

**NOMINATIONS TO THE U.S. DEPARTMENT OF
COMMERCE, THE NATIONAL TRANSPORTATION
SAFETY BOARD, THE CONSUMER PRODUCT
SAFETY COMMISSION, THE FEDERAL MARITIME
COMMISSION AND THE SAINT LAWRENCE
SEAWAY DEVELOPMENT CORPORATION**

HEARING

BEFORE THE

**COMMITTEE ON COMMERCE,
SCIENCE, AND TRANSPORTATION**

UNITED STATES SENATE

ONE HUNDRED EIGHTH CONGRESS

SECOND SESSION

MARCH 30, 2004

Printed for the use of the Committee on Commerce, Science, and Transportation



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SENATE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

ONE HUNDRED EIGHTH CONGRESS

SECOND SESSION

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CONTENTS

	Page
Hearing held on March 30, 2004	1
Statement of Senator Breaux	3
Statement of Senator Hollings	2
Statement of Senator McCain	1
Statement of Senator Nelson	4
Letter dated March 29, 2004 to Hon. John McCain and Hon. Ernest Hollings from Senator Bob Graham, U.S. Senator from Florida	4

WITNESSES

Anderson, Hon. A. Paul, Nominated to be a Commissioner, Federal Maritime Commission	38
Prepared statement	39
Biographical information	40
Brennan, Hon. Joseph E., Nominated to be a Commissioner, Federal Maritime Commission	46
Prepared statement	47
Biographical information	48
Hersman, Deborah A. P., Nominated to be a Member, National Transportation Safety Board	17
Prepared statement	18
Biographical information	19
Kassinger, Hon. Theodore W., Nominated to be Deputy Secretary, U.S. Department of Commerce	7
Prepared statement	8
Biographical information	9
McGregor, Jack E., Nominated to be a Member of the Advisory Board, Saint Lawrence Seaway Development Corporation	54
Prepared statement	54
Biographical information	55
Mica, Hon. John L., U.S. Representative from Florida	6
Moore, Hon. Thomas H., Nominated to be a Commissioner, U.S. Consumer Product Safety Commission	25
Letter dated March 26, 2004 to Hon. John McCain from Hal Stratton, Chairman, U.S. Consumer Product Safety Commission	26
Prepared statement	28
Biographical information	31
Shays, Hon. Christopher, U.S. Representative from Connecticut	2

APPENDIX

Commercial Vehicle Safety Alliance, prepared statement	70
Rockefeller IV, Hon. John D., U.S. Senator from West Virginia, prepared statement	69
Shaw, Jr., Hon. E. Clay, prepared statement	69

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COMMISSION, THE FEDERAL MARITIME
COMMISSION AND THE SAINT LAWRENCE
SEAWAY DEVELOPMENT CORPORATION**

TUESDAY, MARCH 30, 2004

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

The Committee met, pursuant to notice, at 2:35 p.m. in room SR-253, Russell Senate Office Building, Hon. John McCain, Chairman of the Committee, presiding.

**OPENING STATEMENT OF HON. JOHN MCCAIN,
U.S. SENATOR FROM ARIZONA**

The CHAIRMAN. Good afternoon. The Commerce Committee meets today to consider the nominations of six individuals who have been nominated by the President to serve our country in very important positions.

This Committee takes its advice and consent role very seriously, and I will note that each of the nominees has responded in detail to the Committee's request for biographical and financial data. I've had the opportunity to review your responses to the Committee questionnaire, and I look forward to moving your nominations quickly.

We have, appearing before the Committee today: Theodore Kassinger, to be Deputy Secretary of Commerce; Debbie Hersman, to be a Member of the National Transportation Safety Board; Thomas Moore, to be a Commissioner of the Consumer Product Safety Commission; Paul Anderson and Joseph Brennan, to be Federal Maritime Commissioners; and Jack McGregor, to be a Member of the Saint Lawrence Seaway Development Corporation.

I thank the nominees for being here today. I know your nominations are a great honor and your families are very proud. Please feel free to introduce any family members who are present before we begin your remarks.

And Senator Hollings?

Senator HOLLINGS. Thank you, Mr. Chairman. Let me yield to Congressman Shays. He's busier than I am.

[Laughter.]

The CHAIRMAN. Congressman Shays, we welcome——

Mr. SHAYS. Senator, I'm——

The CHAIRMAN. Well, could I just ask Senator Nelson, do you have any——

Senator NELSON. No, I just——

The CHAIRMAN. Thank you.

Congressman Shays, welcome. Thank you for coming.

**STATEMENT OF HON. CHRISTOPHER SHAYS,
U.S. REPRESENTATIVE FROM CONNECTICUT**

Mr. SHAYS. Thank you. It's an honor to be here, Senators.

Mr. Chairman, Senator Hollings, distinguished Senators from Louisiana and Florida, I am grateful for the opportunity to introduce my good friend and neighbor, Jack McGregor, who has been nominated by the President to the Advisory Board of the Saint Lawrence Seaway Development Corporation.

Jack has been a corporate and civic leader in my home town of Bridgeport, Connecticut, for many years. In his varied and distinguished career, he has repeatedly broken new ground and made dreams realities. From founding the Pittsburg Penguins hockey team and the Bridgeport Bluefish baseball team, to leading both a major water utility and oil company, to helping Governor Rowland's transition in Connecticut when he was first elected, November 1994, to serving as an elected official in Pennsylvania for two four-year terms as a state senator, Jack has repeatedly shown himself to be both a skillful leader and effective team player. Jack McGregor always gets the job done, and I know he will continue to serve his country as he has served his community, with extraordinary distinction.

I thank you for your consideration of this very worthy appointee and my friend, Jack McGregor.

The CHAIRMAN. Thank you, Congressman Shays, for coming over to say some very nice comments about this fine American, and we thank you for being here. And you're always welcome here, Congressman Shays.

Mr. SHAYS. Thank you all.

The CHAIRMAN. Thank you.

Could the other nominees join us at the table—which would be the Honorable Theodore Kassinger, Deborah Hersman, Thomas Moore, Paul Anderson, Joseph E. Brennan and—Mr. McGregor, if you would just stay where you are.

And I think that Senator Hollings and then Senator Nelson would like to make some remarks.

**STATEMENT OF HON. ERNEST F. HOLLINGS,
U.S. SENATOR FROM SOUTH CAROLINA**

Senator HOLLINGS. Thank you very, very much, Mr. Chairman. I'd like to, of course, once again——

The CHAIRMAN. Senator Breaux, also.

Senator HOLLINGS.—welcome our friend, Governor Brennan. I'm proud to support, and we all are proud to support his nomination.

And let me say, an extended word, and not too extended, I ask that my full statement be included, Mr. Chairman.

The CHAIRMAN. Without objection.

Senator HOLLINGS. But Debbie Hersman, she has a bachelor of arts, political science, and bachelor of arts, international studies at VPI, a master of science, conflict analysis and resolution at George Mason, and she has had a graduate degree in conflict analysis serving on this Committee for the past 5 years.

[Laughter.]

Senator HOLLINGS. She has really been a tremendous assistance to the Committee. She has taken over the oversight of truck and bus safety, pipeline safety, hazardous materials, transportation safety, even assisted on aviation matters, rail, ports, and trucking. And, most of all, she has led our thinking and progress on Amtrak. She has more or less been Mrs. Amtrak, we know, on the Committee, because she's not only advised both sides—and the distinguished Chairman, who's got a different view, supposedly, of Amtrak—but she's been objective, and she has been persistent, and she's stayed up long hours with her independent thinking, looking at all sides of the issue. And allowing she not only has got the technological points down fine, but she's got also the political points. She understands both, and that's a rare combination, and I couldn't be stronger in my recommendation for her confirmation.

And I thank the Chairman.

The CHAIRMAN. Thank you very much, Senator Hollings, and I share your very high opinion of Ms. Hersman. We may have had disagreements, but those disagreements were not uninformed, and I appreciate the great work she did.

Senator Nelson—or Senator Breaux, would you like to make any remarks?

**STATEMENT OF HON. JOHN B. BREAU,
U.S. SENATOR FROM LOUISIANA**

Senator BREAU. Well, thank you, Mr. Chairman. And I would make comments about two of our nominees that I've had the privilege of working with, Thomas Moore, who was on my staff as a legislative director a long time ago, and then moved on to government service on the Consumer Products Safety Commission, and has done a terrific job in that capacity, and in the sense that he was recognized and appointed, and then reappointed again, and that speaks of his ability and understanding of the process. He was appointed first in 1994, then renominated for a full term in 1996, and he's back with us again and brings a stability and intelligence to that very important commission that is so necessary and so needed. So I enthusiastically support his renomination to that position.

And with regard to Debbie Hersman, I would just say that I think Senator Hollings has said it all very well. I mean, it's a person that has worked well with all members of the Commission—I mean, the Committee, and now will serve as a member of the Transportation Safety Board. And, you know, some would say, well, you need someone who's a mechanical engineer, who knows how to get into the crash site and determine what happened. And I think that there's more than just that. That's part of it. But serving on the National Transportation Services Safety Board also has a requirement that you can understand the law, understands the Congress, understands how we got where we are in all these areas. You can always hire engineers to look at the mechanical failures,

but to know the whole total process, the big picture, if you will, how to interact and be responsible to the Congress, is something that is incredibly important, and Debbie obviously brings that ability to this position. And I enthusiastically support her nomination and look forward to working with her.

The CHAIRMAN. Thank you very much.
Senator Nelson?

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

Senator NELSON. Thank you, Mr. Chairman.

I'm here to speak for Paul Anderson. I know a number of you, and you certainly have our support. I had the privilege of serving in the House with then-Congressman Brennan. And Paul is a Floridian.

I want to introduce his father. Mr. Anderson, why don't you stand up and—thank you for coming.

Mr. Chairman, I give, to you and Senator Hollings, a letter from Senator Graham, also supporting the nominee.

The CHAIRMAN. Without objection, it'll be made part of the record.

Senator NELSON. Thank you.
[The letter referred to follows:]

UNITED STATES SENATE
Washington DC, March 29, 2004

Hon. JOHN MCCAIN,
Chairman,
Senate Committee on Commerce,
Science, and Transportation,
Washington, DC.

Hon. EARNEST HOLLINGS,
Ranking Member,
Senate Committee on Commerce,
Science, and Transportation,
Washington, DC.

Dear Chairman McCain and Ranking Member Hollings:

I am in full support of the nomination of Alan Paul Anderson to be a Federal Maritime Commissioner. I have known Paul Anderson for almost 20 years and I am sure that he will be an outstanding asset to the Commission in its efforts to regulate transportation in the oceanborne commerce of our Nation.

Paul Anderson's professional background, both in the maritime industry and elsewhere, qualify him to be an effective Commissioner. Paul worked in Port Everglades, Florida for nine years with Hvide Marine, a maritime support and transportation business. During his time with Hvide, Paul was actively involved in marketing and public affairs and maritime trade associations; he also served as Assistant to Hvide's Chairman and CEO. Paul's exposure to the business realities of the maritime industry will be of great value in helping the Commission execute its mission.

Paul's background also includes significant experience with government. He gained valuable exposure to the local, state, and Federal levels of government through his service as the Vice President for Government Relations at JM Family Enterprises, a diversified automobile business headquartered in Deerfield Beach, Florida. Paul also served for several years as a Special Assistant to United States Senator Paula Hawkins.

Paul has a long record of public service and leadership in the state of Florida, and has been actively involved in his community for many years. He has served on numerous boards, including the Broward Community College Board of Trustees, the Broward Education Foundation, the Florida Chamber, and the Junior Achievement of South Florida Board of Directors, as well as on the boards of other charitable organizations and maritime industry groups.

The mission of the Federal Maritime Commission is to foster and protect an efficient and nondiscriminatory ocean transportation system. Alan Paul Anderson will ably fulfill that goal. I support his nomination without reservation.

Sincerely,

BOB GRAHAM,
United States Senator.

Senator NELSON. Maritime issues are not anything new, not to Paul, going way back to the time that he had served in the employ of a major shipping company that is located in our state. And he has been extremely involved in public and community service, and I can name them all, from the Board of Governors of the Chamber, and so forth, Florida Tax Watch. It's been a rather stellar community service record. And that includes things like the Board of Trustees on one of our community colleges in Florida, and serving in a statewide capacity, the Florida Association of Community College Trustees. And then he gets involved in trying to help out kids through a statewide public-private partnership, offering mentoring to high-risk children, at-risk children in Florida.

He's had quite a bit of government experience, formerly as an assistant to U.S. Senator Paula Hawkins, and then as press secretary to then Congressman Connie Mack. He is a devoted sports fan. We both had the privilege of serving on the Orange Bowl Committee.

And so, Mr. Chairman, I'm very happy to be here and lend a word on behalf of his nomination.

Thank you.

The CHAIRMAN. Thank you very much.

Before we begin our opening statements, I'd like to ask that each of the members, starting with you, Mr. Moore, would recognize your family members in the audience so we can thank them for being here in support of your nominations.

Mr. MOORE. Thank you very much, Mr. Chairman. Most of my family are out of town today, but I would like to thank my staff, who are here to support me, very much, and I also would like to thank Commissioner Mary Gaul.

The CHAIRMAN. Is she here?

Mr. MOORE. She's here, yes.

The CHAIRMAN. Thank you very much.

Mr. MOORE. Yes.

The CHAIRMAN. Thank you, Mr. Moore.

Governor Brennan?

Governor BRENNAN. Mr. Chairman, with me today is my wife Connie, if she may stand, with my son, Joe, and my young sister, Mary.

The CHAIRMAN. Welcome, Mary. Welcome to the family. Thank you, sir.

Mr. Kassinger?

Mr. KASSINGER. Senator McCain, I'm glad that I'm able to be joined by my wife Ruth and two of my three daughters, Anna—

The CHAIRMAN. Would you stand, please, so we—

Mr. KASSINGER.—Anna and Austin.

The CHAIRMAN. Congratulations.

Mr. McGregor?

Mr. MCGREGOR. Mr. Chairman, my family is back home in Connecticut covering for me today.

[Laughter.]

The CHAIRMAN. They're not trying to get through that traffic jam. Ms. Hersman will take care of that for you.

[Laughter.]

The CHAIRMAN. Ms. Hersman?

Ms. HERSMAN. Thank you, Senator McCain. As a staffer, this was always my favorite part of nomination hearings, and today is no different. My husband Neil is here with me today, and my two sons, Taylor—

The CHAIRMAN. Would you stand, please?

