

**NOMINATIONS OF TONY FRATTO,
DAVID BOHIGIAN, DAVID SPOONER,
VINCENT VENTIMIGLIA, RICHARD CROWDER,
AND JEFFREY BROWN**

HEARING

BEFORE THE

**COMMITTEE ON FINANCE
UNITED STATES SENATE**

ONE HUNDRED NINTH CONGRESS

FIRST SESSION

ON THE

NOMINATIONS OF

TONY FRATTO, TO BE ASSISTANT SECRETARY OF THE TREASURY FOR PUBLIC AFFAIRS; DAVID BOHIGIAN, TO BE ASSISTANT SECRETARY OF COMMERCE, MARKET ACCESS AND COMPLIANCE; DAVID SPOONER, TO BE ASSISTANT SECRETARY OF COMMERCE FOR IMPORT ADMINISTRATION; VINCENT VENTIMIGLIA, JR., TO BE ASSISTANT SECRETARY OF HEALTH AND HUMAN SERVICES FOR LEGISLATION; DR. RICHARD CROWDER, TO BE CHIEF AGRICULTURAL NEGOTIATOR, OFFICE OF THE U.S. TRADE REPRESENTATIVE; AND JEFFREY BROWN, TO BE A MEMBER OF THE SOCIAL SECURITY ADVISORY BOARD, SOCIAL SECURITY ADMINISTRATION

DECEMBER 14, 2005



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**NOMINATIONS OF TONY FRATTO,
DAVID BOHIGIAN, DAVID SPOONER,
VINCENT VENTIMIGLIA, RICHARD CROWDER,
AND JEFFREY BROWN**

WEDNESDAY, DECEMBER 14, 2005

U.S. SENATE,
COMMITTEE ON FINANCE,
Washington, DC.

The hearing was convened, pursuant to notice, at 11:08 a.m., in room SD-215, Dirksen Senate Office Building, Hon. Charles E. Grassley (chairman of the committee) presiding.

Also present: Senators Thomas, Santorum, Baucus, Rockefeller, and Schumer.

The CHAIRMAN. We will start the hearing right away as a courtesy to any members that have to run quickly, including Senator Baucus. I will reserve my opening statement, and I will call on Senator Santorum.

**OPENING STATEMENT OF HON. RICK SANTORUM,
A U.S. SENATOR FROM PENNSYLVANIA**

Senator SANTORUM. I thank you, Mr. Chairman, very much.

I am here to introduce a good friend of mine, someone whom I have known for the better part of 15 years, who is from Pittsburgh, who worked on my first campaign when I ran for Congress back in 1990, and has worked for me in the U.S. Senate. He worked for Governor Ridge after leaving me back in 1998.

After President Bush won the election in 2000, he came down here and has done outstanding work for a couple of secretaries of the Treasury Department, and now is here to be nominated, or hopefully confirmed, I should say, to be Assistant Secretary of the Treasury for Public Affairs.

I have known Tony Fratto for many years. Tony is an outstanding individual, and I do not know anyone who has worked harder than he, and done a more outstanding job than he has. He is a great young man. He has a great family. Judy and the two kids are here, and they have been good family friends for many years.

So, I am honored to be here. This is the first person who ever worked for me that has ever been up for confirmation before the U.S. Senate, so this is a big moment for me. Usually it has been a poison pill if someone works in my office. [Laughter.] Hopefully the fact I mentioned that will not cause you any problems down the road in the next few days. [Laughter.]

So, Mr. Chairman, thank you very much for that. I have a formal statement that I will submit for the record. Thank you.

[The prepared statement of Senator Santorum appears in the appendix.]

The CHAIRMAN. Thank you.

OPENING STATEMENT OF HON. CHARLES E. GRASSLEY, A U.S. SENATOR FROM IOWA, CHAIRMAN, COMMITTEE ON FINANCE

The CHAIRMAN. All of our nominees today are people who have long, distinguished careers that make them well-qualified for the positions for which they are nominated. I am assured that all of them are eager to get started in their new roles.

First, I am pleased to welcome Tony Fratto, the President's nominee to be Assistant Secretary of Treasury for Public Affairs. Mr. Fratto's experience with communications in government and the private sector will be a great asset in his role as Treasury's liaison to the general public.

Then David Steele Bohigian, Presidential nominee to be Assistant Secretary of Commerce for Market Access and Compliance at the Commerce Department. In that position, Mr. Bohigian will make it his priority to obtain market access for U.S. firms and workers and achieve full compliance of trade agreements.

Unfair barriers to trade must be removed expeditiously. This is the core of this market access and compliance job that he is appointed to. In that position, I have had strong relationships with people there because of the jurisdiction of this committee, and I look forward to working with him.

Then we have David Spooner, the President's nominee for Assistant Secretary of Commerce for Import Administration. This division serves an important role in trade policy by enforcing our trade laws so that U.S. companies and workers are able to compete on a level playing field.

These laws are especially critical for many U.S. industries that face unfair competition. We must make it our priority to enforce our trade remedy laws, and also to do it in a transparent and impartial manner.

Vincent Ventimiglia has been nominated for the position of Assistant Secretary for Legislation at the Department of Health and Human Services. He has had a distinguished career in legislative development and advocacy, both in the public and private sectors. This office acts as a liaison between Congress and the executive branch and requires effective and responsive leadership.

Since he has served in several positions in the U.S. Senate, he understands the unique needs of Congress, and I am confident that he also is the right person for the job.

Then we welcome Richard Crowder, the President's nominee to be Chief Agricultural Negotiator with the rank of Ambassador. A strong Chief Agricultural Negotiator, of course, is critical to the success of our trade negotiations. I have had an opportunity to meet with Dr. Crowder and am confident that he will put the interests of U.S. agriculture at the front of trade negotiations, and it ought to be there. It is very basic to what is going on right this very minute in Hong Kong.

I am pleased to welcome Jeffrey Brown as the President's nominee to be a Member of the Advisory Board of Social Security. As a member of that board, Dr. Brown will work on a bipartisan basis to advise Congress on matters related to Social Security.

Senator Baucus?

Senator BAUCUS. Thank you, Mr. Chairman.

I see the distinguished Chairman of the Budget Committee, Senator Gregg, is here. As not to detain him from his efforts, I wonder if it might be appropriate, I suspect he has someone to introduce. I would be glad to accommodate him.

**STATEMENT OF HON. JUDD GREGG,
A U.S. SENATOR FROM NEW HAMPSHIRE**

Senator GREGG. That is very kind of you, Senator. I appreciate that. We do have the reconciliation meeting with the conferees. I thank you for your courtesy in allowing me to testify here today about Vincent Ventimiglia.

He is one of those exceptional people who makes us all look good. We all have these folks who work extraordinary hours, who put in an excessive amount of time on our behalf, those on our staff, who are more knowledgeable on subjects than we are, and who are more capable of developing policy than we are in most instances.

As a result of their good works, their extraordinary works, we in the Congress produce extraordinary products on occasion. This is really the epitome of that type of a staff member.

He was my Policy Director when I was Chairman of the Health Committee, and he has been my Health Policy Director on Budget. He is essentially the force behind some very extraordinary and successful legislation which we have already passed, which many of us have taken credit for, but which he actually probably wrote the vast majority of.

He did write the vast majority of it. These include the Drug Administration Organization Act, the Bio-Shield Act, the Bio-Terrorism Act, patent safety legislation, and for those of us who liked it, budget resolution this year.

He is a guy who absolutely deals extraordinarily well across the aisle. He will be, in my opinion, the perfect person for HHS in the role of liaison because he understands the regulatory process, and, more importantly, he understands the importance of being bipartisan and working with both sides of the aisle. He is an incredibly talented individual, and we are very lucky to have him in public service.

To be honest with you, I do not know how we have kept him in public service. I know he has received innumerable opportunities to go to the private sector, which would be much more lucrative, with probably less hours in the day.

He also has an exceptional family, and they are all here today. I know he will introduce them. I know he commits an immense amount of time, especially to his son's soccer team, and various other activities. Therefore, it is a pleasure today to praise him, but more importantly to come here on his behalf and ask you to support his nomination.

I thank you for the courtesy of allowing me to speak.

The CHAIRMAN. Thank you, Senator Gregg.
Now, Senator Baucus?

**OPENING STATEMENT OF HON. MAX BAUCUS,
A U.S. SENATOR FROM MONTANA**

Senator BAUCUS. Thank you, Mr. Chairman.

I will not list the nominees, as you have already done so. I might say, though, that these nominees to the trade positions come at a pivotal time for our country's great policy.

As you mentioned, Mr. Chairman, right now negotiators from the U.S. and 148 other members of the WTO are gathered in Hong Kong to try to make progress on the Doha Round. We all know the prospects do not look good. The parties remain far apart, especially on agriculture. They will do better, do well, but at this point in the process it is not all that encouraging.

Dr. Crowder, you have your work cut out for you. It is not only because of the difficulty of getting the European Union and Canada in the debate because of agricultural tariffs. That is not the only reason. The American agricultural community was once the bulwark in favor of going to trade liberalization. Now that seems to be cooling. Many farmers and ranchers feel that previous trade agreements have failed to live up to their promises.

Meanwhile, America's decades-old agricultural trade surplus is disappearing. The administration has asked Congress to make deep cuts, \$3 billion worth, to the current agricultural program. That is not exactly an encouraging performance.

We have to work hard if we want farmers and ranchers to continue their support for free trade. We must negotiate good agreements, and we must aggressively enforce the agreements that we already have.

We must also ensure that overall farm support means a level that will allow farming and ranching families in my State of Montana and across the country to maintain their way of life. We must continue to produce the safe and durable food supply upon which it all hinges.

That advice is, of course, broader than your responsibilities, Dr. Crowder, if you do become Chief Agricultural Negotiator. But I believe that the Chief Agricultural Negotiator needs to understand these dynamics to do his job.

Mr. Bohigian, you have been nominated to be the Commerce Department's point person on trade enforcement. Mr. Spooner, you would have responsibility for administering American trade laws to help American companies trade.

Both of you will be instrumental in maintaining continued support for trade. We all know support is on the decline in this country and in this Congress. As with agriculture, support for trade generally will depend upon enforcing the agreements that we already have. We are not doing a good job there. Support for trade will depend on making sure that our trading partners, in fact, do play by the rules.

Jeffrey Brown has been nominated to fill a slot that is designated for a public member of the Social Security Advisory Board. The Social Security Advisory Board is an independent board. Democratic and Republican members work together to produce reports and rec-

ommendations relied on by the President, the Social Security Administration, and the Congress.

Members of the board are chosen to serve on the Advisory Board based on their expertise in the field of Social Security. In fact, the authorizing statute requires members of the board to be chosen based on their education, on their experience.

Jeffrey Brown meets this high standard. He is Professor of Finance at the University of Illinois and a former Senior Economist at the White House Council of Economic Advisors. He is a widely published scholar in the field of Social Security privatization. His work includes articles, academic journals, and op-eds in major newspapers advocating we privatize the Social Security system.

I do not agree at all with the privatization policies that he supports, but I have tremendous respect for his intellect and his experience. He has the ability to be a valuable member of the board.

I am, however, troubled that Mr. Brown is not accompanied by a Democratic nominee today. The Democratic slot remains open on the board. In order to maintain balance on the board, the Democratic position needs to be filled along with the Republican slot so that the President can have a balanced Advisory Board.

To nominate an individual to fill the Democratic slot on the Social Security Advisory Board, the White House must consult with Democrats in Congress. There are many highly qualified individuals ready to serve on the board in that open Democratic slot. I look forward to working with the White House and with the Senate Democratic Leader to fill that position as soon as possible.

The White House should also consult with Congress on Medicare, Medicaid, and other Department of Health and Human Services programs. With a budget of more than \$600 billion, HHS needs a strong working relationship with the Congress.

Congress holds the purse strings to that \$600 billion. Relations between Congress and HHS largely fall to the HHS Office of Legislation, headed by the Assistant Secretary for Legislative Affairs.

Mr. Ventimiglia, you have spent several years on the Senate staff, so you do know how important it is that Congress have access to timely and accurate information from the agencies it oversees.

You also know that I have been periodically displeased with the level of transparency that HHS has exhibited to Congress. HHS withheld cost estimates during the 2003 Medicare debate; sizeable cost estimates were withheld.

HHS approved far-reaching Medicaid waivers and stopped public input. HHS has sometimes not held up its end of the transparency bargain, and I am especially concerned about the waivers.

HHS has not been forthcoming, and that is going to be a huge problem if that is continued. This transparency is critical if we are to correctly administer these important, expensive programs.

Earlier this year, I urged HHS to vigorously review insurance companies offering Medicare Part D, the new drug benefit. I urged HHS to approve only those plans meeting the high standards, and not too many plans, knowing the confusion that would arise if too many plans were approved.

HHS did not heed that input. Instead, HHS approved 47 plans in my State alone. In some States, the number is twice that. As a

result, many seniors are confused, to say the least, on the new Part D benefit.

Mr. Ventimiglia, Congress and the administration will have to work together to fix this confusion. Cooperation by your office will be critical to that end.

Finally, the President has nominated Tony Fratto to be head of Public Affairs at the Treasury Department. If confirmed, it will be Mr. Fratto's job to communicate the mission of the Treasury Department and serve as liaison to the press.

It is not appropriate, however, for Treasury, through its Public Affairs Office, to engage in politicking. It is not a campaign. The Public Affairs Office is a public service office for the public good.

In recent years, the Treasury Department has put out statements on the effect of the Democratic tax policies. It has cherry picked. It has picked atypical families. It has not been objective, it has not been fair. It is hurting the Department's credibility.

This type of messaging crosses the line between outreach and politics. I hope to hear from Mr. Fratto today that the Treasury Department will be more conscious in the future regarding that line, and will know how to distinguish between communicating the policy mission of the Department and political press releases.

I look forward to hearing from all of you.

The CHAIRMAN. Since some of our nominees deal with the issue of trade, I would like to make an observation about what is going on in Hong Kong right now. I am very disappointed that talks seem to be focusing on side issues such as the U.S. cotton program, duty-free/quota-free proposals and aid packages.

None of these proposals will lead to long-term development, which is what the Doha Round fundamentally is all about. We need to see vision and ambition in this round and not the side shows that seem to be playing out.

The United States is a country of vision. We are prepared to deal with a comprehensive agreement with all these issues and more. This is a lot more than I can say about some of our trading partners that do not seem interested in market liberalization, instead insisting on perpetuating side shows, drawing unconditional and unrealistic lines in the sand and simply sitting out of negotiations altogether.

So it is time for our trading partners to get serious, step up to the plate, and show some leadership, otherwise the Doha Round is going to remain stalled.

I am going to ask each of the nominees, before you make a statement, starting with Mr. Fratto, to introduce any family members or friends that you have here with you.

Mr. FRATTO. Thank you, Chairman Grassley. I do have my wife, Judy, with me here today, and my son and daughter, Antonio and Juliette.

The CHAIRMAN. Thank you. Welcome.

Now, Mr. Bohigian?

Mr. BOHIGIAN. My wife Katherine is here, my daughter Kate, and my son Charlie is roaming the halls. He has a little bit of a cold.

Senator BAUCUS. Would you just stand up, please? This is a big moment.

The CHAIRMAN. Yes.

Senator BAUCUS. Let us have everybody stand. Stay standing so everybody gets to see you and give recognition and thanks for all that you have done, and certainly will be doing in these new jobs.

The CHAIRMAN. Mr. Spooner?

Mr. SPOONER. Thank you, Mr. Chairman. I have my wife, Nancy, and my son, Nicholas, here. I think they, too, are roaming the halls.

Senator BAUCUS. All right.

Mr. SPOONER. And my mom and sister Christine, and my daughter, Emma.

Senator BAUCUS. Well, Mrs. Spooner, everybody stand. That is wonderful. Thank you.

The CHAIRMAN. Now, Mr. Ventimiglia?

Mr. VENTIMIGLIA. I have my mother here, Sandra Prothero, her brother, my uncle, Prothero, my mother-in-law, Dr. Beatriz Nava, and my wife, Christine, with our five children: Marisa, Seth, Liana, Dominic, and Jonas.

The CHAIRMAN. Thank you all very much.

Dr. Crowder?

Dr. CROWDER. Mr. Chairman, I have none. But in my opening statement, I want to acknowledge the support of my wife, who could not be here today.

The CHAIRMAN. You already thought of that.

Dr. Brown?

Dr. BROWN. Yes. I am pleased to introduce my wife, Lisa Brown, and two of our children are here today, my daughters Madeline and Sophie. I am also accompanied today by my parents, Melvin and Ann Brown.

The CHAIRMAN. Thank you.

Now, in the order in which you were introduced, we would welcome a short statement from each of you.

So, Mr. Fratto?

**STATEMENT OF SALVATORE ANTONIO FRATTO, NOMINATED
TO BE ASSISTANT SECRETARY OF THE TREASURY FOR PUBLIC
AFFAIRS, U.S. DEPARTMENT OF THE TREASURY, WASH-
INGTON, DC**

Mr. FRATTO. Thank you, Chairman Grassley. I will keep my comments brief and would ask that my written, prepared remarks be entered into the record.

I just want to thank you, first of all, for holding this hearing. It is an exceptionally busy time. I know how busy it is for everyone, and I appreciate you holding it. I am honored to be nominated for this position by President Bush.

I want to say that the Treasury's Office of Public Affairs plays a crucial role in—

Senator BAUCUS. Mr. Chairman?

Mr. FRATTO. I am sorry.

Senator BAUCUS. I am just wondering, on a housekeeping matter here. I understand the votes are going to start. How do you want to work that?

The CHAIRMAN. All right.

Senator BAUCUS. We can continue. How many votes are there going to be?

The CHAIRMAN. There are three at 11:45. All right. So one of us can go vote early.

Senator BAUCUS. All right. I have to be gone from here soon. If I could go ahead and ask my questions.

The CHAIRMAN. Well, then ask your questions.

Senator SCHUMER. Mr. Chairman, I just had one question.

Senator BAUCUS. Mine will not take long either.

The CHAIRMAN. All right.

Senator BAUCUS. Thank you very much.

The CHAIRMAN. Then we will finish with the rest of it.

Senator BAUCUS. All right. And I apologize to everybody.

First, I would like to ask Mr. Ventimiglia, I have heard about dollars to help people, seniors, with this Part D drug benefit. The Congress appropriated \$1 billion. Three hundred million has been spent by HHS and CMS to advertise the new drug benefit, an extended National Call Center, but it gave only \$30 million to the State Health Insurance Assistance programs. After all, people in all States need your help. I am just asking why only that amount has been applied, and not more, to seniors who need help.

Mr. VENTIMIGLIA. Sir, you have more information about the exact numbers than I do. I am very happy to continue the discussion with you as I get more information. It is very important, as you understand and are implying, to get information out to seniors and that we have a variety of mechanisms so that folks can interface to get more information about the program, whether it is through websites, whether it is through regional call numbers, or whether, frankly, it is through the pharmacists using electronic means to connect them to the benefits they deserve.

Senator BAUCUS. I think there are too many plans. I encourage you strongly to figure out a way to winnow out the most useless and less important plans. There are just too many. There are too many choices. When people are faced with too many choices, what happens? They do not choose.

Mr. VENTIMIGLIA. Perhaps I should have introduced my mother and mother-in-law as Medicare beneficiaries. I have been working with them on getting access to their Part D choices, so I have some sympathy with you in that regard.

I do not think the administration and the Secretary consider that a wide range of choices would be too much. We do hope and envision that seniors, beneficiaries, would have access to a plan that suits them. More choice, in many respects, helps them get the perfect—

Senator BAUCUS. Sir, I disagree. I do not agree with the Secretary. There are too many choices. There are too many choices. What does that do? First of all, it confuses people. People do not know if they are getting the right plan.

Second, it is more expensive than DP because all these different plans have to be administered. It is just way too many plans. I strongly encourage the administration to try to figure out a way, as I said, to winnow out the less efficient so we have a more efficient Part D benefit.

I am one of the few members on this side of the aisle who supported the Part D benefit. There are not very many here in Congress who did, as you well know, on the Democratic side. I want to see it work. I want to see it work well. I very much disapprove of the politics of both sides of playing with this issue.

One party says, oh, this is ours. The others say, no, it is not going to work. We are all going to have to work. This is an American plan. We have to work very hard to make sure that it works. If it means taking on some party dogma, whatever it takes, we have to do it. Your goal, our goal, is to make sure this thing works.

Do not forget, back on the implementation of the \$300 million thus far for the State Health Insurance Assistance programs, I hope you will take the message back that that is one way to help. If it is not appropriate, you have to let us know. There is not much time left in these next 2 or 3 days. Whatever it takes, let us get it done.

Mr. VENTIMIGLIA. I appreciate that, Senator.

Senator BAUCUS. All right. Thank you very much.

One more very quick question, if you do not mind, Mr. Chairman. The CHAIRMAN. All right.

Senator BAUCUS. On trade, I understand the U.S. has now concluded an FTA with Peru. We are trying to use the trade agreement with Peru to encourage other Andean countries to conclude their own FTAs. I think that is good that they are working to negotiate outside of the WTO, not just within WTO.

I wonder the degree to which the administration will use the Peru FTA as a model for the future, especially with respect to other sugar-exporting countries. As you know, Dr. Crowder, sugar is especially sensitive. I wonder the degree to which Peru is going to be a model with respect to sugar.

Dr. CROWDER. Senator, thank you. I have not read the Peru agreement that was just completed, but I understand the sensitivity of sugar. In all of the agreements, if I am confirmed, we will consult with Congress and industry in relation to sugar in FTAs. To date, it is my understanding that it is being handled on a case-by-case basis. But to the extent that Peru is a model that works, we will try to—

Senator BAUCUS. I do not think it will be difficult, but it is very sensitive. If we are going to get subsequent FTAs, that is an issue that has to be worked out.

Dr. CROWDER. I understand the sensitivity.

Senator BAUCUS. Thank you, Mr. Chairman.

The CHAIRMAN. Senator Schumer?

Senator SCHUMER. Thank you. Thank you, Mr. Chairman. I very much appreciate your courtesy.

I want to thank all the witnesses for being here.

I just have one question for Mr. Ventimiglia. It relates to my State of New York, where we are having a serious problem with Part D.

As you know, there are three major interactive pieces of health care coverage for most seniors: Medicare, Medicaid, and health care you can get from your employer once you retire.

Some people are now eligible for not just one, but actually for all three. This program is doing a bad job, at least from New York's point of view, in coordinating the three pieces.

To keep your Medicaid coverage, you have to enroll and get the Part D drug benefit, but to keep your retiree health coverage, you cannot be enrolled in this plan. So what do you do if you have both Medicaid coverage and retiree coverage, which some people do, in New York?

Unfortunately, the administration will not let seniors make the choice for themselves; it automatically enrolls seniors on Medicaid into one of the new drug plans, which means they could lose their retiree plan.

There are many instances where the retiree plan is better than the plan they are being enrolled into, and probably would save the Federal Government money because employers pick up the tab for drugs instead of Medicare. Yet, if they disenroll from the drug plan, in the Part D plan, they get kicked off Medicaid.

In order to get back on Medicaid, they have to go to the Medicaid office, they need special documentation from their former employer, they have to re-enroll in the program. That is fine for somebody who is just 66, newly retired, and full of vim and vigor. But what about people with Alzheimer's and limited mobility?

How can these people deal with all these interactions and re-applications? Sometimes the employer is gone or has been bought out by somebody else, and they have to try to communicate. It is becoming a real problem.

Let me give you one example. In Cattaraugus County, which is in the Southern Tier, about 100 miles north of Pittsburgh, 80 miles southeast of Buffalo, there are 124 nursing home residents who have all three pieces of coverage, and they are going to lose big from this jumble of demands and deadlines. There is huge anxiety up there, and nobody knows what to do.

So I would just like to ask you, and I know you are new to this, what plans would you have to make sure people like this are not faced with an untenable position?

What will the administration do to make sure that these seniors who do not actively disenroll from Medicare in the next few weeks will not lose their employer retiree plans? Because the deadline is fast approaching, and you can see the urgency of my question. That is why I am asking you now.

And what will HHS do to make sure that these seniors who do figure out how to disenroll from Medicare can still have uninterrupted Medicaid coverage without requiring them to present a whole bunch of papers to the Medicaid office, which might be 100 miles away? That is a rural area in Cattaraugus County. But we have had this in a few other places.

