independent testimonial and blog postings.

The Federal Trade Commission has recently issued a key report on behavioral marketing, recognizing the value of industry self-regulation in this arena in the first instance. The report describes principles that should govern the collection, use, sale and disposal of behavioral information about consumers. The FTC has engaged in enforcement actions where companies failed to provide appropriate disclosures to consumers about the collection and use of such personal information. Online marketers and advertisers have responded positively to the FTC’s report by proposing self-regulation of behavioral marketing that incorporates many of the specific recommendations of the FTC.

The FTC and State Attorneys General also have cracked down on phony web-based testimonials and other forms of deceptive social marketing.

In order to protect consumers and the robust and innovative web-based market, the FTC should continue to address these critical areas of online commerce. With respect to behavioral marketing, the FTC should closely monitor the practices of online advertisers and marketers to determine whether self-regulation of behavioral advertising provides adequate protection to consumers.

#### B. POTENTIAL CONFLICTS OF INTEREST

1. Describe all financial arrangements, deferred compensation agreements, and other continuing dealings with business associates, clients, or customers. Please include information related to retirement accounts.

Pursuant to North Carolina law, upon my resignation from the North Carolina Department of Justice I will receive a payout of my contributions to the North Carolina pension fund. The payout will not include interest because I will have held the position with North Carolina state government for less than 5 years.

I hold retirement accounts (IRA, 457 and 401(k) accounts) in the following mutual funds:

- PIMCO Real Return Class D
- Fidelity Mortgage Securities
- PIMCO Total Return
- American Balanced R4
- LD Abbett Small Cap Value A
- Fidelity Equity Income
- Fidelity Law Price Stock
- Fidelity Diversified International
- Fidelity Dividend Growth
- Fidelity Freedom Fund 2020
- Spartan U.S. Equity Index Fund
- T. Rowe Price Small-Cap Stock Fund
- Vanguard Mid-Cap Index-Institutional
- American Funds Growth Fund R5
- Vanguard Institutional Index Fund
- Dodge and Cox Balanced Fund
- State of Vermont Stable Value Fund

More information about those mutual funds and other retirement accounts in which I hold more than \$10,000 worth of assets is included in my response to Q. E1, below.

2. Do you have any commitments or agreements, formal or informal, to maintain employment, affiliation, or practice with any business, association or other organization during your appointment? If so, please explain: No.

3. Indicate any investments, obligations, liabilities, or other relationships which could involve potential conflicts of interest in the position to which you have been nominated.

In connection with the nomination process, I have consulted with the Office of Government Ethics and the Federal Trade Commission's designated agency ethics official to identify potential conflicts of interest. Any potential conflicts of interest will be resolved in accordance with the terms of the ethics agreement that I have entered into with the Commission's designated agency ethics official and that has been provided to this Committee. I am not aware of any other potential conflicts of interest.

4. Describe any business relationship, dealing, or financial transaction which you have had during the last 10 years, whether for yourself, on behalf of a client, or acting as an agent, that could in any way constitute or result in a possible conflict of interest in the position to which you have been nominated.

In connection with the nomination process, I have consulted with the Office of Government Ethics and the Federal Trade Commission's designated agency ethics official to identify potential conflicts of interest. Any potential conflicts of interest will be resolved in accordance with the terms of the ethics agreement that I have entered into with the Commission's designated agency ethics official and that has been provided to this Committee. I am not aware of any other potential conflicts of interest.

5. Describe any activity during the past 10 years in which you have been engaged for the purpose of directly or indirectly influencing the passage, defeat, or modification of any legislation or affecting the administration and execution of law or public policy.

I have never been a registered lobbyist. I have held two positions within State Attorneys General offices within the past 10 years: Senior Deputy Attorney General and Chief of Consumer Protection and Antitrust for the State of North Carolina; and Assistant Attorney General for the State of Vermont. In both capacities, I have been called upon numerous times by state legislatures to provide testimony regarding a wide array of pending state consumer protection and antitrust legislation and other matters of interest to state legislators. These issues include:

- foreclosure procedures
- debt collection and debt buying
- securities transactions
- identity theft
- security freezes
- protection of Social Security Numbers
- credit reporting
- data mining restrictions
- below-cost pricing
- indirect purchaser recovery
- pharmaceutical manufacturer payment disclosures
- Medicaid recovery for tobacco-related payments and
- the state's tobacco Master Settlement Agreement.

In these positions I have also been called upon by Congress to testify on two occasions. See my response to questions A.8 and 17, above.

In addition, I have been called upon by Congressional staffers to provide opinions and advice on a number of pending Federal consumer protection and antitrust legislation and other matters of interest to Congress.

My positions with the State of North Carolina and the State of Vermont center on the administration and execution of law and public policy relating to consumer protection and antitrust issues.

6. Explain how you will resolve any potential conflict of interest, including any that may be disclosed by your responses to the above items.

Any potential conflicts of interest will be resolved in accordance with the terms of the ethics agreement that I have entered into with the Commission's designated agency ethics official and that has been provided to this Committee.

#### C. LEGAL MATTERS

1. Have you ever been disciplined or cited for a breach of ethics by, or been the subject of a complaint to any court, administrative agency, professional association, disciplinary committee, or other professional group? If so, please explain: No.



2. Have you ever been investigated, arrested, charged, or held by any Federal, State, or other law enforcement authority of any Federal, State, county, or municipal entity, other than for a minor traffic offense? If so, please explain: No.

3. Have you or any business of which you are or were an officer ever been involved as a party in an administrative agency proceeding or civil litigation? If so, please explain: No.

4. Have you ever been convicted (including pleas of guilty or *nolo contendere*) of any criminal violation other than a minor traffic offense? If so, please explain: No.

5. Have you ever been accused, formally or informally, of sexual harassment or discrimination on the basis of sex, race, religion, or any other basis? If so, please explain: No.

6. Please advise the Committee of any additional information, favorable or unfavorable, which you feel should be disclosed in connection with your nomination: None.

#### D. RELATIONSHIP WITH COMMITTEE

1. Will you ensure that your department/agency complies with deadlines for information set by Congressional committees?

If confirmed as a Federal Trade Commissioner, I would work diligently with the Chairman and my fellow Commissioners to do so.

2. Will you ensure that your department/agency does whatever it can to protect Congressional witnesses and whistle blowers from reprisal for their testimony and disclosures?

If confirmed as a Federal Trade Commissioner, I would work diligently with the Chairman and my fellow Commissioners to do so.

3. Will you cooperate in providing the Committee with requested witnesses, including technical experts and career employees, with firsthand knowledge of matters of interest to the Committee? Yes.

4. Are you willing to appear and testify before any duly constituted committee of the Congress on such occasions as you may be reasonably requested to do so? Yes.

#### RESUME OF JULIE SIMONE BRILL

##### Education

*New York University School of Law, New York, NY, J.D. June 1985.*

Root-Tilden Scholarship: 3 years' full scholarship for demonstrated commitment to public service.

Sol D. Kapelson Prize: highest excellence in legal writing in Labor Law.

*Princeton University, Princeton, NJ, B.A. Economics magna cum laude June 1981.*

Senior Thesis advisor: Joseph Stiglitz.

##### Experience

*North Carolina Department of Justice, Raleigh, NC, Feb 2009–Present—Senior Deputy Attorney General and Chief, Consumer Protection and Antitrust Division.*

As one of the Attorney General's top appointees, I work with the Attorney General's executive team to develop and execute the Department of Justice's litigation, legislative and regulatory strategies for all consumer protection, antitrust and utilities matters. Specific accomplishments include:

- Developing the strategic plan for a 60-person division that is one of the most highly regarded consumer protection and antitrust divisions in the Nation.
- Crafting and executing the division's legislative agenda, including working with a vast array of stakeholders and legislators. Legislative issues include efforts to assist consumers during the current economic crisis through improvements in foreclosure procedures, debt collection, and debt buying laws. Other legislative efforts involve securities transactions oversight, identity theft, security freezes, credit reporting, and telecommunications issues.
- Creating the strategic plan for law enforcement efforts of the division, including marshalling resources and supervising investigations involving financial fraud, predatory lending, telemarketing fraud, business closures, security breaches, false advertising, gasoline price gouging, and utility rate filings involving rate increases and consumption reduction incentives.
- Along with a handful of consumer protection thought leaders in other states, crafting the states' strategic plan for multistate investigations in a wide range of areas, including pharmaceuticals, financial fraud, and privacy.

- Formulating multistate policy positions on preemption, financial regulation and privacy, and participating in high-level discussions with Federal officials to articulate the states' positions.
- Managing a multi-million dollar budget and large staff through a statewide financial crisis.

*Columbia Law School, New York, NY, Sept 2008–Present—Adjunct Faculty.*

I co-teach the course “State Attorneys General” at Columbia Law School. I am also a core member of the National State Attorney General Program, part of Columbia Law School’s Social Justice Initiatives Program. I have spearheaded the National State Attorney General Program’s pharmaceutical initiative.

*Vermont Attorney General’s Office, Montpelier, VT, Oct. 1991–Feb. 2009—Assistant Attorney General and Director, Antitrust.*

For 17 years, I developed and executed Vermont’s litigation, legislative and regulatory strategies in a wide variety of areas affecting consumers and businesses, including privacy, credit reporting, financial services, tobacco, solid waste, dairy, food, drugs, and other health-related industries. Specific accomplishments include:

- Serving as part of a small core group of State Assistant Attorneys General around the Nation that established strategic plans for consumer protection pharmaceutical litigation and legislative efforts by the State Attorneys General. Efforts included serving as chair, co-chair and/or member of states’ executive committees in major consumer protection pharmaceutical litigation; crafting innovative resolutions for state litigation, including groundbreaking \$28 million counter-advertising program; developing creative state legislative responses to pharmaceutical issues; and defending the same creative state laws in the face of industry court challenge.
- Organizing national pharmaceutical conferences sponsored by the National Association of Attorneys General and the National State Attorneys General Program of Columbia Law School.
- Serving as Chair of the National Association of Attorneys General Privacy Working Group. Efforts included setting strategic direction for State Attorneys General Offices on privacy and identity theft issues; developing state positions concerning privacy and identity theft issues before Congress and Federal regulators; crafting creative state legislative solutions to privacy issues, including multistate security breach, security freeze, and Social Security Number protection legislation; and coordinating state multistate litigation efforts, including serving on States’ Executive Committees in the ChoicePoint and TJ Maxx security breach investigations.
- Managing Vermont’s litigation and legislative efforts against the tobacco industry, which consisted of creatively crafting the state’s two major lawsuits against the industry; working with various state agencies and local public health organizations on both litigation and policy issues related to tobacco; shepherding unique tobacco-related bills through the Vermont legislature; and effectuating Vermont’s participation in the Master Settlement Agreement. More recently I served as co-lead litigator.
- Directing Vermont’s antitrust efforts, including major litigation efforts involving the state’s largest vertically integrated solid waste company, and the Nation’s largest dairy processors.

*Vermont Department of Banking, Insurance and Securities, Montpelier, VT, July 1990–Oct. 1991—General Counsel.*

I counseled the Vermont agency primarily responsible for regulation of the financial services industry on various legal issues, and supervised the Department’s litigation and enforcement actions.

*Vermont Attorney General’s Office, Montpelier, VT, June 1988–July 1990—Assistant Attorney General, Civil Law Division.*

I served as legal counsel to numerous state agencies, providing advice on issues concerning economic development, housing, employment discrimination and community planning. Served as lead counsel in antitrust action involving the state’s two largest supermarket chains, and successfully negotiated Price Chopper’s entrance into the Vermont market to alleviate effects of the merger. Investigated and prosecuted criminal cases against haulers of out-of-state trash into Vermont.

*Paul, Weiss, Rifkind, Wharton & Garrison, New York, NY, Jan. 1987–June 1988—Litigation Associate.*

Paul Weiss is one of the Nation's premier law firms. As an associate in the firm's litigation department, I provided legal advice and representation concerning a broad variety of business matters, including representation in RICO matters, oil and gas development disputes, a Fortune 400 Family divorce and general corporate litigation. My clients ranged from individuals to large corporations. I also participated actively in the firm's pro bono program.

*Hon. Franklin S. Billings, Jr., U.S. Dis. Ct., Rutland, VT, Oct. 1985–Oct. 1986—Federal Judicial Law Clerk.*

#### **Honors**

National Association of Attorneys General Privacy Subcommittee Award in 2001, for role in creating proposed NAAG privacy principles.

Privacy International's 2001 Brandeis award for work at state and Federal levels on privacy issues.

National Association of Attorneys General Marvin Award 1995, for demonstrated outstanding leadership, expertise and achievement in advancing the goals of the National Association of Attorneys General.

#### **Activities and Affiliations**

*American Bar Association Antitrust Section Consumer Protection Committee—Vice Chair, 2004 to present.*

*Princeton Alumni Schools Committee—Chair, Vermont Committee, 2003–2009.*

*Vermont Leadership Institute, Snelling Center for Government at University of Vermont—Associate, 1998–1999.*

*Vermont Bar Association Women's Section—Chair, Women's Section, 1996–2001.*

*Human Rights Watch, New York, NY and Washington, D.C.—Member, Board of Directors of Asia Watch, 1988–1997. Conducted fact-finding missions to South Korea in July–August 1988 and November–December 1986.*

Researcher, Americas Watch, 1983–1984. Conducted fact-finding missions to Guatemalan refugee camps in Mexico.

*Vermont Board of Bar Examiners—Member, 1990–1994.*

#### **Publications**

Brill and Lobb, *State Attorneys General and Pharmaceuticals: Writing a New Prescription to Curtail Drug Costs*, National State Attorneys General Program, Columbia Law School (2007).

Brill and Asay, *Addressing the Costs and Benefits of Prescription Drugs*, National Association of Attorneys General (2005).

Brill, "State Fair Credit Reporting laws: The Case for Dual Regulation", *Consumer Protection Update*, American Bar Association (2003).

Brill, "Fair Credit Reporting Act Preemption: Why We Don't Need It", *Electronic Banking Law and Commerce Report*, Glasser LegalWorks (2003).

Amestoy and Brill, "State Constitutions from the Attorney General's Perspective: An Institutional Schizophrenia," *Emerging Issues in State Constitutional Law*, National Association of Attorneys General (1988).

*Assessing Reforms in South Korea*, Asia Watch (1988).

*A Stern, Steady Crackdown: Legal Process and Human Rights in South Korea*, Asia Watch (1987).

Articles appearing in *The New York Times* and *The Nation*.

#### **Congressional Testimony**

U.S. Senate Banking, Housing and Urban Affairs Committee, June 26, 2003, hearing on "Affiliate Sharing and the Fair Credit Reporting Act".

U.S. House of Representatives, Committee on Financial Services, Subcommittee on Financial Institutions and Consumer Credit, June 4, 2003 hearing on "Fair Credit Reporting Act: How it Functions for Consumers and the Economy".

#### **Presentations (Selected)**

American Bar Association Consumer Protection Seminar, "Privacy in the Age of Facebook", Washington, D.C., June 18, 2009.

American Bar Association Antitrust Section Spring Meeting, "Patrolling Advertising Frontiers: State Attorney General Highlights", Washington, D.C., March 25, 2009.

- Harvard Privacy Symposium, “State Attorneys General Privacy Legislation and Enforcement Actions”, Cambridge, MA, August 21, 2008.
- American Bar Association Antitrust Section Spring Meeting, “Falsity Developments in Consumer Protection Litigation”, Washington, D.C., March 26, 2008.
- American Law Institute/American Bar Association Advanced Course of Study: Privacy Law, “Data Breach and Crisis Management”, Washington, D.C., March 13, 2008.
- Harvard Privacy Symposium, “Role of States in Privacy Policy”, Cambridge, MA, August 23, 2007.
- Dartmouth Medical School Dept of Family and Community Medicine, Dartmouth Institute for Health Policy and Clinical Practice, Pharmaceuticals Health and Health Economics guest lecturer, Hanover, NH, May 18, 2007.
- Columbia Law School National State Attorneys General Program, Pharmaceutical Conference, “Marketing to Doctors—Payments to Gain Loyalty”, New York, NY, May 11, 2007.
- American Bar Association Antitrust Section Spring Meeting, “Developments in Deception”, Washington, D.C., April 19, 2007.
- Columbia Law School National State Attorneys General Program, State Attorneys General Consumer Protection and Antitrust Leadership conference, “The Art of Public Litigation”, New York, NY, March 1, 2007.
- American Bar Association Section of Antitrust Law Consumer Protection Conference, “Fraud, Deception & Unfairness: Enforcers’ Theories of Liability”, Washington, D.C., January 30, 2007.
- American Bar Association Business Law Section Annual Meeting, “You Had a Security Breach”, Honolulu, HI, August 7, 2006.
- Conference of Western Attorneys General ID Theft Summit, “Best Practices Showcase”, Park City, UT, April 10, 2006.
- American Bar Association Annual Meeting, “Information Security and Dealing with Security Breaches”, Chicago, IL, October 25, 2005.
- American Bar Association Annual Meeting, “Information Security and Dealing with Security Breaches,” Chicago, IL, August 6, 2005.
- American Bar Association Section on Antitrust Law’s Consumer Protection and Computer and Internet Committees Teleseminar, “Data Leaks and Identity Theft: Best Practices in Protecting against Security Breaches Post-ChoicePoint and LexisNexis”, July 6, 2005.
- Practicing Law Institute 10th Annual Consumer Financial Services Litigation Institute “Federal Preemption Developments”, New York, NY, March 1, 2005.
- National Association of Attorneys General Presidential Initiative Pharmaceutical Summit, “Pharmaceutical State Best Practices” and “Litigation Roundtable”, Chicago, IL, January 25–26, 2005.
- National Association of Attorneys General Consumer Protection Seminar, “State Attorney General Pharmaceutical Cases: Views from State Attorneys General, Industry and Advocates”, Chicago, IL, September 20, 2004.
- American Bar Association Consumer Protection Committee Teleseminar, “State Attorneys General Pharmaceutical Cases”, July 27, 2004.
- Columbia Law School National State Attorneys General Program, “The Newest federalism: State Attorneys General in Cases of National Significance”, New York, NY, December 5, 2003.
- International Association of Privacy Officers, “FCRA: Where Are We Now?”, Chicago, IL, October 30, 2003.
- American Bar Association Antitrust Section Meeting Spring Meeting, “Advertising Law Update”, Washington, D.C., April 3, 2003.
- American Enterprise Institute-Brookings Joint Center for Regulatory Studies, Financial Privacy Symposium participant, Washington, D.C., January 8, 2003.
- International Association of Privacy Officers, “State Enforcement”, Chicago, IL, October 2002.
- National Academy of Public Administration, “Personal Privacy in the Digital Age: The Challenge to State and Local Governments”, Roanoke, VA, May 20, 2002.
- American Bar Association Antitrust Section Spring Meeting, “Advertising Law Update”, Washington, D.C., April 24, 2002.

Vermont Bar Association, "Is the Gaze on You? Current Issues in Privacy", Burlington, VT, January 25, 2002.

Harvard Law School Public Interest Law symposium, "Public Interest Law Careers", Cambridge, MA, November 28, 2001.

National Academy of Public Administration, "Personal Privacy in the Digital Age: The Challenge to State and Local Governments", Roanoke, VA, October 29, 2001.

Federal Reserve Board, "State Perspectives on Financial Privacy", Boston, MA, February 20, 2001.

Vermont Attorney General Financial Privacy Conference, "State Attorney Generals and Financial Privacy", Burlington, VT, January 8, 2001.

National Association of Attorneys General Consumer Protection Seminar "Internet Privacy Developments" and "State Legislative Developments", Denver, CO, November 24, 2000.

Vermont Bar Association, "Digital & Electronic Signatures: The Future of E-Commerce and Consumer Protection", Burlington, VT, September 8, 2000.

U.S. Senate Forum on Technology and Innovation, "Financial Records Privacy", Washington, D.C., May 24, 2000.

Consumer Federation of America Annual Consumer Assembly, "Privacy Issues", Washington, D.C., March 17, 2000.

The CHAIRMAN. Thank you very much. And thank you—that came in exactly at 5 minutes, which is what we allot for everybody. Ms. Ramirez, please.

**STATEMENT OF EDITH RAMIREZ, COMMISSIONER-DESIGNATE,  
FEDERAL TRADE COMMISSION**

Ms. RAMIREZ. Thank you.

Mr. Chairman, Ranking Member Hutchison, Senator Inouye, and members of the Committee, I am deeply honored to be here today as a nominee of President Obama to the Federal Trade Commission.

The opportunity to join the FTC, an agency that plays a vital role in the economic life of every American, is a true privilege, and I appear before you with great respect and gratitude as you consider my nomination.

For close to 100 years, the FTC has sought to ensure that American consumers can participate meaningfully and fairly in a competitive marketplace. That work has always been extraordinarily important to our system of free enterprise. Competition spurs innovation, lowers prices, and brings greater and more informed choices to everyday Americans. American consumers and businesses alike rely on the FTC's effective enforcement of the antitrust and consumer protection laws to ensure that the benefits of competition are achieved.

But, now, in these difficult economic times, the need to be vigilant and aggressive in protecting American consumers is especially pressing. The Commission's duty to combat deceptive and unfair business practices and to foster competition has never been greater, particularly in the areas that have the greatest impact on the daily lives of ordinary Americans, like financial services, healthcare, energy, and technology.

Nor can the FTC rest on its past successes. The Commission faces new challenges brought about by rapid innovation, increased globalization, and continued economic uncertainty. These challenges herald a new era for the agency and raise ever more difficult questions.

I am mindful of the challenges that lie ahead, and am confident that my experience and background will enable me to bring a fresh perspective to the issues confronting the FTC.

In my more than 15 years of legal practice, I have counseled and advocated for major corporations in a wide range of complex business matters. During that time, I have also been deeply committed to serving the public interest through my work with nonprofits and my leadership in various civic organizations, including on the board of the country's largest municipal utility. I am certain my experience in the private sector and in the Los Angeles community will help me advance the mission of the FTC.

Mr. Chairman, it would be an honor to be a Member of the Federal Trade Commission. If confirmed, I will approach the matters before the Commission with an open and creative mind, and dedicate myself to working closely with this committee, my fellow Commissioners, and the agency's able staff to protect the interests of American consumers.

Thank you.

[The prepared statement and biographical information of Ms. Ramirez follows:]

PREPARED STATEMENT OF EDITH RAMIREZ, COMMISSIONER-DESIGNATE,  
FEDERAL TRADE COMMISSION

Mr. Chairman and members of the Committee:

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Nor can the FTC rest on its past successes. The Commission faces new challenges brought about by rapid innovation, increased globalization, and continued economic uncertainty. These challenges herald a new era for the agency and raise ever more difficult questions.

I am mindful of the challenges that lie ahead and am confident that my experience and background will enable me to bring a fresh perspective to the issues confronting the FTC. In my more than fifteen years of legal practice, I have counseled and advocated for major corporations in a wide range of complex business matters. During that time, I have also been deeply committed to serving the public interest through my work with non-profits and leadership in various civic organizations, including the board of the country's largest municipal utility. I am certain my experience in the private sector and in the Los Angeles community will help me advance the mission of the FTC.

It would be an honor to be a member of the Federal Trade Commission. If confirmed, I will approach the matters before the Commission with an open and creative mind, and dedicate myself to working closely with this Committee, my fellow Commissioners, and the agency's able staff to protect the interests of American consumers.

Thank you.

## A. BIOGRAPHICAL INFORMATION

1. Name (Include any former names or nicknames used): Edith Ramirez.
2. Position to which nominated: Commissioner, Federal Trade Commission.
3. Date of Nomination: November 17, 2009.
4. Address (List current place of residence and office addresses):  
 Residence: Information not released to the public.  
 Office: Quinn Emanuel Urquhart Oliver & Hedges, LLP, 865 S. Figueroa St., 10th Floor, Los Angeles, CA 90017.
5. Date and Place of Birth: May 28, 1968; South Laguna, CA.
6. Provide the name, position, and place of employment for your spouse (if married) and the names and ages of your children (including stepchildren and children by a previous marriage).  
 Not applicable.
7. List all college and graduate degrees. Provide year and school attended.  
 Harvard-Radcliffe College, A.B. History, *Magna Cum Laude*, 1989.  
 Harvard Law School, J.D., *Cum Laude*, 1992.
8. List all post-undergraduate employment, and highlight all management-level jobs held and any non-managerial jobs that relate to the position for which you are nominated.  
 Partner, Quinn Emanuel Oliver & Hedges, LLP, Los Angeles, California, 1997 to present.  
 California Deputy Political Director/Director of Latino Outreach, Obama for America, Los Angeles, California, 2007–2008.  
 Associate, Gibson Dunn & Crutcher, LLP, Los Angeles, California, 1993–1996.  
 Law Clerk, Honorable Alfred T. Goodwin, Ninth Circuit Court of Appeals, Pasadena, California, 1992–1993.
9. Attach a copy of your resume. A copy is attached.
10. List any advisory, consultative, honorary, or other part-time service or positions with Federal, State, or local governments, other than those listed above, within the last 5 years.  
 Vice President, Los Angeles Department of Water and Power Board of Commissioners, 2005 to present.  
 Member, Los Angeles Police Permit Review Panel, 2004–2005.
11. List all positions held as an officer, director, trustee, partner, proprietor, agent, representative, or consultant of any corporation, company, firm, partnership, or other business, enterprise, educational, or other institution within the last 5 years.  
 Partner—Quinn Emanuel Urquhart Oliver & Hedges, LLP.  
 Vice President, Los Angeles Department of Water and Power Board of Commissioners, 2005 to present.  
 Member, Board of Directors—Volunteers of America of Los Angeles, 1998 to present.
12. Please list each membership you have had during the past 10 years or currently hold with any civic, social, charitable, educational, political, professional, fraternal, benevolent or religious organization, private club, or other membership organization. Include dates of membership and any positions you have held with any organization. Please note whether any such club or organization restricts membership on the basis of sex, race, color, religion, national origin, age, or handicap.  
 Member, Board of Directors—Volunteers of America of Los Angeles, 1998 to present.  
 Member, Board of Directors, Los Angeles Center for Law and Justice, 1995 to 2003.  
 Harvard-Radcliffe Club of Southern California, approx. 1996 to present.  
 Los Angeles County Bar Association, 2000 to present.
13. Have you ever been a candidate for and/or held a public office (elected, non-elected, or appointed)? If so, indicate whether any campaign has any outstanding debt, the amount, and whether you are personally liable for that debt: No.