Ms. HERSMAN.—and Wilson is announcing himself.

[Laughter.]

Ms. HERSMAN. My father, Walt, and his wife, Inga Hersman.

The CHAIRMAN. Welcome.

Ms. HERSMAN. My sister, Valerie, and her husband, Cary, and my husband's family, the Plummers, my in-laws, and my sister-and brother-in-law.

The CHAIRMAN. Would you all please stand? Welcome.

Mr. Anderson?

Mr. ANDERSON. Thank you, Mr. Chairman. And thank you, Senator Nelson. He has already introduced my dad, who's here, but I do want to reintroduce him again today. Perry Anderson, here from California, is a distinguished veteran and retired marine officer, and I'm glad to have my dad here for today.

Thank you.

The CHAIRMAN. Mr. Anderson, welcome twice—

[Laughter.]

The CHAIRMAN.—and thank you for your—

Mr. ANDERSON. I'd also—

The CHAIRMAN.—thank you for your service to our country.

Mr. ANDERSON. Mr. Chairman, I also recognize my colleagues that are here, Chairman Steve West, Chairman of the FMC, and Commissioners Rebecca Dye and Hal Creel, who you all know so well, and I thank them and the rest of the staff that's here today.

The CHAIRMAN. I thank them for being here.

In no particular order, we'll begin with the Honorable Theodore Kassinger. And I would like the witnesses to know that their statements will be made part of the record.

By the way, I saw Congressman Mica. Congressman Mica, would you like to just come up and sit here? I know you wanted to introduce one of the nominees. And thank you for coming over. Please go ahead.

**STATEMENT OF HON. JOHN L. MICA,
U.S. REPRESENTATIVE FROM FLORIDA**

Mr. MICA. Thank you, Mr. Chairman.

I just came, actually, to speak either for or against Paul Anderson, whichever would help the most.

[Laughter.]

Mr. MICA. Mr. Chairman, Ranking Member, I've known Paul for over two decades, and I tell you, I'm so proud of him. He has a distinguished career, and it started over here as a Senate staffer, when I was Chief of Staff for Senator Hawkins from Florida. And he has had a great career in the private sector and the maritime

industry. He's an absolute credit. And I tell you, if he was my own son today I wouldn't be any prouder. So I leave him in your good hands.

Thank you.

The CHAIRMAN. Thank you very much, Congressman Mica. And those were very kind words.

Mr. Kassinger, welcome.

STATEMENT OF HON. THEODORE W. KASSINGER, NOMINATED TO BE DEPUTY SECRETARY, U.S. DEPARTMENT OF COMMERCE

Mr. KASSINGER. Thank you, Mr. Chairman, Senator Hollings, Members of the Committee. I'm honored to appear before you today as the President's nominee to serve as the Deputy Secretary of the U.S. Department of Commerce.

I'm grateful to President Bush for providing me this opportunity to serve the public, and I deeply appreciate the continued confidence and support shown to me by Secretary Evans. I wish to thank this Committee, as well, for the courtesy it has extended to me in my current position and with respect to this nomination.

The Deputy Secretary of the Commerce Department effectively serves as the agency's Chief Operating Officer, overseeing the Department's some 40,000 employees and \$6 billion budget. The Deputy Secretary also acts as the Secretary's advisor and surrogate, providing additional leadership for the Department's broad and complex responsibilities and activities. From internal administration to marine fisheries to international trade, the census, and various other scientific, technological, environmental, and economic areas, the Department, every day, addresses a multitude of important challenges and opportunities. With the support of the Committee, the talented management team of the Department, and the Department's hardworking employees, I am confident that I can continue the good work of former Deputy Secretary Bodman, and emulate Secretary Evans' commitment to excellence in our work in all of these areas.

If confirmed by the Senate, I would bring substantial relevant experience and knowledge to the position of Deputy Secretary. For the past 3 years, I have been privileged to serve as the Department's General Counsel. As the agency's Chief Legal Officer, I have provided legal advice and guidance to the Secretary and other senior Department officials on the full range of issues entrusted to the Department. And I have regularly represented the Department in policymaking councils within the Administration.

Prior to joining the Department, I practiced law for 16 years, and also served as a staff member of the Senate Committee on Finance and with two Federal agencies.

I think I, as a result, enjoy good familiarity with the Commerce Department's operations and programs. I also know that staying abreast of matters before the Department requires a willingness to learn something new every day about what we do.

I welcome that challenge and will continue to work hard to satisfy the high standard of achievement expected by the President, the Secretary, and this Committee.

During the remainder of this term, the Secretary and I will maintain the Department's focus on economic growth and job cre-

ation. We will continue, also, to strive to open foreign markets, to ensure compliance with trade agreements, and to foster technological innovation, intellectual property protection, effective export controls, wise stewardship of natural resources, and sound economic statistics. I look forward to working with this Committee on these and any other matters.

Mr. Chairman, before closing, I would like to take this opportunity to thank you and other Members of this Committee, especially Senator Hollings, Senator Stevens, and Senator Snowe, for your help in enacting the NOAA Corps legislation. I understand the House passed H.R. 2584 last night, clearing the way for that bill to go to the President and, hopefully, for NOAA Corps appointments and promotions to resume in the normal course in the near future. I assure you that we have worked hard to fix what was a broken system, but I am confident that with the enactment of H.R. 2584, NOAA Corps will return to effective operations under much strengthened oversight and administrative processes.

In conclusion, permit me to reiterate my gratitude for being asked to serve the public in this new role. I am especially fortunate to benefit in this endeavor from the support of my family and friends; most particularly, my family. Thank you for the opportunity to introduce them.

That concludes my statement. I'd be happy to respond to any questions.

[The prepared statement and biographical information of Mr. Kassinger follow:]

PREPARED STATEMENT OF HON. THEODORE W. KASSINGER, NOMINEE FOR THE
POSITION OF DEPUTY SECRETARY, U.S. DEPARTMENT OF COMMERCE

Mr. Chairman, Senator Hollings, and Members of the Committee,

I am honored to appear before you today as the President's nominee to serve as Deputy Secretary of the U.S. Department of Commerce. I am grateful to President Bush for providing me this opportunity to serve the public, and I deeply appreciate the continued confidence and support shown to me by Secretary Evans. I wish to thank this Committee as well for the courtesy it has extended to me in my current position and with respect to this nomination.

The Deputy Secretary of the Department of Commerce effectively serves as the agency's chief operating officer, overseeing the Department's nearly 40,000 employees and \$6 billion budget. The Deputy Secretary also acts as the Secretary's advisor and surrogate, providing additional leadership for the Department's broad and complex responsibilities and activities. From internal administration to marine fisheries to international trade, the Census, and various other scientific, environmental, technological, and economic areas, the Department addresses every day a multitude of important challenges and opportunities. With the support of the Committee, the talented management team at the Department, and the Department's hard-working employees, I am confident that I can continue the good work of former Commerce Deputy Secretary Bodman and emulate Secretary Evans' commitment to excellence in our work in all of these areas.

If confirmed by the Senate, I would bring substantial relevant experience and knowledge to the position of Deputy Secretary. For the past three years, I have been privileged to serve as the Department's General Counsel. As the agency's chief legal officer, I have provided legal advice and guidance to the Secretary and other senior Commerce officials on the full range of issues entrusted to the Department, and I have regularly represented the Department in policy-making councils within the Administration.

Before joining the Department, I practiced law in the private sector for nearly 16 years, representing and counseling clients engaged in a wide variety of international trade regulatory matters and proceedings, business transactions, litigation, and arbitrations. I have also had the privilege of serving on the staff of the Senate Committee on Finance and as an attorney at both the Department of State and the U.S.

International Trade Commission. My public service and private practice have taught me much about the Department and its sister Federal agencies and their interactions with the private sector.

While I now enjoy good familiarity with the Commerce Department's operations and programs, I also know that staying abreast of matters before the Department requires a willingness to learn something new every day about what we do. I welcome that challenge and opportunity, and will continue to work hard to satisfy the high standard of achievement expected by the President, the Secretary, and this Committee.

During the remainder of this term, the Secretary and I will maintain the Department's focus on economic growth and job creation. We will also continue to strive to open foreign markets, to ensure compliance with trade agreements, and to foster technological innovation, intellectual property protection, effective export controls, wise stewardship of natural resources, and sound economic statistics. I look forward to working with this Committee on these and many other matters.

In closing, permit me to reiterate my gratitude for being asked to serve the public in this new role. I am especially fortunate to benefit in this endeavor from the support of my family and friends, and most particularly my wife and my daughters.

Thank you again for this opportunity to appear before you today, and for your consideration of my nomination.

I would be pleased to respond to any questions you may have.

A. BIOGRAPHICAL INFORMATION

1. Name: (include any former names or nick names used.) Theodore William Kassinger (Ted).

2. Position to which nominated: Deputy Secretary of the U. S. Department of Commerce.

3. Date of nomination: February 26, 2004.

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

Residence: Information not released to the public.

Office: Room 5870, U.S. Department of Commerce, 14th Street and Constitution Ave. NW, Washington, DC 20230.

5. Date and place of birth: January 26, 1953; Atlanta, GA.

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

Married—Ruth Good (wife's maiden name)

7. Names and ages of children: (Include stepchildren and children from previous marriages.)

Name	Age
Anna L. Kassinger	17
Austen Kassinger	15
Alice C. Kassinger	11

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

Name of School	Dates Attended	Degree Date	Degree Granted
University of Georgia	September 1975 to June 1978	J.D.	June 1978
University of Georgia	June 1970–June 1975	B.L.A.	June 1975
Athens (GA) High School	September 1968–June 1970	none (skipped senior year)	

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.)

Title	Name of Employer	Location	Dates Employment
Law clerk	U.S. Dept of HEW	Atlanta, GA	June 1976–May 1977
Summer Associate	Smith, Currie & Hancock	Atlanta, GA	June 1977–August 1977
Instructor	UGA Business School	Athens, GA	September 1977–June 1978
Attorney-Advisor	U.S. International Trade Commission	Washington, DC	August 1978–April 1980
Attorney-Advisor	U.S. Dept. of State	Washington, DC	April 1980–October 1981
International Trade Counsel	U.S. Senate Committee on Finance	Washington, DC	October 1981–June 1985

Title	Name of Employer	Location	Dates Employment
Associate (1985–1989) Partner (1990–2001)	Vinson & Elkins LLP	Washington, DC	July 1985–February 2001
Instructor	Georgetown Law Center	Washington, DC	January 1987–December 1987
Senior Advisor to the Secretary	U.S. Dept. of Commerce	Washington, DC	February 2001–May 2001
General Counsel	U.S. Dept. of Commerce	Washington, DC	May 2001 to present

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

Vinson & Elkins LLP—Partner (1990–2001)
 Ford's Theatre Society—Trustee (1998–2001)
 The Concord Hill School—Trustee (1995–2001)
 University of Georgia School of Law Board of Visitors (1999–2001)

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

District of Columbia Bar
 Georgia Bar
 American Bar Association
 The Nature Conservancy

13. Political affiliations and activities:

(a) List all offices with a political party which you have held or any public office 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.

Bush-Cheney 2000 Presidential Campaign: Assisted policy staff of campaign.

Bush/Cheney Presidential Transition: Served as coordinator of Commerce Department Transition Team.

Dole for President Campaign 1996: Volunteer.

(c) Itemize all political contributions to any individual, campaign organization, political party, political action committee, or similar entity of \$500 or more for the past 10 years.

Name	Amount
National Good Government Fund	\$546
National Good Government Fund	\$525
Vinson & Elkins Texas PAC	\$911
Vinson & Elkins Texas PAC	\$1,000
Vinson & Elkins Texas PAC	\$2,304
Vinson & Elkins Texas PAC	\$970
Vinson & Elkins Texas PAC	\$1,100
Vinson & Elkins Texas PAC	\$1,465
Vinson & Elkins Texas PAC	\$1,803
Vinson & Elkins Texas PAC	\$1,520
Vinson & Elkins Texas PAC	\$1,668
Dole for President	\$1,000
George W. Bush Presidential Campaign	\$1,000
Republican National Committee	\$1,000
Bush-Cheney Recount Fund	\$500

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

College Honorary: Gridiron Secret Society, Blue Key, Omicron Delta Kappa, Senior Superlative. Skipped senior year of high school to join University Honors Program.

Awarded Law School scholarship.

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

- “Antidumping Duty Investigations,” in *Law and Practice of United States International Trade Regulation*, Oceana Publications (1987, 1989, 1996 update with Rosemary E. Gwynn)
- *Basic Documents of International Economic Law* (chapters on the GATT Antidumping Code, Subsidies Code, Standards Code, and Procurement Code), CCH International and Westlaw (1990)
- “The Trade Agenda of the 98th Congress,” *Federal Bar News and Journal* (1983)
- “Recombinant DNA and Technology Assessment,” 11 *Ga. L. Rev.* 785 (1978) (co-author with Benna Solomon)

16. Speeches: Provide the Committee with two copies of any formal speeches you have delivered during the last 5 years which you have copies of on topics relevant to the position for which you have been nominated.

Copies attached. (Not available at time of printing.)

17. Selection:

(a) Do you know why you were chosen for this nomination by the President?

I believe President Bush determined that my skills and experience would enable me to perform successfully the responsibilities of Deputy Secretary.

(b) What do you believe in your background or employment experience affirmatively qualifies you for this particular appointment?

For the past three years, I have served first as Senior Advisor to Secretary Evans and then as General Counsel to the Department of Commerce. In those positions I have worked closely with Secretary Evans, Deputy Secretary Bodman, and other senior agency officials on matters involving every part of the Department’s varied responsibilities. I have regularly represented the Department in inter-agency activities, including policy-making committees operating at the most senior levels of government. I have also worked successfully with Members of Congress and Congressional staff on matters involving the Department. This experience, combined with my prior experience in law practice and government, provides me with both broad and deep knowledge of a wide range of the Department’s programs as well as public policy issues that come before the Department. With respect to the management responsibilities of the Deputy Secretary, I have worked closely with senior Department officials on management and administrative issues over the past three years. In addition to managing the Office of the General Counsel, I also handled substantial administrative responsibilities for my former law firm, itself a large business enterprise. I thus believe I have acquired the skills and experience necessary to carry out the duties of the Deputy Secretary.

B. FUTURE EMPLOYMENT RELATIONSHIPS

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

Yes, I did so upon entering government service in 2001. As noted below, I have maintained assets in a 401(k) pension plan sponsored by Vinson & Elkins LLP.