Can you comment on this? Give me your initial reaction.

Mr. VENTIMIGLIA. I guess, initially, I would like to extend an offer to help you work through the complexities of the situation. In the limited time I have been over there, it has struck me that many of these things are driven not just by Federal law, but State law.

Senator SCHUMER. It is the interaction of the two.

Mr. VENTIMIGLIA. It is the interaction that makes it so complex.

Before I answer, I would like to get more information on the Medicaid complexity, and look at retirement benefits.

Senator SCHUMER. But you would admit, at the moment, that it looks like an unfair situation, at least if what I have described to you is true?

Mr. VENTIMIGLIA. This is very complex. It seems to run against the intent of Congress and the administration. These folks have access to the best—

Senator SCHUMER. But I have your commitment to try and work on this, even before our January 1 deadline?

Mr. VENTIMIGLIA. Absolutely.

Senator SCHUMER. Thank you.

Thank you, Mr. Chairman. I very much appreciate it.

The CHAIRMAN. Mr. Bohigian, your opening statement? Or, no. Mr. Fratto, we did not let you finish.

Mr. FRATTO. That is all right. Respecting the committee's time, Mr. Chairman, I would ask that my statement be entered into the record, and I will look forward to your questions.

The CHAIRMAN. And all of your statements, even longer statements, will be entered into the record.

[The prepared statement of Mr. Fratto appears in the appendix.]

The CHAIRMAN. Mr. Bohigian?

STATEMENT OF DAVID STEELE BOHIGIAN, NOMINATED TO BE ASSISTANT SECRETARY OF COMMERCE, MARKET ACCESS AND COMPLIANCE, U.S. DEPARTMENT OF COMMERCE, WASHINGTON, DC

Mr. BOHIGIAN. Mr. Chairman and distinguished members of the committee, thank you very much for the opportunity to appear before you today.

I wanted to recognize my fellow nominees here on the panel. If confirmed, I particularly look forward to working with David Spooner at the Department of Commerce to vigorously enforce our trade agreements and ensure that our partners are playing by the rules.

It has been my privilege to serve the President and the American people in the Office of Policy and Planning at the U.S. Department of Commerce for the past 3 years.

I am extraordinarily honored to be President Bush's nominee to serve as the Assistant Secretary for Market Access and Compliance. I am most grateful to Secretary Gutierrez and Deputy Secretary Samson for their support.

Mr. Chairman, as a Commerce official and as a businessman, I have helped U.S. companies navigate the international marketplace. I have seen firsthand marvels of American productivity and the opportunities that we have in working with the 95 percent of the world's population that does not have the blessing of living in this great Nation.

The United States enjoys the most successful, competitive, diverse, and innovative economy in the world. The United States maintains the most open major economy in the world.

These are not unrelated, and the record is clear. The United States remains a beacon of freedom and prosperity because it re-

mains committed to working with people and products from around the world.

According to a recent study, the U.S. annual income was approximately \$1 trillion higher, or \$9,000 per household, because of trade. In factories and on farms, through ports and the Internet, America is competing and winning in the global marketplace. Opening new markets and promoting free and fair trade will allow our workers to prosper in the years ahead.

Total elimination of global barriers to trade, goods and services will ultimately increase annual income for the average U.S. family of four by an estimated \$7,800.

If confirmed, I will work tirelessly to obtain market access for American firms and workers and to achieve full compliance by foreign nations for trade agreements that they sign with our country.

The extraordinary group of Market Access Compliance Officers will continue to work with Congress and other U.S. government agencies to help U.S. businesses overcome barriers to trade and investment.

Traditionally, tariffs were the key impediment to trade. The United States has led the way in lowering these barriers and today, for most products, tariffs are not as significant as they once were. While continuing to lower tariffs, other important barriers must be addressed in the years ahead.

Intellectual property must be respected and protected, not unfairly reproduced or pirated. Standards must harmonize with the needs of consumers and firms rather than promote protectionism.

Health and safety regulations must be based on rational analysis rather than fear of competition. Business decisions must rely on rule of law, not capriciousness. Finally, we must ensure that trade improves the lives of people who produce.

Today, I reaffirm the words of Cordell Hull, a former Senator who later became Franklin Roosevelt's Secretary of State, who said, "I have never faltered, and I will never falter, in my belief that enduring peace and the welfare of nations are indissolubly connected with friendships, fairness, equality and the maximum practicable degree of freedom in international trade."

Thank you for your time. I would be happy to answer any questions the committee may have.

The CHAIRMAN. Thank you, Mr. Bohigian.

[The prepared statement of Mr. Bohigian appears in the appendix.]

The CHAIRMAN. Now, Mr. Spooner?

STATEMENT OF DAVID M. SPOONER, NOMINATED TO BE ASSISTANT SECRETARY OF COMMERCE FOR IMPORT ADMINISTRATION, U.S. DEPARTMENT OF COMMERCE, WASHINGTON, DC

Mr. SPOONER. Thank you, Mr. Chairman.

I probably should have noted, by the way, when I was introducing my family, that my extended family out in Ohio is watching the webcast.

I am equally honored that President Bush and Secretary Gutierrez have asked me to serve as Assistant Secretary of Commerce for Import Administration.

My tenure as a textile negotiator in the Office of the U.S. Trade Representative has imbued me with a deep sense of both the importance of trade to the continued health of our economy, and of the importance of enforcing our trade laws and agreements to level the playing field for American workers.

I have a deep respect for Congress' constitutional authority to regulate trade. The executive branch has a responsibility to consult regularly with Congress to help ensure that we wield trade negotiating authority in a manner consistent with Congress' guidance.

As a former Hill staffer, I appreciate the important role that Congress plays in negotiations and enforcement. As an appointee who has spent 4 years serving as the administration's liaison to an import-sensitive industry, I know full well that Congress expects the administration to faithfully apply our unfair trade laws.

Indeed, if confirmed, I will make enforcement of our existing dumping and countervailing duty orders in enforcement of our trade agreements a top priority. I have absolutely no tolerance for fraud and circumvention. I have not tolerated such malfeasance in my current job, where I have negotiated tough Customs enforcement provisions in our free trade agreements, and I would not tolerate malfeasance while at the Import Administration.

Fraud and circumvention are simply wrong, and continued support for trade, as Senator Baucus mentioned, frankly, depends upon adequate vigilance in enforcing our dumping and CVD orders, as well as our textile quotas.

American workers can compete with anyone in the world if the playing field is level. It is up to the administration to level the playing field through trade negotiations, the application of our unfair trade laws, and adequate enforcement of our orders once we act.

If confirmed, and throughout my tenure, I will bear in mind that the work of the Import Administration is not simply the rote application of the law.

Every day, the Import Administration makes decisions that impact real people and real companies. Many of the companies impacted by unfair trade are small, family-owned operations that are struggling to get by. We have a moral, as well as a legal, imperative to defend these companies against unfair pricing and foreign subsidies.

This administration seeks to help American companies maintain their competitive edge in the global marketplace. An important part of this effort is the utilization and enforcement of our unfair trade laws.

Thank you for your time, Mr. Chairman. I would be happy to answer any questions.

The CHAIRMAN. Thank you, Mr. Spooner.

[The prepared statement of Mr. Spooner appears in the appendix.]

The CHAIRMAN. Now, Mr. Ventimiglia?

STATEMENT OF VINCENT J. VENTIMIGLIA, JR., NOMINATED TO BE ASSISTANT SECRETARY OF HEALTH AND HUMAN SERVICES FOR LEGISLATION, U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES, WASHINGTON, DC

Mr. VENTIMIGLIA. Thank you, Mr. Chairman. I am very humbled by this nomination and am grateful to President Bush and Secretary Leavitt for providing me with the opportunity further to serve the country.

Secretary Leavitt set forth a challenging and exciting agenda for the Department to improve health care and human services in America and abroad. Fundamentally, his plan rests on the interest of protecting life, protecting family, supporting human dignity, and working to improve health conditions here and around the world.

As Assistant Secretary of Legislation, I would serve as a senior advisor to the Secretary on all legislative matters. If confirmed, my primary responsibility will involve work with this and other committees in support of the administration's efforts to improve health and human services.

In the phrase that you have used, I will serve as the liaison for you to the Department. A critical part of that involves ensuring that you receive the assistance that you need to undertake the committee's legislative and oversight work.

Whether you require technical assistance on legislation, policy input, information or responses to your oversight requests, or assistance for your constituents, I would strive to be responsive in every way possible.

Having worked in the Senate for a dozen years at various times since 1985, and in the health policy world most of my working life, I do appreciate the importance of expert and close collaboration with Congress, working bipartisanship, and above all, having high ethical and personal standards.

Again, thank you for taking the time to meet with me today. I look forward to answering your written and spoken questions.

The CHAIRMAN. Thank you.

[The prepared statement of Mr. Ventimiglia appears in the appendix.]

The CHAIRMAN. Dr. Crowder?

STATEMENT OF DR. RICHARD T. CROWDER, NOMINATED TO BE CHIEF AGRICULTURAL NEGOTIATOR, OFFICE OF THE U.S. TRADE REPRESENTATIVE, WASHINGTON, DC

Dr. CROWDER. Thank you, Senator. You have my written statement, and I will abbreviate my comments.

Obviously, I am honored by the trust and confidence placed in me by President Bush and Ambassador Portman. I also want to thank the committee for taking the time to hold the hearing today. I know it is the end of the session and this is a very busy time for the Senate.

I also want to tell you and others that I am excited about the possibility of representing the United States in our trade negotiations. My roots in American agriculture are deep. My ancestors from the 1600s through my father were farmers in Virginia, and I have worked in the agricultural industry all my life, for nearly

40 years. This experience has covered everything from seed to table-top restaurants.

I also want to make it clear that I am fully aware of, and I appreciate, the challenges and demands of the job and its importance to agriculture. I stand ready to accept the challenges and responsibilities of this position. If confirmed by the Senate, I will approach the job with a dedication and a diligence that is equal to its challenge and importance.

In terms of our management style, Mr. Chairman, I have always held to the philosophy that all stakeholders should have the opportunity to have input into the process.

I look forward to working closely with you, Senator Baucus, and all the members of this committee if I am confirmed and become the Chief Agricultural Negotiator. Your input will be critical to my success of fulfilling the responsibilities of this important position.

Finally, as I stated earlier, neither my wife nor either of our sons could be here today, but before concluding I want to express thanks to each of them for their patience over the past 40-plus years. They have willingly accepted a husband's and a father's career that has involved a lot of time away from home, has spanned multiple locations, and, as noted, has included public and private service.

Finally, Mr. Chairman, I express my appreciation to you and the committee, including the staff, for taking the time to meet with me as I have made my way through the process.

Thank you. I look forward to your questions.

The CHAIRMAN. Thank you, Dr. Crowder.

[The prepared statement of Dr. Crowder appears in the appendix.]

The CHAIRMAN. Dr. Brown?

**STATEMENT OF DR. JEFFREY ROBERT BROWN, NOMINATED
TO BE A MEMBER OF THE SOCIAL SECURITY ADVISORY
BOARD, SOCIAL SECURITY ADMINISTRATION, BALTIMORE,
MD**

Dr. BROWN. Thank you, Mr. Chairman. I am honored to appear before you today as the nominee of the President to become a Member of the Social Security Advisory Board.

As you know, the Advisory Board was established in 1994 to provide independent and bipartisan advice to Congress, the President, and the Social Security Commissioner on matters related to the OASDI and SSI programs.

Over the years, the Board has performed these functions admirably by producing numerous, invaluable consensus reports on issues facing the Social Security system, issues ranging from the disability determination process to the need to act quickly to address the sustainability of Social Security's finances.

If I am confirmed, I look forward to working closely with the other Advisory Board members and staff to continue in this bipartisan tradition.

As you know, there are few programs that touch as many lives as the Social Security program does. There are nearly 160 million workers who are currently paying taxes to support the program and more than 48 million Americans who are receiving benefits, ei-

ther as retired or disabled workers, or survivors or dependents of those workers.

The aggregate financial flows of this program are enormous. This year, they are estimated to exceed \$500 billion in benefit payments. But numbers aside, the Social Security program has become a part of the social fabric of this Nation. I certainly agree with the assessment that Social Security is one of the most important and most popular government programs in our Nation's history.

Unfortunately, the Social Security system does face severe financial challenges in the coming decades. Because the system is designed as a pay-as-you-go program, its financial status is quite dependent on demographic trends.

For a variety of otherwise very positive developments, including the fact that Americans are living longer than ever before, Social Security's expenditures are going to begin to exceed its tax revenue in just a dozen years. As the ratio of workers to retirees continues to fall in the decades to come, these deficits will widen.

As a result of this collision between demography and the pay-as-you-go structure, it is clear that some changes to the program will be required in the future.

But as important as the Social Security financial status is, it is important to note that the Advisory Board does have other important issues to address as well. These include, for example, the disability insurance program and the need to continually streamline the disability determination process.

As it stands today, many applicants find themselves literally spending years trying to navigate the complexities of the application and hearing process, a situation which can sometimes impose severe hardship on those families. This is an issue that the Commissioner and the Board have been addressing and we will continue to address, if I am confirmed.

There are a number of other issues as well. On all of these issues, I look forward to applying my academic, as well as policy, background to help the Board in tackling these difficult problems.

I have every intention, if confirmed, of becoming a very active member of this board, and I look forward to working with the members and the staff of this committee to find ways to help improve the retirement security of current and future generations of workers.

I would like to thank you very much for this opportunity, and I will be very happy to answer any questions that you may have.

The CHAIRMAN. Thank you very much.

[The prepared statement of Dr. Brown appears in the appendix.]

The CHAIRMAN. For the staff of other members, I would like to have you tell the members that it would be my desire to vote on these nominees sometime yet this week in between votes on the floor.

In order to accommodate members getting their questions answered, since they will not be able to do it orally, I would like to have all questions that these nominees should be expected to answer submitted by 5 p.m. today.

Then I would ask each of you then, because I try to honor the requests of people who want information to get information, unless I would see it being done for political reasons, to make sure that

they are accommodated. So, I would respect my colleagues' requests, if you could get all of your questions answered.

The first series of questions are the same that we ask every nominee. I will state them to you as a group, but I will ask each of you to answer separately.

Is there anything that you are aware of in your background that might present a conflict of interest with the duties of office to which you have been nominated?

Mr. Fratto?

Mr. FRATTO. No, sir.

The CHAIRMAN. Mr. Bohigian?

Mr. BOHIGIAN. No, sir.

The CHAIRMAN. Mr. Spooner?

Mr. SPOONER. No, sir.

The CHAIRMAN. Mr. Ventimiglia?

Mr. VENTIMIGLIA. No, sir.

The CHAIRMAN. Dr. Crowder?

Dr. CROWDER. No, sir.

The CHAIRMAN. Dr. Brown?

Dr. BROWN. No, sir.

The CHAIRMAN. Do you know of any reason, personal or otherwise, that would in any way prevent you from fully and honorably discharging the responsibilities of the office to which you have been nominated?

Mr. Fratto?

Mr. FRATTO. No, Mr. Chairman.

The CHAIRMAN. Mr. Bohigian?

Mr. BOHIGIAN. No, sir.

The CHAIRMAN. Mr. Spooner?

Mr. SPOONER. No, sir.

The CHAIRMAN. Mr. Ventimiglia?

Mr. VENTIMIGLIA. No, sir.

The CHAIRMAN. Dr. Crowder?

Dr. CROWDER. No, sir.

The CHAIRMAN. Dr. Brown?

Dr. BROWN. No, sir.

The CHAIRMAN. Lastly, do you agree, without reservation, to respond to any reasonable summons to appear and testify before any duly constituted committee of Congress, if confirmed?

Mr. Fratto?

Mr. FRATTO. Yes, sir.

The CHAIRMAN. Mr. Bohigian?

Mr. BOHIGIAN. Yes, sir.

The CHAIRMAN. Mr. Spooner?

Mr. SPOONER. Yes, sir.

The CHAIRMAN. Mr. Ventimiglia?

Mr. VENTIMIGLIA. Yes, sir.

The CHAIRMAN. Dr. Crowder?

Dr. CROWDER. Yes, sir.

The CHAIRMAN. Dr. Brown?

Dr. BROWN. Yes, sir.

The CHAIRMAN. The vote has just started, so I am not going to be able to ask very many questions. I think there is a question here for Mr. Ventimiglia. I am not going to ask, but it gives me an op-

portunity to state something that I would ask your cooperation with in regard to a generic approach that I use, as Chairman of this committee, or even as an individual member of the Senate, for all my years even before I became a member of the Senate.

In the sense—and I am not saying this just to Mr. Ventimiglia, but to all of you—that I take very seriously my constitutional responsibility of oversight to see that the laws are faithfully executed by the executive branch of government and that the money is spent wisely, to make sure that, in order to do that, there are a couple of things that I think are very important.

One, to have respect for whistle-blowers. Not every whistle-blower is necessarily right, but I try to give every person an opportunity to express their case to me. There is a whistle-blower protection law. I see whistle-blowers under both Republican and Democratic administrations being respected like a skunk at a picnic on a Sunday afternoon, and I do not think that is the intent of the law, and it is not the right thing to do.

People that are patriotic and come to us with information when they think something is wrong, and they usually come after they have a legitimate opportunity within the bureaucracy, or at least they feel like they have, they come.

So I would ask for all of you, that that would be the proper respect for them and to make sure that people that give information to Congress, that the law protects them giving that information, particularly if Congress asks for it, in particular, people that are called to testify.

That would lead me also to the point that one of the frustrations that I have, and I was going to ask also a question about, is when we do ask for information, it seems like we usually, after a period of time, get a partial answer to most of our questions, but we never get a complete answer.

There is always an unwillingness to totally level with us and seek it out. You end up holding up nominations to get people's attention. You end up making phone calls that ought to be unnecessary. I mean, one of the agencies of government once referred to his agency as "our institution."

I said, that is really what is wrong, your attitude that this is "our institution." We all work for the American people. It is not Commerce Department as an institution with an end unto itself. It is not HHS, it is not Special Trade Representative. You know, you could name them all.

But we all work for the American people. There are only probably about three areas of government where there is not legitimacy for total transparency. Number one would be executive privilege, constitutional power of the President, number two would be privacy, and number three would be national security. There is no other reason.

Oh, maybe to some extent there is some intellectual property issue, which I do not think is very often, but if there is, maybe that. But except for those things, there is nothing that you ought to know that I do not know, and then in turn the people of this country know, and to make our constitutional process work. So, I would ask you for that sort of cooperation.

Dr. Crowder, you probably would expect me, as a farmer, to be interested in a couple of things in your area. I strongly believe that the United States gets the best possible trade agreements from our trading partners when everything is on the table.

If we start taking things off the table, our trading partners will do the same. More often than not, the products that they want taken off the table are our most competitive agricultural products, like pork or corn.

Could you assure me today that you will fight to make sure that our trade agreements are comprehensive and that you do not exclude products like sugar from the negotiating table? Let me remind you, how you answer that, Senator Baucus is going to be watching your answer.

Dr. CROWDER. I will answer that question in the affirmative, Senator. In recollection of the comment I made to Senator Baucus, and the fact that I fully recognize that sugar is a sensitive product, we will consult with Senator Baucus, you, and others on all sensitive items that do fall under these agreements.

The CHAIRMAN. All right.

I guess I have to go vote, so the hearing is adjourned. Most of the questions you will have to answer in writing, so please do that just as soon as you can. Thank you all very much.

[Whereupon, at 12:03 p.m., the hearing was concluded.]

APPENDIX

ADDITIONAL MATERIAL SUBMITTED FOR THE RECORD

Written Statement by David Bohigian

Mr. Chairman, Senator Baucus, and distinguished Members of the Committee, thank you for the opportunity to appear before you today.

First, I would like to introduce my wife, Catherine, who has shared with me more of her love, intelligence, and kindness than I could have imagined. Our children Kate and Charlie are also here, who constantly fuel my imagination for the better world we are all working to create.

I would also like to recognize my fellow nominees here on the panel, and, if confirmed, I particularly look forward to working with David Spooner at the Department of Commerce to vigorously enforce our trade agreements and ensure our partners are playing by the rules.

It has been a privilege to serve the President and the American people in the Office of Policy and Strategic Planning of the U.S. Department of Commerce for the past three years. I am honored to be President Bush's nominee to serve as Assistant Secretary of Commerce for Market Access and Compliance, and I am most grateful to Secretary Gutierrez and Deputy Secretary Sampson for their confidence and support.

Mr. Chairman, as a Commerce official and a businessman, I have helped U.S. companies navigate the international marketplace. I have seen first-hand the marvels of American productivity and the opportunities we have in working with the 95 percent of the world's population that does not have the blessing of living in this great Nation. Collectively, my experiences have instilled in me a strong belief in the power of the American free enterprise system.

The United States enjoys the most successful, competitive, diverse and innovative economy in the world. The United States maintains the most open major economy in the world. These are not unrelated. The record is clear. The United States remains a beacon of freedom and prosperity because it remains committed to working with people and products from all over the world. According to a study by the Institute for International Economics, U.S. annual incomes are approximately \$1 trillion higher, or \$9,000 per household, due to trade.

Exports are a key driver of exceptional growth in the U.S. economy and excellent jobs for U.S. workers. One out of six jobs in the United States depends on trade, and all consumers enjoy the benefits. In factories and farms, through ports and Internet portals, Americans are competing and winning in the global marketplace. Opening new markets around the world and promoting free and fair trade will allow our workers to prosper in

the years ahead. If confirmed, I will ensure that those who would enjoy the benefits of working with Americans understand their responsibility to allow our workers and companies to compete on a level playing field.

At the dawn of the 20th century, our national economy was integrating, paving the way for unparalleled opportunity, freedom and prosperity. As the 21st century begins, integration of the global economy holds unprecedented potential. The nations of the world must promote the prosperity of their people through joining the United States in advancing international economic freedom and cooperation. Every day, in every part of the Nation and the world, more people experience the benefits of trade.

Voluntary exchange is the heart of the free market. Billions of exchanges occur every day, with each party expecting to gain from the transaction. In theoretical terms, trade is a non-zero activity. Simply put, the more exchange the better.

More than merely goods and services are exchanged. For centuries, all great civilizations have allowed commerce, art and ideas to flow across borders to the betterment of all. These interactions have promoted tolerance and understanding between cultures in innumerable ways, and governments have encouraged peace and prosperity through promoting these exchanges.

Despite these clear gains, obstacles remain. Total elimination of global barriers to trade in goods and services could ultimately increase annual incomes to the average U.S. family of four by an estimated \$7,800. In addition, the elimination of global trade barriers could lift up to 500 million of the world's poor out of poverty over the next fifteen years.

Traditionally, tariffs were the key impediment to trade. The United States has led the way in lowering these barriers, and today, for most products, tariffs are not as significant as they once were. While continuing to lower tariffs, other important barriers must be addressed in the years ahead. Intellectual property must be respected and protected, not unfairly reproduced or pirated. Standards must harmonize the needs of consumers and firms rather than promote protectionism. Health and safety regulations must be based on rational analysis instead of fear of competition. Business decisions must rely on the rule of law, not capriciousness. Finally, we must ensure that trade improves the lives of those who produce, rather than enrich corrupt cabals.

The true wealth of nations comes from the productivity of its people and the resources it has available. Seeking to isolate an economy or hoard resources has never led a country to prosperity. America has led the way in showing that democratic and economic freedoms generate opportunities. Creating a level-playing field for American workers unleashes innovation and unlocks human resources around the world, bringing freedom and prosperity for all.

If confirmed, I will work tirelessly to obtain market access for American firms and workers and to achieve full compliance by foreign nations with trade agreements they

sign with our country. Market Access and Compliance officers will continue to work with Congress and other United States government agencies to help U.S. businesses overcome barriers to trade and investment. This extraordinary group of men and women remain committed to working to level the playing field for American goods and services and moving our economy and people forward. With your support, I would be honored to lead this dedicated and talented team.

If confirmed, I commit myself to ensuring that Americans are able to pursue prosperity and promote freedom around the world. Today, I reaffirm the words of Cordell Hull, a Senator who later became President Franklin D. Roosevelt's Secretary of State, who said, "I have never faltered, and I will never falter, in my belief that enduring peace and the welfare of nations are indissolubly connected with friendships, fairness, equality and the maximum practicable degree of freedom in international trade."

Thank you for your time. I would be happy to answer any questions the Committee may have.