14. Itemize all political contributions to any individual, campaign organization, political party, political action committee, or similar entity of \$500 or more for the past 10 years. Also list all offices you have held with, and services rendered to, a state or national political party or election committee during the same period.

Political contributions:

Kamala Harris for Attorney General, 2009, \$500.

Cedillo for Congress, 2009, \$500.

Obama for America, 2007, \$1,000.

Kerry-Edwards, 2004, \$550.

Obama for Illinois, 2004, \$500.

Services performed:

Campaign volunteer and staffer, Obama for America, 2007 to 2008.

15. List all scholarships, fellowships, honorary degrees, honorary society memberships, military medals, and any other special recognition for outstanding service or achievements.

Editor, *Harvard Law Review*, 1990–1992

16. Please list each book, article, column, or publication you have authored, individually or with others. Also list any speeches that you have given on topics relevant to the position for which you have been nominated. Do not attach copies of these publications unless otherwise instructed.

Student Book Review, "Rehabilitating Theories of Punishment," *Harvard Law Review*, Vol. 104, No. 5 (March 1991).

17. Please identify each instance in which you have testified orally or in writing before Congress in a governmental or non-governmental capacity and specify the date and subject matter of each testimony: None.

18. Given the current mission, major programs, and major operational objectives of the department/agency to which you have been nominated, what in your background or employment experience do you believe affirmatively qualifies you for appointment to the position for which you have been nominated, and why do you wish to serve in that position?

As it approaches its hundredth year, the Federal Trade Commission is poised to play an even greater role in ensuring that competition is robust and that consumers are free from fraudulent, deceptive, and unfair business practices. It would be a privilege to be a part of the FTC as it embarks on a new century of work to protect consumers and competition. As a longtime litigator, including in connection with antitrust matters, I believe I would be valuable in ensuring that the agency continues its rigorous enforcement of consumer protection and competition laws. I also understand the critical importance of guarding consumer rights as a result of my many years of work with a non-profit legal services agency serving low-income residents of Los Angeles, particularly in difficult economic times such as these when consumers are especially vulnerable to fraudulent and deceptive practices. Finally, as a Commissioner for the Los Angeles Department of Water and Power, I understand and appreciate the role of a commissioner in leading an agency to achieve its policy goals and objectives. I would very much look forward to having an opportunity to be part of an agency that plays such an important role in protecting American consumers.

19. What do you believe are your responsibilities, if confirmed, to ensure that the department/agency has proper management and accounting controls, and what experience do you have in managing a large organization?

If confirmed as an FTC Commissioner, I would be responsible, together with the Chairman and my fellow Commissioners, for ensuring that agency resources are deployed efficiently and effectively, and in a manner that is consistent with the agency's mission to protect consumers and promote competition. I would work with the Chairman, my fellow Commissioners, and senior staff to review and assess the agency's internal control programs and confirm that the systems and processes that are in place comply with all applicable laws and regulations. I have performed similar duties in my capacity as a Commissioner for the Los Angeles Department of Water and Power, overseeing nearly 9,000 employees and a budget of more than \$4 billion.

20. What do you believe to be the top three challenges facing the department/agency, and why?

I believe the fundamental challenge facing the FTC is the task of fulfilling its core mission with limited resources. The agency is small, but its goals and responsibilities are immense. In light of the FTC's broad jurisdiction in the areas of competition and consumer protection and the fact that the need for vigorous enforcement



is critical in the current economic and financial climate, it is all the more important that the FTC effectively leverage its resources.

Another challenge is the need for the FTC to work closely with the Department of Justice, and other law enforcers, including state attorneys general and other countries' competition and consumer protection authorities. Vigorous enforcement will depend on the ability of the various players in this arena to cooperate in interpreting and applying their laws in a manner that is consistent and coordinated.

On the consumer protection front, the increasingly international scope of online activity poses a significant challenge. American consumers are at greater risk of being victims of fraud with the growing number of cross-border transactions. Although there are limits on the FTC's ability to identify and stop unlawful conduct originating outside of the U.S., the agency has recently used the authority provided by the U.S. SAFE WEB Act to bolster several enforcement matters. The agency must continue to refine its implementation of SAFE WEB to develop creative and innovative strategies, working with foreign partners, to address this growing problem.

#### B. POTENTIAL CONFLICTS OF INTEREST

1. Describe all financial arrangements, deferred compensation agreements, and other continuing dealings with business associates, clients, or customers. Please include information related to retirement accounts.

Ongoing participation in Quinn Emanuel sponsored 401K plan administered by Merrill Lynch; if confirmed, no new contributions will be made after I resign from the firm.

Ongoing participation in Quinn Emanuel sponsored Defined Benefits Plan; if confirmed, no new contributions will be made after I resign from the firm.

2. Do you have any commitments or agreements, formal or informal, to maintain employment, affiliation, or practice with any business, association or other organization during your appointment? If so, please explain: None.

3. Indicate any investments, obligations, liabilities, or other relationships which could involve potential conflicts of interest in the position to which you have been nominated.

During the nomination process, I consulted with the Office of Government Ethics and the Federal Trade Commission's designated agency ethics official to identify potential conflicts of interest. Any potential conflicts of interest will be resolved in accordance with the terms of the ethics agreement that I have entered into with the Commission's designated agency ethics official and that has been provided to this Committee. I am not aware of any other potential conflicts of interest.

4. Describe any business relationship, dealing, or financial transaction which you have had during the last 10 years, whether for yourself, on behalf of a client, or acting as an agent, that could in any way constitute or result in a possible conflict of interest in the position to which you have been nominated.

During the nomination process, I consulted with the Office of Government Ethics and the Federal Trade Commission's designated agency ethics official to identify potential conflicts of interest. Any potential conflicts of interest will be resolved in accordance with the terms of the ethics agreement that I have entered into with the Commission's designated agency ethics official and that has been provided to this Committee. I am not aware of any other potential conflicts of interest.

5. Describe any activity during the past 10 years in which you have been engaged for the purpose of directly or indirectly influencing the passage, defeat, or modification of any legislation or affecting the administration and execution of law or public policy.

None, except for my official duties as a member of the Los Angeles Water and Power Board of Commissioners and the Los Angeles Police Permit Review Panel.

6. Explain how you will resolve any potential conflict of interest, including any that may be disclosed by your responses to the above items.

Any potential conflicts of interest will be resolved in accordance with the terms of the ethics agreement that I have entered into with the Commission's designated agency ethics official and that has been provided to this Committee.

#### C. LEGAL MATTERS

1. Have you ever been disciplined or cited for a breach of ethics by, or been the subject of a complaint to any court, administrative agency, professional association, disciplinary committee, or other professional group? If so, please explain: No.

2. Have you ever been investigated, arrested, charged, or held by any Federal, State, or other law enforcement authority of any Federal, State, county, or municipal entity, other than for a minor traffic offense? If so, please explain: No.

3. Have you or any business of which you are or were an officer ever been involved as a party in an administrative agency proceeding or civil litigation? If so, please explain.

*Prado v. Los Angeles Department of Water and Power, et al.*

In June 2008, I was sued in my capacity as a Department of Water and Power Commissioner along with the other Commissioners even though I had no involvement in the dispute at issue. The case was dismissed in July 2009.

*Probate Proceedings in Superior Court for the County of Orange, CA.*

Commencing in December 2006, I was involved in probate proceedings relating to my father's estate. The matter will be dismissed pending the sale of certain real property.

*Probate Proceedings in Civil Court in Ensenada, Baja California.*

I am involved in ongoing probate proceedings that began in March 2007 relating to my father's estate in Baja California.

4. Have you ever been convicted (including pleas of guilty or *nolo contendere*) of any criminal violation other than a minor traffic offense? If so, please explain: No.

5. Have you ever been accused, formally or informally, of sexual harassment or discrimination on the basis of sex, race, religion, or any other basis? If so, please explain: No.

6. Please advise the Committee of any additional information, favorable or unfavorable, which you feel should be disclosed in connection with your nomination: No additional information.

#### D. RELATIONSHIP WITH COMMITTEE

1. Will you ensure that your department/agency complies with deadlines for information set by Congressional committees?

If confirmed as a Federal Trade Commissioner, I would work diligently with the Chairman and my fellow Commissioners to do so.

2. Will you ensure that your department/agency does whatever it can to protect Congressional witnesses and whistle blowers from reprisal for their testimony and disclosures?

If confirmed as a Federal Trade Commissioner, I would work diligently with the Chairman and my fellow Commissioners to do so.

3. Will you cooperate in providing the Committee with requested witnesses, including technical experts and career employees, with firsthand knowledge of matters of interest to the Committee? Yes.

4. Are you willing to appear and testify before any duly constituted committee of the Congress on such occasions as you may be reasonably requested to do so? Yes.

#### RESUME OF EDITH RAMIREZ

##### Professional Experience

*Partner—Quinn Emanuel Urquhart Oliver & Hedges, LLP—Los Angeles, California (1997 to present).*

Broad range of experience representing plaintiffs and defendants in intellectual property and complex business litigation, including copyright, trademark, antitrust, business tort, and other general business litigation matters. Practice also includes significant appellate litigation experience. Responsible for overseeing workload and professional development of associates in intellectual property and entertainment group.

*Associate—Gibson, Dunn & Crutcher, LLP—Los Angeles, California (1993–1996).*

Handled a wide variety of business litigation matters, including professional negligence, breach of contract, securities, and real estate-related litigation. Served on the firm's Minority Recruiting Subcommittee and as the firm's Pro Bono Coordinator.

*Law Clerk—Honorable Alfred T. Goodwin, Ninth Circuit Court of Appeals—Pasadena, California (1992–1993).*

Analyzed and researched legal issues in pending cases; prepared bench memoranda and drafted opinions.

##### Education

Harvard Law School, Cambridge, MA

J.D., *Cum Laude*, June 1992

Editor, 1990–92, *Harvard Law Review*

Harvard-Radcliffe College, Cambridge, MA

A.B. History, *Magna Cum Laude*, June 1989  
Committee of Latin American Studies Certificate

**Community Activities**

*Vice President, Los Angeles Department of Water and Power Board of Commissioners (2005 to present).*

Mayoral appointee to five-member Board responsible for overseeing and setting policy for the Los Angeles Department of Water and Power, the largest municipal utility in the country. LADWP delivers electricity and water services to approximately 4 million residents and commercial customers in the City of Los Angeles and has a budget of over \$4 billion. Serve on the Audit, Contracts, Economic Development, Customer and Community Relations, Personnel, and Los Angeles River Committees.

*Member, Los Angeles Police Permit Review Panel (2004 to 2005).*

Mayoral appointee to seven-member Panel responsible for overseeing local businesses requiring police permits. Duties included the review and issuance of police permits and handling of disciplinary matters such as the suspension and revocation of permits.

*Board of Directors, Volunteers of America of Los Angeles (1998 to present).*

Volunteers of America is a non-profit social service organization offering services to children and youth, the elderly and homeless in Los Angeles and Orange Counties. Serve on the Human Resources Committee.

*Board of Directors, Los Angeles Center for Law and Justice (1995–2003).*

The Los Angeles Center for Law and Justice is a non-profit legal services organization serving low-income residents of East and Northeast Los Angeles with little or no access to legal services. Over various years, served as President and Vice President of the Board of Directors and as a member of the Strategic Planning Task Force and Planning, Finance, and Membership Committees.

*Obama for America (2007–2008).*

Served as California Deputy Political Director and Director of Latino Outreach during the primary; responsible for obtaining endorsements from elected officials, organizations, and community leaders and expanding support within the Latino community. For the general election, responsible for constituency outreach and voter protection. Also served on the campaign's Immigration Policy Committee.

**Language Skills**

Fluent in Spanish.

The CHAIRMAN. Thank you very much, Ms. Ramirez.  
And now we'll call on Mr. Strickland.

**STATEMENT OF DAVID STRICKLAND, ADMINISTRATOR-  
DESIGNATE, NATIONAL HIGHWAY TRAFFIC SAFETY  
ADMINISTRATION, U.S. DEPARTMENT OF TRANSPORTATION**

Mr. STRICKLAND. Mr. Chairman, thank you. And I already see that my panelists are very respectful of the time.

Before I begin my statement, I would like to very briefly introduce my family—not half the room.

[Laughter.]

Mr. STRICKLAND. But, if I can have an indulgence, I would appreciate it. Thank you, Senator.

My parents, Lorenzo and Janie Strickland, have joined us today; my sister, Loren Strickland; my parents-in-law, Gail and Major Cummings and Tony and Linda Williams.

The CHAIRMAN. I recommend you allow them to stand.

Mr. STRICKLAND. Yes.

[Laughter.]

Mr. STRICKLAND. Thank you.

My aunts, Lela Boykin, Ellen Hood, Brenda Coleman, and Jacquelyn Anderson; my sisters-in-law, Sherell Holloway and Jennifer

Williams; and my cousins, Desiree and Michael Snowden, Captain Lowell Harris III, and Hope and Dudley Davis.

Thank you so much, Mr. Chairman. I will begin my statement.

The CHAIRMAN. Thank you. Please proceed.

Mr. STRICKLAND. Chairman Rockefeller and Ranking Members—and Ranking Member Hutchison and members of the Committee, I am honored to be here before you today in this capacity. I would like to express my deepest gratitude to President Obama, and I'd also like to thank Secretary LaHood for his support of my nomination.

No man stands alone, and the primary reason I am here today is because of the love and assistance from a lot of people. First and foremost, I have a loving family that is either here today or watching on the Internet.

I love you all.

And there are four women, in particular, that I would like to acknowledge:

My wife, Robin, is the center of my universe and has experienced every emotion and facet that has come with my Senate service. Her love sustains me every single day. Her strength and wise counsel has made me a better staffer and, more importantly, a better man.

My mother, Vada Stevenson, is my biggest cheerleader and my guardian angel. Even though she had to be in Georgia today, I am uplifted knowing that her love and strength are always with me.

The love and devotion of my stepmother, Janie Strickland, and my sister, Loren, are boundless and unconditional. You two are truly a dynamic duo, and you both mean the world to me.

Along with these four ladies, one man deserves special recognition: my pop, Lorenzo Strickland—my middle-namesake, Senator Inouye—

[Laughter.]

Mr. STRICKLAND.—Lorenzo Strickland is a father in every true sense of the word. His demands for excellence, along with his lessons about the value of hard work and being a man of honor, resonate with me every single day.

Pop, thank you for your guidance, your patience, and your love.

The National Highway Traffic Safety Administration has a demanding and crucial mission. Reducing traffic-related fatalities is a task that never stops, and successes are not moments of repose. While there have been marked decreases in traffic fatalities from last year, this country still loses—lost approximately 37,000 lives due to traffic accidents. That's 37,000 funerals, 37,000 lost loved ones.

The reason I have always been so proud of this agency and its people is that they recognize the human toll and work tirelessly each and every day to reduce that number. They are the finest experts in the country. Actually, let me restate that; they're the finest experts in the world. And if confirmed, it would be my honor to stand with them and the State highway safety agencies and aid them in their missions.

The second essential mission for which this agency is tasked is the implementation of the CAFE standards and coordination with the EPA's greenhouse gas standards. I understand the importance and the timely implementation of these rules. Decreasing our de-

pendence on foreign oil and reducing the carbon footprint from the passenger fleet is a mission that, if confirmed, I will take as seriously as every other mission at NHTSA. I look forward to working with the staff, the EPA, and the manufacturers to make sure that the standards are scientifically sound and achieve the benchmarks set forth by the President and the Congress.

Mr. Chairman, I would be remiss if I did not thank you personally. Thank you for allowing me to lead your Consumer Protection Subcommittee. It has been an honor, and it will be an honor, to serve you and the people of West Virginia.

Additionally, I would like to thank my three current and former Subcommittee Chairs: Senators Dorgan, Pryor, and Klobuchar. You and your staff were gracious and thoughtful, and working with all of you has been the hallmark of my tenure here in the Senate.

I would also like to thank the Committee staff. They are the finest staff on Capitol Hill, and I am enriched by their professionalism, their intelligence, and their support.

Team Commerce, I will always cherish your friendship.

Finally, I would like to thank the two prior chairmen that I have served during my tenure. Senator Hollings hired me, back in 2001. I was as green a Counsel as you can imagine, and I made my fair share of mistakes. Well, actually I made a few of them with you, too, sir.

[Laughter.]

Mr. STRICKLAND. Despite that, Senator Hollings stood by me at every turn, as did you, and trusted me without hesitation. I hope that I have validated his faith in me over the years. I miss him and Ms. Peatsy greatly.

Senator Inouye taught me more life lessons in 4 years than I thought I could learn in a lifetime. The times that Senator shared with me in his office, talking about policy or life, are some of the most cherished memories that I have. Learning to disagree without being disagreeable has been a cornerstone of my success as a staffer, and that lesson was from you.

Senator Inouye, thank you for letting me be a part of your 'ohana.

Members of this committee, thank you for your time and your consideration of my nomination. I am happy to answer any questions.

[The prepared statement of Mr. Strickland follows:]

PREPARED STATEMENT OF DAVID STRICKLAND, ADMINISTRATOR-DESIGNATE,  
NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION, U.S. DEPARTMENT OF  
TRANSPORTATION

Chairman Rockefeller, Ranking Member Hutchison, and members of the Committee, I am honored to be before you today in this capacity. I would like to express my deepest gratitude to the President for making me his nominee to head NHTSA, and I would also like to thank Secretary LaHood for his support of my selection.

No man stands alone, and the primary reason I am here today is because of the love and assistance from a lot of people. First and foremost, I have a loving family that is either here today or watching on the Internet. I love you all, and there are four women in particular that I would like to acknowledge.

My wife, Robin, is the center of my universe and has experienced every emotion and facet that has come with my Senate service. Her love sustains me every single day. Her strength and wise counsel truly has made me a better staffer, and more importantly, a better man.

My mother, Vada Stevenson, is my biggest cheerleader and my guardian angel. Even though she had to be in Georgia today, I am uplifted knowing that her love and strength are always with me.

The love and devotion of my stepmother, Janie Strickland, and my sister, Loren, are boundless and unconditional. You two are truly a dynamic duo, and you both mean the world to me.

Along with these four ladies, one man deserves special recognition, my Pop. Lorenzo Strickland is a father in every true sense of the word. His demands for excellence, along with his lessons about the value of hard work and being a man of honor, resonate with me everyday. Pop, thank you for guidance, your patience and your love.

The National Highway Traffic Safety Administration has a demanding and crucial mission. Reducing traffic-related fatalities is a task that never stops, and successes are not moments of repose. While there have been marked decreases in traffic fatalities from last year, this country still lost approximately 37,000 lives due to traffic accidents. That's 37,000 funerals, 37,000 lost loved ones. The reason I have always been so proud of this agency and its people is that they recognize the human toll and work tirelessly each and everyday to decrease that number. They are the finest experts in the country. If confirmed, it would be my honor to stand with the NHTSA staff and the State highway safety agencies and aid them in their missions.

The second essential mission for which the agency is tasked is the implementation of the CAFE standards in coordination with EPA's greenhouse gas standards. I understand the importance of timely and proper implementation. Decreasing our dependence on foreign oil and reducing the carbon footprint from the passenger fleet is a mission that if confirmed, I will take as seriously as every other mission at NHTSA. I look forward to working with the staff, the EPA, and the manufacturers to make sure that standards are scientifically sound and achieve the benchmarks set forth by the President and the Congress.

I would be remiss if I did not thank you, Mr. Chairman, for your trust in me to lead your Consumer Protection Subcommittee, and your support of my nomination. It is an honor to serve you and the people of West Virginia.

Additionally, I want to thank my three current and former Subcommittee Chairs, Senators Dorgan, Pryor and Klobuchar. You and your staff were gracious and thoughtful, and working for all of you have been hallmarks of my tenure in the Senate.

I would also like to thank my Committee colleagues. They are the finest staffers on Capitol Hill and I am enriched by their professionalism, intelligence and support. Team Commerce, I will always cherish your friendship.

Finally, I would like to thank the two prior Chairmen that I served during my tenure. Senator Hollings hired me back in 2001. I was as green a counsel as you could imagine, and I made my fair share of mistakes. Despite that, Senator Hollings stood by me at every turn and trusted me without hesitation. I hope I have validated his faith in me over the years. I miss him and Ms. Peatsy greatly.

Senator Inouye taught me more life lessons in 4 years than I thought I could learn in a lifetime. The times that Senator shared with me in his office talking about policy or life are some of the most cherished memories I have. Learning to disagree without being disagreeable has been a cornerstone of my success as a staffer, and that lesson was from him. Senator Inouye, thank you for letting me be a part of your ohana.

Members of the Committee, thank you for your time and consideration of my nomination, I am happy to answer any questions.

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#### A. BIOGRAPHICAL INFORMATION

1. Name (Include any former names or nicknames used):

David Lorenzo Strickland.

2. Position to which nominated: Administrator, National Highway Traffic Safety Administration, Department of Transportation.

3. Date of Nomination: December 4, 2009.

4. Address (List current place of residence and office addresses):

Residence: Information not released to the public.

Office: 428 Hart Senate Office Bldg, Washington, DC 20510.

5. Date and Place of Birth: 10/14/1968; Atlanta, GA.

6. Provide the name, position, and place of employment for your spouse (if married) and the names and ages of your children (including stepchildren and children by a previous marriage).

Spouse: Robin Strickland, Director of Catering, Ark Restaurant Company.

7. List all college and graduate degrees. Provide year and school attended.

Northwestern University, B.S. 1990.

Harvard Law School, J.D. 1993.

8. List all post-undergraduate employment, and highlight all management-level jobs held and any non-managerial jobs that relate to the position for which you are nominated.

Wiley, Rein and Fielding, Associate Attorney (1993–1996).

Association of Trial Lawyers of America, Associate Director of Legislation (1996–2001).

U.S. Senate Commerce Committee, Democratic Senior Counsel. Part of my duties for this position is to manage and execute staff oversight of the National Highway Traffic Safety Administration (NHTSA). I assisted the Members of the Committee in drafting and conducting staff level negotiations for the reauthorization of NHTSA in 2005 and assisted the Committee in a similar fashion in the passage of the Ten-in-Ten Fuel Economy Act, which was incorporated into the Energy Independence and Security Act of 2007. (2001 to present)

9. Attach a copy of your resume. A copy is attached.

10. List any advisory, consultative, honorary, or other part-time service or positions with Federal, State, or local governments, other than those listed above, within the last 5 years.

I have not held any positions of this type within the last 5 years aside from my current full-time employment.

11. List all positions held as an officer, director, trustee, partner, proprietor, agent, representative, or consultant of any corporation, company, firm, partnership, or other business, enterprise, educational, or other institution within the last 5 years.

I have not held any positions of this type within the last 5 years.

12. Please list each membership you have had during the past 10 years or currently hold with any civic, social, charitable, educational, political, professional, fraternal, benevolent or religious organization, private club, or other membership organization. Include dates of membership and any positions you have held with any organization. Please note whether any such club or organization restricts membership on the basis of sex, race, color, religion, national origin, age, or handicap.

Ben Hill United Methodist Church, Atlanta, GA. I have been a member since 1972.

Northwestern University Alumni Association, Washington D.C. Chapter. I have been a member since 1993.

Harvard Law School Club, Washington D.C. Chapter. I have been a member since 1993.

Maryland Bar Association. I have been a member since 1993.

District of Columbia Bar Association. I have been a member since 1994.

13. Have you ever been a candidate for and/or held a public office (elected, non-elected, or appointed)? If so, indicate whether any campaign has any outstanding debt, the amount, and whether you are personally liable for that debt.

I have never been a candidate for public office.

14. Itemize all political contributions to any individual, campaign organization, political party, political action committee, or similar entity of \$500 or more for the past 10 years. Also list all offices you have held with, and services rendered to, a state or national political party or election committee during the same period.

Obama for America, \$500.00 (October 6, 2008).

15. List all scholarships, fellowships, honorary degrees, honorary society memberships, military medals, and any other special recognition for outstanding service or achievements.

National Achievement Scholarship, Northwestern University, 1986.

Senior Leadership Award, Northwestern Univ. School of Speech, 1990.

