

**NOMINATIONS OF ANTHONY RYAN, PHILLIP
SWAGEL, DEAN PINKERT, IRVING WILLIAMSON,
DANA BILYEU, AND MARK WARSHAWSKY**

HEARING

BEFORE THE

**COMMITTEE ON FINANCE
UNITED STATES SENATE**

ONE HUNDRED NINTH CONGRESS

SECOND SESSION

ON THE

NOMINATIONS OF

ANTHONY RYAN, TO BE ASSISTANT SECRETARY FOR FINANCIAL MARKETS, DEPARTMENT OF THE TREASURY; PHILLIP SWAGEL, TO BE ASSISTANT SECRETARY FOR ECONOMIC POLICY, DEPARTMENT OF THE TREASURY; DEAN PINKERT, TO BE A MEMBER OF THE U.S. INTERNATIONAL TRADE COMMISSION; IRVING WILLIAMSON, TO BE A MEMBER OF THE U.S. INTERNATIONAL TRADE COMMISSION; DANA BILYEU, TO BE A MEMBER OF THE SOCIAL SECURITY ADVISORY BOARD, SOCIAL SECURITY ADMINISTRATION; AND MARK WARSHAWSKY, TO BE A MEMBER OF THE SOCIAL SECURITY ADVISORY BOARD, SOCIAL SECURITY ADMINISTRATION

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NOMINATIONS OF ANTHONY RYAN, TO BE ASSISTANT SECRETARY FOR FINANCIAL MARKETS, DEPARTMENT OF THE TREASURY; PHILLIP SWAGEL, TO BE ASSISTANT SECRETARY FOR ECONOMIC POLICY, DEPARTMENT OF THE TREASURY; DEAN PINKERT, TO BE A MEMBER OF THE U.S. INTERNATIONAL TRADE COMMISSION; IRVING WILLIAMSON, TO BE A MEMBER OF THE U.S. INTERNATIONAL TRADE COMMISSION; DANA BILYEU, TO BE A MEMBER OF THE SOCIAL SECURITY ADVISORY BOARD, SOCIAL SECURITY ADMINISTRATION; AND MARK WARSHAWSKY, TO BE A MEMBER OF THE SOCIAL SECURITY ADVISORY BOARD, SOCIAL SECURITY ADMINISTRATION

TUESDAY, DECEMBER 5, 2006

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

The hearing was convened, pursuant to notice, at 12:20 p.m., in room SD-215, Dirksen Senate Office Building, Hon. Charles E. Grassley (chairman of the committee) presiding.

Present: Senator Rockefeller.

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

The CHAIRMAN. I welcome six nominees to the Finance Committee. Each of them, for their respective appointments, brings a great deal of experience to those positions. I hope you are all eager to get to work; I am sure you would not have accepted the position if you were not. You are probably over-eager in this sense, that you wish Congress had taken care of this a few weeks ago.

I welcome Anthony Ryan, nominee to be Treasury Assistant Secretary for Financial Markets. He currently serves at the Treasury Department as a Senior Advisor to the Secretary.

Next, Phillip Swagel, to be Assistant Secretary for Economic Policy within Treasury. He is currently a resident scholar at the American Enterprise Institute.

Then we have nominees for the International Trade Commission, each very well qualified: Mr. Irving Williamson, who has had a diverse career in international trade, as well as policy, spending 18 years as a Foreign Service Officer at the State Department before moving to work as a manager of trade policy at the Port Authority of New York and New Jersey, then serving 5 years as Deputy General Counsel in the office of the U.S. Trade Representative, most recently coming before the committee as president of Williamson International Trade Strategies, a consulting firm on international trade law.

Then Dean Pinkert, who has had an extensive career in administration and application of the U.S. trade laws. He has spent over 13 years in the Office of Chief Counsel, Import Administration, Department of Commerce, practiced international trade law privately, and he served as trade and judicial counsel to our colleague, Senator Byrd.

We welcome also two nominees for the Social Security Advisory Board, Dana Bilyeu and Mark Warshawsky. They both have a great deal of experience in retirement policy and will serve well there.

Once again, I welcome you. With that, I would put a statement in the record for Senator Baucus.

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

The CHAIRMAN. I thought that there would be other Senators. According to my records, there were other Senators who wanted to introduce constituents. Regardless, if we have statements from them, we will put them in the record, because I am sure they are very proud to welcome you here as their constituents, or previous relationships you have had through government and policy, working with them.

We do not swear you in, as some committees do, so we are not going to go through that formality. We never do. But we would like to have, in the turn that I introduced you, before you give your statement, Mr. Ryan, would you like to introduce family and friends who are here with you? And we would ask people to stand as you are introduced. This is a custom in this committee. We do not want to embarrass anybody, but we are sure you are proud of them and they are proud of you.

Mr. RYAN. Chairman Grassley, I would welcome that opportunity. I would very much like to introduce my wife, Ann Ryan, as well as our four children. Also joining me today are my mother, sister, brother, and brother-in-law.

The CHAIRMAN. Welcome. Welcome to the committee.

Now, Dr. Swagel?

Dr. SWAGEL. Thank you, Chairman Grassley. I, too, would like to welcome my family. With me today, sitting behind me, are my wife, Judith Hellerstein, and my mother, Deanna Epstein. Our three children are in school today.

The CHAIRMAN. All right. Thank you.

Now, Mr. Pinkert?

Mr. PINKERT. Thank you, Chairman Grassley. With me today are my mother, Jean Pinkert, and my brother, sitting directly behind her, Carl Pinkert, my daughter, Rose Pinkert, sitting directly behind me, and her mother, Penelope Naas.

The CHAIRMAN. Thank you.

Mr. Williamson?

Mr. WILLIAMSON. Thank you, Mr. Chairman.

The CHAIRMAN. Congressman Rangel, why do you not come up here and sit, please.

Mr. Williamson, while he is coming, would you continue to introduce your family?

Mr. WILLIAMSON. Yes. With me today are my wife, Cheryl Parham, my son, Patrick, my sister, Karen Williamson, my mother-in-law, Rose Parham, and my brother-in-law, Gregory Parham.

The CHAIRMAN. Did everybody stand? All right. Thank you.

Now, Ms. Bilyeu?

Ms. BILYEU. Mr. Chairman, with me today are a group of friends of mine that I have worked with over the years: Jeannine Marco-Raymond, Kathy Idleberg, and Leon and Mary Sue Wexler.

The CHAIRMAN. All right. Thank you all for being supportive of her.

Now, Dr. Warshawsky?

Dr. WARSHAWSKY. Mr. Chairman, I would be pleased to introduce my wife, Barbara Warshawsky.

The CHAIRMAN. All right. Thank you.

Now I will call on Congressman Rangel.

**STATEMENT OF HON. CHARLES B. RANGEL,
A U.S. REPRESENTATIVE FROM NEW YORK**

Congressman RANGEL. Thank you so much, Mr. Chairman. I am so proud to support President Bush's nominee for this great opportunity, not only for Mr. Williamson, but for our great Congressional district, of which you are a constituent, and for our great country.

This is a time, as you well know, Mr. Chairman, when globalization has set in. It is not a part of just building up our economy for prosperity, but I think it plays a large part in terms of our foreign policy.

To have someone who has the experience, as you said, with the State Department, as Deputy Counsel to the U.S. Trade Representative, a person who understands not only the importance of trade, but the impact that it has on our constituents, both yours and mine, it is a great opportunity for our country, and I am just so proud in knowing him and, for decades, the great contribution he has made to our country.

I certainly support his confirmation by you and your colleagues, and support the President for his wisdom in selecting someone this articulate, this bright, who is a defender of workers' rights, but also a defender of our country's free trade globalization policy. So, it is an honor for me, and I congratulate him and his family for their support for this great candidate.

Thank you so much for this opportunity.

The CHAIRMAN. Well, we thank you very much, Congressman Rangel, for coming and being here to support. We had other members who were going to come and they were not able to come, so

I will put their statements in the record. I appreciate very much your being here. You are welcome to stay if you want to.

Congressman RANGEL. Well, I will stay. I appreciate the courtesies that you extended to me over the years, and I look forward to working with you now and in the future.

The CHAIRMAN. We will.

Now what we will do is, in the order that you were introduced and just now spoke about your families, you may present any opening statement you have. If you have a longer statement, it will be included in the record.

So we will start with you, Mr. Ryan.

STATEMENT OF ANTHONY RYAN, NOMINATED TO BE ASSISTANT SECRETARY FOR FINANCIAL MARKETS, U.S. DEPARTMENT OF THE TREASURY, WASHINGTON, DC

Mr. RYAN. Thank you very much, Chairman Grassley. I would like to thank you, Ranking Member Baucus, and members of the Finance Committee for inviting me to appear before you today.

I am honored that President Bush has nominated me to serve as the Assistant Secretary of the Treasury for Financial Markets, and I am especially grateful for Secretary Paulson's trust and confidence.

I am also indebted to my family, for my parents, who instilled in me strong values, to my wife Ann, and to our four children, who have all supported my decision to serve.

If confirmed, I look forward to working with Secretary Paulson, Under Secretary Steele, and the rest of the Treasury team, along with others in the administration and Congress, on a myriad of issues impacting our financial markets.

Our financial markets play a seminal role in helping our economy achieve sustainable growth. We possess the largest, most liquid, and most efficient financial markets in the world. We must build on this foundation and continue to ensure our financial markets not only remain strong, but gain in strength. If confirmed, I would very much look forward to contributing to that effort.

U.S. Treasury obligations are respected around the world, as they reflect the safety and soundness of our markets as well as the quality of our economy. As stewards, I believe we have an obligation to our citizens to manage the government's fiscal matters most effectively.

The collective results impact every American, directly and indirectly. If confirmed, I would work to fulfill that obligation by implementing sound policy, addressing the strategic issues, and responsibly managing the specific functions within the office.

Over the past 20 years, I have had the opportunity to directly participate in the financial markets, either investing or advising many institutional pension clients, endowments, and mutual fund boards.

Having managed multi-asset class portfolios, traded in capital markets around the world, and worked with many global investors, I have developed a broad perspective and appreciation for the U.S. financial markets, the institutions which regulate them, and the aggregate role they play in facilitating our economic growth and savings.

Successfully managing our financial matters requires a collaborative effort. For that to occur, we must recognize the critical importance of communication. If confirmed, I will seek to ensure constructive dialogue with members of this committee and your staffs, as well as others, including those in the global marketplace.

The Treasury Department, under the leadership of Secretary Paulson, is very committed to fulfilling its mission and, if confirmed, I would welcome the opportunity to contribute to the Treasury Department's longstanding tradition of excellence.

I appreciate very much the time the members of this committee have taken to consider my nomination, and I would be happy to answer any questions.

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

The CHAIRMAN. Before we go to Dr. Swagel, just in case Senator Rockefeller has to run someplace.

Senator ROCKEFELLER. No.

The CHAIRMAN. Well, I know you wanted to introduce somebody.

Senator ROCKEFELLER. Yes, I do.

The CHAIRMAN. Then do that now, I think would be best. You can stay forever. That is just kind of the way we do things around here. We introduce them at the beginning rather than at the end.

Senator ROCKEFELLER. And I was tardy, and I apologize, Mr. Chairman.

The CHAIRMAN. No, that is all right.

Senator ROCKEFELLER. I will resign from the Senate, if that smooths the situation. [Laughter.]

The CHAIRMAN. That would only be beneficial if you had a Republican Governor. [Laughter.]

Senator ROCKEFELLER. Some things never change. Those warm and embracing words from the deepest part of the Midwest are so embracing. [Laughter.]

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

Senator ROCKEFELLER. I did want to introduce, and do want to introduce, Dean Pinkert. The reason is, he has worked with Senator Byrd for a long time, and Senator Byrd wants me to say how incredibly proud he is of you, Dean, and wishes you well. He specifically said, "both in this hearing and generally in life."

You are deeply international trade oriented. Born and raised in Chicago; Oberlin, which means you are smart; University of Texas; London School of Economics—weren't we there at the same time?

Congressman RANGEL. Probably.

Senator ROCKEFELLER. Yes.

The CHAIRMAN. Visiting, of course.

Senator ROCKEFELLER. Yes. [Laughter.] Worked in private practice in this whole field of international trade, and also was the Chief Counsel for Import Administration within the Commerce Department. Dean is a smart, very independent thinker. He is a hard worker.

You spend 20 years implementing trade laws, trying your best to do that. You know when they should be applied. So there are some of us here who care very deeply about the laws being applied fairly.

There is a case before the ITC on corrosive steel right now. I am for you, and so is Senator Byrd. That is the end of my introduction.

The CHAIRMAN. Thank you.

Now, Dr. Swagel?

STATEMENT OF DR. PHILLIP SWAGEL, NOMINATED TO BE ASSISTANT SECRETARY FOR ECONOMIC POLICY, U.S. DEPARTMENT OF THE TREASURY, WASHINGTON, DC

Dr. SWAGEL. Thank you, Chairman Grassley, Ranking Member Baucus, and members of the committee. Thank you for the opportunity to appear before you today. I am honored to be President Bush's nominee to be Assistant Secretary of the Treasury for Economic Policy, and I thank the President and Secretary Paulson for their confidence in me.

I am especially grateful to my family, for both their encouragement and their forbearance in permitting me to return to government service.

I would also like to thank my mother, Deanna Epstein, for a lifetime of support, and my stepfather, David Epstein, who is not here today, for his continued encouragement, and also for his courage 25 years ago in marrying into a family with three teenaged boys. I can only hope and believe that my late father, Michael Swagel, would have been pleased and proud at this day.

In my professional career, I have had the good fortune to work with talented colleagues and to learn from supportive mentors at the Federal Reserve, the International Monetary Fund, and the Council of Economic Advisors.

If confirmed, I will be fortunate to work with the dedicated Treasury professionals, led by Secretary Paulson, and will contribute my professional experience to the administration's efforts to tackle the economic challenges facing this country.

Much of my economic research has focused on the impact of international influences and technological and demographic change on the U.S. economy. I am mindful of the effects that these changes can bring about and the economic challenges facing Americans.

If confirmed as Assistant Secretary for Economic Policy, I will be especially aware of the importance of ensuring that the prosperity of our Nation benefits all Americans.

Thank you again, Mr. Chairman, for the privilege of appearing before this committee. If confirmed, I can assure you I will work closely and enthusiastically with the members of this distinguished committee.

I would be pleased to respond to your questions.

The CHAIRMAN. Thank you.

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

The CHAIRMAN. Now, Mr. Pinkert?

STATEMENT OF DEAN PINKERT, NOMINATED TO BE A MEMBER OF THE U.S. INTERNATIONAL TRADE COMMISSION, WASHINGTON, DC

Mr. PINKERT. I would like to thank Senator Rockefeller for the kind introduction, and I would like to thank you, Mr. Chairman, Senator Baucus, and members of the committee, for this oppor-

tunity to appear before you regarding my nomination for the position of Commissioner, U.S. International Trade Commission.

I am deeply honored that the President has nominated me to serve on this independent commission, whose decisions have a significant impact on the livelihoods of workers and companies all across America.

I would like to thank my family for the support it has always given me, and I also wish to thank Senator Byrd and his talented staff. Working for this legend of the U.S. Senate was truly a privilege, and I am grateful for the confidence he has shown in me over the years.

I note that I had the honor of assisting Senator Byrd on constitutional issues. Senator Byrd has always emphasized, and I will never forget, that article 1, section 8 of the Constitution gives Congress the authority to regulate commerce with foreign nations. Congress makes the trade laws, and it is the job of the International Trade Commission to implement those laws fairly and in accordance with Congressional intent.

Over the course of my career, I have advised several international trade decision makers on applying very complex laws to what are often hotly disputed facts. I now look forward to the opportunity to participate in the administrative process as a decision maker.

If confirmed, I can assure you that I will approach my new responsibilities as I have always approached my responsibilities: in a fair and impartial manner, with professionalism and courtesy.

When she reaches adulthood, my young daughter sitting right behind me will confront a world that is still more complex and more interdependent than that which we have come to know.

The International Trade Commission stands at the intersection between the U.S. economy and the international economy, administering statutes and helping Congress and the executive branch to make policy decisions that will shape the world of our children and ensure that they enjoy abundant economic opportunity.

I humbly thank you for considering my nomination to this important body.

The CHAIRMAN. Thank you very much.

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

The CHAIRMAN. Now, Mr. Williamson?

STATEMENT OF IRVING WILLIAMSON, NOMINATED TO BE A MEMBER OF THE U.S. INTERNATIONAL TRADE COMMISSION, WASHINGTON, DC

Mr. WILLIAMSON. Thank you, Mr. Chairman, Senator Rockefeller. I also want to thank Senator Baucus and the other members of the committee.

I particularly want to thank Congressman Rangel for introducing me, and I want to thank Senators Schumer and Clinton, Senate Democratic Leader Reid, and House Speaker Pelosi for supporting my nomination.

I also want to express my appreciation to Congressman Rangel for proposing my appointment as a Commissioner and for the support he has given me throughout my career. I am proud to be able

to say that, as a Harlem resident, he has been my Congressman for the last 21 years.

I also want to thank my family for the support that they have given me throughout my career.

I have been working on trade policy matters for over 30 years. I have worked in a wide variety of positions at the Federal and regional government level, and as head of my own international consulting firm. I hope that this long and extensive experience will make me an effective Commissioner, if I am confirmed.

As Deputy General Counsel at USTR, I served as Chairman of the Interagency Section 301 Committee and led it through 24 investigations of foreign trade barriers. I also helped manage the 14-attorney office that was engaged in over 30 WTO dispute settlement proceedings, and was named "Best Government International Law Office."

Before USTR, I worked for the Port Authority of New York and New Jersey, where I advised it on international trade issues and assisted local firms in the New York and New Jersey region to deal with foreign trade barriers.

While a Foreign Service Officer at the State Department, I served as an Associate General Counsel at USTR, and also served in the U.S. Mission in Geneva, Switzerland, among other assignments.

Throughout my career, I have worked closely with the staff of the Commission, and I have come to appreciate the important advisory role the Commission plays in the trade policy formulation process.

The Commission helps ensure that the administration and the Congress have the information and analysis needed to make trade policy decisions that are in the best interests of the U.S. economy and employment in the U.S. The Commission also has a very important role to play as an independent fact-finding body which administers provisions in our trade remedies laws and our laws dealing with foreign unfair trade practices.

If confirmed, I will administer these laws as written and as the Congress intended. I will seek to apply our trade laws objectively, fairly, and vigorously. I will not substitute any policy bias in place of Congressional intent.

In my consulting assignments, I have seen how decisions regarding international trade are hampered when countries do not have an institution such as the ITC. I therefore recognize that one of the responsibilities of a Commissioner is to ensure that the Commission, as an institution, continues to carry out effectively for our country the important functions assigned to it.

Thank you.

The CHAIRMAN. Thank you, Mr. Williamson.

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

The CHAIRMAN. Now, Ms. Bilyeu?

STATEMENT OF DANA BILYEU, NOMINATED TO BE A MEMBER OF THE SOCIAL SECURITY ADVISORY BOARD, SOCIAL SECURITY ADMINISTRATION, BALTIMORE, MD

Ms. BILYEU. Mr. Chairman, Senator Rockefeller, and the rest of the members of the committee, I am truly honored to be here be-

fore you today as a nominee of the President to the Social Security Advisory Board.

If I am confirmed, I look forward to working with the staff and the other members of the Advisory Board on important issues facing Social Security today, and into the future.

The Advisory Board performs a valuable service by providing bipartisan recommendations to the President, Congress, and the Commissioner to strengthen the Social Security programs. It is my intention to work diligently to support the mission as a member of the board.

The Social Security system impacts most people in our country every single day. They go to work, pay their taxes, provide for themselves and their family, and, finally, expect to retire, at least in part, based upon the benefits provided by the Social Security system. Over 160 million workers pay into Social Security, and over 48 million receive benefits today.

Not only is Social Security central to the retirement security of the vast majority of Americans, it is of vital personal importance to me as the daughter of two benefit recipients and the mother of a future benefit recipient.

My parents' generation, my generation, my son's generation, and all those that follow will look to Social Security for some portion of their retirement income, and with that retirement income, dignity and independence in their final years.