**SENATE FINANCE COMMITTEE
STATEMENT OF INFORMATION REQUESTED OF NOMINEE**

A. BIOGRAPHICAL INFORMATION

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

David Steele Bohigian

2. Position to which nominated:

Assistant Secretary of Commerce, Market Access and Compliance

3. Date of nomination:

October 7, 2005

4. Address: (List current residence, office, and mailing addresses.)

Home: 2725 36th Place, NW, Washington, DC 20007

Work: 1401 Constitution Avenue, NW, Room 5865, Department of Commerce,
Washington, DC 20032

5. Date and place of birth:

March 7, 1970, San Francisco, CA

6. Marital status: (Include maiden name of wife or husband's name.)

Married, Catherine Michelle Crutcher

7. Names and ages of children:

Kate Elizabeth Bohigian, 2 years, Charles Steele Bohigian, 11 months

8. Education: (List secondary and higher education institutions, dates attended, degree received, and date degree granted.)

Washington University School of Law 1992-1995, JD May 2005

Washington & Lee University, 1988-1992, BA June 1992

9. Employment record: (List all jobs held since college, including the title or description of job, name of employer, location of work, and dates of employment.)

Director, Office of Policy & Strategic Planning (OPSP) and Director, Office of Faith-Based and Community Initiatives	US Dept of Commerce	Washington, DC	July 2004 to Current
Deputy Director, OPSP	US Dept of Commerce	Washington, DC	November 2002 to July 2004
Consultant	Self-Employed	Washington, DC	January 2002 to November 2002
Managing Director	Idealab	London, New York and Los Angeles	January 2000 to January 2002
Managing Director	VenCatalyst	Washington, DC	June 1999 to January 2000
Director/	Jefferson Partners	Washington, DC	October 1995 to June 1999
General Counsel Office	Jefferson Group	Washington, DC	October 1995 to May 1998
Intern- Staff Assistant	Office of Speaker Newt Gingrich	Washington, DC	January 1995 to August 1995
Law Clerk	AG Edwards and Sons	St. Louis, MO	May 1994 to January 1995
Law Clerk	Goffstein, Kraus, Sherman, Seigel and Weinberg	St. Louis, MO	August 1993 to May 1994
Driver	Dining Express	St. Louis, MO	June 1993 to August 1993
Waiter	Cactus Dani's	St. Louis, MO	June 1993 to June 1993
Intern	St. Louis County Prosecutor's Office	St. Louis, MO	May 1993 to August 1993

10. Government experience: (List any advisory, consultative, honorary, or other part-time service or positions with Federal, State or local governments, other than those listed above.)

None

11. Business relationships: (List all positions held as an officer, director, trustee, partner, proprietor, agent, representative, or consultant of any corporation, company, firm, partnership, other business enterprise, or educational or other institution.)

Director, Jefferson Partners LLC (Membership interest in LLC)
Managing Director, Board Member, VenCatalyst, LCC (Membership interest in LCC)
Managing Director, Idealab Inc.
Chief Executive Officer and Board Member, Ice.com Jewelry, Inc.
Chief Operating Officer and Board Member, SCAN Mobile Ltd.
Consultant, Tucows Company
Consultant, Jack Kincaid
Consultant, Global Network Architects Corporation
Consultant, AMT Partners
Board of Advisors, Logex, LLC
Consultant and Board of Directors, HomeWrite Corporation
Agent/Consultant (unpaid), AppleCapitol, Applebee's Franchise, Donald Roth

12. Memberships: (List all memberships and offices held in professional, fraternal, scholarly, civic, business, charitable, and other organizations.)

Missouri Bar Association
Phi Kappa Sigma Fraternity
Summer Membership, Metropolitan Club
Eagle Scout Association

13. Political affiliations and activities:

a. List all public offices for which you have been a candidate.

None

b. List all memberships and offices held in and services rendered to all political parties or election committees during the last 10 years.

Services: 72-hour team, Republican National Committee 2004

c. Itemize all political contributions to any individual, campaign organization, political party, political action committee, or similar entity of \$50 or more for the past 10 years.

Bush-Cheney 2004 03/24/2004, 250.00 08/27/2004, 800.00

Bush-Cheney 2000 11/16/2000, 525.00

Talent for Senate November 2000 \$210 (estimate)

14. Honors and Awards: (List all scholarships, fellowships, honorary degrees, honorary society memberships, military medals, and any other special recognitions for outstanding service or achievement.)

Gold Medal Award, US Department of Commerce (Highest Award at Commerce)

15. Published writings: (List the titles, publishers, and dates of all books, articles, reports, or other published materials you have written.)

No Published Writings

16. Speeches: (List all formal speeches you have delivered during the past five years which are on topics relevant to the position for which you have been nominated. Provide the Committee with two copies of each formal speech.)

While I have given several talks, there are no "formal" speeches, generally just work from notes.

17. Qualifications: (State what, in your opinion, qualifies you to serve in the position to which you have been nominated.)

In the private sector and in government service, I have worked to gain market access for US companies. While based in London in the private sector, I worked to introduce small businesses to the European market. At the Commerce Department, I have been actively involved in trade policy, and have worked to open markets for US companies in Asia, Africa, North America and Europe. I have worked with two Commerce Secretaries, International Trade Administration personnel, and other Administration officials on a wide range of policy matters across several industries. I have had significant management experience, which has included running companies and leading offices.

B. FUTURE EMPLOYMENT RELATIONSHIPS

1. Will you sever all connections with your present employers, business firms, associations, or organizations if you are confirmed by the Senate?

If not, provide details.

Present Employer is Department of Commerce, no other employment relationships

2. Do you have any plans, commitments, or agreements to pursue outside employment, with or without compensation, during your service with the government? If so, provide details.

No

3. Has any person or entity made a commitment or agreement to employ your services in any capacity after you leave government service? If so, provide details.

No

4. If you are confirmed by the Senate, do you expect to serve out your full term or until the next Presidential election, whichever is applicable? If not, explain.

Yes, expect to serve until the next Presidential Election

C. POTENTIAL CONFLICTS OF INTEREST

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

The actions described in the Ethics Agreement I executed in anticipation of my nomination for the position of Assistant Secretary for Market Access and Compliance, a copy of which is attached to this document, will resolve potential conflicts between my private interests and the duties I would undertake if confirmed. In particular, I will divest certain assets and disqualify myself from matters affecting my spouse's financial interest in a family partnership that owns a hotel in Montana.

2. 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

2. Do you have any plans, commitments, or agreements to pursue outside employment, with or without compensation, during your service with the government? If so, provide details.

No

3. Describe any activity during the past 10 years in which you have 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. Activities performed as an employee of the Federal government need not be listed.

None

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

(Provide the Committee with two copies of any trust or other agreements.)

I will consult with ethics officials at the Department of Commerce and, if appropriate, divest myself of conflicting interests, recuse myself, or obtain a conflict of interest waiver under 18 U.S.C. § 208(b) if the interest is not so substantial.

5. Two copies of written opinions should be provided directly to the Committee by the designated agency ethics officer of the agency to which you have been nominated and by the Office of Government Ethics concerning potential conflicts of interest or any legal impediments to your serving in this position.

On October 12, 2005, Barbara S. Fredericks, Alternate Designated Agency Ethics Official, U.S. Department of Commerce sent letters to the Chairman and Ranking Member of the Committee on Finance indicating that in view of the divestitures and disqualifications I have agreed to undertake, my financial interests should present no impediment under 18 U.S.C. § 208 and related regulations to the execution of my duties as Assistant Secretary for Market Access and Compliance.

6. The following information is to be provided only by nominees to the positions of United States Trade Representative and Deputy United States Trade Representative:

Have you ever represented, advised, or otherwise aided a foreign government or a foreign political organization with respect to any international trade matter? If so, provide the name of the foreign entity, a description of the work performed (including any work you supervised), the time frame of the work (e.g., March to December 1995), and the number of hours spent on the representation.

D. LEGAL AND OTHER MATTERS

1. Have you ever been the subject of a complaint or been investigated, disciplined, or otherwise cited for a breach of ethics for unprofessional conduct before any court, administrative agency, professional association, disciplinary committee, or other professional group? If so, provide details.

No

2. Have you ever been investigated, arrested, charged, or held by any Federal, State, or other law enforcement authority for a violation of any Federal, State, county or municipal law, regulation, or ordinance, other than a minor traffic offense? If so, provide details.

Yes, Disorderly Conduct. 1988. Collier County, Florida, arrested and convicted after being at a party that was broken up by police. Officer and judge noted good conduct.

3. Have you ever been involved as a party in interest in any administrative agency proceeding or civil litigation? If so, provide details.

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, provide details.

Yes, see Disorderly Conduct, above

5. Please advise the Committee of any additional information, favorable or unfavorable, which you feel should be considered in connection with your nomination.

E. TESTIFYING BEFORE CONGRESS

1. If you are confirmed by the Senate, 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

2. If you are confirmed by the Senate, are you willing to provide such information as is requested by such committees?

Yes

Senate Committee on Finance
Questions for the Record
David Bohigian
December 15, 2005

The Honorable Max Baucus

Question 1: As I mentioned in my opening statement, I believe it is difficult to maintain support for further trade liberalization if U.S. farmers, ranchers, and businesses feel they aren't getting what they were promised in previous trade deals. If confirmed, what are some of the top priorities you plan to address? I'd like to ask you to report back to me in 6 months on the progress you have made on those priorities.

Answer: If confirmed, I will address the following top priorities: intellectual property rights, China, and market access and compliance case management.

I plan to aggressively pursue improvements in **intellectual property rights (IPR)** protection and enforcement around the world. The protection of intellectual property is vital to the United States' economic growth. Piracy and counterfeiting impairs our companies' ability to compete globally and prevents us from expanding our economy and exports. It also affects the health and safety of consumers everywhere when counterfeit pharmaceuticals, electrical parts, batteries, or even infant formula are placed into international supply and distribution channels.

I understand that this Administration has been taking steps since day one to strengthen IPR worldwide by negotiating trade agreements that include the highest level of intellectual property protection and enforcement of any agreements in the world, and by using all points of leverage we have at our disposal, including the Special 301 annual review, the Generalized System of Preferences process, bilateral and regional negotiations, and consultations multilaterally through the WTO. If confirmed, I will ensure that we use all of these tools to hold our trading partners accountable to trade agreements they have made with us. During meetings with my counterparts in foreign governments I will raise the importance of closing the gap on enforcement. Even when governments have passed IPR laws that meet their bilateral or multilateral obligations, it is essential that they follow through by effectively implementing and enforcing those laws. The right laws on the books are a good start, but enforcement of those laws is necessary to deter intellectual property theft.

I will also support our focus on heightening global IPR protection and enforcement through the Administration's Strategy Targeting Organized Piracy (STOP) Initiative. We need to help American businesses understand intellectual property rights and how to secure and protect their rights; therefore, if confirmed, I will ensure that Commerce

continues its outreach and education efforts to provide small-and-medium-sized enterprises (SMEs) with the information and resources they need to protect themselves against intellectual property theft.

My top priorities for **China**, if confirmed, will include working with my interagency colleagues to ensure that China honors the commitments it made during its WTO accession process. These include strengthening enforcement of intellectual property rights for U.S. companies and increasing our efforts to ensure China develops an open and transparent set of technical standards and conformity assessment procedures that do not disadvantage U.S. exporters. I will also want to help organize a 2006 session of the Joint Commission on Commerce and Trade that again produces concrete results for U.S. companies and workers. I will work with U.S. companies facing individual market access and compliance problems in China.

Another priority I would have, if confirmed, is for aggressive use of our **market access and compliance case management system** to ensure that we take decisive action on high value market access problems. I plan to implement performance measures to track the economic impact of foreign trade barriers, and sharpen our focus on countries and issues that present the biggest challenge for U.S. exporters. It is vital that we work closely with our customers, U.S. firms and workers, so they can identify trade barriers, and have the full weight of the U.S. government to overcome them. I will also implement new measures to ensure that SMEs are well represented, and can take advantage of trade agreements signed by the United States.

Tackling many of these issues will be a long-term effort, but, if confirmed, I would be pleased to update you in six months on our efforts and progress.

Question 2: Intellectual property piracy in both China and Russia remain at epidemic levels. Counterfeit DVDs, computer software, pharmaceuticals, and even auto parts are widely available. This is a difficult and intractable problem, but it's the job of the Assistant Secretary for Market Access and Compliance to think of creative ways to address the problem. What are your ideas and thoughts on this problem, especially as it concerns China and Russia?

Answer: Commerce is always looking for creative ways to address the problem of intellectual property piracy. Earlier this year, Secretary Gutierrez announced the expansion of our program to place intellectual property attaches in American embassies and consulates. Starting next year, Commerce plans to station additional IPR attaches in **China**.

Commerce is also reaching out to U.S. companies through the Administration's Strategy Targeting Organized Piracy (STOP) Initiative to help companies establish their rights at home and abroad. On November 10, the International Trade Administration (ITA) launched a China IPR Advisory Program in conjunction with the American Bar

Association, the National Association of Manufacturers and the American Chamber of Commerce in China, which allows U.S. companies to contact an experienced intellectual property attorney for a free, one-hour consultation to learn how to protect and enforce IPR in China. In addition, the Department of Commerce has developed a "Case Referral Mechanism" to more effectively address specific IPR issues of U.S. companies with China's Ministry of Commerce.

The Market Access and Compliance (MAC) unit continues its domestic outreach, which helps the U.S. business community, particularly SMEs, better understand the opportunities and challenges of the Chinese market. MAC has begun outreach with targeted capacity building programs in China, to help Chinese agencies fully implement China's international commitments. Outreach will also include working with the local Chinese business community to explain how the escalating problem of piracy and counterfeiting hurts their country and the global economy.

Additionally, Commerce is using meetings of the U.S.-China Joint Commission on Commerce and Trade (JCCT) IPR Working Group to ensure progress is made on China's existing IPR commitments and to secure new, specific commitments. The importance of closing the gap on enforcement will also be raised with the Chinese during these meetings. It is essential that they follow through by effectively implementing and enforcing their IPR laws. The right laws on the books are a good start, but enforcement of those laws is necessary to deter intellectual property theft. Furthermore, under JCCT auspices, China has agreed to station an IPR ombudsman at the PRC embassy in Washington and work with Commerce to weed out counterfeit goods at trade fairs. If confirmed, I am committed to ensuring that we use all of these tools to hold China accountable and ensure they comply with their IPR commitments.

U.S. government efforts with **Russia**, including consultation and advocacy at high levels of the Russian government in all fora, are crucial for creating an improved legislative framework as well as developing the political will required for effective enforcement. Both are basic conditions for achieving effective IPR protection.

If confirmed, I will seek to further increase engagement by the Secretary and other senior Commerce officials in order to create momentum at the highest levels of the Russian government for developing an effective and sustained IPR effort. There are signs that steady, high-level pressure is resulting in some improvements in the legislative framework as well as enforcement.

Establishment of effective IPR protection in Russia will ultimately require a government-wide, fully coordinated effort, including MAC organizing a visit to Russia by a delegation led by the new IPR International Enforcement Coordinator, Chris Israel, who is located at the Department of Commerce and reports to the Secretary.

Despite U.S. provision of technical assistance, the Russian government still badly needs increased technical expertise. MAC will coordinate with USPTO to provide increased technical assistance, including implementation of plans to station an IPR attache at the U.S. Embassy in Russia.

MAC will reach out to companies on the ground in Russia to make sure that their voices and views are adequately heard, and increase its consultations with the American Chamber of Commerce in Moscow. MAC will also contact Russian rights holders and their associations to encourage them to work with the Russian government to seek intensified efforts to improve IPR protection and enforcement.

Confirmation Hearing

Statement by Dr. Jeffrey R. Brown
Social Security Advisory Board Nominee

Before the Committee on Finance
United States Senate

December 14, 2005

Statement of Jeffrey R. Brown¹

Mr. Chairman, Senator Baucus, and members of the Committee:

I am honored to appear before you today as a nominee of the President to be a member of the Social Security Advisory Board.

If you will indulge me for just a moment, I would like to recognize the members of my family that have accompanied me here today. They include my wife Lisa Brown, our daughters Madeline and Sophie, and my parents, Melvin and Ann Brown. I am sure that everyone at this hearing would also like to join me in thanking my parents-in-law, Gene and Janet Eggleston, who are babysitting our two-year old son Andrew so that he does not run around the room during this special event.

As you know, the Social Security Advisory Board was established in 1994 to provide independent and *bipartisan* advice to Congress, the President, and the Social Security Commissioner on matters related to the OASDI and SSI programs. Over the years, the Advisory Board has performed these functions admirably, producing valuable consensus reports on issues ranging from how to improve the agency's disability determination process to the need to act quickly to improve the sustainability of Social Security's finances.

If I am confirmed, I look forward to working closely with the Advisory Board members and staff to continue this bipartisan tradition.

As you know, there are few government programs that have as direct an effect on the lives of so many Americans as does the Social Security program. Nearly 160 million workers are paying taxes to support Social Security, while more than 48 million Americans are receiving benefits, either as retired or disabled workers, dependents or survivors.

¹ I am an Associate Professor of Finance and the Julian Simon Faculty Fellow in the College of Business at the University of Illinois at Urbana-Champaign. I am also a Research Associate of the National Bureau of Economic Research (NBER) and Associate Director of the NBER Retirement Research Center. In addition to my academic work related to Social Security, pensions and retirement security, I have extensive experience working on Social Security as a Senior Economist with the President's Council of Economic Advisers, a member of the staff of the President's Commission to Strengthen Social Security, and a member of the National Academy of Social Insurance expert panel on "Uncharted Waters: Paying Benefits from Individual Accounts in Federal Retirement Policy."

The aggregate financial flows associated with Social Security are enormous, with benefit payments in the year 2005 expected to exceed 500 billion dollars. Social Security is the major source of income for most of the elderly population. Approximately two two-thirds of U.S. households pay more each year in payroll taxes to support Social Security than they pay in income taxes.

Numbers aside, the Social Security program has become part of the social fabric of this nation. I agree with the assessment that Social Security is one of the most popular and most successful government programs in our nation's history. It has clearly delivered on the vision put forth by President Franklin Roosevelt to "give some measure of protection to the average citizen and to his family against poverty-stricken old age."

Unfortunately, the Social Security system faces severe financial challenges in the coming decades. Because Social Security is designed as a pay-as-you-go program, its financial status is very dependent on demographic trends. For a variety of otherwise positive developments – including the fact that Americans are living longer than ever before – Social Security's expenditures will begin to exceed its tax revenue around 2017 – just a dozen years from now.

As the ratio of workers-to-retirees continues to fall, Social Security's cash deficits will grow rapidly in the decades to follow.

As a result of this collision between demography and Social Security's pay-as-you-go structure, it is a simple budgetary, economic, and mathematical reality that something must change. Some reform of the system is required to bring the program's finances back into long-term balance.

The Social Security Advisory Board has been a forceful advocate of acting sooner rather than later to address these looming shortfalls. If confirmed, one of my priorities as a Member will be to continue to emphasize the need for Congress and the President to set aside partisan differences and meaningfully address this important policy issue.

However, it is also very important to note that there are other critical issues that deserve the continued attention of the Social Security Advisory Board in the years to come.

For example, the disability program is an essential part of our social insurance system in the U.S., but it is a program in need of continual improvement. Despite the progress made in recent years, there remains a need to streamline the disability determination process. Many applicants find themselves navigating the complex system of applications and appeals for years before ultimately being approved for benefits, a situation that sometimes imposes severe financial hardship on applicants and their families.

There are many other issues as well, ranging from proactively managing the large numbers of SSA employees who will be retiring from public service in the coming decade, to considering SSA's role in combating identity theft, to analyzing the efficacy of the SSI program in alleviating poverty.

On these issues and others, I am looking forward to the opportunity to apply my academic, research and policy expertise to tackle these difficult problems. If confirmed, I have every intention of becoming an active Member of the Board, and I look forward to working with the Members and staff of this Committee to help improve retirement security for both the current and future generations of workers.

I would like to thank you for allowing me this opportunity. I would be happy to answer any question that you may have.

**SENATE FINANCE COMMITTEE
STATEMENT OF INFORMATION REQUESTED OF NOMINEE**

A. BIOGRAPHICAL INFORMATION

1. Name: (Include any former names used.) Jeffrey Robert Brown
2. Position to which nominated: Member, Social Security Advisory Board
3. Date of nomination: January 4, 2005
4. Address: (List current residence, office, and mailing addresses.)

<u>Residence</u>	<u>Office</u>
3007 Sandhill Lane	340 Wohlers Hall, MC-706
Champaign, IL 61822	University of Illinois
	Champaign, IL 61820
5. Date and place of birth:

February 16, 1968
Hamilton, Ohio
6. Marital status: (Include maiden name of wife or husband's name.)

Married (since July 28, 1990) to Lisa Lynn (Eggleston) Brown
7. Names and ages of children:

Madeline Elisabeth Brown, age 6 (Feb. 2, 1998)
Sophie Ann Brown, age 4 (July 4, 2000)
Andrew Robert Brown, age 1 (October 23, 2003)
8. Education: (List secondary and higher education institutions, dates attended, degree received, and date degree granted.)

Massachusetts Institute of Technology, 1995-99, Ph.D. in economics
awarded June 1999
Harvard University, Kennedy School of Government, 1993-95, Masters in
Public Policy (MPP) awarded June 1995
Miami University (Ohio), 1986 – 1990, BA in economics and political
science awarded May 1990

9. Employment record: (List all jobs held since college, including the title or description of job, name of employer, location of work, and dates of employment.)
- Assistant Professor, Department of Finance, University of Illinois at Urbana-Champaign, Champaign Illinois, June 2002 – present
 - Associate Director, Center for Retirement Research, National Bureau of Economic Research, Cambridge MA, October 2003 - present
 - Faculty Research Fellow, National Bureau of Economic Research, Cambridge, MA, June 1999 – present
 - Jeffrey R. Brown, Consulting, 1999 - present
 - Senior Economist, President's Council of Economic Advisers, Washington DC, May 2001 – June 2002
 - Assistant Professor, Kennedy School of Government, Harvard University, Cambridge, MA, July 1999 – June 2002
 - Teaching Assistant, Massachusetts Institute of Technology, Cambridge, MA Fall 1998
 - Summer Instructor, Kennedy School of Government, Harvard University, Cambridge, MA, Summers 1995 and 1997
 - Research Assistant, National Bureau of Economic Research, Cambridge, MA, 1994 – 1999
 - Summer research assistant, National Economic Research Associates, Cambridge, MA, summer 1994
 - Brand Manager, the Procter and Gamble Company, Cincinnati, OH, 1993
 - Assistant Brand Manager, the Procter and Gamble Company, Cincinnati, OH, 1990 – 1993
10. Government experience: (List any advisory, consultative, honorary, or other part-time service or positions with Federal, State or local governments, other than those listed above.)
- Informal advisory panel on study of terrorism insurance for Office of Economic Policy at U.S. Treasury, January 2003.
 - Expert panel on retirement security issues for GAO, 2003.
 - Served as staff to President's Commission to Strengthen Social Security, May 2001 – January 2002.
 - Served as consultant to Council of Economic Advisers / Executive Office of the President, March 2001 – April 2001.

11. Business relationships: (List all positions held as an officer, director, trustee, partner, proprietor, agent, representative, or consultant of any corporation, company, firm, partnership, other business enterprise, or educational or other institution.)

Current employment with the University of Illinois and the National Bureau of Economic Research as outlined in question 9.

Member of the Board, Countryside School, Champaign IL (a non-profit, private K-8 school in Champaign, IL that my daughter attends)

Jeffrey R. Brown, consulting – have done a limited amount of economic consulting work / research for clients, including:

- Wrote a "white paper" on annuities for Americans for a Secure Retirement
- Provided technical advice to a law firm (no depositions or testimony ever provided)

12. Memberships: (List all memberships and offices held in professional, fraternal, scholarly, civic, business, charitable, and other organizations.)

Member of:

First Presbyterian Church of Champaign
American Economic Association
American Risk and Insurance Association
Risk Theory Society
National Academy of Social Insurance
Finance committee and Board, Countryside School, Champaign, IL

Other:

Fellow, National Bureau of Economic Research
Fellow, Employee Benefits Research Institute
Fellow, China Center for Social Security & Insurance Research

13. Political affiliations and activities:

- a. List all public offices for which you have been a candidate.

None

- b. List all memberships and offices held in and services rendered to all political parties or election committees during the last 10 years.

