

**NOMINATIONS OF JUAN F. VASQUEZ,
MAURICE B. FOLEY, AND JANICE EBERLY**

HEARING

BEFORE THE

COMMITTEE ON FINANCE

UNITED STATES SENATE

ONE HUNDRED TWELFTH CONGRESS

FIRST SESSION

ON THE

NOMINATIONS OF

JUAN F. VASQUEZ, TO BE A JUDGE OF THE UNITED STATES TAX
COURT; MAURICE B. FOLEY, TO BE A JUDGE OF THE UNITED STATES
TAX COURT; AND JANICE EBERLY, TO BE ASSISTANT SECRETARY OF
THE TREASURY FOR ECONOMIC POLICY

JULY 28, 2011



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**NOMINATIONS OF JUAN F. VASQUEZ, TO BE A
JUDGE OF THE UNITED STATES TAX COURT;
MAURICE B. FOLEY, TO BE A JUDGE OF
THE UNITED STATES TAX COURT; AND
JANICE EBERLY, TO BE ASSISTANT
SECRETARY OF THE TREASURY
FOR ECONOMIC POLICY**

THURSDAY, JULY 28, 2011

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

The hearing was convened, pursuant to notice, at 10:04 a.m., in room SD-215, Dirksen Senate Office Building, Hon. Max Baucus (chairman of the committee) presiding.

Present: Senators Conrad, Hatch, and Cornyn.

Also present: Democratic Staff: Russ Sullivan, Staff Director; Ayesha Khanna, International Trade Counsel; Tiffany Smith, Tax Counsel; and Rory Murphy, International Trade Analyst. Republican Staff: Chris Campbell, Staff Director; and Nick Wyatt, Tax and Nomination Professional Staff Member.

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

The CHAIRMAN. The hearing will come to order.

The Roman philosopher Seneca said, "There is nothing a wise man does reluctantly."

We have before us today three wise people, each of whom has been called to serve our country, our President, and the American people. There are few greater honors than this—few greater honors than the call to public service.

But to serve, each of you must give. You must give your time freely, you must give your energy fully, and you must give your judgment wisely. And I urge you to do so without reluctance.

Judge Vasquez and Judge Foley, both of you have been nominated to serve second terms on the U.S. Tax Court. President Clinton appointed you to your first terms in 1995.

For the past 15 years, you have traveled the country to hear thousands of cases. You have demonstrated careful consideration, and you have rendered many decisions.

Judge Vasquez, you came to the Tax Court with years of experience. You worked in private practice for several years and as a trial attorney for the IRS.

Judge Foley, you served as a tax attorney both for the IRS and the Treasury Department. You also worked as a tax counsel for this committee, especially under our esteemed former chairman, Lloyd Bentsen.

President Obama has called on both of you to continue your service for another 15 years. Over this time, the country will certainly change. The nature of your cases may also change. You may be called upon to examine new and novel issues.

You may face new demands on your time, your energy, and your judgment. But, if confirmed, I urge you to undertake your new terms with the same dedication you showed in your previous terms. I know you both will do so without reluctance.

Dr. Eberly, you have been nominated to be Assistant Secretary of Treasury for Economic Policy. In this role, you will provide economic analysis of the state of the U.S. economy. As you perform this analysis, you will also identify concerns and anomalies in our economy.

You will assess the economic impact of proposed policy changes, and you will recommend policies that hopefully have a positive economic impact on the U.S. economy.

We need this economic analysis and work now more than ever. As you well know, we are living in difficult economic times. We need to stimulate economic growth, while curbing our deficit. We must take action that encourages job creation. We must enact economic policies today that make our economy better for future generations.

If confirmed, the economic analysis you conduct will arm policymakers with the information they need to make decisions that accomplish these goals.

Your experience has prepared you well for this role. You serve as a full professor at Northwestern University's Kellogg School of Management. You have previously worked as a professor at the University of Pennsylvania's Wharton School. And you served as an economist for the Council of Economic Advisors. You have an excellent research and publications record. In addition, you have won numerous awards for outstanding teaching. And you have had considerable experience in policy-related work.

Each of you, because of your experience and background, has been called upon to guide this country through difficult economic times. This will require you to give greatly of your time, your energy, and your judgment. I know you, too, will do so without reluctance.

You are well-qualified for the positions you have been chosen to fill. I call upon my colleagues to confirm you quickly. I call upon all of you to serve our country well. I know you will.

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

The CHAIRMAN. Senator Hatch?

**OPENING STATEMENT OF HON. ORRIN G. HATCH,
A U.S. SENATOR FROM UTAH**

Senator HATCH. Thank you, Mr. Chairman. And my thanks, also, to these three nominees who are appearing before us today.

We are grateful for your service. And, in the case of the Tax Court judges, we are fortunate that the Nation will continue to benefit from your special expertise.

I think the chairman has covered the backgrounds pretty well. Let me just say, the tax code is very complicated. In my view, it is way too complicated, which is why we need fundamental tax reform that adheres to President Reagan's three criteria for successful tax reform—economic growth, fairness, and simplicity.

But given the current complexity of the code, the Finance Committee has traditionally encouraged and recommended that Tax Court judges who desire to continue serving on the Tax Court be re-nominated and confirmed again. And so we appreciate the special expertise that both of you have, and we appreciate your willingness to serve, and we want you to serve.

The Tax Court is particularly important because the taxpayer is able to file a case in the Tax Court regarding a disputed tax deficiency before paying the disputed amount.

Prior to the creation of the Tax Court, taxpayers were required to pay the tax in question before asking the IRS for a refund or taking the government to court. The Tax Court empowers the individual taxpayer so he or she is better able to challenge the government's position.

I am not saying that any battle with the Federal Government is a walk in the park, but think of how much more difficult it would be for an individual taxpayer to take on the IRS if all disputed amounts were required in advance before a taxpayer could have his day in court and make the case that the government is wrong.

Dr. Eberly, we are grateful for your willingness to serve. You are nominated to be Assistant Secretary for Economic Policy at the Treasury Department.

This position is very important, but it is particularly so today given our Nation's perilous fiscal situation. It is essential that the Treasury Department, as it attempts to develop effective public policies, is able to make use of current economic research and to conduct its own research in an objective and nonpartisan fashion.

From what I understand, you can do that very well. As with our other nominees, this is not your first trip to Washington. As the chairman said, you previously served as a junior economist with the Council of Economic Advisors, and you are currently a full professor at Northwestern University's Kellogg School of Management. And your research has focused on capital investment, with an emphasis on the effect of risk and uncertainty on the decisions made by firms and households, and those are really important areas, as far as I am concerned.

So I am thankful that you appreciate that economic policy, which includes tax policy, significantly impacts the decisions of families and businesses.

So I want to, again, extend my thanks to all of you for your willingness to serve. I intend to support each one of you, and we wish you well and very, very good experience as you continue serving our government.

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

The CHAIRMAN. Thank you, Senator, very much.

Now, I would like to introduce the panel.

The first witness is Judge Juan Vasquez. Senator Cornyn will introduce him. In just a second, Senator.

The second witness is Judge Maurice Foley, who has been nominated to be a judge on the U.S. Tax Court.

And finally, Dr. Janice Eberly has been nominated to be Assistant Secretary of the Treasury for Economic Policy.

Senator Cornyn, would you like to have the honors?

**OPENING STATEMENT OF HON. JOHN CORNYN,
A U.S. SENATOR FROM TEXAS**

Senator CORNYN. Thank you, Mr. Chairman. I appreciate that very much.

I want to welcome all three of you and congratulate you. And we all know that you are not accepting these challenging jobs that you are undertaking for the glory or for the money, but in a spirit of public service.

I want to say just a few words about Judge Vasquez, whom I first met in 2009, but who comes from my hometown of San Antonio, TX.

He was first nominated to serve on the Tax Court by President Clinton and confirmed by the Senate in 1995.

As I said, he was born in San Antonio, earned his accounting degree at the University of Texas, and is a certified public accountant and also a lawyer, obviously, getting his law degree from the University of Houston Law Center, and his LL.M. in taxation from NYU.

Judge Vasquez has a long and distinguished career, specializing in tax law, both in the executive branch and in private practice. He worked for the IRS Office of Chief Counsel in Houston before spending 13 years in private practice, representing taxpayers before the IRS and Tax Court.

And I think that is really important, Judge Vasquez. You can understand the plight of taxpayers appearing in Tax Court and dealing with the IRS. I think that is an important experience.

As a member of the Tax Court, Judge Vasquez has a reputation for being balanced and giving taxpayers a fair shake—important qualities, no doubt.

Judge Vasquez is well-respected and has served with distinction, Mr. Chairman, and I look forward to supporting his nomination. And thank you for giving me a chance to say a few words about this nominee.

Thank you.

The CHAIRMAN. Thank you very much.

I would like each of you to speak now, but I am sure some of you have family here. And I will begin with you, Judge Vasquez. This is an opportunity for you to introduce your family, if you wish.

Judge VASQUEZ. Thank you. I appreciate it, Senator.

The CHAIRMAN. We do this with all nominees, because this is a mutual effort. It is not just the nominee. It is the whole family team that is part of this.

Judge VASQUEZ. Thank you. I appreciate it. To my right here is my wife, Terry, and our two sons, Juan F. Vasquez, Jr., who is a tax lawyer in Houston, and also our second son, Jaime Vasquez,

who is also a tax lawyer in San Antonio, TX; his wife, our daughter-in-law, Veronica Leal Vasquez, also an attorney in San Antonio, a property tax attorney; and our family friends, Lindsay Harris and John and Billie Williams. They are our good family and friends.

And thank you for that opportunity.

