

**NOMINATIONS OF JEFFREY ALAN GOLDSTEIN,
FRANCISCO SANCHEZ, AND SHERRY GLIED**

HEARING

BEFORE THE

**COMMITTEE ON FINANCE
UNITED STATES SENATE**

ONE HUNDRED ELEVENTH CONGRESS

SECOND SESSION

ON THE

NOMINATIONS OF

JEFFREY ALAN GOLDSTEIN, TO BE UNDER SECRETARY OF DOMESTIC
FINANCE, DEPARTMENT OF THE TREASURY; FRANCISCO SANCHEZ, TO
BE UNDER SECRETARY OF COMMERCE FOR INTERNATIONAL TRADE,
DEPARTMENT OF COMMERCE; AND SHERRY GLIED, TO BE ASSISTANT
SECRETARY FOR PLANNING AND EVALUATION, DEPARTMENT OF
HEALTH AND HUMAN SERVICES

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MARCH 2, 2010
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Printed for the use of the Committee on Finance

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U.S. GOVERNMENT PRINTING OFFICE

67-954—PDF

WASHINGTON : 2010

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COMMERCE; AND SHERRY GLIED, TO BE
ASSISTANT SECRETARY FOR PLANNING
AND EVALUATION, DEPARTMENT OF
HEALTH AND HUMAN SERVICES**

TUESDAY, MARCH 2, 2010

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

The hearing was convened, pursuant to notice, at 11:29 a.m., in room SD-215, Dirksen Senate Office Building, Hon. Max Baucus (chairman of the committee) presiding.

Present: Senators Wyden, Cantwell, Nelson, Menendez, Grassley, and Roberts.

Also present: Democratic Staff: Bill Dauster, Deputy Staff Director and General Counsel; Ayesha Khanna, International Trade Counsel; Andrew Hu, Health Research Assistant; and Mary Baker, Detailee. Republican Staff: Kolan Davis, Staff Director and Chief Counsel; Michael Park, Health Policy Counsel; Jim Lyons, Tax Counsel; Tony Coughlan, Tax Counsel, and Nick Wyatt, Tax and Nominations Professional Staff.

**OPENING STATEMENT OF HON. MAX BAUCUS, A U.S. SENATOR
FROM MONTANA, CHAIRMAN, COMMITTEE ON FINANCE**

The CHAIRMAN. The committee will come to order.

In 1961, President-elect John F. Kennedy said that public servants would be judged by whether they were “truly people of dedication, with an honor mortgaged to no single individual or group, but devoted solely to serving the public good and the national interest.”

To our witnesses today I say, President Obama has nominated each of you to serve the public good and the national interest. Each of you has traveled a long road to get here today, and in so doing you have shown dedication to the positions for which you have been nominated, to our President, and to our country.

But history will judge you—and indeed, all of us—not by the dedication that we have shown so far. History will judge us by the

dedication that we will show until the last moment that we serve the American people.

Mr. Goldstein, President Obama has nominated you to be the Under Secretary of Treasury for Domestic Finance. In this role, you will oversee our domestic financial system and fiscal policy. As we seek to recover from the Great Recession, create good jobs here in America, and create sustainable economic growth, we will have to rewrite the rules by which our domestic financial system works.

We cannot reward those who put America's economic stability in peril by taking untenable risks. We cannot create economic growth by borrowing at unsustainable levels. Rather, we must spur private sector job creation and we must put the good of the country before the good of any individual person or company.

Mr. Goldstein, I urge you, once confirmed, to fill the position of Under Secretary with honor. I urge you always to put the stability of the American economy and the fiscal health of our Nation first. If you accomplish this, history will judge you as a person of dedication.

Mr. Sanchez, President Obama has nominated you to be Under Secretary of Commerce for International Trade. In this capacity, you will head the Commerce Department's international trade initiatives. You will push forward the President's recently announced initiative to help double America's exports in 5 years, you will administer U.S. antidumping and countervailing duty laws, and you will monitor foreign compliance with U.S. trade agreements.

Mr. Sanchez, I urge you, once confirmed, to fill the position of Under Secretary with honor, and I urge you to put the competitiveness of our country first. In so doing, I urge you to remember the needs of small- and medium-sized businesses like those in Montana. Companies in rural States like Montana support their local economies. They are pillars of the community. They offer world-class products, and our trade programs should help them to sell in global markets. If you accomplish this task, history will judge you, too, as a person of dedication.

Dr. Glied, President Obama has nominated you to be the Assistant Secretary for Planning and Evaluation at Health and Human Services. Planning and Evaluation is one of the least recognized, but most important functions in the Department. The research and analysis, policy development, and the planning and evaluation functions in which your office is engaged underpin much of the Department's activities.

The Department must have a strong foundation of evidence to support its decision-making. The Department must evaluate legislation that has been implemented, and the Department must understand the effects of potential changes under consideration.

Dr. Glied, I urge you, once confirmed, to fill your position with honor. I also encourage you to put the needs of the American people first and evaluate the effects that HHS policies will have on the American people.

One of your responsibilities will be to bring the office back up to par. You will need to restore the excellent reputation and status that it once had. If you accomplish this task, history will judge you as a person of dedication.

I congratulate each of you on the dedication and perseverance that you have shown thus far. I encourage you to bring even more dedication to your future positions, and I am confident that the American public and our national interest will be better for your service.

Senator Grassley, who will be joining us momentarily, will deliver his opening statement at that time. But in the meantime, we will now turn to our witnesses.

Today's panel begins with Jeffrey Goldstein, who has been nominated to be the Under Secretary of Domestic Finance at the Department of the Treasury. Next, we have Francisco Sanchez, and Senator Nelson has asked to introduce this witness. Finally, we will hear from Sherry Glied, who has been nominated to be Assistant Secretary of Health and Human Services for Planning and Evaluation.

Thank you all for coming. As is our usual practice, your prepared statement will automatically be made a part of the record, so I urge you to use your time to summarize.

First, though, Mr. Sanchez, I think Senator Nelson wants to introduce you. But let me first ask Mr. Goldstein if you have family here.

Mr. GOLDSTEIN. I do, Senator. Thank you very much.

The CHAIRMAN. Could you have them stand up and introduce them, please?

Mr. GOLDSTEIN. Thank you. This is my wife Nancy, my wife of 22 years; my daughter Lauren, who's a sixth grader; my son Jeremy, who is a senior in high school; and my son Joshua, who is a sophomore in college.

The CHAIRMAN. That is great. Let us give them all a round of applause. [Applause.]

Mr. GOLDSTEIN. Thank you, Senator.

The CHAIRMAN. All right. Senator Nelson, you wanted to introduce Mr. Sanchez?

Senator NELSON. Frank, are any of your family here?

Mr. SANCHEZ. No. But through the wonders of technology, they are all watching via the webcast.

**OPENING STATEMENT OF HON. BILL NELSON,
A U.S. SENATOR FROM FLORIDA**

Senator NELSON. Well, Mr. Chairman, I had the pleasure of introducing Frank Sanchez back last year, almost a year ago in May, on the same nomination in front of the Senate Banking Committee. Today's Finance Committee hearing is a long time coming, but it has come. I hope we will go ahead and swiftly get him out of the committee and to the floor, because this position on international trade in the Department of Commerce is obviously very, very important. Poor Frank has been down there, but he cannot be officially the Under Secretary. But he is raring to go. He is like the thoroughbred who is at the starting gate, and we just need to open the gate so that thoroughbred can run.

Now, he has significant interest in trade and labor issues, and when he is confirmed he will lead the International Trade Administration, the Tourism Policy Council, and the National Intellectual Property Council. All of these are very critical. We just passed the

Trade Promotion Act. Well, finally we are getting around to what was shut down in the 1980s, where we are going to encourage visitors to come by doing advertising overseas. That is like exports for us. It is a no-brainer. But it has taken us since the mid-1980s to finally get back to this. He will be in a very important position there in the Tourism Policy Council. He is going to oversee the U.S. Commercial Service.

I have known Frank for years. He has been a very prominent Floridian. He has served our former colleague, Bob Graham, when he was Governor of Florida, and he was director of our State's first Caribbean Basin Initiative. For the last 15 years, he has worked in several companies on projects involving complex transactions, labor management negotiations, litigation settlement, and negotiation strategy. He advised the president of Ecuador, in negotiations, to settle a 56-year-old border dispute with Peru.

Frank speaks fluent Spanish, and we had better turn our attention south of the border. Thus far, with the world's other problems, we have had our attention in other parts of the world. Well, he is going to be in a special position to help.

He has also been a special assistant to President Clinton. Then in the campaign, he picked him out, a Senator named Obama, and he was a policy advisor. So, I want us to go on and get this going. It is for the good of the country.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Senator.

Mr. Sanchez, I think you have a fan in Senator Nelson. [Laughter.]

Mr. SANCHEZ. Thank you, Senator.

The CHAIRMAN. Dr. Glied, do you have family here you would like to introduce?

Dr. GLIED. I do. I appreciate the chance to introduce them. My husband, Professor Richard Briffault, our daughter Olivia, and our son Jonathan. Olivia is in the 9th grade and Jonathan is in 5th grade.

The CHAIRMAN. That is great. Congratulations, all of you, very, very much. [Applause.]

Thank you so much.

Mr. Goldstein, why don't you begin?

STATEMENT OF JEFFREY ALAN GOLDSTEIN, NOMINATED TO BE UNDER SECRETARY OF DOMESTIC FINANCE, DEPARTMENT OF THE TREASURY, WASHINGTON, DC

Mr. GOLDSTEIN. Thank you, Senator. Chairman Baucus, Ranking Member Grassley, distinguished members of the committee, thank you for the opportunity to appear before you today. I am honored to have been nominated by President Obama to serve as the Under Secretary of the Treasury for Domestic Finance, and I am grateful to Secretary Geithner for recommending me to the President.

I also want to thank your staffs for meeting with me to discuss my qualifications for the position to which I have been nominated.

Chairman Baucus, thank you for the opportunity to introduce my family. My three children, Joshua, Jeremy, and Lauren are the greatest gifts I have been given, and I am exceptionally proud of each one of them. Their mother and my wife of 22 years is a dedi-

cated doctor, who has continued the medical practice started by her father 55 years ago. Our partnership, friendship, and good humor have made my life possible.

I have been fortunate to have a wide-ranging career. I have spent time in academia, in the private sector, as well as in public service. I received an undergraduate degree from Vassar College and a Ph.D. in Economics from Yale University. I was employed by the Brookings Institution, the Treasury Department, and Princeton University, focused on financial policy issues.

My time in the private sector, including 15 years at the Wolfington firm and 5 years at Hellman and Friedman gave me insights into a broad range of banks and other financial institutions. That work required the practical application of economic, financial, and business analyses. In those positions, I worked to build businesses and create jobs.

My experience in the public sector, notably at the World Bank, built on this practical application of analysis, with the goal of fighting poverty. There, I oversaw the World Bank's work with member countries and strengthening their financial and capital market systems. I was the bank's chief financial officer. I served as its representative to a variety of international bodies, including those concerned with financial market stability.

I believe that these three phases of my career, in academics, the private sector, and public service, have together provided me with a strong background for this position. This background would help me address the financial policy questions we face as the Nation continues to emerge from a severe financial crisis and economic recession.

While confidence in our financial markets has improved and the economy has started to grow again, unemployment is far too high and too many families are having to struggle to make ends meet. The rehabilitation and reform of the financial system remains incomplete. Our economy cannot reach its potential without a fair, effective, and resilient financial system. But I know that, in partnership with Congress, we can ensure that the U.S. financial system can and will fulfill its promise in supporting economic growth and prosperity all across America.

If approved by this committee and confirmed by the Senate, I would welcome the opportunity to help meet the economic challenges confronting our country. It would be a high honor to serve alongside the men and the women at the U.S. Treasury Department.

Again, thank you for allowing me to appear before you today, and I am happy and pleased to answer any of your questions.

The CHAIRMAN. Thank you, Mr. Goldstein.

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

The CHAIRMAN. Why don't you proceed next, Mr. Sanchez? I have to step out for a few minutes, but if you have finished, Dr. Glied, just go next. I will be right back. Thanks.

**STATEMENT OF FRANCISCO SANCHEZ, NOMINATED TO BE
UNDER SECRETARY OF COMMERCE FOR INTERNATIONAL
TRADE, DEPARTMENT OF COMMERCE, WASHINGTON, DC**

Mr. SANCHEZ. Thank you, Chairman Baucus, Ranking Member Grassley, and members of the committee. Let me thank, again, Senator Nelson for his kind words.

There is no greater call than to serve one's country, and so I am honored by President Obama's nomination to serve as Under Secretary of Commerce for International Trade.

I am humbled by the trust that the President and Secretary Locke are placing in me. I also want to take just a moment to thank my mother, who is watching via webcast, and my late father for their support and encouragement throughout my career. I credit them for my love of public service, so I thank you mom, dad.

As Secretary Locke has said, the role of the Department of Commerce is to be an engine of innovation, job growth, and economic renewal. The Department's mission is to help create jobs through trade, which has been enhanced by the National Export Initiative announced by the President in his State of the Union address.

In a changing economy, we should not underestimate the role of exports in creating jobs, and, if confirmed, I look forward to working with you to advance our Nation's economic well-being through international trade.

Almost 95 percent of the world's consumers reside outside U.S. borders. The International Monetary Fund forecasted that nearly 87 percent of world growth during the next 5 years will take place outside the United States. America cannot reach its full potential for generating new jobs without selling more goods and services globally.

My experiences in the public and private sectors have prepared me for these challenges and for this role at the International Trade Administration. I have had the honor of serving former Senator Bob Graham while he was Governor of Florida as the first director of the State's Caribbean Basin Initiative. I later served in the Clinton administration in the Office of the Special Envoy for the Americas, a role that required carefully balancing foreign policy goals while advancing U.S. economic interests.

Subsequently, I served as Assistant Secretary of Transportation for Aviation and International Affairs. As a businessman, I have had the opportunity to work with American corporations, including multi-national corporations, small businesses, and international organizations in nearly 30 countries, from Colombia to Turkey. My work has included projects with the World Bank and the Inter-American Development Bank. These opportunities have given me a unique perspective on the expansion and viability of American business in the global marketplace.

With that in mind, if confirmed, I would pursue five specific priorities to help the Department and ITA contribute to the Nation's economic growth. The first is targeting emerging markets, where new opportunities lie for American businesses that can then hire more workers at home if those opportunities are developed. The global market is growing, and its prospects for American companies and American workers can be highly rewarding.

The second is to focus on how emerging technologies created here in the United States, especially green and clean technologies, can generate new opportunities for American businesses in foreign markets. Manufactured right here at home, these products can be an engine, driving new jobs of the future.

The third priority is to work closely with businesses of all sizes, with a special emphasis on small- and medium-sized enterprises to increase their capacity to export. Companies looking to expand their markets and their workforces are our business. I welcome the opportunity to be a champion for all U.S. companies.

As the number of companies exporting grows, my fourth priority will prove crucial: to vigorously enforce trade laws and rules so that our businesses can compete around the globe. If confirmed to serve as the country's chief trade enforcement officer, it will be my duty to ensure that we have the necessary personnel and policies to protect American businesses from unfair trade practices.

My fifth priority is closely related to this last one: to be always a vigorous and forceful voice for American competitiveness in the inter-agency and policy-making process.

In summary, few things are more important than the economic development and recovery of our Nation. If confirmed, I look forward to working closely with this committee and ITA's hard-working and dedicated team of professionals to support American innovation and entrepreneurship and to open global markets for American-made goods and services, while creating new jobs and economic growth here at home.

Thank you very much. I look forward to your questions.

Senator MENENDEZ. Thank you, Mr. Sanchez.

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

Senator MENENDEZ. The chairman has asked me, Dr. Glied, to have you go next, if you would do so.

STATEMENT OF DR. SHERRY GLIED, NOMINATED TO BE ASSISTANT SECRETARY FOR PLANNING AND EVALUATION, DEPARTMENT OF HEALTH AND HUMAN SERVICES, WASHINGTON, DC

Dr. GLIED. Thank you, Senator Menendez, thank you, Mr. Chairman, thank you, Senator Grassley and members of the committee. I am very pleased to appear before you today, and I appreciate the opportunity to have introduced my family.

For the past 20 years, I have worked as a health care economist, studying the functioning of the American health care system, and particularly its impact on vulnerable populations. I am currently professor of health policy and management at Columbia University's Mailman School of Public Health, and for 11 years before my nomination I served as chair of that department.

My research has throughout been very closely engaged with policy. I have particular expertise in modeling the effects of health care policy changes and have long served as a consultant, both formally and informally, to the Congressional Budget Office's health care team.

As the chairman has noted, the Office of the Assistant Secretary for Planning and Evaluation at HHS has a long and illustrious his-

tory. For the over 40 years that the office has existed, the ASPE has served as the Secretary's principal policy advisor, with responsibility for policy coordination, implementation planning, and evaluation of the many programs under the HHS umbrella.

Many very distinguished policy analysts have served in this capacity, and I am awed and humbled by this nomination to follow in their path. This is an extraordinary opportunity at a critical time to bring analysis and research to bear across the President's and Secretary's broad agendas.

I am one of a number of researchers at universities, think tanks, Federal and State government agencies, and research institutes around the country who have devoted our careers to the study of health insurance and the uninsured. I am proud that this research contributed to the congressional debate concerning national health reform legislation that began last summer.

If confirmed, I look forward to joining with my colleagues in HHS and throughout the administration who are working closely with congressional leaders to bring costs under control and reduce the number of uninsured Americans.

An important part of that effort will be to combine insights of researchers outside government with those of the exceptionally skilled, dedicated, and knowledgeable staff within the office of the ASPE. Of course, the scope of work at the office of the ASPE extends well beyond national health policy. My prior research in mental health policy and on the health of children has made me well-aware of the significance of the broad spectrum of HHS programs.

HHS programs provide support for needy families, the aged and disabled, sponsor path-breaking biomedical research, ensure the safety of our food and drugs, monitor the spread of infectious disease, and the list goes on and on. The health of our Nation depends on the effective functioning of this extensive range of programs, and I believe the ASPE is in a unique position to promote efficiency by facilitating effective policy coordination between these programs. If confirmed, I look forward to contributing to providing analytic support to planning and evaluation in all these areas and throughout the Department, and to working closely with Congress.

Thank you very much. I would be happy to answer your questions.

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

The CHAIRMAN. I have standard questions, three of them, that we ask all nominees.

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

Mr. Goldstein?

Mr. GOLDSTEIN. No, Senator.

The CHAIRMAN. Mr. Sanchez?

Mr. SANCHEZ. No, Mr. Chairman.

The CHAIRMAN. Dr. Glied?

Dr. GLIED. No, Senator.

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

Mr. GOLDSTEIN. No.

Mr. SANCHEZ. No, Mr. Chairman.

Dr. GLIED. No, Mr. Chairman.

The CHAIRMAN. Thank you.

Do you agree, without reservation, to respond to any reasonable summons to appear and testify before any duly constituted committee of Congress, if you are confirmed?

Mr. GOLDSTEIN. Yes, Mr. Chairman.

Mr. SANCHEZ. Yes, sir.

Dr. GLIED. Yes, I do.

The CHAIRMAN. Thank you. All right.

First, a couple of questions for you, Mr. Goldstein. This revolves around the use of hedge funds using offshore jurisdictions to enable American taxpayers to avoid paying taxes. Much concern about the Cayman Islands hedge funds and corporate blockers results from the abuse of these entities by some investors who deliberately hide from the IRS and do not pay the taxes that they owe. Last year I introduced a package of offshore loophole closures that will largely eliminate the ability of U.S. taxpayers with foreign accounts to go undetected by the IRS. I am happy to see these were passed by the Senate on February 24.

A cornerstone of the package is a 30-percent withholding tax on U.S.-source payments unless the offshore entity agrees to tell the IRS who its U.S. account holders are. Do you support the policy of these offshore loophole closures? In addition, how do you expect that this legislation will affect the use of Cayman hedge funds and corporate blockers by firms like your former employer?

Mr. GOLDSTEIN. Senator, thank you for asking that question. I fully support the intent of that legislation. With respect to the use of so-called blockers by private equity and other investment funds, there is a certain tradition and long history of these practices in the industry.

These are customary and standard industry practice. The purpose of these blockers is not to do anything other than help administratively for many tax-exempt investors, and also to help maintain tax-exempt income for tax-exempt investors. The entities that would use blockers, Mr. Chairman, would be, for example, pension plans for fire fighters, for teachers, foundations, and charities, universities, et cetera. So I think that I fully support the intent of the legislation. The use of blockers is actually trying to achieve a somewhat different objective, but is also an important policy question.

The CHAIRMAN. But the blockers do have the effect of enabling American taxpayers to avoid paying income tax. Is that correct?

Mr. GOLDSTEIN. The blockers allow tax-exempt organizations to keep their income tax-exempt. Yes, sir.

The CHAIRMAN. What about taxable entities? Do blockers minimize or reduce the income taxes that otherwise would be owed?

Mr. GOLDSTEIN. I am not a tax expert, Mr. Chairman, but it is my understanding that these blockers are used almost exclusively, if not totally, for the purpose of tax-exempt entities in the United States.

The CHAIRMAN. Then why would a tax-exempt entity have to employ one of these devices if its taxes were exempt in the first place?

Mr. GOLDSTEIN. It is my understanding—and I am sorry I am not an expert in this area—that this practice is done because otherwise certain income for the tax-exempt entities would in fact be taxable.

The CHAIRMAN. How much income, in a general sense, otherwise owed by U.S. taxpayers is not paid because of these kinds of arrangements? That is, income which, in the minds of average, ordinary Americans, should be taxable? Most folks pay income taxes. The guy who works the assembly line, the small business person. He does not have a lot of money, and he is not able to hire high-priced lawyers, high-priced tax accountants to figure out high-priced ways to minimize and lower income taxes with offshore accounts.

So how many of these products, these arrangements that are being set up, some of them called blockers, really, even though they are currently legal, probably do minimize and reduce income taxes that otherwise would be owed, and certainly in the minds of most American people? I am not getting at whether some of these procedures should be declared illegal. I am not getting to that question yet. I am just asking kind of the moral question: is it right, is it not right?

Mr. GOLDSTEIN. Senator, I totally agree with the need for total transparency. I totally agree that every U.S. taxpayer should be responsible to pay fully their taxes. These blocker entities, as I understand it, are largely set up for the administrative convenience of organizations that are otherwise exempt from taxation, like pension plans and universities and foundations. So the purpose of the blocker corporations is to maintain tax-exempt income for tax-exempt investors.