Registered as an "independent" in Massachusetts during mid-1990s.

Registered as Republican since late 1990s.

In fall 2003, I provided informal feedback on a Social Security reform proposal for candidate running for Republican nomination for Senate (IL)

Have spoken to Active Senior Republicans of Champaign County and the College Republicans at the Univ. of Illinois.

- c. Itemize all political contributions to any individual, campaign organization, political party, political action committee, or similar entity of \$50 or more for the past 10 years.

To the best of my recollection my only political contributions since 1995 have been:

- \$100 to 2004 Bush-Cheney re-election campaign in 2004
- \$100 to National Republican party in 2002 or 2003 (date uncertain)
- \$50 - \$100 (amount uncertain) to Illinois Republican party in 2002 or 2003 (date uncertain)
- \$50 - \$100 (amount uncertain) in 2002 to campaign of Tim Penny (former Democratic Congressman and member of the President's Commission to Strengthen Social Security, who ran for Governor of Minnesota as a reform party candidate)

14. Honors and Awards: (List all scholarships, fellowships, honorary degrees, honorary society memberships, military medals, and any other special recognitions for outstanding service or achievement.)

Robert Wood Johnson Foundation Scholar in Health Policy Award, 2003
 University of Illinois List of Teachers Ranked as Excellent, 2003, 2004
 Kulp-Wright Book Award, Honorable Mention, 2003
 Elected to National Academy of Social Insurance, 2002
 Lumina Award for Pioneering Research in Insurance, 2001
 National Science Foundation Graduate Fellow, 1995-1999
 Health and Aging Fellow, NBER & National Institute on Aging, 1997-1998
 MIT Department of Economics Graduate Fellowship, 1995-1996
 Jacob Javits Graduate Fellow, U.S. Department of Education, 1993-1995
 Phi Kappa Phi National Graduate Fellow, 1993-1994
 Mortar Board Foundation National Graduate Fellow, 1993-1994
 Alpha Lambda Delta National Graduate Fellow, 1993-1994
 Snider Prize in Economics, Miami University, 1990
 Phi Beta Kappa, Miami University, 1989
 Congressional Gold Award (for public service), 1987
 Numerous awards and honor societies while undergraduate student
 Order of the Arrow Founder's Award (Boy Scouts of America), 1986
 Eagle Scout, 1983

15. Published writings: (List the titles, publishers, and dates of all books, articles, reports, or other published materials you have written.)
- "Retirement Income, Insurance and Bequests: Implications of Mortality Uncertainty in a Stochastic Life Cycle Model" MIT PhD Doctoral Thesis.
- The Role of Annuities in Financing Retirement*, 2001, published by MIT Press. With Olivia Mitchell, Jim Poterba, and Mark Warshawsky. Received "Honorable Mention" in Kulp-Wright Book Award from the American Risk & Insurance Association in 2003.
- "Are the Elderly Really Over-Annuitized? New Evidence on Life Insurance and Bequests," in D. Wise, ed., Themes in the Economics of Aging, University of Chicago Press: Chicago, IL p. 91-124, 2001.
- "The Role of Real Annuities and Indexed Bonds in an Individual Accounts Retirement Program," in J. Campbell and M. Feldstein, Risk Aspects of Investment-Based Social Security Reform. University of Chicago Press: Chicago, IL, p. 321-360, 2001. With Olivia S. Mitchell and James M. Poterba.
- "How Should We Insure Longevity Risk in Pensions and Social Security?" In Peter Edelman, Dallas Salisbury and Pamela Larson, eds., The Future of Social Insurance: Incremental Action or Fundamental Reform? National Academy of Social Insurance. Washington, D.C. 2002, p. 148-172. Originally published in August 2002 as an Issue in Brief for the Boston College Center for Retirement Research.
- "Mortality Risk, Inflation Risk, and Annuity Products," in O. Mitchell, Z. Bodie, B. Hammond, and S. Zeldes, Innovations in Retirement Financing, University of Pennsylvania Press: Philadelphia, PA, p. 175-197, 2002.
- "Differential Mortality and the Value of Individual Account Retirement Annuities," in M. Feldstein and J. Liebman, The Distributional Effects of Social Security Reform, University of Chicago Press: Chicago, IL. (Available as NBER Working Paper No. 7560).
- "Intergenerational Transfers and Savings Behavior," forthcoming in D. Wise, ed., Economics of Aging, University of Chicago Press: Chicago, IL. (Available as NBER Working Paper No. 8753). With Scott J. Weisbenner.
- "Longevity-Insured Retirement Distributions from Pension Plans: Regulatory and Market Issues," forthcoming, in W. Gale, J. Shoven and M. Warshawsky, Public Policies and Private Pensions, Brookings Institution. (Available as NBER Working Paper No. 8064). With Mark J. Warshawsky.
- "Taxing Retirement Income: Non-Qualified Annuities and Distributions from Qualified Accounts," *The National Tax Journal*, Vol. LII, No. 3, September 1999, p. 563-591. With Olivia S. Mitchell, James M. Poterba, and Mark J. Warshawsky.
- "New Evidence on the Money's Worth of Individual Annuities," *The American Economic Review*, Vol. 89, No. 5, December, 1999, p. 1299-1318. With Olivia S. Mitchell, James M. Poterba, and Mark J. Warshawsky.

- "Discussion of Moshe Milevsky & Chris Robinson: Self-Annuitization and Ruin in Retirement," *North American Actuarial Journal*, October 2000.
- "Joint Life Annuities and the Demand for Annuities by Married Couples," *The Journal of Risk and Insurance*, Vol. 67, No. 4, December 2000, p. 527-553. With James M. Poterba.
- "Private Pensions, Mortality Risk, and the Decision to Annuitize," *Journal of Public Economics*, Vol. 82, No. 1, October 2001, p. 29-62.
- "Introduction: A Forum for Developing New Ideas and Solutions to Pension Challenges," *The Journal of Pension Economics and Finance*, Vol. 1, No. 1, March 2002, p. 1-7. With Steven Haberman, Moshe Milevsky and Mike Orszag.
- "Does the Internet Make Markets More Competitive? Evidence from the Life Insurance Industry," *Journal of Political Economy*, Vol. 110, No. 3, June 2002, p. 481-507. With Austan Goolsbee.
- "Federal Terrorism Risk Insurance," *The National Tax Journal*, Vol. LV, No. 3, September 2002, pp. 647-657. With Randy Kroszner and Brian Jenn.
- "Redistribution and Insurance: Mandatory Annuitization with Mortality Heterogeneity," *The Journal of Risk and Insurance*, Vol. 70, No. 1, February 2003, pp. 17-41.
- "An Empirical Analysis of the Economic Impact of Federal Terrorism Insurance," *The Journal of Monetary Economics*, forthcoming, summer 2004. With J. David Cummins, Chris Lewis and Ran Wei.
- Review of Daniel Shaviro's *Making Sense of Social Security Reform*, in the *Journal of Economic Literature*, Vol. XLI, No. 1, March 2003, pp. 230-231.
- "Modernizing Social Security," *The American Enterprise*, July/August 2002.
- "Saving Social Security: Why We Should Act Now," Chicago Sun-Times, March 29 2004.
- "Annuities and Individual Welfare." *Revise and resubmit* requested from the American Economic Review. Available as NBER Working Paper 9714. With Tom Davidoff and Peter Diamond.
- "Household Demand for Variable Annuities." Available as Boston College Center for Retirement Research working paper. With James Poterba.
- "Social Security Transition Costs: Retirement Accounts a better Choice" Providence (RI) Journal, October 2004, reprinted in several smaller market papers.
- "Don't Just Save Social Security: Improve it," forthcoming in TIAA-CREF participant magazines, January 2005.
- "The Geography of Stock Market Participation: The Influence of Communities and Local Firms." Available as NBER Working Paper 10235. With Zoran Ivkovic, Paul Smith and Scott Weisbenner.
- "401(k) Matching Contributions in Company Stock: Costs and Benefits for Firms and Workers." Available as NBER Working paper 10419. With Nellie Liang and Scott Weisbenner.

"The Interaction of Public and Private Insurance: Medicaid and the Long-Term Care Insurance Market." University of Illinois working paper. With Amy Finkelstein.

"Supply or Demand? Why the Private Long-Term Care Insurance Market is so Small" University of Illinois working paper. With Amy Finkelstein.

16. Speeches: (List all formal speeches you have delivered during the past five years which are on topics relevant to the position for which you have been nominated. Provide the Committee with **two** copies of each formal speech.)

I have not made any formal speeches, by which "formal" means speaking from a written text. I do make frequent presentations of academic papers at academic conferences or university seminars. I have also served on numerous panel discussions, and spoken to community groups in the Champaign, IL area. I do not, however, use prepared texts in these cases. Rather, I speak from memory, notes and/or from a PowerPoint presentation. As such, I have no copies of formal speeches to provide to the Committee.

To the extent that the Committee's primary interest is in understanding my public views on Social Security as communicated in these presentations, I can offer two pieces of evidence that are "imperfect substitutes" for copies of speeches. The first is that in September 2002, I participated in a panel discussion as part of a program entitled "Social Security and Young Americans," co-sponsored by the Cato Institute, America's Future Foundation and Third Millennium. A web-based video and audio of my remarks is available at <http://www.cato.org/events/ssya/program.html>. The second piece of information I can provide (and which is attached) is a local newspaper reporter's summary of a speech that I gave to a community group in Champaign, IL in October 2004. Also, the Committee may wish to consult my testimony before the U.S. Senate Select Committee on Aging in June 2004.

17. Qualifications: (State what, in your opinion, qualifies you to serve in the position to which you have been nominated.)

Educational Qualifications: Ph.D. in economics (MIT), Masters in Public Policy (Harvard University, John F. Kennedy School of Government).

For the past decade, I have dedicated much of my professional life to studying issues related to income security of the aged. This interest began during my PhD graduate work in economics at MIT, and has continued in my subsequent academic research and policy work. I have established myself as one of the nation's leading academic experts on the

issue of how the elderly should manage longevity risk during retirement, a topic of high relevance because the existing Social Security system is currently the primary source of inflation indexed annuities in the US. I have also written numerous academic papers on related subjects, including annuities, life insurance, long-term care insurance, determinants of stock market participation, and asset allocation in pension plans.

Currently, I serve as co-editor of the *Journal of Pension Economics and Finance*, published by Cambridge University Press, one of the only peer-reviewed academic journals dedicated solely to research on the economic and financial aspects of public and private pensions. I also serve as Associate Director of the Center for Retirement Research at the National Bureau of Economic Research. I am a Faculty Research Fellow in public economics and the economics of aging at the National Bureau of Economic Research. Thus, I am very deeply integrated in the academic research community on issues related to Social Security and retirement security. This will enable me to bridge the gap between academic research on Social Security and the work of the Board.

In addition to my academic work, I have been actively involved in the public policy realm for the past four years. In 2001, I took leave from my job as an assistant professor at Harvard University's Kennedy School of Government to work as a Senior Economist with the President's Council of Economic Advisers, where I focused (among other topics) on Social Security and private pensions. During this time I also served as a staff member for the President's Commission to Strengthen Social Security. Since November 2002, I have been serving as a member of a nonpartisan panel of experts convened by the National Academy of Social Insurance to study issues of how to structure withdrawals from individual accounts as part of federal retirement policy, chairing the sub-group focusing on "withdrawals at retirement." From these experiences, I have developed a deep understanding of the existing Social Security program, proposals for reform, how the program is administered, and so forth.

As an academic research economist, who has had valuable and highly relevant policy experience, I believe that I will be in a unique position to provide a valuable set of skills, expertise, and a broad understanding of trends in retirement security to the Social Security Advisory Board.

B. FUTURE EMPLOYMENT RELATIONSHIPS

1. Will you sever all connections with your present employers, business firms, associations, or organizations if you are confirmed by the Senate? If not, provide details.

A member of the Social Security Advisory Board position is considered a "Special Government Employee," or SGE. Consistent with the rules governing an SGE position, I will continue in all of my current employment contracts, including (a) serving on the faculty at the University of Illinois at Urbana-Champaign, (b) serving as Associate Director of the Center for Retirement Research at the National Bureau of Economic Research, (c) serving as a Faculty Research Fellow at the National Bureau of Economic Research, and (d) doing occasional consulting when such arrangements are approved by the designated agency ethics official.

2. Do you have any plans, commitments, or agreements to pursue outside employment, with or without compensation, during your service with the government? If so, provide details.

I am frequently approached by other universities who wish to recruit me to join their faculty. While I have no immediate plans to move from the University of Illinois to another institution, I expect that such discussions will continue in the future as they have in the past.

3. Has any person or entity made a commitment or agreement to employ your services in any capacity after you leave government service? If so, provide details.

No, other than what has already been stated in my response to questions 1 and 2 above.

4. If you are confirmed by the Senate, do you expect to serve out your full term or until the next Presidential election, whichever is applicable? If not, explain.

Yes, I expect to serve out my full term.

C. POTENTIAL CONFLICTS OF INTEREST

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

I serve as Associate Director of the Center for Retirement Research (CRR) at the National Bureau of Economic Research, and also receive academic research funding through this CRR. The CRR is funded by the Social Security Administration. See questions 4 and 5 for a discussion of how potential conflicts will be addressed.

2. 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, aside from that discussed in part 1.

3. Describe any activity during the past 10 years in which you have 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. Activities performed as an employee of the Federal government need not be listed.

- a. Since leaving the Council of Economic Advisers in 2002, I have written op-eds and articles, and spoken to numerous community groups, in support of the need for addressing Social Security's long-run financial shortfalls.
- b. In 2004, I wrote a "white paper" entitled "The New Retirement Challenge" for a coalition of groups called "Americans for a Secure Retirement" (ASR). This white paper discussed the changing retirement income landscape in the United States and the importance of annuitization. Importantly, my paper does *not* in any way propose or endorse any particular public policy, although the organization (ASR) is separately seeking a change in the tax treatment of non-qualified life annuities.

4. Explain how you will resolve any potential conflict of interest, including any that may be disclosed by your responses to the above items. (Provide the Committee with **two** copies of any trust or other agreements.)

I have entered into an ethics agreement, dated January 6, 2005, with the designated agency ethics official. This agreement outlines potential conflicts of interest and steps that I will take to avoid any such conflicts. Two copies of this agreement are attached.

5. **Two** copies of written opinions should be provided directly to the Committee by the designated agency ethics officer of the agency to which you have been nominated and by the Office of Government Ethics concerning potential conflicts of interest or any legal impediments to your serving in this position.

As indicated in my response to question 4 above, I am attaching a January 6, 2005 memorandum entitled "Authorization to Participate as a Member of the Social Security Advisory Board," provided by the designated agency ethics official.

6. The following information is to be provided only by nominees to the positions of United States Trade Representative and Deputy United States Trade Representative:

Have you ever represented, advised, or otherwise aided a foreign government or a foreign political organization with respect to any international trade matter? If so, provide the name of the foreign entity, a description of the work performed (including any work you supervised), the time frame of the work (e.g., March to December 1995), and the number of hours spent on the representation.

Not applicable

D. LEGAL AND OTHER MATTERS

1. Have you ever been the subject of a complaint or been investigated, disciplined, or otherwise cited for a breach of ethics for unprofessional conduct before any court, administrative agency, professional association, disciplinary committee, or other professional group? If so, provide details.

No.

2. Have you ever been investigated, arrested, charged, or held by any Federal, State, or other law enforcement authority for a violation of any Federal, State, county or municipal law, regulation, or ordinance, other than a minor traffic offense? If so, provide details.

No.

3. Have you ever been involved as a party in interest in any administrative agency proceeding or civil litigation? If so, provide details.

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, provide details.

No.

5. Please advise the Committee of any additional information, favorable or unfavorable, which you feel should be considered in connection with your nomination.

None.

E. TESTIFYING BEFORE CONGRESS

1. If you are confirmed by the Senate, 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.

2. If you are confirmed by the Senate, are you willing to provide such information as is requested by such committees?

Yes.

**Responses to Questions for the Record for Jeffrey Robert Brown
December 14, 2005
Senate Confirmation Hearing for Social Security Advisory Board**

From Senator Grassley:

1. Dr. Brown, in your written testimony you emphasize the need for Congress and the President to set aside partisan differences and meaningfully address Social Security's looming deficits. In your opinion, what steps should be taken to bring everyone to the table to work on a bipartisan basis?

Reply:

Mr. Chairman, I would begin by stating simply that I believe a bipartisan approach is absolutely essential. This program is too large, too important, and affects too many lives for it to undergo extensive reform without bipartisan backing. The difficult question you are raising is "how do we get there?"

Let me begin with a caveat: as an academic economist and policy expert, I am far more qualified to speak on matters of public policy than on matters of political strategy, so you may wish to take my answer with a grain of salt.

From a purely technical perspective, Social Security is not a difficult problem to solve. Either more revenue must be dedicated to Social Security, which requires an increase in taxes or reductions in other government spending, or we must reduce the rate at which Social Security benefit expenditures are growing.

Unfortunately, all such changes are politically difficult. While there are many different ways to restore sustainable solvency to Social Security, all approaches share the basic feature that some workers must pay more or some beneficiaries must receive less. There is no painless, free lunch available on this issue. Social Security will not fix itself, nor will personal accounts alone restore the system to solvency. Policymakers on both sides of the aisle must eventually come to terms with these facts.

In my opinion, a key stumbling block to reform is that each of the key parties in the Social Security debate – including the Administration, members of Congress of both parties, and influential outside interest groups – enumerated specific policy changes that they stated "must" or "must not" be part of any reform effort. Indeed, some participants in the debate have gone so far as to say that they will not even come to the negotiating table unless certain options are on or off the table.

The problem with this approach is that so many constraints have been placed on the process that there do not appear to be *any* meaningful solutions left that do not violate at least one, and usually several, of these political constraints.

The role of personal accounts is a leading example. One of the President's principles of reform is that it "must include individually controlled, voluntary personal retirement accounts." In contrast, leading Democratic lawmakers over the past year stated that they would not even negotiate on Social Security until the President "takes personal accounts off the table." It does not take a Social Security policy expert to realize that it is impossible to meet both of these conditions simultaneously. Similarly, on both the tax and benefit side of the equation, the various parties to this debate have drawn lines in the sand that are miles apart.

In my view, one should not pre-judge an entire reform plan by focusing solely on a single element. Is it possible that a reform containing personal accounts might be attractive to Democrats, so long as the other features of the package provide all of the protections they are seeking? Is it possible that Republicans might accept an increase in the amount of revenue dedicated to Social Security, if, in return, the surpluses are safeguarded by being invested in personal accounts? Possibly. But we will never know the answer to these questions if negotiations are shut off before any such package is even given a chance to materialize.

Thus, in my opinion, what is needed is for *all* sides of this debate to agree to come to the negotiating table *without* stringent pre-conditions on the outcome. Every legitimate policy option must be on the table, including changes to Social Security's benefit formula, changes to tax rates and/or the tax base, and, yes, personal accounts. Certainly, players are and should be free to reject any *package* of reforms that they consider to be unacceptable. But such a potential reform can never be assembled in the first place unless all sides loosen their pre-conditions for what components can be in or out of the package.

It may be politically naïve on my part to think that the various players will be willing to compromise on some of the central principles to which they have previously and publicly committed. In my opinion, however, a failure to do so will have severe consequences. A failure to come together to address this issue means that Social Security's finances will continue to deteriorate. A failure to act soon means that we will be passing this problem on to the next generation, and the options that will be available to them will be even less palatable than those we face today.

Thus, at the end of the day, the necessary next step is for the President and Congressional leadership of both parties to agree to come to the negotiating table with all options on the table.

2. Dr. Brown, in your written testimony you also emphasize the need to improve the disability determination process. Some people have suggested the disability program should focus more on getting people back to work, while others believe it should remain focused on those who cannot work. Do you see any advantages or disadvantages of expanding the disability program to include persons who are able to work despite their physical or mental condition?

Reply:

Mr. Chairman, the issue that you are raising of the tension between insurance and incentives is central to the design of any social insurance system. There is clear trade-off between our desire to provide income to those who have suffered hardships through no fault of their own and our desire to provide appropriate incentives for individuals to productively engage in the labor force.

In the context of disability, our DI program is currently structured to provide a source of income for individuals who are unable, as a result of a physical or mental disability, to engage in “substantial gainful activity.” That is, it provides income to those who are unable to work enough to earn a minimum level of pay. Similarly, the DI program does not pay any benefits to those that the Social Security Administration deems able to generate sufficient earnings.

If we lived in a world where disability was a binary outcome – a person is either clearly disabled, or clearly not – and if the Social Security Administration could determine disability status with absolute certainty, then this would be an extremely easy program to administer. Disabled individuals would receive DI, while those able to work would not.

Obviously, however, the real world is far more complex. There are many different causes and degrees of disability. Some individuals become permanently and totally disabled, while others become partially disabled or disabled for a temporary period. Furthermore, our views of what constitutes a work disability evolve over time as technological advances allow some individuals, who in prior decades may have been unable to work, to now do so.

As a result, the DI program must constantly balance the societal cost of failing to provide benefits to those who are truly disabled against the societal cost that the DI program itself may impose if the provision of benefits leads some individuals, who in the absence of the program would be able to work, to instead stay out of the labor force and receive publicly financed benefits. Indeed, the lion’s share of the cost and delays in the disability determination process are directly attributable to steps that are taken to try to accurately separate applicants into these two groups.

Given this tension, any expansion of the definition of disability is going to have both positive and negative consequences.

On the positive side, it is clearly in our nation’s economic interest, as well as in the interest of DI recipients, to facilitate the re-entry of disabled workers into the workforce when they are able to do so. Indeed, programs like Social Security’s “Ticket to Work” are designed to ease the transition back into the work force. While it is probably still too early to make a definitive case for or against the efficacy and efficiency of this particular program, the general strategy is appropriate. In general, DI recipients who wish to work should not be put in a position where it is against their financial self-interest to do so because of DI eligibility rules. If an expansion of the DI

definition leads to a more gradual phasing down of benefits, so that current DI recipients who are able to work do not face dramatic penalties for doing so, then the potential exists for this type of reform to *reduce* public spending and improve the lives of beneficiaries.

On the negative side, easing disability eligibility rules may exacerbate what economists call the “moral hazard” problem. That is, some individuals who, in the absence of the DI program would be fully engaged in the labor force, may choose instead to reduce their labor force attachment as a result of more generous DI rules. This would serve to *increase* public spending without a concomitant increase in the well-being of the truly disabled. Given the potential efficiency costs of distorting work behavior, this is not an issue that should be taken lightly.

These trade-offs are inherent in the nature of the DI program. We cannot eliminate these issues; rather, we can merely balance them as we believe is most appropriate. Doing it right, however, requires that we have a good understanding of the empirical magnitude of these trade-offs. Unfortunately, it is my assessment that we do not yet have a fully satisfactory answer to this empirical question. Thus, my own view is that steps taken down this path, if any, should be taken slowly and cautiously, and should include a substantial research and analysis component so that both the intended and unintended consequences can be evaluated before committing the federal government to a large program expansion that could prove quite costly down the road.

**Statement of Richard T. Crowder
Nominee for Chief Agriculture Negotiator
Office of the U.S. Trade Representative
Before the Senate Finance Committee
December 15, 2005**

Chairman Grassley, Ranking Member Baucus and other members of the Committee. It is my privilege to appear before you today as the President's nominee to be Chief Agriculture Negotiator in the Office of the U.S. Trade Representative. I am honored by the trust and confidence placed in me by President Bush and Ambassador Portman. I also want to thank the Committee for taking the time to hold this hearing. I know it's the end of the Session and this is a very busy time for the Senate.

Mr. Chairman, I am excited about the possibility of representing the United States in our trade negotiations. My roots in American agriculture are deep. My ancestors from the 1600's through my father were farmers in Virginia. And, even though I left the farm, throughout my career I have had the opportunity to stay in touch with farmers at home and abroad.

I have worked in agriculture most all my life, for nearly 40 years. This experience covered the food chain from seed to restaurants. I hold B.S. and M.S. degrees from Virginia Tech in Agricultural Economics as well as a PhD in Agricultural Economics from Oklahoma State.

Agriculture is a vital part of the American economy and the American way of life. I am fully aware of and appreciate the challenges and demands of the job as well as its importance to U.S. agriculture. I stand ready to accept the challenges and responsibilities of this position. If confirmed by the Senate, I will approach the job with a dedication and a diligence that is equal to its challenge and importance.