The CHAIRMAN. Would you all please stand so we can give you a round of applause just to recognize you? [Applause.]

Boy, you have a lot of tax experience there. [Laughter.]

All right. Judge Foley?

Judge FOLEY. Thank you, Mr. Chairman. Let us begin with my wife—we always have to start there—my wife Cassandra, of 26 years. She has known me for 33 years, loved me, cared for me, taken real good care of me.

The CHAIRMAN. Do you take care of her?

Judge FOLEY. And I take care of her. She is a law librarian at the Congressional Research Service, and, in addition, she is an exemplary mother. And we together raised three children, and two of them are here. My eldest child is in London right now studying acting at the Globe Theater, and he is a senior student at a very wonderful university. He is a finance and religion major, and, next year, he plans to go to divinity school or seminary.

My son, my youngest son Nathan, is a high school senior. He is a prospective college student, a very accomplished guitarist, and, actually, the two-time champion at the Apollo Theater.

My lovely daughter Corinne is a hardworking and diligent biology major at a very prestigious college. She is a recipient of a 4-year academic scholarship, and she is a future doctor.

So I would like to say that, when Sandy and I reach our golden years, we will have a theologian who will pray for us, a musician who will play for us, and a doctor who will pay for us. [Laughter.]

I am also accompanied by one of my most stalwart supporters, my mother-in-law, Lillian Green, and she is with my nephew, Gabriel, and his sister and my niece, Araya. And in addition, somewhere back there is a very close friend of mine, Felicia Chambers, whom I have known for more than 30 years. And I am also accompanied by my wonderful staff.

The CHAIRMAN. Would you all please stand so you can be recognized? [Applause.]

All right. Dr. Eberly, your family?

Dr. EBERLY. Thank you, Chairman Baucus.

I am very pleased to introduce my family, who are in the first row here. First is my father, Howard Eberly, who came from California for this event; David Dunand, who is my husband and partner for more than 20 years; and our two children, Murielle and Marc, whose confidence and joy always give me every possible motivation to serve our country well and create the best possible foundation for all of our futures.

The CHAIRMAN. Thank you very much. [Applause.]

Also, in the audience, you might notice we have two Tax Court judges, first, Tax Court Judge Elizabeth Paris. Would you please stand, Elizabeth? Elizabeth was with this committee on the staff several years ago. We are all very, very proud of Judge Paris. Also, Chief Judge John Colvin. John?

Let us give them both a big round of applause. [Applause.]
 So you guys can kind of check these guys out. [Laughter.]
 Judge Vasquez, why don't you begin?

Judge VASQUEZ. Thank you.

The CHAIRMAN. Your statement will automatically be put in the record, but we would urge you to summarize it.

**STATEMENT OF JUAN F. VASQUEZ, NOMINATED TO BE A
 JUDGE OF THE UNITED STATES TAX COURT, WASHINGTON, DC**

Judge VASQUEZ. Thank you, Mr. Chairman, Senator Hatch, Senator Cornyn, from my home State of Texas, and distinguished members of the committee. It is a privilege to be here today. And I want to thank Senator Cornyn for the kind introduction.

It has been an honor to serve our country as a judge on the United States Tax Court for the past 16 years. I am very grateful to President Obama for nominating me for a second term as a judge on the U.S. Tax Court.

Mr. Chairman, thank you for scheduling this hearing. And I also want to thank the staff members on your committee with whom I have worked on my re-nomination.

I also want to thank my staff, my former and present law clerks, some of whom are here, and also my colleagues on the Tax Court, for their support.

And, again, I thank my family, and I would like to express my gratitude for their love and support.

I would also, at this time, like to thank my grandparents, Jesus and Basilia Flores, for their values and work ethics that they instilled in me as they raised me in the cotton fields of Texas; and also my grandparents, Juan and Victoria Vasquez.

Since my appointment to the Court in 1995, I have been diligent in providing taxpayers and government attorneys who appear before me a fair and impartial trial and in applying our tax laws fairly.

If confirmed, I make my commitment to this committee to continue to be diligent in interpreting the laws of our country and to provide the taxpayers and government their day in court in a fair and impartial manner.

Thank you, and I look forward to any questions that you may have.

Thank you.

[The prepared statement of Judge Vasquez appears in the appendix.]

The CHAIRMAN. Well, thank you very much, Judge. Judge Foley?

**STATEMENT OF MAURICE B. FOLEY, NOMINATED TO BE A
 JUDGE OF THE UNITED STATES TAX COURT, WASHINGTON, DC**

Judge FOLEY. Thank you, Mr. Chairman, Ranking Member Hatch.

First and foremost, I would like to thank my Lord and Savior, Jesus Christ, for blessing me with the opportunity to serve a second term on the United States Tax Court.

I am truly honored to be nominated by President Obama. And I thank you, Chairman Baucus and Ranking Member Hatch, and the

members of this committee and the finest committee staff, for scheduling and processing this nomination.

Mr. Chairman and Ranking Member Hatch, our Court sincerely appreciates your efforts in supporting the re-nomination of sitting Tax Court judges, and, indeed, Mr. Chairman, you supported my initial nomination in 1994, and I sincerely appreciate that.

I recall beginning work with this committee in 1988, and, soon after beginning here, my boss, Senator Bentsen, was selected to be vice presidential nominee on the Dukakis ticket, leaving you to shepherd the Technical and Miscellaneous Revenue Act of 1988 through the floor, and I remember our tax staff working on that bill.

The CHAIRMAN. And I might say it was the great tax staff that enabled us to expedite that bill quite quickly, too.

Judge FOLEY. Thank you very much.

The CHAIRMAN. You and your team.

Judge FOLEY. Thank you very much. It was a pleasure serving you in that capacity. And I also recall in the late 1990s working with Evan Liddiard on many of the adoption tax proposals that you had sponsored, Senator Hatch.

I also appreciate the opportunity to have introduced my family. They have been with me during this process and have endured the sacrifices necessary for me to do the job well, and I sincerely appreciate that.

I remember 16 years ago when they were here, Sandy sat with a 4-year-old child, a 2-year-old child, and a 6-month-old child, and Chairman Packwood turned to Senator Moynihan and said, "You know, all of those toddlers are supposed to have Social Security numbers." And I remember Senator Moynihan saying, "And they all do." [Laughter.]

And I remember thinking to myself, "I sure hope they do have them." But they did, and, in fact, now they are all—not only do they have their Social Security numbers, but they have been contributors to the Social Security Trust Fund. They have jobs. [Laughter.]

During the course of my career, I have been very blessed. I have had the privilege of drafting regulations at the Internal Revenue Service. I have had the privilege of assisting this committee and the Treasury Department in establishing and developing tax policy. And for the last 16 years, I have had the privilege of sitting on the U.S. Tax Court.

Mr. Chairman, I love government service. It is an honor, it is a privilege, and, if confirmed by the Senate, I will work diligently to render decisions that adhere to the rule of law.

Thank you very much.

[The prepared statement of Judge Foley appears in the appendix.]

The CHAIRMAN. Thank you. Thank you, Judge, very much. Dr. Eberly?

STATEMENT OF DR. JANICE EBERLY, NOMINATED TO BE ASSISTANT SECRETARY OF THE TREASURY FOR ECONOMIC POLICY, DEPARTMENT OF THE TREASURY, WASHINGTON, DC

Dr. EBERLY. Thank you, Chairman Baucus, Senator Hatch, and members of the Senate Finance Committee, for the opportunity to appear before you today.

I am honored to have been nominated by President Obama to serve as the Assistant Secretary for Economic Policy in the Department of the Treasury, and I am grateful to Secretary Geithner for recommending me to the President.

I appreciate the opportunity to introduce my family and to include them in this process, because this is a family contribution as much as it is mine.

My family came to the United States in the 1800s as ministers in the Northwest Territories. My great-great-grandfather was paid a nominal salary in Minnesota and the Dakotas, but was mostly compensated in firewood.

My grandmother accepted the call to service in World War II by becoming a Rosie the Riveter, while her two sons, including my father, served in the Navy.

The Navy moved our family's center of gravity from the Midwest to California with my mother's family, where my grandfather was the editorial cartoonist for the *San Diego Tribune*, including during the Great Depression, which gave me an early and satirical insight into the press and the economy.

I grew up there amid orange groves and avocado trees. The setting was idyllic, but lessons are not always easy, as anyone knows who has run a small business or lived in a rural area.

Those experiences were reinforced and expanded by the year I spent as national president of the Future Farmers of America, which was a world-opening experience for a 19-year-old, traveling to 30 States, Puerto Rico, and Japan, gaining a sense of the complexity and interconnectedness of the global economy.

That experience clarified my educational goals, which I pursued at the University of California and at MIT, where I received my doctorate in economics.

Since joining the faculty at the University of Pennsylvania and then at Northwestern, which brought me back home to the Midwest, my research has focused on investment issues, including the savings and investment decisions of households, as well as investment and employment decisions of firms.

I have worked to advance our understanding of the private decisions that underlie the investments in research, development, capital, and education that will ensure our Nation's future.

In the last decade, I focused on understanding credit programs, working on student lending and home loan programs to better appreciate the role of Federal financing and the role it plays in consumer and business credit and debt markets.

This background has been especially useful, as these markets and the household decisions that depend on them have been thrust into turmoil by the financial crisis and the recession.

I am also an educator, and I have taught several generations of students at Penn and at Northwestern. I am proud to have seen

them go on to thrive in business, education, and public service around the globe, including, in at least one instance that I know of, the staff of one of the Senators on this committee.

There is no greater satisfaction for a teacher than seeing students become clear-headed, clear-thinking adults, prepared and dedicated to making their own well-informed decisions.