The work of the Advisory Board provides tremendous research and bipartisan advice to the policymakers charged with oversight of this program that is one of the mainstays of preserving the quality of life for our citizens. If confirmed, it would be my privilege to participate in this effort.

Thank you for the opportunity to appear today. I am looking forward to answering your questions.

The CHAIRMAN. Thank you.

[The prepared statement of Ms. Bilyeu appears in the appendix.]

The CHAIRMAN. Dr. Warshawsky?

STATEMENT OF HON. MARK WARSHAWSKY, NOMINATED TO BE A MEMBER OF THE SOCIAL SECURITY ADVISORY BOARD, SOCIAL SECURITY ADMINISTRATION, BALTIMORE, MD

Dr. WARSHAWSKY. Thank you, Mr. Chairman. Chairman Grassley, members of the committee, thank you for the opportunity to appear here today. I am honored to be nominated by President Bush to be a member of the Social Security Advisory Board. I am most grateful to my family for their continual support and encouragement.

I am pleased to appear before this committee again for a confirmation hearing. I was last here in March of 2004 for my nomination to be Assistant Secretary for Economic Policy at the Treasury Department, which was a great honor and a wonderful position.

I believe I am well qualified by education and experience to serve on this board. My career in the Federal Government and in the private sector has focused on economic research about, and policy toward, insurance and retirement saving and benefits and lifelong financial security.

Social Security clearly is a major component of these issues. Indeed, the early U.S. history of the benefits consulting firm at which I now work, Watson Wyatt, is closely tied to the early history of Social Security. The actuaries who founded the Wyatt company in the 1940s were among the first designers and administrators of this important government program.

I believe it is essential for all Americans that we have a permanently solvent and intergenerationally fair Social Security system, one that is responsive, equitable, efficient, and well-managed, as well as one that encourages higher national savings and longer working lives as the baby boom generation approaches retirement years.

The Advisory Board can play a helpful role in achieving these goals by gathering information from a variety of sources and performing and sponsoring analyses of Social Security's role and performance, and sharing those results widely.

I understand that the board works through consensus, and I believe that this is the appropriate approach for it to be most effective.

I would look forward to my participation with my board colleagues in the board's activities, and to working with the Commissioner and the members of this distinguished committee and others in the policy community, should I be confirmed.

Thank you again, Mr. Chairman and members of the committee, for the privilege of appearing before you. I would be pleased to answer your questions.

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

The CHAIRMAN. There are three questions that we ask every nominee.

First, 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. Ryan?

Mr. RYAN. No, Mr. Chairman.

The CHAIRMAN. Dr. Swagel?

Dr. SWAGEL. No.

The CHAIRMAN. Mr. Pinkert?

Mr. PINKERT. No.

The CHAIRMAN. Mr. Williamson?

Mr. WILLIAMSON. No.

The CHAIRMAN. Ms. Bilyeu?

Ms. BILYEU. No.

The CHAIRMAN. And Dr. Warshawsky?

Dr. WARSHAWSKY. No, Mr. Chairman.

The CHAIRMAN. Second, 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. Ryan?

Mr. RYAN. No, Mr. Chairman.

The CHAIRMAN. Dr. Swagel?

Dr. SWAGEL. No, Mr. Chairman.

The CHAIRMAN. Mr. Pinkert?

Mr. PINKERT. No, Mr. Chairman.

The CHAIRMAN. Mr. Williamson?

Mr. WILLIAMSON. No, Mr. Chairman.

The CHAIRMAN. Ms. Bilyeu?

Ms. BILYEU. No, Mr. Chairman.

The CHAIRMAN. And Dr. Warshawsky?

Dr. WARSHAWSKY. No.

The CHAIRMAN. Last, 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. Ryan?

Mr. RYAN. Yes, Mr. Chairman.

The CHAIRMAN. Dr. Swagel?

Dr. SWAGEL. Yes.

The CHAIRMAN. Mr. Pinkert?

Mr. PINKERT. Yes, Mr. Chairman.

Mr. WILLIAMSON. Yes.

Ms. BILYEU. Yes.

Dr. WARSHAWSKY. Yes.

The CHAIRMAN. All right. Thank you.

Let me put an addendum to the last one. It is not a question; it is an admonition. The question only refers to appearing and testifying. Most of our communications with the executive branch are by letter when we want information.

I always admonish people. And I suppose I am admonishing these two, not accusing them of anything but knowing what past practices are of various bureaucracies, and not just Treasury, and not so much the rest of you.

But you send these letters and sometimes you never get an answer, so you write back and you eventually get an answer, but not a complete answer. Then you write back. Eventually, maybe after three or four times, if you are lucky, you get all your questions answered.

As far as I am concerned, you give the answer that you are willing to appear, and that means answering our letters. Now, I will just give you an example. An hour ago, I was asking questions of a panel down in Judiciary. We run into this in investigations like I have been doing through Judiciary and through this Finance Committee about an SEC whistle-blower.

We are getting good cooperation from the Securities and Exchange Commission, but the poor whistle-blower comes to us because he does not get justice within the agency.

We have a situation where the Inspector General did not do the job of protecting him in the first place, or at least investigating in the first place, and then when the whistle-blower comes to us, they re-open the investigation.

Then the Inspector General has the guts to subpoena us for the information we got from the whistle-blower. Now, that is going to chill whistle-blowing. That is what it is intended to do. They have the Justice Department enforcing the subpoena. If that is enforced, we might as well shut down Congressional oversight.

That is the sort of lack of cooperation that we should not have from the executive branch of government if they have the respect for the constitutional checks and balances.

Now, I was only telling you about answering a letter. But you see, when we do not get the information in the first place, that is

where all this stuff leads to. So I admonish you, when we ask questions—I mean, the public's business ought to be public.

That is what checks and balances are all about, except in the instance of intelligence, national security, privacy, and maybe executive privilege, which is very narrow. It does not include the Secretary of Treasury. It includes a few advisors to the President right there in the White House. So, I would ask for that sort of cooperation.

Dr. Swagel, I understand that you made the committee aware of a personal concern, and I would like to give you an opportunity to describe that, and how it was addressed.

Dr. SWAGEL. Thank you, Mr. Chairman.

That is right. As part of the nomination process I made the committee staff aware of a situation. Five years ago, my wife and I hired a child care provider. At that time, we verified her employment status. In the 5 years since, we paid all of the taxes and fulfilled our legal obligations.

As part of the process of the nomination, the background investigation, I became aware that, 5 years later, our child care provider's legal status had changed and she had lost her work permit. This was the first I was aware of it.

As soon as I found out, with her permission, I talked to her attorney and verified this, and that same day, told her that we could no longer employ her and my wife and I had to let her go as our child care provider.

The CHAIRMAN. All right. And I assume that that satisfies the committee. All right.

This question will be for all nominees. I would ask you to give a short answer. You are welcome to give a longer answer, but I would ask for a longer answer in writing.

Would you please tell me, or the committee, what you consider your role to be, if confirmed, and what your goals would be in your new positions?

Mr. Ryan?

Mr. RYAN. Mr. Chairman, my role would be Assistant Secretary for Financial Markets at the Department of the Treasury. In that capacity, I would be an advisor to Under Secretary Steele on a variety of financial matters.

My primary role and responsibility will be focused on managing the debt issuance and the financing of our operations, as well as other policies conducive to fulfilling the Treasury Department's mission.

The CHAIRMAN. And getting the lowest rate of interest you can, right?

Mr. RYAN. Sorry, sir?

The CHAIRMAN. And getting the lowest rate of interest you can for the taxpayers?

Mr. RYAN. That is the plan. Yes, sir.

The CHAIRMAN. All right.

Dr. Swagel?

Dr. SWAGEL. Thank you, Mr. Chairman. If confirmed as Assistant Secretary for Economic Policy, I would provide economic analysis and advice to Secretary Paulson on a wide variety of economic

issues, micro-economic and macro-economic, and would seek to support him in taking on the economic challenges facing the Nation.

The CHAIRMAN. Yes.

Now, the next two people have the most independence, probably, of any of you at the table. So with that independence, what would you hope to accomplish that maybe you could not do if you were in a position where you were ministerial in function?

Mr. PINKERT. Well, first of all, Mr. Chairman, our duty is to administer the trade laws fairly and impartially, those aspects of the trade laws that we are entrusted with.

Second, we must issue thorough and well-reasoned reports to Congress and to the executive branch concerning trade issues and potential trade agreements.

Then, third, we are responsible for maintaining the harmonized tariff system.

The CHAIRMAN. Yes. Is there anything there that you know now that you would like to make an impact on that maybe would be a different direction for the Commission?

Mr. PINKERT. I do not have a direction in mind, except to administer the laws fairly.

The CHAIRMAN. All right.

Mr. Williamson?

Mr. WILLIAMSON. A similar answer. Yes. Our first duty is, of course, to administer the trade remedies laws and our laws dealing with unfair trade practices, and to do a very thorough and good job of that.

Second, of course, is the advisory role that we play for the Congress and the administration, and to do a thorough job in conducting research and giving both institutions options.

The CHAIRMAN. Yes. I did not mean to imply that, by independence, you did not have to enforce the law. I meant by independence, you have a long tenure—I think 9 years, as I recall—and so that does give you a lot of independence from the standpoint of making sure the laws are faithfully executed without political pressure and the things that sometimes happen when you are within the executive branch.

And your advice?

Ms. BILYEU. Mr. Chairman, as a member of the Advisory Board, we look forward to working to review various issues that are facing the Social Security Administration, as well as the Social Security system, by advising both the President and Congress with respect to that.

I have had the opportunity to review many of the studies that the Advisory Board has conducted thus far, and look forward to being able to participate in that process in setting that agenda going forward.

Dr. WARSHAWSKY. Mr. Chairman, as an independent Advisory Board, the Social Security Advisory Board, to some extent, sets its own agenda. That being said, it is obviously influenced by the needs of the Social Security system and the Social Security program, and I would look forward to working with my colleagues, if I should be confirmed, in providing advice to you, to the administration, and also to inform the public of the issues facing the Social Security system.

The CHAIRMAN. One of the questions I was going to ask Mr. Williamson, he answered in the previous response. But I would like to ask you, based on your experiences, how can the objectivity and transparency of the ITC serve as a model for other countries? If you have not given that any thought, I do not want you to answer it. But if you have, I would appreciate an answer, or maybe one in writing.

Mr. WILLIAMSON. Briefly, I can say that the quality of the research that the Commission does—the hearings, the investigations, getting all points of view in the United States—I think is very important.

I have seen in many countries where major trade policy decisions and negotiations are made without having good information, so I think it is very important for the Commission to look at the full range of how people in the U.S. are impacted by international trade agreements, and to probably do a more thorough job than has been done so that maybe we can give some additional policy options for the administration and for the Congress to deal with some of the challenges of globalization where we have not done as good a job as we should.

The CHAIRMAN. Yes.

Mr. Pinkert, one of the questions I was going to ask you was already answered in your previous response. Is there anything about your time in private practice, to inform the committee about your relationship and interaction with the ITC, that we ought to know about?

Mr. PINKERT. Well, in private practice, Mr. Chairman, I had an opportunity to work on behalf of the U.S. cement industry, which had concerns about Mexican cement. But I also had an opportunity to work on behalf of exporters who had a need to learn about the export control laws of the United States, including agricultural exporters.

So what I would say is, it gave me a broad experience on both the import and export side that I added to the experience I already had from working at the Commerce Department.

The CHAIRMAN. All right. I have no further questions. Just before you go, I want to ask my staff a question. [Pause.]

To the members of the committee's staff—hopefully those who are not here are listening—if you have questions for these folks, we would like to have the questions in for answer in writing by 5 p.m. today, and then we would like to have you respond right away, because it is our intention tomorrow, off the floor, to hold a special meeting to take care of these nominees.

So, particularly for members of the committee, it is pretty important. I try to enforce, if you have questions from them, that they be thoroughly answered, otherwise we will not move forward with your name.

Thank you all very much.

Senator ROCKEFELLER. Mr. Chairman?

The CHAIRMAN. Yes. Go ahead.

Senator ROCKEFELLER. Am I allowed to ask questions?

The CHAIRMAN. Oh, I am sorry. Yes, of course you are. Of course you are. I will stay and listen. [Laughter.]

Senator ROCKEFELLER. And it is obviously for the two ITC nominees.

Almost nobody in America knows about the ITC. If you are both confirmed, you will see more of me and will have to listen to me more than you will ever want. Fair trade laws just happen to be incredibly important to not just my State of West Virginia, but I think to the country, our manufacturing base, all of that.

The trend, however, has been either ignoring trade laws or weakening trade laws. This is not a Republican or Democratic thing. In fact, it started, I think, under Clinton with Rubin. You know, the international economy speaks for itself, and that is the way of the future, and narrow, special interests are trying to say, below cost of production selling of steel to the United States was all right because that is sort of the way the world worked. So you have the two philosophies.

One is, what is the law of the land, which is that there shall be fair trade and, as you specifically said, it is your specific responsibility to make sure that, under the law, that that happens.

Then there is the kind of general lack of interest in trade. For example, we talk about budget deficits, budget debts, but we sort of never remember to add on the trade deficit. It goes up every month, and that is something on ABC News for 30 seconds, and that is that. I just think the ITC is immensely important, and for all States, for all reasons, and for all times, as one might say.

Now, if the trend is going the other way, the ITC has to follow the law. I am just interested in what your thoughts are about the fact that this administration and the previous administration were not sympathetic to enforcing trade laws because there was foreign policy, there were diplomatic needs, there was balancing of powers, whatever considerations that always took precedence.

There is a large group of us around here who are really sick of that, and tired of that, and have not really been able to do anything about it, in spite of some very good rulings from the ITC. You are the folks who know it best of all.

Can you explain that? Can you explain how, by enforcing trade laws—that being what is required of you—that there could be a change of direction, or do you think the battle is lost, that free trade is all that matters, and laws come and go, WTO comes and goes, it does not make any difference, appeal does not make any difference, and the country is not paying much attention? It is very discouraging to me. I do not want it to be discouraging to you, each of you.

Mr. PINKERT. Thank you, Senator Rockefeller. I think that none of us have lost our vigor and our interest in enforcing the laws of the United States. I think that when the Commission does its job, under the law, that helps to increase the confidence of the American people in the international trading system.

So, I think it is a very important role considered in the context of the system as a whole, as well as the importance of enforcing our laws.

Senator ROCKEFELLER. All right.

Mr. Williamson?

Mr. WILLIAMSON. Thank you, Senator Rockefeller. I do not think I have a good answer, but I will point out one thing. When I was

working at USTR in the 1990s, I used to take the A train home to Harlem every Friday night. I used to think about, what is the impact of what I am doing at USTR on the people on the train with me? I think that is still a problem.

How do we ensure that all Americans benefit from international trade agreements? Enforcing the trade laws is a part of the package. We really cannot have the trade agreements if we do not have the trade laws, and enforce those.

So I think it is a challenging task, but I will try to work hard to give some fresh insights. I think that is part of the role of the Commission, to kind of help the policymakers, both in the Congress and in the administration, address this problem.

Senator ROCKEFELLER. But you will both tell this committee and act, if confirmed, to uphold the trade laws of the United States?

Mr. PINKERT. Absolutely.

Mr. WILLIAMSON. Yes.

Senator ROCKEFELLER. Thank you.

Thank you, Mr. Chairman.

The CHAIRMAN. Yes. Thank you very much. We will proceed as planned and hopefully get committee approval tomorrow.

Thank you all very much. Thank you.

[Whereupon, at 1 p.m., the hearing was concluded.]

APPENDIX

ADDITIONAL MATERIAL SUBMITTED FOR THE RECORD

**Opening Statement of U.S. Senator Max Baucus (D-Mont.)
Treasury, International Trade Commission,
and Social Security Advisory Board Nominations
Hearing before the Senate Finance Committee**

Today we are here to consider the nominations of Anthony Ryan to be Assistant Secretary for Financial Markets, Department of the Treasury; Phillip Swagel to be Assistant Secretary for Economic Policy, U.S. Department of the Treasury; Dean Pinkert to be Member of the U.S. International Trade Commission; Irving Williamson to be Member of the U.S. International Trade Commission; Mark Warshawsky, to be Member of the Social Security Advisory Board, Social Security Administration; and Dana Bilyeu, to be Member of the Social Security Advisory Board, Social Security Administration.

These candidates are all well qualified for the respective positions for which they've been nominated, and I look forward to working with them in the future.

Mr. Ryan has been nominated to be Assistant Secretary for Financial Markets at Treasury. This is the office that manages the issuance of Federal debt. Mr. Ryan has had extensive experience working with all types of financial markets, including those involving the issuance of Federal securities. Therefore, I think he is highly qualified for this position.

Unfortunately, we will once again have to raise the Federal debt limit next year. This year, we had to increase the debt ceiling by \$781 billion, the fourth largest debt limit increase in our nation's history. When added to the three previous increases over the last four years, this Administration's fiscal policies will have resulted in a debt increase of nearly \$3 trillion. The sheer size of these increases demonstrates that this Administration has not been fiscally responsible. We need to do better.

In view of the fact that we will have to raise the debt ceiling again next year, I note that Treasury officials and I have worked together very closely in the past to raise the debt ceiling when that was required. I look forward to working closely with Mr. Ryan and his colleagues next year, and I am confident that they intend to work closely with us.

--2 more--

Turning to our trade nominees, I have long believed that rigorous enforcement of U.S. trade remedy laws – safeguard, anti-dumping and countervailing duty laws – is critical to maintaining the political will to continue trade liberalization in free trade agreements and in the WTO.

U.S. farmers, workers, and companies must believe that their government will protect their interests in the face of unfair or overwhelming forces in the international market. The U.S. trade remedy laws give the government the tools to do so.

The International Trade Commission is a key player in the administration of those laws, so the nominees before us today will have an important role to play.

Both Mr. Pinkert and Mr. Williamson have long and impressive careers developing and administering U.S. trade policy. I am certain they will make excellent commissioners.

Let me now turn to our Social Security nominees. The Social Security Advisory Board is an independent, bipartisan board created by Congress to advise the President, the Congress, and the Commissioner of Social Security on matters related to the Social Security and Supplemental Security Income, or SSI, programs. Ms. Bilyeu and Dr. Warshawsky have been nominated to serve on this Board.

Dr. Warshawsky is familiar to us. He was previously confirmed by the Senate for the office of Assistant Secretary for Economic Policy at the Department of the Treasury. He left that position earlier this year. While in that position, his responsibilities included serving as the senior advisor to the Secretary of the Treasury on all Social Security financing issues. Dr. Warshawsky has extensive background and experience in Social Security's finances, economics, retirement planning issues, and other public finance issues. I have great respect for his intellect and experience and I think he has the ability to be a valuable member of the board.

Having said that, I note that while at Treasury, Dr. Warshawsky was a part of the White House team that developed the President's plan for the privatization of Social Security. He also gave several speeches while at Treasury supporting the President's privatization proposal. I do not agree with the privatization policies he supports. The President tried to get the Congress to enact these policies in 2005 and the American people rejected his proposals. I hope that the President does not try to resurrect them next year.

Ms. Bilyeu has served as the Executive Officer of the Public Employees Retirement System of Nevada since 2003, and prior to that she served as Operations Officer for that System.

As a result, Ms. Bilyeu has very extensive knowledge of the funding and plan design of retirement systems that are similar in structure to Social Security. She is also very familiar with complex actuarial financing calculations, retirement planning, and disability policy issues. She will be an excellent addition to the Social Security Advisory Board.

--1 more--

Finally, let me turn Dr. Swagel. Dr. Swagel has been nominated to the position of Assistant Secretary of Treasury for Economic Policy, the same position that Dr. Warshawsky held. Dr. Swagel is extremely qualified for this position. He has very extensive experience working on economic issues at the Federal Government level. In addition, he is widely published in highly respected journals in all areas of economic policy and public finance.

In his capacity as Assistant Secretary for Economic Policy, Dr. Swagel will be advising Secretary Paulson on the long-term financing challenges of Social Security and the long-term fiscal problems facing the Federal Government as a whole. Therefore, I would like to offer him this advice.