The CHAIRMAN. But do these devices not enable an entity to avoid paying unrelated business tax which otherwise would be paid?

Mr. GOLDSTEIN. Yes, Senator.

The CHAIRMAN. Is that a good thing to do, to allow entities to avoid paying unrelated business taxes? If they are operating solely within the United States, they would pay those taxes?

Mr. GOLDSTEIN. I think it is an important policy question, Senator. If confirmed, I would look forward to engaging with you and your staff and my Treasury colleagues who are more expert in the tax arena to try to make that determination.

The CHAIRMAN. Thank you.

Senator Grassley, you were not here when we began, so, if you want to make an opening statement, now is the time to do it, or questions, whatever you wish to do.

Senator GRASSLEY. Yes. Questions. Thank you.

I would like to put my opening statement in the record.

The CHAIRMAN. All right.

Senator GRASSLEY. And there are some addendums with that, too.

The CHAIRMAN. All right. Without objection, it will be included. [The prepared statement of Senator Grassley appears in the appendix, with addendums.]

Senator GRASSLEY. And, Mr. Goldstein, I am going to ask questions along the lines of what has just been asked here about the

blockers. As you know, many tax-exempt entities, including pension funds, private foundations, and university endowments, invest in offshore UBIT blockers. They are called UBIT blockers because the sole purpose for investing in them is for these tax-exempt entities to avoid Unrelated Business Income Tax, or UBIT, for short. These blockers are created by hedge funds and private equity firms.

These firms set up these foreign corporations in low-tax foreign countries, including the Cayman Islands. We have heard testimony in this committee many times by different members about over 12,000 corporations residing at the Uglan House in the Cayman Islands, and that is an example of that. So, 12,000 corporations residing at that one address. Other firms, including yours, used Walker House, just a few blocks from the Uglan House. That would tell you where that is.

The members of the committee understand the use of blocker corporations is very legal; however, I could raise the same questions that the chairman just raised. I appreciate very much your saying you are willing to work with us on these issues; however, their now being legal, we are working to close tax avoidance loopholes. Since the President campaigned on cracking down on offshore corporations set up for the purpose of avoiding U.S. tax, I hope that we can work with him in shutting down these UBIT blockers.

In the meantime, given your experience with private equity firms that use blocker corporations, I would like to follow up with some of the written answers that you provided me in advance of this hearing.

So, here are some questions, and I hope you can answer them just "yes" or "no," because I think it will not take a lot of explanation. In one response, you stated, "The blockers used by Hellman and Friedman for its tax-exempt investors help minimize or eliminate unrelated business tax for those tax-exempt entities."

So I want to be clear about this. One of the purposes of the blocker used by your firm was to minimize, or even eliminate, U.S. taxes for some investors. Is that right?

Mr. GOLDSTEIN. That is correct, sir, for tax-exempt investors.

Senator GRASSLEY. Thank you.

You also stated that another advantage to investing in the Cayman Islands includes "a Commonwealth heritage, including a legal system with many similarities to the U.S. legal system." But obviously, if one wants a legal system similar to the U.S. legal system, one would get the most similar legal system to the United States right here in the United States. Is that right?

Mr. GOLDSTEIN. I think, sir, as I said before, you raise a very important policy question. I would be pleased and honored to work with my Treasury colleagues in trying to address this issue, if confirmed.

Senator GRASSLEY. All right.

You also wrote that another advantage to investing in the Cayman Islands is "English as a common language." But we still have English as a common language in the United States, right, so that is not a problem here?

Mr. GOLDSTEIN. Yes. Yes, Senator.

Senator GRASSLEY. All right.

Fourth, you also cited as a reason to invest in the Cayman Islands being the “close geographic and time zone proximity to the United States.” But, if somebody wants to be close to the United States, would they not be even closer to more of the United States by actually being in the United States? Right?

Mr. GOLDSTEIN. Yes, Senator.

Senator GRASSLEY. All right. Thank you.

You also wrote that another reason to invest in the Cayman Islands was a “stable government and investment structure.” As stable as the Cayman Islands might be, you, nominated by the President of the United States to serve in the U.S. Government, are not claiming that it is more stable than the U.S. Government, are you?

Mr. GOLDSTEIN. No, sir.

Senator GRASSLEY. All right.

And, as a former Wall Street person, you are not claiming that the Cayman Islands has a more stable investment structure than the United States, are you?

Mr. GOLDSTEIN. No, sir.

Senator GRASSLEY. All right.

My last question. So the only real difference that I hear between investing in the Cayman Islands and investing in the United States, or the only way that the Cayman Islands investments are superior, is the possibility of avoiding U.S. tax. I do not think that that is something the American public would agree with or appreciate. I think we have had some inference from you today—not inference, a right-out statement—that you are willing to work with us to look at that. Thank you very much.

Thank you, Mr. Chairman.

Mr. GOLDSTEIN. Thank you, Senator.

The CHAIRMAN. Senator Menendez?

Senator MENENDEZ. Well, thank you, Mr. Chairman.

First of all, my congratulations to all the nominees. I want to focus for a moment on Mr. Sanchez’s nomination, and I would like to echo Senator Nelson’s introduction and say I really believe the importance of the committee moving expeditiously on the nomination and voting him out of committee.

I know that there were many questions. I think all of those questions have been answered. This is a critically important position for the Nation in terms of trying to create the exports that create the jobs here at home at a time in which the creation of jobs and economic growth is incredibly important to the country.

I want to just emphasize some of the points of Mr. Sanchez’s experience that are relevant to this position. And I think he comes eminently qualified for it, as a director of Florida’s Caribbean Basin Initiative—that was basically, as members of this committee well know, a trade initiative, looking at the Caribbean, how we strengthen it, but also how we ultimately enhance our opportunities in that part of this hemisphere; serving in the Office of the Special Envoy for the Americas under the Clinton administration—incredibly important for the opportunities to open up markets within this hemisphere; Assistant Secretary of Transportation for International Negotiations—in essence, trade negotiations in international forums and spheres, with tremendous expertise, with a focus in the context of opening routes and markets in a trade con-

text, aviation among others, but ultimately with the experience that is critically necessary in that respect; working with the World Bank and the Inter-American Development Bank. These are economic equations to the advocacy for trade that are incredibly important, and they bring an economic macro level to it as well.

So, for all these reasons, I think Mr. Sanchez is very well-qualified. Having expressed a view that he is very well-qualified, let me add that, as one member of this committee, I take it extremely importantly to have diversity in all of our Federal departments. I am pleased that this nominee adds to that diversity of our country. When we are wont to advocate abroad, I think it is critically important that that advocacy be among the most highly qualified people—Mr. Sanchez is—but also shows the face of the Nation in its advocacy abroad. That is why national organizations like the National Council of La Raza, the League of United Latin American Citizens, and others have strongly endorsed his nomination. So add me, Mr. Chairman, to Senator Nelson in the fan club here.

But I have a question. You do not get off that easy. I recently joined 13 of my colleagues in the Senate in encouraging President Obama to work actively towards the development of a jobs-oriented policy in export promotion efforts in addition to offering a bipartisan partnership to develop such a strategy, and I am pleased that the President, in his State of the Union address, talked about doubling exports over the next 5 years.

What role do you see the agency, the division that you would head, ITA, under your leadership, playing in the administration's efforts to promote exports through the National Export Initiative?

Mr. SANCHEZ. Well, first, Senator, thank you for your kind words. I appreciate it very much. ITA will play a central role in achieving the President's goal of doubling exports in 5 years, and thereby supporting 2 million-plus jobs. I see my role as putting forth priorities that can help us achieve that. I mentioned in my opening statement five, and I would like to just briefly touch on them.

First, emerging markets. Emerging markets that have a high growth rate provide incredible opportunities for American business, so we are going to be focusing on those emerging markets. We are going to have a 5-year strategy plan so that we are looking ahead on where we need to be in each of those critical emerging markets.

Number two, emerging technology. The United States still invests more in innovation and R&D than any other country in the world, and we need to be using that competitive advantage by exporting that technology abroad. So we will be focusing on emerging technologies, and in particular clean and green energy.

Number three, capacity building. As Chairman Baucus mentioned in his opening statement, small business is critical to the economic vitality of our country. I want to make sure that, as Under Secretary, I am representing all companies, including small- and medium-sized companies, so we are going to focus on capacity building to export, whether it be new to export, or if you are a small business that has been exporting to one or two markets, get you to look at other markets.

Fourth, as we get more companies exporting, it will be vitally important to vigorously enforce our trade laws and trade agreements.

If confirmed, I pledge to this committee that I will work very hard to make sure that we do just that.

Fifth, I believe it is very important that American competitiveness have a voice in the inter-agency process and in the policy-making process, and, if confirmed, I look forward to being that voice.

Senator MENENDEZ. Well, we look forward to working with you. Thank you, Mr. Chairman.

The CHAIRMAN. Thank you very much, Senator.

Senator Roberts, you are next.

Senator ROBERTS. Thank you very much, Mr. Chairman. I want to thank all of the witnesses and say good luck in regards to your nominations. I am sorry, Mr. Sanchez, you have been held up for so long. Most of my comments are going to be directed to Dr. Glied because of her unique position in working with Kathleen Sebelius, who is a personal friend of mine, the former Governor of Kansas. So I am particularly interested in hearing from you, Doctor, on your thoughts on what seems to be a preferred method of containing health care costs in the current administration, and I am going to say it is rationing. I know that sometimes that is a pejorative, it is controversial. People say we are not rationing, or the people point out that there is language, if they can find it, in the 2,700-page health care bill.

But regarding the link between cost containment and government rationing, the President has said this: "The chronically ill and those toward the end of their lives are counting for potentially 80 percent of the total health care bill." He is correct in that regard, and it is a real challenge. "There is going to have to be a very difficult democratic conversation that takes place," said the President.

And he later said that "as patients get older, maybe you're better off not having the surgery, but taking the shots and the painkiller instead." The President seems to be endorsing the ideas of Dr. Ezekiel Emanuel, Special Advisor to the President, who developed this Brave New World graph that now sits behind me.

As you can see—a very handy prop—the younger and the older that you are, the less care that you receive under Dr. Emanuel's plan. The reason I used my cane is that I have taken too many shots and painkillers and therapy, and there are a lot of people that are even more mature, which is not too easy a task here when you hit 70. I think, if you take the average age of Senators, why, we are right about here. This is just basically a graph that the doctor has come up with and said, let us take a look at the people who contribute to America and those who do not, and those who are undergoing the most cost, and see if we cannot do something about it.

In your book, "Chronic Condition," you also seem to agree with this approach. You speak approvingly of health care rationing via waiting lines and other practices that ultimately delay access to care. Now, we know that the government already rations health care. It is a fact that, despite all of the current enunciations of private insurers for denying coverage for medical claims, it was actually Medicare that had the highest percentage and largest number of denied medical claims in 2008, not to mention Medicare's payment policies for providers that pay doctors only 80 percent and

hospitals 70 percent. We are trying to do something about that, if we possibly can. Medicaid is even worse. We just lost 10 percent, but the State decided they were going to cut Medicaid by 10 percent in Kansas.

As I am sure you are aware, the Centers for Medicare and Medicaid Services, or CMS, has been trying to establish its authority to further ration seniors' health care through a regulatory policy known as the "least costly alternative." However, there is a court ruling that said "whoa!" on that. But now the government has a new policy with which to ration health care. It is called comparative effectiveness research, or CER. As you know, Doctor, CER is research that compares the effectiveness of two or more treatments for the same condition.

As I have said countless times before, I am not against the idea of CER, nor am I against advancement of medical science. That would be very foolish. However, I firmly believe that, absent some very strict patient protection, CER can and will be used to support cost containment.

The stimulus bill from last year included over \$1 billion to fund comparative effectiveness research; however, that law contains zero dollars for directions or restrictions on how that money was to be used, and absolutely no patient protection against rationing despite the efforts of Senator Kyl and myself. Can you tell me what this billion dollars has been used for so far and what your plans are for using it in the future, in 34 seconds?

Dr. GLIED. All right. I very much appreciate your concern about ensuring that all Americans have access to appropriate and timely medical care, and I share that concern. I think comparative effectiveness research, as you have pointed out, is an important step that can help ensure that the care that is delivered is the best possible care. We need to know if research is really necessary within the medical enterprise.

I do not know how the billion dollars is being spent. I am not yet in a position to really know that. But I assure you that, if I am confirmed as ASPE, I would like to work with you to make sure that we get appropriate treatments to all Americans in appropriate time.

Senator ROBERTS. I thank you for that.

Mr. Chairman, my time has expired. I would like to ask for a second round; I have some additional questions.

The CHAIRMAN. We will do our very best to accommodate that, Senator. A vote has just begun, but let us see what we can do here.

Senator Nelson is not here. Senator Wyden, you are next.

Senator WYDEN. Thank you, Mr. Chairman.

Mr. Sanchez, I am looking forward to supporting your nomination. We are very encouraged by some of the ideas you are pursuing, and I want to talk about the export initiative in particular.

Obviously this is a key area that our citizens look to for additional good-paying jobs. What the people of this country want, what the people in my State want, is they want to make things, they want to grow things, they want to add value to them, and then they want to ship them somewhere. That, of course, is what much of the Oregon economy is all about. So we are encouraged by the National Export Initiative of doubling exports over the next 5

years, but I think what is important is that we get substantially more direction about exactly what is going to happen on a year-by-year basis.

So my first question to you is, what would you think of the idea, as part of this administration effort, we get year-by-year information about what is actually accomplished and what the goals are? For example, the number of new businesses that are exporting, the number of markets that the businesses sell to. I just do not want to, in effect, have us waiting for 5 years and people saying, well, gosh, what happened a year and a half into this? What would you think about the idea of approaching this on a year-by-year basis, both in terms of the key numbers and whether that is attaining the goal that the administration wants?

Mr. SANCHEZ. Senator, I agree with that approach. ITA and other agencies that are involved in export promotion need to be held accountable and making sure that the programs are doing what they are intended to do. If they are not, we need to make some mid-course corrections within that 5-year plan. So, I look forward to working with you and this committee to make sure that our programs are effective, to be held accountable, and, if we need to make changes, do so.

Senator WYDEN. Mr. Chairman, that is an area I would like to work closely with you on. I think I learned, essentially, from some of the approaches you have been talking about, that we need this on a regular basis so that there is some accountability.

The CHAIRMAN. Right.

Senator WYDEN. That is something I would like to work with you on.

The CHAIRMAN. You bet. Good point.

Senator WYDEN. The second point, Mr. Sanchez, if you get the additional resources that you all are asking for, how is that going to let you better combat unfair trade practices? I note that the ITA is asking for substantially new resources in this area. The focus is going to be on combatting unfair trade practices, which I strongly support. What would you do if you get the extra money to better combat these inequitable practices that undermine our industries?

Mr. SANCHEZ. Well, if confirmed, I would consider it one of my most important roles as the chief trade law enforcement officer, so I want to make sure we have the resources and the personnel in place to make sure that here at home our companies are playing on a level playing field. Equally as important is market access issues around the country, particularly market access issues in emerging markets where we want American business to be. I believe that we need to take a fresh look and see that we have the resources we need in countries like China, India, and others.

Senator WYDEN. Would you see, for example, putting additional individuals in embassies, for example, to identify these unfair trade practices? I would like to be able to stand up at a town hall meeting at home and say, when our trade folks are getting this additional money to combat unfair trade practices, this is what they are going to do to better deal with it. So how would you see using this additional money?

Mr. SANCHEZ. Well, Senator, if confirmed, one of the first things I need to do is make an assessment of what personnel we have in

the field. I suspect in certain markets like China we probably could use additional resources to look at market access issues, to look at monitoring to make sure that we have a level playing field. If confirmed, I would look forward to working closely with you and with this committee in making sure that we are making the right choices in that regard.

Senator WYDEN. I am pleased to hear you mention China specifically, because this is an important trading partner. I do think that we need to do more in this area. We want to talk to you about personnel in the embassies and some of the ideas that we have explored informally with staff folks, because this is a 2-part drill. We have to pry open markets—pry open markets for our value-added goods and services that are so important to grow this economy, but we have to do a better job of combatting unfair trade practices, and I want to follow up with you on that.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Senator.

Senator Cantwell?

Senator CANTWELL. Thank you, Mr. Chairman, and congratulations to all the nominees.

Mr. Goldstein, I have a question for you. I know your responsibilities are going to be at the Office of Financial Stability, the implementation of the regulatory reform issues and implementation of the TARP program. Do you think that foreign currency swaps should be transparent, traded on exchanges and clearinghouses?

Mr. GOLDSTEIN. Yes, Senator.

Senator CANTWELL. And so, why do you think there are other people at Treasury who disagree with that?

Mr. GOLDSTEIN. I think that the Treasury has put forward a comprehensive regulatory reform package, including improvements in the trading practices of OTC derivatives, including capital charges for non-traded OTC derivatives. I think the package, taken as a whole, is meant to restore confidence in the financial system and make sure that we do not put the taxpayers at risk in the way that took place at the height of the financial crisis.

Senator CANTWELL. Well, last year Treasury promised to pull all derivatives on regulated exchanges and clearinghouses, but then lobbied Congress to leave the foreign exchange swaps, which is now a \$50-trillion market, out of the new regulatory proposal. I do not know. I just look at this situation that has happened with Goldman Sachs in Greece.

I mean, basically Greece paid Goldman Sachs \$300 million in fees for arranging derivative deals that hid their true debt, and then when things looked weak, Goldman Sachs turned around and did credit default swaps betting against Greece, and obviously we know what happened. I mean, it is all perfectly legal, but in my opinion it is a scam and we ought to have these regulated on exchanges and have them be transparent and have them go through clearinghouses. You just said you agree?

Mr. GOLDSTEIN. I am sorry, I misspoke as it relates to foreign exchange, based upon my understanding of the administration's proposal. I would say to you, Senator, that the administration has put forward strong language to ensure that markets are not abused, that there is total transparency, that the regulators have the ca-

capacity to step in when they think that markets are not functioning properly, where there is not transparency, or there is abusive market practices.

Senator CANTWELL. All right. I am confused. Maybe you can look at what Treasury has done, but you are saying that you support putting them on exchanges, clearinghouses and exchanges?

Mr. GOLDSTEIN. I think, if my understanding is correct, that the Treasury proposal—

Senator CANTWELL. No, no. I am asking about you, not the Treasury proposal. I am asking what you think.

Mr. GOLDSTEIN. I believe that there is a place for some exemptions with respect to certain specific securities, but I think that the intent of the legislation should be identical to the principle that you have articulated, Senator.

Senator CANTWELL. What would those exemptions be?

Mr. GOLDSTEIN. I think that the exemptions would be in certain markets where you could adversely affect the trading in important securities, including the dollar, including dollar swaps and other things. But I look forward to digging into this in more detail and working with you, if confirmed.

Senator CANTWELL. What worries me is like the “Volcker rule” and prop trading. Like, you know, yes, all right, that is a big loophole, too. So I cannot tell if what you are saying is you—because right now it is a \$50-trillion market for foreign currency swaps, and we saw what havoc just happened with Greece. So I do not want to see—I mean, Treasury originally advocated for that, but then backed away and said, no, it is all right to have loopholes, which would mean basically an unregulated market, a huge percentage of these products unregulated.

So, I guess what I will try to do is get a little more detail out of you, because I have another question that it is very important that I ask. But maybe we could come back in writing with you on what these loopholes are that you would support, because I am certainly not going to support something that I think is going to continue to promulgate the problem that we have.

On the small business area, which you are also going to have oversight over, what are your feelings on how we basically expand the viability standards for community banks so we can get more lending to small business?

Mr. GOLDSTEIN. I think that the administration has put forward a proposal to try to stimulate credit availability to small- and medium-sized enterprises. That, however, would be to banks that are deemed to be viable. The objective of that standard is to make sure that, if a bank accepts capital, it stimulates additional lending.

At least in my view, if you change the viability standard for banks so that it gets capital only to remain viable, you have not achieved the primary objective. The primary objective is to stimulate incremental lending to small- and medium-sized enterprises that create jobs in America.

Senator CANTWELL. Well, first of all, the IG has been critical of the fact that Treasury has not gotten a program implemented so far, and I remain very concerned that, if capital is not flowing through small community banks to small businesses, that our econ-

omy is going to continue to drag. So this is about getting this fixed and getting this moving.

I still advocate that Treasury has the ability to implement this program under TARP. I think people are considering moving ahead with the legislative proposal, but I still have not seen a proposal out of the administration that gives us exactly how this is going to work on viability. I think that is the very issue that the administration needs to drill down on.

I think the American people are frustrated that they are getting performing loans canceled right out from under them, and when somebody asked about the viability of AIG or some of these other institutions, there was no question about viability, the money was just turned over to them. So, what are we going to do to actually get capital flowing again to small business? I think it is an urgent matter, Mr. Chairman.

The CHAIRMAN. All right. Thank you very much, Senator. I very much agree.

We do not have much time left on this vote, but I will turn the hearing over to Senator Grassley.

Mr. Sanchez, I do believe in benchmarks. I would like you to send to this committee, on a semi-annual basis, the progress you are making in doubling exports over the next 5 years. That is, given your Department, your resources, and what you are doing to achieve that. I appreciate that very much.

Mr. SANCHEZ. If confirmed, I will look forward to doing that.

The CHAIRMAN. We are going to make sure you get confirmed.

Mr. SANCHEZ. Thank you, Mr. Chairman.

The CHAIRMAN. Thank you very much.

Senator Roberts?

Senator ROBERTS. Thank you. We are calling the floor and saying I am limping over there as fast as I can.

The CHAIRMAN. Right.

Senator ROBERTS. I have one final question I would like to ask for Dr. Glied, if that is all right.

As I have illustrated in the charts behind me, the four rationers are coming. That is not a TV show, but it is something that concerns every doctor, every hospital, every home health care outfit, every pharmaceutical—anybody connected with Medicare. The four rationers are, and I will use my pointer again, the Patient-Centered Outcome Research Institute, the Independent Medicare Advisory Board, CMS Innovation Center, and the U.S. Preventive Services Task Force. There is a doctor looking down—he has to abide by all of these regulations and get these people the advice that they do not want, and that is why they have a frowning face. They are somewhat elderly, and obviously being touched.

The Patient-Centered Outcome Research Institute—that is a fancy name for the agency that will conduct CER. Independent Medicare Advisory Board. That name has changed many times, but its authority to ration via payment policy decisions by unelected experts has remained constant. The CMS Innovation Center. They grant even more rationing authority to administer Medicare and Medicaid.