As an economist, I have previously served on the staff of the Council of Economic Advisors, and as an advisor to the Bureau of Economic Analysis and the Congressional Budget Office.

I am humbled and honored at the possibility of returning to public service and serving this Nation. If I am approved by this committee and confirmed by the Senate, I am dedicated to fulfilling the trust given by you, by the President, and by the American people.

Thank you. And I would be pleased to answer any questions you may have.

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

The CHAIRMAN. Thank you very much, Dr. Eberly. I am going to ask each of you some questions that are obligatory questions that we ask all nominees. Two of you already know this.

First, is there anything 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?

Judge VASQUEZ. No.

Judge FOLEY. No.

Dr. EBERLY. No.

The CHAIRMAN. Thank you. 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?

Judge VASQUEZ. No.

Judge FOLEY. No.

Dr. EBERLY. No.

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 the Congress, if you are confirmed?

Judge VASQUEZ. Yes.

Judge FOLEY. Yes.

Dr. EBERLY. Yes.

The CHAIRMAN. Thank you. I have no further questions, except to wish you very well. It is a great honor for all of you.

Elizabeth, sitting out there, she is just so excited about being a Tax Court judge. [Laughter.]

And I know that you have been too, both of you, in the last term. But just thank you so very, very much for what you are doing for our country.

And you, Dr. Eberly, too. You have had quite a career. You are very experienced. I can tell you have your head screwed on straight, you have your feet firmly planted on the ground. You talked about teaching kids. It gives me a good insight that you really care about people and not just turning cranks and numbers, but you will really try to define policy as it will affect people in a very constructive way, and it is very much appreciated.

Dr. EBERLY. Thank you.

The CHAIRMAN. And I wish you, all three, very, very well. It is difficult, there are setbacks, as you well know, but long-term, the rewards and the joy of doing your very best for our country are unparalleled, and thank you for what you are doing.

Senator Hatch?

Senator HATCH. Well, I am grateful to all three of you for being willing to work. And, as you can easily see, Senator Baucus has asked all the difficult questions. [Laughter.]

So I have no further questions. I am just very proud of all three of you and your families. You are clearly, clearly, very good people and the type of people we want to serve in government. And I want to commend the President for having re-upped your nominations and for giving you this opportunity as well, Dr. Eberly. I think it is terrific that you are willing to serve.

And I just want to compliment all of you. If we could just have this kind of accord in all of our nominees, we would all be better off.

Thank you, Mr. Chairman. And thank you, to each of you, for serving.

The CHAIRMAN. Thank you, Senator.

I do not want to raise unnecessarily high expectations, but it would be my hope that you all three can get confirmed before the August recess begins. I am certainly going to try, and that would be a great precedent for some of the other difficulties we have around here.

That is, if you can get confirmed right away, that is encouragement for us to solve this debt-deficit issue right away, too.

Good luck, and thank you very much.

Judge VASQUEZ. Thank you, Mr. Chairman.

Dr. EBERLY. Thank you.

Judge FOLEY. Thank you, Mr. Chairman, and thank you, Senator Hatch.

The CHAIRMAN. The hearing is adjourned.

[Whereupon, at 10:32 a.m., the hearing was concluded.]

APPENDIX

ADDITIONAL MATERIAL SUBMITTED FOR THE RECORD

Hearing Statement of Senator Max Baucus (D-Mont.) Regarding Nominations to the U.S. Treasury and U.S. Tax Court

The Roman philosopher Seneca said, "There is nothing the wise man does reluctantly."

We have before us today three wise people, each of whom has been called to serve our country, our President and the American people. There are few greater honors than this call to public service. But to serve, each of you must give.

You must give your time freely, you must give your energy fully, and you must give your judgment wisely. I urge you to do so without reluctance.

Judge Vasquez and Judge Foley, both of you have been nominated to serve second terms on the U.S. Tax Court.

President Clinton appointed you to your first terms in 1995. Over the past 15 years, you have traveled the country to hear thousands of cases. You have demonstrated careful consideration. You have rendered many decisions.

Judge Vasquez, you came to the Tax Court with years of experience. You worked in private practice for several years, and as a trial attorney for the Internal Revenue Service, or IRS.

Judge Foley, you served as a tax attorney both for the IRS and the Treasury Department. You also worked as a tax counsel for this committee, under former Finance Committee Chairman Lloyd Bentsen.

President Obama has called on both of you to continue your service for another 15 years. Over this time, this country will certainly change. The nature of your cases may also change. You may be called upon to examine new and novel issues. You may face new demands on your time, your energy and your judgment.

If confirmed, I urge you to undertake your new terms with the same dedication you showed in your previous terms. I know you will both do so without reluctance.

Dr. Eberly, you have been nominated to be Assistant Secretary of Treasury for Economic Policy. In this role, you will provide economic analysis of the state of the U.S. economy.

As you perform this analysis, you will also identify concerns and anomalies in our economy. You will assess the economic impact of proposed policy changes, and you will recommend policies that hopefully have a positive economic impact on the U.S. economy. We need this economic analysis and work now more than ever.

As you well know, we are living in difficult economic times. We need to stimulate economic growth while curbing our deficit, we must take action that encourages job creation and we must enact economic policies today that make our economy better for future generations.

If confirmed, the economic analysis you conduct will arm policymakers with the information they need to make decisions that accomplish these goals.

Your experience has prepared you well for this role. You serve as a professor at Northwestern University's Kellogg School of Management, you previously worked as a professor at the University of Pennsylvania's Wharton School and you served as an economist for the Council of Economic Advisors.

Because of your experience, you have been called upon to help guide this country through difficult economic times. This will require you to give greatly of your time, your energy and your judgment. I know you, too, will do so without reluctance.

You are all well qualified for the positions you have been chosen to fill. I call upon my colleagues to confirm you quickly, and I call on you to serve your country well.

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Opening Statement of Janice C. Eberly
Nominee for Assistant Secretary of the Treasury for Economic Policy
United States Senate Committee on Finance
July 28, 2011

Thank you Chairman Baucus, Senator Hatch, and members of the Senate Finance Committee, for the opportunity to appear before you today. I am honored to have been nominated by President Obama to serve as Assistant Secretary for Economic Policy at the Department of the Treasury and I am grateful to Secretary Geithner for recommending me to the President.

Before I begin, I would like to introduce my family; they have enthusiastically and patiently supported this undertaking in public service – which is a family contribution as much as it is mine. David Dunand, my husband and partner for over 20 years, and our two children – Murielle and Marc – whose confidence and joy give me every possible motivation to serve our country well and lay the best possible foundation for the future.

My family came to the United States in the 1800s as ministers to the Northwest Territory – my great-great-grandfather was paid a nominal salary in Minnesota, but was mostly compensated in firewood, according to the contract that my grandmother kept. My grandmother accepted the call to public service during World War II by becoming a “Rosie the riveter” while her two sons, including my father, served in the Navy. The Navy moved our family center of gravity from the Midwest to California, with my mother’s family, where my grandfather was the editorial cartoonist for the San Diego paper, including during the Great Depression - giving me an early and satirical insight into the economy and the press. I grew up there amid orange groves and avocado trees. The setting was idyllic, but the lessons were not always easy, as anyone knows who has run a small business or lived in a rural area. These experiences were reinforced and expanded by the year I spent as National President of the Future Farmers of America (FFA), a world-opening experience for a 19-year-old - traveling to 30 states, Puerto Rico, and Japan, gaining a sense of the complexity and interconnectedness of the global economy. These experiences clarified my educational goals, which I pursued at the University of California and at the Massachusetts Institute of Technology (MIT), as a National Science Foundation Graduate Fellow in Economics.

Since joining the faculty at the University of Pennsylvania and then at Northwestern University, which brought me back home to the Midwest, my research has focused on investment issues, including the savings and investment decisions of households, as well as the investment and employment decisions of firms. I have worked to advance our understanding of the private decisions that underlie the investments - in research, development, capital, and education - that will ensure our nation’s future.

In the last decade, I have focused on understanding credit programs, working on student lending and home loan programs, to better appreciate the role that federal financing plays in consumer and business credit and debt markets. This background has been especially useful as these markets and the household decisions that depend on them have been thrust into turmoil by the financial crisis and recession.

I am also an educator and have taught several generations of students at the University of Pennsylvania and at Northwestern. I am proud to have seen them go on to thrive in business, education, and public service around the globe, including, in one case that I know of, the staff of one of the Senators on this committee. There is no greater satisfaction for a teacher than seeing students become clear-headed, clear-thinking adults, prepared and dedicated to making their own well-informed decisions.

As an economist, I have previously served on the Council of Economic Advisors staff, and as an advisor to the Bureau of Economic Analysis and the Congressional Budget Office. I am humbled and honored at the possibility of returning to public service and serving this nation. If I am approved by this committee and confirmed by the Senate, I am dedicated to fulfilling the trust given by you, by the President, and by the American people.

Thank you, and I would be pleased to answer any questions you may have.

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

A. BIOGRAPHICAL INFORMATION

1. Name: (Include any former names used.)
Janice Caryl Eberly
2. Position to which nominated:
Assistant Secretary for Economic Policy, Department of the Treasury
3. Date of nomination:
May 4, 2011
4. Address: (List current residence, office, and mailing addresses.)
Residence:

Office:
5. Date and place of birth:
December 15, 1962, Fullerton, CA USA
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 California, Davis, attended 1983-1986, B.S. degree June 1986
Massachusetts Institute of Technology, attended 1986-1991, PhD June 1991

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

Junior Economist, Council of Economic Advisers, Executive Office of the President, Washington, DC, July 1989 – July 1990.