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, explain. No.

3. Do you have any plans, commitments or agreements after completing government service to resume employment, affiliation or practice with your previous employer, business firm, association or organization? No.

4. Has anybody made a commitment to employ your services in any capacity after you leave government service? No.

5. If confirmed, do you expect to serve out your full term or until the next Presidential election, whichever is applicable? Yes.

C. POTENTIAL CONFLICTS OF INTEREST

1. Describe *all* financial arrangements, deferred compensation agreements, and other continuing dealings with business associates, clients or customers.

I have maintained assets in a 401(k:) pension plan sponsored by Vinson & Elkins LLP, consistent with the plan's standard option and the practice of other former partners.

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

I have addressed potential conflicts of interests in an Ethics Agreement into which I have entered with the Department of Commerce (copy attached).

3. 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?

The Commerce Department's ethics officials, together with the Office of Government Ethics, have advised me of the possible conflicts of interest that might arise from my prior business arrangements and current investments. Implementation of the Ethics Agreement will resolve the potential conflicts that those officials identified. I am unaware of any other such potential conflict of interest.

4. 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.

During the course of my law practice prior to 2001, I regularly represented clients in a variety of administrative proceedings and in connection with matters pending before or involving consideration by Federal agencies, including the Departments of Commerce, Treasury, Defense, and State; the International Trade Commission; and the Office of the U.S. Trade Representative. These matters included, for example, antidumping and countervailing duty investigations; other trade law investigations; export licenses and investigations; economic sanctions regulations; and regulation of foreign investments. I also participated in several matters for which my firm or I registered as lobbyists, or that indirectly related to legislative or rulemaking matters. These included advocacy concerning customs user fees, the sale of the Naval Petroleum Reserves, economic sanctions legislation, imports of ammonium nitrate from Russia, and financial aid to Russia.

From time to time in my capacity as General Counsel, I have represented the Department of Commerce in testimony before and discussions with Members of Congress and their staffs concerning pending legislation and other public policy matters.

5. Explain how you will resolve any potential conflict of interest, including any that may be disclosed by your responses to the above items. (Please provide a copy of any trust or other agreements.)

I have worked with government ethics counsel to identify potential conflicts and to address appropriately those conflicts through the Ethics Agreement (copy attached). I have no trust or other agreements relevant to these matters. I will continue to act upon the advice of the Department's ethics counsel to avoid conflicts of interest that might arise, recusing myself from matters as appropriate.

6. Do you agree to have written opinions provided to the Committee by the designated agency ethics officer of the agency to which you are nominated and by the Office of the Government Ethics concerning potential conflicts of interest or any legal impediments to your serving in this position? Yes.

D. LEGAL MATTERS

1. Have you ever been disciplined or cited for a breach of ethics for unprofessional conduct by, or been the subject of a complaint to 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 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 or any business of which you are or were an officer ever been involved as a party in interest in an administrative agency proceeding or civil litigation? If so, provide details.

I have not been an officer of any business. None of the non-profit corporations for which I previously served as trustee were involved in such proceedings during my tenure, to my knowledge. During my time as a partner in Vinson & Elkins LLP,

the firm was occasionally involved as a party in interest in civil litigations, but I was not personally involved or implicated in any such proceedings.

4. Have you ever been convicted (including pleas of guilty or *nolo contendere*) of any criminal violation other than a minor traffic offense? 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. RELATIONSHIP WITH COMMITTEE

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

Yes, within the bounds of my authority.

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

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

4. Please explain how you will review regulations issued by your department/agency, and work closely with Congress, to ensure that such regulations comply with the spirit of the laws passed by Congress.

I will instruct the General Counsel and the heads of agencies within the Department of Commerce to advise me of all regulations that are economically significant or relate to matters of controversy. Within the Department of Commerce, the General Counsel serves as Regulatory Policy Officer and overseer of the Department's regulatory activities. Having served as the General Counsel, I am well situated to work with the General Counsel to ensure that the rules issued by the Department of Commerce comply with both the spirit and letter of the laws passed by Congress.

5. 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.

F. GENERAL QUALIFICATIONS AND VIEWS

1. How have your previous professional experience and education qualifies you for the position for which you have been nominated?

In my position as the General Counsel of the Department of Commerce, a position I have held for over three years, I have managed over 250 lawyers who are charged with providing legal advice to all agencies and bureaus within the Department. This position has provided me the unusual opportunity to acquire an in-depth knowledge of the programs and issues of all components of the Department. I have provided both legal and policy advice to Secretary Evans, Deputy Secretary Bodman, and to all the various Under Secretaries and Assistant Secretaries, and have extensive knowledge of all the bureaus within the Department, including the management challenges faced by each. I have traveled with Secretary Evans both domestically and internationally, have engaged in discussions with foreign government representatives and private sector leaders on a wide variety of topics, and have assisted in the development of policy on a myriad of sensitive issues before the Department. Further, before assuming the position of General Counsel, I practiced law for 16 years with a major international law firm. That experience exposed me to a wide variety of transactional and public policy matters, particularly involving international trade and other commercial matters. I believe these previous professional experiences qualify me to be Deputy Secretary of Commerce.

2. Why do you wish to serve in the position for which you have been nominated?

I continue to support the ideas and vision articulated by President Bush and Secretary Evans for promoting U.S. commercial interests, for creating the conditions in which the American economy thrives, and for exercising wise stewardship of our Nation's natural resources. I wish to contribute to the success of the Department's mission by continuing to contribute the knowledge and experience I have gained to public service.

3. What goals have you established for your first two years in this position, if confirmed?

- Assist Secretary Evans to achieve the goals that he sets.
- Continue the great strides made under former Deputy Secretary Bodman in focusing attention on improving work place safety and emergency operations plans.
- Implement the President's Manufacturing Initiative.

- Formulate the budget for Fiscal Year 2006, and work to obtain enactment of the Fiscal Year 2005 budget.
- Ensure prompt and effective implementation of the reorganization plan for the International Trade Administration, especially with respect to the new Assistant Secretary for Manufacturing and Services.
- Evaluate the forthcoming recommendations of the Oceans Commission and initiate appropriate action on those recommendations.
- Continue progress in deploying information technologies to improve internal Departmental operations and especially to facilitate public participation in agency rulemaking and grant issuance processes.

4. What skills do you believe you may be lacking which may be necessary to successfully carry out this position? What steps can be taken to obtain those skills?

I believe that I generally possess the experience and skills that are necessary to carry out the responsibilities of the Deputy Secretary. I expect nevertheless to learn much from both my colleagues among the Department's personnel as well as other Deputy Secretaries throughout the Executive Branch. I expect to seek their advice and counsel, and I believe they will be helpful to me in learning my new job.

5. Please discuss your philosophical views on the role of government. Include a discussion of when you believe the government should involve itself in the private sector, when should society's problems be left to the private sector, and what standards should be used to determine when a government program is no longer necessary.

The Federal Government is entrusted with defending the national security and promoting economic security, conducting international trade and other diplomatic relations with foreign states, defending individual liberty including rights granted under the Constitution and Federal laws, and working with state and local governments and the private sector to provide for the common welfare, including wise stewardship of the Nation's natural resources. The government has an important role to play in working with the private sector where necessary to ensure competitive opportunity, to promote free enterprise, and to protect public health, safety, and the environment. Government programs should be established and continually evaluated based on need, cost effectiveness, and alternative means of accomplishing the same ends.

6. Describe the current mission, major programs, and major operational objectives of the department/agency to which you have been nominated.

The Department of Commerce has a continuing commitment to creating conditions for both economic growth and employment opportunity by promoting innovation, entrepreneurship and competitiveness, and by serving as responsible stewards of our Nation's natural resources. The Commerce Department's major programs focus on its partnership with American businesses in maintaining a prosperous and productive America. The Department will continue to maintain its record of innovation in manufacturing, communications, and measurement that has helped sustain U.S. leadership in the international marketplace.

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

Three top challenges will be: (1) effecting continual improvement in the effectiveness and efficiency of the Department's programs in a time of constrained budgetary resources; (2) adapting the Department's programs and policy initiatives to address effectively current challenges posed by the international competitive environment, so that U.S. businesses and workers will continue to succeed; and (3) furthering oceans research and effective management of our marine environment backed by public consensus.

The reasons why these three challenges are particularly important include, respectively:

(1) Prosecuting the war on terror and providing adequately for the national defense and homeland security will require hard budgetary choices and particularly close attention to management of available funds over the next few years.

(2) Negotiating and implementing effective trade agreements will continue to form a key part of maintaining U.S. export competitiveness. At the same time, the government can undertake numerous steps at home to ensure that U.S. workers and businesses remain the world's most productive and innovative. The Department has begun to reorganize to meet these challenges more effectively, but seeking continuous improvement in its own operations will be essential to meeting the needs of today's economy.

(3) The forthcoming report of the Oceans Commission should provide new focus to what we know—and do not know about the oceans, including competition for uses

of our coastal zones and marine resources. Few subjects are as important or contentious, and a critical task of the Department in the coming years will be to develop our knowledge of these issues and collaborative approaches to effective resource management. For example, the Department has made great strides in the past three years to move regulation of marine fisheries away from litigation into more positive, community-accepted, ecosystem-based management approaches, with tangible success. Nevertheless, pressures on fishing stocks arising from various natural and human sources require continued focus on scientific research, public outreach, and innovative solutions this critical aspect of our oceans resources is to be managed in a sustainable manner that meets the needs of diverse stakeholders.

8. In reference to question number six, what factors in your opinion have kept the department/agency from achieving its missions over the past several years?

The Department continually makes progress in pursuit of its missions, and by definition those missions are never completed. Individual programs within the agency face particular challenges, however. For example, the expiration of the Export Administration Act requires the Bureau of Industry and Security to operate under emergency authority while seeking new authorizing legislation. Expired and sometimes outdated statutory authorizations in other areas similarly inhibit optimal implementation of agency programs. Although the Department has made much progress over the past three years in reducing litigation, the National Marine Fisheries Service remains the target of recurrent legal challenges, sometimes resulting in conflicting judicial mandates.

9. Who are the stakeholders in the work of this agency?

The Commerce Department's mission and programs are directed to the benefit of all Americans. As a Department first established in 1903 with broad authority to foster, to promote, and to develop the foreign and domestic commerce and the manufacturing and fishery industries of the United States, we work with a broad spectrum of commercial interests in a wide variety of contexts. We also have important responsibilities in connection with the census, environmental stewardship, and economic development, and work closely with the States and local governments on these and a host of other issues.

10. What is the proper relationship between your position, if confirmed, and the stakeholders identified in question number nine?

The Deputy Secretary is a public servant with the special responsibility of ensuring that the Department's programs are carried out and managed in a manner that provides the greatest benefits to the American public. This responsibility requires a relationship with the various stakeholders that always keeps the public interest as the primary guidepost.

11. The Chief Financial Officers Act requires all government departments and agencies to develop sound financial management practices.

(a) What do you believe are your responsibilities, if confirmed, to ensure that your agency has proper management and accounting controls?

If I am confirmed as Deputy Secretary, it will be my ultimate responsibility on behalf of Secretary Evans to ensure that the Department's program managers have instituted robust management and accounting controls and to hold each manager accountable for his or her performance.

(b) What experience do you have in managing a large organization?

Prior to arriving at the Commerce Department in 2001, I was a partner in Vinson & Elkins LLP, a large, multinational law firm with over 700 lawyers and annual revenues exceeding \$300 million. I chaired and participated in numerous management-related committees; carried out various individual assignments related to strategic analysis and planning; and supervised various lawyers and other personnel in the provision of legal services to clients.

As General Counsel of the Commerce Department since 2001, I have administered a budget of approximately \$30 million and managed over 250 lawyers and 12 office heads covering the diverse legal disciplines involved in Commerce programs. I have also regularly participated in personnel, budgetary, and other management decisions involving the entire Department, working closely with the Secretary, Deputy Secretary, and Chief Financial Officer in that regard.

12. The Government Performance and Results Act requires all government departments and agencies to identify measurable performance goals and to report to Congress on their success in achieving these goals.

(a) What benefits, if any, do you see in identifying performance goals and reporting on your progress in achieving those goals?

Identifying performance goals and reporting on the progress in achieving them ensures that public resources are devoted to appropriate, meaningful ends, with accountability for the outcome. At a time when the potential demand for budget resources often exceeds what is available, it is critical that we measure the perform-

ance of agencies to ensure that they are accomplishing their goals and that continued funding of their programs represents the best use of scarce Federal funds.

(b) What steps could Congress consider taking when an agency fails to achieve its performance goals? Should these steps include the elimination, privatization, downsizing or consolidation of departments and/or programs?

The steps should respond to the reasons why the agency has failed to achieve its goals. If experience shows that a particular program is no longer worthwhile or its purpose simply cannot be achieved in a cost-effective manner, then elimination or restructuring of the programs may well be warranted. In other cases, Departmental managers working in cooperation with auditors from the Office of the Inspector General may be able to devise less radical measures to raise the performance of a worthwhile program to an acceptable level.

(c) What performance goals do you believe should be applicable to your personal performance, if confirmed?

The Deputy Secretary's performance should be measured by the success of the Department in managing its resources in a way that provides the best opportunity for the Department to carry out its mission.

13. Please describe your philosophy of supervisor/employee relationships. Generally, what supervisory model do you follow? Have any employee complaints been brought against you?

I believe in leading by example, and by encouraging employees to seek satisfaction in their jobs through learning and accepting responsibility for serving others well. I am unaware of any employee complaint ever having been brought against me.

14. Describe your working relationship, if any, with the Congress. Does your professional experience include working with committees of Congress? If yes, please describe.

Having spent four years on the staff of the Senate Finance Committee, I have an especially deep respect for the responsibilities of Members of Congress. I expect to have a professional working relationship with Congress that is expressed through regular, two way communication, backed by mutual desire to assist both the Members and the Department to fulfill their respective duties. During my tenure as General Counsel, I have made every effort to be responsive to requests from Members of Congress and their staff.

15. Please explain what you believe to be the proper relationship between yourself, if confirmed, and the Inspector General of your department/agency.

The Inspector General performs an invaluable service in helping to protect the American public's interests and investments in the Department of Commerce. He possesses an autonomous set of "eyes and ears" within Commerce, and I intend to listen carefully to his advice about what Commerce needs to do to detect and to prevent fraud, waste and abuse. As Deputy Secretary, if confirmed, I would also listen closely to his recommendations about what we need to do to promote economy, efficiency and effectiveness in the operations of the Department.