Mr. Chairman, American farmers are the best in the world. If they are given the chance to compete on a fair playing field, they will win. The proof is in our exports. The United States is a net agriculture exporter. Fiscal Year

2005 saw another record year for U.S. exports reaching \$62.4 billion and the Department of Agriculture expects a surplus in 2006.

Because we grow more than we consume, my top priority, if confirmed, will be to work to open markets to U.S. agriculture. I will work to see that tariffs and barriers to our products abroad are lowered or eliminated. And I'll work to ensure that new barriers are not raised to keep our products out.

I've been lucky, during my career in both the private and public sectors, to have been given the opportunity to advance the interests of U.S. agriculture at the international level. I've seen first hand the commercial and development benefits from the international trade in agriculture and agriculture-related intellectual property.

Mr. Chairman, in terms of my management style, I've always held to the philosophy that all stakeholders should have the opportunity for input into the process. I look forward to working closely with you, Senator Baucus and all the Members of this Committee if I am confirmed and become the Chief Agriculture Negotiator. Your input will be critical to my success of fulfilling the responsibilities of this important position.

Mr. Chairman, neither my wife nor either of our sons could be here today. However, before concluding, I would like to express thanks to each of them for their patience and support over the past forty plus years. They have willingly accepted a husband's and a father's career that has involved a lot of time away from home, has spanned multiple locations and, as noted, has included public service and private sector positions..

Finally, Mr. Chairman, I express my appreciation to you and the Committee, including the Committee staff for taking the time to meet with me, as I have made my way through the process.

Thank you and I look forward to your questions.

**SENATE FINANCE COMMITTEE
STATEMENT OF INFORMATION REQUESTED OF NOMINEE**

A. BIOGRAPHICAL INFORMATION

1. Name: (Include any former names used.)
Richard T. Crowder
2. Position to which nominated:
Ambassador, Chief Agriculture Negotiator
3. Date of nomination:
November 17, 2005
4. Address: (List current residence, office, and mailing addresses.)
501 Slaters Lane Unit 1219
Alexandria, VA 22314
5. Date and place of birth:
August 3, 1939
Mecklenburg County, VA
6. Marital status: (Include maiden name of wife or husband's name.)
Married - Margaret Rainey Crowder
7. Names and ages of children:
Richard M. Crowder 42
Matthew B. Crowder 31
8. Education: (List secondary and higher education institutions, dates attended, degree received, and date degree granted.)
Park View High School 1955-56 Diploma (1956)
Virginia Tech 1956 – 1960 BS (1960)
Virginia Tech 1960 -1961 MS (1962)
Oklahoma State University 1964 – 1966 PhD (1967)
9. Employment record: (List all jobs held since college, including the title or

description of job, name of employer, location of work, and dates of employment.)

Humble Oil and Refining Company
Houston, Texas
Staff Economist
1966-1968

Wilson and Company
Chicago, Illinois and Oklahoma City, Oklahoma
Director of Economic Analysis
1968-1975

The Pillsbury Company
Minneapolis, Minnesota
Vice President Corporate Economist
Senior Vice President Strategic Planning and Corporate Risk Officer
Vice President Finance and Administration – Restaurant Group
1975-1989

United States Department of Agriculture
Washington, D.C.
Under Secretary International Affairs and Commodity Programs
1989-1992

ConAgra – Armour, Swift, Eckridge Group
Downers Grove, Illinois
Executive Vice President International
1992-1994

DEKALB Genetics
DeKalb, Illinois
Senior Vice President International
1994 – 1999

Retired/Self Employed
Naperville, Il
1999 -2002

American Seed Trade Association
Alexandria, Virginia
President/CEO
2002-2005

10. Government experience: (List any advisory, consultative, honorary, or other part-time service or positions with Federal, State or local governments, other than

those listed above.)

I do not remember the ones before 1989. I did serve on an ATAC and on an advisory committee to the Office of Science and Technology Policy (I believe that is the right name.)

Agricultural Policy Advisory Committee 2003-2005

Advisory Committee on Biotechnology and 21st Century Agriculture 2003-2005

11. Business relationships: (List all positions held as an officer, director, trustee, partner, proprietor, agent, representative, or consultant of any corporation, company, firm, partnership, other business enterprise, or educational or other institution.)
 - Wilson Laurel Farms - Director
 - Burger King Corporation - Director
 - Steak and Ale Corpotation - Director
 - Soo Line Railroad - Director
 - Penford Corporation - Director
 - Beeline Technologies – Director
 - Farm Foundation - Trustee

12. Memberships: (List all memberships and offices held in professional, fraternal, scholarly, civic, business, charitable, and other organizations.)
 - West Winds Property Owners Association, Macon, NC
 - Marina Towers Condominium Association, Alexandria, VA
 - South Hill Country Club, South Hill, VA
 - Kinderton Country Club, Clarksville, VA
 - Methodist Church

13. Political affiliations and activities:
 - a. List all public offices for which you have been a candidate.
 - None

 - b. List all memberships and offices held in and services rendered to all political parties or election committees during the last 10 years.
 - None

 - c. Itemize all political contributions to any individual, campaign organization, political party, political action committee, or similar entity of \$50 or more for the past 10 years.

Political Contributions – Richard T. Crowder
1996-2005

<u>To</u>	<u>Date</u>	<u>Amount</u>
Republican Presidential Task Force	Jan 96	\$ 120
People for Boschwitz	Jan 96	250
People for Boschwitz	April 96	300
People for Boschwitz	May 96	250
Ramstead for Congress	June 96	200
McConnell for Senate	July 96	100
Illinois Republican Party	September 96	200
Al Salvo for Senate	October 96	300
Illinois Republican Party	October 96	200
Ramstead for Congress	November 96	100
No record found of any for 1997		
Ramstead for Congress	August 98	100
Governor Bush Committee	August 98	250
Fitzgearld for Senate	October 98	150
Ramstead for Congress	January 99	100
Grams for Senate	May 99	100
Republican National Committee	July 99	50
Fitzgearld for Senate	July 99	50
Friends of Frank Ruff	July 99	100
RNC	May 00	50
RNC	June 00	50
NRCC	June 00	250
RNC Victory 2000	June 00	250
BAMPAC	July 00	50
Hyde for Congress	July 00	150
RNC	July 00	250
RNC	October 00	200
Republican Presidential Task Force	November 00	50
Friends of Early	October 01	50
No record found of any for 2002		

No record found of any for 2003

RNC	February 04	100
RNC	July 04	1000
John Thune U.S. Senate	September 04	50
Virginians for Kilgore	May 05	100
Virginians for Kilgore	September 05	100

14. Honors and Awards: (List all scholarships, fellowships, honorary degrees, honorary society memberships, military medals, and any other special recognitions for outstanding service or achievement.)
 FFA Scholarship
 State Teachers Scholarship
 Alpha Zeta
 Phi Kappa Phi
 Distinguished Agriculture Alumnus Award. Oklahoma State University
 Distinguished Alumnus Award. Oklahoma Agricultural Economics Association
 Distinguished Service Award. VA TECH College of Agriculture
15. Published writings: (List the titles, publishers, and dates of all books, articles, reports, or other published materials you have written.)
 I wrote a review of an article in the American Journal of Agricultural Economics in 1968. I do not remember the title. I presented a paper that was published in the American Journal of Agricultural Economics in the 1970's. The subject matter was econometrics and commodity price forecasting. I do not remember the exact title and do not have a copy of the Journal. I also wrote a chapter in a book on food processing. I do not remember the name of the book or the name of the article. It was written in the early 80's or late 70's if I recall correctly.
16. Speeches: (List all formal speeches you have delivered during the past five years which are on topics relevant to the position for which you have been nominated. Provide the Committee with **two** copies of each formal speech.)
 Copies of two speeches are attached.
17. Qualifications: (State what, in your opinion, qualifies you to serve in the position to which you have been nominated.)
 Having worked in the food chain from farm, to seed, to table top restaurants I have an appreciation of the importance of trade and domestic policy to the entire food chain. I have significant international experience in the private sector. In addition, I have experience in trade policy and negotiations from the time I

served as Under Secretary of Agriculture from 1989-1992.

B. FUTURE EMPLOYMENT RELATIONSHIPS

1. Will you sever all connections with your present employers, business firms, associations, or organizations if you are confirmed by the Senate? If not, provide details.
All connections will be severed other than retirement plans which are disclosed in my financial forms.
2. Do you have any plans, commitments, or agreements to pursue outside employment, with or without compensation, during your service with the government? If so, provide details.
No such plans.
3. Has any person or entity made a commitment or agreement to employ your services in any capacity after you leave government service? If so, provide details.
No
4. If you are confirmed by the Senate, do you expect to serve out your full term or until the next Presidential election, whichever is applicable? If not, explain.
Yes

C. POTENTIAL CONFLICTS OF INTEREST

1. Indicate any investments, obligations, liabilities, or other relationships which could involve potential conflicts of interest in the position to which you have been nominated.
I currently own the following stocks which I have agreed to divest within 90 days of my confirmation:
Archer Daniels Midland
ConAgra
Coca Cola
Altria
Penford
Pepsico
Procter & Gamble
2. 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.
I am currently serving as President and Chief Executive Officer of the American

Seed Trade Association (ASTA).

3. Describe any activity during the past 10 years in which you have 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. Activities performed as an employee of the Federal government need not be listed.
The American Seed Trade Association of which I have been Chief Executive Officer for the past three and one-half years have brought the following issues before Congress:
 - Sent a letter to the Conferees and Members of the Appropriations Committee opposing Marshall Rye Grass PVP Extension.
 - Funding letter request to the Conferees and Members of the Appropriation Committee on funding for the National Plant Germplasm System
 - Funding letter request to the Conferees and Members of the Appropriations Committee on funding for Germplasm for the Enhancement of Maize
 - Letter to Conferees requesting deletion of references to invasive species and native seed requirements in the Federal Highway Reauthorization Act.
4. Explain how you will resolve any potential conflict of interest, including any that may be disclosed by your responses to the above items. (Provide the Committee with **two** copies of any trust or other agreements.)
I will divest shareholdings listed in response to question one and will resign from my position as President/CEO of ASTA and for one year after confirmation I will recuse myself from matters to which ASTA is or represents a party
5. **Two** copies of written opinions should be provided directly to the Committee by the designated agency ethics officer of the agency to which you have been nominated and by the Office of Government Ethics concerning potential conflicts of interest or any legal impediments to your serving in this position.
They will be provided.
6. The following information is to be provided only by nominees to the positions of United States Trade Representative and Deputy United States Trade Representative:

Have you ever represented, advised, or otherwise aided a foreign government or a foreign political organization with respect to any international trade matter? If so, provide the name of the foreign entity, a description of the work performed (including any work you supervised), the time frame of the work (e.g., March to December 1995), and the number of hours spent on the representation.

D. LEGAL AND OTHER MATTERS

1. Have you ever been the subject of a complaint or been investigated, disciplined, or otherwise cited for a breach of ethics for unprofessional conduct before any court, administrative agency, professional association, disciplinary committee, or other professional group? If so, provide details.
No

2. Have you ever been investigated, arrested, charged, or held by any Federal, State, or other law enforcement authority for a violation of any Federal, State, county or municipal law, regulation, or ordinance, other than a minor traffic offense? If so, provide details.
In 1992 I had a telephone interview with an FBI agent about the accuracy of testimony presented to the House Banking Committee. There were no follow up conversations with the FBI that I recall on the issue.

3. Have you ever been involved as a party in interest in any administrative agency proceeding or civil litigation? If so, provide details.
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, provide details.
No

5. Please advise the Committee of any additional information, favorable or unfavorable, which you feel should be considered in connection with your nomination.
I have none that I think needs to be provided.

E. TESTIFYING BEFORE CONGRESS

1. If you are confirmed by the Senate, 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

2. If you are confirmed by the Senate, are you willing to provide such information as is requested by such committees?
Yes

December 15, 2005

Questions for the Record

Richard T. Crowder

Nominee for Chief Agriculture Negotiator

Office of the United States Trade Representative

Before the Senate Committee on Finance, December 15, 2005

Questions from Senator Crapo:

Since the launch of the Doha Development Round of the World Trade Organization (WTO) in 2001, the United States has worked to negotiate a balanced agreement covering export competition, domestic support and market access. Traditionally, references to market access involve tariffs and agreeing on the right formulas and percentages for reducing tariffs. I am concerned that non-tariff trade barriers, which are persistent obstacles for our farmers, may be getting lost in the negotiations. Often these non-tariff trade cases take years to adjudicate, and the decisions rendered by the WTO Dispute Settlement Body are ignored or complied with only incrementally.

As the former head of a leading seed trade association, I'm sure you can appreciate the economic impact these barriers have on our farmers. For example, the 1998 moratorium on new biotech products in the EU has damaged the U.S. Agriculture economy in lost exports. This non-tariff trade barrier has even been criticized within the EU by member countries and even the chief EU food safety regulatory commission.

1. What will you do as Chief Agriculture Negotiator to ensure that non-tariff trade barriers such as those involving biotech products receive the same level of the negotiators' attention as other areas involving market access?

Answer

I share your concern with non-tariff barriers to trade that are used by some of our trading partners to block imports of U.S. agriculture and food products. As you know, agricultural biotechnology is important to the United States and the world. We are a leader in the field and it is a key component of our competitiveness, particularly in corn and soybeans, important farm exports for the United States.

In addition, agricultural biotechnology and biotech products offer the potential to developing countries to meet their food security needs and to lift them from subsistence agriculture. Agricultural biotechnology also provides environmental benefits, including reduced use of pesticides and erosion control.

As you know, the Bush Administration has challenged the EU's moratorium on biotechnology products under WTO dispute settlement procedures. I understand a decision on this case will be made early next year.

Recent EU approvals of some agricultural biotechnology products does not change the overall problem caused by the EU's moratorium, which prevents safe U.S. agricultural biotechnology products from being traded. If confirmed, I intend to continue the work to ensure that the decisions of WTO members on biotechnology are based on science, to protect existing markets, and work to open new markets for commodities based on biotech.

2. Will you work to reform the dispute settlement process to ensure that American farmers, American workers and American companies have confidence that trading partners will adhere to the rules of international trade?

Answer

Let me begin by endorsing the fundamental point implicit in your question – namely, that active and effective enforcement of U.S. rights under trade agreements is critical to maintaining support in the United States for a healthy open trading system. I place a high priority on eliminating unfair and unjustified barriers to U.S. food and agriculture exports. If confirmed, I will vigorously pursue our rights, including through dispute settlement procedures, to end barriers to our agriculture exports that violate the WTO or other trade agreements.

The United States as has already succeeded in challenging a number of other country's actions which violate our trade agreements. For example, the U.S. won a case against Canada's export subsidies on dairy products. The U.S. won a WTO case on Canada's grain handling and transportation practices, which discriminate against imports of U.S. grains. Canada has implemented changes in response to these findings.

I understand that, overall, the WTO dispute settlement system is working well. This does not mean that every conclusion is beyond criticism. Though I would not have principal responsibility for this issue, I believe we should continue to work at the WTO through the dispute settlement negotiations to improve the process. I understand that the United States has proposals in the Special Session of the Dispute Settlement Body that would modify dispute settlement rules to improve Member control over the dispute settlement process and provide Members with greater flexibility to resolve disputes. If confirmed, I will work with my colleagues within the Administration to ensure that trade rules are effectively enforced.

Questions from Senator Baucus:

1. As you know, earlier this week, Japan announced that it was lifting the ban on U.S. beef from cattle 20 months old and younger. That's a good start, but it's not the end of the story.

All U.S. beef is safe to eat, so there shouldn't be an age limit on our beef exports to Japan at all. But at a minimum, we should be able to export beef from cattle under 30 months of age – international guidelines dictate that beef under 30 months is safe to eat. And the fight doesn't stop with Japan. Other major markets for U.S. beef – including Korea, Malaysia, and Taiwan – and even prospective U.S. FTA partners like Peru and Colombia ban U.S. beef imports due to a supposed BSE-risk that just isn't based on sound science. What are your plans to open Japan's market to all U.S. beef, and to get Korea, Malaysia, Taiwan, and other U.S. trading partners to lift their ban on U.S. beef?

Answer:

Reopening export markets for U.S. beef has been a priority for this Administration, and will be a top priority for me if I am confirmed. U.S. beef is completely safe, and if confirmed, I will work closely with Secretary Johanns and other cabinet officials to press Japan and other countries to base their import requirements on international, science-based standards. In addition, in tandem with negotiations on free trade agreements, I will work diligently to reopen the markets in those countries that seek to have a free trade agreement with the United States, emphasizing these countries' obligations to abide by commitments established in the WTO Agreement on Sanitary and Phytosanitary Measures.

2. Last week, USTR announced that it had concluded FTA negotiations with Peru. USTR said that it would try to use the completed agreement with Peru to pressure the other Andean countries to conclude their FTA negotiations. While I steadfastly believe we should negotiate on farm programs only in the WTO – and not in bilateral FTAs – I commend Ambassador Portman for the way his team handled sugar in the Peru FTA. Do you plan to use the Peru FTA as a model for FTAs with other sugar exporting countries?

Also, I understand that Colombia has a large cattle herd and is seeking significantly greater access to the U.S. market. Do you plan to include a beef safeguard in the FTA with Colombia like the one included in the Australia FTA?

Answer:

I fully appreciate how sensitive sugar issues are for the Members of this Committee and for U.S. sugar farmers. The Administration is dedicated to addressing the distorted world sugar market. And it is my understanding that Secretary Johanns committed during the

CAFTA debate to ensuring that imports of sugar do not impact the operation of the Farm Bill through September 2007. I believe that the issue of sugar imports should be handled with care in free trade agreements and on a case-by-case basis. If confirmed, I will certainly consult closely with you and with the members of this Committee, other interested members, and industry representatives.

With respect to Colombia and beef, if confirmed as the Chief Agricultural Negotiator, I will examine the potential beef trade situation in the context of the overall FTA agriculture negotiations with Colombia. I appreciate knowing your views. Colombia, however, is already prohibited from sending beef to the United States due to Foot and Mouth Disease. In addition, lowering Colombia's high tariffs on imports of U.S. beef will be a priority objective for the negotiations.

3. As I mentioned in my opening statement, I sense that U.S. farmers and ranchers are cooling to trade. How do you propose to rebuild trust with farmers, while securing a deal in the WTO that is worthy of their support?

Answer:

Ninety-five percent of the world's consumers live outside the United States and about 25 percent of U.S. production is exported. Yet some U.S. farmers may be disenchanted with trade, because while the Uruguay Round resulted in a reduction of tariffs around the world, some countries are finding other means to restrict agricultural imports.

If I am confirmed as Chief Agricultural Negotiator, not only will I focus on opening new export markets for U.S. food and agricultural products, but I will also defend U.S. interests fighting unjustified trade measures imposed on U.S. agricultural products. We each have a responsibility to remind our farmers and ranchers of the benefits of trade. Whether it's wheat to Egypt, lettuce to Canada, beef to Mexico, and the list goes on, clearly exports are critical to the economic well-being of U.S. farmers and ranchers across the country. I will work with commodity groups and other agricultural organizations to emphasize the importance of trade.

4. A large obstacle to an open market is the continued existence of the Canadian and Australian wheat boards. The Canadian Wheat Board, in particular, has a long history of unfair practices which distort trade in the world wheat market. This has been particularly harmful to wheat growers in my home state. As Chief Agricultural Negotiator, can we have your assurance that you will continue to fight the unfair trading practices of the Canadian and Australian wheat boards? What specific disciplines in the ongoing WTO agricultural negotiations would you favor to bring meaningful and permanent disciplines to state trading enterprises like these?

Answer:

I understand that wheat growers are concerned about the practices of the Canadian Wheat Board and the AWB, Ltd. (formerly the Australian Wheat Board). The best mechanism to address these concerns is through the Doha Development Agenda.

If confirmed, I will pursue the U.S. objective in these negotiations calling for the elimination of monopoly export trading powers of state trading enterprises (STEs), as well as to eliminate STEs' government financial backing and to make the operations of STEs transparent.

5. Mr. Crowder, as the former head of the *American Seed Trade Association* you certainly have an appreciation for the innovative seed technologies on the market which offer tremendous benefits to our farmers. We all recognize the importance of innovation to maintain U.S. agricultural competitiveness on the global market. As you know, technology providers face a serious challenge to recovering their investment in research and development if intellectual property rights are not protected abroad. This threatens both the future of bringing new agricultural biotech products to market as well as serving to disadvantage farmers here at home. Could you please describe the actions you would take to protect and enforce intellectual property rights on agricultural products, both in the WTO and in bilateral free trade agreements?

Answer:

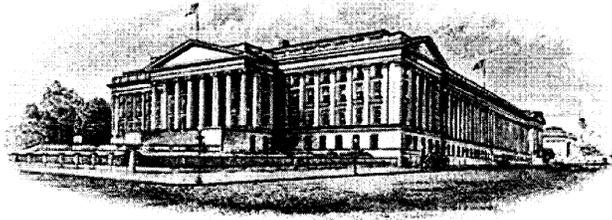
I agree with you that intellectual property and the recovery of investment in research is one of the most important issues facing U.S. agriculture today.

You are also correct in your assessment of its importance to the current and future competitiveness of American farmers. I have been a strong advocate on behalf of U.S. agricultural intellectual property interests in the past and will continue to be a strong advocate in the future.

If confirmed, I will work with my colleagues within USTR and the Administration to advocate the protection of agricultural intellectual property interests. As you know, other countries are investing heavily in biotechnology and it is critical that we maintain our competitive advantage in this area.

In terms of protecting intellectual property rights, if confirmed, I will work with my colleagues at USTR to promote enhanced intellectual property protections as part of FTA negotiations. I plan to investigate opportunities to enhance intellectual property protections at the WTO and raise the profile of agricultural biotech intellectual property issues in other relevant international fora.

We also need to ensure that the current intellectual property protections are adequately enforced. As Ambassador Portman has indicated, we have a variety of tools available. In my view, we can and should try to resolve these problems through diplomatic discussions, and I will make it my priority to engage other countries where these kinds of issues arise. If necessary, we should also be prepared to use the litigation tools available to protect the intellectual property of US citizens and companies.



**DEPARTMENT OF THE TREASURY
OFFICE OF PUBLIC AFFAIRS**

**Statement of Tony Fratto
Nominee for Assistant Secretary for Public Affairs
U.S. Department of the Treasury**

Chairman Grassley, Ranking Member Baucus, and members of the Senate Finance Committee, thank you for the opportunity to appear before you today. It is a great privilege to be considered for the position of Assistant Secretary of the Treasury for Public Affairs. I appreciate your taking the time to consider my nomination during this very busy time.

As all of you know, none of us are able to consider taking on positions in this line of work without the support and sacrifices of our families. Certainly I am no exception. My wife, Judy, and my children, Antonio and Juliette, have seen less of me than is fair in recent years. I am grateful every day that they still stand by me, and I'm very happy that they're all here today.

I am truly honored that President Bush has nominated me to serve in this position. I believe in the President's leadership and have been proud to champion his economic policies while working in this Administration.

Growing up in Pittsburgh, as a first-generation American, I learned that hard work breeds success. If I have had any success in my career it has come because of that work ethic, so much a part of the fabric of my hometown, and because of the opportunities others gave me.

Fifteen years ago I came to Washington with a degree in economics and a chance to work for a then very young first-term congressman, now Senator, Rick Santorum – a member

of this Committee. Senator Santorum was the first public official to give me the job of working as a spokesman, and set me on a career path which I hadn't intended to take, but have found to be a rewarding role where I can make a contribution in the public debate of important issues. Since then, I have had the opportunity to work with other distinguished officials, Governor Tom Ridge, Secretary Paul O'Neill and now Secretary John Snow and I value the time I spent with each of them.

I am also honored to have spent the past five years working at the U.S. Treasury Department. The Treasury Department has been the locus of American economic policymaking since Alexander Hamilton first served as Treasury Secretary, and it continues in that tradition today. I have the distinct privilege of representing the work of some of the world's finest economists and policymakers. Both the appointed staff and career staff are exceptionally talented and dedicated. In serving as their spokesman, they have helped me to sound smarter than I really am every day.

Treasury's Office of Public Affairs plays a crucial role in communicating our economic policies, both here at home and to international audiences. The public debate of these policies is enhanced when we present with clarity our views, and the data that support them, to the public, the news media, financial markets, and to the Congress. I take this responsibility seriously, and promise to do my best to live up to this Committee's expectations if I am confirmed for this position.