Assistant Professor/Associate Professor, The Wharton School of the University of Pennsylvania, Philadelphia, PA August 1991 – June 1997 (on leave 1997-'98)

Associate Professor, Northwestern University, Kellogg School of Management, Evanston, IL, June 1997 – September 2001 (visiting 1997-'98, full-time thereafter)

Full Professor, Northwestern University, Kellogg School of Management, Evanston, IL, September 2001 – 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.)

Advisory Board, Bureau of Economic Analysis, US Department of Commerce, 2009 – present

Academic Advisory Board, Congressional Budget Office, 2010 - present

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

Board of Directors, Access Group Inc, (non-profit, student loan provider, uncompensated), 2003 – present; Vice-chair of the board 2007 – present

Independent Director, Federal Home Loan Bank of Chicago, 2009 – present

International Advisory Board, Maastricht University, School of Business and Economics, 2010 - present

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

American Economic Association, member, 1991 - present, and elected member of the Executive Committee, 2008 – 2010

American Finance Association, member, 1998 - present

National Bureau of Economic Research, Research Fellow/Associate, 1994 - present

Carnegie-Rochester Conference on Public Policy, Advisory Board member, 2003 - present

Western Finance Association, member, 2000 - present

Charitable Organizations:

Nature Conservancy, member (est. 1998 – present)

Art Institute of Chicago, member (est. 1997 – present)

Field Museum of Chicago, member (est. 1999 – present)

Shedd Aquarium of Chicago, member (est. 1999 – present)

Museum of Science and Industry, Chicago, member (est. 2004 – present)

Adler Planetarium of Chicago, member (est. 2004 – present)

Lincoln Park Zoo, member (est. 1999 – present)

Chicago Botanic Garden, member (est. 1997 – 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.

Obama for America 2008 - \$1000

Bill Foster for Congress 2010 - \$250

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

National Merit Scholarship, 1981
 Regent's Scholarship, University of California, 1981 - 86
 Regent Emeritus, University of California, 1986 - Present
 President's Medal, University of California, 1986
 National Science Foundation Graduate Fellowship, 1986-89
 Sloan Foundation Graduate Fellowship 1990-91
 Alfred P. Sloan Research Fellowship, 1995-99
 National Science Foundation Research Grants, 1992-98
 Top Professor Award (various years), Kellogg School, Northwestern University

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

Published and forthcoming research papers:

"How Q and Cash Flow Affect Investment without Frictions: An Analytic Explanation," forthcoming Review of Economic Studies, joint with Andrew B. Abel, working paper, October 2001, revised July 2009 (previously titled "Q Theory Without Adjustment Costs & Cash Flow Effects Without Financing Constraints").

"Capital Reallocation and Growth," American Economic Review, Volume 99(2), May 2009, pp. 560-566, joint with Neng Wang.

"Irreversible Investment." The New Palgrave Dictionary of Economics. Second Edition. Eds. Steven N. Durlauf and Lawrence E. Blume. Palgrave Macmillan, 2008.

"Optimal Inattention to the Stock Market," American Economic Review, Volume 97(2), May 2007, joint with Andrew B. Abel and Stavros Panageas.

"The Effects of Irreversibility and Uncertainty on Capital Accumulation," Journal of Monetary Economics 44:3, December 1999, pp. 339-377, joint with Andrew B. Abel

"The Mix and Scale of Factors with Irreversibility and Fixed Costs of Investment," Carnegie-Rochester Conference Series on Public Policy 48, October 1998, pp. 101-135, joint with Andrew B. Abel.

An Exact Solution for the Investment and Market Value of a Firm Facing Uncertainty, Adjustment Costs, and Irreversibility," Journal of Economic Dynamics and Control 21,

August 1997, pp. 831-852, joint with Andrew B. Abel.

"Multi-factor Dynamic Investment Under Uncertainty," Journal of Economic Theory 75(2), August 1997, pp. 345-387, joint with Jan van Mieghem.

"International Evidence on Investment and Fundamentals," European Economic Review 41, 1997, pp. 1055-1078.

"Optimal Investment with Costly Reversibility," Review of Economic Studies 63(4) No. 217, October 1996, pp. 581-594, joint with Andrew B. Abel.

"Options, the Value of Capital, and Investment," Quarterly Journal of Economics 111(3), August 1996, pp. 753-777, joint with Andrew B. Abel, Avinash K. Dixit, and Robert S. Pindyck.

"A Unified Model of Investment Under Uncertainty," American Economic Review 84(5), December 1994, pp. 1369-1385, joint with Andrew B. Abel.
Reprinted in Kevin D. Hoover, Ed., The Economic Legacy of Robert Lucas, Jr., Edward Elgar Publishing, US publication October 1999.

"Adjustment of Consumers' Durables Stocks: Evidence from Automobile Purchases," Journal of Political Economy 102(3), June 1994, pp. 403-436.

Published Comments:

"Unwinding Emergency Federal Reserve Liquidity Programs and Implications for Economic Recovery," Testimony for the House Financial Services Committee, March 2010, US House of Representatives.

"Guaranteed versus Direct Lending: the Case of Student Loans," in Measuring and Managing Federal Financial Risk, Deborah Lucas, Editor, University of Chicago Press, 2010.

"The Rise in Firm-Level Volatility: Causes and Consequences: Comment," NBER Macroeconomics Annual 2005, National Bureau of Economic Research, MIT Press, 2006.

"Time-varying Risk Premia and the Cost of Capital: An Alternative Implication of the Q Theory of Investment, Comments" Journal of Monetary Economics & Carnegie-Rochester Conference Series on Public Policy 49(1), January 2002, pp. 67-74.

"The Stock Market and Investment in the New Economy: Some Tangible Facts and Intangible Fictions, Comments" Brookings Papers on Economic Activity 2000:1, pp. 109-114.

"On Irreversibility and Aggregate Investment: Comment," 1993 Macroeconomics Annual, National Bureau of Economic Research, pp. 303-312.

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

I teach and give presentations on macroeconomics and economic issues, but without a written text.

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

I have worked in macroeconomics and financial markets for 20 years, both in conceptual and applied research. A main focus has been on capital investment, emphasizing the effect of risk and uncertainty on households' and firms' decisions. I also work on the spending and saving decisions of households. This research addresses both how households spend, for example, on automobiles, and how they save for retirement and other purposes, and how they invest their savings. Together, this work gives me perspective on business decisions, such as hiring and investment, as well as consumer and household choices. These are all touched by economic policy in important ways, such as taxes and credit policy.

I have been involved in policy directly by serving on the Advisory Committee of the Bureau of Economic Analysis (BEA) at the Department of Commerce, which collects government economic data, notably the GDP statistics, and I also advise the Congressional Budget Office (CBO) as a member of its Academic Advisory Board. In addition, as my interest in credit provision developed, I served on the boards of a non-profit student loan provider and the Federal Home Loan Bank of Chicago, a GSE. These experiences enrich my knowledge of the role that government credit programs play in financial markets and business' and households' decisions. Moreover, these decisions contribute to the macroeconomic conditions that are also a motivation for my work.

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, except I intend to take a leave of absence from Northwestern University.

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.

I expect to return to Northwestern University, as I will be on a leave of absence.

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 the Treasury'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 of the Treasury'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 the Treasury'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 of the Treasury'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 the Treasury'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 of the Treasury'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.

Will be provided.

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

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

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.

No.

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

No.

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

None.

E. TESTIFYING BEFORE CONGRESS

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

Yes.

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

Yes.

Janice Eberly – nominee for Assistant Secretary for Economic Policy

Questions for the Record from Senator Hatch

- 1. If confirmed, how will you ensure that your research is free from political manipulation and is able to withstand scrutiny from all sides?*

Thank you for your generous statement and support at the hearing. If confirmed, I look forward to working with you on the important issues facing the nation. It is my job as an economist to present research based on economic fundamentals and sound analysis of the available data. I have upheld that professional integrity throughout my career in academia and in public service. If confirmed as the Assistant Secretary for Economic Policy at the Department of the Treasury, I will continue to uphold this standard. Moreover, this standard of professional conduct and integrity is also consistent with the strong tradition and reputation of the Office of Economic Policy.

- 2. This question is based on your emphasis on the effect of risk and uncertainty in your work.*

Every year for the past several years, this Committee has struggled with what has become known as “tax extender’s” which are several provision in the tax code that expire every year or two, and are frequently extended. This uncertainty further extends to the marginal income tax rates, which are currently slated to return to their 2000 levels after the end of next year.

What impact do you think temporary tax provisions have on the decisions made by businesses and families?

Especially where our marginal tax rates are concerned, do you think people make the same decisions in the same way as they would if the rates were permanent, or does the temporary nature of much of the tax code have an impact?

I understand that there are a number of provisions in the Tax Code for which Congress has set expiration dates and then has routinely extended year after year, commonly called “tax extenders” or “expiring provisions.” While these provisions often are extended – sometimes before they expire and sometimes retroactively – there is not a consistent pattern on which taxpayers can rely.

In general, the inability of taxpayers to rely upon a specific set of provisions that will apply in the coming year means that decisions must be made in the context of uncertainty. Some of these decisions will correctly anticipate Congressional action, but some decisions will turn out to be sub-optimal. In addition, the increased risk of making incorrect decisions may cause taxpayers to hold off on making desirable investments.

For example, the Research and Experimentation (R&E) credit is intended to provide a tax subsidy for firms that undertake research activities that have the potential for creating public benefits. However, research investments often have a long lead time and uneven funding patterns. If the law governing the tax benefits from making research investments is also in flux, then firms cannot make a reliable set of calculations about the costs and benefits of various research projects, and compare them directly to other investment opportunities. There clearly can be instances where the lack of clarity in the R&E credit law can lead firms to under-invest in research.