Social Security privatization has been rejected by the American people. If the Bush Administration wants to work with the Congress on a bipartisan basis, it must agree that Social Security privatization has already been taken off the table – by the American people.

And beyond that, the Administration cannot look at Social Security's long-term financial picture by itself, or even the long-term financial challenges of just Social Security, Medicare, and Medicaid. It must look at the entire long-term Federal budgetary picture, including the need to reduce the tax gap, abusive tax shelters, and corporate tax loopholes. And it must look at discretionary spending too, not just entitlement spending.

I look forward to hearing from all of the nominees today. And I wish them all good luck.

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Confirmation Hearing

Statement by Dana K. Bilyeu
Social Security Advisory Board Nominee

Before the Committee on Finance
United States Senate

December 5, 2006

Statement of Dana K. Bilyeu¹

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

I am truly honored to be here before you today as a nominee of the President to the Social Security Advisory Board. If I am confirmed, I look forward to working with the staff and other members of the Advisory Board on the important issues facing Social Security today and into the future. The Advisory Board performs a valuable service by providing bipartisan recommendations to the President, Congress and the Commissioner to strengthen the Social Security programs. It is my intention to work diligently to support this mission as a member of the Board.

The Social Security System impacts most people in our country every single day. They go to work, pay their taxes, provide for themselves and their families and ultimately expect to retire, at least in part, based upon the benefits provided by Social Security. Over 160 million workers pay in to Social Security and 48 million beneficiaries receive benefits.

Not only is Social Security central to the retirement security of the vast majority of Americans, it is of vital personal importance to me as the daughter of two recipients and the mother of a future recipient. My parent's generation, my generation, my son's generation and all those that follow will look to Social Security for some portion of their retirement income, and with that retirement income, dignity and independence in their final years. The work of the Advisory Board provides tremendous research and bipartisan advice to the policy makers charged with oversight of this program that is one of the mainstays to preserving quality of life for our citizens.

If confirmed, it would be my privilege to participate in this effort. Thank you for the opportunity to appear today and I would be happy to answer any questions.

¹I am the executive officer of the Public Employees' Retirement System of Nevada. I am a member of the National Association of State Retirement Administrators, the Government Finance Officer's Association, The National Council on Teacher Retirement, The National Conference of Public Employee Retirement Systems, and the International Foundation for Employee Benefit Plans, Public Employee Advisory Board. I am licensed to practice law in Nevada and California, with membership in the National Association of Public Pension Attorneys.

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

A. BIOGRAPHICAL INFORMATION

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

Dana Katherine Bilyeu (married name), formerly Dana Katherine Sammons (maiden name)

2. Position to which nominated:

Member, Social Security Advisory Board

3. Date of nomination:

September 20, 2006

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

Home and mailing address:

1100 Cordero Drive
Carson City, Nevada 89703

Office Address:

693 West Nye Lane
Carson City, Nevada 89703

5. Date and place of birth:

March 6, 1961,
Tucson, Arizona

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

Married. Spouse's name: Lindsay Smith Bilyeu

7. Names and ages of children:

Son Mateo, age 10.

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

High School: Palo Verde High School, Tucson, Arizona 1975-1978 (high school diploma)

College: University of Arizona, Tucson, Arizona 1978-1982, Bachelor of Arts in History

Law school: California Western School of Law, San Diego, California 1982-1985, juris doctor

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.)

June 1983—May 1985, law clerk, gang prosecution unit, San Diego District Attorney's Office, San Diego, California.

August 1985—July 1986, law clerk, First Judicial District Court, Carson City Nevada, The Honorable Michael Fondi, presiding.

August 1986-February, 1987—Allison, Mackenzie, Hartman, Soumbeniotis and Russell. Associate Attorney.

February 1987-January 1995—Deputy Attorney General, Office of the Attorney General, Carson City, Nevada.

January 1995-October 2003—Operations Officer, Public Employees' Retirement System of Nevada, Carson City, Nevada.

October 2003-present—Executive Officer, Public Employees' Retirement System of Nevada, Carson City, Nevada.

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.)

2005—present, Judicial Compensation Committee, Administrative Office of the Courts, Supreme Court of Nevada

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.)

1999—2001, Past Board Member, Northern Nevada Literary Council. Non-profit educational institution providing literacy education.

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

Member, State Bar of California 1985—Present (inactive member).
Member, State Bar of Nevada, 1986—Present (active member).
Member, National Association of State Retirement Administrators, 2003—Present.
Member, National Council on Teacher Retirement 2003—Present.
Member, International Foundation for Employee Benefit Programs Public Employee Advisory Board, 2006.

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.

Kevin Higgins, Sparks Justice of the Peace—\$50.00
Anne Langer, Storey County District Attorney—\$100.00.

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.)

Supreme Court Fellow, National Association of Attorneys General, 1989.

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

All articles drafted during my employment for the Public Employees' Retirement System of Nevada (for externally published newsletters) carry no byline. Recently, I submitted an article to the Nevada Business Journal (October 2006) addressing how Nevada PERS is safeguarding the trust assets for public employees.

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.)

All presentations with relevant information are related specifically to my position as the Executive Officer of the Public Employees' Retirement System of Nevada. See attachments for examples.

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

I am qualified for the position due to my specific knowledge related to funding and plan design of retirement systems that are similar in structure to the Social Security System. Specifically, my understanding of disability, survivor and retirement programs for multiple employer plans provides me with detailed background on these types of programs. I work with complex actuarial financing issues in my current employment and address issues related to long-term retirement planning for government workers. This knowledge base translates very well to the work of 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.

My current position as the Executive Officer of the Public Employees' Retirement System is my full-time employment. It is my understanding that membership on the Social Security Advisory Board is a per diem appointment. My professional affiliations relate to my current employment and my professional licenses, therefore must continue.

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 have no plans to pursue outside employment during the period of service for this position.

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 person or entity has made a commitment or agreement to employ my services in

any capacity after I leave the advisory board.

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.

I expect to serve 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 have no investments obligations, liabilities, or other relationships which could involve potential conflicts of interest in the position to which I have been nominated.

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 no business relationship, dealing or financial transaction during the last 10 years, whether for myself, 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 I have been nominated.

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.

My position as the executive officer of the Public Employees' Retirement System requires that I represent the System in the Nevada Legislature. In my official capacity I have participated in many legislative discussions of pension policy including advocating modifications to the Nevada Retirement Act. I receive my policy direction from the Board of Trustees, whose position I will advocate, both positive and negative regarding pending legislation affecting the Nevada Retirement Act. Examples include plan design issues, funding issues, and budgetary issues.

I have not engaged in any lobbying efforts, advocating passage, failure or modification of any legislation in my personal capacity.

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.)

There are no conflicts requiring resolution.

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.

It is my understanding that these opinions have been transmitted to the committee on my behalf by the OGE and the Office of the General Counsel to the SSA.

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.

I have never 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.

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.

I have never 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 minor traffic offenses.

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

A former employee filed a lawsuit against the System and individually each employee in her chain of command including me, as the head of the agency. All allegations arise out the employer/employee relationship, stemming from performance evaluations of the employee's prepared by her immediate supervisor. The case is in Federal District Court in the Northern District for Nevada. The case number CV-N-05-696. This is the only administrative agency proceeding or civil litigation to which I have been a party in interest.

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.

I have never been convicted of any criminal violation, other than minor traffic violations.

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

To the best of my knowledge there is no other information to be considered in connection with my 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?

I am willing to appear and testify before any duly constituted committee of the Congress.

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

I am willing to provide such information as requested by such committees.

**Responses to Questions for the Record
for the December 5, 2006 Hearing for the Nomination of Dana Bilyeu**

ANSWERS TO QUESTIONS FROM CHAIRMAN GRASSLEY

(1) What do you believe is the most important challenge facing our nation today in terms of retirement (or disability) policy?

At the present time, a number of issues face this nation regarding the economic and health security in retirement or disability for American workers and their families. Demographic changes, changes in the nature of pension plans, increasing health costs are all converging. At the same time, rising caseloads and constrained budgets have seriously impaired the ability of the Social Security Administration, to provide prompt and excellent service to the public and appropriate stewardship of the programs it runs. For example, hundreds of thousands of disability claimants now wait for well over a year – often multiple years – to get a final answer about whether or not they qualify. Further, important eligibility reviews that significantly constrain benefit costs are being deferred for lack of administrative resources. All of these elements together form what I view as the most important challenge for our retirement and disability policy, namely, how to restore for American workers and their families a high degree of confidence that our overall system of economic security will be available and effective when they reach the point of retirement or if they experience a disabling event.

(2) What recommendations would you make to address this challenge?

Throughout our history, the American political system has shown the capacity to meet many enormous challenges. I think the primary requirement for addressing the income security challenges we face is recognition of the importance to the American people of a reliable overall approach to economic security in retirement and disability and a commitment to finding the policy changes and providing the administrative resources that can achieve that goal.

(3) What accomplishment would you most like achieve during your tenure on the Advisory Board?

In creating the Social Security Advisory Board in 1994, Congress gave it several mandates and the first of these was for:

“analyzing the Nation’s retirement and disability systems and making recommendations as to how the old-age, survivors, and disability insurance program and the supplemental security income program, supported by other public and private systems, can most effectively assure economic security.”

As I have looked at the Board's reports issued since it was given that mandate, I find that it has attempted to meet this responsibility by examining the issues involved on a bipartisan, consensus basis. This approach provides present policymakers with information in a reliable and nonpartisan way that can help them formulate policies that will be both effective and broadly acceptable to the American people. If confirmed, I hope to help the Board continue to explore and elucidate issues in this way. Bringing my background in public pension administration to this discussion will add diversity in experience and perspective and I hope would provide practical insight into thoughtful suggestions for policymakers to consider.

ANSWER TO QUESTION FROM SENATOR BAUCUS

RESOURCES FOR SSA: The SSAB has advocated for quite some time that the Congress and the President provide SSA with the necessary resources to carry out its responsibilities – especially to address the backlogs in the disability application and appeals process. In recent years, the enacted amount for SSA's administrative costs has been well below the amount requested in the President's budget. The situation is even worse this year. SSA's administrative budget in the current year was reduced by the Senate Appropriations Committee by \$400 million below the President's request. If this is the level that is finally appropriated for the full year, SSA will be in a dire situation. Service to the public will be reduced and furloughs of ten days will be required for every agency employee. Would you agree that it is especially important for the Advisory Board to advocate in favor of enactment of the full amount of the President's Budget request for SSA's administrative costs this year?

Answer:

While I have not yet had the opportunity to participate in the deliberations of the Social Security Advisory Board, I know from looking at their reports and materials on their website that they have strongly urged the Congress to provide adequate funding for the administrative costs of the Social Security Administration and have expressed serious concern over the extent to which inadequate resources have compromised the ability of the agency to provide appropriate levels of service to the public and to carry out its stewardship responsibilities. The level of funding recommended in the President's budget is several hundred million dollars below the amount that the Commissioner of Social Security has determined necessary to put the agency on track to fully meeting its responsibilities for excellence in administration. I certainly would expect, if confirmed, to endorse and support the Board's advocacy of providing at least the amount of administrative funding proposed in the President's budget.

**STATEMENT OF SENATOR ROBERT C. BYRD
IN SUPPORT OF
U.S. INTERNATIONAL TRADE COMMISSION NOMINEE
DEAN PINKERT
BEFORE THE SENATE FINANCE COMMITTEE
DECEMBER 5, 2006**

Chairman Grassley and Senator Baucus, it is with great pleasure that I take this opportunity to express my strong support for my former Trade Counsel, Mr. Dean Pinkert, who has been nominated by the President for a seat on the U.S. International Trade Commission.

As we all know, the ITC is a key agency important to both this Committee and to the Nation. Its commissioners are trusted to apply our country's trade laws in a thoughtful, fair, independent, and constructive manner. I know that Dean Pinkert is someone who will apply the laws in just that way.

Dean's background is steeped in international trade and commerce. Born and raised in Chicago, he attended Oberlin College, obtained his law degree from the University of Texas, and went on to obtain his L.L.M. from the esteemed London School of Economics. He specialized in international trade law in 1990, and has spent a career as a real expert in the field, working both in private practice and in the Office of the Chief Counsel for Import Administration, located within the Commerce Department.

He has defended the United States before the WTO; before NAFTA Panels; and in tough negotiations with foreign competitors. For example, he represented the U.S. government in the recently resolved Canadian softwood lumber dispute.

Dean is a smart, independent thinker. He is hard working. He has had nearly two decades of experience administering U.S. trade remedy laws. As a result, he knows when and how they should be applied. The breadth of his experience is substantial: he has worked on cases that have spanned the spectrum, from agricultural products like apple juice, corn syrup, mushrooms, and wheat, to industrial products such as steel and cement.

Having worked for a U.S. government agency specializing in trade matters, he has a deep appreciation for both the expertise and the mission of the U.S. International Trade Commission. In fact, he already has an excellent working relationship with many of the dedicated employees who work for the agency, due to his excellent reputation and keen intellect.

On top of all of that, he also has excellent relations with many Members of Congress and their staff on both sides of the aisle. I grew to appreciate Dean when he served as my Trade and Judicial Counsel for several years. Based on my knowledge of, and respect for, Dean, I would like Members of the Finance Committee to know that I strongly support Dean's nomination to serve on the ITC. I am very proud of Dean. I know that he is a superb trade lawyer, and that he will make a substantial contribution to our Nation, when he is confirmed to sit as a Member of the esteemed U.S. International Trade Commission.



**SENATOR HILLARY RODHAM CLINTON INTRODUCTION OF IRVING
A. WILLIAMSON
BEFORE THE SENATE FINANCE COMMITTEE
December 5, 2006**

Thank you Mr. Chairman, Senator Baucus and Members of the Committee.

I'm pleased to be here to today to introduce Irving A. Williamson to be a Commissioner at the International Trade Commission. Irving Williamson is ideally suited to be a commissioner at the International Trade Commission. He has had a distinguished "blue chip" career in international trade policy which will make him an asset to the ITC.

And I know that Mr. Williamson has been strongly supported by Congressman Rangel. I can think of no better and more forceful a recommendation for this important position.

The breadth and depth of Mr. Williamson's experience in the government on international trade issues is impressive. During his 18-year career as a Foreign Service Officer, he coordinated bilateral U.S. trade and economic policy with in both Africa and Latin America. He also gained experience working on multilateral trade issues, such as the General Agreement on Tariffs and Trade, intellectual property rights, and international aviation.

Beyond his policy work at the State Department, he also worked as a trade attorney at the Department of Treasury and, from 1993 to 1998, was the Deputy General Counsel at the Office of the U.S. Trade Representative. Of course, I would be remiss if I did not mention the eight years he spent advising the Port Authority of New York and New Jersey on trade issues ranging from how to conduct trade with Eastern Europe after the fall of the Soviet Union, to improving our trade relationship with Canada.

From the state and local level to the Federal level, from the Department of State to Treasury to USTR, on far reaching matters of great consequence for our trade policy the world over, Mr. Williamson has proven himself an effective advocate on behalf of U.S. trade, and will be steadfast in administering provisions that combat unfair trade practices. It is my pleasure to introduce him to the Committee today.

**Statement of Dean A. Pinkert
For Commissioner, U.S. International Trade Commission
Senate Finance Committee Nomination Hearing
December 5, 2006**

Mr. Chairman, Senator Baucus, and members of the committee, thank you for this opportunity to appear before the Senate Finance Committee regarding my nomination for the position of Commissioner, U.S. International Trade Commission. I am deeply honored that the President has nominated me to serve on this independent commission whose decisions have a significant impact on the livelihoods of companies and workers all across America.

I would like to thank my family for the support it has always given me. I also wish to thank Senator Robert C. Byrd and his talented staff. Working for this legend of the United States Senate was truly a privilege. I am very grateful for the confidence he has shown in me over the years.

I note that I had the honor of assisting Senator Byrd on constitutional issues. Senator Byrd has always emphasized, and I will never forget, that Article I, Section 8, of the Constitution gives Congress the power to “regulate Commerce with foreign nations.” Congress makes the trade laws, and it is the job of the International Trade Commission to implement those laws fairly and in accordance with Congressional intent.

My father and grandfather were in the scrap industry in Chicago. I was born and raised there and received my undergraduate degree from Oberlin College, my J.D. from the University of Texas School of Law, and my L.L.M. from the London School of Economics. I have focused on international trade law since 1990, in the public and private sectors. I have handled matters involving all kinds of products, both agricultural and industrial, both exported and imported. I have litigated trade cases in domestic courts, before NAFTA panels, and before the World Trade Organization. In addition, I have performed a variety of administrative tasks, including working with U.S. Customs and Border Protection on the enforcement of our trade laws, and have participated as an advisor to the U.S. delegation in the negotiations to end the softwood lumber dispute. I am fortunate to have been guided at every step of my career by mentors and colleagues who see the law as a calling, and who maintain the highest ethical standards of our profession.

Over the course of my career, I have advised several international trade decision-makers on applying very complex laws to what are often hotly disputed facts. I now look forward to the opportunity to participate in the administrative process as a decision-maker. If confirmed, I can assure you that I will approach my new responsibilities as I have always approached my responsibilities, in a fair and impartial manner, with professionalism and courtesy.

I know the importance of the role played by the International Trade Commission. I understand that Congress expects it to (1) make sound determinations and issue thorough and well-reasoned reports under the trade laws, (2) provide the President, the U.S. Trade Representative, and Congress with independent analysis, information, and support, and (3) maintain the Harmonized Tariff Schedule of the United States. I pledge to you that, if confirmed, I will devote every effort to accomplishing this multifaceted mission.

When she reaches adulthood, my young daughter will confront a world that is still more complex, and more interdependent, than that which we have come to know. The International Trade Commission stands at the intersection between the U.S. economy and the international economy, administering statutes and helping Congress and the Executive Branch to make policy decisions that will shape the world of our children and ensure that they enjoy abundant economic opportunity. I humbly thank you for considering my nomination to this important body.

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

A. BIOGRAPHICAL INFORMATION

1. Name: (Include any former names used.) Dean Arthur Pinkert
2. Position to which nominated: Commissioner – U.S. International Trade Commission
3. Date of nomination: September 8, 2006
4. Address: (List current residence, office, and mailing addresses.) 1200 N. Herndon Street, #140, Arlington, Va. 22201
5. Date and place of birth: June 5, 1956. Chicago, Illinois.
6. Marital status: (Include maiden name of wife or husband's name.) Divorced.
7. Names and ages of children: Rose Charlotte Naas Pinkert, Age 4
8. Education: (List secondary and higher education institutions, dates attended, degree received, and date degree granted.) New Trier High School - East, 1970-74, diploma in May 1974; Oberlin College, 1974-78, B.A. in May 1978; Princeton University, 1978-1979 (graduate work, no degree); University of Texas School of Law, 1980-1983, J.D. in May 1983; London School of Economics, 1988-89, L.L.M. in September 1989.
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.) Associate, Robins, Zelle, Larson, and Kaplan, Minneapolis, MN., July 1983 to January 1984; Associate and (later) Partner, Fickman & Van Os, P.C., Austin, TX., February 1984 to May 1988; Attorney-Advisor International, Office of Chief Counsel for Import Administration, U.S. Department of Commerce, Washington, D.C., April 1990 to November 1998; Senior Associate, King & Spalding, Washington, D.C., November 1998 to November 2000; Trade & Judiciary Counsel, Office of Senator Robert C. Byrd, Washington D.C., December 2000 to December 2001, Senior Attorney, Office of Chief Counsel for

Import Administration, U.S. Department of Commerce, January 2002 to present.