Mothers Against Drunk Driving, Congressional Staffer of the Year, 2004.

16. Please list each book, article, column, or publication you have authored, individually or with others. Also list any speeches that you have given on topics relevant to the position for which you have been nominated. Do not attach copies of these publications unless otherwise instructed.

Article: "No-fault Med Mal: No Gain for the Injured," Co-authored with Annette Wencl, *Trial Magazine*, May 1997.

Article: "States Call for HMO Accountability," *Trial Magazine*, September 1, 1997.

Article: "Allstate's Customer Service Charade," Co-authored with Annette Wencl, *Trial Magazine*, September 1, 1999.

17. Please identify each instance in which you have testified orally or in writing before Congress in a governmental or non-governmental capacity and specify the date and subject matter of each testimony.

I have never testified before Congress.

18. Given the current mission, major programs, and major operational objectives of the department/agency to which you have been nominated, what in your background or employment experience do you believe affirmatively qualifies you for appointment to the position for which you have been nominated, and why do you wish to serve in that position?

I have had the honor to work for the Senate Committee on Commerce, Science, and Transportation for over 8 years, and have been allowed to work on issues related to NHTSA for that entire period. The agency's mission to reduce injuries and fatalities in automobile accidents is of the utmost importance, and the reminders of the losses and human misery caused by auto accidents reinforce the importance of what this agency does. In addition to its role in saving lives, the agency is in the forefront of reducing greenhouse gas emissions in the passenger auto fleet. As the Democratic Senior Counsel for the Commerce Committee, I have been involved at the staff level in drafting the vehicle safety regulations and the human behavioral grant and research programs for SAFETEA-LU in 2005. The provisions that I helped to draft included landmark regulations to mandate electronic stability control in every automobile and initiated a primary seatbelt program which incentivized six states to pass laws strengthening seatbelt enforcement. I also drafted the managers' amendment for the Ten-in-Ten Fuel Economy Act and led the Senate staff negotiations that culminated into the first increase in passenger car fuel economy since the 1970s. From my experiences in leading the work on these major legislative matters and my daily oversight of NHTSA for the Committee, I believe that I am extremely qualified to lead NHTSA and help the agency move forward to fulfill its missions.

19. What do you believe are your responsibilities, if confirmed, to ensure that the department/agency has proper management and accounting controls, and what experience do you have in managing a large organization?

If confirmed as Administrator, I would be responsible for all programmatic decisions that occur within the agency. These include not only the policy and enforcement decisions, but also the budget and human resource matters to make sure the agency's work is done efficiently and correctly. While I directly manage a staff of four employees in my current position, I am very familiar with NHTSA's operations and staff. In addition, I have often been the lead Senate staffer in House-Senate Legislative Conferences, which calls for me to manage as many as 40 staffers during the long-term negotiations to help draft the Conference Report for the Members' review.

20. What do you believe to be the top three challenges facing the department/agency, and why?

Working with the Congress on a new Surface Transportation Extension is one of the largest tasks facing the agency. In light of the need to reform the way the Highway Trust Fund is funded, resources may be more limited than in years past; yet NHTSA must continue to find new ways, based on the data and the science, to continue to lower the number of drunken drivers and increase the use of seatbelts, in addition to addressing other known and emerging risks, such as driver distraction.

A second task of great significance is finalizing and enforcing the new CAFE standards. In addition to working with EPA and the greenhouse gas standards that are along side of CAFE, keeping on top of the engineering and the science so that the agency is prepared for the next set of standards that will take the fleet to Model Year 2020 and beyond is tantamount to lower the country's dependence on foreign oil and continue the fight against global warming. Additionally, NHTSA must begin to craft CAFE standards for medium and heavy duty trucks—a complex task that is likely to involve EPA collaboration like the light duty standard.



A third task facing the agency is issuing and finalizing rulemakings that have fallen behind. There have been several assignments that NHTSA has undertaken this year, including the "Cash for Clunkers" initiative that was a new priority for the agency. Now, it is important to complete ongoing work that had to be delayed, such as the KT Safety Act rulemakings to help address rearward visibility and power window entrapments.

#### B. POTENTIAL CONFLICTS OF INTEREST

1. Describe all financial arrangements, deferred compensation agreements, and other continuing dealings with business associates, clients, or customers. Please include information related to retirement accounts.

I do not have any of the type of arrangements described above.

2. Do you have any commitments or agreements, formal or informal, to maintain employment, affiliation, or practice with any business, association or other organization during your appointment? If so, please explain.

I do not have any commitments or agreements of the type described above.

3. Indicate any investments, obligations, liabilities, or other relationships which could involve potential conflicts of interest in the position to which you have been nominated.

In connection with the nomination process, I have consulted with the Office of Government Ethics and the Department of Transportation's ethics official to identify potential conflicts of interest. Any potential conflicts of interest will be resolved in accordance with the terms of an ethics agreement that I have entered into with the Department's designated agency ethics official and that has been provided to this Committee. I am not aware of any other potential conflicts of interest.

4. Describe any business relationship, dealing, or financial transaction which you have had during the last 10 years, whether for yourself, on behalf of a client, or acting as an agent, that could in any way constitute or result in a possible conflict of interest in the position to which you have been nominated.

In connection with the nomination process, I have consulted with the Office of Government Ethics and the Department of Transportation's ethics official to identify potential conflicts of interest. Any potential conflicts of interest will be resolved in accordance with the terms of an ethics agreement that I have entered into with the Department's designated agency ethics official and that has been provided to this Committee. I am not aware of any other potential conflicts of interest.

5. Describe any activity during the past 10 years in which you have been engaged for the purpose of directly or indirectly influencing the passage, defeat, or modification of any legislation or affecting the administration and execution of law or public policy.

From August 1999 to August 2001, I worked as a registered lobbyist for the Association of Trial Lawyers of America (ATLA). My work encompassed advocacy dealing with civil justice issues, which included class action reform and medical malpractice reform at the Federal level.

6. Explain how you will resolve any potential conflict of interest, including any that may be disclosed by your responses to the above items.

In connection with the nomination process, I have consulted with the Office of Government Ethics and the Department of Transportation's ethics official to identify potential conflicts of interest. Any potential conflicts of interest will be resolved in accordance with the terms of an ethics agreement that I have entered into with the Department's designated agency ethics official and that has been provided to this Committee. I am not aware of any other potential conflicts of interest.

#### C. LEGAL MATTERS

1. Have you ever been disciplined or cited for a breach of ethics by, or been the subject of a complaint to any court, administrative agency, professional association, disciplinary committee, or other professional group? If so, please explain: No.

2. Have you ever been investigated, arrested, charged, or held by any Federal, State, or other law enforcement authority of any Federal, State, county, or municipal entity, other than for a minor traffic offense? If so, please explain: No.

3. Have you or any business of which you are or were an officer ever been involved as a party in an administrative agency proceeding or civil litigation? If so, please explain.

There were three landlord/tenant actions, two in 1996, one in 1998. All were fully resolved to the satisfaction of all parties without any trial or further negotiations.

4. Have you ever been convicted (including pleas of guilty or *nolo contendere*) of any criminal violation other than a minor traffic offense? If so, please explain: No.

5. Have you ever been accused, formally or informally, of sexual harassment or discrimination on the basis of sex, race, religion, or any other basis? If so, please explain: No.

6. Please advise the Committee of any additional information, favorable or unfavorable, which you feel should be disclosed in connection with your nomination: None.

#### D. RELATIONSHIP WITH COMMITTEE

1. Will you ensure that your department/agency complies with deadlines for information set by Congressional committees? Yes.

2. Will you ensure that your department/agency does whatever it can to protect Congressional witnesses and whistle blowers from reprisal for their testimony and disclosures? Yes.

3. Will you cooperate in providing the Committee with requested witnesses, including technical experts and career employees, with firsthand knowledge of matters of interest to the Committee? Yes.

4. Are you willing to appear and testify before any duly constituted committee of the Congress on such occasions as you may be reasonably requested to do so? Yes.

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#### RESUME OF DAVID L. STRICKLAND

##### Education

Harvard Law School; J.D., 1993

Activities:

Harvard Civil Rights—Civil Liberties Law Review: *Articles Editor*  
Black Law Students Association: *Vice President*

Northwestern University; B.S., 1990

Major: Communication Studies and Political Science  
Honors: Graduated with Honors; Senior Leadership Award; Communications Honor Society

##### Professional Experience

*U.S. Senate Committee on Commerce, Science, and Transportation*—Aug. 2001 to Present, Washington, D.C.

*Democratic Senior Counsel*

*The Subcommittee on Competitiveness, Innovation and Export Promotion and the Subcommittee on Consumer Protection, Product Safety and Insurance*: Serve as lead counsel and manage a staff of five for subcommittees that oversee the Federal Trade Commission (FTC), the Consumer Product Safety Commission (CPSC), the National Highway Traffic Safety Administration (NHTSA), and the Department of Commerce. Responsible for providing legal and legislative advice to Democratic Members of the Committee on Subcommittee issues, including insurance, antitrust, consumer protection and fraud prevention, internet privacy, tourism, consumer product safety and liability, passenger motor vehicle safety and fuel efficiency, and the U.S. Olympic Committee. Completed and ongoing legislative matters for the Committee include:

*FTC Related Legislation*

*Do-Not-Call Registry*: Served as lead Democratic Senate staff negotiator for the establishment of the Do-Not-Call Registry in 2003. Drafted in conjunction with Majority staff and served as lead Democratic Senate staff negotiator for S. 1654, the Do-Not-Call Registry Authorization of 2003. The House companion, H.R. 3161, became P.L. 108–82; drafted and served as lead Democratic Senate staff negotiator for S. 781, the Do-Not-Call Registry Fee Extension Act of 2007, which became P.L. 110–188; drafted and served as lead Democratic Senate staff negotiator for S. 2096, the Do-Not-Call Improvement Act of 2007. The House companion, H.R. 3541, became P.L. 110–187.

*Internet Commerce, Privacy, and Reauthorization*: Served as lead Democratic Senate staff negotiator for S. 877, the CAN–SPAM Act of 2003, which became P.L. 108–187; drafted in conjunction with Majority staff and served as lead Democratic Senate staff negotiator for S. 1608, the U.S. SAFE WEB Act of 2006, which became P.L. 109–455; drafted S. 1178, the Identity Theft Prevention Act of 2007; drafted S. 2831, the Federal Trade Commission Reauthorization Act of 2008.

*NHTSA Related Legislation*

*Corporate Average Fuel Economy (CAFE)*: Drafted the Managers' Amendment and served as lead Democratic Senate staff negotiator for S. 357, the Ten-in-Ten Fuel Economy Act. S. 357 was incorporated into Title I of H.R. 6, the Energy Independence and Security Act of 2007, which became P.L. 110-140.

*Highway Bill and Vehicle Safety*: Drafted in conjunction with Majority staff and served as lead Democratic Senate staff negotiator for Title II of S. 1567, the Surface Transportation Safety Improvement Act of 2005. Title II reauthorized NHTSA, funded the Highway Safety Grant programs and mandated several vehicle safety technologies, including Electronic Stability Control in every vehicle. Title II was included in H.R. 3, SAFETEA-LU, which became P.L. 109-59; drafted the Managers' Amendment and served as lead Democratic Senate staff negotiator for S. 694, the Cameron Gulbransen Kids and Cars Safety Act of 2007. The House companion, H.R. 1219, became P.L. 110-189.

#### *CPSC Related Legislation*

*Reauthorization*: Drafted and served as lead Democratic Senate staff negotiator for S. 2663, the CPSC Reform Act, which became the Senate Amendment to H.R. 4040. Led the Senate staff delegation in a formal conference that lasted 3 months resulting in the Conference Report to H.R. 4040, the Consumer Product Safety Improvement Act, which became P.L. 110-314.

*Individual Product Safety Legislation*: Drafted and served as lead Democratic Senate staff negotiator for S. 1771, the Virginia Graeme Baker Pool and Spa Safety Act, which was included in H.R. 6, the Energy Independence and Security Act of 2007, which became P.L. 110-140; served as lead Democratic Senate staff negotiator for H.R. 814, the Children's Gasoline Burn Prevention Act, which became P.L. 110-278.

#### *Investigations*

*Enron, BALCO and Abramoff/Indian Gaming*: Served as investigatory counsel for the Committee's Enron inquiry and was lead counsel for the Committee's seven Enron hearings in 2002; served as investigatory counsel for the Committee's inquiry into the 2004 Olympic Team's involvement in the BALCO steroids case; conducted Democratic Commerce Committee staff oversight of the McCain Indian Gaming Lobbyist investigation in 2004.

*Association of Trial Lawyers of America*—Oct. 1996 to Aug. 2001, Washington, D.C.

#### *Associate Director for Legislation*

*Lobbying and Legislative Counseling*: Lobbied members of the U.S. House of Representatives and the U.S. Senate on commerce issues and legal reform, including electronic commerce, insurance, consumer protection, product liability, arbitration, and civil procedure. General responsibilities and experience included the following:

- Cultivated and maintained contacts with Members of Congress and their staffs, focusing upon the House and Senate Commerce and Judiciary Committees;
- Analyzed legislation and prepared ATLA's political strategy in response to legislation;
- Provided legal advice and drafting assistance to Members of Congress on civil justice issues; and
- Wrote testimony for the President of ATLA for appearances before the House and the Senate.

*State Research Counsel*—Oct. 1996 to Aug. 1999.

*Lobbying and Legislative Counseling*: Served as advisory counsel on state and Federal issues. Lobbied on commerce and legal reform issues in all 50 states. General responsibilities included the following:

- Represented ATLA at state level meetings to educate and persuade state legislators on civil justice issues;
- Prepared lobbying strategy for State Trial Lawyer Associations; and
- Advised ATLA leadership and Congressional staffs on state law and Federal preemption issues.

*Wiley, Rein and Fielding*—Sept. 1993 to Oct. 1996, Washington, D.C.

*Associate*

*Complex Litigation:* Practiced in the litigation group of a large general practice law firm with domestic and international clients. General responsibilities and experience included the following:

- Conducted research for and drafted legal briefs, memoranda, proposed findings of fact, and motions;
- Completed numerous document production responsibilities, including a 400-page privilege log; and
- Prepared testimony of experts for trial; developed cross-examination strategies; prepared witnesses for cross examination, and conducted depositions.

*Communications:* Practiced with the broadcast and common carrier groups of a large communications practice. Researched and drafted memoranda. Prepared various FCC filings. General responsibilities and experience included the following:

*Broadcast*

- Prepared television station ownership reports, earth station registrations, and provided research and support for transfers of control; and
- Researched EEO requirements for advisory memoranda.

*Common Carrier:*

- Prepared summaries of comments on Personal Communication Service (PCS) competitive bidding, Regulatory Parity and Technical Rule Rewrites;
- Prepared memoranda and charts on the Universal Service Fund; and
- Prepared memoranda on constitutionality of rate caps on Alternative Operator Service (AOS) providers.

*Bar Admissions:* Admitted in the District of Columbia and Maryland.

*References available upon request.*

The CHAIRMAN. Thank you, Mr. Strickland.  
And now, Ms. Lamb-Hale.

**STATEMENT OF NICOLE YVETTE LAMB-HALE,  
ASSISTANT SECRETARY-DESIGNATE OF COMMERCE  
FOR MANUFACTURING AND SERVICES,  
U.S. DEPARTMENT OF COMMERCE**

Ms. LAMB-HALE. Chairman Rockefeller, Ranking Member Hutchison, and distinguished members of this Committee, I am honored and humbled to appear before you today as President Obama's nominee to serve as Assistant Secretary of Commerce for Manufacturing and Services.

Mentors have taught me over the years that every career should be rounded out with public service. I could not be happier to have the opportunity to serve my country at this critical period in its history. I thank President Obama for the enormous trust he has placed in me, and Secretary Locke for his enthusiastic support of my nomination.

Over the past few weeks, I have had the pleasure of meeting with members of this committee and your staffs. I appreciate the time that you've shared with me, your insights into the challenges faced by U.S. industry, and your perspectives on potential solutions. If I am confirmed by the Senate, I look forward to collaborating with you.

I also thank Senator Debbie Stabenow, of the great State of Michigan, for her statement of support for the record for my nomination today. I appreciate the leadership and commitment of both Senators Stabenow and Levin in preserving manufacturing in the United States.

At this time, I would like to introduce to the members of the Committee my family. Joining me are my husband, John Hale III, whose love and support of me have been unwavering; my children, John Hale IV and Ashleigh Hale, who can stand, who are my greatest accomplishments; my mother, Zinnette McRae Lamb, who has always been the wind beneath my wings; and my other relatives, close friends, and business colleagues, several of whom have traveled great distances to support me here today.

I would also like to thank my late father, Rawleigh Glendale Lamb, whose constant encouragement inspired me to reach for my dreams, and my 92-year-old maternal grandfather, Zin Osman McRae—from the great State of Arkansas, Senator Pryor—

[Laughter.]

Ms. LAMB-HALE.—who set such a wonderful example for our family to follow.

As I prepared my remarks, I could not help but to reflect on the path that led me here today. I was born and raised in Metropolitan Detroit, the cradle of the U.S. automotive industry. My father was an executive at Chrysler Corporation until his death in 1990. I have vivid memories of the financial crisis suffered by Chrysler in the late 1970s. I recall the fear experienced by my parents as they contemplated the impact of the potential loss of my father's job on our family, a fear that they could not hide from me and a fear that is faced by many families today resulting from the loss of jobs in the United States.

Upon my graduation from law school, I returned to Detroit to pursue my legal career. I practiced law for more than 17 years in Detroit before assuming the role of Deputy General Counsel with the Department of Commerce. My client base included original equipment manufacturers, parts suppliers, and service providers. Because my area of expertise was business restructuring, I gained a unique perspective on the challenges facing U.S. manufacturing as I shepherded my clients through financial crisis. I saw the impact of fluctuating commodity costs on manufacturers, their challenges with accessing capital, and the burden of legacy costs on the capital structures of their companies. I also saw how these issues adversely impacted the ability of my clients to successfully compete in the global marketplace. In addition, I witnessed the negative impact of job—manufacturing job losses on every sector of the community. If I am confirmed, it is with those experiences in mind that I will approach the role of Assistant Secretary for Manufacturing and Services and work tirelessly to find the way forward for U.S. industry.

I broadly view the role of Manufacturing and Services as three-fold: to convene, to collaborate, and to connect. If confirmed, under my leadership, Manufacturing and Services will convene experts both inside and outside of the Federal Government to develop solutions to the issues faced by U.S. industry.

Manufacturing and Services will also collaborate with Congress, with agencies across the Federal Government, and with State and local governments to develop solutions to sustain and increase the global competitiveness of U.S. industry.

Further, Manufacturing and Services will work to connect industry to the resources and tools available in the Federal Government

to forge a path to sustainable, highly-skilled jobs for the 21st Century. If confirmed, I will proactively work with U.S. industry to foster its growth and support its competitiveness. With input from U.S. industry, I will be laser-focused on the domestic- and trade-related barriers that impinge upon the ability of U.S. industry to succeed on the global stage.

My personal and professional experiences give me a unique perspective on the needs of U.S. industry that will inform my ability to effectively leverage the tools found in Manufacturing and Services. If confirmed, I will work closely with this committee, your colleagues in the Congress, and others, to develop effective solutions that will reinvigorate U.S. industry.

I thank you for your consideration of my nomination and the opportunity to address this committee, and I look forward to any questions you may have.

Thank you.

[The prepared statement of Ms. Lamb-Hale follows:]

PREPARED STATEMENT OF NICOLE YVETTE LAMB-HALE, ASSISTANT SECRETARY-DESIGNATE OF COMMERCE FOR MANUFACTURING AND SERVICES, U.S. DEPARTMENT OF COMMERCE

Chairman Rockefeller, Ranking Member Hutchison, and distinguished members of this Committee, I am honored and humbled to appear before you today as President Obama's nominee to serve as Assistant Secretary of Commerce for Manufacturing and Services. Mentors have told me over the years that every career should be rounded out with public service. I could not be happier to have the opportunity to serve my country at this critical period in its history.

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Over the past few weeks, I have had the pleasure of meeting with members of this Committee and your staffs. I appreciate the time that you shared with me, your insights into the challenges faced by U.S. industry and your perspectives on potential solutions. If I am confirmed by the Senate, I look forward to collaborating with you.

I also thank Senator Debbie Stabenow of the great State of Michigan for her gracious introduction today. I appreciate the leadership and commitment of Senators Stabenow and Levin in preserving manufacturing in the United States.

At this time, I would like to introduce the members of the Committee to my family. Joining me are my husband, John Hale, III whose love and support of me have been unwavering; my children, John Hale, IV and Ashleigh Hale, who are my greatest accomplishments; my mother, Zinnette McRae Lamb, who has always been the wind beneath my wings; and my other relatives, close friends and business colleagues—several of whom traveled great distances to support me here today. I would also like to thank my late father, Rawleigh Glendale Lamb, whose constant encouragement inspired me to reach for my dreams, and my 92 year old maternal grandfather, Zin Osman McRae, from the great state of Arkansas, who set such a wonderful example for our family to follow.

As I prepared my remarks, I could not help but reflect on the path that led me here today. I was born and raised in metropolitan Detroit, the cradle of the U.S. automotive industry. My father was an executive at Chrysler Corporation until his death in 1990. I have vivid memories of the financial crisis suffered by Chrysler in the late 1970s. I recall the fear experienced by my parents as they contemplated the impact of the potential loss of my father's job on our family—a fear that they could not hide from me and a fear that is faced by many families today resulting from the loss of jobs in the U.S.

Upon my graduation from law school, I returned to Detroit to pursue my legal career. I practiced law for more than 17 years in Detroit before assuming the role of Deputy General Counsel at the Department of Commerce. My client base included original equipment manufacturers, parts suppliers and service providers. Because my area of expertise was business restructuring, I gained a unique perspective on the challenges facing U.S. manufacturing as I shepherded my clients through financial crisis. I saw the impact of fluctuating commodity costs on manufacturers, their

challenges with accessing capital and the burden of legacy costs on the capital structures of their companies. I also saw how these issues adversely impacted the ability of my clients to successfully compete in the global marketplace. In addition, I witnessed the negative impact of manufacturing job losses on every sector of the community. If I am confirmed, it is with those experiences in mind that I will approach the role of Assistant Secretary for Manufacturing and Services and work tirelessly to find the way forward for U.S. industry.

I broadly view the role of Manufacturing and Services as three-fold: to convene, to collaborate and to connect. If confirmed, under my leadership, Manufacturing and Services will convene experts both inside and outside of the Federal Government to develop solutions to the issues faced by U.S. industry. Manufacturing and Services will also collaborate with Congress, with agencies across the Federal Government and with state and local governments to develop solutions to sustain and increase the global competitiveness of U.S. industry. Further, Manufacturing and Services will work to connect industry to the resources and tools available in the Federal Government to forge a path to sustainable, highly-skilled jobs for the 21st century economy.

If confirmed, I will proactively work with U.S. industry to foster its growth and support its competitiveness. With input from U.S. industry, I will be laser focused on the domestic and trade-related barriers that impinge on the ability of U.S. industry to succeed on the global stage.

My personal and professional experience gives me a unique perspective on the needs of U.S. industry that will inform my ability to effectively leverage the tools found in Manufacturing and Services. If confirmed, I will work closely with this Committee and your colleagues in Congress to develop effective solutions that will reinvigorate U.S. industry.

I thank you for your consideration of my nomination and the opportunity to address this Committee. I look forward to any questions you may have.

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#### A. BIOGRAPHICAL INFORMATION

1. Name (Include any former names or nicknames used):  
Nicole Yvette Lamb-Hale (Nicole Lamb; Nicole Hale).
2. Position to which nominated: Assistant Secretary for Manufacturing and Services.
3. Date of Nomination: November 18, 2009.
4. Address (List current place of residence and office addresses):  
Residence: Information not released to the public.  
Office: 1401 Constitution Avenue, N. W., Washington, DC 20230.
5. Date and Place of Birth: October 9, 1966; Detroit, Michigan.
6. Provide the name, position, and place of employment for your spouse (if married) and the names and ages of your children (including stepchildren and children by a previous marriage).  
Spouse: John H. Hale, III, Consultant, Jefferson Wells, 1000 Town Center, Southfield, Michigan 48075; children: John H. Hale, IV, 13; Ashleigh N. Hale, 9.
7. List all college and graduate degrees. Provide year and school attended.  
University of Michigan, Ann Arbor, MI—A.B. Political Science, 1988.  
Harvard Law School, Cambridge, MA—Juris Doctorate, 1991.
8. List all post-undergraduate employment, and highlight all management-level jobs held and any non-managerial jobs that relate to the position for which you are nominated.  
Dykema Gossett PLLC, Associate 1991–1999; Partner 1999–2003.  
Foley & Lardner LLP, Partner, 2003–2009; Office Managing Partner, 2006–2009.  
U.S. Department of Commerce, Deputy General Counsel—2009 to present.
9. Attach a copy of your resume. A copy is attached.
10. List any advisory, consultative, honorary, or other part-time service or positions with Federal, State, or local governments, other than those listed above, within the last 5 years.