Finally, the U.S. Preventive Services Task Force, which became famous when they said that women should not get regular mammo-

grams to detect breast cancer starting at 40, despite longstanding advice to the contrary. I would just like to ask, if you could use the CMS Innovation Center to deny payment for patient care based on the decisions of the U.S. Preventive Service Task Force, such as the one concerning availability of mammograms, basically what are you going to do with the advice of all of these rationers?

We have about 3 minutes, but I have to go vote. So I know what you are going to say: you are going to work with us in a way to protect patient care, and that you are not going to have all these outfits telling you what to do with cost containment, and you and Kathleen Sebelius will do a good job, right?

Dr. GLIED. That is exactly what I am going to say.

Senator ROBERTS. Thank you very much. I appreciate it.

Senator GRASSLEY. I believe that my series of questions will be the last ones, and then Senator Baucus said I could adjourn the hearing. But if some other member comes back, then I will leave that up to them to make that decision.

I am going to start with Mr. Sanchez. You were nominated a long time ago, and I know you are anxious to get to work, so I would like to describe why your hearing has been so long in coming. HSS has been conducting a review of the Corporation for the Development of Communities in Tampa, FL, pertaining to administration of a grant loan.

Given your leadership roles with both the CDC of Tampa and the company the loan was made to, this committee's oversight responsibilities with respect to presidential nominations dictated that this committee wait until that review was concluded.

So would you please describe the circumstances of the loan to Renaissance Steel and how you came to be CEO of Renaissance Steel after the loan was made by the CDC of Tampa? And specifically a question: why was Renaissance Steel unable to pay back the loan to the CDC of Tampa?

Mr. SANCHEZ. Yes, Senator. Thank you for the opportunity to address this matter.

I was approached by the president and CEO of the Community Development Corporation of Tampa, otherwise known as the CDC of Tampa, to serve on its board in the summer of 2003. I was drawn to accept that offer because of the mission of the CDC. Its role is to bring economic revitalization to one of the poorest parts of my hometown of Tampa, so I accepted.

The CDC, in the summer of 2005, began discussions with investors in a start-up company called Renaissance Steel about locating their new operation in east Tampa. From those discussions, the staff of the CDC came to the board with a proposal, and that was to seek a grant from the Department of Health and Human Services, the proceeds of which would be given in the form of a loan to Renaissance Steel for job training, for capital equipment purchases, and for working capital.

In September of 2005, HHS awarded that grant to the CDC. The following year, in approximately April of 2006, I was approached by the shareholders of Renaissance Steel to consider joining Renaissance as their chief executive officer. In part, I was attracted to the offer because of the role they were playing in east Tampa in helping revitalize that part of our city.

The CDC staff brought before the CDC board the final request to disburse the monies to Renaissance Steel, and I recused myself because I now had a relationship with Renaissance Steel. Subsequently, I resigned from the CDC board. As you noted, a few weeks ago the HHS review was completed and found that CDC acted appropriately.

Renaissance Steel was a company that manufactured light-gauge steel walls and trusses for houses and for commercial buildings, and, although it got off to a slow start, it picked up, and sales were doing well. Unfortunately, it had some operational challenges and, with the downturn in the economy, things got progressively worse for this young company.

It worked for 2 years and provided jobs for those 2 years, but unfortunately, in November of 2007, had to close its doors because it did not have sufficient resources to go forward, and unfortunately it left some debts open, including the one to the CDC.

Senator GRASSLEY. All right. I thank you for your transparency on that issue.

I do have a policy question to ask you about trade. I ask this question of a lot of trade people who come before this committee; in fact, tomorrow we will be talking with the Special Trade Representative. The administration has been talking a lot about the need to increase exports as a way of creating jobs, and yet there has been no progress on what should be a core part of that strategy, implementing trade agreements with Colombia, Panama, and South Korea. Instead of leveling the playing field, we are allowing our trading partners to tilt it further away from us. The administration's refusal to act on these three agreements discredits its export strategy, in my view.

Do you agree that implementing these agreements would help increase exports, and, if confirmed, will you promote prompt implementation of these trade agreements?

Mr. SANCHEZ. Yes, I do, Senator. I believe that the pending free trade agreements, and free trade agreements generally, play an important role in the expansion of our exports. If confirmed, I look forward to working with you, with this committee, and with USTR to resolve whatever remaining issues are left with respect to Colombia, Panama, and South Korea so we can bring them before the Congress and have them passed.

Senator GRASSLEY. Yes.

And Dr. Glied, I have a couple of questions that I ask a lot of people who come before us, because they are kind of nut-and-bolt type questions, and I like to know what a person's view is. They kind of relate to either the faithful execution of the law or the checks and balances between Congress and the executive branch. The Constitution established a system of checks and balances intended to ensure the American people of a fair and honest and transparent government.

Congressional oversight of the executive branch operation is a linchpin of the checks and balances system. Oversight of HHS programs and activities requires review of documents and interviews with agency officials and other employees who work there.

In furtherance of our oversight responsibilities, we often ask the Government Accountability Office to evaluate HHS programs and

activities. In addition, we ask the HHS Office of Inspector General to follow up on complaints regarding specific agencies and/or programs.

Would you commit to working with Congress, the Government Accountability Office, and OIG in a timely and constructive manner to address the oversight and other needs of Congress, and will you encourage others to do so?

Dr. GLIED. Yes, sir, I will.

Senator GRASSLEY. Yes. I know you are very sincere about answering it, but let me tell you what the practice is. We write letters. Sometimes we get answers to the letters, sometimes we do not. I am not talking just about your department, I am speaking generally. I think there is an institutional disease that wants to drag its feet anytime Congress asks questions, so we get answers to letters, and you get partial answers, and you send letters back.

But there is really—not just in your department but a lot of departments. I could hold a chart up here, as I did for Secretary Sebelius, and say there was one letter that is 370 days old that is not answered yet, and that was probably 20 days ago, so 390 days today. So, I hope that people will take seriously transparency of government. The public's business ought to be public, except maybe for national security, intelligence, and privacy issues. Otherwise, what is the big deal?

I often like to remind people that it seems like the struggle to not answer questions takes more time than just answering the questions. A lot of times a lot of people in positions like yours actually end up in more of a problem than if they had just answered the questions. So there has to be—and I am not talking about Democratic administrations any more than Republican administrations, I hope you know that. It is just something on which I wish that we could get complete cooperation.

The second one deals with a favorite of mine, because I got it passed in 1986: amendments to the False Claims Act. I think you probably know what that is; if you do not, I will explain it. As author, and last year getting even some amendments to it to correct some court decisions where the court gets everything wrong and you have to go back to square one—so we got some of that done, called the FERA bill, of a year ago, the Fraud Enforcement and Recovery Act. I worked with Senator Leahy on that. So I am obviously a supporter of the False Claims Act. Primarily, I like to make use of, and protect, qui tam provisions.

Three questions I have: will you work cooperatively with the Justice Department to vigorously enforce the False Claims Act?

Dr. GLIED. Absolutely.

Senator GRASSLEY. Will you oppose efforts by industry groups—now, you may think these things never happen, but I am telling you—

Dr. GLIED. No, I am sure they do.

Senator GRASSLEY. Would you oppose efforts by industry groups, including the health care industry, to weaken the False Claims Act and qui tam provisions of the False Claims Act?

Dr. GLIED. I would oppose such efforts.

Senator GRASSLEY. Would you agree to promote a close working relationship between qui tam relators and the Department of

Health and Human Services for the purposes of reducing fraud and abuse in the Federal Government health care programs?

Dr. GLIED. Yes, sir.

Senator GRASSLEY. And will you work cooperatively with who? With me——

Dr. GLIED. With you.

Senator GRASSLEY [continuing]. To ensure the original intent of the False Claims Act, that it is adhered to?

Dr. GLIED. I look forward to working cooperatively with you on that, and other issues as well.

Senator GRASSLEY. You ought to get a unanimous vote. [Laughter.]

Thank you all very much.

The hearing is adjourned.

[Whereupon, at 12:42 p.m., the hearing was concluded.]

APPENDIX

ADDITIONAL MATERIAL SUBMITTED FOR THE RECORD

Hearing Statement of Senator Max Baucus (D-Mont.) Regarding Commerce, Health, Treasury Nominees

In 1961, President-elect John F. Kennedy said that public servants would be judged by whether they were:

“truly [people] of dedication — with an honor mortgaged to no single individual or group, . . . but devoted solely to serving the public good and the national interest.”

To our witnesses today, I say: President Obama has nominated each of you to serve the public good and the national interest. Each of you has traveled a long road to get here today. And in so doing, you have shown dedication to the positions for which you have been nominated, to our President, and to our country.

But history will judge you — and indeed all of us — not by the dedication that we have shown so far. History will judge us by the dedication that we show until the last moment that we serve the American people.

Mr. Goldstein, President Obama has nominated you to be the Under Secretary of Treasury for Domestic Finance. In this role, you will oversee our domestic financial system and fiscal policy.

As we seek to recover from the Great Recession, create good jobs here in America, and create sustainable economic growth, we will have to rewrite the rules by which our domestic financial system works.

We cannot reward those who put America’s economic stability in peril by taking untenable risks. We cannot create economic growth by borrowing at unsustainable levels.

Rather, we must spur private-sector job creation. And we must put the good of the country before the good of any individual person or company.

Mr. Goldstein, I urge you, once confirmed, to fill the position of Under Secretary with honor. I urge you always to put the stability of the American economy and the fiscal health of our nation first. And if you accomplish this, history will judge you as a person of dedication.

Mr. Sanchez, President Obama has nominated you to be Under Secretary of Commerce for International Trade. In this capacity, you will head the Commerce Department's international trade initiatives.

You will push forward the President's recently-announced initiative to help double American exports in 5 years. You will administer U.S. antidumping and countervailing duty laws. And you will monitor foreign compliance with U.S. trade agreements.

Mr. Sanchez, I urge you, once confirmed, to fill the position of Under Secretary with honor. I urge you to put the competitiveness of our country first.

And in doing so, I urge you to remember the needs of small and medium-sized businesses like those in Montana. Companies in rural states like Montana support their local economies. They are pillars of the community. They offer world-class products. And our trade programs should help them to sell in global markets.

If you accomplish this task, history will judge you, too, as a person of dedication.

Dr. Glied President Obama has nominated you to be the Assistant Secretary for Planning and Evaluation at Health and Human Services. Planning and evaluation is one of the least-recognized but most important functions in the Department.

The research and analysis, policy development, and the planning and evaluation functions in which your office is engaged underpin much of the Department's activities.

The Department must have a strong foundation of evidence to inform its decision-making. The Department must evaluate legislation that has been implemented. And the Department must understand the effects of potential changes under consideration.

Dr. Glied, I urge you, once confirmed, to fill your position with honor. I encourage you to put the needs of the American people first, and evaluate the effect that HHS policies will have on the American people.

One of your responsibilities will be to bring the office back up to par. You will need to restore the excellent reputation and status that it once had. If you accomplish this task, history will judge you as a person of dedication.

I congratulate each of you on the dedication and perseverance that you have shown thus far. I encourage you to bring even more dedication to your future positions. And I am confident that the American public and our national interest will be better for your service.

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Opening Statement

Sherry Glied

Nominee to be Assistant Secretary for Planning and Evaluation, U.S. Department of Health and Human Services

Senate Committee on Finance

February 26, 2010

Thank you Mr. Chairman, Senator Grassley, and members of the Committee. My name is Sherry Glied and I have been nominated by the President to be Assistant Secretary for Planning and Evaluation (ASPE) at the Department of Health and Human Services. I am pleased to appear before you today.

I would like to begin by introducing the members of my family who are here today: my husband, Richard Briffault, and our children, Olivia and Jonathan.

For the past 20 years, I have worked as a health care economist, studying the functioning of the United States health care system, and particularly its impact on vulnerable populations. I am currently a Professor of Health Policy and Management at Columbia University's Mailman School of Public Health, and, for 11 years before my nomination, served as Chair of that Department.

My research has been very closely engaged with policy. I have particular expertise in modeling the effects of health care policy changes and have long served as a consultant, both formally and informally, to the Congressional Budget Office's health care team. My work in mental health policy and in addressing the problems of uninsured people has also provided me with an introduction to social welfare policy, another important component of the work of the ASPE.

As you know, the Office of the Assistant Secretary for Planning and Evaluation in HHS has a long and illustrious history. For the over 40 years that the office has existed, the ASPE has served as the secretary's principal policy advisor, with responsibility for policy coordination, implementation planning, and the evaluation of the many programs under the HHS umbrella. Many very distinguished policy analysts have served in this capacity. I am awed and humbled by this nomination to follow in their path. This is an extraordinary opportunity at a critical time to bring analysis and research to bear across the President and Secretary's broad agenda.

I am one of a number of researchers in Universities, think tanks, federal and state government agencies, and research institutes around the country who have devoted our

careers to the study of health insurance and the uninsured. I am proud that this research contributed to the Congressional debate concerning national health reform legislation that began last summer. If confirmed, I look forward to joining with my colleagues in HHS and throughout the Administration who are working closely with Congressional leaders to bring costs under control and reduce the number of uninsured Americans. An important part of that effort will be to combine insights of researchers outside government with those of the exceptionally skilled, dedicated, and knowledgeable staff within the Office of the ASPE.

Of course, the scope of work of the Office of the ASPE extends well beyond national health policy. My prior research in mental health policy and on the health of children has made me well aware of the significance of the broad spectrum of HHS programs. HHS programs provide support for needy families and to the aged and disabled, sponsor path-breaking biomedical research, ensure the safety of our food and drugs, monitor the spread of infectious disease – the list goes on and on. The health of our nation depends on the effective functioning of this extensive range of programs, and I believe the ASPE is in a unique position to promote efficiency by facilitating effective policy coordination between them. If confirmed, I look forward to contributing to providing analytic support to planning and evaluation in all these areas, and throughout the Department.

Thank you very much. I would be happy to answer questions.

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

A. BIOGRAPHICAL INFORMATION

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

Sharon (Sherry) Anne Miriam Glied

- 2. Position to which nominated:**

Assistant Secretary for Planning and Evaluation, U.S. Department of Health and Human Services

- 3. Date of nomination:**

July 9, 2009

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

- 5. Date and place of birth:**

February 8, 1961
Toronto, Canada

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

7. Names and ages of children:

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

Harvard University, 1985-1989
Ph.D., Economics, 1990

University of Toronto, 1983-1985
M.A., Economics, 1985

University of Toronto School of Law, 1982-1983

Yale University, 1978-1982
B.A., Economics, 1982

University of Toronto Schools, 1975-1978
High School Diploma, 1978

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.)

July 2002 – Present
Professor and Chair
Department of Health Policy and Management
Mailman School of Public Health
Columbia University
New York, NY

July 1998 – July 2002
Associate Professor and Chair
Department of Health Policy and Management
Joseph L. Mailman School of Public Health
Columbia University
New York, NY

September 2000
Visiting Faculty
University of Toronto Law School
Toronto, Ontario

January 1991 – June 1998
Assistant Professor of Public Health
Division of Health Policy and Management
Columbia School of Public Health
New York, NY

July 1991 – June 1998
Assistant Professor of Economics
Columbia University
New York, NY

August 1996 – July 1997
Visiting Assistant Professor
Department of Health Care Policy
Harvard Medical School
Boston, MA

September 1989 – December 1990
Associate in Public Health
Division of Health Policy and Management
Columbia School of Public Health
New York, NY

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.)

April 2006 – February 2009 (intermittent)
Consultant to Centers for Disease Control and Prevention and National Institutes of Health

August 1992 – July 1993
Senior Economist
The President's Council of Economic Advisers

March 2007 – Present
Member
Panel of Health Advisers
Congressional Budget Office

January 2007 – Present
Consultant
New York City Law Department

October 2007

Consultant to the Federal Reserve Board of Governors

2007

Consultant to the Government of Vermont

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.)

July 2008 – Present

Consultant on health policy model of Vermont
Center for Health Policy
University of New England (via contract to Columbia University)

October 2007 – Present

Reviewer/Consultant on health policy model
RAND Corporation

2007 – Present

Director
AcademyHealth (Health services and policy research membership organization)

1998 – Present

President
Cottingham-Hillcrest, Inc. (New York Chapter S Corporation – owns a share in residential real estate in Toronto, Canada)

February 2008 – December 2008

Consultant on health care policy
Kaiser Family Foundation

July 2008 – December 2008

Consultant on mental health research
Research Foundation for Mental Hygiene

September 2007 – December 2008

Consultant on health policy model of New York
Urban Institute

September 2006 – December 2007

Consultant on Kansas health policy model
Kansas University Medical Center (consultancy contract to Columbia University)

March 2002 – December 2006
 Consultant on HIV Cost study
 SMART – Social and Scientific Systems

July 2005 – September 2005
 Consultant on cost studies
 Robin Hood Foundation

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

Member, Institute of Medicine (2006 – Present)

Member, National Academy of Social Insurance (2006 – Present)

Member/Director, AcademyHealth (2007 – Present)

Faculty Research Fellow, National Bureau of Economic Research (Cambridge, MA) (2000 – Present)

Member, Congregation Shaare Zedek (New York, NY) (2006 – Present)

Member, Program Board (advisory only; non-voting); amfAR (HIV-related health research and policy) (2006 – Present)

Member, Scientific Board (advisory only; non-voting); Brookdale Institute (Jerusalem) (2006 – Present)

Senior Associate Editor, Health Services Research (2006 – Present)

Member, National Advisory Committee, Robert Wood Johnson Foundation INQRI Program (2006 – 2008)

Member, Research!America Eugene Garfield Award Committee (2005 – Present)

Member, Editorial Board; Annual Reviews of Public Health (2005 – 2009)

Member, Regents Advisory Committee; American College of Healthcare Executives, New York Region (2004 - Present)

Member, Board of Advisors; NCHS/Academy Fellowship Committee (2001 – 2008)

Member, Executive Committee, Section on Healthcare Delivery; New York Academy of Medicine (2001 – Present)

Member, External Advisory Committee, UMDNJ School of Public Health (2006 – Present)

Member, Editorial Board; Milbank Quarterly (2000 – Present)

Member, Editorial Board; Journal of Health Politics, Policy, and Law (2000 – Present)

American Economics Association (approx. 1990 – Present)

American Public Health Association (approx. 1990 – Present)

American College of Healthcare Executives (2001 – Present)

American Society for Health Economics (2007 – Present)

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.

Judy Feder for Congress – \$750 (3/36/06), \$1350 (6/24/06), \$200 (11/306), \$400 (12/11/07), \$250 (7/26/08), \$500 (10/21/08)

ActBlue PAC – \$200 (2006)

Bill Bradley for President – \$250 (6/4/99)

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.)

2004, Research!America Eugene Garfield Economic Impact of Medical and Health Research Award

2004, Chair, AcademyHealth Annual Research Meeting

2001, Outstanding Advisor, Department of Economics, Columbia University

2000, Research Associate, Health Economics, National Bureau of Economic Research

1999, Fellow, New York Academy of Medicine

1990, Faculty Research Fellow, Health Economics, National Bureau of Economic Research

1989, Dissertation Fellowship, Social Science and Humanities Research Council of Canada

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

See attachment #1

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.)

See attachment #2

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

For the past 20 years, I have worked as a health care economist, studying the functioning of the United States health care system, and particularly its impact on vulnerable populations. I have written two books; one, Chronic Condition, on health policy reform; and the other (jointly with Richard Frank) Better but Not Well, on the well-being of people with mental illness in the United States. I have also written over 100 articles in health care policy and economics. My work is very closely engaged with policy. I have particular expertise in quantitative modeling of the effects of health care policy. For that reason, I have long served as a consultant, both formally and informally, to the Congressional Budget Office's health care team. My work in mental health policy and in addressing the problems of uninsured people has also provided me with an introduction to social welfare policy, another important component of the work of the Assistant Secretary for Planning and Evaluation (ASPE).

In addition to my scholarly work, I have, for the past 10 years, led the Department of Health Policy and Management at the Mailman School of Public Health. In that capacity, I have gained experience in managing others, developing a team of

researchers, and working collaboratively as a leader in the School. I believe this expertise will be very useful in working with the skilled professional staff at ASPE.

B. FUTURE EMPLOYMENT RELATIONSHIPS

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

I am taking a leave of absence from the Mailman School of Public Health, Columbia University to take this position. I am severing all other ties.

- 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.**

Columbia University has granted me a leave of absence. I am a tenured faculty member at the University.

- 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.**

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

- 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.**

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

- 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.)**

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

- 5. Two copies of written opinions should be provided directly to the Committee by the designated agency ethics officer of the agency to which you have been nominated and by the Office of Government Ethics concerning potential conflicts of interest or any legal impediments to your serving in this position.**
- 6. The following information is to be provided only by nominees to the positions of United States Trade Representative and Deputy United States Trade Representative:**

Have you ever represented, advised, or otherwise aided a foreign government or a foreign political organization with respect to any

international trade matter? If so, provide the name of the foreign entity, a description of the work performed (including any work you supervised), the time frame of the work (e.g., March to December 1995), and the number of hours spent on the representation.

N/A

D. LEGAL AND OTHER MATTERS

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

No

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

No

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

In 1988, I was one of eight tenants who sued our landlord due to a rent control violation. The case settled.

4. **Have you ever been convicted (including pleas of guilty or *nolo contendere*) of any criminal violation other than a minor traffic offense? If so, provide details.**

No

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

None

E. TESTIFYING BEFORE CONGRESS

- 1. If you are confirmed by the Senate, are you willing to appear and testify before any duly constituted committee of the Congress on such occasions as you may be reasonably requested to do so?**

Yes

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

Yes

Questions for the Record
Nominations Hearing
March 2, 2010

Questions from Chairman Baucus

Questions for Sherry Glied

Question 1:

I am consistently frustrated by the lack of accurate and timely health care data. For example, it seems that most data on Medicare utilization, national health care spending and the uninsured is either out of date – two years old or older – or the data needed to answer specific questions are not available. How can we improve accuracy and timeliness of health care data that informs policymaking for both executive and legislative branch?

As a researcher, I am well aware of the need for timely, accurate, and appropriate data as an essential element in evidence-based policy making. If confirmed as Assistant Secretary for Planning and Evaluation (ASPE), I would make it a priority to consult with Congressional and HHS staff to identify the data elements likely to be needed for health policy making; examine the mechanisms currently in place to collect and make available those data; and evaluate strategies for making policy-relevant data available sooner and in more accessible ways.