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.) See above.
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.) Trustee of the Norman L. Pinkert Trust (testamentary trust), current; Partner, Fickman & Van Os, P.C. of Austin, Texas (1988); Board Member of Planned Parenthood of Austin, Texas (1987-88).
12. Memberships: (List all memberships and offices held in professional, fraternal, scholarly, civic, business, charitable, and other organizations.) Currently a member of Congregation Adat Shalom in Bethesda, Maryland. Vice-Chairman of the International Trade Steering Committee of the American Bar Association (recently ended one-year term).
13. Political affiliations and activities:
 - a. List all public offices for which you have been a candidate.
 - b. List all memberships and offices held in and services rendered to all political parties or election committees during the last 10 years.
 - 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. Kerry for President Campaign in 2004 – approximately \$400; Gephardt for President Campaign in 2004 – approximately \$100; House Democratic Campaign Committee for period 2000-2004 – approximately \$250.
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.) Graduated with High Honors in Government and Phi Beta Kappa from Oberlin College; graduated with Honors from the University of Texas School of Law; graduated with Merit from the London School of Economics; special recognition from the Office of Chief Counsel for Import Administration at the Department of Commerce for softwood lumber litigation and negotiations; Department of Commerce Silver Medal for antidumping duty regulations; Department of Commerce Bronze Medal for countervailing duty regulations; chaired export control panel at the 11th Judicial Conference of the Court of International Trade.

15. Published writings: (List the titles, publishers, and dates of all books, articles, reports, or other published materials you have written.) "The Concept of Specificity in the Bilateral Steel Agreements" in *The University of Ottawa Law Journal* (1991); "Issues in Sampling" in *The Commerce Department Speaks* (PLI 1992); "Targeted Dumping Methodology: Scattershot or Bull's-Eye?" in *The Commerce Department Speaks* (PLI 1998); "Judicial Review of Export Control Determinations" in Volume XXVI, No. 3, of the *Brooklyn Journal of International Law* (2001).
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.) No formal speeches.
17. Qualifications: (State what, in your opinion, qualifies you to serve in the position to which you have been nominated.) For the past sixteen years, my professional life has focused on international trade law. During that time, I have worked both in the federal government (executive and legislative branches) and the private sector. I have had responsibility for a wide variety of issues. I have had an administrative role with a public-private trade project, handled consultations with Congressional aides and with foreign governments concerning WTO disputes, drafted decisions for the Under Secretary for Export Administration, counseled the Assistant Secretary for Import Administration on Title VII administrative determinations, worked directly with several administrative agencies (especially U.S. Customs and Border Protection) on the enforcement of U.S. trade law, and litigated/negotiated to resolve international trade disputes. I have a broad knowledge of the law, and a deep commitment to applying it as Congress intended.

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.
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. Investment holdings of the Norman L. Pinkert Trust in General Electric (recently divested), AFLAC, CitiGroup, Proctor and Gamble, and Southern Company. Personal investment holding in Texas Instruments.
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.) Two copies of letter to designated agency ethics official at the U.S. International Trade Commission are provided.
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. None.
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. No.
3. Have you ever been involved as a party in interest in any administrative agency proceeding or civil litigation? If so, provide details. I have been part of the class in class action shareholder suits involving ATI Technologies, Lucent, and AT&T Wireless. I did not participate in any way in the prosecution of those cases.
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.

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.

**Answers of Dean A. Pinkert to Questions From The Senate Finance Committee
December 5, 2006**

Questions Submitted by Senator Baucus

Question:

1. FUNDING THE ITC: I understand that while the Senate Appropriations Committee approved the ITC's full funding request for fiscal year 2007, the House of Representatives approved funding below that level. What do you think funding the ITC below its requested level would mean for the operations of the agency, especially in light of the Commission's shift toward more and more work on technical intellectual property issues?

Answer:

It is my understanding that the ITC's FY 2007 full funding request is modest and essentially freezes spending at FY 2006 levels. Since that request was submitted, the intellectual property caseload has continued to increase to unprecedented levels. This will necessitate increased staffing in that area. For example, the ITC will have to hire an additional administrative law judge and provide that judge with staff support. The necessary increase in personnel costs will be difficult to accomplish even with full funding—the ITC will have to make additional reductions in nonpersonnel costs. Without full funding, the ITC's mission-critical effort to address the intellectual property caseload might be compromised.

The agency has also had to devote additional resources to § 332 studies, which have been more numerous in the past few years.

Finally, I would add that I intend to advocate planning strategies to enable the ITC to effectively handle workload fluctuations and respond proactively to anticipated staff retirements.

Question:

2. TRADE ENFORCEMENT: I have long believed that the administration could be more aggressive on trade enforcement. Americans are increasingly skeptical that they are receiving the benefits they were promised in our trade agreements. What role, if any, can the International Trade Commission play in restoring the confidence of average Americans that trade can work for them?

Answer:

First, the ITC must enforce our trade laws fairly and in accordance with Congressional intent. Enforcing those laws gives the American people confidence that they are competing on a level playing field. Second, the ITC must provide Congress and the Executive Branch with the information and analysis they need to evaluate key trade issues, including contemplated trade agreements. By providing the trade policy-makers with independent analytical expertise, the ITC plays a key role in helping them to formulate policy that is in the interests of the American people. Finally, the ITC can and does devote resources to assisting the United States Trade Representative in taking disputes to the World Trade Organization when other countries are not acting in compliance with their legal obligations.

Questions Submitted by Senator Bingaman**Question:**

1. After the Supreme Court's recent decision in *eBay Inc. v. MercExchange, L.L.C.*, the federal courts no longer issue automatic injunctions against patent infringers. Instead, a court must apply a four-factor balancing test—of which one factor is “the balance of hardships between the plaintiff and defendant” and another is “the public interest”—in determining whether to issue an injunction. Outside the patent infringement context, courts of equity have traditionally applied this four-factor test in determining whether to issue injunctive relief.

Because the *eBay* ruling does not apply to the International Trade Commission (the “Commission”), the Commission still issues automatic exclusion orders—the equivalent of an injunction—regardless of the balance of equities. Therefore, patent plaintiffs have increasingly begun pursuing patent infringement cases in the Commission, rather than the federal courts, leading to a significant increase in the number of § 337 cases on the Commission's docket.

Do you believe that the Commission is institutionally equipped to adjudicate high-tech intellectual property disputes, which have traditionally fallen under the purview of the federal courts, principally the Federal Circuit?

Answer:

Yes. The ITC has a history of adjudicating these types of disputes and is recognized by the intellectual property bar as a forum with considerable expertise, particularly in the area of patent litigation.

I note that the ITC is in the process of shifting resources to handle the increasing workload with respect to § 337 cases. I am informed that the ITC's FY 2007 full funding request is modest and essentially freezes spending at FY 2006 levels. Since that request was submitted, the intellectual property caseload has continued to increase to unprecedented levels. This will necessitate increased staffing in that area. For example, the ITC will have to hire an additional administrative law judge and provide that judge with staff support. The necessary increase in personnel costs will be difficult to accomplish even with full funding (the ITC will have to make additional reductions in nonpersonnel costs).

The increase in these cases began in FY 2001, and the caseload has been consistently high and increasing since that time. It is my understanding that the caseload has increased because practitioners believe that the ITC provides an effective forum in which to hear their disputes—the decisions are legally persuasive and resolution of the disputes is meaningful and comes along fairly quickly.

Question:

2. 19 U.S.C. § 1337(c) provides that, when the Commission determines the remedy in a § 337 action, “[a]ll...equitable defenses may be presented in all cases.” Similarly, 19 U.S.C. § 1337(d)(1) permits the Commission to consider the effect of an exclusion order “upon the public health and welfare...and United States consumers.”

Under these statutes, does the Commission already have discretion to apply a balancing test in § 337 cases and order a remedy short of an exclusion order—that is, an automatic ban on the importation of all infringing products? If so, is harm to third parties, including consumers, facially a factor to balance against the benefits of issuing an exclusion order?

Answer:

These are issues that may come before me should I be confirmed as a Commissioner. Consequently, I wish to emphasize at this point that I would give them very careful consideration—I would focus on the language and logic of the relevant statutory provisions, and I would be guided by Congressional intent.

I note also that the ITC is specifically instructed by the statute to consider the following when fashioning a remedy: “the effect of such exclusion on the public health and welfare, competitive conditions in the United States economy, the production of directly competitive articles in the United States, and United States consumers.” 19 USC § 1337(d)(1). Therefore, harm to third parties, including consumers, is always a factor to be considered in determining whether an exclusion order should issue. Under § 337, the alternatives to an exclusion order are a cease and desist order (which may not be effective in dealing with foreign entities and/or where there is widespread infringement by imports), and denial of relief.

*Questions Submitted by Senator Rockefeller***Question:**

1. As you know there is a relatively small group of Members in the Congress that pays attention to the work at the ITC, but those of us who do pay very close attention and have strong interests in your work and the product of your deliberations. For years there has been a tug-of-war of sorts between those who support strengthening our trade laws and those who want to weaken them. Those who cannot successfully get changes in our trade law argue before the ITC and other bodies to have those laws weakened through interpretation. This weakening through challenge approach has left the ITC with a great deal of responsibility to the workers and companies of this nation and to the laws Congress has passed. As you prepare to take your place as Commissioners on this quasi-judicial body, you will face some of these same challenges. So, I wish to ask you today if you will uphold both the letter—and equally as important—the spirit of our trade laws?

Answer:

Yes, absolutely. The language and logic of the statute, and Congressional intent, will guide me in interpreting and applying our trade laws.

Question:

2. I also believe it is important that we take a close, hard look at our trade laws. Our trading partners and other have looked for ways for many years to undermine our trade laws and try to gain expanded access to the most open market in the world. They have done so through the ITC, the WTO and its Appellate process, and through direct negotiations with the Administration in bilateral and multilateral trade agreements. The ITC is also often on the leading edge of new tactics in our trade laws and I am sure that during your time on the Commission you will see a number of new tactics from both domestic industries and from our trading partners. Do you think our trade laws are sufficient to protect our domestic industries and to ensure a level playing field now and in the future, and if not, what improvements do you recommend that this Committee consider in the next Congress?

Answer:

If and when I have had the opportunity to interpret and apply the trade laws as a Commissioner, I will be in a better position to respond to this question. If there are developments that, in my view, impair the ability of the ITC to enforce the trade laws as intended by Congress, I will share my concerns with the Senate Finance Committee.

Question:

3. One phenomenon the Commission has increasingly encountered is that, when a U.S. producer faces unfair import competition, the producer may both import and continue to produce in the United States. Rather than simply shut down operations in the United States, the producer closes only some of its domestic operations, while turning to foreign sources to replace the lost production. The U.S. producer continues to produce in the United States, and may remain profitable, but U.S. production and employment both fall. Wouldn't you agree that, under these circumstances, the decline in production and jobs is evidence of injury, even if there is no decline in profitability?

Answer:

Under this scenario, while the U.S. producer may remain profitable on its overall operations—both domestic and import—the ITC would collect profit and loss information only on domestic production operations. In addition, I would note that profitability is only one of the factors set forth in the statute with respect to the impact of imports on the domestic industry. Production and employment are two other factors set forth in the statute. I would examine all required factors in analyzing the impact of imports on the domestic industry.

Question:

4. The reason U.S. consumers buy dumped and subsidized goods is because they are cheaper. In some ways, this is analogous to the person who buys a television off the back of a truck because it is cheaper, even though they know it was stolen. Some consuming industries have argued that they should be allowed to participate in ITC investigations, and that the Commission should consider the impact of dumping and countervailing duty orders on them, even though the imports in question were found to have been dumped or subsidized. Do you believe that those who benefit from unfairly traded imports should have a role in the Commission's investigative process?

Answer:

Consuming industries are not considered to be "interested parties" under the antidumping and countervailing duty statute. Consequently, they do not have the full panoply of rights held by interested parties with respect to participation in the ITC's investigative process. Nevertheless, they have adequate opportunities to submit relevant information in the ITC's investigation. I note, however, that the ITC's analysis is focused on any impact on the domestic industry, not on effects on consumers or downstream producers.

Question:

5. In the recent case of *Bratsk Aluminium Smelter v. United States*, 444 F.3d 1369 (Fed. Cir. 2006), the U.S. Court of Appeals for the Federal Circuit held that in original antidumping ("AD") investigations involving "commodity products," the Commission must explain why the elimination of subject imports would benefit the domestic industry

instead of resulting in the replacement of subject imports by non-subject imports without any beneficial impact on domestic producers. Would you agree with those who worry that *Bratsk* could lead to situations in which a domestic industry would be denied relief, even though the record plainly shows that the industry has suffered material injury by reason of unfairly-traded subject imports? Do you agree with the Commission that *Bratsk* should have been reconsidered by the Federal Circuit *en banc*?

Answer:

It is my understanding that the case is not yet finally and conclusively decided. Nevertheless, I can state that I consider the actions taken by the Commission following the issuance of this decision—including the filing of the petition for rehearing—to have been appropriate.

Question:

6. Under the *Bratsk* decision, the ITC is required to assess the role in the U.S. market of imports *not* subject to the investigation. Of course, the Commission lacks the extensive information on non-subject imports that it has on the imports actually being investigated. I am concerned that in some cases, the Commission may engage in speculation and conjecture regarding the role of non-subject imports in the U.S. market. Do you agree that the ITC should avoid such behavior, and should instead base its decisions on the facts of record?

Answer:

I agree that the ITC should base its decisions on the facts of record.

Question:

7. *Bratsk* involves original AD investigations. In your opinion, should the holding in *Bratsk* be extended to five-year reviews?

Answer:

A: This is an issue that I may have to consider should I be confirmed as a Commissioner, and I do not wish to prejudge it. I note, however, that the Federal Circuit in *Bratsk* did not address whether its holding applies to five-year reviews.

Question:

8. The statutory definition of injury requires that the Commission evaluate “all relevant economic factors which have a bearing on the state of the industry in the United States, including, but not limited to 1) actual and potential decline in output, sales, market share, profits, productivity, return investments, and utilization of capacity, 2) factors affecting domestic prices, 2) actual and potential negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital and investment....”

It is my understanding that the massive surge of imports of many agricultural and manufactured products from China has created a new competitive paradigm for U.S. agriculture and industry. As discussed significantly in the press, the China price of goods is often half of the U.S. price of goods and may be 30% or 40% below domestic producers cost of manufacture. In such cases domestic industry can not reduce its price to retain market share, but rather reduces production and shipments, lays off workers, and in some instances closes facilities, but maintains their prices on their existing sales and may continue to obtain healthy profit margins on the fewer domestic sales that they are making. Under such circumstances is it your view that there is injury to domestic industry when market share, capacity utilization, production shipments, and in particular employment factors decline in the face of Chinese import surges, even though there may not appear to the Commission to be a price effect or an effect on profit margins? I would appreciate your answer to this question in its hypothetical form since to my knowledge it does apply across a number of industries and agricultural products, but I am not referring to any specific case before the Commission.

Answer:

Of course, I would have to examine all of the relevant facts and circumstances in any particular case. My view, however, is that one could find injury under this scenario. Even though domestic prices may remain stable, there could be price effects in the form of significant underselling or price suppression by the imported merchandise. Profitability may remain stable but sales, production, shipments, market share, capacity utilization, and employment could all be declining, and there could be lost sales. These factors would indicate that imports have had an adverse impact on the domestic industry.

Question:

9. Some consuming groups argue that even though the United States does not have a formal “public interest test,” the Commission should take into account the impact that its trade remedy decisions may have on downstream industries or the economy as a whole, including the effect on U.S. trade relations with other countries. Other observers maintain that U.S. law reflects a policy decision by Congress that the Commission should focus on the impact of unfairly-traded imports on the complaining industry. What is your opinion?

Answer:

Congress has not incorporated a “public interest” test into the antidumping and countervailing duty statute. The ITC is called upon to determine whether the domestic industry with respect to the like product has been materially injured, or is threatened with material injury, by imports of unfairly traded subject merchandise.

Question:

10. When the Commission analyzes U.S. law, do you believe it should give any weight to WTO rulings? If so, why? How much weight would you give to WTO rulings in your analysis of U.S. law?

Answer:

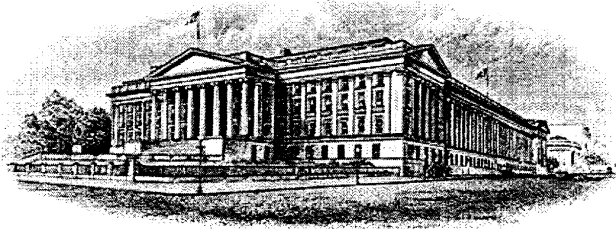
WTO rulings in particular cases do not interpret U.S. law and do not represent binding precedent. Consequently, in interpreting U.S. law, I would not accord them precedential weight.

Question:

11. Section 771(7)(A) of the Tariff Act of 1930, as amended, provides that material injury “means harm which is not inconsequential, immaterial, or unimportant.” Some observers have noted, however, that the Commission tends to grant AD/CVD relief only in cases where the domestic industry has experienced significant losses, even though the industry’s performance in other aspects has been materially impacted by dumped and subsidized imports. Do you believe that an industry must suffer severe losses in order to obtain AD/CVD relief? How would you apply the material injury standard?

Answer:

Each case has its own unique facts and circumstances—injury must be examined in the context of the relevant conditions of competition for the particular domestic industry. That having been said, it is not necessary for an industry to suffer severe financial losses, or even modest financial losses, in order for the ITC to find material injury. In addition, I would note that profitability is only one factor that must be considered in assessing the impact of imports on the domestic industry.



**U.S. TREASURY DEPARTMENT
OFFICE OF PUBLIC AFFAIRS**

**Opening Statement of Anthony Ryan,
Nominee, Assistant Secretary for Financial Markets**

Before the Senate Finance Committee

Chairman Grassley, Ranking Member Baucus, and members of the Finance Committee, thank you for inviting me to appear before you today. I am honored that President Bush has nominated me to serve as the Assistant Secretary of the Treasury for Financial Markets, and I am especially grateful for Secretary Paulson's trust and confidence. I am also indebted to my family – from my parents who instilled in me strong values, to my wife Ann, and to our four children who have all supported my decision to serve.

If confirmed, I look forward to working with Secretary Paulson, Under Secretary Steel and the rest of the Treasury team, along with others in the Administration and Congress, on the myriad of issues impacting our financial markets.

Our financial markets play a seminal role in helping our economy achieve sustainable growth. We possess the largest, most liquid and most efficient financial markets in the world. We must build on this foundation and continue to ensure our financial markets not only remain strong, but gain in strength. If confirmed, I would very much look forward to contributing to that effort.

U.S. Treasury obligations are respected around the world as they reflect the safety and soundness of our markets, as well as the quality of our economy. As stewards, I believe we have an obligation to our citizens to manage the government's fiscal matters most effectively. The collective results impact every American – directly and indirectly. If confirmed, I would work to fulfill that obligation by implementing sound policy,

addressing the strategic issues and responsibly managing the specific functions within the office.

Over the past 20 years, I have had the opportunity to directly participate in the financial markets, either investing or advising many institutional pension clients, endowments, and mutual fund boards. Having managed multi-asset class portfolios, traded in capital markets around the world, and worked with many global investors, I have developed a broad perspective and appreciation for the U.S. financial markets, the institutions which regulate them and the aggregate role they play in facilitating our economic growth and savings.

Successfully managing our financial matters requires a collaborative effort. For that to occur, we must recognize the critical importance of communication. If confirmed, I would seek to ensure a constructive dialogue with members of this Committee and your staffs, as well as others – including those in the global marketplace. The Treasury Department, under the leadership of Secretary Paulson, is very committed to fulfilling its mission, and if confirmed, I would welcome the opportunity to contribute to the Treasury Department's longstanding tradition of excellence.

I appreciate the time that members of this Committee have taken to consider my nomination, and I would be happy to answer any questions.

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

A. BIOGRAPHICAL INFORMATION

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

Anthony William Ryan (Tony Ryan)

2. Position to which nominated:

Assistant Secretary – Financial Markets, U.S. Department of Treasury

3. Date of nomination: November, 2006

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

Residence

3065 University Terrace, NW
Washington, DC 20016

Office

Department of the Treasury
1500 Pennsylvania Ave., NW
Washington, DC 20220

5. Date and place of birth:

March 14, 1963
Brooklyn, N.Y.