The effect of marginal tax rate uncertainty in the individual income tax is less clear. Decisions with long lead times and delayed outcomes may in general be affected by tax uncertainty. However, many decisions made by individual taxpayers depend on the tax law that applies in the year at hand. As long as Congress acts prior to the start of the tax year to make clear the tax rate schedules that apply for the coming year, taxpayers should be able to make relatively well-informed decisions for the coming year.

3. In terms of economic research being done today, what questions do you think we need to know more about in terms of creating policies to better cope with high unemployment and our current economic problems? That is to say, what do you think is missing from the current body of academic literature that would be most useful to us now?

Despite some improvement over the past year, the unemployment rate remains at an unacceptably high level. While this is mostly a consequence of the severe recession, it also underlines important structural changes that have taken place in the labor market in recent decades, particularly the shift toward a more service-oriented economy and the increased demand for skilled workers. The academic literature has documented these shifts in the labor market, but there is much less research on how we can better prepare our workforce for the current and future job market. It would be useful to have further research on the extent to which improved access to education can enhance labor force opportunities, both in the long run and around unemployment spells.

Another pressing question in the current economic environment is the effect of fiscal changes on the path of economic growth. Research has typically shown that in the short-run a reduction in government spending, especially in an economy with excess capacity, is a drag on growth. The long-run effect depends primarily on whether and how much interest rates fall, which itself depends on how capital markets react to consolidation. In a simple framework, the reduced government demand for borrowing lowers aggregate demand and hence the interest rate. But in a world with globalized financial markets, and moreover when there is uncertainty over the efficacy of the consolidation plan, the outcome is more complex and less clear. Further research on this topic could provide important economic and policy insights as the U.S. embarks on a strategy for reducing the federal deficit.

**Opening Statement of Judge Maurice Foley
Nominee for Judge, US Tax Court
Senate Committee on Finance
July 28, 2011**

First and foremost, I thank my Lord and Savior, Jesus Christ, for blessing me with the opportunity to serve a second term on the U.S. Tax Court. I am truly honored to be nominated by President Obama and I thank you Chairman Baucus, Ranking Member Hatch, members of this Committee, and the Committee staff for scheduling and processing my nomination. In the summer of 1988 I was privileged to begin working with this committee as a member of Senator Bentsen's tax staff. While Senator Bentsen campaigned as the Vice Presidential candidate on the Dukakis ticket, you, Chairman Baucus, managed the Technical and Miscellaneous Revenue Act of 1988 (TAMRA), and our staff enjoyed assisting you in that endeavor. You were very supportive of my nomination in 1994 and your support has continued to this day. For that I thank you.

I am accompanied by my most cherished blessing: my extraordinary family. Sandy and I have been married for 26 years and she has encouraged, prayed for, and loved me for 33 years. In addition to being a wonderful wife she is an exemplary mother who dutifully endured my travel schedule and, in my absence, somehow managed to raise three special children. At my 1995 hearing Sandy sat with our 4 year-old son, 2 year-old daughter, and 7 month-old baby. After introducing them, I fondly remember Chairman Packwood noting to Senator Moynihan that "those toddlers are now supposed to have Social Security numbers" and Senator Moynihan cheerfully reporting "And they all do!" Today I am delighted to report that, in addition to being students, they all have jobs and are now contributors to the Social Security Trust Fund. My eldest child, Malcolm, is currently in London studying Shakespeare and honing his acting skills at the Globe Theatre. He is a religion and finance major at a wonderful university, recipient of a four year academic scholarship, and will attend seminary or divinity school next year. My daughter, Corinne, is a hardworking biology major at a prestigious college, a recipient of a four year academic scholarship, and a future doctor. My son, Nate, is a high school senior, prospective college student, accomplished electric guitarist, and 2008 and 2010 champion of the Apollo Theater's Amateur Night competitions. My parents, Samuel and Cora Foley reside in California. Last month they celebrated 60 years of marriage and next month will celebrate their 80th birthdays. Suffice it to say, their hard work, love, wisdom, and prayers throughout the years laid the foundation for the myriad of opportunities our family has been blessed with.

During the course of my career, I have had the privilege of drafting regulations for the Internal Revenue Service, assisting this committee and the Treasury Department in the tax legislative process, and sitting on the U.S. Tax Court.

Mr. Chairman, I love government service. It is an honor and a privilege. If confirmed by the Senate, I will certainly work to the best of my ability to discharge my duties. Thank you.

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

A. BIOGRAPHICAL INFORMATION

1. Name: (Include any former names used.)
Maurice Brian Foley
2. Position to which nominated: Judge, United States Tax Court
3. Date of nomination: January 5, 2011
4. Address: (List current residence, office, and mailing addresses.)

5. Date and place of birth:
March 28, 1960
Belleville, Illinois
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.)

Hiram Johnson High School, Sept. 1975 - May 1978, Diploma (1978)
Swarthmore College, Sept. 1978 - Dec. 1978 and Sept. 1979 - May 1982,
B.A. (1982)
Temple University, Jan. 1979 - June 1979
University of California at Berkeley, Aug. 1982 - May 1985, J.D. (1985)
Georgetown University Law Center, Sept. 1986 - May 1988, LL.M. (1988)

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.)
 - Law Clerk, California Public Defender, Sacramento, CA, May 1983 - June 1983
 - Law Clerk, Small Business Administration, San Francisco, CA, July 1983 - Sept. 1983
 - Law Clerk, Thompson, Hine and Flory, Cleveland, OH, June 1984 - Aug. 1984
 - Law Clerk, Weintraub, Genshlea, et. al., Sacramento, CA, Sept. 1984 - Apr. 1985
 - Law Clerk and Attorney-Advisor, Internal Revenue Service, Washington, D.C., Oct. 1985 - July 1988
 - Tax Counsel, U.S. Senate, Committee on Finance, Washington, D.C., Aug. 1988 - Jan. 1993
 - Deputy Tax Legislative Counsel, Department of Treasury, Washington, D.C., Jan. 1993 - Apr. 1995
 - Judge, U.S. Tax Court, Washington, D.C., Apr. 1995 - 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.)
 - None.
11. Business relationships: (List all positions held as an officer, director, trustee, partner, proprietor, agent, representative, or consultant of any corporation, company, firm, partnership, other business enterprise, or educational or other institution.)
 - College Summit, Board Member, 1996-2001
 - Richard Rubin Scholar Mentoring Program, Steering Committee, Member, 2007-Present
12. Memberships: (List all memberships and offices held in professional, fraternal, scholarly, civic, business, charitable, and other organizations.)
 - California Bar Association (1986-present)
 - Advisor, Executive Committee, Tax Section, State Bar of California (1992-1995)

U.S. Tax Court, Chair, Pro Se Taxpayers Committee (2008-Present)
U.S. Tax Court, Member, Employee Dispute Resolution Committee
(2006-Present)
U.S. Tax Court, Member, Legislation Committee (1995-2000; 2002-Present)
Federal Bar Association (March 2010-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.

None.

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

Georgetown Law Brothers Forum's "2008 Achievement Award"
University of Baltimore School of Law, 2007 Teaching Excellence Award
National Bar Association's "Outstanding Tax Attorney of the Year 2000"

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

None other than Tax Court opinions.

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.)

ABA, Section of Taxation May 2000 Meeting, Washington, D.C.,
May 12, 2000, "Career Opportunities in Tax".

ABA, Section of Taxation May 2002 Meeting, Washington, D.C.,
May 10, 2002, "Diversity Committee Panel".

ABA, Section of Taxation May 2009 Meeting, Washington, D.C.,
May 8, 2009, "Candor Before the Tribunal".

ABA, Real Property, Trust and Estates Joint Fall Meeting in Chicago, IL,
September 24, 2009, "Diversity Committee Panel" and September 26, 2009,
"News from the Benches".

Congressional Testimony:

Presentation of the Administration's position relating to the "Targeted Jobs Tax Credit", House Ways and Means Subcommittee on Select Revenue Measures, September 1994.

Presentation of the Administration's position relating to the "Targeted Jobs Tax Credit", House Government Operations Subcommittee on Employment, Housing, and Aviation, September 1994.

Presentation of the Administration's proposal relating to the "Tax Treatment of Health Care Organizations under the Health Security Act", House Ways and Means Committee on Select Revenue Measures, December 1993.

Presentation of the Administration's position relating to the "Taxpayer Debt Buy-Down Act", House Ways and Means Subcommittee on Select Revenue Measures, November 1993.

Presentation of the Administration's proposal relating to "Empowerment zones and Enterprise Communities", Senate Committee on Small Business, Subcommittee on Competitiveness, Capital Formation, and Economic Opportunity, June 1993.

Tax Court Judicial Conference:

Moderator, "Courtroom Disruptions", May 2008.

Moderator, "What Can Be Done to Help Tax Clinics and Pro Bono Programs Better Serve Taxpayers", April 2007.

Moderator, "Tax Legislation and Simplification", April 2005.

Moderator, "Significant Developments in the Federal Estate and Gift Taxes" and

"Places of Trial", April 2002.

Speaker, various Black Law Student Associations, 2004-present.

Motivational Speaker, various public school mentoring and career development programs, 1996-present.

Presenter, mock trials in various public schools, 1996-2007.

Numerous other speaking engagements relating to a myriad of tax issues, 1986-1994.

I used notes, rather than a prepared text, for all of these speeches. Copies are not available.

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

For the last 15 years I have successfully performed the duties of this position. I am a deliberate and conscientious decision-maker and have the temperament, integrity, and experience required for the position.