State of Michigan Land Bank Fast Track Authority, Vice Chairperson and Director

11. List all positions held as an officer, director, trustee, partner, proprietor, agent, representative, or consultant of any corporation, company, firm, partnership, or other business, enterprise, educational, or other institution within the last 5 years.

Name/Address	Position/ Nature of Affiliation	Type of Business	Dates (To/From)
Delta Manor, Inc. Detroit, MI	Director	Non-Profit	1993–2008
Leadership Detroit Detroit Regional Chamber Detroit, MI	Trustee	Non-Profit	2002–2009
Pacer Enterprises, Inc. Franklin, MI	Director	For Profit Corporation	2006–2008
Foley & Lardner LLP Detroit, MI	Partner	Law firm/Partnership	2003–2009
Music Hall Center for the Performing Arts Detroit, MI	Trustee	Non-Profit	2002–2008
Michigan Women in Finance	Director	Non-Profit	2002–2006
State of Michigan Land Bank Fast Track Authority Lansing, MI	Director/Vice Chair	State Authority	2003–2009
Dennis W. Archer Foundation Detroit, MI	Director	Non-Profit	2001–2007

See also attached list of clients while at Foley and Lardner LLP.

12. Please list each membership you have had during the past 10 years or currently hold with any civic, social, charitable, educational, political, professional, fraternal, benevolent or religious organization, private club, or other membership organization. Include dates of membership and any positions you have held with any organization. Please note whether any such club or organization restricts membership on the basis of sex, race, color, religion, national origin, age, or handicap.

Name/Address	Position/ Nature of Affiliation	Type of Business	Dates (To/From)
American Bankruptcy Institute	Member	Non-Profit-Professional Organization	2000–2009
American Bar Association	Member	Non-Profit-Professional Organization	1992–2009
Federal Bar Association	Member	Non-Profit-Professional Organization	Approx. 1995–2009
National Association of Bond Lawyers	Member	Non-Profit-Professional Organization	Approx. 1995–2009
National Bar Association	Member	Non-Profit-Professional Organization	Approx. 1996–2009
Wolverine Bar Association	Member	Non-Profit-Professional Organization	1992–2009
Detroit Metropolitan Bar Association	Member	Non-Profit-Professional Organization	Approx. 2000–2009
Obama for America	Member, National Fi- nance Committee, MI Deputy General Coun- sel; Co-Chair	Political Committee	2007–2008



Social Club/Organization	Dates	Position (Member/Officer)	Restrictive Membership Policies (Yes/No)
Delta Sigma Theta Sorority, Inc.	1986–present	Member/officer	Yes—women’s organization
The Links Incorporated	2004–present	Member	Yes—women’s organization
Jack & Jill of America, Inc.	1999–present	Member/officer	Yes—mothers’ organization
Women Presidents Organization	2006–2009	Member	Yes—women’s organization

13. Have you ever been a candidate for and/or held a public office (elected, non-elected, or appointed)? If so, indicate whether any campaign has any outstanding debt, the amount, and whether you are personally liable for that debt: No.

14. Itemize all political contributions to any individual, campaign organization, political party, political action committee, or similar entity of \$500 or more for the past 10 years. Also list all offices you have held with, and services rendered to, a state or national political party or election committee during the same period.

February 2004	Obama for Illinois, Inc.	\$750
June 2004	Jennifer Granholm for Governor	\$500
June 2005	Stabenow for U.S. Senate	\$500
March 2006	Stabenow for U.S. Senate	\$500
October 2006	Jennifer Granholm for Governor	\$1,000
May 2007	Obama for America	\$2,300
September 2008	Obama for America	\$2,182

15. List all scholarships, fellowships, honorary degrees, honorary society memberships, military medals, and any other special recognition for outstanding service or achievements.

Named one of “Metro Detroit’s Most Influential Women” by Crain’s Detroit Business.

Fellow of the Michigan State Bar Foundation.

Fellow of the American Bar Foundation.

Recognized as one of Michigan’s “Super Lawyers” in 2006, 2007 and 2008 by Law & Politics Media, Inc.

Named one of the Detroit area’s most powerful and accomplished women business leaders by Inforum, Michigan’s largest organization for professional women and Deloitte.

Recipient of “Powerful Women of Purpose Award,” Rhonda Walker Foundation.

Recipient of “Women of Courage-Women of Change Award,” Minerva Education and Development Foundation.

Recipient of “Celebration of Women Award,” Vista Maria.

Recipient of “The Blue Diamond Award-Honoring Unsung Sheres,” Spelman College.

Recipient of “Women of Excellence Award,” Michigan Chronicle.

Named one of “40 Under 40” by Crain’s Detroit Business recognizing 40 Detroit area professionals under the age of 40 for their business and leadership accomplishments.

Named a YMCA Minority Achiever.

Graduate of the Detroit Regional Chamber’s Leadership Detroit, Class 20.

Recipient of “The Five Under Ten” Award issued by the African-American Alumni Council of the University of Michigan to graduates with significant accomplishments during the 10 years since their graduation from the University.

16. Please list each book, article, column, or publication you have authored, individually or with others. Also list any speeches that you have given on topics relevant to the position for which you have been nominated. Do not attach copies of these publications unless otherwise instructed.

“The Changing World of Creditors’ Committees: As the World Turns,” panel participant, 15th Annual Central States Bankruptcy Workshop, American Bankruptcy Institute (2008).

“State of the Law Update: Bankruptcy-Creditors’ Rights,” Second Annual State of the Law Update, Association of Corporate Counsel-Michigan Chapter (2007).

“Managing Contractual Relationships and Supply Chain Distress,” Deloitte Great Lakes CFO Conference (2007).

“Expanded Reclamation Rights Under BAPCPA,” Columbus Day Bankruptcy Seminar, Debtor Creditor Section of the Federal Bar Association (2006).

“Dealing with Financially Troubled Suppliers and Customers,” First Annual State of the Law Update, Association of Corporate Counsel-Michigan Chapter (2006).

“The Bankruptcy Abuse Prevention and Consumer Protection Act of 2005-How Will It Impact Your Business?,” 15th Annual Law of Product Distribution and Franchise Seminar-Foley & Lardner LLP (2006).

17. Please identify each instance in which you have testified orally or in writing before Congress in a governmental or non-governmental capacity and specify the date and subject matter of each testimony: None.

18. Given the current mission, major programs, and major operational objectives of the department/agency to which you have been nominated, what in your background or employment experience do you believe affirmatively qualifies you for appointment to the position for which you have been nominated, and why do you wish to serve in that position?

My personal and professional background makes me uniquely qualified to serve as Assistant Secretary of Commerce for Manufacturing and Services. With respect to my personal background, I was born and raised in Michigan, specifically the Detroit area, the cradle of the United States automotive industry. My father was an executive at Chrysler Corporation until his death in 1990. I have vivid memories of the financial crisis suffered by Chrysler Corporation in the late 1970s which led to the first Federal Government bailout of the company. I recall the fear experienced by my parents as they contemplated the impact of the potential loss of my father's job on our family—a fear that they could not hide from me. Ultimately, because of financial support from the Federal Government, Chrysler survived and so did thousands of jobs, including that of my father.

Upon my graduation from law school, I returned to Detroit to pursue my legal career. I practiced law for over 17 years in Detroit before assuming my current position at the Department of Commerce. My client base included original equipment manufacturers and parts suppliers. While many of my clients were in the automotive industry, I also represented manufacturers in other industries. Because my area of expertise was business restructuring, I gained a unique perspective on the challenges facing American manufacturing as I helped my clients through financial crisis. Indeed, I saw the impact of fluctuating commodity costs on manufacturers, their challenges with accessing capital, and the burden of legacy costs on the capital structure of their companies. I also saw how these issues adversely impacted the ability of my clients to compete in the global marketplace.

My personal and professional experience gives me a unique perspective on the needs of U.S. industry that will inform my ability to effectively leverage the tools found in Manufacturing and Services for the benefit of industry. If confirmed, I will work tirelessly as the Assistant Secretary of Commerce for Manufacturing and Services to enhance the global competitiveness of U.S. industry, ensure U.S. industry input into the regulatory and interagency trade policy process, and promote innovation while lowering the cost of doing business.

19. What do you believe are your responsibilities, if confirmed, to ensure that the department/agency has proper management and accounting controls, and what experience do you have in managing a large organization?

If confirmed, ensuring that the Manufacturing and Services office has proper management and accounting controls will be a critical responsibility of mine. I will set the tone in the organization that fraud and dishonesty are not acceptable and that everyone in the organization is obligated to perform adhering to the highest ethical standards. I will ensure that regular audits of the organization are performed and that the organization adheres to all recommendations of our auditors. Having served as Office Managing Partner of the Detroit office of a national law firm, I have extensive management experience. In that capacity, I managed 80 employees and a \$100 million budget. In addition to day-to-day management, I was responsible for new business development, recruiting, marketing and strategic planning.

20. What do you believe to be the top three challenges facing the department/agency, and why?

The top three challenges facing Manufacturing and Services (“MAS”) are: (i) elevating its profile and outreach so that it will be viewed as a valuable resource to U.S. industry; (ii) developing strategies to stabilize the U.S. manufacturing sector; and (iii) developing 21st century strategies to increase the global competitiveness of

U.S. industry. First, with respect to the profile challenge, many of the resources provided by MAS do not translate effectively for industry. Too many businesses, particularly small and medium sized businesses, do not know of MAS' existence and its value. Second, stabilizing the U.S. manufacturing sector is critical to maintaining and creating jobs. Third, U.S. industry cannot compete globally if we do not develop forward looking and innovative strategies to sustain the sector. Leveraging its industry expertise, MAS can play an important role in this regard.

#### B. POTENTIAL CONFLICTS OF INTEREST

1. Describe all financial arrangements, deferred compensation agreements, and other continuing dealings with business associates, clients, or customers. Please include information related to retirement accounts.

Foley & Lardner LLP Defined Contribution Plan

Foley & Lardner LLP 401K Plan

Foley & Lardner LLP Capital Account to be refunded in February 2010

2. Do you have any commitments or agreements, formal or informal, to maintain employment, affiliation, or practice with any business, association or other organization during your appointment? If so, please explain: No.

3. Indicate any investments, obligations, liabilities, or other relationships which could involve potential conflicts of interest in the position to which you have been nominated: None.

4. Describe any business relationship, dealing, or financial transaction which you have had during the last 10 years, whether for yourself, on behalf of a client, or acting as an agent, that could in any way constitute or result in a possible conflict of interest in the position to which you have been nominated.

In connection with the nomination process, I have consulted with the Office of Government Ethics and the Department of Commerce's designated agency ethics official to identify potential conflicts of interest. Any potential conflicts of interest will be resolved in accordance with the terms of the ethics agreement that I have executed which is attached. I am not aware of any other potential conflicts of interest.

5. Describe any activity during the past 10 years in which you have been engaged for the purpose of directly or indirectly influencing the passage, defeat, or modification of any legislation or affecting the administration and execution of law or public policy.

While I have not been engaged in such activities, the law firms in which I was a partner, Dykema Gossett PLLC and Foley & Lardner LLP, each have lobbying practices that were engaged for the purpose of directly or indirectly influencing the passage, defeat or modification of legislation or affecting the administration and execution of law or public policy.

6. Explain how you will resolve any potential conflict of interest, including any that may be disclosed by your responses to the above items.

In connection with the nomination process, I have consulted with the Office of Government Ethics and the Department of Commerce's designated agency ethics official to identify potential conflicts of interest. Any potential conflicts of interest will be resolved in accordance with the terms of the ethics agreement that I have executed which is attached. I will also consult with Department of Commerce ethics officials to resolve any ethics issues that may arise during my tenure.

#### C. LEGAL MATTERS

1. Have you ever been disciplined or cited for a breach of ethics by, or been the subject of a complaint to any court, administrative agency, professional association, disciplinary committee, or other professional group? If so, please explain: No.

2. Have you ever been investigated, arrested, charged, or held by any Federal, State, or other law enforcement authority of any Federal, State, county, or municipal entity, other than for a minor traffic offense? If so, please explain: No.

3. Have you or any business of which you are or were an officer ever been involved as a party in an administrative agency proceeding or civil litigation? If so, please explain.

As large organizations, my former law firms in which I was a partner, Dykema Gossett PLLC and Foley & Lardner LLP, have been parties in litigation from time to time. I was not named as a party in such litigation and such litigation did not allege wrongdoing on my part.

4. Have you ever been convicted (including pleas of guilty or *nolo contendere*) of any criminal violation other than a minor traffic offense? If so, please explain: No.

5. Have you ever been accused, formally or informally, of sexual harassment or discrimination on the basis of sex, race, religion, or any other basis? If so, please explain: No.

6. Please advise the Committee of any additional information, favorable or unfavorable, which you feel should be disclosed in connection with your nomination: None.

#### D. RELATIONSHIP WITH COMMITTEE

1. Will you ensure that your department/agency complies with deadlines for information set by Congressional committees? Yes.

2. Will you ensure that your department/agency does whatever it can to protect Congressional witnesses and whistle blowers from reprisal for their testimony and disclosures? Yes.

3. Will you cooperate in providing the Committee with requested witnesses, including technical experts and career employees, with firsthand knowledge of matters of interest to the Committee? Yes.

4. Are you willing to appear and testify before any duly constituted committee of the Congress on such occasions as you may be reasonably requested to do so? Yes.

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#### CURRICULUM VITAE OF NICOLE Y. LAMB-HALE

##### **Summary of Qualifications**

Over 17 years of experience counseling business entities on significant business transactions and legal issues, including bankruptcy, where she has served as counsel for Chapter 11 debtors, secured lenders, creditors' committees and equity holders. Significant knowledge of and experience with the challenges of manufacturing in the United States arising from her representation of significant Tier 1 automotive suppliers and original equipment manufacturers in troubled supplier workouts and bankruptcy proceedings. Significant management experience serving as Managing Partner of the Detroit office of a national law firm and having served as leader of the bankruptcy practice and as the partner in charge of hiring at a major regional law firm. History of active participation in civic and community affairs. Currently serving as a senior executive in a cabinet level agency in the Obama administration.

##### **Professional Experience**

United States Department of Commerce, Washington, D.C.—June 2009–Present.

Sole Deputy General Counsel of cabinet level agency with over 20,000 employees. Assists the General Counsel as the chief legal officer for the Department and legal advisor to the Secretary, Secretarial Officers and other officers of the Department, including heads of operating units.

Primary responsibility for the management of the over 300 lawyers employed by the Department.

Foley & Lardner LLP, Detroit, Michigan—August 2003–June 2009.

Managing Partner of the Detroit office. Responsible for new business development, lateral partner and associate recruiting, implementation of professional development programs and the creation of effective marketing campaigns. Managed 80 employees and a \$100 million budget while maintaining a robust law practice. Implemented the firm's business and marketing strategies in the Michigan market. Successfully developed and led a strategic planning retreat with Detroit office partners which resulted in, among other things, a multiple year marketing plan and the implementation of a signature charitable program with the Detroit Public Schools focused on entrepreneurship.

Dykema Gossett PLLC, Detroit, Michigan—September 1991–August 2003.

Joined as an associate in 1991. Elected an equity member in 1998. Practiced in the firm's Bankruptcy and Corporate Finance Practice Groups, specializing in bankruptcy, creditors' rights, business reorganizations and public finance transactions. Areas of practice included representations of debtors and creditors in loan workouts and reorganizations both inside and outside of Bankruptcy Court. Represented issuers and underwriters in public finance transactions, including building authority, airport, water and sewer, road and school bond transactions.

Management responsibilities included chairing the firm's Hiring Committee and the Bankruptcy Practice Group.

**Recent Speaking Engagements**

“The Changing World of Creditors’ Committees: As the World Turns,” panel participant, 15th Annual Central States Bankruptcy Workshop, American Bankruptcy Institute (2008).

“State of the Law Update: Bankruptcy-Creditors’ Rights,” Second Annual State of the Law Update, Association of Corporate Counsel-Michigan Chapter (2007).

“Managing Contractual Relationships and Supply Chain Distress,” Deloitte Great Lakes CFO Conference (2007).

“Expanded Reclamation Rights Under BAPCPA,” Columbus Day Bankruptcy Seminar, Debtor Creditor Section of the Federal Bar Association (2006).

“Dealing with Financially Troubled Suppliers and Customers,” First Annual State of the Law Update, Association of Corporate Counsel—Michigan Chapter (2006).

“The Bankruptcy Abuse Prevention and Consumer Protection Act of 2005-How Will It Impact Your Business?,” 15th Annual Law of Product Distribution and Franchise Seminar—Foley & Lardner LLP (2006).

**Education**

Harvard Law School, Cambridge, Massachusetts; Juris Doctorate, 1991.

University of Michigan, Ann Arbor, Michigan; A.B. in Political Science with High Honors, 1988.

**Professional Organizations**

American Bankruptcy Institute (Advisory Board Member of Central States Conference); American Bar Association; Federal Bar Association; National Association of Bond Lawyers; National Bar Association; Wolverine Bar Association; Detroit Metropolitan Bar Association (former Co-Chair of Debtor/Creditor Section).

**Civic, Community and Political Involvement**

Member, National Finance Committee, Obama for America, May 2007–January 2009.

Member, African-American Advisory Council, Obama for America, October 2007–January 2009.

Deputy State Counsel and Co-Chair, Michigan Campaign for Change, May 2008–November 4, 2008.

Vice Chairperson, Board of Directors, Michigan Land Bank Fast Track Authority by appointment of Michigan Governor, Jennifer Granholm, May 2004–August 2009.

Member, Board of Trustees of the Detroit Regional Chamber’s Leadership Detroit program, Past Chairperson of Selection Committee, January 2002–June 2009.

Member, Board of Trustees, Music Hall Center for the Performing Arts, January 2002–June 2008.

Member of the Board and Treasurer, Michigan Women in Finance, September 2002–May 2006.

Member of the Board and Secretary, Dennis W. Archer Foundation, September 2001–June 2007.

Campaign Finance Chairperson for former Detroit Mayor Dennis W. Archer, February 1996–December 2001—responsible for all fundraising and campaign finance reporting.

Member of the Detroit Housing Commission, which managed public housing for the City of Detroit, March 1995–May 1997.

Pro bono legal advisor to the City of Detroit in connection with its successful Federal Empowerment Zone Application, January 1994–March 1995.

Member, Board of Directors, Delta Manor, Inc., September 1993–December 2007.

**Organization Affiliations**

Golden Life Member, Delta Sigma Theta Sorority, Inc.

Member, Jack and Jill of America, Inc.

Member, The Links Incorporated

**Honors/Recognition Received**

Named one of “Metro Detroit’s Most Influential Women” by Crain’s Detroit Business.

Fellow of the Michigan State Bar Foundation.

Recognized as one of Michigan's "Super Lawyers" in 2006, 2007 and 2008 by *Law & Politics Media, Inc.*

Named one of the Detroit area's most powerful and accomplished women business leaders by Inforum, Michigan's largest organization for professional women and Deloitte.

Recipient of "Powerful Women of Purpose Award," Rhonda Walker Foundation.  
Recipient of "Women of Courage-Women of Change Award," Minerva Education and Development Foundation.

Recipient of "Celebration of Women Award," Vista Maria.

Recipient of "The Blue Diamond Award-Honoring Unsung Sheroes," Spelman College.

Recipient of "Women of Excellence Award," *Michigan Chronicle*.

Named one of "40 Under 40" by *Crain's Detroit Business* recognizing 40 Detroit area professionals under the age of 40 for their business and leadership accomplishments.

Named a YMCA Minority Achiever.

Graduate of the Detroit Regional Chamber's Leadership Detroit, Class XX.

Recipient of "The Five Under Ten" Award issued by the African-American Alumni Council of the University of Michigan to graduates with significant accomplishments during the 10 years since their graduation from the University.

#### **Personal**

Married to John H. Hale, III. Mother of John H. Hale, IV and Ashleigh N. Hale.

*Clients that Nicole Lamb-Hale worked on between 6/1/2004-4/30/2009*

414 North Mills Associates

Access. 1 Communications Corp.

Ad Hoc Bond Holders Committee

Ambac Assurance Corporation

Amtcor—Corporate

Atlantic National Trust, Limited Liability Co.

Bank of America

Bartech Group, Inc., The

BBI Enterprises Group, Inc.

Bizzywiggle Wireless Services

Blue Water Automotive Systems, Inc.

Board of Directors for Veltri Metal Products

Bravo Enterprises LLC

Bravo Family LLC

Canadian National Railway Co.

Capmark Financial Inc.

Cast Itoga Law Office for Uchihama Kasei K.K.

Centra, Inc.

Citigroup Global Markets, Inc.

Citigroup Global Markets, Inc.

Contech U.S., LLC—Official Committee of

Context Capital Management, LLC

Cooper-Standard Automotive, Inc.

Cos-Mar Company

Cummins, Inc.

CVS/Caremark Corporation

Delta Air Lines, Inc. Bankruptcy

Detroit Medical Center (DMC)

Detroit Public Schools

Detroit Technologies, Inc.

Ecorse, City Of, Michigan

Eddor Data Services

Expresstrak, L.L.C.  
Fifth Third Bank  
Fluid Routing Solutions Intermediate Holding  
Foley & Lardner Political Fund, Inc.  
Fort Street Capital LLC  
Fresh, Inc.  
General Electric Capital Corporation  
GETRAG Transmissions Manufacturing LLC  
GETRAG USA  
Goldman, Sachs & Co.  
Great Lakes Higher Education Corporation  
Guerlain, Inc.  
Hammond-Mac Investments, LLC  
Henniges Automotive  
Internet Corporation  
ITT Fluid Technology Corporation  
J.L. French Automotive Castings, Inc. Official Committee of  
J.P. Morgan Securities Inc.  
JP Morgan Chase  
Kapur, Subhash  
Kautex Inc.  
Kopy Corporation  
Lamb-Hale, Nicole—Arbitration Matters  
Loop Capital Markets, LLC  
Luna Entertainment  
LVMH Perfumes and Cosmetics, Inc. a/k/a  
Maclellan Integrated Services  
Medifacts International  
Meridian Automotive Systems, Inc.  
Metaldyne Corporation  
MGI Manufacturing  
Mikken Enterprises Worldwide, LLC  
Monterey Financial Services, Inc.  
Murray, Inc.  
Navigant Consulting  
NM Holdings Company LLC  
Noble International, Ltd.  
Northwest Airlines Inc. Bankruptcy  
Official Committee of Unsecured Creditors of  
P.I.I. Corp  
Paper-Plas Converting, Inc.  
Pasricha, Atul  
Personal Care Products, Inc.  
Peterson American Corporation  
Phillips Service Industries, Inc.  
Raytech Corporation  
Royal Concessionaries, LLC  
Silver Point Capital L.P.  
St. John Health  
St. John Knits, Inc.  
Starlite Retention Services, LLC  
Superior Essex Inc.  
Tectro LP  
The Technology Development Company, Ltd. (TTDC)

TI Group Automotive Systems L.L.C.  
 TLC Michigan  
 Tower Automotive Operations USA II, LLC  
 Ufer & Spaniola, PC  
 Unalloy IWRC  
 Uniboring Resources, LLC  
 US Bancorp  
 Visteon Corporation—Corporate Matters  
 Wayne County Airport Authority  
 Wayne County Building Authority  
 Wellness Plan, The  
 Wellpoint, Inc.  
 Whirlpool Corporation  
 Wiegand, Gerald  
 WINCO Enterprises, Inc.  
 Woory Industrial Company, Ltd.  
 Wynnchurch Capital  
 Yazaki North America, Inc.

The CHAIRMAN. Thank you very much, Ms. Lamb-Hale.  
 And now, Mr. Khouri.

**STATEMENT OF MICHAEL A. KHOURI, COMMISSIONER-  
 DESIGNATE, FEDERAL MARITIME COMMISSION**

Mr. KHOURI. Good afternoon, Mr. Chairman, Ranking Member Hutchison, and members of the Committee.

I am Michael Khouri and a nominee for Commissioner at the Federal Maritime Commission. I sincerely appreciate the opportunity to appear before you today. I am honored to have been nominated by President Obama to become a member of the Federal Maritime Commission. If confirmed by the Senate, I will do my best to serve the public interest, enforce the laws that apply to the maritime entities regulated by the Commission.

First, I want to introduce my wife, Sandy. We are coming up on our 25th wedding anniversary this May, and she is by far my better half.

[Laughter.]

Mr. KHOURI. Our older son, Aaron, is a senior marketing and business major at Lynchburg College in Virginia, and he is in final exams today. Ben, our younger son, is a freshman at Trinity College in Connecticut, and is, likewise, preparing for semester exams.

My maritime career began some 38 years ago, when I took a summer job on a river towboat. I became fascinated with the waterways, with the ships, and the thought of piloting those huge vessels. I trained, worked hard, made pilot at age 23, and stood my first captain's watch at age 25. But, the law was also interesting and called me back to school.

Following law school, I joined American Commercial Lines as Counsel and found that a mix of real-world operating experience, combined with a technical and legal education, was valued by management. My assignments continued to grow in scope and responsibility, including Chief Legal Officer and, ultimately, Senior Vice President for Transportation Services-Marine Operations.



Next, I joined MERS Economy Boat as President and Chief Operating Officer, where I had general management responsibilities for the company's fuel/vessel supply operations on the Mississippi River and Gulf Coast.