16. In the areas under the department/agency's jurisdiction, what legislative action(s) should Congress consider as priorities? Please state your personal views.

In addition to providing appropriations for the Department by the end of the Fiscal Year, I would urge Congress to reauthorize the Economic Development Administration and to renew the Export Administration Act, and to approve new fee legislation for the Patent and Trademark Office.

17. Within your area of control, will you pledge to develop and implement a system that allocates discretionary spending in an open manner through a set of fair and objective established criteria? If yes, please state what steps you intend to take and a time frame for their implementation. If not, please explain why.

Yes. It is my impression that virtually all policy officials within the Department already allocate discretionary funding guided by fair and objective, established criteria, such as are published in notices of funding availability for grants. Over the past year the Department has worked to improve the grants award process with measurable success, and I will continue to support such efforts, including expansion of the eGrant program that permits applicants to submit much of their paperwork online.

The CHAIRMAN. Thank you, Mr. Kassinger.
Ms. Hersman?

**STATEMENT OF DEBORAH A. P. HERSMAN, NOMINATED TO BE
A MEMBER, NATIONAL TRANSPORTATION SAFETY BOARD**

Ms. HERSMAN. Mr. Chairman, Senator Breaux, the rest of the Members of the Committee, I'd like to begin by thanking you for your support of my nomination. It's a special privilege for me to be sitting on this side of the table—and, if I might add, a little bit scary—after serving the Committee for 5 years.

It's an honor to have the support of Senator Daschle and to have been nominated by President Bush. I'll do my best to ensure that the National Transportation Safety Board continues making transportation safer by learning lessons from every accident that they investigate.

The NTSB has enjoyed bipartisan support because of their independence, the quality and dedication of their staff, and the important contributions that they have made to the transportation system in this country and around the world. NTSB recommendations resulted in escape lighting in aircraft cabins, improved school-bus construction, child safety seats in automobiles, railroad passenger-car safety improvements, and fire-resistant materials in aircraft cabins. The tireless work of the investigators in often difficult conditions has resulted in recommendations that have ultimately saved thousands of lives. I look forward to advancing transportation safety if I am confirmed.

I'd like to say a few words of thanks to my family and friends. Without their support, I would not be here before you today. Thank you for allowing me to introduce them earlier, Senator McCain.

I thought I might mention that my dad is a retired Air Force general. He was a test pilot and a fighter pilot, and my love for transportation surely began with him, as I soloed in a single-engine Piper before I had a driver's license.

My husband, Neil, is the very best thing in my life. He's my high school sweetheart, and he's a great dad. Often, he has to do the evening routine with the boys alone, since I'm not home for dinner most nights. He has always been supportive of me, and my love for him grows every day.

And now for my work family. I've enjoyed every day of my 12 years as a Congressional staffer. I spent 7 years working in the House for Congressman Bob Wise, of West Virginia, before coming to the Senate.

Working for this Committee has truly been an honor. Senator McCain and Senator Hollings have shared the title of Chairman over the last few years; and, through their leadership, I believe that this Committee is one of the best and most respected in the Congress, with the finest staff, I might add.

[Laughter.]

Ms. HERSMAN. I have been——

The CHAIRMAN. Which is the reason for it all.

[Laughter.]

Ms. HERSMAN. But, seriously, I have been so fortunate to be in the presence of titans on a regular basis. Among your ranks are war heroes, Presidential candidates, great negotiators, astronauts, Governors, women breaking through glass ceilings, and even a few comedians and cowboys.

[Laughter.]

Ms. HERSMAN. My time here has been an absolute education. My experience has altered my understanding of governance and politics; but, more than anything, it has shaped my concept of political courage and leadership.

I'd like to say a few words of thanks to Senator Hollings for the opportunity to serve as a staffer on this Committee. He always challenged me to think through issues to ensure that all sides were understood, and to make decisions that are fair and right, regardless of the consequences. While his tenure in the Senate is coming to an end, it's up to all of us that have worked for him to remember his lessons, to share his vision, and, when the time comes, to have the courage that is his trademark.

I also want to thank the rest of the Committee Members and their staffs for the kindness and respect you're showed me over the years. In particular, Senator Inouye and Senator Breaux and their personal offices have treated me as one of their own. Senator Inouye, I would say, "mahalo." And to Senator Breaux, "laissez les bon temps rouler."

[Laughter.]

Ms. HERSMAN. My friends and colleagues attending this hearing, both in front of the table and behind me, have been such a large part of my life for the last 12 years. My time here will no doubt be the highlight of my career. I'm deeply grateful to each of you for your professionalism and your dedication to doing the right thing, but, more importantly, for your friendship. I will always proudly consider myself a member of the Senate Commerce Committee family.

Thank you.

[The prepared statement and biographical information of Ms. Hersman follow:]

PREPARED STATEMENT OF DEBORAH A.P. HERSMAN, MEMBER DESIGNATE,
NATIONAL TRANSPORTATION SAFETY BOARD

Mr. Chairman, Senator Hollings, I would like to begin by thanking you and the members of this Committee for your support of my nomination. It is a special privilege for me to be sitting on this side of the table after serving the Committee for five years. It is an honor to have the support of Senator Daschle and to have been nominated by President Bush. I will do my best to ensure that the National Transportation Safety Board continues making the transportation system safer by learning lessons from every accident they investigate.

The NTSB has enjoyed bipartisan support because of their independence, the quality and dedication of their staff, and the important contributions they have made to the transportation system in this country and around the world. NTSB recommendations have resulted in floor level safety escape lighting in aircraft cabins, improved school bus construction, child safety seats in automobiles, railroad passenger car safety improvements, and fire resistant materials in aircraft cabins. The tireless work of the investigators in difficult conditions has resulted in recommendations that have ultimately saved thousands of lives.

Transportation continues to be a keystone to the success and the growth of our Nation. The Department of Transportation projects tremendous growth in all areas of transportation. The growth in enplanements is projected to grow an average of 3.6 percent annually during the next 12 years, with the number of large carrier domestic enplanements reaching 738.4 million in 2015. The general aviation active fleet is expected to grow by 35,000 aircraft in the next 15 years. Domestic tonnage of freight carried by all U.S. freight systems will increase by 67 percent while international trade will nearly double. Highway traffic will see increased users as the population grows and heavier trucks will travel greater distances; railroad mileage will double in the same time period and ocean-going vessel tonnage will increase by 30 percent.

The exponential growth of traffic on all modes is important to our Nation's economy, but safety must continue to be paramount to effective utilization of the transportation system. The demands on capacity facing our transportation system means a greater demand on the resources of the Board as accidents become more complex and technical in nature. For over 35 years, the work of the Board has made the Nation's transportation system safer, but the impact of important improvements in transportation safety also benefits the Nation's economic health and the quality of life of all of our citizens.

I am very excited about the new opportunities ahead of me. The chance to continue my public service in the field of transportation is a gift. My work writing transportation legislation has been incredibly rewarding, and I look forward to continuing to advance transportation safety through the complimentary work of the Board.

I would like to say a few words of thanks to my family and friends, without their support I would not be here before you today. My father, Walt Hersman, and his wife, Inge, are here today. Dad is a retired Air Force General, he was a test pilot and fighter pilot, and his career afforded me the rare opportunity to grow up around the globe. My love for transportation surely began with him, as I soloed in a twin engine Piper at the age of 16, before I even had a driver's license. My sister, Val, is my best friend, and she and her husband, Carey, are the two people in this world that I can always count on. My husband's family is here today as well. I couldn't have been more blessed than to marry into the Plummer family, they are incredible people. My husband Niel, is surely the very best thing in my life. He is my high school sweetheart and every day I thank my lucky stars that we found each other. We have two boys, Taylor and Wilson, and he is a great dad, especially since I am not home for dinner many nights. He has always been supportive of me and my love and respect for him grow every day.

Now, for my work family, I have enjoyed every day of my 12 years as a Congressional staffer. I spent 7 great years working for Bob Wise of West Virginia, he is a fine man and one of the most dedicated public officials I have had the privilege of working with. I learned much from him and my formative political years were spent studying his example.

Working for this Committee has truly been an honor. I believe that this is one of the best and most respected Committees in Congress, and with the finest staff. I have been fortunate to be in the presence of titans on a regular basis. Whether it is has been high profile national policy issues or parliamentary process, my time here has been an absolute education. My experience has altered my understanding of governance and politics, but more than anything, it has shaped my concept of political courage and leadership.

Senator Hollings, I would like to thank you for the opportunity to work for you on the Committee. You have always challenged me to think through issues to ensure that all sides are understood, and to make decisions that are fair and right, regardless of the consequences. While your tenure in the Senate is coming to an end, it is up all of us that have worked for you, to remember your lessons, share your vision, and, when the time comes, have the courage that is your trademark.

I also want to thank the rest of the Committee members and their staffs for all of the kindness and respect you have shown me over the years. In particular, Senator Inouye and Senator Breaux and their personal offices have treated me as one of their own—"mahalo" and "laissez les bon temps rouler" respectively. Laysay le bon ton roulay

My friends and colleagues in front of me and behind me have been such a large part of my life for the last 12 years. My time here will no doubt be the highlight of my career. I'm deeply grateful to each of you for your professionalism and your dedication to doing the right thing, but most importantly, for your friendship and for allowing me to be a part of your lives. I will always proudly consider myself a member of the Senate Commerce Committee family.

Thank you.

A. BIOGRAPHICAL INFORMATION

1. Name: (include any former names or nick names used.) Deborah Anne Plummer Hersman (Debbie).
2. Position to which nominated: National Transportation Safety Board.
3. Date of nomination: March 2, 2004.

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

Residence: Information not released to the public.

Office: 516 Dirksen Senate Office Building, Washington, DC 20510.

5. Date and place of birth: 05/07/1970; Edwards Air Force Base, California.

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

Married to Philip Niel Plummer.

7. Names and ages of children: (Include stepchildren and children from previous marriages.)

Taylor Niel Plummer, 3½, and Wilson Stephen Plummer, 1½

8. Education:

Secondary: Graduated in 1988 from Chantilly High School, Chantilly, Virginia; Graduated from Virginia Tech, Blacksburg, VA, B.A. in Political Science 1992 and B.A. in International Studies 1992; Graduated from George Mason University, Fairfax, VA, M.S. in Conflict Analysis and Resolution 1999.

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.)

D.C. Staff Director (1995 to 1999), Legislative Aide/Office Manager (July 1993–1995), Legislative Correspondent (Dec. 1992 to July 1993), Scheduler (Aug. to Dec. 1992); Congressman Bob Wise (D–WV), U.S. House of Representatives, 2167 Rayburn House Office Building, Washington, DC 20515.

Senior Democratic Professional Staff, U.S. Senate, Committee on Commerce, Science and Transportation, 516 Dirksen Senate Office Building, Washington, DC 20510, 1999 to present.

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

Area Plans Review Task Force, Fairfax County, Virginia 2002 (appointed to a citizen panel to review local planning and zoning applications and changes to the county comprehensive plan)

11. Business relationships: (List all positions held as an officer, director, trustee, partner, proprietor, agent, representative, or consultant of any corporation, company, firm, partnership, or other business enterprise, educational or other institution.) None.

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

College: Alpha Delta Pi Sorority, various positions; National Residence Hall Honorary; Omnicron Delta Theta, National Leadership Honorary; Phi Alpha Delta (pre-law fraternity), Vice President.

Current: President, Southpointe Homeowners Association, Lorton, Virginia.

13. Political affiliations and activities:

(a) List all offices with a political party which you have held or any public office 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.

Supported the election of Robert E. Wise to become Governor of West Virginia by hosting a fundraiser.

(c) Itemize all political contributions to any individual, campaign organization, political party, political action committee, or similar entity of \$500 or more for the past 10 years.

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 achievements.) None.

15. Published writings: (List the titles, publishers, and dates of books, articles, reports, or other published materials which you have written.) None.

16. Speeches: Provide the Committee with two copies of any formal speeches you have delivered during the last 5 years which you have copies of on topics relevant to the position for which you have been nominated.

None available. In the last 5 years, I have participated on panels or given speeches to various transportation groups. Such presentations have focused on a wide

range of topics, from transportation safety to passenger and freight transportation policy. It has been my practice not to speak from a formal, typed text.

17. Selection:

(a) Do you know why you were selected for the position to which you have been nominated by the President?

I believe I was chosen because of my experience in the areas of transportation policy and safety. For over 10 years, I have been involved in the regulation and oversight of the Nation's transportation industries. In particular, I have been involved in drafting transportation safety legislation for surface modes, including the following laws: the Motor Carrier Safety Improvement Act of 1999 (P.L. 106-159) that created a new truck safety administration within the Department of Transportation, the Pipeline Safety Improvement Act of 2002 (P.L. 107-355), and the Transportation Equity Act of the 21st Century (P.L. 105-178)

(b) What in your background or employment experience do you believe affirmatively qualifies you for this particular appointment?

Again, in addition to my experience in the areas of transportation safety and policy, I believe that my experience as a Congressional staffer affirmatively qualifies me for this appointment because I have worked with the staff and members of NTSB and the Department of Transportation for a number of years. I also understand how the work that the NTSB performs impacts the legislative process as well as the regulatory process and in turn how that improves the safety of our transportation system. Finally, as a public servant, I understand the importance of involving stakeholders in the process, having complete and factual information, and communicating with the public.

B. FUTURE EMPLOYMENT RELATIONSHIPS

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

2. Do you have any plans, commitments, or agreements to pursue outside employment, with or without compensation, during your service with the government? If so, please explain. No.

3. Do you have any plans, commitments, or agreements after completing government service to resume employment, affiliation, or practice with your previous employer, business firm, association, or organization? No.

4. Has anybody made a commitment to employ your services in any capacity after you leave government service? No.

5. If confirmed, do you expect to serve out your full term or until the next Presidential election, whichever is applicable? Yes.

C. POTENTIAL CONFLICTS OF INTEREST

1. Describe *all* financial arrangements, deferred compensation agreements, and other continuing dealings with business associates, clients, or customers. None.

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

My husband is employed by Lockheed Martin. If Lockheed Martin is a party to an accident investigation, I have agreed to recuse myself. (See attached letter to William C. Love, Designated Agency Ethics Official, NTSB.)

3. 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.

4. 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.