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.

Not applicable. I seek to continue in my current position.

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

Yes. Typically I teach at the University of Baltimore and earn \$9,000 per semester. On occasion I also teach at the University of Colorado at Boulder during their abbreviated spring semester or summer programs.

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

No.

4. If you are confirmed by the Senate, do you expect to serve out your full term or

until the next Presidential election, whichever is applicable? If not, explain.

Yes.

C. POTENTIAL CONFLICTS OF INTEREST

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

None.

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

None.

3. Describe any activity during the past 10 years in which you have engaged for the purpose of directly or indirectly influencing the passage, defeat, or modification of any legislation or affecting the administration and execution of law or public policy. Activities performed as an employee of the Federal government need not be listed.

I am on the Tax Court's Legislative Committee. In this capacity, I have assisted the Committee in developing legislative proposals relating to the Court.

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

I will recuse myself from participating in any cases in which I may have a conflict 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.

Not applicable.

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

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

Not applicable.

D. LEGAL AND OTHER MATTERS

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

No.

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

No, however, in 1978, during the first semester of my freshman year in college, I received a one semester suspension for my involvement in the theft of a student's property.

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

Yes. My car was hit by a Philadelphia public transit bus. The transit authority denied liability and I sued to recover my expenses. In May 2002, the transit authority admitted liability, settled the case, and paid my expenses.

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
 Nomination Hearing
 July 28, 2011
 Senator Orrin G. Hatch

For Judges Vasquez and Foley:

1. There are over 20,000 petitions filed per year with the Tax Court. There are 19 judges on the Tax Court. So, that's more than 1,000 petitions per judge per year. Or, more than 20 petitions per judge per week. Is the caseload excessive? Or perhaps enough cases are settled before they get to you that it is not too excessive? If the caseload is excessive, what, if anything, should Congress do about that?

Answer: The Court has a very high settlement rate but currently has several vacancies. Assuming the filling of those vacancies the Court's workload is not excessive. Since 2009, the Tax Court has been comprised of 32 judicial officers, including active Presidentially-appointed judges, senior judges (i.e., Presidentially-appointed judges continuing to perform judicial duties), and special trial judges (i.e., officers appointed by the chief judge to handle small tax cases). Because of judicial vacancies and a reduction in the number of special trial judges, the number of judicial officers is lower than in prior years. In 2009-2010, each of the 32 judicial officers closed, on average, about 950-975 cases per year.

In calendar year 2000, 13,545 cases were filed. The number of cases filed per year increased gradually throughout the decade, reaching 31,195 in calendar year 2008, 31,101 in calendar year 2009, and 29,540 in calendar year 2010. These heavy filing trends are continuing in 2011. Thus, 9,955 cases were filed in the first 4 months of 2010, and 9,950 cases were filed in the first 4 months of 2011. In 2008, the Tax Court began calendaring more cases per week of trial session with the goal of remaining current in our work despite the increased caseload. As a result, the Tax Court closed 31,001 cases in calendar year 2008, 31,373 cases in calendar year 2009, and 31,410 cases in calendar year 2010. Thus, in calendar years 2008-2010, 91,836 cases were filed and 93,784 cases were closed.

2. Taxpayers, if they are able to pay the disputed tax prior to litigation, have essentially three different Federal courts to litigate in: the district court, the Court of Claims, and the Tax Court. Do you believe this creates an opportunity for forum shopping? Are taxpayers able to pick and choose their court based on where favorable precedents might be? If so, what, if anything, should be done about that?

Answer: The opportunities for forum shopping (i.e., based on where favorable precedents might be) are few. A litigant's choice of forum is probably more dependent on factors other than differences in precedent. For example, the practical impact of deciding between the Tax Court and the district courts is minimal because both follow the precedents of the U.S. Court of

Appeals to which a case is appealable. Pursuant to our holding in Golsen v. Commissioner, 54 T.C. 742, 757 (1970), affd. 445 F.2d 985 (10th Cir. 1971), the Tax Court follows precedent established by the court of appeals for the circuit in which venue on appeal would lie. If there is no circuit precedent on point, the Tax Court, which has national jurisdiction, provides uniformity in result by following its own precedent.

In choosing a forum, the Tax Court's prepayment jurisdiction may be a far more important factor than differences in precedent. Unlike taxpayers who cannot prepay their liability and have no choice but to litigate in the Tax Court, taxpayers who can afford to pay the tax first and sue for a refund can also choose to litigate in the Court of Federal Claims or district court. Another factor in choice of forum is that the Tax Court Rules of Practice and Procedure are specifically designed for the litigation of tax cases and are hospitable to non-litigators. These features of Tax Court procedure include: (1) mandatory informal pretrial consultation between the parties (see Branerton v. Commissioner, 61 T.C. 691 (1974)); (2) mandatory pretrial stipulation of facts which reduces evidentiary objections at trial; (3) more restrictive use of depositions which reduces pretrial litigation costs; (4) rules requiring the exchange of expert reports 30 days before trial and the acceptance of such reports as the direct testimony of the expert; and (5) simplified procedures available to taxpayers who elect to have their cases conducted as small tax cases.

3. Article III of the Constitution created the judicial branch of government. Among other things, it provides that judges have a lifetime appointment, and may not have their salaries reduced while in office.

Article I of the Constitution creates the legislative branch, and describes the two chambers of Congress and their respective powers.

Prior to 1969, the Tax Court was considered simply to be within the Executive Branch. Throughout the 1940s until 1969, there had been debate as to whether the Tax Court should be elevated to being an Article III Court.

In 1969, however, the Tax Court was made into an Article I Court. My question to you is this: Do you think in general that Tax Court judges would do a better job if they had Article III protections? Would they have greater independence if they had lifetime appointments and could not have their salaries reduced?

After all, after 15 years, a Tax Court judge seeking reappointment may have to seek such reappointment from a President of the opposing party from the President who initially appointed him.

Answer: Under the current statutory regime governing appointment, salary, removal, and retirement, judges of the Tax Court enjoy substantial judicial independence. We see no

indication that the current statutory structure provides any substantial difference in judicial independence compared to lifetime appointment.

Pursuant to statute, judges of the Tax Court are appointed to 15-year terms by the President, with the advice and consent of the Senate. If not reappointed, judges typically continue to work almost full time as senior judges. Also pursuant to statute, judges receive salary at the same rate and in the same installments as judges of the district courts of the United States. Over the last 10 years, Congress has passed a number of Tax Court legislative proposals affecting judges' benefits (e.g., life insurance coverage and thrift savings plan contributions) and enhancing judges' physical security (i.e., U.S. Marshal's Service protection) that conform our treatment with that of Article III judges. The Court's current package of legislative proposals includes additional provisions that would continue this trend.

Consistent with the tradition of reappointment of Tax Court judges (assuming they were initially appointed at a relatively young age), reappointment to the Tax Court and reconfirmation by the Senate has frequently occurred when the reappointing President was of a different political party than the President who first appointed the judge. We, of course, have no assurances that each President, regardless of political affiliation, will follow this tradition.

4. Are you aware of examples where Tax Court judges may have changed their outlook on a given case, because of the desire to be re-appointed by the President, and re-confirmed by the Senate?

Answer: We are not aware of any examples where a Tax Court judge may have changed their outlook on a given case because of the desire to be reappointed by the President, and re-confirmed by the Senate. The statutory provisions referenced in our answer to Question 3, our strong and widely followed tradition of lifetime judicial service (i.e., in regular and senior status), and our adherence to the Code of Conduct for United States Judges protect against such conduct.

**STATEMENT OF HON. ORRIN G. HATCH, RANKING MEMBER
U.S. SENATE COMMITTEE ON FINANCE HEARING OF JULY 28, 2011
NOMINATIONS OF JUAN F. VASQUEZ, MAURICE B. FOLEY, AND JANICE EBERLY**

WASHINGTON – U.S. Senator Orrin Hatch (R-Utah), Ranking Member of the Senate Finance Committee, today delivered the following remarks during a Senate Finance Committee hearing considering the nominations of Juan F. Vasquez and Maurice B. Foley to serve as Judges of the U.S. Tax Court and Janice Eberly for the position of Assistant Secretary of Treasury:

Thank you Mr. Chairman, and my thanks also to the three nominees who are appearing before us today. We are grateful for your service, and in the case of the Tax Court judges, we are fortunate that the nation will continue to benefit from your expertise.

Judge Juan Vasquez and Judge Maurice Foley have each completed a 15 year term on the Tax Court, and are willing to embark on a second term.

The tax code is very complicated. In my view, it is way too complicated, which is why we need fundamental tax reform that adheres to President Reagan's three criteria for successful tax reform: economic growth, fairness, and simplicity.

But given the current complexity of the code, the Finance Committee has traditionally encouraged and recommended that Tax Court Judges who desire to continue serving on the Tax Court be renominated and confirmed again.

Before joining the Tax Court, Judge Vasquez worked as a tax attorney in private practice, and also as a trial attorney for the Internal Revenue Service in the Office of Chief Counsel.

Judge Foley also worked for the IRS earlier in his career. In addition, he worked as Deputy Tax Legislative Counsel for the Treasury Department and for this Committee as a Tax Counsel to Chairman Lloyd Bentsen.

The Tax Court is particularly important because a taxpayer is able to file a case in the Tax Court regarding a disputed tax deficiency before paying the disputed amount. Prior to the creation of the Tax Court, taxpayers were required to pay the tax in question before asking the IRS for a refund or taking the government to court. The Tax Court empowers the individual taxpayer so he or she is better able to challenge the government's position. I'm not saying that any battle with the federal government is a walk in the park, but think of how much more difficult it would be for an individual taxpayer to take on the IRS if all disputed amounts were required in advance before a taxpayer could have his day in court and make the case that the government is wrong.