During my maritime career, I've had the opportunity to work with Conference Freight Bureau and related antitrust issues, independent action and service contracts between carriers and shippers, port and terminal agreements, and freight-forwarder agreements. I believe that these 30-plus years of experience serve as a solid foundation from which I may review and judiciously consider the mission, objectives, and matters that come before the Federal Maritime Commission.

I see three areas that are current and longer-term challenges for the Commission:

Job one is the current global recession and its impact on the consumers, shippers, carriers, ports, ocean transportation intermediaries, and all of the many workers and tradesmen who have reduced or lost employment opportunities. The Commission must carefully monitor rate activity and reduce nonvalue-added cost burdens when and where possible. Shippers need lowest-cost transportation solutions. Ocean transportation intermediaries need regulatory oversight that is as efficient as possible. And carriers need some opportunity to earn a minimum return.

Some trade lanes have seen increased levels of controlled carrier capacity. The Commission will want to be diligent in monitoring trade, service, and rate activity in these trade lanes, with a focus on identifying any emerging abusive activities.

Third, in looking to a brighter future, this recession will abate, and global growth will return. As trade volumes increase, our ports will see congestion and will strain to efficiently handle the volume. The Commission can begin to model that growth and assist with efficient regulatory processes that can facilitate the seamless movement of container trade through ports and provide opportunity for all of the stakeholders in our maritime community.

I close with acknowledgment and sincere thanks to Chairman Lidinsky and Commissioner Dye for their help with this process. If confirmed, I look forward to working with my fellow Commissioners, as well as working with each of you and your staff. I thank you for your courtesy and attention, welcome any questions you may have, and respectfully ask that my full written statement be entered for the record.

[The prepared statement of Mr. Khouri follows:]

PREPARED STATEMENT OF MICHAEL A. KHOURI, COMMISSIONER-DESIGNATE,  
FEDERAL MARITIME COMMISSION

Good afternoon Mr. Chairman, Ranking Member Hutchison, and members of the Commerce, Science, and Transportation Committee. I am Michael Khouri and am a nominee for Commissioner at the Federal Maritime Commission.

I sincerely appreciate the opportunity to appear before you today, and especially at this time with so many other important matters that require your attention. I am honored to have been nominated by President Obama to become a member of the Federal Maritime Commission and I thank the President for his confidence and this opportunity to serve. If confirmed by the Senate, I will do my best to serve the public interest and enforce the laws that apply to the maritime entities regulated by the Federal Maritime Commission.

First, I want to introduce my wife Sandy Khouri. We are coming up on our twenty-fifth wedding anniversary this May. When I came home one evening a few months ago and said, "I received an interesting phone call from Washington today . . .", she listened quietly then replied, "Wherever you want to go, you know I'm there with you." She is, by far, my better half. Our oldest son, Aaron, is a senior marketing and business major at Lynchburg College of Virginia. He is in final exams today. Ben, our younger son, is a freshman at Trinity College in Connecticut and is likewise preparing for year end exams. They are good students, accomplished athletes with both playing varsity lacrosse at top twenty college programs and overall, good young men. Aaron was recently honored by his lacrosse teammates and coaches with election as Senior Captain. Sandy and I are proud of the men our boys have become.

My maritime career began some thirty-eight years ago when I took a summer job on a river tow boat. I became fascinated with the waterways, with ships and the thought of piloting those big vessels. I trained and worked hard, made Pilot at age 23 and stood my first Captain's watch at age 25. But the law was also interesting and called me back to school. Following law school, I joined American Commercial Lines (ACL) as counsel and found that a mix of real world operating experience combined with a technical and legal education was valued by management. My assignments continued to grow in scope and responsibility including chief legal officer and ultimately senior vice president for transportation services-marine operations. Next, I joined MERS Economy Boat as president & chief operating officer where I had general management responsibilities for the company's fuel and vessel supply operations on the Mississippi River and Gulf Coast.

During my maritime industry career, I have had the opportunity to work with the conference freight bureau and all of the related antitrust issues, and most importantly, during the transition period in the inland marine industry as regulated cargos moved first by tariff, then by "independent action" and then under "service contracts". I have experience working with ports and terminals and understand the issues affecting shore side venues where cargos originate or are off-loaded. I have also worked on commercial transactions with freight forwarders and ship brokers; now collectively called transportation intermediaries. I believe that these thirty plus years of experience serve as a solid foundation from which I may review and judiciously consider the mission, objectives and matters that come before the Federal Maritime Commission.

As I related in my written material for your staff, I see three areas that are current and longer term challenges for the Federal Maritime Commission:

- Job one is the current global recession and its impact on the consumers, shippers, carriers, ports, ocean transportation intermediaries and all of the many workers and tradesmen who have reduced or lost employment opportunities. The Commission must carefully monitor rate activity and reduce non-value added cost burdens when and where possible. Shippers need lowest cost transportation solutions, ocean transportation intermediaries need regulatory oversight that is as efficient as possible and carriers need some opportunity to earn a minimum return. Last, an efficient and healthy international marine transportation system will offer renewed employment to U.S. workers.
- Some trade lanes have seen increased levels of controlled carrier capacity. The Commission will want to be diligent in monitoring trade, service and rate activity in these trade lanes with a focus on identifying any emerging abusive activity.
- Third, looking to a brighter future, this recession will abate and global growth will return. As trade volumes increase, our ports will see congestion and will strain to efficiently handle the volume. The FMC can begin to model that growth and assist with efficient regulatory processes that can facilitate the seamless movement of container trade through ports—perhaps up the Mississippi River to further inland ports—and provide opportunity for all of the stakeholders in our maritime community.

I close with an acknowledgement and sincere thanks to Chairman Lidinsky for his help with this process as well as Commissioner Dye and her assistance. I am truly grateful to President Obama for this nomination and the opportunity to serve. If confirmed, I look forward to working with my fellow Commissioners as well as working with each of you and your staff.

I thank you for your courtesy and attention and welcome any questions you might have for me.

## A. BIOGRAPHICAL INFORMATION

1. Name (Include any former names or nicknames used):  
 Michael Abraham Khouri (1975 to present).  
 Michael Joseph Khouri (1949 to 1975).  
 (My brother and I changed our middle names to honor and remember our then recently-deceased father).  
 Mike Khouri.
2. Position to which nominated: Commissioner, Federal Maritime Commission.
3. Date of Nomination: December 2, 2009.
4. Address (List current place of residence and office addresses):  
 Residence: Information not released to the public.  
 Office: Pedley & Gordinier PLLC, 1484 Starks Building, 455 South Fourth Street, Louisville, KY 40202.
5. Date and Place of Birth: October 31, 1949; Louisville, KY.
6. Provide the name, position, and place of employment for your spouse (if married) and the names and ages of your children (including stepchildren and children by a previous marriage).  
 Spouse: Sandra Willis Khouri (MBA homemaker); children: Aaron Michael Khouri, age 22; Benjamin Eli Khouri, age 18.
7. List all college and graduate degrees. Provide year and school attended.  
 BA, Economics, 1971, Tulane University.  
 JD, 1980, Brandeis School of Law—University of Louisville.  
 Advanced Management Program, 1996, Harvard Business School.
8. List all post-undergraduate employment, and highlight all management-level jobs held and any non-managerial jobs that relate to the position for which you are nominated.  
 Crouse Corporation  
 Paducah, KY  
 Deck crew and 2nd engineer, 1971–1974  
 Pilot and Captain, 1974–1978.  
 Discussion: Crouse operates commercial towing vessels on the Mississippi and Ohio River system. Serving as crewman and navigating officer on marine vessels provides me with first hand experience and understanding of operational issues that arise in and around ports and terminals.  
 American Commercial Lines, Inc.  
 Jeffersonville, IN  
 Law Clerk, 1979–1980  
 Counsel, 1980–1982  
 Counsel & Assistant Secretary, 1982–1984  
 General Counsel & Secretary, 1984–1988  
 Vice President—Law, 1988–1990  
 Senior Vice President, General Counsel & Secretary, 1990–1994  
 Senior Vice President-Corporate & Legal Affairs, 1994–2000  
 Senior Vice President-Transportation Services, 2000–2002  
 Discussion: ACL was, during the relevant years, the largest U.S. marine company operating commercial towing vessels on the Mississippi River and Gulf Intracoastal Waterway. ACL originated and delivered cargo to public ports and terminals in New Orleans, Houston and throughout the referenced waterways. As counsel, I reviewed and handled a variety of maritime issues, including ACL's participation in rate conference matters, tariff and independent action freight agreements, port and terminal contract agreements and other related issues. As SVP—Corporate & Legal Affairs, I managed a staff of twenty professional associates in the areas of law, government/public affairs, corporate secretary, environmental compliance, insurance/risk management, strategic planning/business development, and internal audit. All of these endeavors were within the context of marine transportation in and between ports and terminals. As SVP—Transportation Services, I had operating responsibility for approximately 2,000 vessel officers, engineers, crewmen and shore side personnel. The fleet comprised 200 towing vessels and 5,000 barges. These management responsibilities and experiences provide me with insights and understanding of a variety of issues involving cargos moving through marine ports and terminals.

MERS Economy Boat  
 Memphis, TN  
 President and Chief Operating Officer, 2003–2005

Discussion: My primary duties with MERS included business development, company expansion through mergers and acquisitions and to manage back office operations, credit facilities, insurance and risk management.

Attorney/consultant  
 Memphis, TN  
 2005–2007

Discussion: Advised a group of investors on a start-up ship building facility.

Pedley & Gordinier PLLC  
 Louisville, KY  
 Member, 2007 to present

Discussion: I currently work on commercial and financial transactions in the private capital and equity area.

9. Attach a copy of your resume. A copy is attached.

10. List any advisory, consultative, honorary, or other part-time service or positions with Federal, State, or local governments, other than those listed above, within the last 5 years.

Appointed as a Member of the Kentucky Film Commission by Gov. Steven Beshear, 2009.

11. List all positions held as an officer, director, trustee, partner, proprietor, agent, representative, or consultant of any corporation, company, firm, partnership, or other business, enterprise, educational, or other institution within the last 5 years.

Member, Pedley & Gordinier PLLC, law firm, 2007 to present.

Attorney/consultant practice, 2005–2007.

President and Chief Operating Officer, MERS Economy Boat, 2003–2005.

12. Please list each membership you have had during the past 10 years or currently hold with any civic, social, charitable, educational, political, professional, fraternal, benevolent or religious organization, private club, or other membership organization. Include dates of membership and any positions you have held with any organization. Please note whether any such club or organization restricts membership on the basis of sex, race, color, religion, national origin, age, or handicap.

St. Luke's Episcopal Church, 1985–2002; Vestry, Lay Reader and Parish Chancellor.

Owl Creek Country Club, 1992–2002.

Church of the Holy Communion, Episcopal, 2003–2009; Lay Reader.

Chicasaw Country Club, 2003–2005.

American Waterways Operators Association, Alternate company delegate 1990s; Member, Board of Directors, 2004–2005.

Waterways Council, Inc, 2004–2005; Member, Board of Directors.

Maritime Law Association of the United States, 2008 to present.

Conference of Freight Counsel, 2008 to present.

Transportation Lawyers Association, 2008 to present.

The Honorable Order of Kentucky Colonels; Commissioned by Governor Carroll in 1976; Member, 2008 to present.

Fraternal Order of Police Associates, 2008 to present.

Louisville Business Nexus, 2008 to present.

None of the listed organizations restrict membership on the basis of sex, race, color, religion, national origin, age, or handicap.

13. Have you ever been a candidate for and/or held a public office (elected, non-elected, or appointed)? If so, indicate whether any campaign has any outstanding debt, the amount, and whether you are personally liable for that debt: No.

14. Itemize all political contributions to any individual, campaign organization, political party, political action committee, or similar entity of \$500 or more for the past 10 years. Also list all offices you have held with, and services rendered to, a state or national political party or election committee during the same period.

Bush for President, Inc.—08/06/1999, \$500

Ann Northup for Congress—10/25/2000, \$500

Northrup for Congress—06/05/2001, \$500  
 Missourians for Kit Bond—06/23/2003, \$500  
 Bush-Cheney '04 (primary) Inc.—04/12/2004, \$1,000  
 Friends of Jim Oberstar—04/22/2005, \$500  
 American Commercial Lines Good Government Fund—1999 \$1,700; 2000 \$1,750; 2001 \$1,800; 2002 \$1,850

15. List all scholarships, fellowships, honorary degrees, honorary society memberships, military medals, and any other special recognition for outstanding service or achievements.

1979–1980, Journal of Family Law, Brandeis School of Law—University of Louisville.

1995, Department of Transportation, United States Coast Guard, Public Service Commendation, from Rear Admiral J.C. Card for service with the American Waterways Operators and United States Coast Guard task force to develop effective “non-regulatory” processes to improve safe vessel operations on U.S. flag vessels.

16. Please list each book, article, column, or publication you have authored, individually or with others. Also list any speeches that you have given on topics relevant to the position for which you have been nominated. Do not attach copies of these publications unless otherwise instructed.

“Transporting Minerals by Water”, Kentucky Mineral Law, Banks-Baldwin, 1986.

“Floods, Droughts, Ice, River Closures: Operational, Contractual and Insurance Issues”, Thirteenth New Orleans Maritime Seminar, Tulane Law School, 1994.

17. Please identify each instance in which you have testified orally or in writing before Congress in a governmental or non-governmental capacity and specify the date and subject matter of each testimony.

1986 (approx), I gave a prepared statement and testimony to the U.S. House of Representatives, Committee on Merchant Marine and Fisheries, on behalf of American Commercial Lines. The testimony concerned the Department of Transportation, Maritime Administration Title XI loan guarantee program and then pending legislation to amend the rules and requirements for marine companies to qualify for program loan guarantees.

18. Given the current mission, major programs, and major operational objectives of the department/agency to which you have been nominated, what in your background or employment experience do you believe affirmatively qualifies you for appointment to the position for which you have been nominated, and why do you wish to serve in that position?

Thirty-eight years ago, I first boarded a commercial marine vessel. Since that time, I have had the opportunity to serve in marine vessel operating and management positions that involved a wide range of issues including conference freight tariff matters, cargo service contracts, antitrust exemptions and compliance, port and terminal contract matters and all of the related legal issues that flow from these matters. I believe that this experience will allow me to bring a broad and practical perspective to the mission, programs and objectives of the Federal Maritime Commission.

I wish to serve as a Commissioner with the FMC because the position would allow me to contribute the combined sum of my marine operating, legal and business experience back to the broad maritime community, its diverse stakeholders and the public who rely on an efficient, competitive and reliable marine transportation system.

19. What do you believe are your responsibilities, if confirmed, to ensure that the department/agency has proper management and accounting controls, and what experience do you have in managing a large organization?

I would be responsible for working with the Chairman, who has direct supervision of all staff functions, and the other Commissioners to regularly review the management practices, procedures and accounting controls being utilized to ensure that the Commission: (i) maintains a fair, open, equitable and productive work environment, (ii) utilizes the human resources assigned in an efficient manner, and (iii) has audit processes and policies that provide reasonable assurance to the Chairman and the Commissioners that waste, fraud or abuse has been eliminated. As referenced in response to Question A8, I managed a fairly large and diverse workforce at American Commercial Lines. As SVP—Corporate and Legal Affairs, I was responsible for all legal, environmental, general corporate and audit compliance for an organization

that involved approximately 4,000 employees working on hundreds of vessels, numerous cargo terminals and ship construction and repair facilities throughout the Mississippi River System, the Gulf of Mexico, the Orinoco River in Venezuela and the Parana/Paraguay River system running from Brazil to Buenos Aires, Argentina. As SVP—Transportation Services, I had day-to-day operational responsibility for approximately 2,000 crew men and women, engineers, pilots, captains, and all of the related shore side management and support personnel.

20. What do you believe to be the top three challenges facing the department/agency, and why?

The current global recession has hurt all sectors of the economy and all of the stakeholders in the broad marine community including shippers, ocean transportation intermediaries, ports and carriers. There is pressure on general container rate levels and pressure on shippers to provide goods at lower delivered costs. Ocean transportation intermediaries compete in a market where lower cost and higher service levels are required. The ports currently face cost pressure and decreased volume. In this overall economic environment, the Commission will be challenged and must be diligent in monitoring all conference and discussion agreements for abusive practices while assisting all constituents in finding regulatory initiatives that can facilitate lower costs for all stakeholders.

On a brighter note, published reports predict, long term, that international trade through U.S. ports will double from the 2002 levels by year 2020. As the recession eases and trade volumes increase, the ports will be straining to efficiently handle the volume. The Commission will be challenged to assist with efficient regulatory processes that will protect consumers, facilitate the rising tide of container volume and provide opportunity for all public ports, ocean common carriers and ocean transportation intermediaries to provide coordinated and efficient service.

Some trade lanes have experienced increased levels of controlled carrier tonnage capacity. The Commission must be diligent in monitoring trade, service and rate activity in these trade lanes with a view to identifying any emerging abusive activities.

#### B. POTENTIAL CONFLICTS OF INTEREST

1. Describe all financial arrangements, deferred compensation agreements, and other continuing dealings with business associates, clients, or customers. Please include information related to retirement accounts.

I receive a pension payment from American Commercial Lines' qualified pension plan.

I have deferred compensation in the CSX Executive stock Trust, administered by SunTrust Bank. This program began regular scheduled plan distributions to me in July 2009 and such distributions will continue on six-month intervals through January 2013.

For a period of up to 12 months following my departure from my law firm, the firm will continue to pay me a fixed percentage of client fees for services I previously provided, to the extent that my former clients pay those fees during such 12-month period.

2. Do you have any commitments or agreements, formal or informal, to maintain employment, affiliation, or practice with any business, association or other organization during your appointment? If so, please explain: No.

3. Indicate any investments, obligations, liabilities, or other relationships which could involve potential conflicts of interest in the position to which you have been nominated: None.

4. Describe any business relationship, dealing, or financial transaction which you have had during the last 10 years, whether for yourself, on behalf of a client, or acting as an agent, that could in any way constitute or result in a possible conflict of interest in the position to which you have been nominated.

None, in my reasonable judgment. However, in my effort to provide full responses to all questions, I note that a party in a proceeding wherein American Commercial Lines and/or American Waterways Operators were a party(s), then there could be an appearance of a conflict.

I served as an officer of American Commercial Lines from 1980 to 2002. Further, I was an officer of ACL during a period that both ACL and SeaLand Services were wholly owned subsidiaries of CSX Corporation. CSX divested its controlling interest in ACL in 1998 and divested all of its interest in SeaLand in 1999.

I served as a member of the Board of Directors of American Waterways Operators Association in 2004–2005.

5. Describe any activity during the past 10 years in which you have been engaged for the purpose of directly or indirectly influencing the passage, defeat, or modifica-

tion of any legislation or affecting the administration and execution of law or public policy.

In 2003, 2004 and 2005, I participated with other marine company executives in meetings with various House and Senate members and staff that were arranged and scheduled by the Waterways Council and the American Waterways Association. The purpose of these meetings was to educate the Members and staff of the importance of our inland river system and the need to fund lock and dam construction projects.

In 2004, I participated with other marine and rail executives in meetings with various Illinois State House and Senate members and staff. The purpose of these meetings was to educate the Members and staff on the adverse economic impact of proposed state legislation that would have significantly raised taxes on fuel sold in Illinois to interstate marine and rail carriers and to oppose the adoption of such tax.

In 2008 and 2009, I had several conversations and e-mail exchanges with various Kentucky State House and Senate members and staff in Gov. Steven Beshear's administration concerning proposed legislation to provide economic incentives to attract film and television production projects to Kentucky. The purpose of these communications was to educate the Members and staff on the economic benefits that the film industry could provide to Kentucky and to support the adoption of the economic incentive legislation.

6. Explain how you will resolve any potential conflict of interest, including any that may be disclosed by your responses to the above items.

In the event either American Commercial Lines or American Waterways Operators was a party to a matter before the Commission, I would ask all parties if they reasonably believed that a conflict or appearance of a conflict existed if I participated in the matter. If yes, then I would recuse myself from the matter.

#### C. LEGAL MATTERS

1. Have you ever been disciplined or cited for a breach of ethics by, or been the subject of a complaint to any court, administrative agency, professional association, disciplinary committee, or other professional group? If so, please explain: No.

2. Have you ever been investigated, arrested, charged, or held by any Federal, State, or other law enforcement authority of any Federal, State, county, or municipal entity, other than for a minor traffic offense? If so, please explain: No.

3. Have you or any business of which you are or were an officer ever been involved as a party in an administrative agency proceeding or civil litigation? If so, please explain.

I have not, in my personal capacity, ever been involved as a party in an administrative agency proceeding or civil matter.

American Commercial Lines was a diverse marine transportation, cargo terminal and ship construction/repair company. The company was involved with the normal array of administrative agency proceedings and litigation. Administrative agency proceedings included permits with the U.S. Army Corps of Engineers, operational and safety issues with the Department of Transportation—U.S. Coast Guard, compliance and enforcement proceedings with the Environmental Protection Agency, complaint/dispute proceedings with the Equal Employment Opportunity Commission, and disputes before the National Labor Relations Board. Civil litigation included crew and shore side personnel injury and death cases, cargo damage/loss litigation, freight contract dispute matters, ship construction warranty and repair claims, wrongful discharge from employment claims and general contract dispute matters.

MERS Economy Boat was a regional supplier of marine fuels, lubricants and vessel supplies to marine companies along the Mississippi River and Gulf Coast. During my tenure, I recall only two matters; both involving an alleged work place injury by a vessel crew person.

4. Have you ever been convicted (including pleas of guilty or *nolo contendere*) of any criminal violation other than a minor traffic offense? If so, please explain: No.

5. Have you ever been accused, formally or informally, of sexual harassment or discrimination on the basis of sex, race, religion, or any other basis? If so, please explain: No.

6. Please advise the Committee of any additional information, favorable or unfavorable, which you feel should be disclosed in connection with your nomination: None.

#### D. RELATIONSHIP WITH COMMITTEE

1. Will you ensure that your department/agency complies with deadlines for information set by Congressional committees? Yes.

2. Will you ensure that your department/agency does whatever it can to protect Congressional witnesses and whistle blowers from reprisal for their testimony and disclosures? Yes.

3. Will you cooperate in providing the Committee with requested witnesses, including technical experts and career employees, with firsthand knowledge of matters of interest to the Committee? Yes.

4. Are you willing to appear and testify before any duly constituted committee of the Congress on such occasions as you may be reasonably requested to do so? Yes.

The CHAIRMAN. All nominees' statements are, by definition, included in the record.

Mr. KHOURI. Thank you, sir.

The CHAIRMAN. Either as given or as presented or, if they converge, much easier.

I'd like to open, maybe talking with Ms. Brill and Ms. Ramirez, about regulation and its role.

You used an interesting phrase, Ms. Brill, when you said, "I have an obligation to balance the needs of all stakeholders." And to say anything else would be foolish. On the other hand, doesn't always work out like that, does it? And what I'd like to ask both of you is, Where there is a relatively close call on some regulation—and you know the kinds of things we've been doing here in the Commerce Committee, they're the kinds of things that interest you; the Federal Trade Commission, will interest you, if confirmed—as to how you approach that, because it's an area that deals with sharp-edged matters, hard matters, matters where stakeholders really do have very different opinions, and sometimes some are very right, and sometimes they're not very right, and sometimes it's very close—and you both have such enormous experience in these matters, I'd just be interested, how do you approach, with an open and fair mind, something which may be close, or may not be so close, just as a matter of your own individual—each of your own individual styles?

Ms. BRILL. Thank you, Mr. Chairman.

It's a very interesting question. And I do think, in focusing on consumer protection issues, which is what the Federal Trade Commission does and is the premier agency for doing, it's very important to hear from all stakeholders and to gain an understanding of the implications of contemplated action for all stakeholders that might be involved in an activity, whether it's law enforcement, regulation, or guidances.

Your question, though, focused on the issue of what happens when it's a close call? How do we decide? Which way do we go? Often, a consumer protection agency will be the last bastion to stand up and take action on behalf of consumers.

Having said that, one needs to carefully consider the short- and long-term implications of any action you might take. So, in the event that you decide to take some action, it is important to see whether there are intermediate steps that can be taken short-term steps that will allow one to assess the activity as it goes on, the implications of the efforts, going forward. In addition, one should also assess what other law enforcement agencies may be doing. Have there been other entities—state attorneys general, local law enforcement—who may have approached similar issues? What has the result of those activities been?



There's not one answer to the question, because it's such an important and broad question. I think it's very important to approach "close calls" carefully, look at all stakeholders, and then see if there are measurements that one can take as one goes along, to assess whether you have gotten it right. And, if not, to assess adjustments that can be taken.

The CHAIRMAN. Thank you.

Ms. Ramirez.

Ms. RAMIREZ. Thank you, Mr. Chairman.

I would approach such an issue in the way that I approach most of the things that I've done over the course of my career, and that is with an open mind and by looking at all sides of an issue.

Specifically, here, of course, the task would be to weigh the benefits of any particular rule or regulation against the potential burdens that might be placed on business activity, and also to understand the impact that it would have on the marketplace overall.

The ultimate mission, of course, of the FTC is to ensure that the welfare of consumers is advanced. So that, ultimately, would weigh very heavily on my mind. But, again, I would approach it by looking at all sides of the issue, weigh the pros and cons, and then reach what I would hope would be a wise decision.