Thank you very much, Mr. Chairman. I look forward to responding to questions from you and the Committee.

SENATE FINANCE COMMITTEE
STATEMENT OF INFORMATION REQUESTED OF NOMINEE

A. BIOGRAPHICAL INFORMATION

1. Name: (Include any former names used.)
Salvatore Antonio Fratto
Tony Fratto
2. Position to which nominated:
Assistant Secretary of the Treasury for Public Affairs
3. Date of nomination:
October 6, 2005
4. Address: (List current residence, office, and mailing addresses.)
6425 31st Street NW, Washington, DC 20015
5. Date and place of birth:
June 27, 1966; Pittsburgh, Pennsylvania
6. Marital status: (Include maiden name of wife or husband's name.)
Married: Judith Lynn Wovchko
7. Names and ages of children:
Antonio Wovchko Fratto (7)
Juliette Lynn Fratto (6)

8. Education: (List secondary and higher education institutions, dates attended, degree received, and date degree granted.)

University of Pittsburgh; 9/1984-12/1988; BA – Economics (12/1988)
University of Pittsburgh – Graduate School of Public and International
Affairs; 9/1989-5/1991.

9. Employment record: (List all jobs held since college, including the title or description of job, name of employer, location of work, and dates of employment.)

Basketball Coach; Montour High School; high school basketball coach;
McKees Rocks, PA; 11/1987-3/1991.

Delivery driver; National Coffee Service; Coffee delivery service;
Pittsburgh, PA; /1989-11/1989.

Staff Assistant; University of Pittsburgh – Hillman Library; conservation
and preservation office; 9/1989-3/1991.

Legislative Assistant/Press Secretary; U.S. Rep. Rick Santorum;
Washington, DC; 5/1991-1/1995.

State Press Secretary; U.S. Senator Rick Santorum; Pittsburgh, PA;
1/1995-1/1996.

Communications Director; U.S. Senator Rick Santorum; Washington, DC;
1/1996-1/1998.

West Region Political Director; Ridge-Schweiker '98 Committee; election
campaign committee for Pennsylvania Governor Tom Ridge; Pittsburgh,
PA; 1/1998-11/1998.

Community Development Director; Office of Governor Tom Ridge;
organized regional economic development projects; Pittsburgh, PA;
11/1998-1/1999.

Vice President – Government Affairs; Pittsburgh Regional Alliance/Greater
Pittsburgh Chamber of Commerce; organized advocacy activity for
regional economic development efforts; Pittsburgh, PA; 1/1999-8/2000.

Communications Specialist; Bush-Cheney 2000 Inc.; press advance and
media relations; Harrisburg, PA; 6/2000-12/2000.

Deputy Site Director; Presidential Inaugural Committee; assisted in designing and organizing a presidential inaugural ball; Washington, DC; 1/2001-2/2001.

U.S. Treasury Department – Office of Public Affairs. Public Affairs Specialist 3/2001-6/2001; Director of Public Affairs 2/2001-3/2003; Deputy Assistant Secretary 8/2003-5/2005; Acting Assistant Secretary 6/2005-Present; Treasury Department spokesman, also responsible for overall Treasury Department media relations and communications strategy.

10. Government experience: (List any advisory, consultative, honorary, or other part-time service or positions with Federal, State or local governments, other than those listed above.)

President's Task Force on Puerto Rico's Status – December 5, 2003-Present.

11. Business relationships: (List all positions held as an officer, director, trustee, partner, proprietor, agent, representative, or consultant of any corporation, company, firm, partnership, other business enterprise, or educational or other institution.)

None.

12. Memberships: (List all memberships and offices held in professional, fraternal, scholarly, civic, business, charitable, and other organizations.)

National Association of Basketball Coaches – Activity Member.

13. Political affiliations and activities:

- a. List all public offices for which you have been a candidate.

1991 – Robinson Township, Pennsylvania; candidate for Township Commissioner – withdrew prior to general election in order to accept a position in the U.S. House of Representatives. No funds were raised or expended; no campaign committee was formed.

2000 – candidate for Delegate from Pennsylvania to the Republican National Convention (unsuccessful). No funds were raised or expended; no campaign committee was formed.

- b. List all memberships and offices held in and services rendered to all political parties or election committees during the last 10 years.

West Region Political Director; Ridge-Schweiker '98 Committee; election campaign committee for Pennsylvania Governor Tom Ridge; Pittsburgh, PA; 1/1998-11/1998.

Communications Specialist; Bush-Cheney 2000 Inc.; press advance and media relations; Harrisburg, PA; 6/2000-12/2000.

- c. Itemize all political contributions to any individual, campaign organization, political party, political action committee, or similar entity of \$50 or more for the past 10 years.

George W. Bush (Bush for President, Inc.); 10/28/1999; \$500.00.

House Republican Campaign Committee (Pennsylvania); 2/9/2000; \$500.00.

Friends of Mary Larcinese (Pennsylvania); 3/27/2000; \$150.00

Richard Santorum (Santorum 2000); 4/7/2000; \$250.00

14. Honors and Awards: (List all scholarships, fellowships, honorary degrees, honorary society memberships, military medals, and any other special recognitions for outstanding service or achievement.)

None.

15. Published writings: (List the titles, publishers, and dates of all books, articles, reports, or other published materials you have written.)

None.

16. Speeches: (List all formal speeches you have delivered during the past five years which are on topics relevant to the position for which you have been nominated. Provide the Committee with two copies of each formal speech.)

None.

17. Qualifications: (State what, in your opinion, qualifies you to serve in the position to which you have been nominated.)

The position of Assistant Secretary for Public Affairs at the Treasury Department requires a strong understanding of economic and financial issues, an understanding of the workings of financial markets, and the ability to communicate on these issues to both domestic and international audiences. Throughout my academic and professional career, I feel that I have acquired and developed the necessary skills, knowledge, and experience to successfully serve in this capacity as the Treasury Department's chief spokesman. As a student I gained the knowledge of economics and policy development that I have used throughout my career – in Congress, in the private sector, and for the past 4 ½ years, here at the Treasury Department.

After attending graduate school, I had the opportunity to use the knowledge I gained in study in a policy analysis, development and communications capacity during seven years working in the House of Representatives and the Senate. In addition to legislative duties, I served as press secretary and communications director, and had the opportunity to communicate on issues from the federal budget, trade and investment policy, welfare reform, and international affairs. There is no better place to learn and understand how our policies impact citizens than by working in Congress.

My strong fluency in economic policy has helped me to earn the trust and respect of senior officials and career staff at the Treasury Department, which I personally consider to be the greatest compliment. I care about the issues I am called on to communicate every day, and I understand the responsibility that I hold when I am representing the views and policies of the United States Government.

B. FUTURE EMPLOYMENT RELATIONSHIPS

1. Will you sever all connections with your present employers, business firms, associations, or organizations if you are confirmed by the Senate? If not, provide details.

I have no existing connections with business firms, associations or organizations.

2. Do you have any plans, commitments, or agreements to pursue outside employment, with or without compensation, during your service with the government? If so, provide details.

No.

3. Has any person or entity made a commitment or agreement to employ your services in any capacity after you leave government service? If so, provide details.

No.

4. If you are confirmed by the Senate, do you expect to serve out your full term or until the next Presidential election, whichever is applicable? If not, explain.

Yes.

C. POTENTIAL CONFLICTS OF INTEREST

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

Any potential conflicts of interest have been identified and resolved in accordance with the terms and conditions of my ethics agreement with the Department of Treasury, which is documented by letter to Kenneth Schmalzbach, Designated Agency Ethics Official and Assistant General Counsel for General Law and Ethics.

2. 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.

3. Describe any activity during the past 10 years in which you have 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. Activities performed as an employee of the Federal government need not be listed.

From January 1999 through August 2000, I served as the Vice President for Government Affairs for the Pittsburgh Regional Alliance/Greater Pittsburgh Chamber of Commerce. In this position I led advocacy efforts at the state level to encourage support for economic development initiatives and projects in Pennsylvania broadly, and specifically, in southwestern Pennsylvania. This included meeting with Pennsylvania legislators and state government officials. My work focused on two priorities: encouraging state funding for an array of community development projects in southwestern Pennsylvania; and advocating passage of legislation to eliminate the state's Capital Stock and Franchise tax.

4. Explain how you will resolve any potential conflict of interest, including any that may be disclosed by your responses to the above items. (Provide the Committee with two copies of any trust or other agreements.)

Any potential conflicts of interest have been identified and resolved in accordance with the terms and conditions of my ethics agreement with the Department of the Treasury, which is documented by letter to Kenneth Schmalzbach, Designated Agency Ethics Official and Assistant General Counsel for General Law and Ethics. Should any potential conflicts of interest arise in the future, I will consult with Treasury ethics officials.

5. Two copies of written opinions should be provided directly to the Committee by the designated agency ethics officer of the agency to which you have been nominated and by the Office of Government Ethics concerning potential conflicts of interest or any legal impediments to your serving in this position.

[To be provided by Treasury and OGE.]

6. The following information is to be provided only by nominees to the positions of United States Trade Representative and Deputy United States Trade Representative:

Have you ever represented, advised, or otherwise aided a foreign government or a foreign political organization with respect to any international trade matter? If so, provide the name of the foreign entity, a description of the work performed (including any work you supervised), the time frame of the work (e.g., March to December 1995), and the number of hours spent on the representation.

Not applicable.

D. LEGAL AND OTHER MATTERS

1. Have you ever been the subject of a complaint or been investigated, disciplined, or otherwise cited for a breach of ethics for unprofessional conduct before any court, administrative agency, professional association, disciplinary committee, or other professional group? If so, provide details.

No.

2. Have you ever been investigated, arrested, charged, or held by any Federal, State, or other law enforcement authority for a violation of any Federal, State, county or municipal law, regulation, or ordinance, other than a minor traffic offense? If so, provide details.

No.

3. Have you ever been involved as a party in interest in any administrative agency proceeding or civil litigation? If so, provide details.

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, provide details.

No.

5. Please advise the Committee of any additional information, favorable or unfavorable, which you feel should be considered in connection with your nomination.

I have no additional information to add for consideration in connection with this nomination.

E. TESTIFYING BEFORE CONGRESS

1. If you are confirmed by the Senate, 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.

2. If you are confirmed by the Senate, are you willing to provide such information as is requested by such committees?

Yes.

**Responses to Questions for the Record From Tony Fratto
Senate Finance Committee Hearing of December 14, 2005**

From Senator Baucus:

Question: As the presidential race began to accelerate in the summer of 2003, the Treasury Department's career tax analysts were charged with producing analysis of the tax plans forwarded by Democratic presidential candidates for media outlets. The analyses were intended to show the effect of the Democratic candidate's tax plans on "ordinary families." However, the Public Affairs office distributed—according to the *Washington Post*—a "highly selective" analysis of the plans. For example, none of the sample families had incomes of less than \$40,000 per year, which left out roughly 60% of U.S. taxpayers from the Treasury analysis, according to IRS data. In addition, the analysis included an elderly couple that earns \$2,000 in dividend income. Less than 13% of elderly couples earn as much as \$2,000 in dividend income per year according to the Tax Policy Center.

What can you do to ensure the Finance Committee that, as the next political season begins in 2006, the Public Affairs office will not use the career analysts within the Treasury Department to engage in political message campaigns?

Answer: Having worked at the Treasury Department over the last five years, I have the highest respect for the career employees working here. I understand that in the position for which I've been nominated, I would not only be charged with communicating the economic policies of the President, but I would also be entrusted with the responsibility to uphold the highest standards of conduct and the reputation of this department and everyone who works here. I would take this responsibility very seriously.

I also believe it is vitally important that the Treasury Department have a voice in the public debate of issues within its portfolio, and tax policy is one of its highest priorities. The Department should serve as a credible and reliable source of data, while also being responsive to questions from Members of the House and Senate. It is important to me that Treasury conducts its affairs in accordance with all laws and regulations, including those governing political activity, and upholds the highest standards of ethical conduct at all times.

From Senator Schumer:

Question: Mr. Fratto, as you know, I have been very active, with Senator Graham of South Carolina, on pushing China to allow its currency to appreciate. Do you believe Asian countries that undervalue their currencies cost U.S. manufacturing jobs?

Answer: I was born, raised and lived most of my life in Western Pennsylvania, near Pittsburgh. Throughout my lifetime I witnessed the decline of a steel industry—along with the proud heritage and identity that defined my hometown. And I witnessed the impact that resulted for many families and communities in the region, and so I have great empathy for working families and communities dealing with the impact of international competition today. To the extent that U.S. jobs have been lost because of unfair trade practices, I believe that we have an obligation to allow American workers to compete on a fair basis while also encouraging open trade and the free flow of capital, with prices—including currencies—set in open, competitive markets. That’s why I am proud to work for President Bush, Secretary Snow, and others in the Bush Administration who have vigorously pushed for these goals—and also why we’ve seen real U.S. exports rise to record-high levels.

Rick Santorum
United States Senate Committee on Finance
Nomination Hearing
Statement for the Record
December 14, 2005



Chairman Grassley, Ranking Member Baucus and members of the committee, I am pleased this morning to introduce Tony Fratto, President Bush's nominee to be the Assistant Secretary of the Treasury for Public Affairs.

I first met Tony when I was beginning the process of assembling a campaign to run for a seat in the U.S. House of Representatives in 1990. Tony was one of the hard-working and tireless volunteers who helped me enter Congress in 1991. His energy, spirit, intellect and character caught my eye during the campaign, and he later joined my staff following his graduation from the University of Pittsburgh's Graduate School of Public & International Affairs.

While a member of my staff, Tony made a significant and measurable impact to my office in his capacity as a legislative assistant and as my press secretary. It was in this later capacity that Tony showed his dedication to his colleagues and me. While his wife remained in Pittsburgh and maintained her career as a teacher, Tony commuted to Washington to serve as my communications director. His personal sacrifice and commitment to my office during this time will not be forgotten.

After leaving my office, Tony served as Community Development Director for then-Governor Tom Ridge. In this capacity, Tony was responsible for helping to craft and organize regional economic development projects for the Commonwealth of Pennsylvania. Tony then further made a name for himself as the Vice President for Government Affairs for the Pittsburgh Regional Alliance/Greater Pittsburgh Chamber of Commerce.

Following the presidential election of 2000, Tony returned to Washington, DC to serve in the Bush Administration in the Department of the Treasury. Tony has continued to grow professionally and has lost none of the qualities that helped to set him apart from his peers. His professional work experience at Treasury has permitted him the opportunity to be involved in many of the President's top agenda issues such as establishing a new paradigm for international development assistance, providing debt relief for the world's poorest countries, lending assistance to America's efforts to end international HIV/AIDS, and a host of issues important to U.S. businesses and workers.

If confirmed by the Senate to the position of Assistant Secretary of the Treasury for Public Affairs, I fully expect Tony will perform with professionalism, dedication and humility. Based on my first-hand knowledge of Tony and his character, he will never lose sight of the experiences that he has acquired through his personal life and professional career.

I have the utmost confidence in Tony and his ability to serve Treasury Secretary John Snow and President Bush with distinction.

As a member of this committee, I look forward to voting favorably for Tony's nomination to this important position.

**Statement by David M. Spooner
Assistant Secretary-Designate
Import Administration
U.S. Department of Commerce
December 14, 2005
11:00 a.m.**

Mr. Chairman, Senator Baucus, and distinguished Members of the Committee, thank you for the opportunity to appear before you today.

If I may, I'd like to briefly recognize a few family members who are here: My wife Nancy, our children, Emma and Nicholas, my Mom, Roberta, and my sister, Christine. My Dad and I both wish that he could be here today, but a work commitment kept him from traveling with Mom. Mr. Chairman, my extended family out in Iowa is probably all watching the web-cast.

I am deeply honored that President Bush and Secretary Gutierrez have asked me to serve as the Assistant Secretary of Commerce for Import Administration. My tenure as the Textile Negotiator in the Office of the United States Trade Representative has imbued me with a deep sense of both the importance of trade to the continued health of our economy and of the importance of enforcing our trade laws and agreements to level the playing field for American workers.

I have deep respect for Congress' constitutional authority to regulate trade. As a former Hill staffer, I appreciate the important role that Congress plays in the negotiations and enforcement of our laws and agreements. For this reason, the Executive Branch has a responsibility to consult regularly with Congress to help ensure that we wield this authority in a manner consistent with Congress' guidance. As an appointee who has spent four years serving as the Administration's liaison to an import-sensitive industry, I also know full well that Congress expects the Administration to faithfully apply our unfair trade laws.

If confirmed, I will make enforcement of our existing dumping and countervailing duty (CVD) orders, and enforcement of our trade agreements, a top priority. I have absolutely no tolerance for fraud or circumvention of our unfair laws. I have not tolerated such malfeasance in my current job, where I have negotiated tough Customs enforcement provisions in our trade agreements, and would not tolerate malfeasance while at the Import Administration. Fraud and circumvention are simply wrong, and continued support for trade frankly depends upon adequate vigilance in enforcing our dumping and CVD orders and textile quotas. American workers can compete with anyone in the world if the playing field is level. It's up to the Administration to level the playing field through trade agreement negotiations, by administering our unfair trade laws, and by adequately enforcing our orders once we act.

If confirmed, and throughout my tenure, I will bear in mind that the work of the Import Administration is not simply the rote application of the law. Every day, the Import Administration makes decisions that impact real people and real companies. Many of the companies impacted by unfair trade are small, family-owned operations struggling to get by. We

have a moral, as well as a legal, imperative to defend these companies against unfair pricing and foreign subsidies.

This Administration seeks to help American companies maintain their competitive edge in the global marketplace. An important part of this effort is the utilization and enforcement of our unfair trade laws.

Thank you for your time. I would be happy to answer any questions that the Committee may have.

**SENATE FINANCE COMMITTEE
STATEMENT OF INFORMATION REQUESTED OF NOMINEE**

A. BIOGRAPHICAL INFORMATION

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

David Matthew Spooner

2. Position to which nominated:

U.S. Department of Commerce, Assistant Secretary (Import Administration)

3. Date of nomination:

November 10, 2005

4. Address: (List current residence, office, and mailing addresses.)

Home Address:
1908 N. Kenmore Street
Arlington, Virginia 22207

Work Address:
Office of the U.S. Trade Representative
600 17th Street, N.W.
Washington, D.C. 20508

5. Date and place of birth:

September 22, 1969; Charlottesville, Virginia

6. Marital status: (Include maiden name of wife or husband's name.)

Married. Wife's Maiden Name: Nancy Lynn Killien.

7. Names and ages of children:

Two Children:

Emma Claire Spooner, 2 years old.

Nicholas Jordan Spooner, 6 months old.

8. Education: (List secondary and higher education institutions, dates attended, degree received, and date degree granted.)

College of William & Mary School of Law; Attended 8/91 to 5/94; J.D. granted 5/94.

University of Virginia; Attended 8/87 to 5/91; B.A. (History) granted 5/91.

Bishop Denis J. O'Connell High School, Arlington, VA; Attended 9/83 to 6/87; High School Diploma granted 6/87.

9. Employment record: (List all jobs held since college, including the title or description of job, name of employer, location of work, and dates of employment.)

Special Textile Negotiator; Office of the United States Trade Representative; Washington, D.C.; 1/02 to present.

Administrative Assistant, Counsel, Legislative Director, Press Secretary; Representative Sue Myrick; Washington, D.C.; 3/98 to 1/02.

Rules Committee Associate; U.S. House Committee on Rules; Washington, D.C.; 3/98 to 1/02.

Communications Director, Deputy Communications Director; U.S. House Committee on Agriculture; Washington, D.C.; 1/97 to 3/98.

Legislative Counsel; Representative Wes Cooley; Washington, D.C.; 1/95 to 1/97.

Summer Law Clerk; Columbia Natural Resources/Gas Transmission; Charleston, WV; 5/93 to 8/93.

Research Assistant for Professor James Moliterno, College & William & Mary School of Law; Williamsburg, VA; 5/92 to 8/92.

10. Government experience: (List any advisory, consultative, honorary, or other part-time service or positions with Federal, State or local governments, other than those listed above.)

None.

11. Business relationships: (List all positions held as an officer, director, trustee, partner, proprietor, agent, representative, or consultant of any corporation, company, firm, partnership, other business enterprise, or educational or other institution.)

None.

12. Memberships: (List all memberships and offices held in professional, fraternal, scholarly, civic, business, charitable, and other organizations.)

Member of the Virginia Bar.

13. Political affiliations and activities:

- a. List all public offices for which you have been a candidate.

None.

- b. List all memberships and offices held in and services rendered to all political parties or election committees during the last 10 years.

Assistant to the Co-Chairman of the Republican Party Platform Committee (Rep. Sue Myrick), 2000.

Assisted Representative Sue Myrick with her election committee fundraising (2000 and 2002 primary election cycles).

October 2000, participated in Texas State Senator Teel Bevins' "Bush Marshall" program, volunteering in Oregon to assist the Republican National Committee and the George W. Bush for President campaign.

- c. Itemize all political contributions to any individual, campaign organization, political party, political action committee, or similar entity of \$50 or more for the past 10 years.

\$1,000 to Bush-Cheney '04 (Primary) Inc., 6/30/04.

\$500 to DeMint for Senate Committee Inc., 7/29/04.

14. Honors and Awards: (List all scholarships, fellowships, honorary degrees, honorary society memberships, military medals, and any other special recognitions for outstanding service or achievement.)

Dean's list (four of final six semesters at the University of Virginia).

Phi Alpha Theta History Honor Society at the University of Virginia.

15. Published writings: (List the titles, publishers, and dates of all books, articles, reports, or other published materials you have written.)

"Agreement Can Help Our Textile Industry Survive: CAFTA-DR Would Boost Sales of U.S.-Made Yarn and Fabric," The Charlotte Observer, February 17, 2005.

16. Speeches: (List all formal speeches you have delivered during the past five years which are on topics relevant to the position for which you have been nominated. Provide the Committee with **two** copies of each formal speech.)

Since assuming the Textile Negotiator position at the Office of the U.S. Trade Representative, I have regularly (approximately 4-5 times per month) addressed industry representatives to provide an update on recent developments in textile trade policy. I rarely speak from a prepared text and, to the best of my knowledge, none of these speeches have been published or transcribed, with one exception: In May 2003, I spoke at a European Commission forum on the "Future of Textile Trade." I have been unable to locate the text of this speech on my computer or on the web, but there is a reasonable chance that it has been published and I will continue to search for it. I have prepared written text for other formal speeches. These speeches are listed below and two copies of the text of each speech are attached.

Remarks at Women's Wear Daily CEO Summit; New York, New York; 11/3/05.

Remarks at Congressman Inglis National Issues Forum; Washington, D.C.; 9/13/05.

Pro-CAFTA Speech to the House Textile Caucus CAFTA Forum; Washington, D.C.; 5/24/05.

Speech to the U.S. Association of Importers of Textiles and Apparel; New York, New York; 6/22/04.

Speech to the American Yarn Spinners Association; Charlotte, North Carolina; 5/25/04.

Remarks to the U.S. Association of Importers of Textiles and Apparel; Washington, D.C.; 4/23/04.

Remarks to Appalachian State University Forum on Globalization and Restructuring of North Carolina Industry; Hickory, North Carolina; 5/23/03.

Remarks at Brookings Institution Forum on Taiwan Trade; Washington, D.C., approx. Summer 2003.

Remarks to the American Textile Alliance; Washington, D.C.; approx. Spring 2002.

Remarks to the American Yarn Spinners Association; Charlotte, North Carolina; 5/02.

17. Qualifications: (State what, in your opinion, qualifies you to serve in the position to which you have been nominated.)

I have served in trade policy positions in both the Executive Branch and on Capitol Hill. For almost four years, I have served in the Office of the U.S. Trade Representative, helping to formulate U.S. trade policy, administering product specific safeguards, and negotiating trade agreements. Indeed, my focus at USTR, has been textile trade policy, providing hands-on experience with the concerns of an import-sensitive industry. [Note: The Department of Commerce's Office of Textiles is housed within the Import Administration.] During my tenure at USTR, I have developed extensive working relationships with domestic manufacturing associations and foreign trade and commerce ministries that should serve me well in the WTO Rules Negotiations and in the application of our unfair trade laws. Prior to my tenure at USTR, I spent seven years on Capitol Hill. My varied service on the Hill – working for Members from the Pacific Northwest and the South and for the House Agriculture and Rules Committees – provided an appreciation of the constitutional role of Congress in the formulation of trade policy and of the interest of Members in ensuring that the United States maintain a level playing field for our domestic manufacturers.