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

Married: Ann T. Ryan (maiden name Emmons) Oct. 22, 1988

7. Names and ages of children:

Margaret C. Ryan, 13
Matthew D. Ryan, 11
William T. Ryan, 8
Thomas A. Ryan, 6

8. Education: (List secondary and higher education institutions, dates attended, degree received, and date degree granted.)
- London School of Economics & Political Science (Sept. 1985 - Nov. 1986)
MSc. Degree 1986
- University of Rochester (Sept. 1981 – May 1985)
BA Degree 1985
- Fayetteville-Manlius High School (Sept. 1977 – June 1981)
HS Diploma 1981
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.)
- U.S. Department of the Treasury (July 2006 – Present)
Senior Advisor to the Secretary Washington, D.C.
- Grantham, Mayo, van Otterloo & Co. LLC (GMO) (Sept. 2000 – July 2006)
Member (Partner) & Executive Committee Member Boston, MA
Head of Global Business Development and Client Relations
- State Street Corporation: State Street Global Advisors (Sept. 1994 – Sept. 2000)
Principal Boston, MA
Director Business Development, Director Office of Fiduciary Advisor, Chief
Investment Officer – Fundamental Active Asset Mgt., Head of Product
Management, Portfolio Manager
- PanAgora Asset Management (May 1988 – Sept. 1994)
Manager, Global Investments Boston, MA
Institutional Portfolio Manager
- The Boston Company (Jan. 1987 – May 1988)
Manager, Equity Investments Boston, MA
Institutional Portfolio Manager
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.)
- Winchester, MA Retirement Board – volunteer member (1996 - July 2006)

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.)

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

Boston Security Analysts - member
Association for Investment & Research (AIMR) – member
Winchester Boat Club – member

Prior:

Harvard University – Kennedy School of Government (Center for Business and Government): Member of the Leadership Council: (9/2005 – 9/2006)

Woods Hole Oceanographic Institution: Trustee (1997 – 10/2006)

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.

Republican National Cmte: \$5,000

Republican State Cmte of Massachusetts: \$2,500

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.)
- Small Cap Stock Investing. Co-Authored a chapter in a book. 1991.
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.)

In my opinion, I believe I am well qualified to assume the responsibilities associated with the position for which I have been nominated: Assistant Secretary – Financial Markets U.S. Department of Treasury.

I recognize the explicit and implicit responsibilities associated with the role, and if confirmed, feel that I would execute my responsibilities consistent with how I have executed my professional responsibilities throughout my career: in a thoughtful and professional fashion.

During the past 20 years, I have had the opportunity to serve in a variety of roles in private industry, all associated with investment management. I have invested on behalf, and advised, many institutional pension clients, university endowments, and mutual fund sponsors – either directly or in a management capacity. I have managed multi-asset class portfolios and traded in capital markets around the world, and as a result have working knowledge of the financial instruments and strategies deployed. Given my various experiences, both professionally and from those developed in a volunteer capacity, I have developed a broad perspective and appreciation for the U.S. capital markets, the institutions which regulate the respective markets and the aggregate role they play in facilitating our economic growth and savings.

In addition, I have had the opportunity to gain some initial perspective to the operations of the Treasury department and its interaction with other institutions, as I have assisted the Secretary, and worked with the departmental offices on various initiatives.

If confirmed, I would look to draw on my knowledge and experiences to facilitate the development of policies that would seek to ensure that the U.S. capital markets continue to be the best in the world by offering attractive characteristics for capital deployment and investment, within a framework of regulations that provide fairness and financial soundness.

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, I have terminated my employment relationships as described in the terms of my ethics agreement with the Department of Treasury, which is documented by letter to Bernard Knight, Jr., Assistant General Counsel (General Law & Ethics) and Designated Agency Ethics Official. I will seek guidance from a Treasury ethics official regarding my activities with these organizations as needed.

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, if confirmed by the Senate, I expect to serve at the pleasure of the President.

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 interests 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 Bernard Knight, Jr., Assistant General Counsel (General Law & Ethics) and Designated Agency Ethics Official. Should any potential conflict of interest arise in the future, I will seek guidance from a Treasury ethics official.

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.

Any potential conflicts of interests 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 Bernard Knight, Jr., Assistant General Counsel (General Law & Ethics) and Designated Agency Ethics Official. Should any potential conflict of interest arise in the future, I will seek guidance from a Treasury ethics official.

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.)

Any potential conflicts of interests will be 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 Bernard Knight, Jr., Assistant General Counsel (General Law & Ethics) and Designated Agency Ethics Official. Should any potential conflict of interest arise in the future, I will seek guidance from a Treasury ethics official.

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.

N/A

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.

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

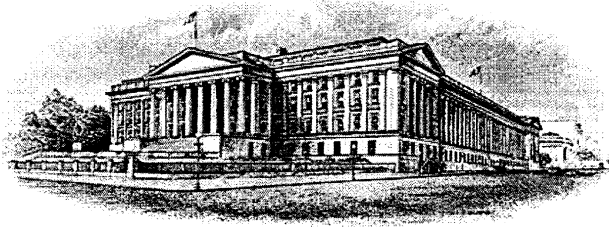
**Question for the Record for Anthony Ryan
December 5, 2006**

RAISING THE DEBT CEILING - It appears that the ceiling on Federal debt will have to be raised once again next year. Could you give me your best guess right now as to when the Congress would have to raise the debt ceiling next year in order to avoid default, assuming that Treasury takes all extraordinary measures available to it? When would the debt ceiling have to be raised to avoid default if no extraordinary measures were used by Treasury?

Answer:

To forecast when the debt ceiling will have to be raised is difficult given the variability in fiscal projections, the economic and fiscal outlook for the coming year, the Administration's budget proposal in February 2007 and the uncertainty associated with the timing and amounts of tax receipts. At this point in time, we expect Congress will need to raise the ceiling in the fall of 2007. If Congress does not enact legislation in time to avoid reaching the ceiling, Treasury would consider the use of prudent and legal actions to avoid reaching the statutory debt limit. Given the uncertainties outlined above and the significant amount of time involved, a more precise forecast regarding the timing for a debt limit increase would be quite difficult.

The "full faith and credit" backing of U.S. Treasury obligations is critical to providing certainty to financial markets that the integrity of the obligations of the United States will not be compromised. It is also vital to assuring the American people that the United States will continue to meet the obligations necessary to finance and sustain vital government operations and programs, such as the obligations to pay Social Security benefits and make Medicare payments. The Administration and Congress need to work in a collaborative fashion to ensure we manage the process in a timely and orderly fashion.



**U.S. TREASURY DEPARTMENT
OFFICE OF PUBLIC AFFAIRS**

**Opening Statement of Phillip L. Swagel,
Nominee, Assistant Secretary for Economic Policy**

Before the Senate Finance Committee

Chairman Grassley, Ranking Member Baucus, and Members of the Committee, thank you for the opportunity to appear before you today. I am honored to be President Bush's nominee to be Assistant Secretary of the Treasury for Economic Policy, and I thank the President and Secretary Paulson for their confidence in me.

I am especially grateful to my family for both their encouragement and their forbearance in permitting me to seek to return to government service. I would also like to thank my mother, Deanna Epstein, for a lifetime of support, and my stepfather, David Epstein, for his continued encouragement—and for his courage 25 years ago in marrying into a family with three teenage boys. I can only hope and believe that my late father, Michael Swagel, would have been pleased and proud at this day.

In my professional career, I have had the good fortune to work with talented colleagues and to learn from supportive mentors at the Federal Reserve, the International Monetary Fund, and the Council of Economic Advisers. If confirmed, I will be fortunate to work with the dedicated Treasury professionals led by Secretary Paulson and will contribute my professional experience to the Administration's efforts to tackle the economic challenges facing this country.

Much of my economic research has focused on the impact of international influences and technological and demographic change on the U.S. economy. I am mindful of the effects that these changes can bring about and the economic challenges facing Americans. If confirmed as Assistant Secretary for Economic Policy, I will be especially aware of the importance of ensuring that the prosperity of our nation benefits all Americans.

Thank you again Mr. Chairman for the privilege of appearing before this Committee. If confirmed, I can assure you I will work closely and enthusiastically with the Members of this distinguished committee. I would be pleased to respond to your questions.

SENATE FINANCE COMMITTEE
STATEMENT OF INFORMATION REQUESTED OF NOMINEE

A. BIOGRAPHICAL INFORMATION

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

Phillip Lee Swagel

2. Position to which nominated:

**Assistant Secretary for Economic Policy
Department of the Treasury**

3. Date of nomination:

9/26/2006

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

**HOME
3128 Brooklawn Terrace
Chevy Chase, MD 20815**

**OFFICE
American Enterprise Institute
1150 17th St. NW
Washington, DC 20036**

5. Date and place of birth:

**June 8, 1966
New York City, NY**

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

Married to Judith K. Hellerstein (kept her last name)

7. Names and ages of children:

Three sons:
Gabriel David Swagel, age 8
Ethan Berel Swagel, age 5
Oren Michael Swagel, age 2

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

Harvard University, PhD economics, March 1993
MA economics, March 1990
Attended September 1987 to June 1992

Princeton University, AB economics, June 1987
Attended September 1983 to June 1987

Los Alamitos High School, Diploma, June 1983
Los Alamitos, CA
Attended September 1980 to June 1983 (grades 10 to 12)

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.)

Resident Scholar
American Enterprise Institute
Washington, DC
March 2005 to present

Adjunct Professor of Economics
University of Chicago Graduate School of Business
Chicago, IL
September to December 2005 and September to December 2006

Chief of Staff and Senior Economist
Council of Economic Advisers
Washington, DC
Chief of Staff from July 2002 to February 2005
Senior Economist from August 2000 to July 2001 (on leave from IMF)

Economist and Visiting Scholar
International Monetary Fund (IMF)
Washington, DC
Visiting Scholar from March 2005 to April 2005

Economist from May 1996 to August 2000 and July 2001 to July 2002

**Visiting Assistant Professor of Economics
Northwestern University
Evanston, IL
September 1994 to May 1996**

**Economist
Federal Reserve Board
Washington, DC
September 1992 to July 1994**

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.)

All government experience is listed above.

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.)

**Adjunct Professor of Economics
University of Chicago Graduate School of Business
Chicago, IL
Sept 2006 to Dec 2006 and Sept 2006 to Dec 2006 (Fall quarter only)**

**Visiting Scholar
International Monetary Fund
Washington, DC
March 2005 to April 2005**

**Partner
Fayette Consulting Group
Cambridge, MA
1990 to 1992
(developed computer programs for textbook publishers)**

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

**Member of Ohr Kodesh Synagogue, Chevy Chase, MD
Member of American Economic 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.
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.
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.)

**Walter C. Sauer Thesis Prize in Economics
Princeton University, June 1987**

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

WRITINGS BY TOPIC

Macroeconomics and International Finance

"Sources of Inflation in Developing Countries," in *Economic Policy in the International Economy*, Cambridge University Press, November 2002 (with Prakash Loungani).

"Measures of Potential Output: an application to Israel," *Journal of Applied Economics*, May 2002, Vol. 34 No. 8, pp. 945-958 (with Fabio Scacciavillani).

"Business Cycle Influences on Exchange Rates: Survey and Evidence," *Staff Studies for the World Economic Outlook*, December 2000 (with Ronald MacDonald).

"The Euro Area and the World Economy," *Finance and Development*, vol. 35, pp. 8-11, December 1998 (with John Green).

Review of "Macroeconomic policy in a world economy: From econometric design to practical operation," by John Taylor, *Journal of Economic Literature*, September 1996, pp. 1355-1357.

"Political Instability and Economic Growth," *Journal of Economic Growth*, vol. 1, June 1996, pp. 189-211 (with Alberto Alesina, Sule Özler, and Nouriel Roubini).

Globalization and International Trade

"The Politics and Economics of Offshore Outsourcing," 2006. *Journal of Monetary Economics*. Volume 53 no. 5, July 2006, pp. 1027-1056. (with Greg Mankiw)

"Antidumping: the Third Rail of Trade Politics," *Foreign Affairs*, July/August 2005 (with Greg Mankiw). Reprinted in special December 2005 issue of *Foreign Affairs* released in conjunction with the Ministerial meeting of the WTO in Hong Kong.

"Unionization and Strategic Trade Policy," *The International Trade Journal*, Volume 16, Number 4, November 2002 (with Ling Hui Tan).

"Union Behavior, Industry Rents, and Optimal Policies," *International Journal of Industrial Organization*, 18, No. 6:925-47, August 2000.

"The Effect of Globalization on Wages and Employment in the Industrial Countries," *Staff Studies for the World Economic Outlook*, December 1997 (with Matthew Slaughter).

"Does Globalization Lower Wages and Export Jobs?" *IMF Economic Issues*, 11, September 1997 (with Matthew Slaughter). Reprinted in *The Globalization Reader*, edited by Frank J. Lechner and John Boli, Blackwell Publishers, March 2000, pp. 177-180.

"Trade Barriers and Trade Flows Across Countries and Industries," *Review of Economics and Statistics*, vol. 79 no. 3, August 1997, pp. 372-382 (with Jong-Wha Lee).

"Trade Barriers and Economic Growth: Theory and Evidence," in *Globalization, Growth, and Sustainability*, edited by Satya Dev Gupta with Nanda K. Choudhry, Kluwer Academic Publishers, Norwell, MA, 1997, pp. 15-34 (with Jong-Wha Lee).

"The Non-Optimality of Optimal Trade Policies: The US Automobile Industry Revisited, 1979-1985," in Paul Krugman and Alasdair Smith, eds., *Empirical Studies of Strategic Trade Policy*. University of Chicago Press, 1994, pp. 11-37 (with Kala Krishna and Kathleen Hogan).

Political Economy of Taxation and the Welfare State

"Capital Income Taxation under Majority Voting with an Aging Population," *Review of World Economics (Weltwirtschaftliches Archiv)*, vol. 140 no. 3, 2004 (with Assaf Razin and Efraim Sadka).

"The Aging Population and the Size of the Welfare State," *Journal of Political Economy*, August 2002, Vol. 110 No. 4, pp. 900-918 (with Assaf Razin and Efraim Sadka).

"Tax Burden and Migration," *Journal of Public Economics*, August 2002, Vol. 85, pp. 167-190 (with Assaf Razin and Efraim Sadka).

"The Wage Gap and Public Support for Social Security," *American Economic Review*, vol. 92 no. 2, pp. 390-395, May 2002 (with Assaf Razin and Efraim Sadka).

Articles in the Popular Press

"Creative Accounting: MoMA's Economic Impact Study" commentary in the *Wall Street Journal*, August 30, 2006. (with Kevin Hassett)

"Chinese Oil Drill," Op-ed in the *Wall Street Journal*, June 8, 2006. (with Dan Blumenthal)

"Modest Proposal," book review of *The Pro-Growth Progressive* by Gene Sperling, *National Review*, February 27, 2006.

"China Should Revalue the Yuan," essay in the *Beijing Review*, week of June 22, 2005 (www.bjreview.com.cn).

"Yuan Answers?" Op-ed in the *Wall Street Journal*, June 10, 2005.

"Free Advice for Democrats," Op-ed in the *Wall Street Journal*, March 3, 2005. (with Greg Mankiw)

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. I have participated in a number of discussion panels at AEI and other think tanks, but not given formal speeches.

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

I am honored to be nominated for the position of Assistant Secretary for Economic Policy and am grateful to be considered for confirmation by the Senate. My education and professional career have qualified and prepared me to serve in this position. My academic research and policy work at the Fed, IMF, and Council of Economic Advisers have spanned a wide range of economic issues from domestic policy to international trade and finance. An important focus of my academic research has been on the impact of international influences and technological change on the U.S. economy and the appropriate policy responses to these developments. I have also undertaken research looking at the impact of demographic changes such as the aging of the population on taxes and on pension programs. These areas of research are useful background for the position as Assistant Secretary for Economic Policy. My service as a senior economist and then chief of staff at the Council of Economic Advisers across the Clinton and Bush Administrations has also prepared me for the position of Assistant Secretary. At the Council, I was involved in a broad range of economic policy issues including healthcare, pensions, tax policy, energy, and tracking and analyzing macroeconomic developments. I also covered issues in international trade and international finance. These are areas, among many others, that come under the purview of the Treasury Office of Economic Policy.

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. With regard to teaching at the University of Chicago in the Fall quarter of 2006 and in accordance with the terms and conditions of my ethics agreement with the Department of Treasury, documented by letter to Bernard Knight, Jr., Designated Agency Ethics Official and Assistant General Counsel for General Law and Ethics, if I am confirmed by the

Senate before the quarter ends in December, I will finish teaching my course but will not accept compensation for any teaching performed after my appointment begins.

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, except as noted in question 1 with respect to finishing teaching my course in the Fall 2006 quarter at the University of Chicago. After I finish this Fall 2006 course, I will not teach again while in the position of Assistant Secretary for Economic Policy.

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 Bernard Knight, Jr., 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.

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.)

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 Bernard Knight, Jr., 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 the DAEO of the Treasury Department and by the Office of Government Ethics.

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.

Yes. I have been involved in one civil lawsuit, resulting from a car accident involving my car that was being driven by a friend. The crash took place on December 31, 1989 in western Massachusetts. The lawsuit was filed against me and the driver of my car in 1990 or 1991 in Berkshire Superior Court in Pittsfield, MA and settled by my insurance company on March 8, 1993.

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.

**Question for the Record for Phillip Swagel
December 5, 2006**

EFFECT OF LARGE FEDERAL BUDGET DEFICITS: What is the effect on the American economy and the standard of living of its citizens of large and persistent Federal budget deficits?

Answer:

Large and persistent federal deficits can slow economic growth, which is why the President committed to cutting the budget in half as a percentage of GDP by 2009. As we saw this fall, the Administration reduced the deficit by a greater amount than expected through strong receipts growth—a natural outgrowth of solid economic expansion. Looking forward, we must address the challenge of rising entitlement spending in order to keep the deficit under control in the future.

**Statement of the Honorable Mark J. Warshawsky
Nominee to be a Member of the Social Security Advisory Board
Before the Committee on Finance, United States Senate
December 5, 2006**

Chairman Grassley, Ranking Member Baucus, and Members of the Committee, thank you for the opportunity to appear here today. I am honored to be nominated by President Bush to be a Member of the Social Security Advisory Board. If you will permit me, I will take a moment to introduce my wife, Laura; I am most grateful to her for her continual support and encouragement.

I am pleased to appear before this Committee again for a confirmation hearing – at the hearing in March 2004 for my nomination to be Assistant Secretary for Economic Policy at the Treasury Department, I received no questions and was quickly confirmed! I believe I am well-qualified by education and experience to serve on this Board. My career in the federal government and the private sector has focused on economic research about, and policy toward, insurance and retirement saving and benefits and lifelong financial security. Social Security clearly is a major component of those issues. Indeed, the early U.S. history of the benefits consulting firm at which I now work, Watson Wyatt, is closely tied to the early history of Social Security; the actuaries who founded the Wyatt Company in the 1940s were among the first designers and administrators of this important government program.

I believe it is essential for all Americans that we have a permanently solvent and intergenerationally fair Social Security system – one that is responsive, equitable, efficient and well-managed, as well as one that encourages higher national savings and longer working lives as the Baby Boom generation approaches retirement years. The Advisory Board can play a helpful role in achieving these goals by gathering information from a variety of sources and performing and sponsoring analyses of Social Security's role and performance, and sharing those results widely. I understand that the Board works through consensus and believe that is the appropriate approach for it to be most effective. I would look forward to my participation with my Board colleagues in the Board's activities, and to working with the Commissioner, with Members of this distinguished Committee, and others in the policy community should I be confirmed.

Thank you again Mr. Chairman and Senator Baucus and Members of the Committee for the privilege of appearing before you. I would be pleased to respond to your questions.

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

**A. BIOGRAPHICAL INFORMATION
(As of November 1, 2006)**

1. **Name: (Include any former names used.)**
Mark Joel Warshawsky
2. **Position to which nominated:**
Member of the Social Security Advisory Board
3. **Date of nomination:**
September 19, 2006
4. **Address: (List current residence, office, and mailing addresses.)**
Residence: 903 Brentwood Lane
Silver Spring, Maryland 20902

Office: Watson Wyatt Worldwide
901 N. Glebe Road
Arlington, VA 22203
5. **Date and place of birth:**
March 26, 1958
Chicago, Illinois
6. **Marital status: (Include maiden name of wife or husband's name.)**
Wife: Laura Beth Warshawsky, nee Margolis
7. **Names and ages of children:**

David S. Warshawsky 18
 Hannah L. Warshawsky 11
 Avi L. Warshawsky 9
 Sarah R. Warshawsky 7

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

HARVARD UNIVERSITY Ph.D. Economics June 1984, attended, 1980-1984.
 Fields: Finance and Econometrics. Dissertation: "Aspects of Insurance Markets."
 Advisors: Benjamin Friedman, Andrew Abel, and Martin Feldstein.