Thank you.

The CHAIRMAN. My time is about expired. And I like those answers. But, you know, sometimes you don't have the luxury of enough time. If you're like any one of us who are or are not around this dais, there are 50 to 500 things on you at once, and your mind is overwhelmed with choices and decisions, nuances that must be defined, and then your own feelings, which must be brought into that without prior prejudice to assert a point of view that you previously had brought. On the other hand, you can't discount that everybody is who they are, their experiences are who they are.

So, what I hope you had, but fear you will not have, is the time to make those carefully thought-through considerations on a yellow legal pad, et cetera.

But, having said that, I don't worry about it, in either of your cases, because I think you've both had so much experience. But, it is an important question. How do you make a decision, with not enough time and with a lot of pressure?

I yield now to the distinguished Ranking Member, Senator Hutchison.

Senator HUTCHISON. Well, thank you, Mr. Chairman.

Let me first ask a question that is my responsibility to ask of all our nominees, and that is that we have enjoyed, from all of our nominees, cooperation with our staffs as we exercise our responsibility for oversight of all of your areas, and I would ask if each of you would agree to work with our staffs, as well as the majority staff, when we have questions about areas that we need to have information about for our responsibilities.

And I'd like to ask all of you to answer that.

Ms. BRILL. Shall I go first?

Senator HUTCHISON. Yes.

Ms. BRILL. Thank you, Ranking Member Hutchison.

Yes, I will, along with my fellow Commissioners, if I'm confirmed, be very happy to work with you and your staffs, as well as

all the other staffs of the members of this committee, on any issue that you would like to discuss.

Senator HUTCHISON. Thank you.

Ms. RAMIREZ. I, too, am committed to working closely with this committee, if I'm confirmed.

Senator HUTCHISON. Thank you.

Mr. STRICKLAND. If confirmed, it will be my responsibility and my honor to do so, Ranking Member.

Thank you.

Senator HUTCHISON. Thank you.

Ms. LAMB-HALE. Ranking Member Hutchison, I look forward to collaborating with you and your staff on any matters that are of interest.

Senator HUTCHISON. Thank you.

Mr. KHOURI. Ranking Member Hutchison, the answer is yes.

[Laughter.]

Senator HUTCHISON. Thank you.

I have a question for Mr. Strickland. Senator Brown and I have introduced legislation on bus safety, which is, thanks to the great work of the Chairman and also Senator Pryor and Senator Lautenberg, going to be on the markup this Thursday. And I would just ask you if you would commit to making bus safety one of the priorities at NHTSA?

Mr. STRICKLAND. Absolutely, Senator Hutchison. The Secretary himself has already made it an incredibly high priority—the action plan, that I know has been shared with you, your staff, and with Chairman Rockefeller and the staff, as well. We know that it is an incredibly high priority, because of all the issues that have happened in your state and nationwide regarding motorcoach safety. And it is absolutely an imperative, if confirmed, that NHTSA will take this to be a very top priority.

Senator HUTCHISON. I do think that the first efforts in that regard are very, very good, and we want to give you the legislative backup to strengthen what has been started there.

I'd like to ask the two nominees for the FTC about the efforts that are being made at the FTC to streamline the rulemaking authority for the FTC. And this is a concern to some because there is such a responsibility across so many industries, and it would be a very wide swath. Right now, it's a very limited streamlined authority that Congress has given to the FTC. And, in general, the FTC has been required to have a much more rigorous rulemaking and time-for-comment-period approach to its regulations.

So, my question to you is, how do you respond to the concerns that just a broad rulemaking streamlining would be really too much authority for the broad responsibilities that the FTC has?

To both of you.

Ms. BRILL. I'll go first again. Thank you, Ranking Member Hutchison.

There are high expectations placed on the FTC to address emerging consumer protection issues. I think these expectations are appropriate. The FTC is the Nation's premier consumer protection agency. And as emerging issues, exigent issues, face the Federal Trade Commission, the question is, whether the FTC has the appropriate tools to expeditiously meet these expectations.

I think this is a very important question. I think that I'd like to study the areas where the FTC hasn't felt that it has had the ability to react quickly to market conditions, to issues facing consumers, and then to discuss with you whether, in those circumstances, or more broadly, it would be appropriate to have more streamlined rulemaking authority in order to respond appropriately to consumers' concerns.

Senator HUTCHISON. Thank you.

Ms. Ramirez?

Ms. RAMIREZ. I'm aware that the agency has requested broader authority in this area, and I think there are strong arguments to be made that it's appropriate for the agency to have greater flexibility and to have a more streamlined approach to address problems that are emerging, to address new business practices that might be developing.

But, I'm also aware of the concerns, that I think are legitimate, that are raised on the other side, and that, given the broad mandate and broad jurisdiction of the FTC, that kind of authority ought to be used and given very judiciously. So, if I am confirmed, it's an issue that I will think about very closely and look forward to having a further dialogue with you and the members of this committee on the issue.

Senator HUTCHISON. Thank you. Thank you very much.

And my time is up. Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Senator Hutchison.

Senator Begich, you're next. But, before, if you will grant me that courtesy, Senator Pryor has two extremely important meetings he has to go to, and he has one or two very important things he wants to say.

**STATEMENT OF HON. MARK PRYOR,  
U.S. SENATOR FROM ARKANSAS**

Senator PRYOR. Thank you.

The CHAIRMAN. At least that's what he told me.

[Laughter.]

Senator PRYOR. Thank you, Mr. Chairman.

Senator BEGICH. I told you the same thing.

[Laughter.]

Senator BEGICH. I have no problem, Mr. Chairman.

Senator PRYOR. I'll take 30 seconds or less. Thank you.

I just want a moment to congratulate David Strickland, here, on his nomination. He's going to do a great job there, and I've always enjoyed working with him on this committee, and I look forward to working with him while he's there.

And let me just give the Committee one very quick statistic, and that is that, a year ago, there were 162 toy recalls; this year, there has been 38. And that's because of the Consumer Product Safety bill that David drafted and we all worked on. And, in the same vein, last year, there were 85 lead toy recalls, and this year there has been 15. So, what he's done, his leadership, his vision, he's been able to do for this committee, he's going to do it there at NHTSA. And I just look forward to working with you.

Mr. STRICKLAND. Thank you.

Senator PRYOR. Thank you.

Thank you, Mr. Chairman.  
 The CHAIRMAN. Thank you, Senator Pryor.  
 Senator Begich.

**STATEMENT OF HON. MARK BEGICH,  
 U.S. SENATOR FROM ALASKA**

Senator BEGICH. Thank you very much, Mr. Chairman.

David, I know they commented on your applause line when you came in. It was amazing to me. But, I know our interview that we had, or our discussion, was very helpful for me because I had not worked with you much, from the Commerce Committee standpoint. But, I want to ask you a couple of questions, then I have some for the FTC folks.

But, let me first, on two issues that are important, at least from my perspective, not only in Alaska, but across the country, and that's on distracted drivers and the impacts that is having on a variety of things. And I want to see if you could give me a few of your thoughts on how you see your new role, how you might combat that issue of distracted drivers. It's not just cell phone and texting, but I think there's a lot of activity that goes on that, you know, you wonder how they're driving, let alone seeing what's in front of them. So, could you give me a little commentary of how you might approach that in your new position?

Mr. STRICKLAND. Certainly, Senator Begich. Thank you so much for the question.

The issue, as was addressed in the hearing held by this committee, and Chairman Rockefeller's thoughts in his legislation, along with Ranking Member Hutchison's and a number of the members of the Committee, it is a very broad-ranging problem that takes a lot of approaches; not simply just a technological one, but also there are issues of behavior, training, and education.

And, if confirmed, I know that, in terms of working with this committee and the rest of the Congress, and working with the Secretary, taking comment and—you know, and exchange with the NHTSA staff, you know, for me to be able to culminate the resources I need to make my decision and my recommendation to the Secretary, this is an issue that is, as you said, much broader than cell phones; it is people fixing their hair, it's drinking a cup of coffee, it's playing with the radio, it's having a conversation with somebody in the backseat. It's all of these things that, for us as a country, we have to be able to think about in a much more pervasive fashion. And, if confirmed, I will definitely make sure the approach is very pervasive.

Senator BEGICH. Thank you very much.

And let me, if I can, bring up another issue with driving is the folks, you know, that are impaired—maybe alcohol or drugs or misuse of their own prescription drugs. Can you give me some thoughts on what you think there. I can tell you, you know, from Alaska's perspective, you know, the work that, nationally, has been done, but also in our State and locally has been done, has had a huge impact on the bottom line, saving lives and lessening the injuries on the street. And I know one thing we did, when I was mayor, we increased our traffic enforcement unit on the police department.

And I know I had a lot of people back home that really didn't appreciate that when I was mayor, but—

[Laughter.]

Senator BEGICH.—I always remind them, “If you're not doing anything wrong, you never have to worry.” But, we reduced fatalities by half in less than 2 years by the actions.

Do you see, from the—I guess, first, general commentary, and then do you—How do you see some connectivity to our police departments that you might see in our local governments of a role that you might play, or your agency might play?

Mr. STRICKLAND. Well, the agency has, historically, a pivoted and partnered role with the States and with the localities on this issue. And, you know, the work on impaired driving is something that is always ongoing, and it has to be a multifaceted approach, just like distracted driving. You know, technology—I know that, you know, there are members of this committee that are very interested in dealing with technological solutions, and they're very important. There's also the behavioral side of things, trying to deal with treatment, trying to deal with the other issues in part of law enforcement. And so, it's enforcement.

All these things are incredibly important, and it is especially important for NHTSA to partner and liaison with the States and localities, in terms of not only enforcement, but in dealing with behavioral issues, in order for us to be able to really deal with the recidivist driver. Because they've done—a very good job has been done with social drinking; not as good with recidivism.

Senator BEGICH. Very good, thank you.

As I had mentioned to you when you were in my office, we look forward to having you up to Alaska. We will not bring you up in December or January.

[Laughter.]

Mr. STRICKLAND. Thank you, Senator.

Senator BEGICH. But, February's not bad.

[Laughter.]

Senator BEGICH. No—but, I look forward to seeing you in your new position.

To the two folks from the FTC—let me, first, say to all of you, I'm a believer that the President has his team, he appoints them. I'm looking forward to seeing you all serve. And, you know, his success is based on your success, or his failure is based on your failure. So, it's all on your shoulders, so I just wanted to make that very clear.

[Laughter.]

Senator BEGICH. But, to the FTC folks, one of the things I've always said when we've had hearings in the past, with the FTC folks, and some of the things that come up is the lack of knowledge by the everyday consumer of how to get access to your information, how to get the FTC to be a better partner in understanding what's wrong, all the items of the toys and so forth. Do you see an additional role that you can do to help expand consumer awareness of what you do, to the everyday consumer? I mean, not the ones that seek out all the time, because we want to, like myself, but there are everyday consumers who just have no idea what the FTC does. Can you—whoever wants to start first.

Ms. RAMIREZ. Thank you, Senator.

One of the priorities, for me, is precisely to address that very question, because most everyday Americans really don't know much about what the FTC does. The agency, however, does have a very broad partnership with both, of course, State and local law enforcement agencies, as well as with community-based organizations. But, I think more can be done in that regard in order to ensure that the message about consumer awareness is expanded and is amplified, as well. So, that's one of—a large priority for me. This is something that I've done a fair amount of in my community in Los Angeles, and I hope to work with the FTC to ensure that it reaches ordinary Americans that can benefit from the consumer awareness programs that it has.

Senator BEGICH. Very good.

Ms. Brill, if you could be very quick, because I've run out of time.

Ms. BRILL. Sure. I agree with Ms. Ramirez, and I know—because she and I have discussed this—we agree that the FTC should consider leveraging resources, working with other community agencies, particularly reaching out to vulnerable populations as a Federal agency working alone, it might be difficult to reach the consumer, but through visiting nurses' associations and other entities that are really going into individuals' homes, the FTC can reach a broad population that really is needy of information and assistance.

Senator BEGICH. Very good, thank you.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you very much.

Senator LeMieux.

**STATEMENT OF HON. GEORGE S. LEMIEUX,  
U.S. SENATOR FROM FLORIDA**

Senator LEMIEUX. Mr. Chairman, thank you very much.

And, to all of the nominees today, I want to thank you. I want to thank you for submitting yourself to public service. I know that you can make a lot more money in the private sector, and I appreciate the fact that you've put yourself forward for public service to start with, or continued public service.

I want to start with Ms. Brill. We had a nice conversation, talking about consumer protection issues. And, while we did not specifically work together when I was in the Attorney General's office in Florida, we've worked with people who have worked with each other. And I want to commend you on your years of public service, and thank you for putting yourself forward.

And I want to discuss what we discussed a little in my office, which is—Mr. Chairman, despite the great reputation of the Federal Trade Commission, the truth is—to be candid, is, that many attorneys general's offices believe that the FTC is not active enough on consumer protection issues, and many of the larger, more involved attorney generals' offices see that they are on the forefront of consumer protection, and not the FTC.

So, I want to direct that question, as we discussed in my office, Ms. Brill, about how you think that you can amp up the efforts of the FTC in this very difficult, changing world. We just had a hearing on this click-and-scam problem, where people will sign up on a website, give their credit card information, and then that com-

pany will sign up with some other third-party scamming operation, which will then take their credit card information and charge against it. So, this is a ever changing world with technology, and we need a good consumer protection agency.

Ms. BRILL. Yes, thank you for that question, Senator LeMieux. And I did appreciate our conversation in your office. As I had mentioned to you, the State AGs are very, very active on consumer protection issues, and I believe the Federal Trade Commission has been doing a wonderful job on consumer protection efforts, particularly of late. And on some level, we all wish we could have done more to avert the economic crisis. I know folks at the FTC feel that way, and I know folks in the State AGs offices feel that way, as well.

Going forward, I would say that the Federal Trade Commission should have more information from the States about what everyday consumers, as Senator Begich has mentioned—you know, the bread-and-butter concerns of everyday consumers. States and localities are well-positioned to hear this information, but sometimes it doesn't trickle up to the FTC. So, if there could be better communication, better data-sharing, I think that would help the Federal Trade Commission focus on the emerging issues that are affecting consumers.

Senator LEMIEUX. Thank you.

Ms. Ramirez, I've looked over your qualifications, and you have very impressive qualifications. And as a former private-practice lawyer, I appreciate the work that you've done. Could you speak—because I didn't see it as much on the information I have—about the consumer protection work that you've been able to accomplish in your career?

Ms. RAMIREZ. I've been very active—actively involved in the Los Angeles community, working with various nonprofits, and, in particular, in the legal services arena, so I've been affiliated with organizations that assist people who do not have access to legal services, among other areas in the area of consumer protection. So, I'm very well aware of the need for enforcement in that arena, and I feel that my background in that will enable me to ensure that the mission of the FTC is advanced.

Senator LEMIEUX. Thank you.

Mr. Strickland, you and I didn't have a chance to work together, but I like you already.

[Laughter.]

Mr. STRICKLAND. Thank you, Senator.

Senator LEMIEUX. I appreciate all of the folks—your family—who have come to support you today, and the staff obviously has a great affection for you.

I'm going to ask you a question which you probably didn't expect, and I ask it as a former staffer who became a United States Senator.

The oversight for you, in your role, will be from the Committee that you once served on. Do you think that you can be independent? Do you think that you're going to be able to tell Chairman Rockefeller that—if you disagree with him, that you do? It's probably a challenge that most folks don't have to worry about, but you are so close to this committee. So, it's a friendly question, but

it's one I wanted you to think of, as someone who had to think through those issues just recently, myself.

The CHAIRMAN. And I will be listening very carefully.

[Laughter.]

Mr. STRICKLAND. Senator LeMieux, I can absolutely assure you that I will be able to maintain my—I will know my role fully as NHTSA Administrator; that is, my responsibility to be the Secretary's point man, the President's point man, on auto regulation and auto safety for this country. And it will be my role to take a look at the evidence of the data, confer with the staff, and make decisions.

In terms of being independent and disagreeing with the Chairman, I'll be honest with you, sir, I've had disagreements with the Chairman personally.

[Laughter.]

Mr. STRICKLAND. But, he signs the paycheck, and he wins.

[Laughter.]

Mr. STRICKLAND. But, I will have no problem with that at all, sir. Senator LEMIEUX. Right, OK.

My time is up. Thank you, Mr. Chairman.

The CHAIRMAN. Those were very good questions. And they—no, no, but they were, typically.

Senator LEMIEUX. Thank you.

The CHAIRMAN. Your questions are always good. And it does bring out to me two things—and I'm interrupting you, Senator Thune. I'd, please, apologize. Senator Begich is accustomed to that now.

[Laughter.]

The CHAIRMAN. One of the marvelous things about working in the Congress is that you become absolutely expert in very specific areas, very broad areas, somewhere in between. But, you really know your stuff. People out there in the country don't know that. They don't know the power of staff, the power of the staff minds and their ability to influence, quite properly, the Senators with whom they work. It's as it should be. And we have to use our own instincts and facts and figures, ideas, with whom we work.

But, it's also, I think, one of the beauties of our democratic system that people like you, Mr. Strickland, do work here, and then you're called to serve in the Executive Branch. And that's a different perspective, and you become entirely independent. You're perfectly free to disagree with this or any other Chairman. And that's, you know, based upon the merits. I mean, you enter a different world in serving the Nation. And I think it's a wonderful progression for you and for others, for private citizens, to do this. And so, I thought they were very good questions.

Senator LEMIEUX. Thank you, Mr. Chairman.

The CHAIRMAN. Senator Thune.

**STATEMENT OF HON. JOHN THUNE,  
U.S. SENATOR FROM SOUTH DAKOTA**

Senator THUNE. Thank you, Mr. Chairman.

And I want to congratulate all our nominees, welcome you for being here today.



And I do have a statement that I'd like to include in the record, if I might, Mr. Chairman—

The CHAIRMAN. Absolutely.

Senator THUNE.—statement.

[The prepared statement of Senator Thune follows:]

PREPARED STATEMENT OF HON. JOHN THUNE, U.S. SENATOR FROM SOUTH DAKOTA

I would like to thank the Chairman and Ranking Member for holding today's nominations hearing.

The nominees before the committee today should be congratulated for their nominations and thanked for their willingness to serve in the public sector.

In particular, I'd like to welcome Mr. David Strickland, the President's nominee to be Administrator of the National Highway Traffic Safety Administration (NHTSA). David's eight here on the Consumer Affairs Subcommittee will serve him well in his new responsibilities as Administrator, and we congratulate you on your nomination.

As Ranking Member of the Subcommittee on Surface Transportation and Merchant Marine, I understand the challenges we face in keeping our highways safe. One issue that has been of particular interest to me, and to this Committee, is the issue of distracted driving. I have joined with Chairman Rockefeller, Ranking Member Hutchison, and several other members of this Committee to introduce S. 1938, the Distracted Driving Prevention Act of 2009, which will help states combat distracted driving. It would provide incentives, and not penalties, which I believe is the best approach for states so that funding isn't restricted that is needed to build roads and make highways safer. I look forward to hearing Mr. Strickland's thoughts on this issue and on our legislation.

I would also like to welcome Mr. Michael Khouri, who has been nominated to be a member of the Federal Maritime Commission (FMC). While my state of South Dakota is a landlocked state, I recognize the importance that maritime shipping plays in our Nation's economy, and I look forward to working with Mr. Khouri in my capacity as ranking member of the subcommittee that oversees the FMC.

I would like to welcome Ms. Julie Brill and Ms. Edith Ramirez to the Committee. If confirmed as FTC Commissioners, you will play an important role within the Federal Government. From data security and identity theft, to mergers and acquisitions, to subprime lending, the role of the FTC cannot be underestimated and its actions impact the daily lives of all Americans. It is also important that all FTC Commissioners work closely and candidly with this committee as we move forward with consideration of an FTC reauthorization bill.

Again, I thank all the nominees for their willingness to serve, and I look forward to working with you upon your confirmation.

Senator THUNE. I wanted to explore at least one issue here. I don't have a whole lot of maritime issues to cover, coming from South Dakota—

[Laughter.]

Senator THUNE.—but—not that I'm not interested in those issues, by the way.

One of the things I wanted to take up with you, Mr. Strickland—and you've been acquainted with this, obviously, being around here—but, distracted driving's become a real significant factor in road accidents and fatalities. In fact, in South Dakota distracted driving is especially dangerous for teenagers. The Department of Highway Safety estimates that, in 2007, distracted driving was a factor in over 50 percent of the crashes involving teenage drivers. My question is, As Administrator, what will you do to address distracted driving among young drivers? And, of course, a follow-on to that would be the legislation, that many of us are co-sponsoring, that would provide grants to States to enforce distracted driving laws. Unlike some of the other legislation that has been introduced, this is an incentive-based approach. We don't threaten States with

a loss of highway money. I think the approach works a lot better when you're not threatening, but using a carrot, rather than a stick. But, I'm just curious about your thoughts generally on the subject, and then maybe more specifically with respect to the legislation that the Chairman and others of us on the Committee have co-sponsored.

Mr. STRICKLAND. Senator Thune, the issue with teens and texting is an especially thorny one, because they happen to be the biggest adopters of texting, and they feel they can text in opportunities and times when they shouldn't be.

The one issue which I know that the Administration itself, and the Secretary, is working on is graduated driver's licenses, where we are having teenagers drive with parents, and have supervised driving for longer periods of time before they are given a license to be driving freely and on their own by the age of 18. That's something I know the Secretary feels very strongly about. It's something I know that the Chairman himself feels strongly about, and was included in the legislation that you and him—and he wrote together. And I think that's definitely very much a strong first step.

The other issues, I think, with that are tailed with enforcement issues, as we said before, in terms of incentivizing States to increase patrols and figure out ways to actually have, as a primary offense, being texting while driving—I think are two very important things, the behavioral side and the actual enforcement and technology side of the issues.

Your second question, about incentives and sanctions—I think Secretary LaHood said it best: both work, and the issue ultimately is a policy one left to the Congress, in terms of the legislation that is received and ultimately signed by the President, in terms of re-authorization, or any other piece of legislation. As directed, if the States are having an incentive—incentives have worked, sanctions in the area of .08 at age 21 have also worked. Both work. And I will enforce law, however it is delivered to me.

Senator THUNE. Well, and the thing I like about this legislative approach—and I think that the States prefer—I'm much more comfortable with the type of approach that is incentive-based, uses the carrot, rather than the stick. Both have been used, as you mentioned. So, thank you for your answer to that.

Ms. Lamb-Hale, recently, Senator Klobuchar, who serves on this committee, and I held an Export Promotion Summit, in Sioux Falls, South Dakota, which focused on educating small and medium-sized businesses on export services that are available to them through the Department of Commerce.

My question is, How can we better educate small and medium-sized businesses about the opportunities that exist for them to reach outside the shores of this country? And I know there are lots of programs at Commerce, Ag, and USTR that focus on this. It seems like, at times, those—there could be a lot better coordination. And the thing that strikes me about some of these programs is, at least in my experience in South Dakota, a lot of the people who would benefit from them aren't aware they exist. And I don't know how you change that. We had this hearing—I should say it was a forum—that was designed to better inform and educate

small businesses in our area about the opportunities that are available to them. So, your thoughts on that subject.

Ms. LAMB-HALE. Thank you, Senator Thune.

And I just want to say that—first, that the—export promotion has been a priority articulated by Secretary Locke, and it really is something that Manufacturing and Services, collaborating and connecting with industry—small and medium-sized enterprises, in particular—is going to be something that I will focus on quite a bit.

We have a number of programs that are available through the U.S. Commercial Service that I will work very closely with, if confirmed. There is a program that was—is now piloted in Detroit, in the Detroit area, CommerceConnect, with the goal of connecting small and medium-size enterprises to the resources that the Commerce Department has to help promote exports.

There are a number of programs that are being done that collaborate across agencies. I had the opportunity, last week in Detroit, to participate in a program called “Exports Live!” which included representatives from the Commerce Department, from Eximbank, OPIC, and others, that really highlighted the services that are available.

One of the things that I will want to do, if confirmed, is to really get outside of Washington and to educate small and medium-sized businesses about the benefits to their business of export promotion. Only 1 percent of the 30 million businesses in this country export, and we know that export promotion is directly tied to jobs. So, that will be my goal, to make sure that the word gets out and to connect industry to those resources.

Senator THUNE. I see my time has expired, Mr. Chairman.

I thank, again, all our nominees for their being here today and for their willingness to serve.

Thank you.

Ms. LAMB-HALE. Thank you.

The CHAIRMAN. Thank you, Senator Thune.

I know what you mean about “maritime.”

[Laughter.]

The CHAIRMAN. Although, Mr. Khouri, I want you to know that, including the East and the West Coast—Baltimore, Los Angeles, New York, Philadelphia, San Francisco, Houston—the seventh-largest port in the United States is called Huntington, West Virginia.

Mr. KHOURI. And I have piloted past the fine City of Huntington, West Virginia, many times.

The CHAIRMAN. On a barge, or in a car?

[Laughter.]

Mr. KHOURI. Both.

The CHAIRMAN. Both, OK. But, it’s interesting, you know. I mean, we’re in the same situation.

Mr. KHOURI. Right.