Question 2:

Given your extensive background in health system reform, I know that you have looked at many of the aspects and policies included in the pending health reform bills. There are provisions that relate to delivery system reform, coverage of the uninsured, and cost containment. What is the most important or most needed part of a health reform bill? As Assistant Secretary for Planning and Evaluation, what role could your office play if comprehensive health reform passes this year?

The President's health insurance reform proposal and the bills passed last fall by both the House and the Senate all contain the three components that, I believe, are essential to comprehensive health reform: coverage of the uninsured, cost containment, and delivery system reform. In my view, these three pieces fit together like a jigsaw puzzle. Without all three in place, comprehensive, sustainable health reform is not possible. History has shown that minor adjustments will not be enough to make meaningful change to our health care system. Proceeding in a significant way on all three is critical.

The ASPE office can contribute to the health reform process in many ways. ASPE can inform the design of the components of a health care plan; assess strategies for rapid and efficient implementation of the plan and coordinate the activities of a variety of HHS offices in implementation efforts; develop and implement an evaluation strategy for the plan; and

serve as a rapid-response think tank to help the Secretary work out design and implementation issues.

Question 3:

The office of Assistant Secretary for Planning and Evaluation was once the crown jewel of HHS policy research but has been decimated over the last decade. Many of the brightest analysts have left for greener pastures. Part of the reason for this has been politically-driven agenda of the last administration that drove research and decisions to publish or not publish reports. In more than a couple of instances, research organizations contacted us to ask us to help release reports that had been written, but were submerged due to inconvenient findings – or conclusions that did not support the administration’s agenda.

What are your plans for restoring this office to its former status? Can you assure us that you will take an unbiased and non-partisan view of the research you conduct or commission others to conduct? And that decisions regarding publication will be made based on merits and evidence rather than politics?

I have worked very hard to make objective and non-partisan research, along with a firm commitment to professional integrity, the hallmark of my 20-year career as a health policy researcher. If confirmed, I fully intend to bring that same objectivity and professionalism to the office of ASPE.

In my view, research can only be effective in the policy-making process if it is, and is seen to be, objective, clear, and non-partisan. ASPE’s research must be conducted with the utmost rigor, impartiality, and transparency. ASPE is a wonderful office, staffed by gifted and dedicated people. My goal would be to build on that excellent base by (1) expanding links to the policy analysis community, so that the government can benefit in a timely fashion from all the work that researchers are doing; (2) building the capacity of ASPE to conduct quantitative modeling of policies in a range of areas; (3) enhancing the historic role of ASPE as a convener and coordinator of policy analysis and evaluation across HHS and throughout the government; (4) working to ensure the objectivity of ASPE research through the use of peer review, competitive contracting, and transparency; and (5) working closely with Congress to make sure that the work we are doing is of direct relevance to members’ needs.

Questions from Senator Grassley

Question 1:

MSP Qui Tam

In the 1980s, Congress enacted the Medicare Secondary Payer (MSP) statute that was designed to protect Medicare expenditures from waste and abuse when Medicare footed the bill for services, but another insurer was supposed to pay. The MSP statute provided a right of action to either the Department of Justice or to private litigants to file suit on behalf of Medicare. This law was based largely upon the successes of other *qui tam* statutes – such as the False Claims Act – and was designed to recover monies that Medicare wrongfully paid out. However, recent court decisions have held that the MSP statute is not a *qui tam* statute for the purposes of recoveries. As a result, any monies recovered by a plaintiff are theirs to keep and not required to pay back to the U.S. Treasury. This is an inaccurate reading of the statute and creates a result contrary to the purpose of the statute.

The Department of Justice filed a brief in the Federal District Court for the Western District of North Carolina as an Intervenor defending the constitutionality of a *qui tam* provision that allows relators to file suit on behalf of the Government for misuse of patent markings (35 U.S.C § 292).

In that brief, the Justice Department expressly stated that Congress has enacted several *qui tam* provisions and expressly noted that the MSP statute (42 U.S.C. § 1395y) provided a *qui tam* cause of action for “failure to pay primary health insurance claims where Medicare is the secondary payer.” Based upon this statement, the Justice Department seems to agree that the MSP statute is a *qui tam* statute similar to those such as the False Claims Act.

- **Do you believe that the MSP statute is a *qui tam* statute?**

I understand that the question of whether the Medicare Secondary Payer (MSP) private cause of action is a *qui tam* provision has been the subject of consideration by multiple courts in recent years. While I am not in a position to determine whether or not *qui tam* provisions are part of the MSP statute, if confirmed, I will carefully examine the issue in consultation with the HHS Office of the General Counsel and the Department of Justice where appropriate.

- **Will you support the use of the MSP statute and the *qui tam* mechanism in the statute to help Medicare recover monies expended when Medicare should have been the secondary payer?**

Again, I do not believe that I am in a position to interpret the *qui tam* cases. However, I do believe that *qui tam* provisions are valuable tools to help the government identify and combat fraud. I support the *qui tam* provisions in the False Claims Act, and if the MSP statute is determined by the courts or the Department of Justice to contain a similar *qui tam* mechanism, I would support such a provision.

- **Do you believe that the Government is entitled to a share of any monies recovered under the MSP statute given that the monies recovered were lost due to Medicare paying when a secondary payer should have footed the bill?**

The MSP statute is designed to ensure that Medicare avoids making payments that the program is not required to make and can recover payments that should have been made by primary payers. Accordingly, yes, I believe that the government is entitled to a share of any monies recovered under the statute. The MSP statute is only one of several tools Medicare can use to recover payments that should have been made by primary payers.

- **Will you ensure that the goals of the MSP statute are not harmed by any regulations issued by the Department of Health and Human Services regarding secondary payer issues?**

I support the stated goal of the MSP statute – to ensure that Medicare avoids making payments that the program is not required to make and can recover payments that should have been made by primary payers. If confirmed, I will work to uphold that goal.

Question 2:

Chairman's Letter

I view oversight as my constitutional responsibility and I have conducted vigorous oversight throughout my years in Congress, despite which party held the White House. I intend to continue conducting that oversight in the 111th Congress. To do that, I need your public commitment, if you are confirmed to serve as the Assistant Secretary for Planning and Evaluation. I need your clear commitment that I, as ranking member of the Finance Committee, will not be required to provide you with a Chairman's letter for the Department to respond to my letters and to provide to me the department document that I need to do my work.

Will you be receptive to my inquires and will you assure me that I will not need a Chairman's letter for the Department to respond to my letters and requests to interview Health and Human Services employees?

I strongly support transparency and accountability. I also believe that cooperation between the Administration and Congress is necessary to ensure effective oversight of the Executive Branch – one of Congress's most important responsibilities. To that end, if confirmed, I will absolutely be receptive to oversight inquiries from you and other members of Congress, and I will commit to responding to any and all requests from Members of Congress to the fullest extent possible.

Question 3:

Illegal Unapproved Drugs

The Medicaid program pays billions of dollars a year for "covered outpatient drugs." This term is defined in the Social Security Act and has a number of limitations. One of those limitations expressly excludes new drugs that the Food and Drug Administration (FDA) has not approved. By law, states should not provide reimbursement from Medicaid to pay for any unapproved drugs.

However, a number of manufacturers have reported false information to CMS regarding the regulatory status of their unapproved drugs. As a result, these manufacturers have

been able to bypass the statutory restriction and obtain reimbursement from Medicaid for these illegally marketed, unapproved drugs.

There is evidence that this fraud against Medicaid could account for hundreds of millions of dollars. For example, the Justice Department recently settled a False Claims Act case against a drug manufacturer for \$3.5 million.

In this case, brought forward by a *qui tam* whistleblower, the FDA had withdrawn approval for the drug but, from 1999-2008, the company misrepresented to CMS that the drug was FDA approved. In turn, Medicaid continued to reimburse the manufacturer for the illegally marketed drug.

I'm told that many more of these unapproved drug FCA cases are in the pipeline under seal in our federal courts. Further, at my request, the HHS Inspector General is investigating just how much Medicaid pays for unapproved, illegally marketed drugs. It has been estimated this could be as high as hundreds of millions of dollars.

To fix this, I've introduced legislation that would require the FDA to publish an online database listing all drugs and their regulatory status. The legislation also requires states to check this list before paying a claim for a covered outpatient drug. If a drug isn't on the list, it wouldn't be covered. This is a common sense approach to stomping out millions in fraud.

- Will you support my legislation that ensures Medicaid doesn't spend taxpayer dollars on drugs that are not approved by the FDA? Why or why not.
- Do you agree that Congress should take immediate, legislative action to ensure that CMS and states stop paying hundreds of millions of dollars for illegally marketed unapproved drugs?
- Will you support my legislation as part of any comprehensive health care reform?

I know that the President and the Secretary are deeply committed to improving the integrity of our health care system in this area, and I am certainly open to discussing any ideas that you and others in Congress may have – including potential legislative remedies – regarding what may be the proper Medicaid payment policy for prescription drugs that are not approved by the FDA. If confirmed, I will instruct my staff to review the details of your legislation and to work with your staff to ensure that any effort to address this issue meets the Medicaid integrity and payment policy goals in question and can be implemented appropriately by both the Department and the states.

Baucus-Grassley Question for the Record

Payment Delays to Medicaid Managed Care Organizations:

Is HHS or CMS aware of any instances of states delaying contractual payments to Medicaid managed care organizations? If HHS or CMS is aware of any such instances, is there any evidence to suggest that such delays affect Medicaid beneficiaries' access to care? If so, what steps is HHS or CMS taking to ensure that payment delays do not result in reduced access to care for Medicaid beneficiaries?

Since I do not currently work at HHS, I am not in a position to answer this question. However, I understand that CMS will be in contact with your staff to provide you with responses to these questions.

**Opening Statement of Jeffrey A. Goldstein
Nominee for Under Secretary of the Treasury for Domestic Finance
Before the U.S. Senate Committee on Finance
February 26, 2010**

Chairman Baucus, Ranking Member Grassley, distinguished members of the Committee, thank you for the opportunity to appear before you today. I am honored to have been nominated by President Obama to serve as Under Secretary of the Treasury for Domestic Finance, and I am grateful to Secretary Geithner for recommending me to the President. I also want to thank your staffs for meeting with me to discuss my qualifications for the position to which I have been nominated.

If you will permit me, I would like to take a moment to introduce my family. My three children, Joshua, Jeremy, and Lauren, are the greatest gifts I have been given, and I am very proud of all of them. Their mother, and my wife of 22 years, Nancy, is a dedicated doctor who has continued the medical practice that her father started 55 years ago. Our partnership and her good humor and encouragement have made my life and my work possible.

I have been fortunate to have a wide-ranging career: I have spent time in academia, in the private sector, as well as in public service. I received an undergraduate degree from Vassar College and earned a Ph.D. in economics from Yale University, and then was employed at the Brookings Institution, the Treasury Department, and Princeton University, focused on financial policy issues.

My time in the private sector, including 15 years at the Wolfensohn firm and five years at Hellman & Friedman, gave me insights into a broad range of banks and other financial institutions. That work required the practical application of economic, financial, and business analyses. In those positions, I worked to build businesses and to create jobs.

My experience in the public sector, notably at the World Bank, built on this practical application of analysis, with a goal of fighting poverty. There I oversaw the World Bank's work with member countries in strengthening their financial and capital market systems. I served as its representative to a variety of international bodies, including those concerned with financial market stability. And I was its Chief Financial Officer.

I believe that these three phases of my career -- in academics, the private sector, and public service -- have together provided me with a strong background for this position. This background would help me address the financial policy questions we face as the nation continues to emerge from a severe financial crisis and economic recession. While confidence in our financial markets has improved and the economy has started to grow again, unemployment is far too high and too many families are having to struggle to make ends meet. The rehabilitation and reform of the financial system remains

incomplete, and our economy cannot reach its potential without a fair, effective, and resilient financial system. But I know that, in partnership with the Congress, we can ensure that the U.S. financial system can and will fulfill its promise in supporting economic growth and prosperity all across America.

If approved by this Committee and confirmed by the Senate, I would welcome the opportunity to help meet the economic challenges confronting our country. It would be a high honor to serve alongside the men and women of the Treasury Department. Again, thank you for allowing me to appear before you. I would be pleased to answer any questions.

SENATE FINANCE COMMITTEE
STATEMENT OF INFORMATION REQUESTED OF NOMINEE

A. BIOGRAPHICAL INFORMATION

1. Name: (Include any former names used)
Jeffrey Alan Goldstein
2. Position to which nominated:
*Under Secretary of Domestic Finance
U.S. Department of the Treasury*
3. Date of nomination:
July 22, 2009
4. Address: (List current residence, office, and mailing addresses.)

5. Date and Place of Birth:
*December 02, 1955
Philadelphia, PA*
6. Marital status: (Include maiden name of wife or husband's name).

7. Names and ages of children

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

Vassar College
Attended: 1973 – 1975, 1976-1977
Bachelor of Arts (5/1977)

London School of Economics
Attended: 1975 – 1976

Yale University
Attended: 1978 – 1982
Master of Arts (5/1980), Master of Philosophy (12/1980), Ph.D. (5/1983)

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.)

Brookings Institution, Research Assistant, Washington, DC – 1977 to 1978.
Performed research for publications and Congressional testimony, including policy-oriented analyses of U.S. trade deficit and primary commodity markets.

US Department of the Treasury, International Economist, Washington DC – Summer 1979.
Researched Eurocurrency market regulation, macroeconomic policies in OECD countries, and monetary authority portfolio behavior.

Securities Group, Part-time Consultant, New York, NY – 6/1980 to 3/1981.
Analyzed U.S. and foreign monetary policies, fixed income and foreign exchange markets and worked on modeling financial institution asset-liability management.

Princeton University, Lecturer, Princeton, NJ – 1982 to 1983.
Taught economics. Research focused on private and central bank international portfolio selection and foreign exchange markets.

Wolfensohn & Co. Inc., New York, NY – 1984 to 1996:

Investment Banker, approximately 1984 to 1988.

Partner at predecessor, James D. Wolfensohn Incorporated, approximately 1988 to 1995.

Vice Chairman and Partner, approximately 1995 to 1996. Managed investment bank and served as a financial adviser to U.S., European and Asian clients, including banks, other financial institutions and industrial corporations.

BT Wolfensohn/Bankers Trust New York Corp., New York, NY – 1996 to 1999:

Vice-Chairman, approximately 1996 to 1997.

Co-Chairman, (and member of the Bankers Trust Company Management Committee) approximately 1997 to 1999. Managed investment bank and served as financial adviser to U.S., European and Asian clients, including banks, other financial institutions and industrial corporations and served on Bankers Trust Management Committee.

World Bank, Managing Director, Washington, DC – 1999 to 2004. Member of Management Committee responsible for corporate leadership and strategy. Responsible for Bank's work with client governments in strengthening financial and capital market systems. As Chief Financial Officer, responsible for management of the institution's financial operations and budget. Point person for Bank with G-8 countries and International Development Association (IDA) which lends to the poorest countries (including as Chairman of IDA 14 Replenishment). Bank's representative on the Financial Stability Forum and on the IMF's Capital Markets Consultative Group and Chairman of Bank's Pension Finance Committee.

Hellman & Friedman, Managing Director, New York, NY – 2004 to 8/3/2009. Private equity investment firm. Helped lead firm's New York office.

U.S. Department of the Treasury, Counselor to the Secretary -- 8/5/2009 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.)

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.)

AlixPartners LLP – Director (10/2006 to 07/23/2009)

LPL Holdings Inc. – Director, Chairman of Audit Committee (12/2005 to 07/24/2009)

Grosvenor Capital Management LP – Member, Advisory Board (10/2007 to 07/24/2009)

Arch Capital Group, Ltd – Director (9/2006 to 8/2007)

Fuji-Wolfensohn - Director (1995 to 1999)

Vassar College – Member, Board of Trustees (10/2003 to present); Chairman, Investments Committee (5/2006 to present)

Brookings Institution Global Leadership Council – Member, Leadership Council (3/2008 to present)

International Center for Research on Women – Member, Board of Trustees (5/2005 to present)

Council on Foreign Relations – Member (1988 to present)

Big Brothers, Big Sisters of New York City – Member, Advisory Council; Member Board of Trustees; Past President (3/1989 to present)

London School of Economics North American Advisory Board – Member, Advisory Board (3/2007 to present)

Museum of Modern Art – Photography Council (4/1990 to present)

Private Equity Council – Director (4/2008 to present)

Rockefeller Family Fund – Member, Finance Committee (1997 to 1999)

German Marshall Fund of the U.S. – Director (2000 to 2005)

Social Science Research Council – Investment Committee (1989 to 1998)

Hellman & Friedman Investors VII, L.P. – Limited Partner (2009 to present; inactive) and Managing Director (2009 to 8/3/2009)

H&F Corporate Investors, VII, Ltd – Vice President (2008 to 8/3/2009) and Shareholder (2008 to present; inactive)

Hellman & Friedman Investors VI L.P. – Limited Partner (2006 to present) and Managing Director (2006 to 8/3/2009)

Hellman & Friedman Investors VI (Cayman), L.P. – Limited Partner (2007 to present)

H&F Corporate Investors VI (Cayman), Ltd. – Vice President (2007 to 8/3/2009) and Shareholder (2007 to present)

Hellman & Friedman Investors V, LLC – Managing Director (2004 to 8/3/2009) and Member (2004 to present)

Hellman & Friedman Investors V (Cayman), Ltd. – Vice President (2007 to 8/3/2009) and Shareholder (2005 to present)

H&F Gartmore (Cayman Investors), L.P. -- Limited Partner (2007 to present)

H&F Gartmore (Cayman Corporate), Ltd. - Vice President (2008 to 8/3/2009) and Shareholder (2006 to present)

Hellman & Friedman Investors V (Cayman), L.P. – Limited Partner (2005 to present)

H&F Investors IV, LLC – Managing Director and Member (2006 to present)

H&F Corporate Investors IV (Bermuda), Ltd. – Vice President (2008 to 8/3/2009) and Shareholder (2008 to present)

H&F Investors IV (Bermuda), L.P. -- Limited Partner (2007 to present)

Hellman & Friedman LLC – Managing Director (2004 to 8/3/2009) and Member (2004 to present)

Hellman & Friedman LP – Managing Director (2008 to 8/3/2009) and Limited Partner (2008 to present)

Hellman & Friedman Advisors LLC – Managing Director (2004 to 8/3/2009)

H&F Europe Holdings I, LLC – Managing Member (2007 to 2008)

H&F Europe Holdings II, LLC – Managing Member (2007 to 2008)

Frog & Peach Investors, LLC – Manager (2005 to 8/3/2009) and Member (2005 to present)

H&F Intergraph (Bentley) Blocker Ltd. – Vice President (2006 to 8/3/2009)

H&F Chicago Incorporated – President and Secretary (2007 to 8/3/2009)

IMD Parent LLC – Vice President (2008 to 8/3/2009)

H&F Ranger (Cayman) Ltd. – Vice President (2008 to 8/3/2009)

H&F Ranger Co., L.P. – Managing Director (2008 to 8/3/2009)

Software (Cayman) GP Ltd. – Vice President (2008 to 8/3/2009)

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

Birchwood Country Club (7/1995 to present)

Core Club (1/2005 to present)

Council on Foreign Relations (1988 to present)

Foreign Policy Association (periodically a member)

Yale Club of New York (3/1994 to present)

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.

Obama New York Finance Committee, approximately May 2008 to November 2008.

- 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.

<i>Date</i>	<i>Amount</i>	<i>To</i>
11/03/08	\$1,000	Martin for Senate Inc.
10/20/08	\$500	Bobby Shriver for Santa Monica City Council
08/28/08	\$500	Obama Victory Fund
06/30/08	\$1,000	Sestak for Congress
05/31/08	\$28,500	Democratic National Committee (via Democratic White House Victory Fund)
04/30/08	\$5,000	Democratic Senatorial Campaign Committee
03/06/08	\$1,000	Pennsylvanians for Kanjorski
02/12/08	\$1,000	Friends of Mark Warner
8/28/07	\$500	Barbara Klausner for Palo Alto School Board
06/07/07	\$5,000	Democratic Senatorial Campaign Committee
03/31/07	\$2,300	Hillary Clinton for President (refunded 8/28/2008)
03/31/07	\$2,300	Hillary Clinton for President
03/15/07	\$2,300	Obama for America
10/31/06	\$10,000	Democratic Congressional Campaign Committee
10/30/06	\$1,000	McCaskill for Missouri
9/29/06	\$1,000	James Webb for US Senate
09/29/06	\$1,000	Joe Sestak for Congress
8/24/06	\$15,000	Democratic Congressional Campaign Committee
06/28/06	\$500	Friends of Joe Lieberman
6/28/06	\$1,000	Friends of Maria (via Cantwell-Ford 2006)
6/28/06	\$1,000	Harold Ford Jr for Tennessee (via Cantwell-Ford 2006)
4/17/06	\$2,100	James Webb for US Senate
3/09/06	\$2,500	Friends of Hillary (Clinton)
02/27/06	\$1,000	Sestak for Congress

02/10/06	\$5,000	Forward Together PAC
11/19/05	\$1,000	David Yassky for Congress
11/08/05	\$1,000	Friends of Hillary (Clinton)
02/10/05	\$500	Bobby Shriver for Santa Monica City Council
09/30/04	\$2,000	Salazar for Senate (via Senate 2004)
09/30/04	\$2,000	Tony Knowles for US Senate (via Senate 2004)
09/01/04	\$2,000	Obama for Illinois (via Senate 2004)
09/01/04	\$2,000	New Leadership for America PAC (Daschle)(via Senate 2004)
09/01/04	\$2,000	Brad Carson for Senate (via Senate 2004)
06/03/03	\$2,000	Joe Lieberman for President
10/18/02	\$2,000	Friends of Chris Dodd
09/24/02	\$3,000	Wofford for Congress
04/11/01	\$1,000	Friends of Carl McCall
06/06/00	\$1,000	Friends of Schumer
03/31/00	\$1,000	Feinstein 2000
03/21/00	\$1,000	Dedicated Americans for the Senate and House PAC
03/08/00	\$1,000	Tom Daschle (DASHPAC)
03/03/00	\$1,000	Feinstein 2000

This is the most comprehensive list I have been able to compile based on internet sources and my own records.

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).

Phi Beta Kappa

B.A. with General Honors and Departmental Honors (Economics)

Yale University Graduate School Fellowship

Wells Fellowship (Vassar College, for graduate study in Economics)

Omicron Delta Epsilon (Economics Honor Society)

Virginia Swinburn Brownell Prize in Political Economy Studies (Vassar College)

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

"International Portfolio Selection: Short Term Financial Assets and Gold," (with J.B. de Macedo and D. Meerschwan). In John F.O. Bilson and Richard C. Marston, eds., Exchange Rate Theory and Practice, National Bureau of Economic Research and University of Chicago Press, Chicago, 1984.