NORTHWESTERN UNIVERSITY B.A., Highest Distinction, June 1979, attended
 1976-1979. Major: Economics. Minor: Mathematics. Honors: Phi Beta Kappa,
 and Dean's Lists.

IDA CROWN JEWISH ACADEMY OF CHICAGO, High School Diploma
 June 1976, attended 1972-1976

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.)**

WATSON WYATT WORLDWIDE, Arlington, VA.
Director of Retirement Research, August 2006-present.

Conduct and oversee research relating to employer-sponsored retirement programs and policies.

Thought leader for this global human capital consulting firm.

U.S. TREASURY DEPARTMENT, Washington, D.C. 2002 - 2006
Assistant Secretary for Economic Policy, March 2004- July 2006 (Acting, May 2003- March 2004).
Deputy Assistant Secretary for Microeconomic Analysis, January 2002- March 2004.

- Assessed current and expected near-term macroeconomic conditions, including impact of tax policies and proposals, interest rate and oil price movements, financial and labor market conditions, housing, and significant sector issues. Participated actively in Troika development of Administration's macroeconomic

forecasts for Budget. Led macroeconomic analysis of the Jobs and Growth tax cuts.

- Developed Social Security reform options and financial, administrative and policy issues regarding Personal Retirement Accounts. Led process setting Trustees' economic and demographic assumptions used in annual Reports for Social Security and Medicare, including review of all major variables and methodologies and review of, and change in, long-range health care cost growth assumption. Led analysis and negotiations resulting in major enhancements of the Trustees' Reports' disclosure of imbalances in social insurance programs. Implemented major additions and revisions to sections of USG Financial Report dealing with social insurance.
- Played key role in development of the Administration's legislative proposals on liability measurement and funding of defined benefit pension plans (including technical development of a corporate bond spot yield curve), as well as PBGC premium structure. Led review of all aspects of pension reform bills introduced in Congress and participated in development of Administration's substantive responses. Suggested Administration's post-Enron proposal to promote diversification of employer security holdings in participant-directed pension accounts. All of these elements are reflected in the Pension Protection Act of 2006.
- Promoted and refined legislation creating the Terror Risk Insurance Program prior to its establishment in 2002; Monitored insurance market conditions after passage through design of comprehensive multi-year surveys of policyholders, insurers, and reinsurers, that in combination with other analyses, was used to evaluate the effectiveness of the Terror Risk Insurance Program, and was used as the basis of the final legislative form of the extension of the program in 2005. Suggested reforms in National Flood Insurance Program and other policy responses to 2005 hurricanes.
- Conducted continual analysis of health care sector and its economic impact; evaluated and proposed policy proposals in health care benefits, including one pertaining to the FEHBP.
- Continued to conduct research on, and promote, within government and industry, the integrated life annuity-long-term care insurance idea ("life care annuity"), including its appropriate tax treatment and application (leading to its inclusion in the PPA on a tax-favored basis).
- Participated actively in analysis of, and development of Department's positions on, corporate governance and financial disclosure reforms, auditing, airline conditions, accounting for stock options, international trade, and various aspects of specific industries and sectors of the economy, especially telecommunications and energy.
- Responsible for explaining Administration's economic proposals and policies through speeches, media interviews, testimony, and meetings, including with foreign officials. Responsible for managing a staff of up to 35 including 27 professionals, mainly economists.

TIAA-CREF, New York, NY **1995 - 2001**
Director of Research, TIAA-CREF Institute, 1998-2001.
Director of Strategic Research, and Manager of Pension and Economic Research, 1995-1998.

- Conducted research for publication in academic and professional journals on life annuity markets and products, public policy toward retirement plans, characteristics and use of insurance and investment products, health care spending and financing, and financial planning.
- Recruited and developed a staff of four Ph.D. economists and a research assistant doing basic and applied research on retirement income security, asset allocation strategy and behavior, corporate governance and financing of higher education. Oversaw work of visiting faculty and consultants, and management of grants and awards programs and editing of research publications.
- Directed internal analyses for senior management on key business issues, including daily cash flows for investment, longer-term trends in participant allocation and distribution behavior, new product design, and economic and public policy environment developments affecting Social Security, pensions, and insurance products.
- Organized internal and external seminars and conferences on current research and thinking in academic, public policy and practitioner circles. Gave presentations to researchers, public officials, financial advisors, and others; provided testimonies, information and interviews to Congress, other government officials, and media.
- Initiated public discussion and influenced content of revision of IRS rules on minimum distribution rules for retirement plans, initiated and developed Samuelson Award competition, wrote series of papers and book on use and pricing of life annuities, invented and advocated a major product innovation – integration of life annuity and long-term care benefits (recognized by British Institute of Actuaries in a prize competition).

INTERNAL REVENUE SERVICE, Washington, D.C. **1992 – 1995**
Senior Economist on the immediate staff of the Assistant Commissioner for Employee Plans and Exempt Organizations

- Directed examinations program of, and wrote study on, underfunding of defined benefit pension plans. Received Assistant Commissioner's Award for this work.
- Designed examination program of, and study on, participation, investment, and distribution issues in 401(k) plans. Directed study on terminations of pension plans.

FEDERAL RESERVE BOARD, Washington, D.C. **1984 – 1992**
Senior Economist in the Division of Research and Statistics.

Responsible for current analysis and published research for senior staff and Chairman and Governors on:

- Current domestic economic conditions, including authorship of "Greenbook" before FOMC, and weekly briefings.
- Corporate finance: investment-grade and junk bonds, commercial paper, merger activity, and liabilities for pension and post-retirement health benefits.
- Equity cash and derivative markets, especially regarding adequacy of margin requirements.
- Impact of 1986 tax reform on financial markets, corporate finance, and insurance companies.
- Demand and supply conditions in health care sector.

NATIONAL BUREAU OF ECONOMIC RESEARCH, Cambridge, MA 1983-1984
Research Asst. to Professor Ben Friedman and Dissertation Fellowship

COMBINED INSURANCE, Chicago, Illinois, 1979-1980
Actuarial Asst.

- 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.)**

Member, American Health Information Community, advisory panel the the HHS Secretary, 2005-2006

- 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: Federal Reserve Board Credit Union, 1988-1989

Officer: TIAA-CREF, 1998-2001

Trustee: Actuarial Foundation, 2000-2002

Consultant; Georgetown University Long-term Care Project 2001

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

Professional Organizations: Member: American Economic Association, American Risk and Insurance Association, National Association for Business Economics, and National Association for Social Insurance.

Religious Organizations: Member, Kemp Mill Synagogue, Silver Spring, Maryland

Social/Athletic Clubs: Member, Jewish Community Center of Greater Washington, Rockville, Maryland

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.

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.)

Illinois State Scholarship, Bell and Howell Employee's Benevolent Association Scholarship, Northwestern University Dean's List, Phi Beta Kappa, Sloan Foundation Dissertation Scholarship, IRS Assistant Commissioner's Award, British Institute of Actuaries Scholarly Competition Award, Treasury Medal of Honor

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

BOOKS AUTHORED OR EDITED

The Evolving Pension System: Trends, Effects, and Proposals for Reform (edited with William Gale and John Shoven), Washington, D.C.: Brookings Institution Press, 2005.

Private Pensions and Public Policies (edited with William Gale and John Shoven), Washington, D.C.: Brookings Institution Press, 2004.

Long-Term Care and Medicare Policy: Can We Improve the Continuity of Care? (edited with David Blumenthal, Marilyn Moon, and Cristina Boccuti), Washington, D.C.:

Brookings Institution Press for the National Academy of Social Insurance, 2003.

The Role of Annuity Markets in Financing Retirement (a collection of published articles), (with Jeffrey Brown, Olivia Mitchell, and James Poterba), Cambridge, Mass.: MIT Press, 2001. (2003 Honorable Mention, the Kulp-Wright Award of the American Risk and Insurance Association.)

The Uncertain Promise of Retiree Health Benefits: An Evaluation of Corporate Obligations, Washington, D.C.: American Enterprise Institute Press, 1992, 190 pages.

ARTICLES AND COMMENTS PUBLISHED BY TOPIC

PENSIONS, RETIREMENT, AND SOCIAL SECURITY

"A Regulatory Framework for Strengthening Defined Benefit Pensions," (with Neal McCall and John Worth), in David Blitzstein, Olivia S. Mitchell, and Stephen P. Utkus, editors, *Restructuring Retirement Risks*, New York and London, Oxford University Press, 2006, pp. 71 - 87.

"Longevity-Insured Retirement Distributions from Pension Plans: Market and Regulatory Issues," (with Jeffrey Brown), in William Gale, John Shoven, and Mark Warshawsky, editors, *Private Pensions and Public Policies*, Washington, D.C.: Brookings Institution Press, 2004, pp. 332 – 369.

"Life-Cycle Saving, Limits on Contributions to DC Pension Plans, and Lifetime Tax Benefits," (with Jagadeesh Gokhale and Laurence Kotlikoff), in William Gale, John Shoven, and Mark Warshawsky, editors, *Private Pensions and Public Policies*, Washington, D.C.: Brookings Institution Press, 2004, pp. 146 – 182.

"Comments on Brookings Report by Julia Coronado and Steven Sharpe, 'Did Pension Plan Accounting Contribute to a Stock Market Bubble?'" *Brookings Papers on Economic Activity*, 2003:1, pp. 360 – 367.

"The Market for Individual Life Annuities and the Reform of Social Security: An Update and Further Analysis," *Benefits Quarterly*, Fourth Quarter 2001, pp. 24 – 43.

"Further Reform of Minimum Distribution Requirements for Retirement Plans," *Tax Notes*, April 9, 2001, 91(2), pp. 297 – 306.

"The Costs of Annuitizing Retirement Payouts in Individual Accounts," (with James Poterba), in John Shoven, editor, *Administrative Aspects of Investment-Based Social Security Reform*, Chicago: University of Chicago Press for the NBER, 2000, pp. 173 – 200.

"How Prepared Are Americans for Retirement?" (with John Ameriks), in Olivia Mitchell, P. Brett Hammond, and Anna Rappaport, editors, *Forecasting Retirement Needs and Retirement Wealth*, Philadelphia: University of Pennsylvania Press for the Pension Research Council, 2000, pp. 33 – 67.

"Choosing Retirement Plans: Comment," in Sheila Burke, Eric Kingson, and Uwe Reinhardt, editors, *Social Security and Medicare: Individual vs. Collective Risk and Responsibility*, Washington, D.C.: Brookings Institution Press for the National Academy of Social Insurance, 2000, pp. 106 – 109.

"ERISA After 25 Years: A Framework for Evaluating Pension Reform," (with William Gale and John Shoven), *Benefits Quarterly*, Fourth Quarter 1999, pp. 73 – 81.

"Minimum Distribution Requirements: Reform or Remove Them," *Tax Notes*, November 30, 1998, pp. 1133 – 1134.

"The Optimal Design of Minimum Distribution Requirements for Retirement Plans," *Benefits Quarterly*, Fourth Quarter 1998, pp. 36 – 53.

"Distributions from Retirement Plans: Minimum Requirements, Current Options, and Future Directions," TIAA-CREF *Research Dialogues* Number 57, September 1998.

"Premium Allocations and Accumulations in TIAA-CREF – Trends in Participant Choices among Asset Classes and Investment Accounts," (with John Ameriks and Francis King), TIAA-CREF *Research Dialogues* Number 51, July 1997.

"The Market for Individual Annuities and the Reform of Social Security," *Benefits Quarterly*, Third Quarter 1997, pp. 66 – 76.

"Funding of Defined Benefit Pension Plans: The Implications of Minimum Funding Requirements and Financial Accounting Standards," in Michael Gordon, Olivia Mitchell, and Marc Twinney, editors, *Positioning Pensions for the Twenty First Century*, Philadelphia, PA: University of Pennsylvania Press for the Pension Research Council, 1997, pp. 107 – 138.

"Pension and Health Benefits for Workers in Higher Education," (with John Ameriks), TIAA-CREF *Research Dialogues* Number 49, December 1996.

"Determinants of Pension Plan Formations and Terminations," *Benefits Quarterly*, Fourth Quarter 1995, pp. 71 – 80.

"Financial Accounting and the Funding Status of Pensions," in John Turner and Dan Beller, editors, *Trends in Pensions: 1992*, Washington, D.C.: Department of Labor, 1992, pp. 497 – 507.

"The Adequacy of Funding of Private Defined Benefit Pension Plans" and "The Institutional and Regulatory Environment of Private Defined Benefit Pension Plans," in John Turner and Dan Beller, editors, *Trends in Pensions*, Washington, D.C.: Department of Labor, 1989.

"Pension Plans: Funding, Assets, and Regulatory Environment," *Federal Reserve Bulletin*, November 1988, pp. 717 – 730.

"Funding of Private Pension Plans," Federal Reserve Board *Staff Study* Number 155, summarized in *Federal Reserve Bulletin*, November 1987, pp. 853 – 854.

INSURANCE PRODUCTS AND MARKETS

"Annuity Risk: Volatility and Inflation Exposure in Payments from Immediate Life Annuities," (with Chris Soares), in Elsa Fornero and Elisa Luciano, editors, *Developing an Annuity Market in Europe*, Cheltenham, UK, Edward Elgar, 2004, pp. 93 – 111.

"The Life Care Annuity: A Better Approach to Financing Long-Term Care and Retirement Income" in David Blumenthal, Marilyn Moon, Mark Warshawsky, and Cristina Boccuti, editors, *Long-Term Care and Medicare Policy: Can We Improve the Continuity of Care?*, Washington, D.C.: Brookings Institution Press for the National Academy of Social Insurance, 2003, pp. 191 - 207.

"Policy Implications of An Annuity Approach to Integrating Long Term Care Financing and Retirement Income," (with Brenda Spillman and Christopher Murtaugh), *Journal of Aging and Health*, (Vol. 15, No. 1), February 2003, pp. 45 -72.

"Integrating the Life Annuity and Long-term Care Insurance: Theory, Evidence, Practice, and Policy," (with Brenda Spillman and Christopher Murtaugh), in Olivia Mitchell, Zvi Bodie, P. Brett Hammond, and Steven Zeldes, editors, *Innovations in Retirement Financing*, Philadelphia, PA: University of Pennsylvania Press for the Pension Research Council, 2002, pp. 198 - 221.

"In Sickness and In Health: An Annuity Approach to Financing Long-term Care and Retirement Income," (with Christopher Murtaugh and Brenda Spillman), *Journal of Risk and Insurance*, 68(2), June 2001, pp. 225 – 254. (Winner of prize competition sponsored in 2001 by the British Institute of Actuaries.)

"Comments on 'The Role of Real Annuities and Indexed Bonds in an Individual Accounts Retirement Program' by Jeffrey Brown, Olivia Mitchell, and James Poterba," in John Campbell and Martin Feldstein, editors, *Risk Aspects of Investment Based Social Security Reform*, Chicago: University of Chicago Press for the NBER, 2001, pp. 360 – 367.

"Primer on Life Annuities," published at www1.worldbank.org/finance/html/annuities_workshop.html, first appeared in 2000, paper given at World Bank Annuities Workshop, June 7, 1999.

"Financing Long-Term Care: Needs, Attitudes, Current Insurance Products, and Policy Innovations," (with Lee Granza and Anna Madamba), *TIAA-CREF Research Dialogues* Number 63, March 2000.

"New Evidence on the Money's Worth of Individual Annuities," (with Olivia Mitchell, James Poterba, and Jeffrey Brown), *American Economic Review*, 89(5), December 1999, pp. 1299 – 1318.

"Financing Long-Term Care: Employee Needs and Attitudes, and the Employer's Role," (with Lee Granza and Anna Madamba), *Benefits Quarterly*, Fourth Quarter 1998, pp. 60 – 72.

"Annuity Redesign: Proposing Flexibilities in Payout Arrangements," in Dallas Salisbury, editor, *Retirement Prospects in a Defined Contribution World*, Washington, D.C.: EBRI, 1997, pp. 143 – 144.

"Annuity Prices in the United States: 1919 – 1984," *Journal of Risk and Insurance*, September 1988, pp. 518 – 528.

FINANCIAL PLANNING

"Comparing the Economic and Conventional Approaches to Financial Planning," (with Jagadeesh Gokhale and Laurence Kotlikoff), in Laurence Kotlikoff, *Essays in Saving, Bequests, Altruism and Life-cycle Planning*, Cambridge, MA: MIT Press, 2001

"Making Retirement Income Last a Lifetime," (with John Ameriks and Robert Veres), *Journal of Financial Planning*, 14(12), December 2001, pp. 82 – 97.

"The Persistence of Morningstar Ratings," (with Mary DiCarantonio and Lisa Mullan), *Journal of Financial Planning*, 13(9), September 2000, pp. 110 – 128.

"Discussion Comments on 'Self-Annuitization and Ruin in Retirement' by Moshe Arye Milevsky and Chris Robinson," *North American Actuarial Journal*, 4(4), October 2000, pp. 127 – 129.

PUBLIC FINANCE

"An Economic Approach to Setting the Contribution Limits to Qualified State-sponsored Tuition Savings Programs," (with Jennifer Ma, John Ameriks, and Julia Blohm), *Proceedings of the National Tax Association, 2000*, August 2001, pp. 107 – 115.

"Taxing Retirement Income: Nonqualified Annuities and Distributions from Qualified Accounts," (with Jeffrey Brown, Olivia Mitchell, and James Poterba), *National Tax Journal*, September 1999, 52(3), pp. 563 – 591.

"Tax Reform and Corporate Capital Structure," *Public Finance*, 44(2), 1989, pp. 295 – 307.

"Life Insurance Savings and the After-tax Life Insurance Rate of Return," *Journal of Risk and Insurance*, December 1985, pp. 585 – 606.

CORPORATE FINANCE

"Is There a Corporate Debt Crisis? Another Look," in R. Glenn Hubbard, editor, *Financial Markets and Financial Crises*, Chicago: University of Chicago Press for the NBER, 1991, pp. 207 – 230.

"Comments on 'U.S. Corporate Leverage: Developments in 1987 and 1988' by Ben Bernanke, John Campbell, and Toni Whited," *Brookings Papers on Economic Activity*, 1990, pp. 279 – 283.

"Determinants of Corporate Merger Activity: A Review of the Literature," Federal Reserve Board *Staff Study* Number 152, summarized in *Federal Reserve Bulletin*, April 1987, pp. 270 – 271.

MACROECONOMICS

"An Enhanced Macroeconomic Approach to Long-Range Projections of Health Care and Social Security Expenditures as a Share of GDP," *Journal of Policy Modeling*, 21(4), July 1999, pp. 413 - 426.

"The Cost of Annuities: Implications for Saving Behavior and Bequests," (with Benjamin Friedman), *Quarterly Journal of Economics*, February 1990, pp. 135 – 154.

"Specification of the Joy of Giving: Insights from Altruism," (with Andrew Abel), *Review of Economics and Statistics*, February 1988, pp. 145 – 149.

"Annuity Prices and Savings Behavior in the United States," (with Benjamin Friedman) in Zvi Bodie, John Shoven, and David Wise, editors, *Pensions in the U.S. Economy*, Chicago: University of Chicago Press for the NBER, 1988.

SECURITIES MARKETS AND FINANCIAL INSTITUTIONS

"Comments on 'Social Security Reform and Financial Markets' by Henning Bohn," in Steven Sass and Robert Triest, editors, *Social Security Reform Conference Proceedings*: Federal Reserve Bank of Boston Conference Series Number 41, June 1997, pp. 228 – 235.

"Investing Social Security Funds in Stocks," (with P. Brett Hammond), *Benefits Quarterly*, Third Quarter 1997, pp. 52 – 65.