Our third witness today is Dr. Janice Eberly, nominated to be Assistant Secretary for Economic Policy at the Treasury Department. This position is always important, but it is particularly so today given our nation's perilous fiscal situation. It is essential that the Treasury

Department, as it attempts to develop effective public policies, is able to make use of current economic research and to conduct its own research in an objective and non-partisan fashion.

As with our other nominees, this is not Dr. Eberly's first trip to Washington. She previously served as a Junior Economist with the Council of Economic Advisors. Currently a Full Professor at Northwestern University's Kellogg School of Management, Dr. Eberly's research has focused on capital investment with an emphasis on the effect of risk and uncertainty on the decisions made by firms and households. I am thankful that Dr. Eberly appreciates that economic policy, which includes tax policy, significantly impacts the decisions of families and businesses.

I want to again extend my thanks to all of you for your willingness to serve.

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KAY BAILEY HUTCHISON
TEXAS

COMMITTEES:
APPROPRIATIONS
BANKING
COMMERCE, SCIENCE,
AND TRANSPORTATION
RULES AND ADMINISTRATION

United States Senate

WASHINGTON, DC 20510-4304

July 27, 2011

The Honorable Max Baucus
Chairman

The Honorable Orrin G. Hatch
Ranking Member

Committee on Finance
219 Dirksen Senate Office Building
Washington, DC 20510

Dear Chairman Baucus and Ranking Member Hatch:

I ask that the following statement be submit for the record.

Thank you very much, Mr. Chairman.

It is my pleasure to introduce Juan Vasquez, who has been nominated by the President for reappointment to be Judge of the U.S. Tax Court. Mr. Vasquez is a native son of Texas. After attending Junior College in San Antonio, he received his Bachelors of Business Administration degree from the University of Texas and his J.D. from the University of Houston, followed by an LL.M. in Taxation from NYU Law School.

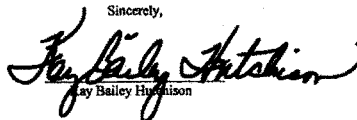
After significant experience as a trial attorney for the IRS and as a private practitioner in his hometown of San Antonio, he was appointed by President Clinton in May of 1995 as a Judge of the U.S. Tax Court for a term which has expired in 2010.

Mr. Vasquez is not only respected for his good understanding of the law; he is also an upstanding citizen of both his home state and his country. Indeed, the magazine *Texas Monthly* has named him a "Texas Rising Star" and he has been named as a leading individual in the Tax Litigation Nationwide category in the *Chambers USA's* "America's Leading Lawyers for Business" 2006 - 2011 Client Guide.

In addition to his distinguished law career, Mr. Vasquez believes strongly in giving back to his community and serves on the Board of Directors of Big Brothers Big Sisters, where he is also Chair of the Audit Committee and a Member of the Executive Committee. He is also currently a Big Brother.

With great pride I recommend to you Juan Vasquez, a model Texan and civil servant, for reappointment to the United States Tax Court. His educational and professional career show Mr. Vasquez's determination and perseverance, two great qualities for a judge. I believe him to be exceptionally qualified and competent and I will look forward to his continued service on the court.

Sincerely,



Kay Bailey Hutchison

**Opening Statement of Judge Juan Vasquez
Nominee for Judge, US Tax Court
Senate Committee on Finance
July 28, 2011**

Mr. Chairman, Senator Hatch, Senator Cornyn from my home State of Texas, and distinguished members of the Committee it is a privilege to be here today. It has been an honor to serve our country as a Judge of the U.S. Tax Court for the past 16 years. I am very grateful to President Obama for nominating me for a second term as a Judge on the Tax Court.

Mr. Chairman thank you for scheduling this hearing, and I also want to thank the staff members on your committee with whom I have worked with on my renomination. I thank my staff, my former and present law clerks, and my colleagues on the Tax Court for their support.

I would like to briefly introduce my family members who are present here today to express my gratitude for their love and support. My wife Terry and our two sons, Juan F. Vasquez, Jr., who is a tax lawyer in Houston, Texas, Jaime Vasquez, who is also a tax lawyer in San Antonio, Texas, and his wife, our daughter-in-law Veronica Leal Vasquez, also a lawyer in San Antonio.

I would like to thank my grandparents Jesus and Basilia Flores for their values and work ethic that they instilled in me as they raised me in the cotton fields of Texas and also my grandparents Juan and Victoria Vasquez.

Since my appointment to the Court in 1995, I have worked diligently to provide the taxpayers and Government attorneys that appear before me a fair and impartial trial and to apply our tax laws fairly.

If confirmed, I make my commitment to this committee to continue to work diligently in interpreting the laws of our Country and to provide the taxpayers and the Government their day in Court in a fair and impartial manner.

Thank you, I look forward to any questions that you may have.

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

A. BIOGRAPHICAL INFORMATION

1. Name: (Include any former names used.)
Juan F. Vasquez
(Robert Vasquez- 6/48-11/48-parents changed name to John Vasquez-11/48-6/64)
2. Position to which nominated:
Judge-United States Tax Court
3. Date of nomination:
1/26/2011
4. Address: (List current residence, office, and mailing addresses.)

5. Date and place of birth:
June 24, 1948, San Antonio, Texas
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.)
- New York University School of Law-9/77-5/78, Masters of Laws in Taxation degree - 5/78
 - University of Houston Law Center-9/75-5/77, Juris Doctor degree - 5/77
 - State University of New York, Buffalo-9/74-5/75-1st year law school
 - University of Texas at Austin-9/70-5/72, Bachelor of Business Administration in Accounting degree - 5/72
 - San Antonio Junior College, 9/67- 5/70 - Associate Degree in Data Processing - 5/70
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.)
- United States Tax Court-Judge-5/95-Present-Washington, D.C.
 - University of Houston Law Center-Adjunct Professor-1/08-Present-Houston, TX.
 - Juan F. Vasquez, A Professional Corporation-Tax Attorney-7/87-4/95-San Antonio, TX.
 - Leighton, Hood & Vasquez, A Professional Corporation-Tax Attorney-8/82-6/87-San Antonio, TX.
 - Office of Chief Counsel, Internal Revenue Service-Trial Attorney-8/78-8/82-Houston, TX.
 - Coopers & Lybrand, Certified Public Accountants-Accountant-6/72-8/74-Los Angeles, CA.
 - University of Houston Law Center-Research Assistant-Summers 1976-1977
 - United States Army, OFC & ACOFS Data Processing Division Hq., Fort Sam Houston-Electrical Accounting Machine Operator-May-October, 1969, San Antonio, TX.
 - Western Union Telegraph Company, Messenger-8/64-8/70- San Antonio, TX
10. Government experience: (List any advisory, consultative, honorary, or other part-time service or positions with Federal, State or local governments, other than those listed above.)
- Member of the IRS/Practitioners Liaison Committee, Internal Revenue Service, San Antonio, TX-1991.
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.)

- Board of Directors-University of Houston Law Center-Houston Business & Tax Law Journal (2002 – Present).
- Partner-1/3 owner in Beaver Run Condominium in Breckenridge, Colorado (1984 – Present).
- San Antonio Hispanic Chamber of Commerce (formerly San Antonio Mexican Chamber of Commerce), Legal Advisor, 1986

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

- American Bar Association, Section of Taxation-member- 1977-present
- Texas State Bar Association, Taxation & Probate Sections-member- 1977-present
- College of State Bar of Texas-member-1990-present
- National Hispanic Bar Association-member-2005-present
- Hispanic Bar Association - District of Columbia-1995-present
- Hispanic Heritage Youth Awards, Regional Awards Selection Committee-2004-2007
- Texas Bar Foundation- Sustaining Life Fellow
- San Antonio Bar Foundation - Sustaining Life Fellow
- Mexican American Bar Association of San Antonio, member-1982-1995
- Mexican American Bar Association of Texas, member-1986-1988
- Mexican American Bar Association of Houston, member- 1978-1982
- National Association of Hispanic Certified Public Accountants, San Antonio Chapter, founding member-1983-1988

13. Political affiliations and activities:

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

None

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

None

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

None

14. Honors and Awards: (List all scholarships, fellowships, honorary degrees, honorary society memberships, military medals, and any other special

recognitions for outstanding service or achievement.)

- Recognized by the Hispanic Bar Associations of the District of Columbia, November 4, 2010
 - Interview published in the July/August edition of the "International Tax Review" adapted from "The State of Tax Litigation in the United States and Canada: A View from the Bench". The 59th midyear conference of Tax Executives Institute, January 2009.
 - Recipient of "The Judge Ricardo M. Urbina Lifetime Achievement Award", The Hispanic Bar Association of the District of Columbia, November 9, 2007.
 - Recipient of "Distinguished Tax Law Visitor", Washburn University School of Law, Business & Transactional Law Center, October, 2005.
 - Recognized in Latino Leaders, The National Magazine of the Successful American Latino. "The List-101 Movers & Shakers in America", December 2004-January Issue.
 - Recognized in The CPA Journal, "An Interview with Tax Court Judge Juan F. Vasquez", January 2004.
 - Federal Bar Association, Section of Taxation, Report, "An Interview with Honorable Juan F. Vasquez", Spring, 1997
 - Recipient of "Recognition of Your Support & Dedication to Our Organization", The Mexican American Bar Association, April, 1995
 - Recipient of "Outstanding Member Award", Mexican American Bar Association, 1991 & 1996.
 - Recipient of South Side YMCA Sponsor Award, 1993.
 - Recipient of "Mentor to Junior High School Students Award", Mexican American Bar Association of San Antonio, 1992 & 1993.
 - Recipient of "President's Service Award", Mexican American Bar Association of San Antonio, 1991
 - Recipient of "Merituous Service Award, In recognition of your contributions as a member of the IRS/Practitioners Liaison Committee", 1990-1991,
 - Recipient of "Sembradores Education Foundation Corporate Sponsorship Award", Sembradores de Amistad, 1989-1990,
 - Recipient of "Certificate of Merit", Pro Bono Law Project of Bexar County Aid, San Antonio, Texas, June 24, 1988,
15. Published writings: (List the titles, publishers, and dates of all books, articles, reports, or other published materials you have written.)
- None
16. Speeches: (List all formal speeches you have delivered during the past five years which are on topics relevant to the position for which you have been

nominated. Provide the Committee with **two** copies of each formal speech.)