The CHAIRMAN. But, if you have a river called the Ohio, then all of a sudden you can become an extended port, feeding into the Mississippi and on down.

First of all, I’ve forgotten to say that I want to include a statement by Senator Boxer. It’s an opening statement that she had to

make, and she couldn't be here, and I want to put that in the record, to make sure of that.

[The prepared statement of Senator Boxer follows:]

PREPARED STATEMENT OF HON. BARBARA BOXER, U.S. SENATOR FROM CALIFORNIA

Mr. Chairman and members of the Senate Committee on Commerce, Science, and Transportation, I am pleased to offer my support for Ms. Edith Ramirez, nominee for Commissioner of the Federal Trade Commission.

Ms. Ramirez is a native Californian, born in South Laguna. She attended Harvard-Radcliffe College and upon graduating Magna Cum Laude, went on to Harvard Law School where she graduated Cum Laude in 1992.

Following law school, Ms. Ramirez clerked for the Honorable Alfred T. Goodwin in the Ninth Circuit Court of Appeals in Pasadena, California. From 1993–1996, she worked as an associate at Gibson, Dunn & Crutcher, LLP, where she handled a wide variety of business litigation matters, including professional negligence, breach of contract, securities, and real estate-related litigation. Since 1997, Ms. Ramirez has been a partner at Quinn Emanuel Urquhart Oliver & Hedges, LLP in Los Angeles, California, where she has represented plaintiffs and defendants in intellectual property and complex business litigation, including copyright, trademark, antitrust, and business tort.

The Federal Trade Commission serves as one of our country's most important consumer protection agencies. It protects both consumer and business rights in broad sectors of the economy. The FTC works to promote fair competition in the marketplace through the enforcement of antitrust laws, prevents the dissemination of false and deceptive advertising of goods, and provides educational tools for both consumers and businesses.

Ms. Ramirez is well-qualified for the position for which she has been nominated. She has experience in the fields of antitrust and unfair competition, where she has represented both plaintiffs and defendants equally. She is well-respected amongst her law partners and in the Los Angeles legal community, and I am confident that, should she be confirmed, she will fulfill her responsibilities as a commissioner of the Federal Trade Commission with distinction, integrity and intelligence.

I fully support her nomination and urge a quick confirmation.

The CHAIRMAN. One question for you, Ms. Lamb-Hale, and then another—one question for you, Mr. Strickland.

Like Senator Thune, well, like everybody, we're kind of buffaloeed by this texting cell phone. And I think the cell phone thing is going to work itself out through technology, as people do this—what's it?—OnStar, as that becomes cheaper and more available, because that really solves the problem, except you only have 30 people you can call. And that's not really a lot. So, the temptation to have a phone there—and if you're driving, it's lethal.

Then you take drinking. Drinking—I mean, you can always—if you're telephoning and you're punching and you think you see something coming at you, you can always stop and start all over again after you continue to drive. Same with drinking. This is not a promotion for drinking, because I don't like drinking. But, there's a buzz, and then there's a stronger type of drinking, there's a stronger type of drinking, but it doesn't have an absolute, definitive all-of-a-sudden crash point. There can be avoidance.

With texting, it doesn't work that easily. If you're texting, by definition, you're looking down in your lap and you have—I guess, if you're good, one hand working, or both hands working, and then the instance of the crash is just immediate. There's no second chance, there's no thought to back away and, "Whoops, stop that and I'll go ahead," because you just don't see anything, as with the others, you tend to, or at least see them, even if hazily.

So, then it—I think I read some figure, either in yesterday's or today's paper, that something like 1 trillion or 8 trillion e-mails or textings are done from cars. Could that be possible? You don't have to know. I mean, but it's a—

Mr. STRICKLAND. No, I mean, absolutely.

The CHAIRMAN.—huge amount.

Mr. STRICKLAND. Absolutely. It is an enormous amount, just because the notion of texting and mobile telephony is just expanding.

The CHAIRMAN. Yes.

Mr. STRICKLAND. The *New York Times* article, I think, a few weeks ago, talked about the evolution of the cell phone, when the originator thought that probably the best thing to happen at that point would actually have the phones lock out. And this was back in the early 1980s, when they first invented the technology within Motorola.

The CHAIRMAN. Mr. Strickland, I want to finish my question.

Mr. STRICKLAND. Yes, sir.

[Laughter.]

The CHAIRMAN. I've had my history classes.

[Laughter.]

Mr. STRICKLAND. Yes, sir.

The CHAIRMAN. So, the question of teenagers is a really scary one. We see it in healthcare. They think they're never going to get sick, and so they don't have health insurance. And then, when they do get sick or hurt, they have to go to the emergency room, which is the most expensive form of healthcare.

In this case, it's far more drastic. And a teenager is thinking that they are impregnable, that they can't make a mistake, that their reactions are so fine-tuned that they'll always be able to look up. It just isn't the case with texting and driving.

So, the question is teenagers having that point of view about themselves, that they are invulnerable, that they'll always be able to make up for their lapses in time, they'll somehow come out all right, it doesn't work on texting. How do you get at that? You see—and I'll just say one more thing because my time is about to be up. But, anyway—Senator Thune's comment was very interesting, on the cell phone, I mean, we had this question of—you take away the State highway funds or you give State grants for doing well. I'm kind of in the middle on that, you know. I went along with what we're doing here, but I also see the advantage of the other, because through pressure, you break through. It's sort of like concussions. How could we have been so stupid to let our kids play football for so long, or these pros, and get these concussions, and then, at the age of 47, they've got Alzheimer's, and we're wondering why? I mean, you know, you've got this very advanced medical/technological system, but we just totally miss some stuff. This one, we cannot miss.

I'm not asking you for a biblical thing here, but give me a couple of ideas.

Mr. STRICKLAND. Nothing biblical, sir.

Graduated driver's licenses, which is included in your legislation, which is having teens drive with parents longer in the training phase to make sure that good driving behaviors are learned on the

road, directly from parents, who can observe and stop bad behaviors. The other opportunity is—

The CHAIRMAN. Well, no, we've got to explain that, now. First of all, a lot of teenagers don't like to drive with their parents, and they don't like to be told that they're doing something wrong by their parents. All right? And so, there's that factor. Also, 2 weeks, in a world where texting is what you live by, doesn't seem to me like a lot. I don't want to be critical of our bill. I want to push the subject.

Mr. STRICKLAND. No, absolutely. And graduated driver's licenses, in terms of—it isn't a couple of weeks with a parent; it could be years with their parent behind the wheel before a teenager has an opportunity to drive independently, and that could be, you know, the type of training and teaching that is hands-on. Teenagers want to be cool, they want to drive by themselves. But, graduated driver's licenses, as incentivized by your bill and executed by States that have already put them into law, have been very effective in making sure that teens are learning better behaviors, not by reading a book, but driving with their parents.

The other answer to your question, Mr. Chairman, is, just like drunk driving is seen to be incredibly—not only a not-good thing, but actually a negative consequence that is seen by all, texting has to be the—seen the same way as drunk driving is to teenagers, in that opinion. And that is two of the cores to help get that number down.

The CHAIRMAN. OK.

Senator Begich, I'm finished. You had something you wanted to say. Please.

Senator BEGICH. Absolutely not—

The CHAIRMAN. No, no, you do.

[Laughter.]

Senator BEGICH. I actually have to get to the floor, Mr. Chairman, but I—

The CHAIRMAN. All right.

Senator BEGICH.—I will put my four questions—I'll submit them for the record.

The CHAIRMAN. Very good, thank you.

OK. This is huge. And I think it's one of those things which is going to have to sort of spread through deaths in the community. I mean, we don't seem to learn a lot about wars that way, because you sort of expect, when people go to war, that some are going to die. That's cruelly said, but it's factually true. But, you don't expect that in driving. And, again, teenagers, with their sense of invulnerability I think it's a vast problem for our future. And if there are, what 50-some-thousand who die on the highways now?

Mr. STRICKLAND. It's about 37,000—

The CHAIRMAN. Thirty-seven.

Mr. STRICKLAND.—but it has been averaging in the 40s for some time. But, it's way too many. It's literally almost losing a number of Vietnam deaths per year in the United States on the roads.

The CHAIRMAN. I just really worry about that a lot, and I'm not going to preach on it or anything, but I want you to grab a hold of that. It's just very, very important.

Mr. Khouri, the shipping industry is huge in our national economy. And one of the things we work a lot with here in the Commerce Committee, obviously, is ports and shipping and all the rest of it, so we see a lot of these facts. And we don't—you know, you can't be sure about the economy, but right now there seems to be some sense that things are getting better. The number of jobs being lost is diminishing and the GDP is increasing, and it's kind of arithmetic, so it seems to have some promise for the future.

Why would I mention that? Because I think there's going to be an enormous amount—you know, maybe a 50-percent increase in freighting on ships by the year 2020. Maybe that's possible, maybe that's not possible. That's good, if it is.

That brings in all kinds of new problems. For example, I was just talking about Huntington. Whenever I mention Huntington is a port, first thing that always comes to my mind is that it's watched over by the Coast Guard, because—backed up against the Ohio River on both sides—the Ohio and the West Virginia side all the way from Louisville, all the way to Pittsburgh—there are scores and scores and scores of chemical plants and powerplants, all of them being extraordinarily vulnerable to terrorist attack. And the fact that nothing has happened is a matter of some amazement to me.

So, you say, "Well, but, the Coast Guard is watching that." Now, that's not your primary deal. But, the fact remains that, up until a year ago, there were only two Coast Guard speedboats that were armed, you know, with heavy machine guns on the front, that patrolled the 200 miles between—or 300, or whatever—between Pittsburgh and Louisville. And obviously, you can't do that 24 hours, so they're 12-hour days. Now there are three, so there's really one boat on the Ohio at any given time, assuming an 8-hour day, which is probably what one should assume.

So, that kind of thing is scary. How do you protect it? The whole question of, what do you scan? The House wants to scan everything in sight. I think that's impossible. I think it probably is unnecessary, because a lot of the freight will be predictable, like Home Depot buys, every Tuesday, shipments of wood from some country, and you sort of don't have to scan all of that, maybe. In any event, we're only scanning 5 percent now.

So, as this amount increases, which I hope it will, what kind of complexities do you see that you'll have to face?

Mr. KHOURI. The traffic moving along your good State of West Virginia—I believe it's 982 miles from Pittsburgh to Cairo, in the Ohio River, and I've traveled it all.

The CHAIRMAN. I wasn't very close.

[Laughter.]

Mr. KHOURI. But, those are primarily bulk commodities. The container traffic, that you correctly say that is going to be coming into our country, is going to increase exponentially. I can speak just to the FMC's activities, as I understand them, and that, if confirmed, I will participate in.

There is a group inside of the FMC that keeps track, very carefully, of all of the ocean transportation intermediaries and all of the companies that have licenses to bring containers in and out of the United States. That database is updated constantly, and then it is

coordinated with Customs and with Homeland Security so that there is a constant updating, as best one can, to address the national security interests that we are all concerned with.

Can there be more activity? Are we ever going to get to the point of 100 percent of boxes covered? I can't speak to that at this point. Obviously, it is something of great concern, something that, if confirmed, that will have the highest level of focus from the Chairman, from me and the other Commissioners at the FMC, and the staff. And I believe there is also a memorandum of understanding with those other agencies, currently in effect.

So, I can assure you, it is something that is at the highest order of focus at the FMC, and will continue to have that high focus.

The CHAIRMAN. Well, yours is a very important Commission—well, all of you are doing that—and your problems are complex, and they will grow, and people will want instant answers, and you won't be able to supply them, because, again, the question of the balance, the thoughtfulness, and how do you do this, and then the funding. You know, the funding's going to be a problem for a long time, and Americans expect results and aren't interested in deficits or debt as it affects their lives. We have to be, and thus, some agencies don't get funded the way they should be. I think the entire Homeland Security operation is not funded the way it should be, because we are more interested in what's going on overseas, where there's a war, rather than, in some ways, defending our own country, which seems to me a rather obvious first. But, the money doesn't follow that line of thinking. And so, that will develop as time goes on.

I want to thank all of you for what others have said; that is, submitting yourself for public service. I'm jealous of you, because, for some of you, it'll be relatively new, at this level, and others, not. But, it is a marvelous responsibility, you know, everybody talks about it, everybody wants to know what you're going to do about jobs, Ms. Lamb-Hale, and you'll have the pleasure of working that incredibly hard problem out.

[Laughter.]

Ms. LAMB-HALE. Yes.

The CHAIRMAN. And you'll have some help. You don't have to do it all by yourself.

But, I really thank you for making yourself available for this service. I love the fact that the room is filled with friends and supporters and families, and I think that's great. I think that's also symbolic of your pride in your work, and also their pride in your being picked by a President to do this work. And that is as it should be.

To be more formal, members, there being none except myself at this moment—[Laughter.]

The CHAIRMAN.—all their questions—and I say this because their staff are still here. Do you see, the staff is—it's always crucial, it's always the crucial point. The questions must be submitted by 6 o'clock this evening. They're due at that time this evening so that we can get those to the nominees.

Having said that, this hearing is adjourned.

[Whereupon, at 5:15 p.m., the hearing was adjourned.]



## A P P E N D I X

SAFE KIDS USA  
Washington, DC, December 9, 2009

Hon. JOHN D. ROCKEFELLER IV,  
U.S. Senate,  
Washington, DC.

Dear Chairman Rockefeller:

On behalf of Safe Kids USA, I want to express our strong support for David Strickland to be the next Administrator for the National Highway Traffic Safety Administration. The Senate Commerce, Science, and Transportation Committee is scheduled to consider his nomination next week. *Safe Kids believes that Mr. Strickland is undoubtedly qualified to tackle our country's most pressing transportation safety issues.*

With motor vehicle crashes being the leading cause of unintentional injury-related death for children ages 14 and under, Safe Kids has long worked with NHTSA to promote child passenger safety through our Safe Kids Buckle Up program. We consider NHTSA to be one of our key partners in protecting children both in and around cars. We are most certain, given Mr. Strickland's past professional experience as Senior Counsel on the Senate Commerce Committee, he will be an excellent leader at the agency and it will be well served by his consistent professional commitment to children and child safety. Safe Kids USA has worked with David many times over the past several years on both transportation safety and consumer product safety. We have always found him to be on the side of the consumer and, in particular, children. David has been a strong advocate for comprehensive child restraint laws, pool and spa safety and safe consumer products. These efforts, we believe, are illustrative of his philosophy and give us great confidence that, if confirmed, safety will be in good hands.

I must say, by way of a personal note, that I have personally worked with David many times as I have prepared to testify before your Committee or assisted in the crafting of pending legislation. He has always been responsive, thoughtful and committed to the pursuit of sound public policy—characteristics that will serve him well as the next leader of NHTSA. I am very much looking forward to continuing our work together as we, in partnership, address motor vehicle death and injuries to children. Simply said, President Obama has made an excellent choice. One that Safe Kids can enthusiastically support.

If Safe Kids can be of any assistance to you, please do not hesitate to contact me or Tanya Chin Ross, Senior Public Policy Associate.

Sincerely,

ALAN KORN,  
*Executive Director.*

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### RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. TOM UDALL TO NICOLE LAMB-HALE

*Question 1.* The U.S. has had huge trade deficits for years. In today's economic climate, American companies face many hurdles to selling their products overseas. Unfair trade practices and complex technical regulations in foreign countries can also make exporting a real challenge, especially for small businesses. How will the International Trade Administration's Manufacturing and Services unit help companies in New Mexico and across the Nation reach their full potential for exporting their goods and services?

Answer. New Mexico's export shipments of merchandise in 2008 totaled \$2.8 billion. In the first half of 2008, the Albuquerque metropolitan area alone had export sales totaling \$232 million. Exports are obviously vital to New Mexico and the entire nation. Manufacturing and Services (MAS) can help companies export by providing

key support in competitive analysis to help shape their decisions, export promotion, and bringing their concerns to the attention of policymakers. If confirmed, I will work tirelessly to ensure that MAS further collaborates with its sister agencies such as U.S. and Foreign Commercial Service and Market Access and Compliance to help manufacturers with multiple facets of their business.

*Question 2.* Small manufacturers and others complain that confusing technical regulations often pose significant barriers to selling their products abroad. This is an area where the International Trade Administration's Manufacturing and Services unit can truly help smaller firms that may be new to exporting or unfamiliar with government regulation and business practices in a new foreign market. How will the MAS under your leadership help American firms navigate technical regulations and other potential barriers to selling to foreign markets?

Answer. One of the outstanding MAS products provided to American firms is its series of export guides. The current guides identify regulatory and other marketing requirements in key export markets for technologies such as renewable energy and other clean technologies. Under my leadership, if confirmed, MAS will enhance these guides and expand collaboration with sister ITA units, such as Market Access and Compliance and the U.S. and Foreign Commercial Service, to provide seamless advice to American exporters to help them export and compete in foreign markets with different regulatory environments.

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RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. OLYMPIA J. SNOWE TO  
NICOLE LAMB-HALE

*Question 1.* Ms. Lamb-Hale, in a meeting with my staff last week, you said that two of the most critical issues for manufacturers that warrant attention from the Federal Government are access to capital and export promotion. I am glad to hear that you recognize the importance of these issues to our Nation's manufacturers, as they fight to remain competitive in an increasingly global economy. Last week, I introduced bipartisan legislation to improve and expand the export assistance and export financing programs available to small businesses, including small manufacturers. My bill, S. 2862, the Small Business Export Enhancement and International Trade Act of 2009, would raise the maximum amount of the SBA's loans for exporters from \$2 million to \$5 million; create a State Trade and Export Promotion grant program to help small businesses participate in trade shows and trade missions, among other things; and expand the technical assistance available on exporting. Can you please elaborate more on the challenges facing manufacturers with regard to foreign sales opportunities and foreign competition, and do you think an expansion of export assistance, as I have proposed in S. 2862, is warranted?

Answer. While U.S. manufacturers do successfully compete globally, they are faced with increasing competition as foreign manufacturers improve their products and look to sell globally. This emphasizes the underlying need for the U.S. Government to continue to work to ensure that the global trading system is as free and fair as possible.

The credit crunch has made it difficult for manufacturers and exporters to secure necessary financing. If confirmed, I will lead Manufacturing and Services (MAS) and work with other agencies to increase awareness of and access to export assistance programs and expertise available across the government. The Department of Commerce and its global network of trade specialists and officers have the expertise, the programs, and the institutional capacity to perform that task, but we can improve communication about available assistance with manufacturers, especially small and medium-sized firms. One of my top priorities is for MAS to take an active role in working with other Federal agencies, including SBA and the Export-Import Bank to provide better technical assistance to foster exports and by utilizing the newly launched CommerceConnect program to ensure that manufacturers are aware of all the Federal programs and resources that are available to them. If confirmed, I also look forward to working with you and your Congressional colleagues to ensure that small and medium-sized businesses have the tools they need to succeed in the global economy.

*Question 2.* How would you work with these companies to ensure that the breadth of the Federal Government's assistance—including programs at the Department of Commerce, the SBA, the Export-Import Bank and others—are working together to support our Nation's manufacturers?

Answer. I am committed to creating public-private partnerships which bring together government, industry, and academic stakeholders to strengthen the competitiveness of the manufacturing sector. If confirmed, I intend to make Manufacturing and Services a leader in working with sister agencies to develop and improve tech-

nical assistance, for example through the CommerceConnect program and Inter-agency Network of Enterprise Assistance Providers (INEAP). I will also continue and expand MAS' partnership with the Manufacturing Extension Partnership (MEP) and enhance MAS' work in promoting U.S. sustainable manufacturing in cooperation with the Department of Energy and Environmental Protection Agency. If confirmed, I intend to improve communication to U.S. manufacturers regarding assistance available to them throughout the Federal Government, using all available mechanisms. The International Trade Administration is fortunate to be the lead agency for the Trade Promotion Coordination Committee (TPCC), and if confirmed, I will actively engage my colleagues in this Committee to better coordinate MAS's resources with those of the TPCC members to help American manufacturers and increase U.S. exports.

Underlying these efforts, I intend, if confirmed, to play a strong role in the Administration's efforts to revitalize U.S. businesses.

*Question 3.* The manufacturing sector is a critical part of our economy. About one in six U.S. private sector jobs depends on the U.S. manufacturing base. Specifically, manufacturing supports an estimated 18.6 million jobs in the United States in 2009; 11.8 million jobs directly within the sector and more than 6.8 million jobs outside manufacturing.

Regrettably, American manufacturers face significant and unique challenges that have resulted in their shedding 5.6 million jobs since late 1999—a decrease of one-third of the sector's employment over the last decade. Additionally, over the same time period, manufacturers in my home state of Maine have lost 35 percent their sector's employment, or nearly 28,500 jobs. Clearly, American manufacturers are hurting. What is your vision for the future success of manufacturing in America? How can you best help the Administration implement a comprehensive and thorough plan to revive the manufacturing segment of our economy?

Answer. The Department of Commerce is deeply engaged in listening to manufacturers, including the Manufacturing Council, to learn what is needed to revitalize U.S. manufacturing and to make it stronger for the future. If confirmed, Manufacturing and Services under my leadership would continue to engage U.S. manufacturers, make sure their views are considered, and contribute to the Administration's effort to revitalize the manufacturing sector and create jobs. If confirmed, I intend for Manufacturing and Services to play a key role in implementing the ideas that come from that event.

My ultimate vision is that the U.S. will lead the way on innovative and sustainable manufacturing practices and processes which will maximize the global competitiveness of U.S. industry and result in good-paying family-supporting jobs.

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RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. SAM BROWNBACK TO  
NICOLE LAMB-HALE

*Question 1.* In your position as Assistant Secretary of Commerce for Manufacturing and Services for the Department of Commerce, will you commit to working alongside the interests of the General Aviation community, one of the most vital industries in my home state, in creating workable, balanced policies that will allow this manufacturing industry to thrive?

Answer. As Assistant Secretary for Manufacturing and Services, it would be my job to support initiatives that improve the competitiveness of U.S. businesses in general, including the general aviation manufacturing community. If confirmed, I would welcome the opportunity to work with general aviation manufacturers.

*Question 2.* Most importantly, in formulating ideas for financing our national aerospace system, I want to know if you will oppose the implementation of user fees for the general aviation sector.

Answer. Although FAA funding does not fall under the jurisdiction of the Assistant Secretary for Manufacturing and Services, I appreciate knowing your views on this issue. If confirmed, I look forward to hearing more about issues of interest to the general aviation manufacturing industry, including funding for our national aerospace system.

RESPONSE TO WRITTEN QUESTION SUBMITTED BY HON. FRANK R. LAUTENBERG TO  
MICHAEL A. KHOURI

*Question.* During your years of experience in the maritime industry how would you describe the level of communication between industry and the Federal Maritime Commission? If confirmed, what steps will you take to improve the FMC's industry outreach?

*Answer.* In my prior assignments in the maritime industry, my primary points of communication with Federal Maritime Commission matters concerned port and ancillary vessel issues. In those areas, communication access was good. More recently, I have keenly observed issues concerning short-sea shipping opportunities and container-on-barge initiatives. The Commission has increased its outreach to the public with more frequent regional meetings for the purpose of gathering input from all sectors of the maritime industry.

If confirmed, I promise to continue and to increase the opportunities for all interested parties in the maritime industry and all constituents that are served by the industry to have open and appropriate access to my office and to the staff of the Federal Maritime Commission. I will work to openly conduct the work of the Commission with a maximum of industry input. Such input ensures an outcome which can best meet the needs of both the maritime industry and the shipping public.

RESPONSE TO WRITTEN QUESTION SUBMITTED BY HON. MARK BEGICH TO  
MICHAEL A. KHOURI

*Question.* What types of maritime freight implications do you expect to see as a result of increased transportation of marine freight in an ice-diminishing Arctic?

*Answer.* The navigational and operational decisions that any individual liner carrier may make in the future is primarily a matter for that carrier's management. To the extent that a group of liner carriers would approach the Federal Maritime Commission and request authority to form a discussion or other form of collective agreement, for example, to discuss mutual issues concerning service issues, vessel sharing or other commercial protocols in an Arctic environment, then the FMC should consider such application within the context of its statutory authority and within the mandate of the Shipping Act to encourage and foster U.S. maritime interests.

If confirmed, I will work with my fellow Commissioners and members of the Senate and all Committee staff to further these efforts.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. BILL NELSON TO  
JULIE BRILL

*Question 1.* As you know, the Federal Trade Commission (FTC) currently has very restricted rulemaking authority. This, in turn, generally requires the agency to issue policy statements or "safe harbor" guidance documents in many new and emerging areas of the law—rather than promulgating actual rules. Do you believe the Federal Trade Commission Act should be modified to ease the current restrictions on the Commission's rulemaking authority? Wouldn't this make it easier for the Commission to enforce its policies?

*Answer.* Congress, consumers, business and the public at large appropriately have high expectations that the FTC is capable of addressing consumer problems as they arise, even if the problems are exigent and require swift response. The FTC should have adequate tools to rapidly address important, emergent consumer protection issues. Congress has occasionally granted the FTC rulemaking authority under the Administrative Procedures Act. In the absence of a special Congressional authorization, the FTC currently must revert to its underlying rulemaking authority under the Magnuson-Moss Act, which places several procedural obstacles in the rule-making road. I understand that there have been legislative proposals in Congress to grant to the FTC general rulemaking authority under the APA, to remove these obstacles and allow the FTC to craft rules using the same process employed by other Federal agencies. I believe that the proposal to grant the FTC rulemaking authority under the APA merits close attention, to ensure that the FTC is well positioned to respond to consumer problems in a timely fashion. If confirmed, I plan to listen to all stakeholders to understand the benefits and problems associated with using this tool. If Congress provides the FTC with APA rulemaking authority, I would work with my fellow Commissioners to use that authority carefully and appropriately.