"Margin Trading" in John Eatwell, Murray Milgate, and Peter Newman, editors, *The New Palgrave Dictionary of Money and Finance*, 1992.

"The Adequacy and Consistency of Margin Requirements: The Cash, Futures, and Options Segments of the Equity Market," *Review of Futures Markets*, 8(3), 1989, pp. 420 – 437.

"Sensitivity to Market Incentives: The Case of Policy Loans," *Review of Economics and Statistics*, May 1987, pp. 286 – 295.

"Life Insurance Companies in a Changing Environment," (with Timothy Curry), *Federal Reserve Bulletin*, July 1986, pp. 449 – 460, reprinted in T. M. Havrilesky and Robert Schweitzer, editors, *Contemporary Developments in Financial Markets*, Harlan Davidson, 1987.

HEALTH CARE SPENDING AND FINANCING

"Projections of Health Care Expenditures as a Share of GDP: Actuarial and Economic Approaches," *Health Services Research*, 29(3), Summer 1994, pp. 293 – 313.

"Factors Contributing to Rapid Growth in National Expenditures on Health Care," in John Turner, William Wiatrowski, and Dan Beller, editors, *Trends in Health Benefits*, Washington, D.C.: Department of Labor, 1993.

"Recognizing Retiree Health Benefits: The Effect of SFAS 106," (with H. Fred Mittelstaedt and Carrie Cristea), *Financial Management*, Summer 1993, pp. 188 – 199.

"The Impact of Liabilities for Retiree Health Benefits on Share Prices," (with H. Fred Mittelstaedt), *Journal of Risk and Insurance*, 60(1), 1993, pp. 13 – 35.

"Retiree Health Benefits: Promises Uncertain?" *The American Enterprise*, July/August 1991, pp. 56 – 63.

"Postretirement Health Benefit Plans: Costs and Liabilities for Private Employers," Dwight Bartlett III, editor, *Corporate Book Reserving for Postretirement Health Care Benefits*, Homewood: Richard D. Irwin for the Pension Research Council, 1991, pp. 90 – 110.

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.)

MAJOR SPEECHES

"Reforms to U.S. Pension Funding and Accounting Rules: Their Potential Effect on Equity Values and Interest Rates," European Institute's Sovereign Funds Roundtable, London, England, May 17, 2006.

"Pension and Health Care Reform," ASPPA Meeting, Washington, D.C., April 24, 2006.

"The Administration's Views on Current Pension Legislation," D.C. Bar, March 7, 2006.

"The Administration's Pension Reform Proposal," Enrolled Actuaries Conference, April 6, 2005.

"The Urgent Need for Social Security Reform," American Enterprise Institute Conference, March 25, 2005. (A version of this speech appears in Logue, Messina, and DeHart, editors, *Representative American Speeches 2004-2005*, The Reference Shelf, Vol. 77, No. 6, New York: H.W. Wilson Company, 2005, pp. 140 – 145.)

Keynote Speech at the 14th Annual Investment Actuary Symposium, November 8, 2004 (covering macroeconomic outlook, Social Security, pensions, TRIA, and the life care annuity).

"Social Security and Medicare," October 21, 2004, Dartmouth College.

"The Ownership Society: Health Care and Retirement," October 14, 2004, the John Locke Foundation of North Carolina.

TESTIMONY

Discussion of the "Administration's Proposal to Reform and Strengthen the Single-Employer Defined Benefit Pension System against the Background of the Larger issue of Promoting National Saving," Testimony before the U.S. Senate Special Committee on Aging, April 12, 2005.

Discussion of the "Administration's Proposal to Reform and Strengthen the Single-Employer Defined Benefit Pension System," Testimony before the U.S. Senate Committee on Finance, March 1, 2005.

Discussion of the "Administration's Proposal to Reform and Strengthen the Single-Employer Defined Benefit Pension System," Testimony before the United States House Ways and Means Committee, March 8, 2005.

Discussion of the "Administration's Proposal to Reform and Strengthen the Single-Employer Defined Benefit Pension System," Testimony before the United States House Education and the Workforce Committee, March 2, 2005.

Discussion of the "Long-Term health of the Defined Benefit Pension System," Testimony before the Special Committee on Aging, United States Senate, October 14, 2003.

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

I am a creative, intelligent, and hard-working economist, with a good reputation for fairness and intellectual rigor. I have a comprehensive theoretical and practical knowledge of many types of insurance, financial markets, institutions and instruments, pensions, Social Security, macroeconomic forecasting, and health care. I am well trained, through graduate education, in macroeconomics, microeconomics, public finance, and statistics. I have published extensively in high quality academic journals and other professional outlets. Through my formal education and work experience in both the private sector and federal government, I have a good understanding of, and respect for, the important and appropriate roles of markets, private institutions, and government programs and regulations. I have a strong desire to contribute my talents and energies to improve the performance and solvency of the Social Security program and the lives of current and future American retirees.

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.**

No, N/A for part-time Advisory Board

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.**

Yes, with Watson Wyatt Worldwide

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.**

N/A

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.**

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.**

I have conducted economic research relevant to the reform of minimum distribution requirements of retirement plans, Social Security reform, and the combination of long-term insurance with the life annuity.

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.)**

If I were in such a position, I would seek the advice of SSA ethics officials. If the situation could not be rectified, I would resign this position.

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.**

Written opinions will be forwarded directly.

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:**

Not Applicable

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.

NO

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 and Answers for the Record
Nomination Hearing for Mark J. Warshawsky
To Be a Member of the Social Security Advisory Board (“SSAB”)
December 5, 2006**

From Senator Grassley:

(1) What do you believe is the most important challenge facing our nation today in terms of retirement (or disability) policy?

MJW Answer: Current and recent past cohorts of retirees have generally been quite fortunate in the resources available to them to finance their needs – Social Security has been a solid foundation for growing retirement income over longer and healthier lives, Medicare is an ever-more generous program to cover health care, and Medicaid serves as a back-stop for most long-term care given to the elderly. Similarly, private sector provisions have been generous – defined benefit pension and retiree health plans sponsored by employers encouraged early retirements – while real wage growth and fortuitous increases in housing and other asset values have variously occurred. The most important challenge facing our Nation in terms of retirement policy going forward is that these positive trends and conditions are unlikely to continue. Indeed, the opposite situation is more likely. Moreover, it is prudent and therefore responsible to be conservative in these matters where long-range planning mistakes arising from overly pessimistic assumptions are relatively easy to rectify, but the consequences of mistakes arising from overly optimistic assumptions are disastrous. The well-known, but still not acted upon, poor financial prospects of the Social Security and Medicare programs, as documented in the annual Trustees’ Reports, leave current workers and future generations exposed to significant, and perhaps sudden, benefit cuts or tax increases at the same time that their employers have cut back on traditional pension and retiree health coverage. Yet, despite surveys saying that many young workers are not counting on getting benefits from Social Security, national savings rates have plummeted. There is clearly a harmful cognitive dissonance going on, which will lead to dangerous trouble in the future unless addressed with sufficient lead-time. It is the responsibility of policymakers in both the public and private sectors to establish sustainable and viable retirement programs, systems, and policies *now* for the long-run that current workers can depend upon, and that future generations will find to be responsive and responsible.

(2) What recommendations would you make to address this challenge?

MJW Answer: President Bush and Secretary Snow took the lead last year in putting Social Security on the priority policy agenda. The President has since paired Medicare and Medicaid with it, appropriately highlighting the even larger financial challenges of these programs, along with the dire prospects for our Nation’s current and long-run structural budgets. There are many reasonable ways to solve these problems, but policymakers must first agree that they are indeed priorities. Then policymakers must

agree on the major goals that they want met through reform. At least in the case of Social Security, the problems and possible solutions have been studied deeply and discussed widely among experts for more than fifteen years. Furthermore, there is a good analytical base of understanding of the most likely and significant consequences of the program in terms of labor force participation, saving, government budgets and so on. It is no longer a lack of knowledge that impedes progress on reform, but rather a lack of political agreement. My recommendation is that serious efforts at political agreement for Social Security and cognate area reforms should be attempted in the next year.

(3) What accomplishment would you most like to achieve during your tenure on the Advisory Board?

MJW Answer: The annual personal earning and benefit statement mailed to all workers before their birthdays is a valuable planning and educational tool about Social Security. Yet, to my knowledge, the statement has not been critically examined whether (1) its underlying assumptions are the most reasonable and relevant, (2) its static format is the most useful and helpful, (3) it is consistent with best practices in the private sector and in other countries, (4) it is well integrated into other planning tools and software, and (5) the specific nature of disability and survivors benefits of the program is adequately illustrated. I would propose that the Board add this topic to its agenda for study and possible recommendations over the next few years.

From Senator Baucus:

RESOURCES FOR SSA: The SSAB has advocated for quite some time that the Congress and the President provide SSA with the necessary resources to carry out its responsibilities - especially to address the backlogs in the disability application and appeals process. In recent years, the enacted amount for SSA's administrative costs has been well below the amount requested in the President's budget. The situation is even worse this year.

SSA's administrative budget in the current year was reduced by the Senate Appropriations Committee by \$400 million below the President's request. If this is the level that is finally appropriated for the full year, SSA will be in a dire situation. Service to the public will be reduced and furloughs of ten days will be required for every agency employee. Would you agree that it is especially important for the Advisory Board to advocate in favor of enactment of the full amount of the President's Budget request for SSA's administrative costs this year?

MJW Answer: I believe it is appropriate for the SSAB to advocate for the appropriate resources for the SSA to meet its administrative obligations to the public now and to prepare for the future through investments in technology and human capital. It is also appropriate for the SSAB to offer advice on any areas where economies and improvements can be made.

CONSENSUS DECISION MAKING AT SSAB: As you know the SSAB produces reports only when they have reached consensus on the subject of the report. The consensus style of the board's policy positions are a very important feature of the Advisory Board. Do you support the consensus operating style of the Advisory Board?

MJW Answer: As I stated in my statement today before the Committee, I do support the consensus operating style of the SSAB. There was a similar style among the Trustees during my tenure at the Treasury Department as the representative of the Managing Trustee. I saw first hand how advantageous that approach was both analytically and politically, albeit sometimes challenging and time-consuming. In matters of public trust and responsibility, especially for long-range structural programs, consensus should be our mutually shared goal.

**STATEMENT OF IRVING A. WILLIAMSON
NOMINATED TO BE A MEMBER OF THE
U.S. INTERNATIONAL TRADE COMMISSION
Before the
SENATE FINANCE COMMITTEE
December 5, 2006**

Thank you Mr. Chairman, Senator Baucus and Members of the Committee. I particularly want to thank Senators Schumer and Clinton and Congressman Rangel for introducing me and to thank them and Senate Democratic Leader Reid and House Democratic Leader Pelosi for supporting my nomination. I also want to express my appreciation to Congressman Rangel for proposing my appointment as a Commissioner and for the support he has given me throughout my career. I am proud to be able to say that as a Harlem resident he has been my Congressman for the last 21 years.

I have been working on trade policy matters for over thirty years; I have worked in a wide variety of positions at the federal and regional government level and as head of my own international consulting firm. I hope that this long and extensive experience will make me an effective commissioner if I am confirmed.

From 1993 to 1998, I was Deputy General Counsel at the Office of the United States Trade Representative (USTR) where I worked on the WTO and NAFTA implementing legislation. As Chairman of the interagency Section 301 Committee, I led the Committee through 24 investigations of foreign trade barriers; these investigations were conducted pursuant to the provisions in section 301 of the Trade Act of 1974. I also helped manage a 14-attorney office that was engaged in over 30 WTO dispute settlement proceedings and was named best government international law office in May of 1997.

Before USTR I worked for the Port Authority of New York and New Jersey where I advised it on international trade issues. I also assisted local firms, who were clients of the Port Authority's export trading company, to deal with foreign trade barriers. I saw first hand how trade policy decisions and trade agreements affected companies in New York and New Jersey.

While a Foreign Service Officer with the State Department, I served as Associate General Counsel at USTR where I worked on a number of US-EU agricultural disputes, trade preferences legislation and East-West trade matters. From 1975 to 1978 I served in the US Mission in Geneva, Switzerland, where I was involved in international economic and trade negotiations being conducted in the GATT, the World Intellectual Property Organization and other international organizations.

As a consultant in recent years, I have worked primarily on U.S. government funded projects in over 20 countries; these projects were designed to help the countries improve compliance with WTO obligations and to make trade policy decisions that contribute to their economic development and to their being good trade partners for the United States.

Throughout my career I have worked closely with the staff of the Commission. I have come to appreciate the importance of the Commission in helping to ensure that the Administration and the Congress have the information and analysis they need to make trade policy decisions that are in the best interest of the US economy and employment in the United States. The Commission has an important advisory role to play in the trade policy formulation process in the United States.

The Commission also has a very important role to play as an independent fact-finding body which administers provisions in our trade remedies laws and our laws dealing with foreign unfair trade practices. If confirmed, I will administer these laws as written and as Congress intended. I will seek to apply our trade laws objectively, fairly and vigorously and will not substitute any policy bias in place of congressional intent.

In my consulting assignments, I have seen how decisions regarding international trade are hampered when countries do not have an institution such as the ITC which can conduct independent investigations and make decisions or recommendations based on sound research and analysis and good information. I therefore recognize that one of the responsibilities of a Commissioner is to ensure that the Commission as an institution continues to carry out effectively for our country the important functions assigned to it.

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

A. BIOGRAPHICAL INFORMATION

1. Name: (Include any former names used.)
Irving Alexander Williamson
Irving Alexander Williamson, Jr.
2. Position to which nominated:
Commissioner of the United States International Trade Commission
3. Date of nomination:
September 7, 2006
4. Address: (List current residence, office, and mailing addresses.)
Residence and office address: 322 West 140th St. (P.O. Box 898), New York, NY
10030
5. Date and place of birth:
August 5, 1943; St. Louis, Missouri
6. Marital status: (Include maiden name of wife or husband's name.)
Married. Wife: Cheryl A. Parham
7. Names and ages of children:
Daughter: Elizabeth B. Williamson, 33
Son: Patrick A. T. Williamson, 17

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

George Washington University National Law Center, 1971-1975, JD, 1975
 Johns Hopkins School of Advanced International Studies, 1965-67, MA, 1969
 Brown University 1961-1965, BA, 1965

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.)

President of Williamson International Trade Strategies, Inc. (1999 - present)
 As a consultant, I have worked on USAID-funded projects which have assisted countries such as Egypt, Algeria, Cape Verde, Ethiopia, Jordan, Kosovo and Guyana to understand and comply with WTO obligations. I have conducted WTO training programs in Egypt, Barbados, Lebanon, Mali, Macedonia, Uganda and China. I also conducted seminars throughout West Africa on the "Africa Growth and Opportunity Act" (AGOA) and on globalization.

Vice President for Trade, Investment and Economic Development Programs, The Africa-America Institution, New York, NY (1998-1999)

Deputy General Counsel, Office of the U.S. Trade Representative (USTR) Washington, DC (1993-1998)

Manager, Trade Policy, The Port Authority of New York & New Jersey, New York, NY (1985-1993)

Foreign Service Officer, U.S. DEPARTMENT OF STATE (1967-1985), with the following assignments:

Economic Officer, Office of Brazilian Affairs, State Department, Washington, DC (1983-1985)

Associate General Counsel, Office of the U.S. Trade Representative, Washington, DC (1980-1983)

Deputy Division Chief, Office of Aviation, State Department, (1979-1980)

Attorney-Adviser, Office of the Assistant General Counsel for International Affairs, Treasury Department (1978-1979)

Economic Officer, U.S. Mission to the International Organizations in Geneva, Switzerland (1975-1978)

Economic/Commercial Officer, Office of Commercial Affairs, State (1973-1975)

Personnel Officer, Office of Performance Evaluation, State Department, Washington (1971-1973)

International Affairs Officer, Operations Center, State Washington (1970-1971)

Consular Officer and Acting Head Economic/Commercial Section, American Embassy, Antananarivo, Madagascar (1968-1969)
Junior Officer, American Embassy, Port Louis, Mauritius (1967-1968)

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.)
- Chapter 19 of the North American Free Trade Agreement roster of individuals qualified to serve on binational panels to review antidumping or countervailing duty determinations
 - State Dept. Advisory Committee on International Investment (1989-1993)
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.)

President, Williamson International Trade Strategies, Inc.

Consulting assignments since 1999; all work was for projects funded for the U.S. Agency for International Development except where noted:

For Booz Allen Hamilton

- Chief of Party and legal adviser for project to assist Ethiopia accede to the WTO.
- Intellectual property rights and WTO seminar in Beirut, Lebanon and WTO seminar in Macedonia
- Advised Cape Verde on establishment of WTO unit.

For BearingPoint

- Trade policy advisor to Economic Reconstruction Project for the Government of Kosovo.

For IBM Business Consulting Services

- Workshops in seven West African countries on the African Growth and Opportunity Act (AGOA) and globalization.
- Proposal for project in South Africa

For Institute for Trade and Commercial Diplomacy Project (ITCD)

- Trade policy training programs in Egypt
- Trained Vietnamese government officials on trade policy skills and WTO rules (Ford Foundation funded)
- Dispute settlement case studies. (Project funded)

For Chemonics International, Inc.

- Common Market for Eastern and Southern Africa (COMESA) workshop on services trade and WTO services trade rules
- Trade and investment advisor to the US-Egypt Business Council.
- Training programs for Egyptian trade officials

- Evaluated Egyptian compliance with WTO Agreements on technical barriers to trade and sanitary and phytosanitary measures agreement.
- Organization plan for WTO Unit in Jordan Trade Ministry
- Work program to improve Guyana's compliance with WTO obligations and WTO participation.

For Common Market for Eastern and Southern Africa (COMESA)

- Services workshop follow-up

For Manchester Trade and KPMG/Barents

- U.S. government conference with West African Economic and Monetary Union (WAEMU)

For Institute for International Law Institute

- Course on trade agreement monitoring (State Department funded)

For Commercial Law Development Program of Commerce Department (CLDP)

- Organization and work plan for WTO Unit in Egyptian trade ministry
- Assessed status of Algeria WTO accession

For Institute for International Education

- Organized US study tour for Egyptian government trade lawyers and policy analysts

For Computer Frontiers

- Background papers for USTR training program for African trade ministers.

For Colgate Palmolive

- Advised on investment problems in Africa

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

Council on Foreign Relations

District of Columbia Bar (admitted 1975)

United States Court of International Trade

American Bar Association

Board Member, Spence Chapin Services to Families and Children

Board Member, American Foreign Service Association (81-85)

Member, Education Commission, Riverside Church (about 91-93)

Board Member, Christianity & Crisis (about 89 to 93)

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.

National Leadership PAC	\$200	10/12/2000
NY State Democratic Committee	\$250	8/30/2001
National Leadership PAC	\$100	11/1/2002
National Leadership PAC	\$50	5/21/2003
Democratic National Committee	\$50	7/4/2004
Kerry Victory	\$50	7/4/2004
John Kerry for President	\$50	7/4/2004
Democratic Congressional Campaign Committee (DCCC)	\$50	7/4/2004
National Leadership PAC	\$250	8/9/2004

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.)

Fellowships:

Ford Foundation Fellowship to study at Johns Hopkins School of Advanced International Studies

Awards

- Incentive Award for excellent support of the commodities program at USTR. (1981)
- Meritorious Step Increase for exceptional performance while at USTR. (1983)
- Port Authority World Trade & Economic Development Dept. Achievement Award for exceptional performance. (1989)

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

ARTICLES:

- "The African Growth and Opportunity Act" published in "International Legal Developments in Review 2000" for The International Lawyer (2001);
- "Private Sector Trade, Investment and Economic Development in Sub-Saharan Africa" for Law and Policy in International Business (1999);
- "Helping Africans and Americans to Trade" for Business Directory African-American Summit Trade and Investment Exposition (1999);
- "A New Alliance for Progress" for Portfolio: A Quarterly Review of Trade and Transportation (published by the Port Authority of New York & New Jersey)(1992);
- "EC 1992: New Opportunities in Old Europe" for VIA Port of New York-New Jersey (1992) (published by the Port Department of the Port Authority);

- "The Telecommunications-Trade Link" for WTA Update, the Newsletter of the World Teleport Association (1991);
- "The GATT Uruguay Round ... Everyone has a Stake in its Success" for VIA Port of New York-New Jersey (1990);
- "Foreign Trade Barriers Can Be Overcome" for New Jersey International Trade News (1990);
- "The Uruguay Round of GATT Multilateral Trade Negotiations - Implications for World Trade Centers" for World Traders (published by the World Trade Centers Association) (1989);
- "Thy Neighbor's Goods (and Services): The U.S.-Canada Trade Pact" for Portfolio: A Quarterly Review of Trade and Transportation (1988);
- Foreign Investment in the United States: A Summary of Federal Laws Bearing on Foreign Investment in the United States, booklet for Treasury Department (1979)

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 given any formal speeches in the last five years.