- Interview published in the July/August edition of the "International Tax Review" adapted from "The State of Tax Litigation in the United States and Canada: A View from the Bench". The 59th midyear conference of Tax Executives Institute, January 2009.
- National Association of CPAs of Mexico, (Colegio Contadores Publicos de Mexico), Acapulco, Mexico, March 10, 2005.
- The CPA Journal, "An Interview with Tax Court Judge F. Vasquez", January 4, 2004.

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

I have served as a Judge on the United States Tax Court since May 1, 1995 for a term of 15 years which expired on April 30, 2010. I would be honored to be reappointed for a second term.

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 currently serving in the position to which I am being nominated. Additionally, I will continue my employment as an adjunct professor at the University of Houston Law Center, which I am permitted to do, while serving as a Judge, with the approval of the Chief Judge of the United States Tax Court.

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.

Please see response to question 1 above.

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.

As a shareholder in Prudential, Inc., I am required to recuse myself from any case dealing with Prudential, Inc.

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

None.

3. Describe any activity during the past 10 years in which you have engaged for the purpose of directly or indirectly influencing the passage, defeat, or modification of any legislation or affecting the administration and execution of law or public policy. Activities performed as an employee of the Federal government need not be listed.

None.

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

I will recuse myself from participating in any cases in which I may have a conflict 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.

Not applicable.

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

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

Not Applicable.

D. LEGAL AND OTHER MATTERS

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

No.

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

No.

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

Yes, the first 3 listed below in my official capacity as a Judge of the U.S. Tax Court.

(1) 12/8/09: Civil:
Richard J. Florence Sr. vs Juan F. Vasquez of the U.S. Tax Court & various Judges for the U. S. Court of Appeals for the Fifth Circuit.
Dismissed by Order – October 2010.

(2) 11/02/06: Civil:
William C. Stearman, III vs. Juan F. Vasquez of the U. S. Tax Court and various Judges of the U.S. Court of Appeals for the Fifth Circuit.
On 11/1/06, the U.S. Court of Appeals for the Fifth Circuit dismissed the plaintiff's appeal. On 12/4/06, plaintiff filed a Writ of Certiorari with the U.S. Supreme Court. On 2/20/07, the Writ of Certiorari was denied by the Supreme Court.

(3) 4/26/02: Civil:
Jimmy C. Chisum, vs Juan F. Vasquez of the U.S. Tax Court
U.S. District Court for the District of Columbia
Case dismissed

(4) 11/89: Civil:

TR Management Inc. vs. partners in said partnership for contribution to capital upon termination in 1988.

Case was settled on 12/91 when I paid the capital contribution related to my 1% ownership & I was dismissed from case.

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
Nomination Hearing
July 28, 2011
Senator Orrin G. Hatch

For Judges Vasquez and Foley:

1. There are over 20,000 petitions filed per year with the Tax Court. There are 19 judges on the Tax Court. So, that's more than 1,000 petitions per judge per year. Or, more than 20 petitions per judge per week. Is the caseload excessive? Or perhaps enough cases are settled before they get to you that it is not too excessive? If the caseload is excessive, what, if anything, should Congress do about that?

Answer: The Court has a very high settlement rate but currently has several vacancies. Assuming the filling of those vacancies the Court's workload is not excessive. Since 2009, the Tax Court has been comprised of 32 judicial officers, including active Presidentially-appointed judges, senior judges (i.e., Presidentially-appointed judges continuing to perform judicial duties), and special trial judges (i.e., officers appointed by the chief judge to handle small tax cases). Because of judicial vacancies and a reduction in the number of special trial judges, the number of judicial officers is lower than in prior years. In 2009-2010, each of the 32 judicial officers closed, on average, about 950-975 cases per year.

In calendar year 2000, 13,545 cases were filed. The number of cases filed per year increased gradually throughout the decade, reaching 31,195 in calendar year 2008, 31,101 in calendar year 2009, and 29,540 in calendar year 2010. These heavy filing trends are continuing in 2011. Thus, 9,955 cases were filed in the first 4 months of 2010, and 9,950 cases were filed in the first 4 months of 2011. In 2008, the Tax Court began calendaring more cases per week of trial session with the goal of remaining current in our work despite the increased caseload. As a result, the Tax Court closed 31,001 cases in calendar year 2008, 31,373 cases in calendar year 2009, and 31,410 cases in calendar year 2010. Thus, in calendar years 2008-2010, 91,836 cases were filed and 93,784 cases were closed.

2. Taxpayers, if they are able to pay the disputed tax prior to litigation, have essentially three different Federal courts to litigate in: the district court, the Court of Claims, and the Tax Court. Do you believe this creates an opportunity for forum shopping? Are taxpayers able to pick and choose their court based on where favorable precedents might be? If so, what, if anything, should be done about that?

Answer: The opportunities for forum shopping (i.e., based on where favorable precedents might be) are few. A litigant's choice of forum is probably more dependent on factors other than differences in precedent. For example, the practical impact of deciding between the Tax Court and the district courts is minimal because both follow the precedents of the U.S. Court of

Appeals to which a case is appealable. Pursuant to our holding in Golsen v. Commissioner, 54 T.C. 742, 757 (1970), affd. 445 F.2d 985 (10th Cir. 1971), the Tax Court follows precedent established by the court of appeals for the circuit in which venue on appeal would lie. If there is no circuit precedent on point, the Tax Court, which has national jurisdiction, provides uniformity in result by following its own precedent.

In choosing a forum, the Tax Court's prepayment jurisdiction may be a far more important factor than differences in precedent. Unlike taxpayers who cannot prepay their liability and have no choice but to litigate in the Tax Court, taxpayers who can afford to pay the tax first and sue for a refund can also choose to litigate in the Court of Federal Claims or district court. Another factor in choice of forum is that the Tax Court Rules of Practice and Procedure are specifically designed for the litigation of tax cases and are hospitable to non-litigators. These features of Tax Court procedure include: (1) mandatory informal pretrial consultation between the parties (see Branerton v. Commissioner, 61 T.C. 691 (1974)); (2) mandatory pretrial stipulation of facts which reduces evidentiary objections at trial; (3) more restrictive use of depositions which reduces pretrial litigation costs; (4) rules requiring the exchange of expert reports 30 days before trial and the acceptance of such reports as the direct testimony of the expert; and (5) simplified procedures available to taxpayers who elect to have their cases conducted as small tax cases.

3. Article III of the Constitution created the judicial branch of government. Among other things, it provides that judges have a lifetime appointment, and may not have their salaries reduced while in office.

Article I of the Constitution creates the legislative branch, and describes the two chambers of Congress and their respective powers.

Prior to 1969, the Tax Court was considered simply to be within the Executive Branch. Throughout the 1940s until 1969, there had been debate as to whether the Tax Court should be elevated to being an Article III Court.

In 1969, however, the Tax Court was made into an Article I Court. My question to you is this: Do you think in general that Tax Court judges would do a better job if they had Article III protections? Would they have greater independence if they had lifetime appointments and could not have their salaries reduced?

After all, after 15 years, a Tax Court judge seeking reappointment may have to seek such reappointment from a President of the opposing party from the President who initially appointed him.

Answer: Under the current statutory regime governing appointment, salary, removal, and retirement, judges of the Tax Court enjoy substantial judicial independence. We see no

indication that the current statutory structure provides any substantial difference in judicial independence compared to lifetime appointment.

Pursuant to statute, judges of the Tax Court are appointed to 15-year terms by the President, with the advice and consent of the Senate. If not reappointed, judges typically continue to work almost full time as senior judges. Also pursuant to statute, judges receive salary at the same rate and in the same installments as judges of the district courts of the United States. Over the last 10 years, Congress has passed a number of Tax Court legislative proposals affecting judges' benefits (e.g., life insurance coverage and thrift savings plan contributions) and enhancing judges' physical security (i.e., U.S. Marshal's Service protection) that conform our treatment with that of Article III judges. The Court's current package of legislative proposals includes additional provisions that would continue this trend.

Consistent with the tradition of reappointment of Tax Court judges (assuming they were initially appointed at a relatively young age), reappointment to the Tax Court and reconfirmation by the Senate has frequently occurred when the reappointing President was of a different political party than the President who first appointed the judge. We, of course, have no assurances that each President, regardless of political affiliation, will follow this tradition.

4. Are you aware of examples where Tax Court judges may have changed their outlook on a given case, because of the desire to be re-appointed by the President, and re-confirmed by the Senate?

Answer: We are not aware of any examples where a Tax Court judge may have changed their outlook on a given case because of the desire to be reappointed by the President, and re-confirmed by the Senate. The statutory provisions referenced in our answer to Question 3, our strong and widely followed tradition of lifetime judicial service (i.e., in regular and senior status), and our adherence to the Code of Conduct for United States Judges protect against such conduct.