I have been actively involved in the legislative process over the last 10 years as a condition of my employment with the Senate Commerce Committee from 1999 to present, and as a staffer for Rep. Robert E. Wise from 1992-1999.

5. Explain how you will resolve any potential conflict of interest, including any that may be disclosed by your responses to the above items. (Please provide a copy of any trust or other agreements.)

See attached letter to William C. Love, Designated Agency Ethics Official, NTSB.

6. Do you agree to have written opinions provided to the Committee by the designated agency ethics officer of the agency to which you are nominated and by the

Office of Government Ethics concerning potential conflicts of interest or any legal impediments to your serving in this position? Yes.

D. LEGAL MATTERS

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

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

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

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

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

To the best of my knowledge, there is no further information that should be disclosed in connection with my nomination.

E. RELATIONSHIP WITH COMMITTEE

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

Yes, to the best of my abilities.

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

Yes, to the best of my abilities.

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

Yes, to the best of my abilities.

4. Please explain how if confirmed, you will review regulations issued by your department/agency, and work closely with Congress, to ensure that such regulations comply—with the spirit of the laws passed by Congress.

The NTSB does not regulate transportation equipment, personnel, or operations, and the rules it issues are primarily procedural. If any concerns are raised by the Congress regarding NTSB's compliance with the spirit of laws passed by Congress, I will, if confirmed, work with my colleagues at the Board to address those concerns.

5. 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.

F. GENERAL QUALIFICATIONS AND VIEWS

1. How does your previous professional experiences and education qualify you for the position for which you have been nominated?

For over ten years, I have worked in the field of transportation legislation. My jobs, and in particular, my current position, have provided me a unique opportunity to focus on transportation safety matters. I have worked with all parties expressing an interest in safety legislation, including industry, labor, safety advocates, Department of Transportation officials, safety experts, and the members and staff of the National Transportation Safety Board (NTSB). This exposure to the substance of the issues as well as an understanding of the responsibilities and the effectiveness of the NTSB have provided an excellent foundation to build on should I be confirmed to the position for which I have been nominated.

2. Why do you wish to serve in the position for which you have been nominated?

I wish to continue my chosen career in public service and work in the field of transportation safety.

3. What goals have you established for your first two years in this position, if confirmed?

My goals for my first two years in this position, if confirmed, are: (1) to serve the agency and taxpayers well by being accessible and providing accurate and timely information to the public, and (2) to identify any areas that may produce safety benefits but have been neglected due to lack of resources, interest, or time and work to address those safety areas.

4. What skills do you believe you may be lacking which may be necessary to successfully carry out this position? What steps can be taken to obtain those skills?

Most of my experience has been focused in the field of surface transportation safety. Although I have been involved in aviation matters, I would like to acquire a greater understanding of the aviation safety issues facing the NTSB. If confirmed, I will work with the staff at the NTSB, the Congress, and outside experts to become more familiar with the relevant aviation issues.

5. Please discuss your philosophical views on the role of government. Include a discussion of when you believe the government should involve itself in the private sector, when society's problems should be left to the private sector, and what standards should be used to determine when a government program is no longer necessary.

The government fills a critical role in our society by setting standards. With respect to transportation safety and the private sector, the government's role is to establish a safety net for the public. Without Federal involvement there would likely be wide swings in the levels of safety from one company to another that may not be discovered until an accident occurs. Through the legislative process, recommendations by the NTSB, public education, and other efforts, the transportation system becomes safer every year. Regarding the standards that should be used to determine when a government program is no longer necessary, I believe that common sense and feedback from the public, including the affected parties and Congress, would serve as good indications of the relevance of any federal initiative.

6. Describe the current mission, major programs, and major operational objectives of the department/agency to which you have been nominated.

I understand the mission and major operational objectives of the NTSB to be the following: (1) to investigate and identify the probable cause(s) of transportation accidents, (2) to make recommendations to improve the safety of the transportation system, and (3) to serve as the "court of appeals" for any airman, mechanic, or mariner when certificate action is taken by the Federal Aviation Administration (FAA) or the Commandant of the United States Coast Guard, when certain civil penalties are assessed by the FAA.

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

I believe the top three challenges facing the NTSB are: (1) timely completion of accident investigations due to resource constraints, (2) maintaining a quality workforce as the experienced, qualified individuals retire; and (3) having an impact on the safety culture of the transportation industry despite having no substantive regulatory authority.

8. In reference to question number six, what factors in your opinion have kept the department/agency from achieving its missions over the past several years?

In my opinion the NTSB has generally achieved its goals. However per my response in question seven, the timely completion of accident investigation reports is critical. If more than two years have elapsed between the accident and the report, the delay may serve as a distraction from the quality of the work and the implementation of any pertinent safety recommendations pending the outcome of the formal findings.

9. Who are the stakeholders in the work of this department/agency?

The public, the transportation industry and its employees, federal and state agencies, standard setting organizations, and the Congress.

10. What is the proper relationship between the position to which you have been nominated, and the stakeholders identified in question number nine?

An open, honest, but yet an unbiased relationship is appropriate between the stakeholders and the position to which I have been nominated.

11. The Chief Financial Officers Act requires all government departments and agencies to develop sound financial management practices.

(a) What do you believe are your responsibilities, if confirmed, to ensure that your department/agency has proper management and accounting controls?

It is my understanding that the Chairman is the chief executive and administrative officer of the NTSB. To the extent that I will have responsibility for financial management practices, I will seek to ensure the accuracy, integrity, and accountability of the NTSB's financial system(s).

(b) What experience do you have in managing a large organization?

I do not have experience managing an organization the size of the NTSB. However I managed the budget and staff of Representative Wise's office for four years. To the best of my knowledge, during that time, all accounts were handled in a timely manner and all year-end office and mail budgets were closed within their established allotments. Systems of accountability were established for employees and evaluations of staff were completed twice a year.

12. The Government Performance and Results Act requires all government departments and agencies to identify measurable performance goals and to report to Congress on their success in achieving these goals.

(a) What benefits, if any, do you see in identifying performance goals and reporting on progress in achieving those goals?

It allows the reporting organization to conduct a self-assessment. It also allows the Congress and other interested organizations to evaluate the appropriateness of the performance goals that have been set and the success in achieving these goals.

(b) What steps should Congress consider taking when a department/agency fails to achieve its performance goals? Should these steps include the elimination, privatization, downsizing, or consolidation of departments and/or programs?

The steps that Congress should take with respect to the failure to achieve the performance goals should be commensurate with the scope and the causes of such failure.

(c) What performance goals do you believe should be applicable to your personal performance, if confirmed?

If confirmed, my personal performance should be measured by my integrity, capability, and contribution to the safety mission of the NTSB.

13. Please describe your philosophy of supervisor/employee relationships. Generally, what supervisory model do you follow? Have any employee complaints been brought against you?

My philosophy of supervisor/employee relationships is to hire talented people, let them know what is expected and make myself available and accessible. If problems arise, I try to identify them immediately and communicate expectations. I know of no employee complaints brought against me.

14. Describe your working relationship, if any, with the Congress. Does your professional experience include working with committees of Congress? If yes, please explain.

I believe my relationship with the Congress is good. I have spent my professional career working in a bipartisan manner with the Members and staff of the House and Senate on transportation safety matters.

15. Please explain what you believe to be the proper relationship between yourself; if confirmed, and the Inspector General of your department/agency.

I understand that the NTSB does not have its own IG, but often interacts with the Department of Transportation Inspector General's office. I expect my relationship, if confirmed, with the DOT IG and his staff to be honest and open.

16. In the areas under the department/agency's jurisdiction to which you have been nominated, what legislative action(s) should Congress consider as priorities? Please state your personal views.

The NTSB has established a most wanted list of their top safety recommendations. I would recommend that the Congress continue to consider those recommendations as priorities for legislative oversight.

17. Within your area of control, will you pledge to develop and implement a system that allocates discretionary spending in an open manner through a set of fair and objective established criteria? If yes, please explain what steps you intend to take and a time frame for their implementation. If not, please explain why.

Yes. Although I am familiar with the general expenditures of the NTSB, it is my understanding that most of the spending is for staff salaries and travel costs. I am not familiar with the specific financial obligations of the NTSB, but will work to comply with the intent of the Committee's question.

ATTACHMENT

DEBORAH A. HERSMAN

March 12, 2004

WILLIAM C. LOVE,
Designated Agency Ethics Official,
National Transportation Safety Board,
Washington, DC.

Dear Mr. Love:

The purpose of this letter is to describe the steps that I will take to avoid any actual or apparent conflict of interest in the event that I am confirmed for the position of Member of the National Transportation Safety Board (NTSB).

As required by 18 U.S.C. § 208(a), I will not participate personally and substantially in any particular matter that has a direct and predictable effect on my finan-

cial interests or those of any other person whose interests are imputed to me, unless I first obtain a written waiver, pursuant to section 18 U.S.C. § 208(b)(1), or qualify for a regulatory exemption, pursuant to section 18 U.S.C. § 208(b)(2). I understand that the interests of my spouse; minor children; any general partner of mine; any organization in which I serve as officer, director, trustee, general partner or employee; and any person or organization with which I am negotiating or have an arrangement concerning prospective employment are imputed to me.

My spouse is an employee of Lockheed Martin (Lockheed). He works as a systems engineer for the Lockheed web technology group that provides system development and operational maintenance support by which Lockheed satisfies the worldwide imagery requirements of its governmental and nongovernmental customers. He does not work with commercial or civil aeronautics. Through his employment, my spouse has a financial interest in Lockheed, which includes Lockheed stock in his 401(k) retirement investment account. My spouse's financial interest in Lockheed, for conflict of interest purposes, is imputed to me.

While Lockheed is known as a manufacturer of aeronautical equipment and systems, the equipment and systems are largely employed in aircraft and aviation equipment operated in military, not commercial, civil aviation applications. However, divisions or offices of Lockheed, in which my spouse is not employed, work with and provide systems and equipment that may be employed in civil/public transportation. Although not a complete categorization or itemization of its products and services, Lockheed, for example, works with: (1) air traffic control and management systems; (2) air traffic management and air terminal management systems; (3) air traffic radar systems; and (4) weather sensor programs for the Federal Aviation Administration and a range of foreign and local facilities. Lockheed also provides, through its aircraft and logistic centers, aircraft maintenance, modification and upgrades for military aircraft and limited work with commercial aircraft. With regard to other modes of transportation, the Lockheed rail systems division is developing positive train control systems' technology intended for use in passenger and freight trains while another Lockheed division provides marine vessel traffic management systems.

Accordingly, so long as my spouse retains ownership of stock in Lockheed, as required by 18 U.S.C. § 208(a), I will not participate personally and substantially in a particular matter that will have a direct and predictable effect on Lockheed unless I first obtain a written waiver, pursuant to section 18 U.S.C. § 208(b)(1), or qualify for a regulatory exemption, pursuant to 18 U.S.C. § 208(b)(2). In the event my spouse divests his stock in Lockheed but continues to be an employee of Lockheed, pursuant to C.F.R. § 2635.502, I will not participate in any particular matter before the Board involving specific parties in which Lockheed is or represents a party, unless I am authorized to participate.

Sincerely,

DEBORAH A. HERSMAN.

The CHAIRMAN. Thank you very much, Ms. Hersman. I share your admiration and appreciation for Senator Hollings, who has really done a magnificent job, and I know the people of South Carolina, as well as around the nation, are very grateful for his service. We'll miss him very much.

Commissioner Moore? And would you pull the microphone close to you so that the stenographer—

**STATEMENT OF HON. THOMAS H. MOORE,
NOMINATED TO BE A COMMISSIONER,
U.S. CONSUMER PRODUCT SAFETY COMMISSION**

Mr. MOORE. I would like to offer, for the record, Mr. Chairman, a copy of a letter of support from the Chairman of our agency, Hal Stratton. Chairman Stratton, would be here in support of my confirmation, but he's in China, on agency business. But I have a copy of a letter here that he has made available.

The CHAIRMAN. We'll put that in the record.

Mr. MOORE. Thank you very much.

The CHAIRMAN. Thank you.

Mr. MOORE. Thank you very much.

[The letter referred to follows:]

U.S. CONSUMER PRODUCT SAFETY COMMISSION
Washington, DC, March 26, 2004

Hon. JOHN MCCAIN,
Chairman,
Committee on Commerce, Science, and Transportation,
United States Senate,
Washington, DC.

Dear Mr. Chairman:

On Tuesday, March 30, 2004, the Committee is scheduled to consider Commissioner Thomas Moore for renomination to the U.S. Consumer Product Safety Commission (CPSC). Regretfully, I am in China on Commission business that day and will not be able to join my colleague on Capitol Hill for his hearing. However, I would like to take this opportunity to write in support of Commissioner Moore and to commend to you his record of accomplishment at the CPSC.

I have worked with Commissioner Moore for nearly two years since my appointment as Chairman of the Commission. He served as Acting Chairman during the interim between the previous Chair and myself, and it was under his leadership that the CPSC continued to maintain its vital product safety and compliance functions.

With over eight years of experience in protecting America's consumers, Commissioner Moore's steady hand has been invaluable at the CPSC. He has a passion for his work and an unyielding commitment to our mission. His years of experience in dealing with consumer safety issues bring a critical perspective and seasoned judgment to the agency's deliberations. While we do not agree on every issue that comes before us, I always value Commissioner Moore's advice and counsel.

Thomas Moore is a professional dedicated to the highest standards of public service. I urge the Committee to look positively on Commissioner Moore's record of achievement at the CPSC. Thank you for your consideration.

Sincerely,

HAL STRATTON,
Chairman.

Mr. MOORE. And I also have a full written statement that I'd like to offer for the record.

The CHAIRMAN. All the written statements will be made part of the record, without objection.

Mr. MOORE. Thank you. Thank you. Thank you.

In terms of a summation of my statement, Mr. Chairman, Ranking Members, and my dear friend, Senator Breaux, as you know, I'm Thomas H. Moore—

The CHAIRMAN. Would you pull the microphone a little closer, Mr. Moore? It's hard for the reporter—

Mr. MOORE. All right.

The CHAIRMAN. Thank you. Thank you, sir.

Mr. MOORE. I'm more than honored to be here before you today as the President's nominee for reappointment as a Member of the U.S. Consumer Product Safety Commission, CPSC. I bring with me, I believe, unique qualifications for this position. I have served as an incumbent Commissioner at CPSC for over 8 years. And during that time, I have worked diligently on behalf of the American consumer. I have first-hand knowledge of the agency's mission, its resources, and its excellent staff. By the way, our Executive Director, Ms. Patsy Semple, is in the audience today.