"International Portfolio Behavior" (with J.B. Macedo and D. Meerschwan.) International Finance Section, Princeton University, Working Paper in International Economics. 1982.

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 and two copies of each formal speech.)

None

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

The position of Under Secretary for Domestic Finance would utilize many of the skills I have gained from my professional life in academia, the private sector, and public service. Those varied experiences have provided me with a strong background in economics, finance, banking, and business.

My academic training gave me a firm foundation in macroeconomics, money and banking, and corporate finance. Early in my career, this foundation allowed me to undertake productive research and analytical work focused on financial issues. Thereafter, my years in the private sector gave me extensive senior management experience and windows into a broad range of banks and other financial institutions. During that time, my work required the practical application of economic, financial, and business analysis. My time in the public sector, notably at the World Bank, built on this practical application of analysis. It further involved solving complex problems, typically in the financial area, in an environment of multiple stakeholders across multiple countries. I oversaw the Bank's work with its client countries in strengthening financial and capital market systems. At the Bank, I also chaired a \$30 billion replenishment of the arm of the World Bank that lends to the poorest countries and I helped lead the Bank's relationship with G-8 countries. I served as the World Bank's representative to a variety of international bodies, including those concerned with the stability of financial markets, such as Financial Stability Forum and the IMF's Capital Markets Consultative Group. As Chief Financial Officer, I also was responsible for the institution's financial operations, including its activities as both a borrower and an investor in world capital markets. The experience and expertise accumulated over the course of this career would be applicable to the position for which I have been nominated.

Given the current economic and financial environment, I would be especially honored to put my skills, experience, and efforts wholeheartedly into the appointment as Under Secretary for Domestic Finance at the Department of the Treasury. Paul Volcker, with whom I worked for many years, always reinforced for me the high calling of public service. And I cannot imagine a more compelling time than now to serve the country. I believe that my background has prepared me well for this job, and I hope I will be permitted to accept this opportunity to work for the American people as a member of the Obama Administration.

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 no, 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.

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

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.

In connection with the nomination process, I have consulted with the Office of Government Ethics and the Treasury Department's designated agency ethics official to identify potential conflicts of interest. Any potential conflicts of interest will be resolved in accordance with the terms of an ethics agreement that I have entered into with the

Department's designated agency ethics official and that has been provided to this Committee. I am not aware of any other potential conflicts of interest.

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.)

In connection with the nomination process, I have consulted with the Office of Government Ethics and the Treasury Department's designated agency ethics official to identify potential conflicts of interest. Any potential conflicts of interest will be resolved in accordance with the terms of an ethics agreement that I have entered into with the Department's designated agency ethics official and that has been provided to this Committee.

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 of 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:

N/A

7. 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. (From 1999 to 2004, I served as Managing Director of the World Bank. The World Bank was engaged in a variety of international trade policy issues.)

D. LEGAL AND OTHER MATTERS

1. Have you ever been the subject of complaint or been investigated, disciplined, or otherwise cited for 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. Probate related to my mother's will and estate resolved in favor of the estate; my brother and I were the beneficiaries of the estate. This took place in approximately 1984. (Court of Common Pleas of Montgomery County, PA).

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 constitute committee of the Congress on such occasions as you may be reasonably requested to do so?

Yes

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

Yes

Questions for the Record
Nomination of Jeffrey Alan Goldstein to be Under Secretary of the Treasury
Hearing date: March 2, 2010

Questions from Chairman Baucus

1. Mr. Goldstein, much of the concern about Cayman Island hedge funds and corporate blockers results from the abuse of these entities by some investors who deliberately hide from the IRS and don't pay the taxes they owe. Late last year, I introduced a package of offshore loophole closers that will largely eliminate the ability of U.S. taxpayers with foreign accounts to go undetected by the IRS. I am happy to say these proposals were passed by the Senate on February 24. A cornerstone of the package is a 30% withholding tax on U.S. source payments unless the offshore entity agrees to tell the IRS who its U.S. account holders are.

Do you support the policy of these offshore loophole closers? How do you expect this legislation will affect the use of Cayman hedge funds and corporate blockers by firms like your former employer?

I fully support the policies of the Foreign Account Tax Compliance Act to require an offshore investment fund to report information regarding its U.S. investors to the IRS or be subject to substantial withholding taxes. I also support the FATCA rules that will cause U.S. investors to report on their holdings of interests in such funds on their U.S. tax returns.

I do not think that the new reporting provisions are likely to affect existing practices of fully compliant fund managers.

2. Over the past two years with several major bank failures, our financial system has become more consolidated. This not only perpetuates systemic risk problems generally but also works against maintaining access to rural and small business credit.

How important are community banks and credit unions to providing credit for small businesses and outside metropolitan areas? How do we ensure a strong community bank network? How does Treasury plan on supporting community banks? How is Treasury ensuring that community banks and small businesses have adequate access to capital, either through TARP or other programs?

Community banks and credit unions play a vital role in our financial system and a central role in our economy. The health of these institutions is essential to continued economic recovery and the long-term success of the economy as a whole.

If confirmed, I look forward to working with my Treasury colleagues and the Congress to support small and medium-size financial institutions and to help increase the flow of credit to small businesses and rural communities. If confirmed, I hope to add to the important work that the Administration has already done to strengthen in these areas.

Smaller financial institutions made up the vast majority of participants under the very first, and largest, program implemented under TARP, which was the Capital Purchase Program (CPP).

Recently, the President announced two new initiatives to assist smaller financial institutions. The first is targeted at CDFIs, including CDFI credit unions, and provides those institutions with the capital they need to support lending in underserved communities. Under the terms announced on February 3, the initiative will permit eligible CDFIs to apply for low-cost capital equal to up to 5 percent of the institution's risk-weighted assets. The dividend rate on the capital will be only 2 percent.

The second initiative would create a new \$30 billion Small Business Lending Fund, open only to community and smaller banks under \$10 billion in total assets. The Administration has proposed using this fund to provide capital to community and smaller banks that would allow them to expand lending to small businesses. Under the President's proposal, if these institutions increase their lending relative to a 2009 baseline, the dividend on the capital that is paid to Treasury would decline -- providing an incentive for lenders to use this capital to extend additional credit to small businesses.

Questions from Ranking Member Grassley

1. In responding to questions before the Finance Committee on March 2, 2010, you indicated that the point of UBIT blockers was to “help maintain tax-exempt income for tax-exempt investors.”
 - Do you understand that unrelated business income of tax-exempt entities is not actually tax-exempt, but is in fact subject to corporate income tax, under the Unrelated Business Income Tax (UBIT) rules?
 - Do you understand that the UBIT rules are of long-standing effect, established by Congress in 1950, signed into law by President Truman?
 - Do you understand that the UBIT rules were reaffirmed and significantly strengthened by Congress in 1969?
 - Do you understand that the point of “UBIT blockers” is to change taxable unrelated business income into non-taxable dividend income?
 - Is there any reason your firm assisted clients in investing in UBIT blockers other than blocking UBIT? In other words, is there another reason for tax-exempt entities to invest in blocker corporations other than avoiding US tax?
 - What is the benefit of domestic blocker corporations?
 - Why do taxable entities, including foreign ones, invest in blocker corporations?

As I testified before the Committee, the issues you have raised are important ones, and I am eager to work with the Committee and my Treasury colleagues on them. I should also say that I am not a tax expert, but have been advised about UBIT in the course of this confirmation process.

I understand that UBIT applies to tax exempts. I also understand that one consequence of using foreign corporations to hold investments for tax-exempt investors is that, so long as the corporation is respected for tax purposes (i.e., it is not treated as a “sham” for tax purposes), the income from an investment held by a foreign corporation is that of the foreign corporation and not that of a shareholder. The income that is realized by the foreign corporation for U.S. income tax purposes is taxed in accordance with the rules for taxing foreign corporations and, when distributed as a dividend to a tax-exempt investor, generally would be tax-exempt income and not UBIT.

I am advised that in 1996 Congress caused certain insurance-related income of a “controlled foreign corporation” to be taxed currently to a U.S. tax-exempt investor that owns 10% or more by vote of the controlled foreign corporation (in I.R.C. §512(b)(17)), but these rules have not been extended to most kinds of income that would be realized from a private equity investment.

As I have observed previously, tax-exempt entities such as a pension fund may find investing in the Caymans through a corporate blocker desirable because it provides a way to maximize return on investment, resulting in enhanced pension security while minimizing costs to employers and employees. Without a corporate blocker, the investment earnings of tax-exempt entities in debt-financed funds likely would be in part unrelated business

taxable income subject to the unrelated business income tax. With a corporate blocker, such investment earnings are not considered to be unrelated business taxable income and thus the return on investment going back into the pension fund is greater. The foreign corporations established for the investments of tax-exempt investors generally minimize or eliminate unrelated business income tax for those tax-exempt investors.

To the extent that more than one tax-exempt investor invests through the same foreign corporation, there would be cost efficiencies. I have been advised that, since it is industry practice for such funds to use blockers in a range of cases, it is customary and more efficient for the private equity firm to establish the entities used in a structure rather than cause each investor to establish its own structure. In certain circumstances, this also may allow the private equity firm to maintain practical control of the day-to-day administration and operation of the structure. The benefits to the tax-exempt investor include the superior after-tax return described above and lower administrative costs for the investment.

I have been advised that domestic corporations are used as investment vehicles in circumstances where the income generally will be taxed in any event, but use of the corporation will cause the tax return to be prepared and the tax to be paid by the domestic corporation instead of the investor. A U.S. tax-exempt investor generally would not be taxed on a distribution. A foreign investor would be subject to U.S. withholding tax on a dividend, but would not be taxed on a liquidating distribution from the corporation.

I understand that foreign persons, including those that are taxable in their home country, invest through blockers so that the blocker, and not they, file any necessary U.S. tax returns, and, in some cases, to avoid the potential exposure to U.S. tax of income unrelated to the investment that would not otherwise be taxable by the United States.

2. You stated in the hearing that Unrelated Business Income Tax (UBIT) blockers, which are sometimes described as shell corporations, are used to “help maintain tax-exempt income for tax-exempt investors.” However, Unrelated Business Income Tax is imposed on income that results from business activities conducted by a tax-exempt entity. The income generated by the tax-exempt entity is not tax-exempt income, as you stated. In fact, that income is taxable income to the tax-exempt entity. That’s why UBIT blockers are used—to “block” the tax from being imposed on what, in the absence of UBIT blockers, is taxable income. Therefore, your statement at your nomination hearing that blockers are used to maintain tax-exempt income for tax-exempt entities is incorrect, because it is not tax-exempt income that is being blocked. Is this correct? A purpose of UBIT blockers is to block taxable income that, in the absence of UBIT blockers, would subject the tax-exempt entity to United States income tax on such taxable income. Is this correct?

As described in my prior answer, I understand that the objective of the structure is to cause the income that is received by the tax-exempt investor to be entirely tax-exempt in its hands because it is received as a corporate distribution. Whether the income earned by the corporation from the private equity investment would be UBIT if earned directly by the tax-exempt investor will depend on whether and the extent to which it would be classified as UBIT. Thus, for example, gains on the sale of stock would not be UBIT, except and only to the extent that as of the time of sale the gains are debt-financed income. As noted above,

blocker corporations for investments of tax-exempt investors generally minimize or eliminate unrelated business income tax for those tax-exempt investors.

3. How much income have you received in the past from carried interests in Hellman & Friedman investments?
What carried interests do you currently hold that you expect to receive income from in the future?

I would be pleased to provide the information requested in the first part of the question. I would like to provide this information with the same confidential treatment given to other financial data requested by and provided to the Senate Finance Committee in the Committee Questionnaire. As for the second part of the question, I do not currently have any carried interests in Hellman & Friedman investments.

4. Your Finance Committee questionnaire and Executive Branch Disclosure Report both list business relationships for entities that have an affiliation with the Cayman Islands. For each of these entities, please describe your duties and how they each constitute a separate business relationship. Did your work for any of these entities entail travel to the Cayman Islands? Please describe the purpose of each of these entities.

Hellman & Friedman Investors VI (Cayman), L.P.-Limited Partner (2007 to present)

As a full-time Managing Director of Hellman & Friedman, I became a limited partner (investor) in this partnership. I did not travel to the Cayman Islands for any work on behalf of Hellman & Friedman, this entity or any of the entities listed below. The purpose of this entity is to be the general partner of Hellman & Friedman investment partnerships.

H&F Corporate Investors VI (Cayman), Ltd. – Vice President (2007 to 8/3/2009) and Shareholder (2007 to present)

As a full-time Managing Director of Hellman & Friedman, I became a shareholder and an officer of this corporation. All full-time Managing Directors became shareholders of this entity and shared equally in it. The business reason for full-time Managing Directors to be officers of this corporation, which is the ultimate general partner of Hellman & Friedman investment partnerships, is to allow them to act on behalf of the entity as directed by the board. I was not a member of any deal team that investigated any proposed or actual investments made by such investment partnerships and I was not a member of the investment committee or the board of directors that ultimately has the responsibility to make investment decisions on behalf of such investment partnerships. The purpose of this entity is to be the general partner of Hellman & Friedman Investors VI (Cayman), L.P.

Hellman & Friedman Investors V (Cayman), Ltd. – Vice President (2007 to 8/3/2009) and Shareholder (2005 to present)

As a full-time Managing Director of Hellman & Friedman, I became a shareholder and an officer of this corporation. All full-time Managing Directors became shareholders of this entity and shared equally in it. The business reason for full-time Managing Directors to be officers of this corporation, which is the ultimate general partner of Hellman & Friedman

investment partnerships, is to allow them to act on behalf of the entity as directed by the board. I was not a member of any deal team that investigated any proposed or actual investments made by such investment partnerships, and I was not a member of the investment committee or the board of directors that ultimately has the responsibility to make investment decisions on behalf of such investment partnerships. The purpose of this entity is to be the general partner of Hellman & Friedman Investors V (Cayman), L.P.

H&F Gartmore (Cayman Investors), L.P. – Limited Partner (2007 to present)

As a full-time Managing Director of Hellman & Friedman, I became a limited partner (investor) in this partnership. The purpose of this entity is to be the general partner of Hellman & Friedman investment partnerships that invested in a regulated company. I was not part of the deal team responsible for such portfolio company.

H&F Gartmore (Cayman Corporate), Ltd.- Vice President (2008 to 8/3/2009) and Shareholder (2006 to present)

As a full-time Managing Director of Hellman & Friedman, I became a shareholder and an officer of this corporation. All full-time Managing Directors became shareholders of this entity and shared equally in it. The business reason for full-time Managing Directors to be officers of this corporation, which is the ultimate general partner of Hellman & Friedman investment partnerships, is to allow them to act on behalf of the entity as directed by the board. I was not a member of the deal team that investigated the investment made by such investment partnerships, and I was not a member of the investment committee or the board of directors that ultimately has the responsibility to make investment decisions on behalf of such investment partnerships. The purpose of this entity is to be the general partner of H&F Gartmore (Cayman Investors), L.P.

Hellman & Friedman Investors V (Cayman), L.P. Limited Partner (2005 to present)

As a full-time Managing Director of Hellman & Friedman, I became a limited partner (investor) in this partnership. The purpose of this entity is to be the general partner of Hellman & Friedman investment partnerships.

H&F Ranger (Cayman) Ltd. – Vice President (2008 to 8/3/2009)

As a full-time Managing Director of Hellman & Friedman, I became a Vice President of this corporation. This is an inactive entity that was created in connection with an investment that was never consummated and is currently in dissolution.

Software (Cayman) GP Ltd. – Vice President (2008 to 8/3/2009)

As a full-time Managing Director of Hellman & Friedman, I became a Vice President of this corporation. The purpose of this entity is to be the general partner of an acquisition vehicle for an investment. I was not part of the deal team responsible for such investment.

5. Please describe your duties with regards to the following items listed as business relationships. What is the business purpose of these entities being located in Bermuda? Please describe the purpose of each of these entities.

H&F Corporate Investors IV (Bermuda), Ltd. – Vice President (2008 to 8/3/2009) and Shareholder (2008 to present)

As a full-time Managing Director of Hellman & Friedman, I became a shareholder and an officer of this corporation. All full-time Managing Directors became shareholders of this entity and shared equally in it. The business reason for full-time Managing Directors to be officers of this corporation, which is the ultimate general partner of Hellman & Friedman investment partnerships, is to allow them to act on behalf of the entity as directed by the board. I was not a member of the investment committee or the board of directors that ultimately has the responsibility to make investment decisions on behalf of such investment partnerships. The business purpose of this entity being located in Bermuda was to be the general partner of partnerships organized in Bermuda. The purpose of this entity is to be the general partner of H&F Investors IV (Bermuda), L.P.

H&F Investors IV (Bermuda), L.P. – Limited Partner (2007 to present)

As a full-time Managing Director of Hellman & Friedman, I became a limited partner in this partnership. The business purpose of this entity being located in Bermuda was to be the general partner of earlier Hellman & Friedman investment partnerships organized in Bermuda. The purpose of this entity is to be the general partner of such investment partnerships.

Questions from Senator Maria Cantwell

1. It's my understanding that foreign exchange and foreign currency swaps are currently not regulated by a U.S. regulator even though it is a \$3 trillion a day market. Apparently, the Greek government's Goldman Sachs derivative transaction from 2002 was characterized as a foreign currency swap. This was a transaction that Greece used to misstate their financial statement to the EU. This was a fraud of major proportions. Given this situation, what is your position on the need to regulate foreign currency and foreign exchange swaps or similar derivative transactions? Should this type of activity be banned, or at the very least, regulated?

The market for OTC derivatives must be more transparent and subject to greater regulation than it is today. The Administration has called for a robust and comprehensive regulatory regime for over-the-counter (OTC) derivatives, which, as I understand it, includes interest rate swaps and currency swaps, such as the 2002 derivative transaction between Greece and Goldman Sachs.

It is my understanding that under the Administration's proposal, standardized OTC derivatives would be required to be centrally cleared and traded on an exchange or alternative swap execution facility (ASEF). Customized OTC derivatives would be subject to substantially higher capital requirements. All OTC derivatives (standardized or customized) would be required to be reported to a trade repository so that all relevant US federal financial regulators would have complete visibility into the OTC derivatives markets. Dealers and other major participants in the OTC derivative markets would be subject to strong prudential oversight, including capital requirements and margin requirements. The Commodity Futures Trading Commission (CFTC) would be given clear, unimpeded authority to prevent fraud, abuse, and market manipulation in the OTC derivative markets. I believe that these proposals would substantially improve the stability of our financial markets, improve transparency and price discovery, and protect market integrity.

Although the Administration's OTC derivatives proposals would cover currency-related derivatives, I understand that certain foreign exchange transactions – specifically, FX swaps and FX forwards (FX transactions) – are not included in the Administration's OTC derivatives regulatory reform framework. The Administration has put forward a number of reasons for this position, including:

1. *FX transactions have important economic differences from derivatives – they are generally very short-term, have high turnover ratios, and involve only one or two physical exchanges of principal at exchange rates fixed at inception of the contract. They more closely resemble repurchase transactions than derivatives, and repurchase transactions are not subject to the OTC derivatives regulatory regime.*
2. *The Administration's proposals, as discussed above, do cover currency swaps and currency options.*
3. *FX transactions occur in a liquid, transparent interbank market. Bank regulators already have substantial visibility into these markets and substantial prudential*

authority over the dealers in these markets. For example, bank regulators today impose capital requirements on FX transactions conducted by banks and bank holding companies.

4. *Settlement risk in FX transactions is substantially mitigated by the intermediation of an Edge corporation supervised by the Federal Reserve.*
 5. *The Administration's proposal provides the CFTC with broad anti-evasion authority to ensure that firms do not recharacterize interest rate swaps and currency swaps as FX transactions to escape the proposed comprehensive regulatory regime for OTC derivatives.*
2. Should all foreign exchange and foreign currency swaps and similar transactions be traded on regulated exchanges and cleared through regulated central counterparties? If not, why not?

Standardized currency swaps and other OTC derivatives should be cleared through well regulated central counterparties and should be traded on an exchange or a well regulated ASEF. However, customized OTC derivatives should not be forced into central clearing or exchange trading.

It is my understanding that derivatives clearinghouses would be unlikely to accept illiquid, customized transactions for central clearing because they would not be able to prudently manage the risks of such transactions. Accordingly, requiring central clearing for all derivatives or all currency-related derivatives would be an effective prohibition on such derivatives. I do not believe that would be good public policy.

Companies and governments depend on customized OTC derivatives to protect themselves against risks to their operations – like interest rate risk, currency risk, and commodity price risk. Standardized, exchange-traded derivatives simply do not meet all the needs of many firms and governments. The financial risks that individual firms and governments need to hedge – to allow them to focus on their core missions – are often idiosyncratic, and the hedging tools they use often must be highly specific as well. In addition, accounting rules for derivatives, in many cases, adversely affect those that use standardized derivatives to protect against a customized risk. Banning classes of OTC derivatives would leave companies and governments with a choice between not protecting themselves at all against some of their financial risks or partially protecting themselves against financial risk by using standardized derivatives and receiving unfavorable accounting treatment as a result. Finally, a ban on OTC derivatives is not necessary when the systemic, transparency, market integrity, and investor protection risks from the product can be addressed adequately by a comprehensive scheme of regulation – such as the one that the Administration has proposed.

As discussed in the response to the previous question, although the Administration has proposed to subject currency swaps and interest rate swaps to the new OTC derivatives regulatory regime, it is my understanding that FX transactions would not be within the scope of that regime. The Administration's rationale for not forcing FX transactions to be centrally cleared or exchange traded are set forth in the response to the previous question.

3. Exchange trading and central clearing aside, what disclosure mechanisms are appropriate for foreign currency swaps, both for the transactions themselves and the accounting treatment of such transactions for governmental counterparties?

All standardized currency swaps should be traded on an exchange or an ASEF. This trading requirement would provide, at a minimum, substantial public information about the price and volume of trading in currency swaps. In addition, all currency swaps (standardized or customized) should be reported to a trade repository. All relevant federal financial regulators should have complete access to the data in these repositories and, therefore, should have complete visibility into the currency swap markets. The trade repositories also should periodically disclose to the public aggregate data on currency swap and other OTC derivative transactions.

4. What is the proper role of the Department of the Treasury and the Commodity Futures Trading Commission in determining what should and should not be subject to regulation, exchange trading, clearing, and disclosure requirements?