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

I have been working on trade policy matters for over thirty years; I have worked in a wide variety of positions at the federal and regional government level and as an international consultant. This extensive and long experience should make me an effective commissioner if I am confirmed.

From 1993 to 1998, I was Deputy General Counsel at the Office of the United States Trade Representative (USTR) where I worked on the WTO and North American Free Trade Agreement (NAFTA) implementing legislation. As Chairman of the interagency Section 301 Committee, I led the Committee through 24 investigations of foreign trade barriers. I served as acting general counsel for seven months and helped manage a 14-attorney office that was engaged in over 30 WTO dispute settlement proceedings and was named best government international law office in May of 1997.

From 1985 to 1993 I was Manager, Trade Policy for the Port Authority of New York and New Jersey where I advised its departments and the World Trade Centers Association on international trade issues; I also assisted local firms, who were clients of its export trading company, to deal with foreign trade barriers. I saw first hand how trade policy decisions and trade agreements affected companies in the bi-state region.

While a Foreign Service Officer with the State Department, I served as Associate General Counsel at USTR where I worked on a number of US-EU agricultural

disputes, trade preferences legislation and East-West trade matters. From 1975 to 1978 I served in the US Mission in Geneva in Geneva, Switzerland, where I worked on GATT, UNCTAD, WIPO and Economic Commission for Europe matters.

As a consultant I have worked in over 20 countries on projects designed to help them improve compliance with WTO obligations and to make trade policy decisions that contribute to their economic development and to being a good trade partner for the United States.

Throughout my career I have worked closely with the USITC and come to appreciate the importance of the agency in helping to ensure that the United States has a good trade policy decision making process that focuses on producing results that are in the interest of employment in the US and the US economy. In my consulting assignments, I have seen how poor trade policy decisions are made when countries do not have an institution such as the USITC which can conduct independent investigations and make decisions or recommendations based on sound research and good information.

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.

NONE

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.

NONE

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 intend 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.

Spouse's shares in General Electric Co.
Board Member, Spence Chapin Services to Families and Children, an adoption agency

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.

President and sole owner of Williamson International Trade Strategies, Inc. For the last 18 months, headed for Booz Allen Hamilton a USAID-funded project in Addis Ababa, Ethiopia and have had no other clients since the start of the project.

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.

As head of a USAID funded project to assist Ethiopia with WTO accession, I have written or edited memos discussing the consistency of certain Ethiopian laws and regulation with WTO rules. These memos were given to the WTO Affairs Department of the Ethiopian Ministry of Trade and Industry and were part of the assistance USAID was providing to help Ethiopia with WTO accession.

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.)

As stated in the Ethics Agreement letter to the Designated Agency Ethics Official at the USITC:

I will not participate personally and substantially in any investigation or other particular matter that would have a direct and predictable effect on the financial interests of General Electric Co., or any other organization in which I have or

may acquire an ownership interest, unless I first obtain a written waiver or qualify for a regulatory exemption, or dispose of my interests in those organizations.

Upon confirmation, I will place Williamson International Trade Strategies, Inc. in an inactive status. Other than to pay any necessary fees and taxes required in order to keep the firm in existence, I will no longer provide professional services to the company or receive compensation for professional services except for those services provided prior to my entry into federal government service. The firm will remain in an inactive status during my tenure as Commissioner. Furthermore, I will not participate personally and substantially in any particular matter that would have a direct and predictable effect on the financial interests of Williamson International Trade Strategies, Inc. unless I first obtain a written waiver or qualify for a regulatory exemption.

I will not participate in any particular matter involving specific parties in which a former client of mine through Williamson International Trade Strategies, Inc. is a party or represents a party, for one year after I have ceased providing services to that former client, unless I am authorized to participate pursuant to 5 C.F.R. § 2635.502(d).

Upon confirmation, I will resign from the board of Spence-Chapin Services to Families and Children.

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.

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.

Divorce proceeding. Judgment for absolute divorce, August 18, 1983 in Supreme Court of the District of Columbia, Family Division.

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
by Irving Williamson**

December 5, 2006

Questions submitted by Senator Baucus

Question:

1. FUNDING THE ITC: I understand that while the Senate Appropriations Committee approved the ITC's full funding request for fiscal year 2007, the House of Representatives approved funding below that level. What do you think funding the ITC below its requested level would mean for the operations of the agency, especially in light of the Commission's shift toward more and more work on technical intellectual property issues?

Response:

As a relatively small agency, even small changes in funding levels can have a big impact. The House approved funding level, as I understand, is \$1.7 million below the Commission's funding level for FY 2006. As you know the number of Section 337 investigations undertaken by the Commission continues to grow. The Commission's FY 2007 full funding request was modest and essentially the same as for FY 2006. To handle the increase in the section 337 workload, the Commission needs to increase staff and add a fifth administrative law judge. It is trying to do this by reallocating resources, including reductions in non-personnel costs. The Commission's Section 337 work has increased because U.S. companies find it to be an effective tool. We do not want inadequate Commission funding to undermine its effectiveness. At the same time, the Commission must continue to have adequate resources to meet its other obligations, including enforcing the dumping and countervailing duty laws and providing analysis and advice to Congress and the Administration.

Question:

2. TRADE ENFORCEMENT: I have long believed that the administration could be more aggressive on trade enforcement. Americans are increasingly skeptical that they are receiving the benefits they were promised in our trade agreements. What role, if any, can the International Trade Commission play in restoring the confidence of average Americans that trade can work for them?

Response:

Enforcement of trade agreements and our trade laws are very important if we are to ensure that Americans receive maximum benefits from our trade agreements and can compete in the global economy. The International Trade Commission plays a useful role in gathering and analyzing information from a wide spectrum of sources on the potential and actual impacts of trade agreements and foreign unfair trade practices on American companies and workers and the American economy. The Commission seeks to ensure that its studies take into account the interests of all Americans and provide policy makers with information that will be beneficial to all Americans. The Commission must also ensure that it vigorously enforces, in the manner intended by Congress, the provisions in U.S. trade remedies and unfair trade practices laws for which it is responsible.

Questions submitted by Senator Bingaman**Question:**

1. After the Supreme Court's recent decision in *eBay Inc. v. MercExchange, L.L.C.*, the federal courts no longer issue automatic injunctions against patent infringers. Instead, a court must apply a four-factor balancing test – of which one factor is “the balance of hardships between the plaintiff and defendant” and another is “the public interest” – in determining whether to issue an injunction. Outside the patent infringement context, courts of equity have traditionally applied this four-factor test in determining whether to issue injunctive relief.

Because the *eBay* ruling does not apply to the International Trade Commission (the “Commission”), the Commission still issues automatic exclusion orders – the equivalent of an injunction – regardless of the balance of equities. Therefore, patent plaintiffs have increasingly begun pursuing patent infringement cases in the Commission, rather than the federal courts, leading to a significant increase in the number of § 337 cases on the Commission's docket.

Do you believe that the Commission is institutionally equipped to adjudicate high-tech intellectual property disputes, which have traditionally fallen under the purview of the federal courts, principally the Federal Circuit?

Response:

Section 337 has been part of U.S. trade law since the Trade Act of 1930. Thus, the Commission has been adjudicating complex highly technical intellectual property cases for decades. In fact, it is my understanding that the Commission is in many ways better positioned to handle such cases than Federal District Courts, the other forum for these disputes. Unlike District Courts, intellectual

property cases are a major area of the Commission's responsibility and workload. The Commission's Administrative Law Judges hear solely cases under section 337. The Office of Unfair Import Investigations, which acts as a third party in all section 337 investigations representing the public interest, is staffed by experienced patent litigators; most of the Office's litigators have technical backgrounds. The Office of the General Counsel has several attorneys with patent and technical backgrounds who provide advice to the Commissioners on the outcome of section 337 cases. Finally, Commissioners have attorneys on their personal staffs who regularly work on these cases, providing additional advice to the Commissioners.

The Commission's greatly increased section 337 caseload shows that the patent bar and private parties recognize the Commission's ability to handle these cases. The Commission is also an attractive forum because of its relative speed and the effective remedies that are available. I understand that the Commission's decisions in patent cases have been more often affirmed by the Court of Appeals for the Federal Circuit than have been decisions of the District courts. This significantly higher affirmance rate is another indication of the Commission's expertise in adjudicating high-tech patent disputes.

As our hi-tech industries are constantly evolving, and at a rapid rate, I intend to work to ensure that the Commission continues to be able to successfully handle hi-tech cases and to be even more successful than in the past.

Question:

2. 19 U.S.C. § 1337(c) provides that, when the Commission determines the remedy in a § 337 action, "[a]ll...equitable defenses may be presented in all cases." Similarly, 19 U.S.C. § 1337(d)(1) permits the Commission to consider the effect of an exclusion order "upon the public health and welfare...and United States consumers."

Under these statutes, does the Commission already have discretion to apply a balancing test in § 337 cases and order a remedy short of an exclusion order – that is, an automatic ban on the importation of all infringing products? If so, is harm to third parties, including consumers, facially a factor to balance against the benefits of issuing an exclusion order?

Response:

As a Commissioner, I intend to be mindful of my statutory obligation both to prevent unfair acts in trade as well as to consider the public health and welfare. The statute also requires the Commission to consider competitive conditions in the United States and the effect on consumers. In appropriate cases, the Commission can decline to issue an exclusion order based on these factors; the President can also disapprove an exclusion order based on these factors.

The statute limits the form of remedy to a limited exclusion order (barring imports only of products from the respondents in the investigation), the less common general exclusion order (barring imports of all infringing products), and a cease and desist order (directing the respondent to cease its unfair acts, such as selling imported infringing goods out of inventory). However, in crafting the details of its orders, the Commission can make adjustments to take into account public health and welfare factors as appropriate.

Questions submitted by Senator Rockefeller

Question:

1. As you know there is a relatively small group of Members in the Congress that pays attention to the work at the ITC, but those of us who do pay very close attention and have strong interests in your work and the product of your deliberations. For years there has been a tug-of-war of sorts between those who support strengthening our trade laws and those who want to weaken them. Those who cannot successfully get changes in our trade law argue before the ITC and other bodies to have those laws weakened through interpretation. This weakening through challenge approach has left the ITC with a great deal of responsibility to the workers and companies of this nation and to the laws Congress has passed. As you prepare to take your place as Commissioners on this quasi-judicial body, you will face some of these same challenges. So, I wish to ask you today if you will uphold both the letter – and equally as important – the spirit of our trade laws?

Response:

I fully recognize the intent behind the nation's unfair trade laws, and am mindful of the effects my decisions will have on people across the nation. I therefore intend to uphold not just the letter but also the spirit of the trade laws as the Congress intended.

Question:

2. I also believe it is important that we take a close, hard look at our trade laws. Our trading partners and other have looked for ways for many years to undermine our trade laws and try to gain expanded access to the most open market in the world. They have done so through the ITC, the WTO and its Appellate process, and through direct negotiations with the Administration in bilateral and multilateral trade agreements. The ITC is also often on the leading edge of new tactics in our trade laws and I am sure that during your time on the Commission you will see a number of new tactics from both domestic industries

and from our trading partners. Do you think our trade laws are sufficient to protect our domestic industries and to ensure a level playing field now and in the future, and if not, what improvements do you recommend that this Committee consider in the next Congress?

Response:

The ITC's role is to administer the trade laws as passed by Congress. The ITC, however, also provides critical advice and analysis to lawmakers to help ensure that our trade laws are effective. In line with the ever-changing nature of the global economy and international trade, I believe that our trade laws may at times need to be accordingly adjusted. As a Commissioner, I will endeavor to provide needed analysis and advice to lawmakers to ensure that our trade laws are modern and effective.

Question:

3. One phenomenon the Commission has increasingly encountered is that, when a U.S. producer faces unfair import competition, the producer may both import and continue to produce in the United States. Rather than simply shut down operations in the United States, the producer closes only some of its domestic operations, while turning to foreign sources to replace the lost production. The U.S. producer continues to produce in the United States, and may remain profitable, but U.S. production and employment both fall. Wouldn't you agree that, under these circumstances, the decline in production and jobs is evidence of injury, even if there is no decline in profitability?

Response:

I believe it is possible for the Commission to find that a domestic producer that is both producing domestically and importing is injured by imports. As a Commissioner, I intend to rule on each case based on the facts found by the Commission and the law as written by Congress and interpreted by the courts. I also intend to fully consider all relevant issues and factors as I develop my methodology to antidumping and countervailing duty cases. The law requires the Commission to consider, in its injury analysis, not only profitability and production in the United States but also "all relevant economic factors which have a bearing on the state of the industry," explicitly including employment and wages.

Question:

4. The reason U.S. consumers buy dumped and subsidized goods is because they are cheaper. In some ways, this is analogous to the person who buys a television off the back of a truck because it is cheaper, even though they know it was stolen. Some consuming industries have argued that they should be allowed to participate in ITC investigations, and that the Commission should

consider the impact of dumping and countervailing duty orders on them, even though the imports in question were found to have been dumped or subsidized. Do you believe that those who benefit from unfairly traded imports should have a role in the Commission's investigative process?

Response:

It is my understanding that consumers are not "interested parties" as defined by the statute. The statute requires the Commission to assess the condition of the domestic industry in question, and the effect of imports on that industry. As a Commissioner, I will apply the law as written by Congress.

Question:

5. In the recent case of *Bratsk Aluminium Smelter v. United States*, 444 F.3d 1369 (Fed. Cir. 2006), the U.S. Court of Appeals for the Federal Circuit held that in original antidumping ("AD") investigations involving "commodity products," the Commission must explain why the elimination of subject imports would benefit the domestic industry instead of resulting in the replacement of subject imports by non-subject imports without any beneficial impact on domestic producers. Would you agree with those who worry that *Bratsk* could lead to situations in which a domestic industry would be denied relief, even though the record plainly shows that the industry has suffered material injury by reason of unfairly-traded subject imports? Do you agree with the Commission that *Bratsk* should have been reconsidered by the Federal Circuit *en banc*?

Response:

It is my understanding that the current Commissioners, as well as the Commission General Counsel, are of the view that the Federal Circuit's decision introduced a requirement that goes beyond both the language and the intent of the statute and should have been reconsidered by the Court *en banc*. In fact, the Commission is currently pursuing, with the Solicitor General, the possibility of an appeal to the Supreme Court. The Commission believes that the relevant statutory provisions do not require that the Commission assess whether the AD/CVD relief would be effective and that is what the Court's decision now appears to require in at least some circumstances. I attach great importance to fully enforcing our unfair trade laws, as intended by Congress, and will seek to ensure that that the Commission is not forced to undertake analyses that are not required by the statute.

Question:

6. Under the *Bratsk* decision, the ITC is required to assess the role in the U.S. market of imports *not* subject to the investigation. Of course, the Commission lacks the extensive information on non-subject imports that it has on the imports actually being investigated. I am concerned that in some cases, the

Commission may engage in speculation and conjecture regarding the role of non-subject imports in the U.S. market. Do you agree that the ITC should avoid such behavior, and should instead base its decisions on the facts of record?

Response:

As a threshold matter, I intend that my determinations will always be based on the factual record developed in a proceeding and will never be based on speculation or conjecture. While I will be called upon in some situations to evaluate whether a domestic industry is threatened with material injury by subject imports or in the context of a five year sunset review whether revocation of an order will result in the recurrence or continuation of injury, those decisions will be based on the record and the conclusions that can be drawn from it.

Question:

7. *Bratsk* involves original AD investigations. In your opinion, should the holding in *Bratsk* be extended to five-year reviews?

Response:

I understand that the Federal Circuit's decision was made in the context of an original investigation, not a sunset review. I also understand that the Commission's view is that the Court's holding is limited to original investigations. As I stated earlier, I attach great importance to fully enforcing our unfair trade laws, as intended by Congress, and will seek to ensure that that the Commission is not forced to undertake analyses that are not required by the statute.

Question:

8. The statutory definition of injury requires that the Commission evaluate "all relevant economic factors which have a bearing on the state of the industry in the United States, including, but not limited to 1) actual and potential decline in output, sales, market share, profits, productivity, return investments, and utilization of capacity, 2) factors affecting domestic prices, 2) actual and potential negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital and investment...."

It is my understanding that the massive surge of imports of many agricultural and manufactured products from China has created a new competitive paradigm for U.S. agriculture and industry. As discussed significantly in the press, the China price of goods is often half of the U.S. price of goods and may be 30% or 40% below domestic producers cost of manufacture. In such cases domestic industry can not reduce its price to retain market share, but rather reduces production and shipments, lays off workers, and in some instances closes facilities, but maintains their prices on their existing sales and

may continue to obtain healthy profit margins on the fewer domestic sales that they are making. Under such circumstances is it your view that there is injury to domestic industry when market share, capacity utilization, production shipments, and in particular employment factors decline in the face of Chinese import surges, even though there may not appear to the Commission to be a price effect or an effect on profit margins? I would appreciate your answer to this question in its hypothetical form since to my knowledge it does apply across a number of industries and agricultural products, but I am not referring to any specific case before the Commission.

Response:

The statute is clear that there are a number of factors that the Commission must consider in making its injury determination. While prices and profitability are important factors, they are not the only factors. I understand that the Commission has found injury, or threat of injury, in cases in which the domestic industry remained profitable or in which there was no current price effect. In developing my approach to antidumping and countervailing duty cases, I do not intend to take a narrow view of the statute, but rather will endeavor to give full effect to the provisions of the law.

Question:

9. Some consuming groups argue that even though the United States does not have a formal "public interest test," the Commission should take into account the impact that its trade remedy decisions may have on downstream industries or the economy as a whole, including the effect on U.S. trade relations with other countries. Other observers maintain that U.S. law reflects a policy decision by Congress that the Commission should focus on the impact of unfairly-traded imports on the complaining industry. What is your opinion?

Response:

The statute requires Commissioners to examine the state of the domestic industry producing the product comparable to that under investigation. The statute does not authorize the Commission to consider effects on downstream industries or the economy as a whole. If such arguments were raised in an investigation, I would assess them in light of my reading of the statute and Congressional intent.

Question:

10. When the Commission analyzes U.S. law, do you believe it should give any weight to WTO rulings? If so, why? How much weight would you give to WTO rulings in your analysis of U.S. law?

Response:

In my view, the Uruguay Round Agreements Act is very clear that the rulings of WTO dispute settlement panels and of the Appellate Body are not relevant for purposes of interpreting U.S. law. Indeed, our reviewing courts, and particularly the Court of Appeals for the Federal Circuit, have stated that WTO dispute settlement rulings should receive little or no consideration in resolving issues under U.S. domestic law. As in all matters, I will take my guidance first and foremost from U.S. law and, when applicable, our courts' interpretation of those laws.

Question:

11. Section 771(7)(A) of the Tariff Act of 1930, as amended, provides that material injury "means harm which is not inconsequential, immaterial, or unimportant." Some observers have noted, however, that the Commission tends to grant AD/CVD relief only in cases where the domestic industry has experienced significant losses, even though the industry's performance in other aspects has been materially impacted by dumped and subsidized imports. Do you believe that an industry must suffer severe losses in order to obtain AD/CVD relief? How would you apply the material injury standard?

Response:

I believe that the statute, Commission precedent, and court decisions do not require that an industry be flat on its back before it is entitled to relief. I intend to fully assess all the factors enumerated in the statute in making my injury determinations. In doing so, I will take into account any declines in industry indicators. I also note that, under the threat provision, an industry that is not currently materially injured can obtain prospective relief.