*Question 2.* In Florida and a number of other states, we have recently seen a serious problem with drywall imported from China. This drywall causes severe metal

corrosion in impacted houses and is also suspected of causing a number of negative health effects—including headaches, bloody noses and skin problems. Needless to say, many homeowners potentially impacted by this drywall have sought out testing or remediation advice. There are a number of well-intentioned businesses out there trying to provide assistance—but there are also a lot of scam artists just trying to take advantage of scared homeowners.

Recently, I wrote a letter—with several other Senators—requesting that the FTC investigate these same [scam artists] pursuant to its Section 5 authority to prohibit “unfair and deceptive trade practices[.] Can I have your assurance that if confirmed you will look into this issue?”

Answer. The problems relating to drywall produced in China (“Chinese Drywall”) are pernicious, and have deeply affected consumers in localized areas. Frequently the product was placed in homes after hurricanes or during other shortages of supply. Now homeowners and renters in affected homes must fix the problem, and they do not yet have guidance from government on how to do so. Currently both the Consumer Product Safety Commission and the Environmental Protection Agency are working to establish standards for remediating the problems caused by Chinese Drywall. I understand that the FTC can play an important role in this situation. First, the FTC can provide education to consumers who are seeking help for this problem. While the CPSC and the EPA are in the process of developing remediation standards, the FTC can work with other agencies to inform the public about the nature of the problem, and that remediation standards will be available in the near future. Once the standards are promulgated, the FTC can assist in disseminating information about the standards in affected communities to homeowners, renters and businesses in the home repair trades. Second, the FTC can pursue, through law enforcement actions, unfair and deceptive practices by scam artists preying upon homeowners and renters who have been victimized by the Chinese Drywall problem. If confirmed, I look forward to reviewing the FTC’s activities in this area and, along with my fellow Commissioners, determining an appropriate course of action.

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RESPONSE TO WRITTEN QUESTION SUBMITTED BY HON. FRANK R. LAUTENBERG TO  
JULIE BRILL

*Question.* Underage drinking is a serious public health problem and is responsible for approximately 5,000 deaths a year for people under age 21. There has been increasing evidence that exposure to alcohol advertising and marketing increases the likelihood of underage drinking.

In 2003, the FTC recommended that the alcohol industry abide by a voluntary standard for alcohol advertisements to be placed only in media in which at least seventy percent of the audience for each advertisement consisted of adults 21 and over. The purpose of this standard was to limit exposure to alcohol advertising for underage youth. Since then, however, several reports have indicated that youth exposure to alcohol advertising is increasing.

Despite a reported increase in youth exposure and numerous calls by the public health community, the FTC’s 2008 report entitled “Self-Regulation in the Alcohol Industry,” did not call for any increase in the advertising standard. I am concerned that the report based this conclusion on premises that are not supported by research or the public health community, or are contradictory to previous statements by the Commission.

Will you commit to review the FTC’s 2008 report, the process by which it was created, and any contradictions between the premises upon which the Commission relied and its earlier statements and those of the public health community? Will you commit to ensuring that the FTC’s review of alcohol industry advertising is based on information that is current, accurate, and scientifically-based? How do you intend to evaluate whether the industry should increase its advertising standards to reduce alcohol advertising exposure to those who are not legally permitted to purchase alcohol?

Answer. Underage alcohol use is a serious problem. The role that advertising plays in promoting underage usage merits close attention. It is important that the methodology and premises of all FTC reports, including the 2008 alcohol advertising report, are sound. Information in all of the FTC’s reports should be current, accurate, well-documented and soundly analyzed. If I am confirmed I look forward, along with my fellow Commissioners, to working with this Committee to understand its concerns with respect to the 2008 alcohol advertising report and to addressing any substantive deficiencies. Self-regulatory regimes in areas as important as alcohol advertising should be monitored to ensure they are adequately protecting consumers from harm. In this instance, a review of all well-documented and soundly analyzed

information about the effectiveness of the industry's self-regulatory advertising standards would be helpful to assess what if any action the FTC should recommend or take with respect to the current standards.

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RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. TOM UDALL TO  
JULIE BRILL

*Question 1.* Fraud and consumer abuse seems to only get worse in a recession. With the Internet and new ways of reaching customers, we are seeing new ways for bad actors to sell unsafe products and take advantage of vulnerable consumers.

This committee has already examined a variety of consumer issues so far this year related to false claims, deceptive advertizing, and aggressive online sales. What do you expect the greatest challenges to consumer protection will be? How will you approach these challenges as FTC commissioner?

Answer. In the past year, consumers purchased about \$300 billion of goods and services online, making the web-based marketplace a robust and critically important sector of the Nation's economy. While the vast bulk of transactions on the Internet are not problematic, there is a subset of transactions that are infected with unfair and deceptive practices. Some of these scams have been long present in the "bricks and mortar" world, and have simply migrated, albeit in sophisticated form, to the Internet. Some of the practices surrounding certain web-based negative option billing programs represent one group, among several examples, of old scams that have been transformed and re-energized on the Internet. As outlined in a recent report issued by the majority staff of the Senate Commerce Committee, these problematic negative option billing programs fail to adequately disclose to consumers the nature of the add-on services being offered, the fact that the seller has the consumer's credit card information, and the fact that the consumer will be billed if she fails to cancel after a free trial period. Many of these programs are offered by outfits that operate overseas.

Among the greatest challenges to policing unfair and deceptive practices on the Internet will be keeping up with the ever-inventive community of scam artists that have migrated to the Internet, and obtaining sufficient jurisdiction over those that operate in other countries. To meet these challenges, if I am confirmed as Commissioner, I will work with Congress as well as state and local partners in law enforcement, particularly State Attorneys General and groups that work with seniors and other vulnerable populations, as well as all other stakeholders, to ensure that my fellow Commissioners and I are apprised of the most recent unfair and deceptive practices infecting the Internet. Equally important, if I am confirmed I will support the FTC's continued efforts, through U.S. SAFEWEB and other appropriate tools, to root out scam artists that operate overseas.

*Question 2.* As a former state attorney general, I would appreciate your thoughts on how the FTC should be working with state attorneys and U.S. attorneys to pursue those who are deceiving consumers and committing fraud. As FTC commissioner, how do you plan to work with and reach out to state attorneys general and U.S. attorneys?

Answer. Through my twenty years working with State Attorneys General, first as an Assistant Attorney General in Vermont and more recently as a Senior Deputy and Chief of Consumer Protection for North Carolina, I have extensive and deep ties to the State Attorney General community. The State Attorneys General are the FTC's most important partners in consumer protection and antitrust law enforcement. If I am confirmed, I plan to build upon these ties so that I can help the FTC strengthen its already strong bonds to State Attorneys General. Specifically, if confirmed I will continue to work with the National Association of Attorneys General, the NAAG Antitrust Multistate Task Force, various NAAG Consumer Protection working groups, as well as individual State Attorneys General, Chief Deputies, and Consumer Protection and Antitrust chiefs throughout the Nation discuss cases and matters of mutual interest.

Similarly, I have experience working with U.S. Attorney's offices in various areas around the Nation on consumer protection matters that required criminal referrals. Criminal prosecution of scam artists is a very effective tool to combat fraud. The U.S. Attorney's offices are important partners of the FTC and State Attorneys General in consumer protection law enforcement. If confirmed I will work with my fellow Commissioners to ensure that the FTC works with U.S. Attorney's offices to refer and assist in the criminal prosecution of scam artists in appropriate cases.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. MARK BEGICH TO  
JULIE BRILL

*Question 1.* The European Commission's rulings against and investigations into technology companies, such as Intel, Microsoft, Qualcomm, Google, and IBM, are evidence of a trend in Europe toward managed competition. With so many of the world's successful technology companies based in the United States and very few located in the European Union or elsewhere, how do you plan to address this?

Answer. An important part of the mission of the Federal Trade Commission is to work with its counterparts in other countries regarding cooperation in and coordination of antitrust enforcement. The FTC has developed a robust international antitrust program, working closely with its international counterparts on cases and other matters of mutual interest to promote sound and consistent analyses and outcomes. To this end, the FTC has developed strong bilateral relationships with many competition agencies in other countries, and also has played a lead role in multilateral organizations such as the International Competition Network and the Competition Committee of the OECD. If confirmed, I will work to continue to strengthen the FTC's bilateral and multilateral communications with competition agencies in other countries, so that all agencies strive toward convergence of analyses and outcomes in cases involving companies that operate across international borders.

*Question 2.* Multinational companies are now facing greater interaction with the more than 100 competition agencies in existence today. Due process plays an important role in ensuring that foreign companies are treated the same as domestic companies, and as Assistant Attorney General Christine Varney remarked ensures agencies have sufficient evidence before concluding that certain behavior results in harm to competition. What is your view about the role of due process in competition investigations and how would you advocate for increased due process protections?

Answer. Due process is an important element of all antitrust investigations, whether conducted in this country or another country. The FTC is currently working with the U.S. Department of Justice and AAG Christine Varney on increasing the level of attention to due process, as well as transparency, within competition agencies in other countries. Neither the Federal Trade Commission nor the Department of Justice can direct that another country's competition agency conform to due process requirements, as defined in the courts of the United States. However, the FTC can and should continue to work closely with the DOJ to promote transparency and due process in other countries' competition agencies.

*Question 3.* Historically, the FTC and DOJ have relied on uneven and extremely limited funding for antitrust technical assistance. Well-funded technical assistance is critical to U.S. competitiveness, as it can help curb the potential for misuse of competition enforcement against leading U.S. companies. Would you support an authorization and appropriate funding for the FTC so it can provide meaningful technical assistance to the world's major competition authorities?

Answer. Antitrust technical assistance is a key part of the FTC's international competition mission. Through its technical assistance programs, the FTC provides guidance on how to conduct antitrust reviews to countries with emergent antitrust programs. If confirmed, I would welcome continued Congressional support for the FTC's antitrust technical assistance mission.

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RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. DANIEL K. INOUE TO  
DAVID STRICKLAND

*Question 1.* If confirmed, what would be your priorities for the agency?

Answer. If confirmed, I will work closely with Secretary LaHood, the Congress, and stakeholders to redouble the agency's efforts to improve transportation safety.

NHTSA's mission includes both the safety of the vehicle and behavioral safety. The agency's efforts are data-driven, addressing safety problems that pose result in the greatest risk. On the vehicle side, the focus is on technologies that can help prevent crashes from occurring and on protection of crash victims during a crash. On the behavioral side, the focus is on critical risks and precautions, including impaired driving, speeding, and failure to use seat belts. I will also lead efforts to address driver distraction and emerging demographic issues, including focus on young drivers, the elderly, and minority populations.

*Question 2.* Do you believe that the agency has the necessary resources to accomplish its mission? If not, what additional resources will the agency need?

Answer. Yes, based on the Conference Report FY 2010, NHTSA has adequate resources to fulfill our missions based on the Conference Report FY 2010. If confirmed, I intend to conduct a thorough review to ensure our resources are allocated

to achieve maximum results, as outlined by the President—missions in support of vehicle and highway safety.

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RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. BILL NELSON TO  
DAVID STRICKLAND

*Question 1.* Last month a study was released that ranked the country's most dangerous cities for pedestrians, and the top four were all in Florida. I am a cosponsor of two bills that would help cut down on pedestrian deaths—the Complete Streets Act would require planners to design cities with pedestrians and cyclists in mind, and the Safe Routes to School Act would expand programs that make it safer for kids to walk to school. What is NHTSA doing to reduce pedestrian deaths?

*Answer.* Pedestrian safety is a major highway safety problem with approximately 5,000 pedestrians lost each year to traffic crashes. If confirmed, I will work with the NHTSA team and our colleagues at the Federal Highway Administration, which leads the Department's Safe Routes to School efforts, to develop and implement a comprehensive strategy to address pedestrian safety. It is my understanding that current efforts focus on older and younger pedestrians as the most vulnerable, and also on people who speak English as a second language. We will look at the data and research all potential means to gain traction in reducing pedestrian fatalities.

*Question 2.* Two years ago Senator Clinton and I wrote a bill called the Cameron Gulbransen Kids and Cars Safety Act, and in it NHTSA was directed to initiate rulemaking requiring that all power windows automatically reverse when something gets in their path as they rise. In August NHTSA proposed NOT to require these systems, citing that these incidents only cause 6 deaths and 2000 injuries per year. This fall, however, a new poll indicated that the number of injuries is actually much higher, numbering in the millions. Does NHTSA plan on reevaluating their rule-making proposal?

*Answer.* Safety is the highest priority of the Department. I agree that we can and should do more to prevent injuries to children that are caused by the inadvertent actuation of a power window. As I understand it, while the NHTSA proposal did not propose a broad requirement for all power windows to automatically reverse, it did seek comment on such a requirement, and stated that the agency could include such a requirement in the final rule. If confirmed, I will ensure that all public comments, including the poll/survey released this fall, are carefully considered before NHTSA issues a final rule.

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RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. FRANK R. LAUTENBERG TO  
DAVID STRICKLAND

*Question 1.* What effect would mandating ignition interlocks for all drunk driving offenders have on reducing repeat drunk driving incidents and improving safety on our roads?

*Answer.* Ignition interlocks have proven effective in reducing repeat drunk driving offenses by at least half, when installed on an offender's vehicle. Since NHTSA estimates that about one-third of drunk driving arrests are repeat offenders, ignition interlocks hold great promise in preventing impaired driving and resulting crashes. If confirmed, I will seek to work in partnership with states, judges and prosecutors, the probation community, and law enforcement to promote effective implementation and use of ignition interlocks as part of a comprehensive drunk driving enforcement program.

*Question 2.* When it comes to combating distracted driving, some have proposed using technology to block wireless signals in cars, but concerns have been raised that legitimate communications and even 911 calls could be blocked inadvertently. What role should technology play in helping to minimize distracted driving?

*Answer.* I agree with the Secretary that the most effective way to reduce the potential distraction caused by a cell phone in a motor vehicle is to have the phone turned off. If confirmed, I am very interested in examining technological solutions such as "blockers" or "filters" to assess their ability and effectiveness at blocking unnecessary calls while still allowing legitimate calls, such as by passengers or in 911 emergencies. These technological solutions are worthy of continued research, but must be considered in combination with behavioral solutions, for ultimately it is the driver's responsibility to operate the vehicle in a safe manner.

*Question 3.* The number of people killed in crashes with large trucks already averages five thousand each year. Yet some have proposed relaxing the ban on large trucks that weigh more than eighty thousand pounds or are longer than fifty-three



feet on our Interstate Highway System. Wouldn't relaxing this ban and allowing bigger, heavier trucks pose a significant safety risk to the driving public?

Answer. Two vehicle issues that warrant further study involve the braking and stability of the truck under normal and panic situations. A heavier truck would have longer stopping distances under normal and panic braking situations. A heavier truck might also be less stable and thus be more susceptible to being involved in a rollover crash. If confirmed, I will consult with my colleagues in the Department on this very important issue.

*Question 4.* A recent study conducted at Rutgers University found that cell phone use may pose a danger for pedestrians. In addition to examining the dangers of distracted driving, how can we educate the public about the dangers of cell phone use for pedestrians?

Answer. Under Secretary LaHood's strong leadership, the Department has launched an aggressive national effort to address and reduce distracted driving. If confirmed, I will work with the Secretary and stakeholders on this issue and will be sure to look at the risks of distraction for pedestrians, as well as vehicle operators.

*Question 5.* A former National Transportation Safety Board Chairman, Jim Hall, once called Age 21 drinking laws, "one of the most effective public policies ever implemented in the Nation." Some have suggested that the problem of binge drinking on some college campuses justifies throwing this law out the window. Where do you stand on this issue?

Answer. I strongly support Age 21 minimum drinking laws. The data and evaluations on the implementation of the 21 minimum drinking age show it has been very effective in reducing fatalities among young people under age 21.

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RESPONSE TO WRITTEN QUESTION SUBMITTED BY HON. DAVID VITTER TO  
DAVID STRICKLAND

*Question.* Do you have any thoughts on how NHTSA can work with state governments to improve efforts to stop drunk driving?

Answer. During this reauthorization period, NHTSA and the States have worked to institutionalize the very effective High Visibility Enforcement model, with significant financial and program support from this Committee and the Congress. If confirmed, I will work with the States and other partners to develop and expand the High Visibility Enforcement strategy and seek new ways, including the use of technology, to reduce this critical public health problem.

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RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. BILL NELSON TO  
EDITH RAMIREZ

*Question 1.* As you know, the Federal Trade Commission (FTC) currently has very restricted rulemaking authority. This, in turn, generally requires the agency to issue policy statements or "safe harbor" guidance documents in many new and emerging areas of the law—rather than promulgating actual rules. Do you believe the Federal Trade Commission Act should be modified to ease the current restrictions on the Commission's rulemaking authority? Wouldn't this make it easier for the Commission to enforce its policies?

Answer. Typically, the FTC cannot adopt rules under the notice and comment procedures of the Administrative Procedure Act that are generally available to Federal agencies, and must instead employ the more rigorous rulemaking procedures of Section 18 of the FTC Act. This limits the FTC's ability to use rulemaking to respond quickly to new business practices or emerging forms of consumer harm. Particularly in these difficult economic times, the Commission should have adequate tools to protect consumers. At the same time, given the breadth of the FTC's substantive authority, it is incumbent on the FTC—whether issuing a rule or initiating a law enforcement action—to exercise its power judiciously and to carefully assess the costs and burdens that its actions will impose. If confirmed, I look forward to closely evaluating the appropriate rulemaking procedures that should apply to the FTC.

*Question 2.* In Florida and a number of other states, we have recently seen a serious problem with drywall imported from China. This drywall causes severe metal corrosion in impacted houses and is also suspected of causing a number of negative health effects—including headaches, bloody noses and skin problems. Needless to say, many homeowners potentially impacted by this drywall have sought out testing or remediation advice. There are a number of well-intentioned businesses out there trying to provide assistance—but there are also a lot of scam artists just trying to take advantage of scared homeowners.

Recently, I wrote a letter—with several other Senators—requesting that the FTC investigate these same pursuant to its Section 5 authority to prohibit “unfair and deceptive trade practices”? Can I have your assurance that if confirmed you will look into this issue?

Answer. Yes. I understand that the FTC is currently participating in Federal interagency efforts, led by the Consumer Product Safety Commission, to investigate and address the problems faced by homeowners potentially affected by defective imported drywall. The FTC has also issued a consumer alert warning homeowners to beware of possible fraudulent conduct in connection with testing and remediation offers. If confirmed, I will work to ensure that the FTC continues to monitor this situation very closely and that it take all action that is appropriate.

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RESPONSE TO WRITTEN QUESTION SUBMITTED BY HON. FRANK R. LAUTENBERG TO  
EDITH RAMIREZ

*Question.* Underage drinking is a serious public health problem and is responsible for approximately 5,000 deaths a year for people under age 21. There has been increasing evidence that exposure to alcohol advertising and marketing increases the likelihood of underage drinking. In 2003, the FTC recommended that the alcohol industry abide by a voluntary standard for alcohol advertisements to be placed only in media in which at least seventy percent of the audience for each advertisement consisted of adults 21 and over. The purpose of this standard was to limit exposure to alcohol advertising for underage youth. Since then, however, several reports have indicated that youth exposure to alcohol advertising is increasing.

Despite a reported increase in youth exposure and numerous calls by the public health community, the FTC’s 2008 report entitled “Self-Regulation in the Alcohol Industry,” did not call for any increase in the advertising standard. I am concerned that the report based this conclusion on premises that are not supported by research or the public health community, or are contradictory to previous statements by the Commission.

Will you commit to review the FTC’s 2008 report, the process by which it was created, and any contradictions between the premises upon which the Commission relied and its earlier statements and those of the public health community? Will you commit to ensuring that the FTC’s review of alcohol industry advertising is based on information that is current, accurate, and scientifically-based? How do you intend to evaluate whether the industry should increase its advertising standards to reduce alcohol advertising exposure to those who are not legally permitted to purchase alcohol?

Answer. Advertising issues are at their most important when the health and safety of consumers are at stake. This is all the more so when minors are involved. Underage alcohol drinking is a serious and persistent problem in the U.S. If confirmed, I will carefully review the FTC’s 2008 report on self-regulation in the alcohol industry, its analysis and conclusions, and the positions of those in the public health community. I will also work to ensure that the FTC’s work in this area is based on comprehensive and sound information and analysis. If confirmed, I look forward to learning more about this issue and working with you to help the agency address and try to minimize the exposure of minors to alcohol advertising.

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RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. TOM UDALL TO  
EDITH RAMIREZ

*Question 1.* Fraud and consumer abuse seems to only get worse in a recession. With the Internet and new ways of reaching customers, we are seeing new ways for bad actors to sell unsafe products and take advantage of vulnerable consumers. This committee has already examined a variety of consumer issues so far this year related to false claims, deceptive advertising, and aggressive online sales. What do you expect the greatest challenges to consumer protection will be? How will you approach these challenges as FTC commissioner?

Answer. I believe the principal challenge faced by the FTC is determining how best to allocate its limited resources to combat existing and new forms of consumer fraud. The challenge is particularly daunting in the current economic climate. The economic downturn has left a significant segment of American consumers in financial distress and vulnerable to all manner of fraud, including mortgage foreclosure rescue, credit repair, and debt settlement assistance scams. If confirmed, I will be dedicated to ensuring that the FTC carefully considers and chooses who to investigate and which cases to bring so that its actions have the greatest possible impact in deterring unfair and deceptive business practices and protecting consumers. I will also work to ensure that the agency effectively leverages its limited resources by en-

hancing its partnerships with state and local law enforcement authorities and expanding its education and outreach efforts through closer work with community-based organizations.

*Question 2.* As a former state attorney general, I would appreciate your thoughts on how the FTC should be working with state attorneys and U.S. attorneys to pursue those who are deceiving consumers and committing fraud. As FTC commissioner, how do you plan to work with and reach out to state attorneys general and U.S. attorneys?

Answer. The state attorneys general play a critical role in protecting consumers and are invaluable partners of the FTC. The FTC has a long history of cooperation with its law enforcement partners at both the Federal and state levels. This cooperation takes a variety of forms such as bringing joint law enforcement actions with the states, joint participation in a variety of task forces, and information sharing. In addition, through its Criminal Liaison Unit, the FTC coordinates with both Federal and state criminal law enforcement agencies across the country to facilitate criminal prosecution of consumer fraud. If confirmed, I will work to strengthen these ties between the FTC, the state attorneys general, and U.S. attorneys and ensure that these partnerships are utilized to maximum effect to protect and advance the interests of American consumers.

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RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. MARK BEGICH TO  
EDITH RAMIREZ

*Question 1.* The European Commission's rulings against and investigations into technology companies, such as Intel, Microsoft, Qualcomm, Google, and IBM, are evidence of a trend in Europe toward managed competition. With so many of the world's successful technology companies based in the United States and very few located in the European Union or elsewhere, how do you plan to address this?

Answer. Competition is an increasingly global issue, and there are significant challenges for those multinational corporations that deal with antitrust enforcers around the world. In light of this, multilateral cooperation and coordination among antitrust authorities is increasingly important. The FTC has built strong bilateral relationships with its counterparts abroad and has played a leading role in multilateral competition bodies such as the International Competition Network and the competition body of the Organization for Economic Cooperation and Development to promote convergence toward sound competition policies and practices. If confirmed, I will work with my fellow Commissioners to continue to engage the FTC's foreign counterparts in a respectful dialogue to advance these efforts further.

*Question 2.* Multinational companies are now facing greater interaction with the more than 100 competition agencies in existence today. Due process plays an important role in ensuring that foreign companies are treated the same as domestic companies, and as Assistant Attorney General Christine Varney remarked ensures agencies have sufficient evidence before concluding that certain behavior results in harm to competition. What is your view about the role of due process in competition investigations and how would you advocate for increased due process protections?

Answer. I agree that due process plays an integral role in ensuring that decisions about competition questions by international competition enforcers rest on sound and fair principles that are consistently applied. Fair and transparent procedures are critical to antitrust enforcement. If confirmed, I will work with my fellow Commissioners to encourage our foreign counterparts to utilize procedures that, while tailored to their unique legal traditions, will provide full and fair process.

*Question 3.* Historically, the FTC and DOJ have relied on uneven and extremely limited funding for antitrust technical assistance. Well-funded technical assistance is critical to U.S. competitiveness, as it can help curb the potential for misuse of competition enforcement against leading U.S. companies. Would you support an authorization and appropriate funding for the FTC so it can provide meaningful technical assistance to the world's major competition authorities?

Answer. The FTC has a long history of providing technical assistance to antitrust authorities in emerging economies. Well-funded international engagement and assistance is critical to U.S. competitiveness. If confirmed, I would actively support appropriate funding for the FTC to continue its efforts to provide meaningful technical assistance to young competition and consumer protection agencies.