Treasury has a proper role in recommending – as it has done under this Administration – a comprehensive regulatory framework for currency swaps, interest rate swaps, credit default swaps, and other OTC derivatives that includes central clearing and exchange/ASEF trading requirements for standardized OTC derivatives and disclosure requirements for all OTC derivatives. It is my understanding that Treasury's proposal also includes a broad functional definition of OTC derivatives that should be covered by the new framework. Under that proposal, the CFTC and the Securities and Exchange Commission (SEC) would have authority to interpret the broad statutory definition of an OTC derivative and would have authority to determine which OTC derivatives are standardized and therefore subject to the central clearing and exchange/ASEF trading requirements.

*United States Senate
Committee on Finance*



*Sen. Chuck Grassley · Iowa
Ranking Member*

Opening Statement of Sen. Chuck Grassley
Nominations Hearing
Tuesday, March 2, 2010

Welcome to all of the nominees here before us today. Mr. Goldstein, who has been nominated to be Under Secretary of the Treasury for Domestic Finance, has had a distinguished career. He started at The Brookings Institution before moving on to the Treasury Department, the World Bank, and a private equity firm before returning to the Treasury Department.

His position as managing director of the private equity firm was of particular interest to me because of its offshore investments. The President campaigned against businesses operating offshore. This committee has held hearings on the use of offshore blocker corporations. We learned that the more than 12,000 businesses located at the Ugland House in the Cayman Islands had no purpose for being there other than tax avoidance.

Similarly, the private equity firm of which Mr. Goldstein was a managing director set up blocker corporations at the Walker House, which appears to be down the street and around the corner from the Ugland House. While it is not illegal to utilize such corporations, these arrangements have been the subject of much debate and discussion. In fact, the so-called jobs bill that passed the Senate on Wednesday includes the Foreign Account Tax Compliance Act, which imposes new reporting requirements to provide transparency on offshore entities.

Another hot topic considered by this committee is the tax treatment of carried interests. Mr. Goldstein received a carried interest in investments that his firm managed and that compensation is taxed at capital gains rates that are lower than ordinary income rates.

While neither of these issues impacts Mr. Goldstein's qualifications for the position of Treasury Under Secretary for Domestic Finance, he inevitably will work closely with the Treasury Assistant Secretary for Tax Policy, and most likely this committee, as we continue to combat offshore tax avoidance and debate the taxation of carried interest.

I appreciate Mr. Goldstein's working with the private equity firm to provide details about the use of domestic and offshore blocker corporations. He has responded quickly and thoughtfully. However, I want to briefly mention my frustration with the Administration's insistence that this committee suppress anything that may reflect negatively on its selection of nominees. The

nominee had some concerns about releasing information that may be proprietary or sensitive to his private equity firm. I understand that and agreed that such information should not be released and worked to reach an agreement on such information on Friday. Yet, we didn't get a response from the Administration until late yesterday on what should be redacted. This means that members of this committee had very little time to review this information before this hearing.

I want to thank the chairman and his staff for facilitating these conversations with the Administration but sincerely hope that we will not allow the Administration to continue to stonewall us on issues that we believe should be made public. Mr. Chairman, I ask unanimous consent that these questions and answers be printed in the record. I will have some further questions for him on this topic later.

Next, we have Francisco Sanchez, who's been nominated to be the Under Secretary of Commerce for International Trade. This position is critical to the President's development of an informed vision of our nation's trade agenda. We need a strong advocate for trade serving as Under Secretary. It's more important than ever. Frankly, I'm concerned that we are again losing ground to other trading nations, just as we did in the latter half of the 1990s. Mr. Sanchez has a diverse resume, including service as the Assistant Secretary of Transportation for International Affairs and as a special assistant to the President with a portfolio covering the Americas. These experiences will serve him well if he is confirmed as Under Secretary.

Mr. Sanchez was nominated last April, so I want to describe why his hearing has been so long in coming. HHS has been conducting a review of the Corporation for the Development of Communities in Tampa, Florida, pertaining to the administration of a grant and loan.

Given Mr. Sanchez's leadership roles with both the CDC of Tampa and the company the loan was made to, this committee's oversight responsibility with respect to presidential nominations dictated that this Committee wait until that review was concluded.

That review was concluded earlier this month, and Mr. Sanchez is here with us now. I ask unanimous consent that the HHS official notification of the conclusion of the review, and the cover letter addressed to myself that accompanied that notification, be printed in the hearing record.

Now I would like to turn to Dr. Sherry Glied, who has been nominated to be Assistant Secretary for Planning and Evaluation at the Department of Health and Human Services. Congratulations on your nomination. If confirmed, Dr. Glied will be running the policy setting arm of HHS. Dr. Glied's impressive experience in academia and the federal government will serve her well in this role as she advises the Secretary and President on policy developments in health, disability and human services.

SUBMITTED BY SENATOR GRASSLEY

Jeffrey Goldstein
Responses to Senate Finance Questions

- 1) Please specify the number and types of blockers created and/or utilized by Hellman & Friedman during any time Mr. Goldstein had any association with Hellman & Friedman.

Note: Responses to the following questions have been prepared based on the K-1s or equivalent tax information made available to the blocker entities for the taxable calendar years 2004 - 2008.

For the calendar years 2004 - 2008, I had a carried interest in ten (10) investments that utilized partnerships in which some investors participated through blockers. Of those investments, three (3) foreign investments each utilized one blocker organized in the Cayman Islands, two (2) domestic investments each utilized one blocker organized in the Cayman Islands, and five (5) domestic investments each utilized one blocker incorporated in Delaware. Please note that the Delaware blockers pay United States taxes on all income and the existence of a Delaware blocker is for the convenience of the investors. Since K-1s for 2009 have not yet been prepared, information with respect to 2009 has not been included. Please note, however, that there are no taxable sales or dispositions that will result in UBTI allocable to a foreign blocker in 2009.

- 2) Please list the addresses where each of these blockers is located and/or registered.

The registered address for each of the Delaware entities is:

The Corporation Trust Company
Corporation Trust Center
1209 Orange Street
Wilmington, DE 19801

The registered address for each of the Cayman Islands entities is:

Walkers Corporate Services Limited
Walker House
87 Mary Street
Georgetown, Grand Cayman KY1-9005

- 3) Please specify amounts of income earned by each blocker during the years Mr. Goldstein worked at Hellman & Friedman, and the number of domestic and foreign tax-exempt organizations associated with each blocker.



- 4) Please specify the amount of UBIT that would have been owed by Hellman & Friedman tax-exempt investors but for the use of blockers (both domestic and international blockers) by Hellman & Friedman.

As noted above, the Delaware blockers pay United States taxes on all income. Since the foreign blockers in the aggregate have a net UBTI loss, the amount of United States taxes that would have been owed would be zero.

- 5) Assuming that Hellman & Friedman's investors would not have changed their investment behavior because of the lack of blockers, please specify that amount, if any, that Hellman & Friedman's fee, profit, and/or income would have decreased if such UBIT had in fact been paid by Hellman & Friedman's tax-exempt investors/clients.

Had UBIT been paid by the investors in the blockers described above, Hellman & Friedman's fees, profit and/or income would be unchanged.

- 6) How do you view the use of blockers by tax-exempt organizations from a policy perspective?

I do not consider myself an expert on tax law and tax policy. I would, if confirmed, be happy to work with this Committee and the Administration on this issue.

- 7) If you think fully responding to any of these questions would violate a confidentiality agreement, please provide a copy of any relevant confidentiality agreements.

[REDACTED]

Senator Grassley Questions for Jeffrey Goldstein
February 9, 2010

1. Aside from tax-exempt organizations utilizing blockers to avoid Unrelated Business Income Taxes, what other types of investors utilize blocker corporations and what tax benefit do they receive for investing in them?

This is not my area of expertise but in looking into your question I have learned that in the investment fund context, I understand that many foreign investors use blockers, both domestic and foreign, to cause the blocker to file tax returns instead of the foreign investor. This allows one return to be prepared, usually, by the fund sponsor or its accountants, instead of separate returns by each foreign investor.

2. For [REDACTED] the [REDACTED] blockers you provided information on in your last written response, please indicate how many were tax-exempt, the type of entity, e.g., charity, private foundation, pension fund, etc., whether they are a U.S. or Foreign investor, and percentage ownership interest in the corporation.

3. Since a U.S. blocker corporation likely pays U.S. Income tax, what benefits accrue to investors in such corporations? In other words, why do U.S. and foreign investors invest in U.S. blockers? Also, why would a U.S. investor invest in a "Foreign for U.S. Investment" blocker?

Again, this is not my area of expertise but in order to be able to respond to your questions I have learned that entities invest in U.S. blockers so that they can rely on the blockers to file income tax returns on their behalf.

4. Did Hellman & Friedman create blocker corporations in any country other than the Cayman Islands? If yes, please identify. Please explain specifically why blockers were set up in the Cayman Islands, or any other jurisdiction if they exist. What benefits accrue to investors from investing in a blocker corporation set up in the Cayman Islands versus another foreign jurisdiction?

I believe that Hellman & Friedman had blocker corporations only in the U.S. and the Cayman Islands. It is my general understanding that the Cayman Islands is preferred over alternative low-tax locations because it is viewed as having a reliable legal system, and experienced and efficient legal and administrative support service providers.

5. Please explain why the non-blocker entities, i.e., the entities in which blockers invest, are Cayman entities. What benefits accrue for participating in Cayman partnerships and corporations? What is the specific business purpose of operating in the Cayman Islands?

I am not certain as I did not make this level of decision on location but it is my understanding that partnerships in common law countries are generally treated in a similar manner as tax pass-throughs. With respect to foreign corporations, as discussed

above, the Cayman Islands is favored among alternative low-tax locations for both legal and administrative support reasons.

6. You have said that as a Managing Director and Partner of Hellman & Friedman, you had no role in the creation of blockers. Please describe your duties at Hellman & Friedman. How many other Managing Directors were there? Did you have input, or any opportunity to provide input, on the use of blockers? As Managing Director and Partner, did you not have any input whatsoever in deciding to do business in the Cayman Islands?

My primary responsibilities as a Managing Director of Hellman & Friedman were to identify and assess market and investment opportunities, negotiate transactions, monitor and oversee investments and recruit and retain personnel.

There were 15 Managing Directors. I did not work on the tax structuring of our investments, including decisions whether to use blockers and where to locate blockers. These structures were established prior to my joining the firm in 2004.

7. Why was Walkers Corporate Services Limited selected by Hellman & Friedman to facilitate the use of blockers? What positions at Hellman & Friedman would have had any contact with Walkers Corporate Services.

As I have stated before, I was not involved in the creation or management of blockers, and did not make the decision to select Walkers Corporate Services Limited.

The persons who dealt with the Walkers would have been lawyers, finance executives and accountants at or retained by Hellman & Friedman.

8. You have stated that "I have a carried interest in ten (10) investments that utilized partnerships in which some investors participated through blockers." Please define carried interest, provide the value of each such interest, how the value was calculated, and explain how you account for such interests for tax purposes. If you will be divesting in these interests to comply with ethics rules, please describe how such divestiture will be treated for tax purposes.

Carried interest is a profits participation which is taxed in accordance with the character of the underlying income realized by the partnership. The majority of income earned by a private equity fund is in capital gains from the sale of portfolio companies.

I am divesting of these investments as described in Question 7 of Section F (Financial Data) of the Senate Finance Committee Questionnaire. Regarding the tax treatment of the divestiture, I expect that it will be treated as a combination of capital gains and ordinary income on my tax return.

9. Does Hellman & Friedman have any staff working in the Cayman Islands? What office space does Hellman & Friedman itself have in the Cayman Islands? Please describe in detail the extent of Hellman & Friedman's physical presence and staffing in the Cayman Islands.

Hellman & Friedman does not have staff or office space in the Cayman Islands. It is my understanding that Hellman and Friedman, like its peer competitor firms, principally relies on administrators such as Walkers Corporate Services Limited to perform the activities undertaken in the Cayman Islands.

10. On line 10 of the spreadsheet you gave us, the "Foreign for Foreign Investment" line, there are no U.S. Investors, and nine Foreign Investors. However, there are amounts listed as "Total Taxable Income per K1" and "Total UBTI per K1." Why would a U.S. Form K1 be issued? What is the U.S. nexus that causes that?

I am not certain of all of the reasons why but it is my understanding that investors prefer to receive information on a Form K-1, whether or not they technically are required, because it is easier for investors to incorporate the information into their systems and/or returns.

February 16, 2010 - Revised Question 5

5) *In response to your request for further clarification about the specific business purpose of operating in the Cayman Islands, I would note again that I am not a tax lawyer or tax expert, but I have been told that the business purpose for the choice of a Cayman Islands limited partnership (as opposed to a Bermuda or Canadian limited partnership or a Dutch partnership (CV)) as a foreign non-blocker entity relates to the efficiencies of locating as many entities in one jurisdiction as possible in order to reduce costs. I further understand that corporations tend to favor the Cayman Islands among alternative low-tax locations because of the efficiency of its legal and administrative support services. Unfortunately, I cannot speak to the specific reasons why Hellman and Friedman chose to operate in the Cayman Islands. I joined the firm in 2004 when I believe these structures were already in place. During my time at Hellman and Friedman I did not oversee or review the Cayman operations or the purpose of utilizing this location.*

FEBRUARY 23, 2016 - Addendum

As I have previously indicated, I am not a tax expert but in order to be as responsive as possible I have investigated this issue and have found the following. Investing in Cayman Island investment funds and corporate blockers is a common practice among US private equity and other investment firms. Advantages of US firms investing in the Caymans include a) no Cayman Islands income tax; b) a Commonwealth heritage, including a legal system with many similarities to the US legal system; c) English as a common language; d) a close geographic and time zone proximity to the US; and e) a stable government and investment structure.

Tax-exempt entities such as a pension fund may find investing in the Caymans through a corporate blocker desirable because it provides a way to maximize return on investment, resulting in enhanced pension security while minimizing costs to employers and employees. Without a corporate blocker, the investment earnings of tax-exempt entities on debt-financed funds are considered to be unrelated business taxable income and are subject to the unrelated business income tax. With a corporate blocker, such investment earnings are not considered to be unrelated business taxable income and thus the return on investment going back into the pension fund is greater. The blockers used by Hellman & Friedman for its tax-exempt investors help minimize or eliminate unrelated business income tax for those tax-exempt entities.

As I have stated previously, my primary responsibilities as a Managing Director of Hellman & Friedman were to identify and assess market and investment opportunities, negotiate transactions, monitor and oversee investments, and recruit and retain personnel. I did not work on the tax structuring of our investments, including decisions whether to use blockers and where to locate blockers. I believe that Hellman & Friedman operated in compliance with the tax laws in effect, and the use of corporate blockers is an ordinary practice within the industry on behalf of tax-exempt entities.

Further, I am aware of the concerns surrounding investments in offshore locations and whether earnings on those investments are properly reported for US income tax purposes. I understand the offshore proposals included in the Baucus/Grassley jobs bill draft and in the HIRE Act address these concerns, and would result in disclosure to the IRS of US account holders or, alternatively, 30% withholding on US source payments. I support the policy objectives of these offshore proposals.



DEPARTMENT OF HEALTH & HUMAN SERVICES

ADMINISTRATION FOR CHILDREN AND FAMILIES
370 L'Enfant Promenade, S.W.
Washington, D.C. 20447

FEB 03 2010

Toni Watts
Chief Executive Officer
Corporation to Develop
Communities of Tampa, Inc.
P.O. Box 310385
Tampa, FL 33680

RE: Grant Number 90EE0714

Dear Ms. Watts

This correspondence is an official notification that the Administration for Children and Families (ACF) concludes its review of the Corporation to Develop Communities of Tampa, Inc. (CDC of Tampa) policies and monitoring practices for funds awarded under the Office of Community Services, Fiscal Year 2005 Community Economic Development (CED) Program; Grant Number 90EE0714.

The Office of Community Services conducted a review of the CDC of Tampa's grant award number 90EE0714, funded through the CED program. The CDC of Tampa received a \$700,000 grant for a project period of September 30, 2005 to September 29, 2008 to provide a loan of \$500,000 to Renaissance Steel, LLC (Renaissance Steel), a Florida limited liability company, to create 100 new jobs in the manufacturing of light gauge steel frames and component parts for commercial and housing construction. In November, 2007, CDC of Tampa informed OCS that they were notified by Renaissance Steel that the company was closing its business, defaulting on its loan, selling its assets and filing for bankruptcy protection. The CDC of Tampa proceeded to litigate the default on the loan and sought recovery of any and all investment assets, loan principle and/or equipment provided through this grant to Renaissance Steel.

OCS reviewed the policies, practices and default loan procedures of the CDC of Tampa and determined that there were no material weaknesses in its implementation of the terms and conditions of the grant award. Based on this review, ACF has determined that the review of the CDC of Tampa grant number 90EE0714 be concluded.

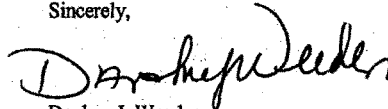
However, please be advised that any funds, equipment, intangible property, or any other assets that were acquired by the CDC of Tampa through the use of Federal grant funds associated with grant award 90EE0714, must be resolved consistent with 45 CFR Part 74 - Uniform Administrative Requirements for Awards and Sub-Awards to Institutions of

Page 2 – Ms. Watts; Review of CDC of Tampa, Grant Number 90EE0714

Higher education, Hospitals, Other Non-Profit Organizations and Commercial Organizations, included sections 74.34 and 74.36, and any other applicable laws.

Thank you for your cooperation in this review. If you need further assistance on any matter on the business aspect of managing your Federal grant awards with ACF, please feel free to contact Katrina Morgan at (202) 401-5127 or katrina.morgan@acf.hhs.gov.

Sincerely,



Daphne J. Weeden
Director
Division of Discretionary Grants
Office of Grants Management

cc. Lynda Perez, OCS
Llewellyn Woolford, OGC



DEPARTMENT OF HEALTH & HUMAN SERVICES

Office of the Secretary

The General Counsel
Washington, D.C. 20201

FEB - 5 2010

The Honorable Charles Grassley
United States Senate
Washington, DC 20510

Dear Senator Grassley:

I am writing to follow up on your inquiry regarding Mr. Francisco Sanchez and the review recently undertaken by the Office of Community Services, Administration for Children and Families, HHS involving a 2005 grant to the Corporation to Develop Communities of Tampa (CDC of Tampa).

The Office of Community Services, Administration for Children and Families, HHS, has concluded its review of the grantee, CDC of Tampa, of which Mr. Sanchez was a board member. I enclose a copy of their letter to the grantee stating that the agency determined there were no material weaknesses in the CDC of Tampa's implementation of the terms and conditions of the grant, and that the agency is closing its files relating to this grant and plans to take no further action. To my knowledge, the Department is not conducting and has not conducted any investigation or other review involving Mr. Sanchez.

If you would like to discuss this matter further, please do not hesitate to give me a call on 202-690-7721.

Sincerely,

A handwritten signature in black ink, appearing to read "David S. Cade".

David S. Cade
Acting General Counsel

Enclosure

GEORGE S. LEMIEUX
FLORIDA

United States Senate

WASHINGTON, DC 20510-0907

March 2, 2010

COMMITTEE
ARMED SERVICES
COMMERCE, SCIENCE
AND TRANSPORTATION
SPECIAL COMMITTEE ON AGING

The Honorable Max Baucus
Chairman
U.S. Senate Committee on Finance
Dirksen Senate Office Building
Washington, DC 20510

The Honorable Chuck Grassley
Ranking Member
U.S. Senate Committee on Finance
Dirksen Senate Office Building
Washington, DC 20510

Dear Chairman Baucus and Senator Grassley:

Thank you for the opportunity to introduce to the Committee a fellow Floridian, Mr. Francisco Sanchez nominated to be Under Secretary of Commerce for International Trade. I respectfully ask that these brief remarks be included in the record.

The International Trade Administration plays a key role in promoting American exports, and I am confident of Mr. Sanchez's nomination to lead this agency.


Frank earned his undergraduate and law degrees from Florida State University and a master's degree in public administration from the Kennedy School of Government at Harvard. He practiced corporate and administrative law in Miami, and following his legal career, he served as a Special Assistant in the Office of the Special Envoy for the Americas. His distinguished public career includes also includes serving with the National Security Council, the State Department, and the Office of the U.S. Trade Representative.

For the past fifteen years, Frank has worked on a host of projects involving labor-management negotiations, litigation settlement, negotiation strategy, alliance management, and facilitation and training – all experiences that have prepared him lead the U.S. government agency tasked with strengthening American industry's competitiveness and ensuring fair trade.

Over the years, Frank has earned a reputation as a skilled negotiator and he has a strong record on trade. He helped negotiate several of the "Open Skies" agreements approved during the Clinton Administration. With our nation facing unprecedented economic challenges, we need qualified, experienced individuals like Frank to serve our country.

I commend Frank for his willingness to serve, and I urge my colleagues to support his nomination to be our next Under Secretary of Commerce for International Trade.

Sincerely,



George S. Lemieux
United States Senator

Senate Committee on Banking, Housing, and Urban Affairs
Opening Statement for the Record
Francisco J. Sanchez

Thank you, Chairman Baucus, Ranking Member Grassley and members of the committee. And thank you, Sen. Nelson and Sen. Lemicux, for your kind words.

There is no greater call than to serve one's country, and so I am honored by President Obama's nomination to serve as Under Secretary of Commerce for International Trade. I am humbled by the trust the President and Secretary Locke are placing in me. I want to thank my mother and my late father for their support and encouragement. I credit them with my love for public service.

As Secretary Locke has said, the role of the Department of Commerce is to be an engine of innovation, job growth and economic renewal. The Department's mission to help create jobs through trade has been enhanced by the National Export Initiative announced by the President in his State of the Union Address. In a changing economy, we should not underestimate the role of exports in creating jobs and, if confirmed, I look forward to working with you to advance our nation's economic well-being through international trade.

The International Trade Administration supports efforts to strengthen the competitiveness of U.S. industry, to promote trade and investment and to ensure compliance with trade laws and agreements. ITA's critical mission enhances America's global competitiveness and expands commercial opportunities for American manufacturers and service workers throughout the world.

My experiences in both the public and private sector have prepared me for the responsibilities that accompany this mission. Early in my career, I had the honor of serving former Senator Bob Graham, while he was governor of Florida, as the first director of my state's Caribbean Basin Initiative program. I then served in the Clinton administration in the Office of the Special Envoy for the Americas, a role that required carefully balancing foreign policy goals while advancing U.S. economic interests. Subsequently, I served as Assistant Secretary of Transportation for International Negotiations.