As a lawyer, former Senate Counsel, and former Acting Chairman of the Commission, I understand both the breadth of statutory authority of the Commission, as well as the practical and monetary constraints on its work. In addition, during my tenure as Acting

Chairman, I was the agency's chief spokesperson, and I was directly responsible for its administrative operations.

The Commission is charged by Congress with the critical responsibility of protecting the public against unreasonable risk of injury and death associated with consumer products. Our work has resulted in an almost 30 percent decline in the rate of deaths and injuries related to hazardous consumer products since 1974. Protecting life is, indeed, a crucial responsibility, and one that I believe certainly requires accountability, and strong and balanced leadership at the Commissioner level.

Protecting the most vulnerable segments of our society is a special interest of mine. Children, the elderly, the infirm, low-income families, minorities, and those for whom English is not their native language are often especially vulnerable to hazardous consumer products. I think it is a reasonable conclusion that if we concentrate on lowering the risk of injury and deaths due to consumer products in these vulnerable groups, overall reduction would be proportionately reflected. Balancing the concerns of product safety in vulnerable populations against product safety concerns in the population as a whole will always be one of my most challenging tasks at the Commission.

I also strongly feel that the role of the Commission is essential to the U.S. marketplace in an increasingly competitive international marketplace. The Commission should have a leadership role in developing international consumer product safety standards and enforcement compatibility so we can enhance international trade and export opportunities without lowering U.S. safety standards.

In closing, I believe that consumers must take some responsibility for their own safety. I think that consumers should be well-informed about the products they purchase, and they should take reasonable care in using them. However, it is clear to me that CPSC's role is to stand guard and to protect. We cannot assure that all consumer products are designed safely, but when we become aware that there are unreasonable hazards, we must act, and take all appropriate steps to eliminate them.

I also think that reasoned Commission action reflects a pragmatic approach to resolving safety problems, and recognizes that regulation is only one of many options that can be employed to address safety issues. We will work actively to achieve safety goals. And I expect, as is often the case, industry will respond reasonably. But if safety is not the goal of a certain industry or manufacturer, the Commission must stand ready to protect the consumer expeditiously and without compromise.

Mr. Chairman, during my time at the Commission, the CPSC has played an important role in protecting the safety of the American public. I believe that I have demonstrated a consistent and responsible approach to consumer product safety issues. I believe I have served the public well, and I want to continue the work that we have begun. So I ask you to confirm my nomination for another term as Commissioner on the Consumer Product Safety Commission.

Thank you, and I would be pleased to respond to any questions you may have, at this time or later.

[The prepared statement and biographical information of Mr. Moore follow:]

PREPARED STATEMENT OF HON. THOMAS H. MOORE, NOMINEE FOR COMMISSIONER,
U.S. CONSUMER PRODUCT SAFETY COMMISSION

Mr. Chairman, Ranking member and members of the Committee, my name is Thomas H. Moore and I am honored to be before you today as the President's nominee for re-appointment as a member of the U.S. Consumer Product Safety Commission (CPSC). I bring with me unique qualifications for this position. I have served as an incumbent Commissioner at CPSC for over 8 years and during that time I have worked diligently on behalf of the American consumer. I have first hand knowledge of the agency's mission, its resources and its excellent staff. As a lawyer, former Senate Counsel, and former Acting Chairman of the Commission, I understand both the breadth of the statutory authority of the Commission as well as the practical and monetary constraints on its work. In addition, during my tenure as Acting Chairman I was the agency's chief spokesperson and I was directly responsible for its administrative operations.

The Commission is charged by Congress with the critical responsibility of protecting the public against unreasonable risk of injury and death associated with consumer products. This is a crucial responsibility because, often, without CPSC's intervention, the consequences of exposure to the hazards associated with dangerous products may literally be of a life and death nature for individual consumers unknowingly in possession of unsafe consumer products. This is also a very critical time for the Commission. Shrinking budgetary resources and staff, plus increasingly more technologically complex consumer product safety issues, place a very sharp focus on those in leadership positions at the Commission. These are times that certainly require accountability, and strong and balanced leadership at the Commissioner level.

The Mission

CPSC's mission is to protect children and families against unreasonable risk of injury and death from about 15,000 types of consumer products. Our work has contributed significantly to the almost 30 percent decline in the rate of deaths and injuries related to hazardous consumer products since the agency's inception. However, despite significant reductions over the years, there remains on average about 24,400 deaths and 33.4 million injuries each year related to consumer products under CPSC's jurisdiction. These numbers represent almost 9 deaths and 12,000 injuries per 100,000 people each year. Moreover, the deaths, injuries, and property damage associated with consumer products cost the Nation over \$700 billion annually.

Some suggest that the modern, sophisticated marketplace of today can effectively regulate itself for product safety and that the government's role should be limited and secondary to market considerations. Well, that is not my philosophy on the government's responsibility and role with respect to consumer product safety. Very simply put, competition and voluntary actions of today's businessmen do not always suffice to *safeguard* the public interest. Unfortunately, competition does not and will not inevitably take the form of a rivalry to produce the safest product—the cheapest and most profitable, yes, but not the safest. In today's complex marketplace it is going to be exceedingly difficult for any amount of libertarian sophistry to overwhelm the obvious facts of modern life. The role of the CPSC in today's consumer product marketplace is compelling, substantial and relevant and should not, at any time, be secondary to the responses of the free enterprise system. CPSC should be an aggressive and proactive guardian of consumer safety against unreasonable risk of injury or death from consumer products.

Today, our reliance on consumer products in our lives is tremendous and growing. We rely on manufactured mechanized and electrical devices to assist us in too many of life's activities to mention—at play, at work, in education, in travel, and particularly inside and outside of the home: in food preparation, in cleaning and making repairs around the home, in child-care, in trimming trees and grass, and on and on and on. To further complicate matters, more and more of these products are manufactured abroad. Manufacturers have an obligation to build a margin of safety into all of their products and consumers have a responsibility to be informed about products and to take reasonable care in using them. Nevertheless, government should never waiver in its role and its commitment to ensure that consumers are not unnecessarily exposed to unsafe, hazardous consumer products.

Enforcement: An Important Tool

Aside from using its rulemaking authority, CPSC can act forcefully and quickly to remove dangerous products from the marketplace through two main enforcement activities. The first is in vigorously enforcing its current regulations; and the second is in utilizing its Section 15 authority to achieve recalls or corrective action plans when it is believed that a product meets the level of a substantial product hazard.

I point out to you that in 2003 alone, the Commission obtained about 280 recalls involving nearly 40 million product units. We also completed 5 civil penalty cases that resulted in over \$2 million in fines for failure to report hazardous defects and other violations associated with our various statutes and regulations.

Working with a manufacturer, distributor or retailer to recall defective products is a primary mechanism in CPSC's continuous undertaking to address product safety hazards. However, announcing the recall is just one step in an overall process of eliminating the hazards presented by unsafe products in consumer's homes. Ensuring the removal of those unsafe products from potential consumer use is also essential. Given the limitations presented by CPSC's resources, it is tremendously important that the Commission maximize the effectiveness of this particular aspect of the recall process.

For years, there have been questions and discussions about just how effective the Commission has been in facilitating the removal of unsafe products from consumer use: Is the unsafe product message being effectively communicated to the public; are enough products being effectively removed; and are there additional things that the Commission can do? I think that there are certainly enough legitimate questions surrounding the best method for determining what constitutes an effective recall in any particular case to merit careful review.

In July 2001, the Consumer Federation of America (CFA) petitioned the CPSC to require manufacturers (or distributors, retailers, or importers) of products intended for children to provide a product registration card along with every product sold. In March 2003, after being briefed on the issue by CPSC staff and hearing presentations from representatives of consumer groups and industry, a majority of the Commission voted to deny the petition. While I am disappointed that we did not begin the *formal* process that I believed was necessary to give this issue the prominence it deserves, I do believe in the sincerity of my fellow Commissioners in wanting to address certain issues raised by that petition. To that end, in 2003, a multi-disciplinary team of CPSC staff began exploring the issue of recall effectiveness. The team developed a multi-stage plan to determine how best to address the way we do recalls which included reviewing relevant research in this area and scheduling a series of three meetings to obtain information on this issue from outside stakeholders and experts. Later this year, CPSC staff will make some recommendations related to the findings of their exploration and I look forward to the Commission possibly taking positive steps to address the long-standing issue of effectively getting consumers to react to recall notifications.

Another issue in the enforcement area lies within the civil penalty arena. I have supported, and continue to support, the raising or the elimination of the monetary cap on civil penalties. While the cap does rise periodically, the reality is that a \$1.65 million fine means nothing to many of the corporations we regulate. It is one thing to limit the amount *one* consumer can recover against a company (and not a position I necessarily support either), but it is quite another to so severely limit the government's ability to penalize a company on behalf of *all* consumers, thereby limiting the deterrent effect of civil penalties.

Therefore, I commend this Senate committee and staff for its efforts in this area. Senate bill S. 1261 which passed in the Senate on September 30, 2003, has a provision that raises the civil penalty cap from \$1.65 million to \$20 million. With such an increased potential liability, perhaps some large companies would be less likely to try to stall our agency by putting off reporting hazardous products. This civil penalty cap is much more commensurate with the level of accountability that some manufacturers should face for the harm that their hazardous products can cause.

Reporting of a hazardous product to the Commission, in many instances, is the very first step in a process that could result in the elimination of the risk of a consumer suffering an injury or death associated with that hazardous product. Companies should have every incentive to report, including the possibility of paying a *very high price* for their failure to do so.

Some Success Stories

The Commission's successes while I have been a Commissioner are a major source of satisfaction for me. During my time at the Commission, I have been very pleased to be involved in many positive Commission initiatives.

By all current measures, CPSC provides both tremendous service and tremendous value to the American people. Each year through reductions in deaths, injuries, and other costs associated with unsafe products, such as health care costs and property damage, CPSC saves the Nation many times the agency's annual budget. As I indicated, our agency is the major factor in the overall *30 percent* decline in the rate of deaths and injuries related to consumer products since 1974. During that time, through our standards work, compliance efforts, industry partnerships, and consumer information programs, there has been a *42 percent* reduction in residential fire deaths, a *69 percent* reduction in consumer product-related electrocutions, a *36 percent* reduction in consumer product-related carbon monoxide deaths, an *87 percent* reduction in poisoning deaths of children younger than 5 years of age, an *84 percent* reduction in baby walker injuries and a *90 percent* reduction in crib-related deaths. We expect the annual number of deaths and injuries prevented by just these examples to reduce societal costs by over *\$15 billion*.

Currently, the Commission collects information about product-related injuries treated in hospital emergency rooms through our National Electronic Injury Surveillance System or "NEISS." This unique system provides statistically valid national estimates of product-related injuries from a probability sample of about 100 hospital emergency rooms. These estimates provide the data support for many of the Commission's activities allowing the Commission to spot hazard patterns, set priorities, and give direction to product safety work. These estimates are also valuable to industry, which can use the data to spot hazard patterns to help give direction to their own product safety efforts.

In 2003, NEISS supplied about 350,000 product-related cases from its sample of hospital emergency rooms. Several foreign governments have modeled their national injury data collection systems after the Commission's system. Additionally, in 2000, NEISS was expanded to provide data on *all* trauma-related injuries. This expanded data provides other Federal agencies, researchers, and the public with more comprehensive information on injuries from all sources, not just consumer products.

The Commission has also established a reporting system to capture information on clothing-related burn injuries to children. In July 2003, to address any possible issues related to sleepwear burn injuries, the Commission, in cooperation with the American Burn Association, the Shriners Hospitals for Children, and the National Association of State Fire Marshals, developed a new National Burn Center Reporting system for collecting and sharing information on clothing-related burn injuries to children under the age of 15. There are over 100 burn centers nationwide that treat children and as of March 2004, we had collected over 130 reports. I am very pleased that, to this date, there are no reports of children suffering burn injuries as a result of their complying sleepwear being ignited by a small open flame.

Some Conclusions

Protecting the most vulnerable segments of our society is a special interest of mine. Children, the elderly, the infirm, low-income families, minorities, and those for whom English is not their native language are often especially vulnerable to hazardous consumer products. I think it is a reasonable conclusion that if we concentrate on lowering the risk of injury and deaths due to consumer products in these vulnerable groups, overall reductions would be proportionally reflected. Balancing the concerns of product safety in vulnerable populations, against product safety concerns in the population as a whole, will always be one of my more challenging tasks at the Commission.

I also strongly feel that the role of the Commission is essential to the U.S. marketplace in an increasingly competitive international marketplace. The Consumer Product Safety Commission and the marketplace must work together to develop international consumer product safety standards and enforcement compatibility so we can enhance international trade and export opportunities without lowering U.S. safety standards.

Just as the Commission played an essential role in the development of uniformity in domestic product safety standards and has thereby minimized conflicting state and local regulations, that role should now be expanded to working with industry and governments internationally to harmonize safety standards. Such an effort could result in the reduction of non-tariff trade barriers that varying international safety standards can create.

Over the years, I have also given considerable advocacy to the idea of a product safety research effort at the Commission. Most other Federal health and safety agencies have research budgets that are a vital part of their programs. Clearly, Congress envisioned research as part of the Commission's safety efforts when it adopted the Consumer Product Safety Act and established the Commission. The very first Commission Annual Report in 1973 indicated that research was an important com-

ponent of the agency's work. The language in Section 5 (b)(1) of the Consumer Product Safety Act explicitly addresses conducting research. Yet, for too many years, we have had to defer any research program for lack of funding. Our staff tells me that a good research project for the Commission would be to evaluate the application of sensor technologies to address consumer product safety hazards. A number of new sensor technology applications have been introduced into the consumer marketplace in the past few years, but applications that specifically address consumer product safety needs have not been explored in depth within the manufacturing or safety assurance communities.

In the area of ongoing issues of particular interest to me, I place All Terrain Vehicles (ATVs) and flammability issues. From 1997 to 2001, ATV-related injuries rose over 100 percent, from an estimated 52,800 to 110,100. Subgroups that had been associated with greater risk for injury in 1997 continued to be at greater risk in 2001. These groups include drivers under the age of 16, drivers with less than one year of driving experience, drivers who drive fewer hours and recreational drivers. I am particularly concerned about injuries and deaths occurring as a result of adult-sized ATVs being operated by drivers under the age of 16.