B. FUTURE EMPLOYMENT RELATIONSHIPS

1. Will you sever all connections with your present employers, business firms, associations, or organizations if you are confirmed by the Senate? If not, provide details.

N/A

2. Do you have any plans, commitments, or agreements to pursue outside employment, with or without compensation, during your service with the government? If so, provide details.

No.

3. Has any person or entity made a commitment or agreement to employ your services in any capacity after you leave government service? If so, provide details.

No.

4. If you are confirmed by the Senate, do you expect to serve out your full term or until the next Presidential election, whichever is applicable? If not, explain.

Yes.

C. POTENTIAL CONFLICTS OF INTEREST

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

I own stock in the following securities. Pursuant to the ethics agreement referenced in #4 below, I will divest holdings of, or disqualify myself from matters involving, the following companies:

Sysco Corp.,
Anheuser-Busch,
Constellation Brands, and
Helen of Troy.

2. 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.

3. Describe any activity during the past 10 years in which you have 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. Activities performed as an employee of the Federal government need not be listed.

None.

4. Explain how you will resolve any potential conflict of interest, including any that may be disclosed by your responses to the above items. (Provide the Committee with **two** copies of any trust or other agreements.)

I have attached a brief memorandum outlining how I will resolve potential conflicts that may arise from the ownership of certain securities. I will comply with the terms of this memorandum.

5. **Two** copies of written opinions should be provided directly to the Committee by the designated agency ethics officer of the agency to which you have been nominated and by the Office of Government Ethics concerning potential conflicts of interest or any legal impediments to your serving in this position.

6. The following information is to be provided only by nominees to the positions of United States Trade Representative and Deputy United States Trade Representative:

Have you ever represented, advised, or otherwise aided a foreign government or a foreign political organization with respect to any international trade matter? If so, provide the name of the foreign entity, a description of the work performed (including any work you supervised), the time frame of the work (e.g., March to December 1995), and the number of hours spent on the representation.

N/A

D. LEGAL AND OTHER MATTERS

1. Have you ever been the subject of a complaint or been investigated, disciplined, or otherwise cited for a breach of ethics for unprofessional conduct before any court, administrative agency, professional association, disciplinary committee, or other professional group? If so, provide details.

No.

2. Have you ever been investigated, arrested, charged, or held by any Federal, State, or other law enforcement authority for a violation of any Federal, State, county or municipal law, regulation, or ordinance, other than a minor traffic offense? If so, provide details.

Yes. In February 1988, I was cited for underage possession of beer. As a consequence, I was fined by the General District Court for the City of Charlottesville, Virginia.

3. Have you ever been involved as a party in interest in any administrative agency proceeding or civil litigation? If so, provide details.

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, provide details.

Yes (same as response for #2 above). In February 1988, I was cited for underage possession of beer. As a consequence, I was fined by the General District Court for the City of Charlottesville, Virginia.

5. Please advise the Committee of any additional information, favorable or unfavorable, which you feel should be considered in connection with your nomination.

E. TESTIFYING BEFORE CONGRESS

1. If you are confirmed by the Senate, 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.

2. If you are confirmed by the Senate, are you willing to provide such information as is requested by such committees?

Yes.

**Questions for the Record for David M. Spooner
December 15, 2005**

From Senator Grassley:

1. Question: Mr. Spooner, as you know, the World Trade Organization found that the Continued Dumping and Subsidy Offset Act violates our obligations as a Member of the WTO. Supporters of that legislation argue that CDSOA is a vital part of our trade remedy laws. I don't see it that way – I think it is nothing more than a government handout. Can you respond to their argument and in particular, can you offer your perspective on the adequacy of our trade remedy laws to ensure a level playing field in the event the Continued Dumping and Subsidy Offset Act is repealed?

Answer: Strong enforcement of the antidumping and countervailing duty laws – under which Commerce determines the existence and extent of any dumping or subsidization, and the International Trade Commission investigates and makes determinations regarding injury to the domestic industry – represents an effective response to situations to injurious unfair trade. Although the Continued Dumping and Subsidy Offset Act (CDSOA) directs how duties collected from antidumping and countervailing duties are disbursed, the CDSOA does not affect how the Commerce Department investigates antidumping and countervailing duty cases and calculates margins. It is the application of the calculated rates to imports of merchandise subject to antidumping and countervailing duty orders that ensures a level playing field for U.S. producers.

2. Question: Mr. Spooner, the U.S. has proposed that other WTO members provide more transparency in the operations of their trade remedy procedures. Recognizing your current role as textile negotiator and the fact that Commerce's textile and apparel operations will report to you in your new capacity, can you comment on what steps you will take to introduce more transparency into the operations of CITA, if confirmed?

Answer: As USTR's representative to CITA in my capacity as Special Textile Negotiator, I know that Members of Congress and certain domestic industry interests have expressed concern about the degree of transparency in the operations of the Committee for the Implementation of Textile Agreements (CITA). If confirmed, I will meet with the Chairman of CITA and other CITA agencies to review its processes and procedures to determine what changes are appropriate to ensure greater transparency. The Import Administration's transparent administration of our antidumping and countervailing duty laws is a model for the world and, if confirmed, I will examine what IA practices should be adopted by CITA.

In recent years, CITA has fortunately moved to operate in a more transparent manner, publishing numerous procedural guidelines in the *Federal Register*. The China Textile Safeguard and the Commercial Availability Programs are two primary examples. For

each, CITA published procedures that provide notice to the public of the process and procedures, including a 30-day public comment period. If confirmed, I will assess whether these published procedures can be improved.

3. Question: Mr. Spooner, a constituent of mine that produces cold finished steel bar informs me that imports of that product are increasing. Yet, they are unable to use our trade remedy laws because they are a small producer and find the cost of filing a case excessive. What can be done to assist small producers who face intense import competition but lack the resources to effectively use our trade remedy laws?

Answer: Companies such as the steel producer in your state can turn to Import Administration's Petition Counseling and Analysis Unit (PCAU), which works closely with small and medium-sized businesses to provide assistance and guidance on how to use the antidumping and countervailing duty remedies. The Unit explains the process for filing a petition requesting the initiation of an investigation, assists in determining the types of information required for the petition, helps ensure that a petition is in compliance with statutory initiation standards, and provides publicly available tariff and trade data from the U.S. Department of Commerce, the U.S. Treasury, and the U.S. International Trade Commission. All services are provided free of charge.

If confirmed, I would ensure that these kinds of services would continue to be made available and improved while taking care that they do not detract from the impartiality of the agencies' legal and administrative responsibilities.

From Senator Baucus:

1. Question: Mr. Spooner, I'm sure you know that I was very unhappy with the Commerce Department's recent decision to recalculate countervailing duties on Canadian lumber imports to be *de minimis*, which will result in the duties on Canadian lumber imports being lifted. I believe that the Commerce Department had the flexibility to calculate the duties in such a manner as to maintain the duties in Canadian lumber imports. Do you agree with the Commerce Department's decision? What do you think can be done to address unfair subsidies paid to Canadian lumber producers?

Answer: My understanding is that Commerce does not agree with the NAFTA Panel's Rationale, and I concur in that assessment. However, consistent with our NAFTA obligations, Commerce complied with the Panel's instructions and calculated a countrywide subsidy rate for the countervailing duty investigation of 0.80 percent, which falls below the one percent *de minimis* threshold. As noted in the remand determination, Commerce is still of the view that the benefit calculation methodology applied in the underlying investigation accurately reflects the value of the subsidy received by Canadian producers. I wholeheartedly support this view.

The NAFTA Panel may issue a decision on the remand determination by the end of the year and then, I assure you, if I am confirmed, I will consider all legal options. One

option that will be before Commerce is, in consultation with USTR, whether to challenge the Panel's instructions before an Extraordinary Challenge Committee, as allowed under NAFTA. If confirmed, I will consider every option until this process is concluded. However, I am also committed to following the rule of law. U.S. Customs and Border Protection will continue to collect cash deposits on Canadian softwood lumber imports at the rates determined in the second antidumping and countervailing administrative reviews, completed on December 5, as this litigation continues.

Please also be assured that if confirmed, I will work to vigorously enforce our trade laws, including with respect to subsidies to Canadian lumber producers, to ensure that U.S. industry receives relief from unfair imports. I believe that a durable, negotiated resolution is the best way to resolve this dispute with Canada.

2. Question: Simms Fishing in Bozeman, Montana makes fishing shirts using a gluing process performed only in China, but a current textile safeguard prohibits them from importing many of their shirts from China. Simms has sought a small exemption to the safeguard for its shirts, since there is no U.S. competitor. But so far they – and I – haven't heard back from Commerce. If you are confirmed, can I have your assurance that you will work to help Simms Fishing, and to establish clear guidelines that companies can follow to seek exemption from a safeguard that hurts them without helping any U.S. company?

Answer: Senator, if confirmed, I will actively seek to find an acceptable solution for Simms Fishing. I fully understand how important this issue is to both you and to Simms Fishing, which I understand employs more than 100 people in Bozeman. I recognize that the safeguard actions taken by the United States in the Spring of 2005 to address the explosive surge in imports from China were disruptive to the trade in a number of respects. That is why, in my role at USTR, I worked diligently, through several rounds of difficult negotiations, to reach a multi-year agreement with China that will provide predictability to the trade.

Our textile agreement with China requires China to manage its exports beginning in 2006 by utilizing a visa system. I hope that this visa system will alleviate the uncertainty and disruption that Simms Fishing faced in 2005. Regardless, I recognize that Simms perceives that it has a unique product. I understand that its shirts use a unique gluing method to attach zippers and pockets rather than the traditional sewing method. I have been informed that the staff at Import Administration is again discussing this issue with Simms Fishing this week and, if confirmed, will consult with IA staff and specialists from U.S. Customs and Border Protection to assess the results of those discussions. I look forward to working with both you and Simms Fishing to prevent any future disruption for Simms.

3. Question: The Rules Negotiations at the WTO contain a variety of proposals that I understand would weaken the effectiveness of U.S. trade remedy laws. What would you do to ensure that the effectiveness of U.S. trade remedy laws is preserved in the Doha Round? How would you counter the large number of proposals currently on the table

that would weaken our laws? What would be the elements of a proactive strategy to ensure that WTO rules allow U.S. producers to access timely and effective relief from unfair trade practices?

Answer: If confirmed, I will work to ensure that the trade remedy laws remain effective tools to combat unfair trade. Our work in the WTO Rules negotiations is guided by the mandate agreed to by all WTO Members at the 2001 WTO Ministerial in Doha, which requires us, *inter alia*, to preserve the effectiveness of the trade remedy agreements. I will oppose any proposal that would weaken the effectiveness of U.S. trade remedy laws. Two issues that are very important to the United States in the Rules negotiations are improvements of the existing rules relating to circumvention and transparency. Since U.S. exporters are increasingly involved in antidumping cases brought by other countries, transparency is an important initiative that will assist these exporters. Circumvention of current antidumping and countervailing duty orders adversely affects U.S. industries, which have gone through considerable expense and effort to seek relief from unfair trade, and I hope to strengthen rules regarding this practice. In addition, the United States has tabled proposals to strengthen subsidy disciplines and other aspects of trade remedy rules, including through the expansion of the prohibited subsidies category, which would have a positive impact on the competitiveness of both U.S. producers and U.S. exporters. If confirmed, I will work with the Congress to preserve the effectiveness of the AD and CVD remedies and to expand the disciplines on unfair trade in these negotiations.

From Senator Rockefeller:

Question: Mr. Spooner, I would like to ask about an area that I know is of great concern to many of my colleagues as well, and that is the current status of WTO trade talks on anti-dumping and anti-subsidy rules.

These talks could very well determine whether you will have anything meaningful to administer in your new job. Right now, it would be difficult to exaggerate just how far off track things have gotten or how bad a job we have done negotiating. Our officials are over in Hong Kong right now exchanging pleasantries and engaging in discussions with foreign officials – focusing on other areas and, as far as I am aware, acting as though the negotiations on Rules (*i.e.*, dumping and subsidy disciplines) are proceeding in an acceptable manner. We are looking at a train wreck coming during these negotiations, and I truly fear that we have not done enough to stop it.

To speak plainly, the current direction of the Rules talks is not even close to acceptable. We are facing dozens and dozens of proposals to eviscerate our laws – each one of which is intolerable – and have seen nothing from the U.S. side in terms of a counter attack or trade law strengtheners. If an agreement comes back along the lines of what is being discussed right now, I can tell you that if confirmed, I will not only vote against it, but will do everything in my power to defeat it. And I am confident that I will be joined by many, many others on both sides of the aisle here in the Senate.

As you may know, the Senate overwhelmingly passed a resolution several weeks ago that I was proud to author with Senator Craig. It reiterated once again the strong and consistent sentiment in Congress, repeatedly stated, that our trade laws must not be weakened in the Doha Round talks – and in fact included the most specific and detailed instructions in this regard ever. The message is hopefully beyond any possible misunderstanding – namely that Congress will not accept the type of trade law weakening proposals that are the focus of the talks right now. Right now, the Administration is blatantly disregarding the law and the negotiating mandate set out by Congress.

I would ask you to comment on this predicament and to share with me your thoughts on how the Administration can fundamentally alter the dynamics of this negotiation. That is what is needed and what I hope you are focused on – how you and the Commerce Department can play a constructive role in these remaining days and as we prepare for the next steps of this Round.

Answer: For the past four years, I have served as the trade negotiator for an import-sensitive industry. This experience should transfer well to the Rules Negotiations. Indeed, if confirmed, I will promptly assess our negotiating strategy in the Rules Negotiations. Also, if confirmed, I will work to ensure that the trade remedy laws remain effective tools to combat unfair trade. Our work in the WTO Rules negotiations is guided by the mandate agreed to by all WTO Members at the 2001 WTO Ministerial in Doha, which requires us, *inter alia*, to preserve the effectiveness of the trade remedy Agreements. I will oppose any proposal that would weaken the effectiveness of U.S. trade remedy laws. Two issues that are very important to the United States in the Rules negotiations are improvements of the existing rules relating to circumvention and transparency. Since U.S. exporters are increasingly involved in antidumping cases brought by other countries, transparency is an important initiative that will assist these exporters. Circumvention of current antidumping and countervailing duty orders adversely affects U.S. industries which have gone through considerable expense and effort to seek relief from unfair trade, and I hope to strengthen rules regarding this practice. In addition, the United States has tabled proposals to strengthen subsidy disciplines and other aspects of trade remedy rules, including through the expansion of the prohibited subsidies category, which would have a positive impact on the competitiveness of both U.S. producers and U.S. exporters. If confirmed, I will work with the Congress to preserve the effectiveness of AD and CVD remedies and to expand the disciplines on unfair trade in these negotiations.

Statement by
Vincent J. Ventimiglia, Jr.
Before the
Senate Committee on Finance
Nomination Hearing for
Assistant Secretary for Legislation
Department of Health & Human Services

Wednesday, December 14, 2005
Room 215 Dirksen

Mr. Chairman, Senator Baucus, and Members of the Committee:

Thank you for inviting me to discuss my nomination as Assistant Secretary for Legislation of the Department of Health and Human Services.

My path to this seat in front of you began, as you might expect, with my parents, including my mother, Sandra Prothero, who is in the audience today. It continues to be made possible with the loving help of my wife, Christine and our five children, Marisa, Seth, Liana, Dominic, and Jonas; and with the support of my mother-in-law, Dr. Beatriz Nava -- all of whom also are here today. So many others have played roles in bringing me to this point, but my family's role is unique.

I am humbled by the nomination - and grateful to President Bush and Secretary Leavitt for providing me the opportunity further to serve the country.

Secretary Leavitt has set forth a challenging and exciting agenda for the Department to improve health care and human services in America and abroad. Under his leadership, the Department will work to transform our health care system with the goal of making health care more affordable and accessible. HHS will continue to modernize Medicare and Medicaid so that they more effectively serve seniors, the disabled, and the poor. HHS will advance medical research, while making sure medical products are safe and effective. With state and local partners, the Department will work to secure our homeland against a potential pandemic outbreak or bioterrorist attack. Quite fundamentally, we will strive to protect life, the family, and human dignity and will work to improve the human condition here and around the world.

The Assistant Secretary for Legislation serves as the senior advisor to the Secretary on all legislative matters. If confirmed, my primary responsibility will involve work with this and other committees in support of the Administration's efforts to improve health and human services. In a phrase, I would serve as your liaison to the Department. A critical part of that involves ensuring that you receive the assistance you need to undertake the Committee's legislative and oversight work. Whether you require technical assistance on legislation, policy

input, information or responses to oversight requests, or assistance for constituents, I will strive to be responsive in every way possible.

Having worked in the Senate for a dozen years, at various times since 1985, and in the health policy world most of my working life, I appreciate the importance of expert and close collaboration with Congress: bipartisan engagement; and, above all, high ethical and personal standards.

Again, thank you for taking the time to meet today. I look forward to the opportunity to work together to improve the health and well-being of the people that we serve.

I look forward to answering any questions that you might have.

**SENATE FINANCE COMMITTEE
STATEMENT OF INFORMATION REQUESTED OF NOMINEE**

A. BIOGRAPHICAL INFORMATION

1. Name: *Vincent Joseph Ventimiglia, Jr.*
2. Position to which nominated: *Assistant Secretary for Legislation,
Department of Health and Human Services*
3. Date of nomination: *July 18, 2005*
4. Address: (List current residence, office, and mailing addresses.)

*residence: 9008 Eton Road, Silver Spring, Maryland 20901
office: Budget Committee, United States Senate, Washington, DC 20510*
5. Date and place of birth: *April 3, 1962, Denver, Colorado*
6. Marital status: (Include maiden name of wife or husband's name.) *Married
Alma Christine Ventimiglia (Alma Christine Nava – maiden)*
7. Names and ages of children:

*Marisa Christine Ventimiglia (16)
Seth Gustavo Ventimiglia (15)
Liana Rose Ventimiglia (13)
Dominic Joseph Ventimiglia (11)
Jonas Cipres Ventimiglia (9)*
8. Education: (List secondary and higher education institutions, dates attended,
degree received, and date degree granted.)

*Georgetown University Law School, 08/87 to 10/90, JD 10/90
Yale College, 09/81 to 05/84, BA 05/84
Parkway West High School, 09/79 to 05/80, HS 05/80
Smoky Hill High School, 09/76 to 05/79*

9. Employment record: (List all jobs held since college, including the title or description of job, name of employer, location of work, and dates of employment.)
- Policy Director, U.S. Senate (Budget Committee), Washington, DC, 01/05 to present*
- Health Policy Director, U.S. Senate (HELP Committee), Washington, DC, 07/07 to 01/05*
- Director, Government Affairs, Medtronic, Inc., Washington, DC, 05/98 to 07/01*
- Counsel, U.S. Senate (Labor Committee), Washington, DC, 01/95 to 04/98*
- Staff Attorney, U.S. Sentencing Commission, Washington, DC, 06/90 to 01/95*
- Program Director, Capitol Hill Housing Improvement Partnership, Washington, D.C. 11/88 to 06/90*
- Legislative Assistant, U.S. Senate (Gordon Humphrey), Washington, DC, 06/85 to 11/88*
- Executive Assistant, Saint Mary's Priory, New Haven, Connecticut, 08/84 to 06/85*
10. Government experience: (List any advisory, consultative, honorary, or other part-time service or positions with Federal, State or local governments, other than those listed above.) **None**
11. Business relationships: (List all positions held as an officer, director, trustee, partner, proprietor, agent, representative, or consultant of any corporation, company, firm, partnership, other business enterprise, or educational or other institution.) **None**
- e-Health Initiative Leadership Council, 2001*
Board of Directors, National Health Policy Forum (2001 to present)
12. Memberships: (List all memberships and offices held in professional, fraternal, scholarly, civic, business, charitable, and other organizations.)
- General Counsel, Maryland Right to Life (1997 to 2004)*
Member, St. Camillus Parish Council, 2000-2003 (Secretary 2001-2002; Co-

Chair 2002-2003)
Coach, Takoma Park Soccer Club (1993 to current)
Division Coordinator, Takoma Park Neighborhood Youth Soccer (1999-2001)
Student Attorney, Harrison Institute for Public Law, Washington, DC 1989-1990
Referee, Metro Washington Soccer Referees Association (early 1990s)
Member, Knights of Columbus (approximately 1993 to present)
Member, Sligo-Branview Community Association (occasional 1991 to present)
Student Member, Federalist Society (early 1990s)
Member, Teams of Our Lady (parish group) (1999 to present)
Member, American Council of Young Political Leaders (1996 to present)

13. Political affiliations and activities:
- List all public offices for which you have been a candidate. **None**
 - List all memberships and offices held in and services rendered to all political parties or election committees during the last 10 years.

Member, Maryland State Republican Party (early 1990s)
 - Itemize all political contributions to any individual, campaign organization, political party, political action committee, or similar entity of \$50 or more for the past 10 years. **None**
14. Honors and Awards: (List all scholarships, fellowships, honorary degrees, honorary society memberships, military medals, and any other special recognitions for outstanding service or achievement.)
- Various employee performance awards for the U.S. Sentencing Commission**
Received Juris Doctor cum laude and Dean's List (1990) from Georgetown University Law School
Received B. A. magna cum laude (1984) and graduated with Distinction in Major (Political Science) from Yale College
Rookie of the Year, Metro Washington Soccer Referees Association
BAR-BRI exam scholarship for Public Interest Service
15. Published writings: (List the titles, publishers, and dates of all books, articles, reports, or other published materials you have written.) **None**
16. Speeches: (List all formal speeches you have delivered during the past five

years which are on topics relevant to the position for which you have been nominated. Provide the Committee with **two** copies of each formal speech.)

Informal speaker at numerous forums, seminars, and conferences on health care topics – no formal speeches and none given from prepared remarks.

17. Qualifications: (State what, in your opinion, qualifies you to serve in the position to which you have been nominated.) ***I have a strong interest in continuing to serve the country and its people, utilizing my experience in health care policy and my knowledge of the legislative and administrative processes.***

B. FUTURE EMPLOYMENT RELATIONSHIPS

1. Will you sever all connections with your present employers, business firms, associations, or organizations if you are confirmed by the Senate? If not, provide details. **Yes**
2. Do you have any plans, commitments, or agreements to pursue outside employment, with or without compensation, during your service with the government? If so, provide details. ***No, although I anticipate continuing to serve in some volunteer (non-employment) capacities, particularly with soccer and church organizations with which I have been involved.***
3. Has any person or entity made a commitment or agreement to employ your services in any capacity after you leave government service? If so, provide details. **No**
4. If you are confirmed by the Senate, do you expect to serve out your full term or until the next Presidential election, whichever is applicable? If not, explain. **Yes.**

C. POTENTIAL CONFLICTS OF INTEREST

1. 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**
2. 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. ***I have severed all ties with my prior employer, Medtronic, Inc., a medical device manufacturer***

with interests before the department. Neither this nor other relationships, dealings, or transactions might result in a possible conflict of interest.

3. Describe any activity during the past 10 years in which you have 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. Activities performed as an employee of the Federal government need not be listed. ***On behalf of my prior employer, Medtronic, Inc., a medical device manufacture, I engaged in lawful activities intended to so influence a variety of health-related matters before the department, as well as tax-related legislation and administrative actions before the Treasury Department, and trade-related matters before the State and Commerce Departments.***
4. Explain how you will resolve any potential conflict of interest, including any that may be disclosed by your responses to the above items. (Provide the Committee with **two** copies of any trust or other agreements.) ***None***
5. **Two** copies of written opinions should be provided directly to the Committee by the designated agency ethics officer of the agency to which you have been nominated and by the Office of Government Ethics concerning potential conflicts of interest or any legal impediments to your serving in this position. ***Done***
6. The following information is to be provided only by nominees to the positions of United States Trade Representative and Deputy United States Trade Representative:

Have you ever represented, advised, or otherwise aided a foreign government or a foreign political organization with respect to any international trade matter? If so, provide the name of the foreign entity, a description of the work performed (including any work you supervised), the time frame of the work (e.g., March to December 1995), and the number of hours spent on the representation. ***Not Applicable***

D. LEGAL AND OTHER MATTERS

1. Have you ever been the subject of a complaint or been investigated, disciplined, or otherwise cited for a breach of ethics for unprofessional conduct before any court, administrative agency, professional association, disciplinary committee, or other professional group? If so, provide details. ***No***
2. Have you ever been investigated, arrested, charged, or held by any Federal, State, or other law enforcement authority for a violation of any Federal, State, county or municipal law, regulation, or ordinance, other than a minor traffic

offense? If so, provide details. **No**

3. Have you ever been involved as a party in interest in any administrative agency proceeding or civil litigation? If so, provide details. **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, provide details. **No**
5. Please advise the Committee of any additional information, favorable or unfavorable, which you feel should be considered in connection with your nomination. **None**

E. TESTIFYING BEFORE CONGRESS

1. If you are confirmed by the Senate, 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**
2. If you are confirmed by the Senate, are you willing to provide such information as is requested by such committees? **Yes**

**Questions for the Record for:
Vincent Ventimiglia, Jr.
December 14, 2005**

From Senator Grassley:

Question 1. As you have made known in your testimony, you will provide assistance in the Committee's constitutional obligation to conduct oversight. Can you speak to your experience in this area and explain to the Committee your view of Congressional oversight?