As a businessman, I have had the opportunity to work with American businesses, multi-national companies and international organizations in more than 30 countries around the world. I have consulted with heads of government and community leaders in Latin America to help resolve a range of complex issues. In Medellín, Colombia, I led a team as part of a "Teaching Tolerance" program, an initiative to break the cycle of violence plaguing the country. My work has included projects with the World Bank and the Inter American Development Bank. I also advised the president of Ecuador in negotiations to settle a 56-year-old border dispute with Peru.

These opportunities have given me a unique perspective on the expansion and viability of American businesses in the global marketplace. With this in mind, if confirmed I would pursue five specific priorities to help the Department of Commerce and ITA contribute to the nation's economic growth.

The first is targeting emerging markets, where new opportunities lie for American businesses that can then hire more workers at home if those opportunities are developed. The global market is growing, and its prospects for American companies and American workers can be highly rewarding.

The second is to focus on how emerging technologies created in the United States – especially green and clean technologies – can generate new opportunities for American businesses in foreign markets. Manufactured here at home, these products can be the engine driving the new jobs of the future.

The third priority is to work more closely with businesses of all sizes, with a special emphasis on small and medium-sized enterprises to increase their capacity to export. Companies looking to expand their markets and their workforces are *our* business. I welcome the opportunity to be a champion for all U.S. companies.

As the number of companies exporting grow, my fourth priority would prove crucial: vigorously enforce trade laws and rules so that our businesses can compete fairly around the globe. If confirmed to serve as the country's chief trade enforcement officer, it will be my duty to ensure we have the necessary personnel and policies to protect American businesses from unfair foreign trade practices. And my fifth priority is closely related: to be always a vigorous and forceful voice for American commerce and workers in all sectors.

Amidst its many responsibilities, ITA is also helping with the recovery effort in Haiti. Our island neighbor has much to contribute to the family of nations. As part of the Department of Commerce's larger responsibility to develop and implement international trade policies and strategies, if confirmed I would look forward to playing a role in the success of the Haitian Initiative.

There is nothing more important than the economic development and recovery of our nation. These are priorities of the President and of Secretary Locke. If confirmed, I look forward to working closely with this committee and ITA's hard-working and dedicated team of career professionals to support American innovation and entrepreneurship and to open global markets for American-made goods and services, while creating new jobs and economic growth at home. Thank you.

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

A. BIOGRAPHICAL INFORMATION

1. Name: (Include any former names used.): **Francisco "Frank" Juan Sanchez**
2. Position to which nominated: **Under Secretary of Commerce for International Trade**
3. Date of nomination: **April 20, 2009**
4. Address: (List current residence, office, and mailing addresses.)

5. Date and place of birth: **Tampa, Florida, June 16, 1959**
6. Marital status: (Include maiden name of wife or husband's name.)
7. Names and ages of children:

8. Education: (List secondary and higher education institutions, dates attended, degree received, and date degree granted.)
University of Florida; 1977-78, attended freshman year
Florida State University; 1979-82, BA in Business & Spanish '82
Florida State University; 1983-86, JD '86
Harvard University; 1992-93, MPA '93
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.)

Florida Department of Commerce	Director, Caribbean Basin Initiative	Promotion of trade & investment	Tallahassee, FL	1984-1986
Steel Hector & Davis	Attorney	Corporate Law Firm	Miami, FL	1987-1992
Conflict Management Inc. "CMI"	Consultant	Complex negotiation & conflict resolution consulting	Cambridge, MA	1992-1997
CMI International Group	Managing Director	Complex negotiation & conflict resolution consulting	Cambridge, MA	1997-1999
Office of the Special Envoy to the Americas, The White House	Special Assistant to the President, Chief of Staff for the Envoy's Office	Promotion of trade & Democracy in the Americas	Washington, D.C.	1999-2000
US Department of Transportation	Assistant Secretary For International Affairs	Oversaw trade negotiations in transportation area; oversaw aviation policy	Washington, D.C.	2000-2001
Cambridge Negotiation Strategies	Managing Director	Business Consulting	Tampa, FL	2001-Present
Renaissance Steel	CEO	Steel Fabrication	Tampa, FL	May 2006-November 2007
Akerman Senterfitt	Of Counsel	Law firm	Tampa, FL	April 2008-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.)

- **Hillsborough County Administrator Business Advisory Committee**
- **Air Force Academy Selection Committee for Senator Bill Nelson**

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.)

- **CMI International Group, LLC; Managing Director, 1997-1999**
- **Cambridge Negotiation Strategies, Inc.; Managing Director, 2001-Present**
- **CMPartners; Senior Consultant, 2003- Present**
- **Renaissance Steel; CEO, 2006-07**
- **Powerlinx, Inc.; Board member, 2004-2008**
- **Akerman Senterfitt; Attorney, 2008- March, 2009**
- **Diatect International; Director, 2008-2009**
- **Northstar Bank; Director, 2007- Present**
- **Topview Ventures; Shareholder, 2006- Present**
- **Havana Dreams; Shareholder, 2006-2007**
- **Hemingway Capital; Shareholder, 2008- Present**
- **TECO Energy; Consultant, 2003-2007**
- **Florida Sports Management; Consultant, 2004-2007**
- **Marsh & McLennan Co.; Consultant, 2005-2007**
- **Teen Arrive Alive; Consultant, 2005-2006**
- **Inter-American Development Bank; Consultant, 2001- 2006**
- **Government of Ecuador; Consultant, 2003- 2004**
- **Terra Nova Ventures, LLC; Consultant, 2008- Present**
- **Bank of New York; Consultant, 2007**
- **Leadership Florida; Consultant, 2008**
- **American Airlines; Consultant, 2001-2002**
- **Merial Pharmaceuticals; Consultant, 2005-2008**
- **Sykes Enterprises; Consultant, 2004- 2005**

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

- Tampa Chamber of Commerce; Board member, 2004-2007
- Tampa Bay Reads; Board member, 2002-2005
- Tampa Bay Performing Arts Center; Board member, 2005-Present
- Boys and Girls Clubs of Tampa Bay; Board member, 2003-Present
- Crisis Center of Tampa Bay; Board member, 2004-2006; Member of Board of Governors, 2007-Present
- ChairScholars Foundation; Board member, 2004-Present
- Patel Foundation; Chairman of the Board, 2005-2007
- St. Joseph's Hospital Foundation; Board member, 2004-2006
- St. Joseph's Children's Hospital; Board member, 2007-Present
- Community Development Corp. of Tampa; Board member, 2003-2007
- Bay Area Legal Services; Development Board member, 2006-Present
- Leadership Florida; Member, 1989-Present
- The Spring of Tampa Bay; Board member, 2003-2006
- The Tampa Club; Member, 2001- February, 2009
- The Business Journal of Hispanic Research; Associate Editor, 2007 Present
- Spanish Lyric Theatre; Board member 2001-2003
- Moffit Cancer Center; Hispanic Advisory Council, 2007– present
- Tampa Bay Rays Foundation; Advisory Board, 2007- present

13. Political affiliations and activities:

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

I ran for Mayor of Tampa in 2003.

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

- Member, Hillsborough County Democratic Executive Committee, 2004–2006
- Member, Obama for America National Finance Committee, 2007-2008

- **Co-Chairman, Obama for America National Hispanic Leadership Council, March 2008 – November 2008**

- 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..

\$200 to Annette Taddeo for Congress 2009
\$250 to Emanuel Pleitez for Congress 2008
\$4600 to Obama for America 2008 (\$2300 for the primary and \$2300 for the general election)
\$500 to Hillary Clinton campaign 2008
\$500 to Raul Martinez for Congress 2008
\$500 to Joe Garcia For Congress 2008
\$500 to Doug Belden for Tax Collector
\$500 to Phyllis Busansky For Congress 2006
\$500 to Bill Nelson For Senate 2006
\$1000 to Jim Davis For Governor 2006
\$500 to Bob Buckhorn for County Commissioner 2004
\$2,500 to the DNC 2004
\$2000 to the Al Gore Campaign For President 2000

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.)

2007 Junior Achievement Outstanding Alumnus of the Year
2005 Governor's Point of Light Award for Outstanding Community Service
2004 Hispanic Businessman of the Year for Tampa, Florida
2003 Outstanding Graduate Hillsborough County Public Schools

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

July 1996 "La Negociacion el Proceso Legislativo" (Cf. "Negotiation and the Legislative Process"), *Negociacion 2000: La Coleccion de Conflict Management*, McGraw-Hill Interamericana, (Colombia 1996).

- Jan. 1998 “Preparandose para Negociar” (Cf. “Getting Ready to Negotiate”). Danny Ertel and Francisco J. Sanchez with Horatio Falcao. *Carta Gerencial* 9, January-February Ed., 17 (Uruguay, 1998).
- May 1998 “A Fase da Preparacao” (Cf. “Getting Ready to Negotiate”) Ertel & Sanchez with Horacio Falcao. *HSM Management* 8, May-June Ed., 62 (Brazil, 1998).
- Nov. 2008 Sanchez, Frank. “Snapshots from the Campaign Trail”. The Tampa Tribune 8 November, 2008: Opinion Section.

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.)

To the best of my knowledge, below is a list of the speeches I have given in the last five years:

- In 2004, I gave a speech at the Tampa Bay Business Journal Power Breakfast, entitled “Power Negotiations”.
- In 2005, I gave the Commencement Address at Springfield College (speech attached).
- I gave a number of speeches in 2007 and 2008 on behalf of Barack Obama, mostly concerning policy in Latin America and other issues relating to Hispanic Americans.
- In 2008, I gave a speech at the Tampa Bay Business Journal Power Breakfast (speech attached).
- In 2008, I gave a speech at Leadership Florida on Negotiation Skills.
- In 2008, I gave a speech at a conference on Security hosted by the Andean Parliament, in Bogata, Colombia.
- In 2008, I gave a speech entitled “The New Latin Voter: Panel Discussion on the Latin Vote in the 2008 Presidential Election.”

Please note that I do not have complete written copies of many of my speeches as they were often extemporaneous or based on short summary notes and not complete written remarks to be read verbatim.

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

I have served in various roles in both the Federal government and the State of Florida promoting trade and investment. I was the Florida Department of Commerce's first Director of the Caribbean Basin Initiative. This was a program that promoted trade and investment in the Caribbean. Later in my career I served as a Special Assistant to the President in the Office of the Special Envoy to the Americas. The primary role of the Office was to be the President's personal representative in the Western Hemisphere; and, in particular, to promote trade and democracy within the region. I was later appointed by the President as Assistant Secretary of Transportation for International Affairs. In that role, I oversaw trade negotiations in the transportation sector. Finally, I have served as a business consultant to American companies in various parts of the world.

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 will sever all such connections and place my company, Cambridge Negotiation Strategies, in an inactive status.
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.

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

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.

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

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.)

In connection with the nomination process, I have consulted with the Office of Government Ethics and the Department of Commerce's designated agency ethics official to identify potential conflicts of interest. Any potential conflicts of interest will be resolved in accordance with the terms of an ethics agreement that I have entered into with the Department's designated

agency ethics official and that has been provided to this Committee. I am not aware of any other potential conflicts of interest.

5. **Two** copies of written opinions should be provided directly to the Committee by the designated agency ethics officer of the agency to which you have been nominated and by the Office of Government Ethics concerning potential conflicts of interest or any legal impediments to your serving in this position.
6. The following information is to be provided only by nominees to the positions of United States Trade Representative and Deputy United States Trade Representative:

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

N/A

D. LEGAL AND OTHER MATTERS

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

No.

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

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 not been a defendant in any civil or criminal proceeding or the subject of any agency inquiry or investigation. However, in 2006, the Department of Health and Human Services (HHS) Office of Community Services (OCS) awarded a block grant to the Community Development

Corp. of Tampa (CDC Tampa). Some of the proceeds of this grant were loaned to Renaissance Steel, LLC when I was the company's CEO. HHS is conducting a review to confirm that CDC Tampa deployed the block grant funds in accordance with OCS requirements. I have been assured by the HHS Office of General Counsel that I am not a subject of this review or of any investigation related to this matter.

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.

For the last sixteen years I have advised clients, including both governments and private companies, in complex negotiations and conflict resolution. I look forward to bringing that skill set in representing the United States in International Trade.

In 2006 I was brought in to serve as a new CEO for the above mentioned company, Renaissance Steel, which was a startup that had been undergoing significant revenue challenges and was exhausting its operating capital. While I was able to increase sales fivefold under my purview, the company was not able to completely turn around and had to close its doors.

E. TESTIFYING BEFORE CONGRESS

1. If you are confirmed by the Senate, are you willing to appear and testify before any duly constituted committee of the Congress on such occasions as you may be reasonably requested to do so? **Yes.**
2. If you are confirmed by the Senate, are you willing to provide such information as is requested by such committees? **Yes.**

Questions for the Record
Francisco Sanchez
Nominee for
Under Secretary for International Trade

Questions from Chairman Max Baucus

QUESTION:

I fully support the President' goal of doubling U.S. exports in the next five years, and the Commerce Department will play a central role in this effort through the recently announced National Export Initiative.

As you look to expand export promotion programs, you must focus on how to help small businesses, including those in rural states like Montana. You can do this by ensuring your export promotion programs are accessible and affordable to American businesses of all sizes. What concrete steps will you take to make sure small businesses get the export assistance they need, particularly in rural areas?

I would also like you to establish benchmarks to monitor the progress the Commerce Department is making toward meeting the President's goal of doubling U.S. exports in the next five years. Will you commit to establishing such benchmarks and submitting biannual reports to me describing your progress in meeting these benchmarks?

ANSWER:

If confirmed, I will work hard to ensure that the International Trade Administration's (ITA) export assistance programs are accessible to all American businesses, especially small and medium enterprises located in rural areas. I will reinforce the efforts of ITA's US and Foreign Commercial Service (US&FCS) to reach out to businesses located in rural areas to assist them with exporting. From FY09 to the present, ITA has conducted 212 events and activities targeted to rural companies. For example, ITA's Montana US Export Assistance Center (USEAC) works with rural companies on a regular basis. Total Baking Solutions, Inc., of Roundup, Montana, is a leading manufacturer of high-quality baking-related equipment. The Montana USEAC counseled the company on NAFTA rules of origin, the Harmonized Commodity Description and Coding System, the customs clearance process, and export licensing provisions. With this help, Total Baking Solutions completed sales of nearly \$1.2 million to Canada.

In addition, in 2008, US&FCS enhanced its ability to serve SMEs by making its services more affordable, establishing a single worldwide fee for standard services that includes incentives for companies that are new to exporting. Qualifying new-to-export companies that use standardized US&FCS services for the first time may receive up to a 50 percent discount. If confirmed, I am committed to working with the Committee to ensure that Congress is fully informed about progress, including the development of appropriate benchmarks and performance metrics, to meet the President's goal of doubling exports over five years.

QUESTION:

I have long been concerned about the effect of Chinese subsidies on the competitive position of U.S. producers. In 2007, the Commerce Department decided to apply countervailing duties to Chinese products to counteract the negative effect of subsidies. I supported Commerce's decision. And in 2007 I introduced trade enforcement legislation to codify this decision.

What is your view on that legislation, or similar legislation codifying the Department's practice? Do you commit that Commerce will continue its practice of applying countervailing duties to subsidized Chinese imports during your tenure?

ANSWER:

It is my understanding that the Commerce Department may apply the countervailing duty law to U.S. imports from China under existing legal authority and has been doing so since 2006. I assure you that, if confirmed, I will do all that I can to see that Commerce continues its practice of enforcing the unfair trade laws with respect to dumped or subsidized imports from China.

QUESTION:

Mr. Sanchez, the Office of Textiles and Apparel (OTEXA) within the Import Administration has taken a position on the Dominican Republic Earned Import Allowance (EIA) trade preference program that is contrary to the intent and plain language of the legislation and the interest of U.S. companies. OTEXA has unilaterally required that all U.S. wholly formed fabrics eligible for this program must also be dyed and finished in the U.S. rather than allowing them to be dyed and finished in the U.S. or in our trading partner countries. OTEXA solicited and received public comments on this issue by May 4, 2009, but has taken no further action in nearly a year. What is your position on this issue, and how will you work to ensure this trade program is implemented in accordance with the intent of Congress and in an effective and timely manner?

ANSWER:

It is my understanding that Commerce has interpreted the requirements of the Dominican Republic Earned Import Allowance trade preference program consistent with similar trade preference programs, and that importers and U.S. manufacturers are benefitting from the program. I understand, however, that parties have raised questions about Commerce's interpretation of the legislation. I am mindful of the import of this issue and am aware that all parties are interested in the outcome of Commerce's implementation review and want to ensure that the EIA Program is implemented in a way that does not undercut its effectiveness. If confirmed, I will look into this matter closely in order to ensure that the concerns of all stakeholders are considered.

Questions for the Record
Francisco Sanchez
Nominee for
Under Secretary for International Trade

Questions from Ranking Member Chuck Grassley

QUESTION:

I'm growing increasingly concerned about China's trade policies. Some of the issues are longstanding, like China's manipulation of its currency exchange rate. Other issues are newer, but just as serious. For example, China is implementing "indigenous innovation" policies that place U.S. firms at a competitive disadvantage. Software piracy is another serious problem that is costing U.S. firms billions of dollars each year.

It appears that the Chinese government is engaging in a deliberate industrial policy to disadvantage foreign firms in the Chinese market and to give Chinese firms an unfair advantage in the rest of the world.

The Administration needs to make these issues a priority in our bilateral relations. If you are confirmed, what will you do to help resolve them?

ANSWER:

I am committed to ensuring that American goods and services can be exported to the growing and important Chinese market, that U.S. companies and their products are able to compete on a level playing field in that market, and that Chinese companies compete fairly in the U.S. market. If confirmed as Under Secretary, I will continue to use existing dialogues and diplomacy to press on these issues and to actively promote the export of American goods and services. At the same time, I will not hesitate to enforce the trade laws, and will work with other U.S. Government agencies to make full use of all of the tools available to us to ensure that China complies with its international trade obligations.

QUESTION:

The conference report to the most recent Commerce-Justice-Science appropriations legislation instructed the Department of Commerce to prepare a report on the relative advantages and disadvantages of prospective and retrospective antidumping and countervailing duty systems.

This is an issue that interests me. It is potentially relevant to the zeroing issue that is costing us so much time and effort at the World Trade Organization. I understand that the Department's report is due in June.

Can you assure me that, if you are confirmed, you will submit copies of the report to this Committee?

What are your views with respect to the zeroing issue? What are your views regarding our experience to date with dispute resolution proceedings at the World Trade Organization?

ANSWER:

If confirmed, I will ensure that the Department submits this report to Congress, including copies to your Committee.

With respect to zeroing and dispute resolution, it is my understanding that, taken as a whole, the WTO dispute settlement system has worked well for the United States. Nevertheless, there are some areas in which the dispute settlement system may not have performed as well as others, including in the trade remedy area. I am very concerned that on certain issues, including zeroing, it appears that panels and the Appellate Body seem to be creating obligations that were not agreed to by WTO Members. If confirmed, I will work closely with USTR to ensure that all appropriate steps are being taken so that WTO panels and the Appellate Body respect the texts of the agreements and adhere to the agreed upon standard of review.

QUESTION:

I am concerned that this Administration's new focus on export promotion comes as a distraction to the most immediate step we can take to promote U.S. exports, which is to implement our trade agreements with Colombia, Panama, and South Korea.

We all want to see more exports. But that doesn't justify throwing more money and earmarks at export programs. I'm particularly concerned when I learn that the President's new National Export Initiative has been budgeted, and yet the participating executive departments still have 180 days to submit detailed plans to the President on how such monies would be spent.

Most bureaucracies will find a way to spend money if they're told to spend it. That doesn't make it good policy. With unprecedented budget deficits forecast for years to come, it's more important than ever that we scrutinize any proposals for increased spending.

How can the International Trade Administration use existing resources and funding levels to better meet the needs of U.S. exporters?

ANSWER:

I agree that it is important that federal programs – particularly export promotion programs – deliver results for the American people and the economy overall. One of the primary missions of the International Trade Administration is to promote US exports. If confirmed, I will work to ensure that ITA's current FY10 budget – and any future additional resources – are spent wisely and maximize job creation. At present, ITA is reviewing and realigning its programs in support of the President's export goals. As part of this effort, ITA will regularly report on the value of export successes; the number of new-to-market firms; and the value of advocacy wins.

It is envisioned that the Department's 180-day plan will closely mirror the detailed plans included in ITA's FY11 budget request to the President. ITA's FY11 budget proposal includes a detailed spending plan and performance measures. If confirmed, I will work hard to ensure that the President's National Export Initiative and the ITA's export promotion program expand US exports and support US job creation.

The Administration's approach to increasing exports and creating jobs includes support for the three pending free trade agreements. Like you, I support their implementation, and if confirmed, I will work with USTR to ensure their passage.

Questions for the Record
Francisco Sanchez
Nominee for
Under Secretary for International Trade

Questions from Senator Jay Rockefeller

QUESTION:

I understand that a number of requests for FTZ subzones have targeted the antidumping relief that protects a domestic manufacturer in my state and its workers. Approval of the first such request led to 85 lost jobs, as the applicant used its ability to avoid paying duties on dumped silicon metal entering the subzone to leverage down prices and replace domestic product with imports.

The Board's regulations contain the following policy statement: "Board policy. Zone procedures shall not be used to circumvent antidumping (AD) and countervailing duty (CVD) actions under 19 CFR parts 353 and 355." 15 C.F. R. § 400.33(b)(1).

The regulations also require the Board to deny or restrict authority for proposed activity if the activity is inconsistent with U.S. trade and tariff law, or policy formally adopted by the Executive Branch. 15 C.F.R. § 400.31(b).

(1) In light of this provision and the Board policy quoted above, doesn't the Board have an obligation to reject applications for subzones that are going to be used to escape paying AD (or CVD) duties (or prohibit their use for this purpose), where approving the applications could harm U.S. suppliers (for example, by causing lost sales and job losses for their workers).

(2) What is your position as to whether the Board should approve subzones requested for the purpose of avoiding payment of AD (or CVD) duties on unfairly traded imports if the product produced from the dumped or subsidized imports is exported, and the approval would have a negative impact on domestic suppliers (e.g., cause lost sales and job losses)?

ANSWER: (addresses both questions)

I understand that any foreign trade zone (FTZ) situation that would cause lost jobs or lost sales for a domestic supplier would be of serious concern. I understand that the FTZ Board held a public hearing on these FTZ subzone applications in September 2009, and that the Board is required to consider carefully all of the policy and economic issues and arguments raised. If confirmed, I can assure you that I will examine this issue very carefully.