In August 2002, CFA and 8 other groups petitioned the Commission to ban adult-sized four wheel ATVs which may be used by and/or sold for children under age 16. In 2003, the Commission held a field hearing on the ATV issue in West Virginia, a state where there is a high level of ATV usage. Additionally, there were two other field meetings held in New Mexico and Alaska. The Commission staff is currently evaluating the CFA petition and all comments received and will submit a briefing package on the petition to the Commission later this year.

The Commission staff is also developing new draft flammability performance standards for upholstered furniture and mattresses for consideration by the Commission. By reducing ignition propensity and limiting fire growth, these standards would address the risk of fire from open flame ignition for mattresses and small open flame ignition, as well as, cigarette ignition of upholstered furniture. The Commission staff plans to provide draft standards under which manufacturers and importers would have the flexibility to use any designs or constructions of products and materials that yield complying performance. I anticipate that, later this year, staff will provide to the Commission its recommendations of possible proposed rules and alternatives on these flammability issues.

Addressing flammability issues have been very long and often very frustrating processes for the Commission. There are many stakeholders who have many different views on how these issues should most effectively be addressed. I am very optimistic that most recent efforts by all interested parties will allow for the type of progress we need to address these very serious flammability issues.

Conclusion

In closing, I believe that consumers must take some responsibility for their own safety. I think that consumers should be well informed about the products they purchase and they should take reasonable care in using them. However, it is clear to me that CPSC's role is to stand guard and to protect. We cannot assure that all consumer products are designed safely but when we become aware that there are unreasonable hazards we must act and take all appropriate steps to eliminate them.

I also think that reasoned Commission action reflects a pragmatic approach to resolving safety problems and recognizes that regulation is only one of many options that can be employed to address safety issues. We will work actively to achieve safety goals, and I expect, as is often the case, industry will respond reasonably. But, if safety is not the goal of a certain industry or manufacturer, the Commission must stand ready to protect the consumer expeditiously and without compromise.

Mr. Chairman, during my time at the Commission, the CPSC has played an important role in protecting the safety of the American public. I believe that I have demonstrated a consistent and responsible approach to consumer product safety issues. I believe I have served the public well and I want to continue the work that we have begun. So I ask you to confirm my nomination for another term as a Commissioner on the Consumer Product Safety Commission.

Thank you and I would be pleased to respond to any questions you may have at this time.

A. BIOGRAPHICAL INFORMATION

1. Name: (Include any former names or nick names used.) Thomas Hill Moore.
2. Position to which nominated: Commissioner, U.S. Consumer Product Safety Commission.

3. Date of nomination: March 11, 2004.
4. Address: (List current place of residence and office addresses.)
 Residence: Information not released to the public.
 Office: 4330 East West Highway, Bethesda, MD 20814.
5. Date and place of birth: February 2, 1937; Washington, Georgia.
6. Marital status: (Include maiden name of wife or husband's name.)
 Married to—Adrienne Hartley Moore; Maiden name—Adrienne T. Hartley.
7. Names and ages of children: (Include stepchildren and children from previous marriages.)
 Phyllis Moore Wiley—age 36; Thomas Carlton Moore—age 34.
8. Education: (List secondary and higher education institutions, dates attended, degree received and date degree granted.)
 Holland Law Center, University of Florida, 8/71 to 3/74, Juris Doctor, 3/74
 Jacksonville University, 9/65 to 4/71, B.S. Degree, 4/71
 Matthew W. Gilbert High School, High School Diploma, 6/56
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.)
 Commissioner, U.S. Consumer Product Safety Commission, Bethesda, Maryland, 5/95 to present.
 Legislative Counsel, United States Senate, Office of Senator John B. Breaux, Washington, D.C., 10/88 to 4/95.
 Government Relations Consultant, self-employment, Reston, VA, 5/86 to 10/88.
 Executive Vice President, National Medical Association, Washington, D.C., 3/85 to 4/86.
 Director, Legislative Affairs, Allen, Rovin & Associates, Washington, D.C., 3/83 to 3/85.
 Staff Attorney, National Consumer Law Center, Washington, D.C., 6/81 to 3/83.
 Legislative Assistant, U.S. Senate, Office of Senator Richard Stone, 6/77 to 1/81.
 Assistant Dean, University of Florida College of Law, 3/74 to 5/77.
 Postal Carrier, United States Post Office, Jacksonville, Florida, 4/60 to 6/71.
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, or other business enterprise, educational or other institution.)
 None, other than those listed above.
12. Memberships: (List all memberships and offices held in professional, fraternal, scholarly, civic, business, charitable and other organizations.)
 American Association of Retired People—member.
13. Political affiliations and activities:
 (a) List all offices with a political party which you have held or any public office 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 \$500 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 achievements.)
 Book Award, Evidence Course—Law College.
 Voted Most Outstanding Student Trial Lawyer, Practice Court—Law College.
 Selected to Board of Masters, Student High Court of Appeals, University of Florida Student Government Association.
 Earl Warren Legal Training Program Grant.
 Independent Life Insurance Company Scholarship.

15. Published writings: (List the titles, publishers, and dates of books, articles, reports, or other published materials which you have written.) None.

16. Speeches: Provide the Committee with two copies of any formal speeches you have delivered during the last 5 years which you have copies of on topics relevant to the position for which you have been nominated.

(See attached speeches).

17. Selection:

(a) Do you know why you were chosen for this nomination by the President?

I am a sitting Commissioner on the CPSC with over 8 years of experience on the job. During that time I have worked diligently on behalf of the American consumer.

(b) What do you believe in your background or employment experience affirmatively qualifies you for this particular appointment?

My work on the Commerce Committee with Senator Breaux where I handled consumer affairs, among other issues, and my over 8 years of experience at the Commission make me uniquely qualified for this appointment. I was Acting Chairman for nine months while we were waiting for our current chairman to be confirmed. I have knowledge of the substantive issues before the Commission and have had administrative experience at the operational level of the agency.

B. FUTURE EMPLOYMENT RELATIONSHIPS

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

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, explain. No.

3. Do you have any plans, commitments or agreements after completing government service to resume employment, affiliation or practice with your previous employer, business firm, association or organization?. No.

4. Has anybody made a commitment to employ your services in any capacity after you leave government service? No.

5. If confirmed, do you expect to serve out your full term or until the next Presidential election, whichever is applicable? Yes.

C. POTENTIAL CONFLICTS OF INTEREST

1. Describe *all* financial arrangements, deferred compensation agreements, and other continuing dealings with business associates, clients or customers.

None as to myself. My wife will begin receiving a pension next year from AT&T.

2. 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.

3. 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.

4. 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. None.

5. Explain how you will resolve any potential conflict of interest, including any that may be disclosed by your responses to the above items. (Please provide a copy of any trust or other agreements.)

I will recuse myself from any matter before the Commission that may present a potential conflict of interest and have included a copy of my Ethics Agreement dated March 19, 2004.

6. Do you agree to have written opinions provided to the Committee by the designated agency ethics officer of the agency to which you are nominated and by the Office of Government Ethics concerning potential conflicts of interest or any legal impediments to your serving in this position? Yes.

D. LEGAL MATTERS

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

2. Have you ever been investigated, arrested, charged or held by any Federal, State, or other law enforcement authority for violation of any Federal, State, county,

or municipal law, regulation or ordinance, other than a minor traffic offense? If so, please explain. No.

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

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

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

E. RELATIONSHIP WITH COMMITTEE

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

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

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

4. Please explain how if confirmed, you will review regulations issued by your department/agency and work closely with Congress, to ensure that such regulations comply with the spirit of the laws passed by Congress.

Before the Commission votes on any new regulation our legal staff does an analysis of the proposal to ensure that it meets our statutory requirements. That memo is separate from the substantive package and is an important component of Commission review. If confirmed I will continue to encourage that those memos reflect the unbiased opinion of our staff and that all views are reflected. Also substantive briefing packages are made available on our website at the same time they are distributed to the Commissioners, so that the public and affected industries, as well as Members of Congress, have opportunities to point out any objections they may have to a proposal. Additionally, the Commission has a proposal out for public comment to begin a systematic review of our older regulations to ensure consistency among them with respect to accomplishing program goals.

5. 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.

F. GENERAL QUALIFICATIONS AND VIEWS

1. How do your previous professional experiences and education qualify you for the position for which you have been nominated?

Prior to coming to the agency I handled consumer issues for Senator John Breaux on the Commerce Committee. It was there that I became interested in the mission of the U.S. Consumer Product Safety Commission. I have had the privilege of working at the Commission for over 8 years. During that time I have been involved in every decision made by the agency at the Commissioner level. I know the agency mission, its resources and its excellent staff. As a lawyer, I understand the breadth of the statutory authority of the Commission as well as the practical and monetary constraints on its work. During my tenure as Acting Chairman I was the agency spokesperson and was responsible for administrative operations, in addition to my other responsibilities.

2. Why do you wish to serve in the position for which you have been nominated?

I wish to serve another term as Commissioner because the Commission now faces a critical time of shrinking resources with increasingly more technologically complex product safety issues. I think that my presence on the Commission will improve the safety and well being of the American public in their homes and communities. I provide a strong persuasive presence which gives a needed balance to the Commission's work. My experience of 8 years in the position will also provide some stability to the Commission during a time of change and help the Commission resolve long-standing, very complex consumer product safety issues which are nearing critical decision-making stages.

3. What goals have you established for your first two years in this position, if confirmed?

My goals are to continue the work that I have begun at the Commission. My focus has been on fire issues and the hazards that befall our most vulnerable citizens: children, the elderly, and less affluent consumers. Now that the agency has a greater measure of cooperation with industry on the issue, it is important to put out a

proposed rule on upholstered furniture flammability as soon as that is possible and I will work with the other Commissioners and our staff to accomplish that.

4. What skills do you believe you may be lacking which may be necessary to successfully carry out this position? What steps can be taken to obtain those skills?

Based upon my experience in government service both on Capitol Hill and at the Commission, I believe that I have developed and demonstrated the necessary skills to continue to successfully carry out the position of Commissioner.

5. Please discuss your philosophical views on the role of government. Include a discussion of when you believe the government should involve itself in the private sector, when society's problems should be left to the private sector, and what standards should be used to determine when a government program is no longer necessary.

The statutes our agency administers give us fairly specific guidance on when the agency should get involved in the private sector. Our mission is to protect consumers from hazardous products circulating in interstate commerce. These products often come from other countries and can find their way into any State in the Union. This is a perfect example of a mission that has to be handled at the Federal level. The Federal government is uniquely qualified to police the world of interstate commerce, recall hazardous products that are in national distribution, stop products from entering our country that could pose a danger to its citizens and set safety standards of national applicability. Manufacturers would find it difficult, if not impossible, to make products if every state had different product safety standards. The States are uniquely qualified to deal with in-state businesses reselling defective products in the secondary market, such as thrift stores and flea markets.

A government program should be judged by whether its mission is still valid and if it is setting, measuring and meeting goals to accomplish that mission. I think the Government Results and Performance Act has helped focus government program planning and resource allocation in ways that enhance everyone's ability to determine whether programs are achieving their missions.

6. Describe the current mission, major programs, and major operational objectives of the department/agency to which you have been nominated.

The mission of the Commission is to protect the American public from unreasonable risks of injury and death from about 15,000 types of consumer products under its jurisdiction, to assist consumers in evaluating the comparative safety of consumer products, to develop uniform safety standards for consumer products, and to promote research and investigation into the causes and prevention of product-related deaths and injuries. Its safety initiatives are handled through three major programmatic activities: hazard identification and reduction activities, compliance and enforcement activities, and public information and education activities. The major operational objective of the Commission is to maintain effective product safety programs in light of shrinking staff and programmatic resources. As is apparent in most Federal government operations, maintaining and upgrading the Commission's information technology capabilities and databases are essential elements to the Commission's success as the Commission becomes increasingly more dependent on these systems for its data driven activities.

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

In a world that requires more of our Federal budget to be spent on security issues, limited resources, will continue to be a challenge for most agencies, and particularly small ones, such as CPSC. We have roughly 470 people to protect the entire nation from potential hazards associated with 15,000 types of products. We have lost some of the support we used to get from the U.S. Bureau of Customs & Border Protection in stopping products at the docks because the national security role of Customs has increased in recent years. For the last few years we have had to postpone a number of improvements to our IT systems and our testing and research laboratory because there just is not enough money in our budget to fund them. However, our staff works extremely hard and they find every resource they can to adjust to these difficult budgetary times.

When national security issues face our citizens, and when there is so much information of all kinds coming at consumers on a daily basis, it is a continuing challenge to focus their attention on product safety issues. One of the issues we are studying in our current recall effectiveness review, is what we can do differently to make sure consumers are informed about, and take action with regard to, hazardous products before one of their loved ones becomes a casualty.

The agency is seeing an increase in issues related to the chemical composition of products on the market, particularly those used by children. Recently we have had to examine phthalates (a plastic softener), chromated copper arsenate (CCA) used in pressure treating wood in playground equipment, the chemical formulation of Tef-

lon, and flame-retardant chemicals that could be used to make upholstered furniture more flame resistant. These issues are very complex, often requiring peer review of staff results and consultations with other Federal agencies. These issues take time and resources. We have had to hire more toxicologists and other scientists to meet these increased demands. These issues are extremely important and I am glad the agency has been able to address them but they do increase the strain on our already tight budget. Our challenge is to only tackle the issues that pose the greatest dangers to our community and sometimes that is hard to know at the outset, particularly when many of these issues come to us by way of citizen petition.

8. In reference to question number six, what factors in your opinion have kept the department/agency from achieving its missions over the past several years?

I think that, given its budgetary limitations, the Commission, has done a good job in achieving its mission. However, I also believe that the Commission has the capability to do more to protect the public. I find resources to be the major factor in limiting the Commission's capabilities. As products are made in more technologically complex ways, both our engineers and the product manufacturers are challenged to isolate the precise cause of a product's safety-related malfunction. We are finding more and more multiple failure modes in products. This requires us to do more testing, to collect more product samples, and to hire more outside experts to help us determine all the possible components that play a role in product defects. With a shrinking budget, we become less capable of swift product safety assessments and become more dependent on outside analysis and conclusions.