Answer. In my many years in the Senate, I have worked for and worked with committees that took seriously their obligation to conduct oversight, to make certain that programs operate as intended for the benefit of Americans and others, to ensure the effective use of resources, and to make changes where warranted to address problems and increase accountability. I continue to share a strong commitment to those principles and objectives. I do not believe that that commitment should change based on the location of one's desk, be it in the legislative branch or the executive branch. I do not view Congress as an obstacle to pursuing that commitment but rather as a partner with shared interests.

Question 2. I've sat in this chair and listened to numerous nominees promise me that they would comply with Committee requests in a timely and efficient manner. However, time after time and promise after promise, Committee requests to all branches of HHS are continually delayed. It seems like the only way to obtain information from the Department is to place a hold on a nominee.

Can you assure me today that deadlines for Committee requests will be met in a timely fashion? And if certain requests cannot be met by the specified deadline, can you assure the Committee that HHS will work with my staff to produce a reasonable and acceptable timeline for delivery of requests?

Answer. Yes - I do commit to meeting deadlines in a timely fashion, and where we anticipate that a specified deadline cannot be met to collaborate with your staff to produce a reasonable and acceptable timeline for delivery of responses to your requests.

From Senator Thomas:

Question 1. Can you talk a little bit about how you will work to sustain and improve rural health programs in the Department? The Rural Equity Act provisions included in the Medicare Modernization Act of 2003 were the first comprehensive effort to put rural providers on equal footing with their urban counterparts. What will you do to ensure rural residents, hospitals, and providers have affordable, accessible health care services that they deserve?

Answer. The Administration is committed to ensuring that the best possible health services are available for beneficiaries residing in rural areas. This commitment has been demonstrated through several significant regulatory and departmental reforms. As you noted, the passage of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (MMA) proved to be one of the most generous packages for rural providers, bringing an estimated \$25 billion dollars of needed relief.

Currently, rural residents tend to have more difficulty accessing health care and have poorer health outcomes than their urban counterparts. This Administration has taken and will continue to take a straightforward approach to the issues facing rural areas by directing funds to various programs that are currently expanding health care to rural areas. In 2004, the Community Health Center program, served an estimated 13.2 million people – about 3 million more than in 2001 – at more than 3,650 service delivery sites, an increase of almost 500 sites since 2001. Of these patients, forty percent have no insurance coverage and many others have inadequate coverage.

Another rural health program the Administration will continue to benefit from is the National Health Service Corps (NHSC). Throughout its 30-year history, the NHSC has seen more than 24,500 health professionals commit to service in underserved areas across the country. A targeted management reform initiative that began in FY 2002 has allowed the NHSC to become more effective at assisting the neediest communities. The ratio of loan repayments compared to scholarships has increased by over 30 percent, enabling the NHSC to immediately place more health professionals into service in underserved areas. This has increased the current field strength to more than 4,200 clinicians. At this time, half of NHSC clinicians serve in health centers. The FY 2005 budget continued the expansion of the NHSC with an increase of \$35 million, for a total of \$205 million. Twenty five million of the \$205 million total will be directed towards a specific new effort to recruit nurses and physicians to serve in health professional shortage areas.

The MMA builds on these effective programs, working to “level the playing field” for rural providers. More specifically, the rural provisions in the MMA provided substantial support to rural communities by increasing Medicare payment to rural hospitals, which are a focal point for health care in rural communities. For example, Congressional Budget Office estimates indicate that about \$3 billion will be spent to equalize the urban and rural standardized amounts under Medicare’s hospital inpatient prospective payment system. This established a single base payment for hospitals in all areas in the 50 states, the District of Columbia, and Puerto Rico, as of the start of FY 2004. There are also substantial increases in reimbursement and flexibility for

Critical Access Hospitals (CAHs), which are small limited-service hospitals located in rural areas. I know that CAHs are very important in the State of Wyoming, and as you know, through your efforts and those of Senators Grassley and Baucus, the reimbursement structure for CAHs in the MMA was dramatically improved.

In addition, the Centers for Medicare & Medicaid Services (CMS) has continued and will continue to conduct Rural Health Open Door Forums, which are monthly toll-free telephone conferences for interested parties to speak directly to senior CMS officials about current Medicare policies. These calls routinely draw 100 or more participants from rural areas across the nation, including physicians, hospital administrators, state and local government representatives, and trade association members. CMS was pleased to have held an open door call in Powell, Wyoming in 2003.

I know that CMS is working diligently to implement the MMA and strengthen the Medicare program in rural areas. Continued implementation of these important rural provisions will further ensure that the needs of rural America are addressed. Pending my confirmation, I look forward to joining these efforts and working with you to build on the access improvements beneficiaries received and the payment increases rural providers gained in the MMA.

Question 2. There is a provision in the Deficit Reduction Bill of 2005 currently in conference negotiations that would eliminate the “Stabilization Fund” included in the Medicare bill. This provision was designed to provide incentives to Medicare Advantage plans so they will offer services in certain regions of the country. Now, the Medicare prescription drug plan will roll out in just a few weeks. I understand there are a number of stand alone PDP plans in my region, and a couple of MA plans. That is great news right now. However, as I look to the future – 5 or 10 years down the line – I fear rural areas like Wyoming will have difficulty attracting and retaining Medicare Advantage plans.

I guess my question here is that if Congress eliminates the Stabilization Fund, what will you do to ensure rural beneficiaries have equal access to a robust network of health and prescription drug plan options as folks in urban areas?

Answer. As you know, the Administration strongly supports retaining the Stabilization Fund. We believe the Fund is a critical long-term investment in the future and growth of the Medicare Advantage (MA) program, which can help ensure rural beneficiaries access to high-quality, affordable health care services. We share your view that it is great news that there are a number of stand-alone PDP plans in the PDP region that includes Wyoming, and that there are some MA plans. Preferred Provider Organizations (PPOs) are important MA options for beneficiaries throughout the country, and we see the new regional PPOs in particular as a fundamental building block for MA growth in rural areas such as Wyoming.

In addition to the Stabilization Fund, the MMA and CMS’s final Medicare Advantage rule provide several incentives to attract and retain regional PPOs in rural areas:

- **Network Adequacy Standards:** The regulation includes an exception to the comprehensive network adequacy requirements for regional PPOs in order to encourage

plan development. The rule permits regional PPOs with lower out-of-network cost sharing to have less robust networks of contracted providers, while regional PPOs with more robust networks of contracted providers are allowed to impose higher cost sharing when beneficiaries go out-of-network.

- **Essential Hospital Payments:** The MMA authorizes \$25 million annually for “essential hospitals” that treat regional PPO enrollees. Non-contracting acute care hospitals that treat MA regional plan enrollees can be paid an additional amount if they show their costs in caring for an MA plan enrollee exceed what Medicare would normally pay. These payments help ensure that rural hospitals are not financially disadvantaged by treating members of regional MA plans, and help address some of the network development issues that might otherwise prohibit health plans from participating in MA in largely rural areas.
- **Risk Corridors:** Regional MA plans are eligible for risk sharing on Part A and B benefit costs in 2006 and 2007. The government will pay a portion of plan costs above a target amount, and will share in savings when costs are below the target. This added protection against higher than anticipated costs may encourage health plans with no prior MA experience to participate in the program.

From Senator Baucus:

Question 1. The transition to the new Medicare prescription drug benefit presents major challenges to CMS and to affected individuals and their families. This transition may be especially difficult for individuals who already have retiree coverage, many of whom will be forced to choose between their current coverage and new plan options. This choice is further complicated because retirees who are dually eligible for Medicare and Medicaid will automatically be enrolled in a plan if they do not disenroll by January 1. For these individuals, private retiree coverage for themselves, their spouses and dependents may be threatened if they fail to disenroll. What steps is HHS taking to protect these beneficiaries and inform them of their choices and rights? Is CMS working with retiree plans to ensure that individuals and their dependents are not accidentally disenrolled?

Answer. CMS is very aware of the concern that some dual eligible individuals could lose employer/union retiree coverage if that coverage does not provide Part D supplemental benefits and the autoenrolled dual eligible does not opt out of Part D. However, it is important to note that CMS could not exclude these beneficiaries from our auto-enrollment process because the MMA requires that full benefit dual eligibles be automatically enrolled into a prescription drug plan unless they choose a plan on their own. To address this issue, we've included special messaging for beneficiaries with employer coverage in our general materials, our Part D enrollment forms, and in the auto-enrollment notice to alert them to the consequences of enrolling in a Part D plan. The two-page attachment to the auto-enrollment notice (see attached) speaks specifically to this point and advises beneficiaries to consult with their benefits administrator, insurer, or plan provider if they have other coverage. In addition, CMS has emphasized these issues in its outreach materials for employer and union plan sponsors. The purpose of these materials is to ensure plan sponsors are aware of these issues, to assist them in educating their retirees about the consequences of enrolling in a Medicare prescription drug plan when their retiree coverage does not provide supplemental benefits, and to assist their retirees in opting out of Medicare drug coverage if they wish to retain their employer/union coverage.

Question 2. CMS issued guidance this summer indicating that states could condition Medicaid eligibility on participation in the new Medicare prescription drug benefit. To your knowledge, how many states have exercised this option? What steps, if any, is CMS taking to ensure that retirees who are dually eligible for Medicare and Medicaid and whose coverage is "creditable coverage" are not wrongfully disenrolled from Medicaid as of January 1?

Answer. In *New York State Department of Social Services v. Dublino*, 413 U.S. 405 (1973) the United States Supreme Court held that the State may impose a condition of Medicaid eligibility that is not specifically required by Federal law if:

- The imposition of the condition does not conflict with federal law; and
- The condition complements Federal law; and
- The state has a rational purpose to support imposition of the additional condition.

State Medicaid agencies are permitted to require Medicaid beneficiaries to enroll in other third party coverage available to them – including Medicare coverage. Before implementing this requirement, states must submit a State Plan Amendment (SPA) to CMS for approval. To date, six states have submitted SPAs: Hawaii, West Virginia, Utah, Maine, New York and Colorado. Utah's requirement is limited to Part B only, but the remaining four states are requiring enrollment in Parts A, B and D.

CMS is contacting each of these states to confirm their understanding that in some cases, a state's decision to permit the beneficiary to remain with the retiree or employer coverage while retaining their Medicaid coverage might be in the best interests of all.

Question 3. I have worked to pass legislation supporting health IT adoption and improvement in health care quality, through the development of electronic data standards for health information, targeted financial assistance for providers, and pay-for-performance. What legislation do you believe is further needed to drive health IT adoption and to improve health care quality? In particular, what are the Administration's plans with regard to funding and statutory authority for the Office of the National Coordinator for Health Information Technology?

Answer. Better health information technology is essential to the Administration's vision of a health care system that puts the needs and the values of the patient first and gives patients and physicians the information they need to make clinical and economic decisions.

I know that this issue is of great importance to the President and to the Secretary. I believe that the federal government can play a critical role in encouraging and facilitating the adoption and use of health information technology.

And I am confident that the use of health information technology nationally can move our health care industry forward, improving efficiency and productivity and helping to reduce overall health care costs.

As you know, the Fiscal Year 2005 budget request sought \$100 million for activities related to health IT. For Fiscal Year 2006, HHS requested \$125 million for activities related to health information technology. This includes \$75 million to be managed by the National Coordinator for Health IT, with a focus on electronic health record adoption, developing the basis for national EHR interoperability and regional collaborations; as well as \$50 million for AHRQ to continue its work to accelerate the development, adoption and diffusion of interoperable information technology in a range of health care setting.

HHS is undertaking these activities under existing authority and does not currently require additional authority.

I look forward to the opportunities that lie ahead in the area of health information technology, and to working closely with you as you develop legislative and other proposals to advance work in this field.

Question 4. In Montana, IHS officials estimate that their budget today covers only about 40% of the actual need. The United States spends over twice as much on a year's worth of health care for the average American as we do on a year's worth of health care for each Indian person. This discrepancy is unacceptable. We must increase funding for the Indian Health Service to meet the need for health care. Will you commit to working with Congress to increase federal resources available to IHS, tribal, and urban Indian health facilities so that they can meet the growing demand for health care services and eliminate the health disparities that Native Americans now face?

Answer: The President's FY '06 budget request for the Indian Health Service responded directly to requests from Tribes through the Department's annual budget consultation process. The FY '06 budget request totaled \$3.8 billion, a net increase of \$72.1 million above the FY'05 enacted program level. This budget allows the Indian Health Service, Tribes and Urban health programs to maintain access to health care by providing funding for inflation, and population growth. These were items tribal leaders clearly told the Department were their top priorities. Congress included this \$3.8 billion in its FY'06 appropriation in response to the President's request.

I am pleased to commit to working with Congress to increase Federal resources available to the various sources of health care for American Indians and Alaska Natives for the purposes you state.

From Senator Rockefeller:

Question 1. As I understand it, CMS has taken the position that states may require, as a condition of eligibility for Medicaid, that elderly or disabled individuals who are eligible for Medicare prescription drug coverage to enroll in Medicare Part D.

I also understand that CMS believes this policy applies only in the case of individuals who are poor enough that the state will pay the cost of their monthly Medicare Part B premiums, which will rise to \$88.50 in January.

- a) Can you tell me which states have requested permission from CMS to implement this policy?

Answer. In *New York State Department of Social Services v. Dublino*, 413 U.S. 405 (1973) the United States Supreme Court held that the State may impose a condition of Medicaid eligibility that is not specifically required by Federal law if:

- The imposition of the condition does not conflict with federal law; and
- The condition complements Federal law; and
- The state has a rational purpose to support imposition of the additional condition.

State Medicaid agencies are permitted to require Medicaid beneficiaries to enroll in other third party coverage available to them – including Medicare coverage. Before implementing this requirement, states must submit a State Plan Amendment (SPA) to CMS for approval. The SPA must specify the Medicare parts that an eligible individual must enroll in (i.e. Part A, Part B, and/or Part D). The SPA must also specify that the state will cover the cost of all premiums and cost-sharing, except those for Part D, and must further specify that if the individual is not eligible for the state to cover those cost-sharing amounts, then the enrollment in Medicare is not required for that individual.

To date, six states have submitted SPAs: Hawaii, West Virginia, Utah, Maine, New York and Colorado. Utah's requirement is limited to Part B only, but the remaining four states are requiring enrollment in Parts A, B and D.

- b) Can you tell me which state requests CMS has approved?

Answer. All have been approved except for Colorado's which is under review.

- c) Do you have an estimate of how many elderly or disabled individuals will lose Medicaid eligibility as a result of states implementing this CMS policy?

Answer. Generally, we do not expect elderly or disabled individuals to lose Medicaid eligibility as a result of this policy. We expect that those Medicaid beneficiaries who are not presently enrolled in Medicare will enroll when the state requests that they do so. The

intent of this policy is not to reduce the number of eligibles, but to reduce Medicaid expenditures for costs that may be covered by Medicare

- d) Do you have an estimate of how many elderly or disabled individuals will be denied Medicaid eligibility as a result of states implementing this CMS policy?

Answer. Generally, we do not expect elderly or disabled applicants to be denied. We expect that these applicants will be willing to enroll in Medicare as they will incur no additional costs, and as it will enable them to qualify for Medicaid.

- e) If you can't provide this data to the Committee at this time, when will you make it available?

Answer. As stated above, we believe that these beneficiaries will be willing to enroll in Medicare as they will incur no additional costs.

Question 2. Retirees in my state have started to receive letters about the impact of Medicare prescription drug coverage on their employer-sponsored retiree coverage. I am told that they are receiving one of two letters:

Letter A, which tells them their retiree prescription drug coverage is credible and, therefore, they do not need to enroll in Medicare Part D; or

Letter B, which instructs them to enroll in Medicare Part D by January 1, 2006 (because their former employer has decided to drop prescription drug coverage from its retiree health plan).

Retirees who receive Letter A receive their health coverage from former employers whose retiree prescription drug coverage meets the actuarial value of standard Medicare drug benefit (and is therefore "credible"). Those employers plan to keep offering prescription drug coverage to their retirees and are receiving the 28% Medicare subsidy in order to do so.

Retirees who receive Letter B receive their health coverage from former employers whose retiree prescription drug coverage is not credible because it does not meet the actuarial value of the standard Medicare drug benefit. These employers have either dropped their retiree prescription drug coverage altogether or they are wrapping around the Medicare drug benefit.

I am extremely concerned about how dual eligibles who also have retiree coverage will fare when the Medicare drug law goes into effect on January 1. Many duals with retiree coverage who receive Letter A may lose their retiree health coverage on January 1 because they have been automatically enrolled in a Medicare Part D drug plan. And, if they disenroll from Part D to retain their retiree coverage, they could lose their Medicaid coverage because CMS allows states to condition Medicaid eligibility on enrollment in Medicare.

- a) Can you provide this Committee state-by-state numbers of dual eligible individuals who also receive retiree health coverage?

Answer. The process of compiling data on dual eligible beneficiaries with employer or union retiree drug coverage is ongoing, as states correct and update previously submitted data, and retiree lists submitted by employers and unions applying for the retiree drug subsidy are processed. The number of dual eligibles identified as receiving retiree drug coverage from an employer or union that has applied for the retiree drug subsidy is relatively small compared to the total number of dual eligibles – less than 50,000 so far – although this number may increase somewhat as additional data becomes available. We are still verifying total numbers by state. It is important to note, however, that CMS does not have a direct means of identifying dual eligibles receiving employer or union retiree drug coverage intended to supplement Part D where that coverage is provided through a separate “wrap-around” drug plan. Unlike plan sponsors applying for the retiree drug subsidy, sponsors do not have to apply to CMS to offer this kind of retiree coverage and they do not submit lists of retirees covered by these plans.

- b) What is CMS doing to address the issue of duals with retiree coverage, which is often more generous than Medicare, who face unknowingly losing that coverage because they have been automatically enrolled in the Medicare drug plan?

Answer. CMS is very aware of the concern that some dual eligible individuals could lose employer/union retiree coverage if that coverage does not provide Part D supplemental benefits and the autoenrolled dual eligible does not opt out of Part D. However, it is important to note that CMS could not exclude these beneficiaries from our auto-enrollment process because the MMA requires that full benefit dual eligibles be automatically enrolled into a prescription drug plan unless they choose a plan on their own. To address this issue, we've included special messaging for beneficiaries with employer coverage in our general materials, our Part D enrollment forms, and in the auto-enrollment notice to alert them to the consequences of enrolling in a Part D plan. The two-page attachment to the auto-enrollment notice (see attached) speaks specifically to this point and advises beneficiaries to consult with their benefits administrator, insurer, or plan provider if they have other coverage. In addition, CMS has emphasized these issues in its outreach materials for employer and union plan sponsors. The purpose of these materials is to ensure plan sponsors are aware of these issues, to assist them in educating their retirees about the consequences of enrolling in a Medicare prescription drug plan when their retiree coverage does not provide supplemental benefits, and to assist their retirees in opting out of Medicare drug coverage if they wish to retain their employer/union coverage.

- c) Besides New York, how many other states have decided to restrict Medicaid eligibility for duals with retiree coverage who elect to stay with their retiree health plan instead of enrolling in Medicare Part D?

Answer. In *New York State Department of Social Services v. Dublino*, 413 U.S. 405 (1973) the United States Supreme Court held that the State may impose a condition of Medicaid eligibility that is not specifically required by Federal law if:

- The imposition of the condition does not conflict with federal law; and
- The condition complements Federal law; and
- The state has a rational purpose to support imposition of the additional condition.

State Medicaid agencies are permitted to require Medicaid beneficiaries to enroll in other third party coverage available to them – including Medicare coverage. Before implementing this requirement, states must submit a State Plan Amendment (SPA) to CMS for approval. The SPA must specify the Medicare parts that an eligible individual must enroll in (i.e. Part A, Part B, and/or Part D). The SPA must also specify that the state will cover the cost of all premiums and cost-sharing, except those for Part D, and must further specify that if the individual is not eligible for the state to cover those cost-sharing amounts, then the enrollment in Medicare is not required for that individual.

To date, six states have submitted SPAs: Hawaii, West Virginia, Utah, Maine, New York and Colorado. Utah's requirement is limited to Part B only, but the remaining four states are requiring enrollment in Parts A, B and D.

- d) For retirees who receive Letter B and who are not dual eligibles, why are they being told they must enroll in a Medicare Part D plan by January 1 when they actually have until May 15, 2006?

Answer. It is possible that the letters you are referring to in this question are from retiree plan sponsors who will be offering supplemental or wrap-around benefits to a Part D plan beginning January 1, 2006. Most employer/union retiree plans operate on a calendar year basis, which means when the new supplemental-only employer/union coverage goes into effect January 1, 2006; retirees in these plans will not have coverage for Part D-covered drug expenses unless they have enrolled in Part D prior to January 1, 2006. As such, the letters encourage this set of retirees to enroll in a Part D plan prior to January 1, 2006.

- e) How does CMS coordinate data on dual eligibles received from state Medicaid agencies with data received from employers who may have dual eligibles in their retiree plans? Once CMS identifies a dual eligible who has been automatically enrolled in a Part D plan, but who is also a retiree with credible retiree coverage, how does CMS go about communicating this to the retiree and to the employer plan?

Answer. The Medicare Beneficiary Database (MBD) stores and coordinates both the names of retirees being claimed by employer and union sponsors taking the retiree drug subsidy, and the names of dual eligibles. As noted in a prior answer, we have raised awareness with the relevant stakeholders even prior to enrollments about the need to consider the potential impact on retiree coverage if dual eligibles retain Part D coverage, and emphasized the need of sponsors to communicate with their retirees. Employers/unions claiming the subsidy are then notified on a weekly basis when any of their retirees have enrolled in Part D, with information also available via the retiree drug subsidy program's secure website.

COMMUNICATION



For Immediate Release

Contact: Steve Lamar
703-797-9041

AAFA Urges David Spooner Confirmation

Applauds Appointment of Scott Quesenberry as Textile Negotiator

November 29, 2005 - ARLINGTON, VA – Today, the **American Apparel & Footwear Association (AAFA)** urged the US Senate to quickly confirm **David Spooner** to be the new Assistant Secretary of Commerce for Import Administration and commended **US Trade Representative, Ambassador Rob Portman**, for naming **Scott Quesenberry** to succeed Spooner as Textile Negotiator in the Office of the US Trade Representative (USTR).

"David Spooner is a fine public servant and has done an outstanding job as Textile Negotiator," said **AAFA President & CEO Kevin M. Burke**. "I am hopeful that his confirmation will be completed as soon as possible so we can begin to work with him in his new position."

Burke said AAFA is delighted with the appointment of Quesenberry to succeed Spooner at USTR. Quesenberry is currently Legislative Director for **Sen. Elizabeth Dole (R-NC)**. "We have worked with Scott on a broad range of issues from CAFTA to the Berry Amendment, and we look forward to continuing this effort to secure swift implementation of CAFTA and to knock down tariff and non-tariff barriers facing U.S. branded textile and apparel products worldwide."

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The American Apparel & Footwear Association (AAFA) is the national trade association representing apparel, footwear and other sewn products companies, and their suppliers, including several dozen U.S. textile companies, which compete in the global market. AAFA's mission is to promote and enhance its members' competitiveness, productivity and profitability in the global market by minimizing regulatory, commercial, political, and trade restraints.