QUESTION:

On issues like “zeroing”, the WTO appellate body has taken an expansive view its mandate to invalidate U.S. practices and laws that are important in combating unfair foreign trade practices, and ensuring a level trade playing field for U.S. industry. The Administration has taken some steps to restore the importance of trade enforcement so that Americans can begin to believe that trade can be a two way street that benefits them. What is your plan to work within the Administration and at the WTO to achieve this important objective of ensuring the U.S. can effectively implement our trade enforcement rules and regulations?

ANSWER:

I understand that many concerns exist with regard to recent WTO Appellate Body (AB) decisions in which the AB seems to have over-reached and invented new obligations to limit the use of antidumping measures, when such obligations were never agreed to by WTO Members. If confirmed as Under Secretary, I will explore all options to address this crucial issue such that our trade laws continue to provide domestic industries the opportunity to obtain effective relief when they have been injured by dumping.

I also believe that zeroing is a matter that must be addressed by WTO members. I recognize that the WTO disputes on zeroing and the on-going Doha negotiations are two distinct processes, but the U.S. government’s experience with the WTO dispute challenges regarding zeroing makes it clear that there is a need to address this issue in the context of multilateral negotiations.

If confirmed as Under Secretary, you have my commitment to work tirelessly to ensure that our trade laws are vigorously enforced and continue to provide an effective remedy for unfair trade practices.

QUESTION:

I understand the Administration intends to send several Free Trade Agreements (FTAs) to the Senate for ratification. I believe it is the Administration’s position that FTAs open up markets to U.S. exports and provide a set of rules for the two countries to adhere to in their trading practices. However, as you know, there are concerns that some requirements of FTAs are fully implemented by the non-U.S. party. What measures will you take to ensure that our agreements are being enforced?

ANSWER:

If confirmed, the strict enforcement of existing trade agreements will be one of my top priorities. The International Trade Administration (ITA) is uniquely positioned to carry out this task. ITA’s Market Access and Compliance (MAC) unit works closely with USTR to ensure that US trading partners fully meet their obligations under existing trade agreements. ITA’s Import Administration enforces U.S. unfair trade laws (i.e., the anti-dumping and countervailing duty laws). If confirmed, I will ensure these two ITA units vigorously pursue these responsibilities, and I commit to using all available tools to ensure compliance with trade agreements and laws.

Questions for the Record
Francisco Sanchez
Nominee for
Under Secretary for International Trade

Questions from Senator Jim Bunning

QUESTION:

Mr. Sanchez, as I am sure you are aware, China's practice of devaluing its currency acts as a trade subsidy by making Chinese products artificially cheap and U.S. products artificially expensive. A number of U.S. companies have asked the Commerce Department to look into whether China's behavior is a trade subsidy that would be eligible for countervailing duties, but thus far Commerce has refused to even investigate this possibility. In your role as Under Secretary, what would you do specifically to ensure that American workers and businesses are not being cheated by currency manipulation?

ANSWER:

I appreciate your concerns and understand that this is a very important issue to you and your constituents. This is also an important issue for the Administration. I am aware that the Commerce Department is currently analyzing a subsidy allegation regarding China's currency practices in an ongoing countervailing duty investigation. I want to assure you that, if confirmed, I will closely review any such subsidy allegation. As I have stated, I am fully committed to the vigorous enforcement of our trade remedy laws.

QUESTION:

Some constituents have alerted me that there has been a dramatic spike in evasion of antidumping and countervailing duties, particularly by China. This is being done through transshipment and sometimes falsified documents about the country of origin. It is incredibly frustrating for the U.S. companies that spent time and resources going through the process and proving their case, that now these orders are being deliberately evaded and our government is doing nothing to stop it. What specific steps would you take, if confirmed, to ensure that existing antidumping and countervailing duty orders are actually enforced?

ANSWER:

If confirmed, the strict enforcement of our trade laws will be one of my top priorities, and I assure you that any evidence pointing to possible fraudulent activity will be addressed quickly.

I understand that Import Administration takes allegations of transshipments and the submission of false information and documentation seriously, and works closely with other government agencies to investigate such allegations and deter the evasion of antidumping and countervailing duties.

QUESTION:

Regarding the same issue, it is my understanding that many of the U.S. companies that have been victimized by these violations have been forced to spend additional resources monitoring compliance, which should be the responsibility of Commerce and U.S. Customs. If confirmed, will you make enforcement of antidumping and countervailing duties a priority, and will you examine additional steps the Commerce Department can take to prevent transshipment through third countries in order to avoid these duties?

ANSWER:

I understand that Import Administration and U.S. Customs and Border Protection endeavor to the best of their abilities to coordinate on enforcement and monitoring, and addressing reports of transshipments through third countries.

If confirmed, I will continue to make enforcement of antidumping and countervailing duty orders a top priority, and look into improving Commerce's coordination process in identifying and addressing allegations of transshipments and evasion of antidumping and countervailing duties.

QUESTION:

I have heard concerns from stainless steel pipe companies in Kentucky about the Commerce Department's use of inferior data to determine surrogate values in an antidumping case. Specifically, I am told that Commerce used stainless steel used for tableware rather than the expensive grade stainless steel that is used to make stainless steel pipe products. Can you please look into this matter and provide me with an explanation of why the Commerce Department used this data. And if you are confirmed, will you commit to administer trade laws in a transparent and efficient manner, according to your statutory authority?

ANSWER:

If confirmed, I will look into this matter further and ensure that Import Administration continues to administer the antidumping and countervailing duty laws in a transparent and efficient manner, in accordance with U.S. law and our international obligations.

Questions for the Record
Francisco Sanchez
Nominee for
Under Secretary for International Trade

Questions from Senator Blanche Lincoln

QUESTION:

I was heartened to hear President Obama declare in the State of the Union Address that he is setting a goal of doubling our exports within five years. To achieve that end he announced a new National Export Initiative (NEI), which would be a government-wide effort geared toward achieving this goal. Since the Department of Commerce has been given the reigns to steer this initiative through the government structure, if confirmed, your position will place you at the crux of these efforts.

I applaud this initiative and I have signed a letter praising the President for taking up export promotion as a critical goal of his administration. Yet the American public, and among them the citizens of Arkansas, seek assurances that part and parcel with doubling our exports would be the creation of jobs back home. Please describe the tools you would use to measure this initiative's success and the process you will employ to calculate the expansion of our exports, particularly with respect to job creation.

ANSWER:

I remain committed to working with the Committee to ensure that Congress is fully informed about progress towards meeting the President's goal of doubling exports over five years. As you note, the Commerce Department has a key role to play in the execution of the President's National Export Initiative, and if confirmed, I will work with other members of the President's Export Cabinet to ensure the right tools and measures are in place to measure our progress and success in meeting the President's goals.

QUESTION:

Each of the departments and agencies in the Export Cabinet was given 180 days to submit a detailed plan to the President which will describe how it will enhance American exports. As a key member of this cabinet and of the Trade Promotion Coordinating Committee, the Department of Commerce would be placed at a unique position of overseeing what will be an unprecedented effort to hone in on crucial goals that should and could be achieved, and on the measures that must be applied to accomplish them.

If confirmed to this position, I would ask you to commit to briefing the committees of jurisdiction in both the Senate and House on the direction of the initiative's implementation, and that you consult with its members to ensure that the legislature is informed of the process and is informing it in turn.

ANSWER:

If confirmed, I commit to briefing and working with the committees of jurisdiction in both the Senate and the House on implementation, ensuring that Congress is fully informed about progress towards meeting the President's National Export Initiative goals.

QUESTION:

If confirmed, one of your main assignments would be to lead the International Trade Administration (ITA), which among other things oversees the enforcement of U.S. antidumping (AD) and countervailing duty (CVD) laws. As a fervent advocate of free trade I see the critical importance of AD and CVD laws in deterring and punishing unfair practices employed by some of our trading partners. Millions of American jobs depend on the vigorous application of these laws as the gate keepers against the flooding of our markets with cheap goods from countries who illegally subsidize their industries and seek to eliminate our manufacturing industries.

One such industry is steel, which accounts for thousands of jobs in the state of Arkansas alone. As you know, the steel industry has been the victim of consistent unfair trade practices employed by China, whose companies have been subsidized by their government and have been found as dumping their products in our markets, forcing plants to remain idle and even shut down. Last December I appeared before the International Trade Commission (ITC) to seek relief and redress against these grievances, and indeed the ITC ruled in our favor, declaring that our industry had been damaged by such practices.

If confirmed, what measures will you employ to identify, counteract and prevent countries like China from cornering markets by dumping their goods and using illegal subsidies?

ANSWER:

Unfair trade practices, including those of China, can be a significant impediment to the competitiveness of U.S. industry. Identifying and addressing these practices are extremely important. If confirmed, I will vigorously enforce the U.S. antidumping and countervailing duty laws. I also pledge to work with U.S. businesses that may be injured by unfair trade practices in order to identify and address the impediments they face in trading both in our market and in those abroad, including China. I will work to engage our trading partners, including China, on our respective responsibilities under global trading rules and do my best to work with my counterparts in related agencies to resolve any trade problems that arise affecting our domestic industries.

QUESTION:

The Department of Commerce is scheduled to debate in March and release in April its findings in an important antidumping investigation into illegally dumped imports of Oil Country Tubular Goods (OCTG) from China. This is a critical issue since the U.S. has imported Chinese OCTG worth two billion dollars in 2008 alone. At a time when the link between trade law enforcement and American jobs is quite clear, these findings could

seriously impact the American steel industry and in particular two plants in Arkansas which specialize in manufacturing OCTG.

I seek your assurances that the Department of Commerce will adhere to its mandate and will identify and react to dumping practices vigorously, in a timely manner, and as prescribed by law, so that our industries remain protected from illegal trading practices.

ANSWER:

If confirmed, I will ensure that ITA's antidumping and countervailing duty investigations are conducted in strict accordance with our laws and regulations, to ensure U.S. producers and workers have a level playing field on which to compete with their foreign counterparts.

QUESTION:

In your statement before this committee you set to accomplish several goals, one of which being the introduction of U.S. exports to developing markets around the world. The products grown and produced in Arkansas would greatly benefit from such an expansion of trade. The rice, cotton, poultry and pork produced in my state can surely help feed and clothe hundreds of millions of people, while providing billions of dollars in revenue and creating or supporting hundreds of thousands of jobs in Arkansas, let alone in the rest of the United States.

I believe that one such developing nation should be Cuba. For nearly 50 years our country has placed an embargo on that island, yet now we have a unique opportunity to open a new leaf by establishing trade relations that would allow our agricultural exports to enter that nation. Cuba imports 80% of the rice it consumes, and no country is better placed to fill that demand cheaply and efficiently – while reaping billions of much needed dollars annually – than the United States.

If confirmed, would you seek to influence the administration to remove the barriers that prevent our exports from entering Cuba, before that market is taken over by Asian competitors such as China and Vietnam?

ANSWER:

If confirmed, I will work to ensure that the current policy toward Cuba remains focused on meeting the needs and aspirations of the Cuban people. The President has stated his intent to keep the embargo in place as a source of leverage to support a peaceful transition to democracy, reflecting the broad hemispheric commitment to democracy and human rights, as expressed in the Inter-American Democratic Charter. To encourage positive changes in Cuba, last year President Obama directed that a series of steps be taken to enhance the free flow of information and promote contact between Americans and their relatives who reside in Cuba.

**Questions for the Record
Francisco Sanchez
Nominee for
Under Secretary for International Trade**

Questions from Senator Ron Wyden

QUESTION:

Creating the conditions for American businesses of all sizes to grow, including fighting for a level playing field on which to compete in foreign markets, is important to help get the economy back on track. Equally important is making sure that foreign companies selling products in our market play by the rules and not engage in unfair trade practices. Unfortunately, as you're aware, this is not always the case. Although we have trade laws that protect American businesses from unfair trade practices, I find it troubling that some foreign producers and importers flagrantly violate these laws and evade the very duties that are put in place to level the playing field.

Given that the International Trade Administration has requested additional resources for FY 2011, in what ways would these new resources be used to strengthen the enforcement of antidumping and countervailing duty orders with respect to the circumvention or evasion of AD/CVD?

ANSWER:

I believe effective enforcement of our trade laws does not necessarily end with the imposition of an antidumping or countervailing duty order. If confirmed, I will look closely into this matter to ensure that optimal resources are used to enforce the U.S. antidumping and countervailing duty laws by working closely with my counterparts at relevant agencies to provide the necessary information in order to avoid circumvention or evasion of antidumping and countervailing duties.

QUESTION:

The Import Administration is responsible for enforcing our nation's unfair trade laws (antidumping and countervailing duty laws). In order to effectively enforce these laws, the Import Administration relies on the collection of factually correct and accurate information from respondents. However, serious concerns have been raised by U.S. industry about repeated instances of the submission of false documents by respondents in Department proceedings, including onsite verifications.

What measures does the agency have in place to ensure that false information is rejected and the appropriate action is taken to penalize individuals who make false statements or submit false documentation to the government?

ANSWER:

I understand that Import Administration takes the submission of false information and documentation seriously, and works closely with other government agencies with regard to allegations of fraud. If confirmed, the strict enforcement of our trade laws will be one of my top priorities, and I assure you that any evidence pointing to possible fraudulent activity will be addressed quickly.

**Questions for the Record
Francisco Sanchez
Nominee for
Under Secretary for International Trade**

Question from Senator Chuck Schumer

QUESTION:

What do you think should be done about China's continued failure to reform its currency policies? Is there any single policy that would be better for American job creation in the long run, and do more to help revitalize our export industries and rebalance our economy, than dealing head-on with countries with fundamentally misaligned or manipulated currencies? If there's something with a bigger effect, what would that be?

ANSWER:

I appreciate the concerns that you have raised regarding China's currency practices. This is an important issue for the United States, as the President has stated. The Department of the Treasury is responsible for matters related to foreign currency, and if confirmed, I will work closely with the Department on these issues. I believe that there is much that the government can do to encourage and increase US exports, and if confirmed, I will work tirelessly to ensure that ITA's export promotion programs support the President's goals laid out in the National Export Initiative.

Questions for the Record
Francisco Sanchez
Nominee for
Under Secretary for International Trade

Questions from Senator Debbie Stabenow

QUESTION:

Last year, our trade deficit in goods with China was \$227 billion – the fifth year in a row that this critical deficit has exceeded \$200 billion. This enormous imbalance is due in large part to unfair practices including heavy Chinese subsidies, theft of intellectual property and currency manipulation. Manufacturers in Michigan have many challenges these days, but one of the biggest is being forced to compete against Chinese manufacturers who get a big subsidy from China's undervalued currency. So far our government has been unable to take meaningful steps to address this ongoing and severe problem. However, the Commerce Department can address this practice under the countervailing duty law, by investigating to determine China's currency results in a subsidy. Yet, it has chosen not to. What are your views on whether Commerce can initiate a case based on a proper allegation of currency manipulation?

ANSWER:

I appreciate the concerns that you have raised regarding China's currency practices, and I understand this is a very important issue to you and your constituents. This is also an important issue for the Administration. I am aware that the Commerce Department is currently analyzing a subsidy allegation regarding China's currency practices in an ongoing countervailing duty investigation. I want to assure you that if confirmed, I will closely review any such subsidy allegation. As I have stated, I am fully committed to the vigorous enforcement of our trade remedy laws.

QUESTION:

As we all know, increasing exports depends on our access to other countries' markets. For the U.S., this means eliminating foreign subsidies, tariffs, non-tariff barriers, raw material export restrictions and other trade barriers. But as has often been the case, manufacturers concerns have been ignored. If confirmed, what steps will you take to ensure that U.S. manufacturing is a priority?

ANSWER:

If confirmed, one of my top priorities will be to eliminate unfair foreign barriers to trade. Each trade barrier represents lost opportunities for American companies to expand their production or service capabilities, hire additional workers, or pursue investment opportunities. Enhancing ITA's capacity to identify and address trade

barriers in support of U.S. companies is essential to U.S. economic growth and prosperity.

ITA's trade and industry specialists work directly with U.S. manufacturers and service providers on issues such as subsidies, dumping, intellectual property rights, government procurement, and standards. U.S. firms also receive counseling and guidance if injured by unfairly traded imports or for U.S. exporters subject to foreign trade remedies. Trade and industry experts in headquarters work closely with their ITA colleagues posted overseas, as well as other U.S. agencies involved with trade and international relations, to build cases and success milestones for companies seeking to overcome trade barriers.

If confirmed, I will ensure that eliminating barriers to our manufacturing and services exports remain a central priority for ITA staff. I will also work with the Congress to ensure that our manufacturing firms know that they have in ITA an advocate that has their back when they enter a foreign market.

One key step in ensuring that manufacturing is a priority is having ITA's Assistant Secretary for Manufacturing and Services in office and on the job. In fact, the day after her confirmation, Assistant Secretary Nicole Lamb-Hale led a trade mission of 24 companies to Algeria and Libya. Developing markets like Algeria and Libya pose great opportunities for U.S. manufacturers. But opening markets is only part of the picture. ITA needs to support efforts by U.S. manufacturers to be competitive. For example, Manufacturing and Services is already working on a series of Sustainable Manufacturing American Regional Tours (SMART) that focus on "greening" domestic manufacturing processes and supply chains, allowing our manufacturers to realize cost savings, ultimately making them more competitive – and able to create and sustain jobs. Connecting our manufacturers with federal programs and resources, such as data and trade finance guide, can assist them in making sound strategic decisions.

If confirmed, I will work with Assistant Secretary Lamb-Hale to continue these and other efforts to promote U.S. manufactured goods and ensure that the United States remains a nation that makes and builds things.

**Questions for the Record
Francisco Sanchez
Nominee for
Under Secretary for International Trade**

Question from Senator Tom Carper

QUESTION:

Mr. Sanchez, I understand that in your role as Under Secretary you will oversee the Department's administration of the trade laws and enforcement of the agency's statutory authority on these matters. The 1988 Trade Act included a provision to allow parties to file circumvention petitions if they believed that importers were attempting to avoid paying duties on imports that were changed in a minor way from the goods already subject to the order. Over the years a number of these filings have been made to the Department. In the recent case on cut-to-length plate from China, I understand that now on two occasions the domestic industry has filed petitions to prevent circumvention of these duties. Petitioners who joined in filing this request are concerned that they may have to undertake these filings repeatedly and the evasion of duties will prevent them from receiving the full relief from the order in place.

In the past 15 to 20 years the Department of Commerce must have experienced other enforcement problems. How would you address this issue so the problem can be corrected?

ANSWER:

I believe effective enforcement of our trade laws does not necessarily end with the imposition of an antidumping or countervailing duty order. If confirmed, I will ensure that Commerce works closely with the domestic industry and Customs and Border Protection to quickly address any circumvention issues that arise. I am committed to the full and vigorous enforcement of our trade laws.

**Questions for the Record
Francisco Sanchez
Nominee for
Under Secretary for International Trade**

Questions from Majority Leader Reid

Q.1.1 The Travel Promotion Act, which passed the Senate last week and will soon be signed into law by President Obama, will create an Office of Travel Promotion within the Department of Commerce.

Do you believe this new office should report directly to the Under Secretary of International Trade so as to maximize the effectiveness of the new office in promoting foreign travel to the U.S.?

A.1.1

I understand that the Department of Commerce looks forward to undertaking these new responsibilities and is currently reviewing the optimal structure for the Office of Travel Promotion to ensure the success of the Travel Promotion Act within current resources. If confirmed as Under Secretary, I will work with all stakeholders, including Congress, to ensure the Act's successful implementation. ITA staff are meeting with stakeholders to ensure that ITA understands the full range of views of those who work in the many sectors that make up the travel and tourism industry.

Q. 1. 2 What can be done to maximize the chances that this new office fulfills its intended mission?

A.1.2

If confirmed as Under Secretary, I will work closely with the Secretary and with Congress to ensure the success of this new office. Interagency cooperation and the continuing support of Congress will be necessary to ensure that all provisions of the Act can be implemented, including the system for collecting the fees that will fund the Corporation.

Q.2. During the State of the Union, President Obama set a goal of doubling exports over the next five years. In 2008, international travel accounted for \$142 billion in exports and was one of the largest exports in the country. In the first 11 months of 2009, international visitors generated \$122 billion in spending and supported 875,000 American jobs according to the Department of Commerce.

The Department recently announced that it will invest \$132 million in a new National Export Initiative. What portion of this investment will the Department focus on international travel and tourism?

A.2.

Implementing an export promotion plan targeted to top services sectors, including travel and tourism, is a key element of the Department's National Export Initiative. The Department has

proposed \$3 million for this effort in 2011. The travel and tourism industry as a whole will benefit from this additional focus and resources. In addition, my understanding is that ITA will continue to use already available resources to focus attention on this very important service industry. The travel and tourism industry as a whole will benefit from this additional focus and resources.

Q.3.1 What inter-agency barriers prevent the U.S. government and private industry from better promoting foreign travel to the United States?

A.3.1

The federal government agencies involved in travel and tourism already work closely together on travel and tourism issues. I believe this will be further strengthened by reinvigorating the Tourism Policy Council. This Council, led by the Secretary of Commerce, consists of 17 federal government agencies and departments and coordinates policy deliberations affecting the industry before decisions are made. This Council will be meeting on April 27.

Q.3.2. How can the Commerce Department best work in partnership with other federal agencies and private industry to remove these barriers and improve our travel and tourism balance of trade?

A.3.2.

If confirmed as Under Secretary, I will work closely with Secretary Locke to strengthen the role of the Tourism Policy Council to ensure that member agencies work together on all issues that impact both the domestic and international travel and tourism industry. Coordinated and robust communications on changes in entry and exit policies, in particular, will facilitate expanded travel and tourism. Industry's communication efforts can also be expanded to ensure potential travelers understand what is needed to visit the United States.

Q.4. What role do you envision travel and tourism playing in the Commerce Department's efforts to stimulate the US economy?

A.4.

Travel and tourism will be integral to reinvigorating the economy. Expanded business travel and conventions and meetings as well as vacation travel impact the Main Street of each and every community. Encouraging this travel is a collaborative effort. Commerce leads in this effort by collecting and providing key market intelligence to both the private sector and federal government agencies so sound decisions can be made based upon research. If confirmed, I will see that ITA offices work closely with industry to ensure market expansion, particularly in Brazil, China, India, and other priority markets. Such market expansion is key to strong growth in travel to the United States.