I have also given considerable advocacy to the idea of a product safety research effort at the Commission. Most other Federal health and safety agencies have research budgets that are a vital part of their programs. Clearly, Congress envisioned research as part of the Commission's safety efforts when it adopted the Consumer Product Safety Act and established the Commission. The very first Commission Annual Report in 1973 indicated that research was an important component of the agency's work. The language in Section 5(b)(1) of the Consumer Product Safety Act explicitly addresses conducting research. Yet, for too many years, we have had to defer any research program for lack of funding.

9. Who are the stakeholders in the work of this department/agency?

Our primary stakeholders are American consumers. We also consider industry (manufacturers, importers and retailers) to be stakeholders. Both have organized subsets, such as national/regional consumer groups and industry trade associations. To some extent the governments of the countries that we trade with are stakeholders in that they have an interest in their countries' products meeting American standards and in trying to harmonize their standards with ours, whenever possible.

10. What is the proper relationship between the position to which you have been nominated, and the stakeholders identified in question number nine?

The proper relationship between a Commissioner and the stakeholders is one that contemplates substantive and appropriate communications between the parties related to consumer product safety issues. The Commission is responsible for communicating safety-related information to the public. In each of its major program activities the exchange of information is critical. A Commissioner is responsible for implementing policies, both individually, and collectively as a part of the Commission, that allow for the free flow of product safety information between relevant stakeholders and the Commission.

11. The Chief Financial Officers Act requires all government departments and agencies to develop sound financial management practices.

(a) What do you believe are your responsibilities, if confirmed to ensure that your department/agency has proper management and accounting controls?

In general, the Chairman of the agency has direct, day-to-day operational oversight and control of our management and accounting controls. During my senior staff briefings, the senior staff of the agency will inform me of any steps they are taking in response to problems they have identified and I seek periodic updates on those issues until they have been satisfactorily resolved. When I was Acting Chairman, all reports made to Congress and the Executive Branch and all internal Inspector General and Program and Evaluation studies were sent to my office for review of proposed remedial actions. I believe my responsibility, as Commissioner, is to keep abreast of issues that are brought to my attention and to follow up with staff to make sure any problems have been resolved and to take any steps with regard to the budget that may be necessary to fund those resolutions.

(b) What experience do you have in managing a large organization?

I was the Acting Chairman of the U.S. Consumer Product Safety Commission for nine months and I have been a Commissioner (one of three) there for over 8 years.

12. The Government Performance and Results Act requires all government departments and agencies to identify measurable performance goals and to report to Congress on their success in achieving these goals.

(a) What benefits, if any, do you see in identifying performance goals and reporting on progress in achieving those goals?

Performance goals provide focus for the agency. They allow the agency to align its activities and regulations with its missions, design its budgets to reflect the strategic missions and use real measurements of results to ascertain successes and identify areas for improvement. Progress toward goals justifies appropriations and authorizations for the agency.

(b) What steps should Congress consider taking when a department/agency fails to achieve its performance goals? Should these steps include the elimination, privatization, downsizing, or consolidation of departments and/or programs?

First there should be a determination of why the department/agency failed to achieve its performance goals and then a determination of what the appropriate and prudent course of action should be. Any one of the aforementioned steps might be prudent but Congress and the department/agency both should be mindful that any action taken must reflect what is in the public's interest, particularly when dealing with health and safety agencies where results may take years to become measurable.

(c) What performance goals do you believe should be applicable to your personal performance, if confirmed?

All of the performance goals are applicable to a Commissioner's personal performance. As the responsible parties for the agency's policies, budget, and operational objectives, the Commissioners are responsible for the performance of the agency. The success or failure of the agency flows from the Commissioner's decision making. The agency's measure is also the Commissioner's personal measure of his job performance.

13. Please describe your philosophy of supervisor/employee relationships. Generally, what supervisory model do you follow? Have any employee complaints been brought against you?

I believe in hiring good people and letting them do their jobs. I am not a micro-manager. I think that if you do a good job in the recruiting process in identifying what qualities you want in an employee and screen your applicants for those qualities that you should have few on-the-job problems. I also think that if people are not doing their jobs they need to be given an opportunity to improve, but if they do not improve, they need to move on. As resources get scarcer, it is imperative that people are doing the best job they can do and that their 'Skills match the agency's needs.

No employee complaints have been brought against me.

14. Describe your working relationship, if any, with the Congress. Does your professional experience include working with committees of Congress? If yes, please explain.

As Legislative Assistant in the office of Senator Richard Stone and Legislative Counsel in the office of Senator John Breaux, I have had extensive working experience with Congress, Congressional Committees, and Congressional staffers. As a Commissioner, over the last 8 years, I have testified before both House and Senate authorizing committees on reauthorization of the Commission and on other issues under the jurisdiction of those committees. I have also testified before House and Senate appropriators on the annual budget request at the annual budget hearings for the Commission. Moreover, in the role of Acting Chairman at the Commission from November, 2001 to August, 2002, I had direct oversight over the office responsible for the Commission's communications with Congress on many, many issues under the Commission's jurisdiction. I feel that an open line of communication between Congress and the office of a Commissioner is essential to good congressional relations and I welcome inquiries and other communications from all members of Congress.

15. Please explain what you believe to be the proper relationship between yourself, if confirmed, and the Inspector General of your department/agency.

The CPSC's Inspector General reports directly to the Chairman of the agency and his reports are usually confidential. When I was Acting Chairman the Inspector General kept my office informed of on-going activities and sent me all reports, including audits and investigatory reports. I, in turn, kept the other Commissioner informed of the reports and the nature of the on-going investigations. I think all Commissioners should have access to program audits as these are necessary to fulfilling our role to make sure the agency is meeting its mission.

16. In the areas under the department/agency's jurisdiction to which you have been nominated, what legislative action(s) should Congress consider as priorities? Please state your personal views.

The Commission was last authorized in 1990. The authorization of the Commission should be a priority given that it has been 14 years since the last authorization. Many Members feel that an agency that is not authorized should not be appropriated. The Commission should not continue to be in that vulnerable position.

I have supported, and continue to support, the raising or the elimination of the monetary cap on civil penalties. Perhaps some companies would be less likely to try to stall our agency by putting off reporting hazardous products if we had penalties that were more commensurate with the harm they can cause.

17. Within your area of control, will you pledge to develop and implement a system that allocates discretionary spending in an open manner through a set of fair and objective established criteria? If yes, please explain what steps you intend to take and a time frame for their implementation. If not, please explain why.

The agency currently has almost no discretionary funds to spend. Our work is largely accomplished through the work of our scientists, statisticians, engineers, investigators and other highly skilled employees, which means that the bulk of our budget goes for salaries, rent, telephone and other administrative support services. Because of overall budget constraints, unfunded mandates and annual increases in salaries, to name a few reasons, we have in recent years only been able to obtain budget increases that cover most, if not all, of the increase in our fixed costs. While we do have grant-making authority, we rarely have money to make grants. About all we can fund are tiny contracts (usually \$500 per State) that we disburse through our State and Local Partners Program to state agencies who help us conduct investigations and inspections. This is a wonderful example of a federal-state partnership program that gives us greater reach than we could possibly have with just our small staff. Our State and local partners fill in the gaps in states where we do not have a CPSC staff person stationed. Most of our travel funds are dedicated to travel by our field investigators, participation by our staff in voluntary standards development and travel in support of litigation.

We request annual input from our stakeholders so they can comment on what they think the agency's agenda and priorities should be for the coming year. They also have an opportunity to review and comment on our annual budget, Five-Year Strategic Plans and our annual Performance Plans which outline the agency's strategic goals and indicate resources we intend to spend in each area. For each budget submission, the Commissioners review on-going projects and proposed changes to those projects, and I will continue to review those budgets every year to make sure that we are getting the most out of our limited resources.

The CHAIRMAN. Thank you very much.
Mr. Anderson?

**STATEMENT OF HON. A. PAUL ANDERSON, NOMINATED TO BE
A COMMISSIONER, FEDERAL MARITIME COMMISSION**

Mr. ANDERSON. Thank you, Mr. Chairman. Thank you for scheduling this hearing today. Having been nominated by President Bush to the Federal Maritime Commission, it is, indeed, an honor and a privilege to appear before you and the distinguished Members of the Commerce, Science, and Transportation Committee.

I would like to convey my sincere gratitude to Senators Nelson and Graham for their support for this nomination, and also to Congressman Mica for his kind words.

I would also like to thank you for the opportunity to introduce my father, who is here today, and also my mother, and publicly convey to them that their spirit, love, and character have guided me, and I am forever grateful.

I would also like to thank my friends that are here today for their support and encouragement.

As the independent regulatory agency responsible for overseeing ocean-borne transportation in the U.S. foreign commerce, the Federal Maritime Commission works to ensure a fair and competitive

environment in which carriers, shippers, and other stakeholders can operate with a minimum of government intervention, while being protected from unfair foreign shipping practices.

As this Committee knows firsthand, the ocean transportation industry has changed dramatically since September 11. The security and safety of our Nation's transportation infrastructure is of critical importance to the free flow of trade. While the Commission is not in the front line of ensuring our security, it is committed to helping front-line organizations ensure the safe and efficient movement of cargo to and from the United States. With respect to transportation security, I will fully support the efforts of the Commission and other agencies to coordinate and integrate our resources to ensure maximum protection of our maritime assets.

The maritime industry is well on its way to being one of our country's few trillion dollar economic sectors. The Federal Maritime Commission plays a vital role in this marketplace, and will continue to ensure that the interests of the United States operate on a level playing field with our competitors. During my career, I have worked in several regulated industries, including 9 years in the maritime sector. In this capacity, many of the functions I performed were subject to maritime laws and regulations administered by the Federal Maritime Commission. My professional experience working with maritime trade associations, such as American Waterways Operators and the former American Institute of Merchant Shipping, promoting the industry and playing a leadership role in guiding the industry toward responsible public policy positions, will allow me to make significant contributions to the Commission.

If confirmed by the Senate, I will work to fairly and objectively fulfill the Federal Maritime Commission's statutory responsibilities, while making every effort to listen to Commission stakeholders, in order to reach balanced and well-informed decisions in this sector that plays a vital role in our country's economic development and security.

Thank you, Mr. Chairman, for the opportunity to appear before you today, and I will be happy to answer any questions.

[The prepared statement and biographical information of Mr. Anderson follow:]

PREPARED STATEMENT OF HON. A. PAUL ANDERSON, NOMINATED TO BE A
COMMISSIONER, FEDERAL MARITIME COMMISSION

Mr. Chairman,

Thank you for scheduling this hearing today. Having been nominated by President Bush to the Federal Maritime Commission, it is an honor and a privilege to appear before you and the distinguished members of the Commerce, Science, and Transportation Committee. I would like to convey my sincere gratitude to Senator Nelson and Congressmen Shaw and Mica for their introduction to the Committee.

During my life I have been truly blessed to have supportive family and friends. I would like to recognize my father Perry Anderson, a distinguished veteran and retired Marine officer who is here today from California, and publicly convey to him and my mother that their spirit, love and character have guided me and I am forever grateful. I would also like to thank my friends who are here for their encouragement and friendship.

As the independent regulatory agency responsible for overseeing ocean borne transportation in U.S. foreign commerce, the Federal Maritime Commission works to ensure a fair and competitive environment in which carriers, shippers, and other stakeholders can operate with a minimum of government intervention, while being protected from unfair foreign shipping practices.

Working within its statutory framework, the Commission has developed a regulatory system that allows for necessary oversight with minimal disruption to the efficient flow of U.S. foreign commerce.

As this Committee knows first-hand, the ocean transportation industry has changed dramatically since September 11, 2001. The security and safety of our Nation's transportation infrastructure is of critical importance to the free flow of trade. While the Commission is not on the front-line of ensuring our security, it is committed to helping front-line organizations ensure the safe and efficient movement of cargo to and from the United States.

In this regard, the Commission's oversight of ocean common carriers, ocean transportation intermediaries ("OTIs"), and marine terminal operators, is a vital link in the effort to protect our Nation's seaports.

With respect to transportation security, I will fully support the efforts of the Commission and other agencies to coordinate and integrate our resources to ensure maximum protection of our maritime assets.

The maritime industry has seen dramatic changes in the past decade, with the evolution of technology, global trade and intense competition. Congress addressed many of these issues in 1998, when it passed the Ocean Shipping Reform Act (OSRA). The Act amended the way the Commission deals with service contracts, agreements, ocean transportation intermediary licensing, tariffs, and other issues. Based on the Commission's 2001 report on the impact of OSRA, it appears that the Act is working well to encourage a more market-driven liner shipping industry.

The maritime industry is well on its way to being one of our country's few trillion dollar economic sectors. The Federal Maritime Commission plays a vital role in this marketplace and will continue to ensure that the interests of the United States operate on a level playing field with our competitors.

During my career I have worked in several regulated industries, including nine years in the maritime sector. In this capacity, many of the functions I performed were subject to maritime laws and regulations administered by the Federal Maritime Commission. My professional experience working with maritime trade associations such as American Waterways Operators (AWO) and the former American Institute of Merchant Shipping (AIMS), promoting the industry and playing a leadership role in guiding the industry toward responsible public policy positions, will allow me to make significant contributions to the Commission.

If confirmed by the Senate, I will work to fairly and objectively fulfill the Federal Maritime Commission's statutory responsibilities, while making every effort to listen to Commission stakeholders in order to reach balanced and well-informed decisions in this sector that plays a vital role in our country's economic development and security.

Thank you, Mr. Chairman and distinguished Senators on the Committee and your staff, for your time and consideration. I will be happy to answer any questions that you may have for me at this time.

A. BIOGRAPHICAL INFORMATION

1. Name: (Include any former names or nicknames used.) Alan Paul Anderson.
2. Position to which nominated: Federal Maritime Commission.
3. Date of nomination: April 10, 2003.
4. Address: (List current place of residence and office addresses.)
Residence: Information not released to the public.
Office: 2108 NE 18 Avenue, Wilton Manors, FL 33305.
5. Date and place of birth: Sept. 16, 1959, Beaufort, South Carolina.
6. Marital status: (Include maiden name of wife or husband's name.)
Single.
7. Names and ages of children: (Include stepchildren and children from previous marriages.)
Chase Frederick Kulp, Age 16.
8. Education: (List secondary and higher education institutions, dates attended, degree received, and date degree granted.)
Harvard University, John F. Kennedy School of Government, 1997, Program for Senior Managers in Government.
Bachelor of Science, University of Florida, 1982—attended 1979–82.
Menlo College, Menlo Park, CA—attended 1978.
San Clemente High School, graduated 1977, attended 1973–77.

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.)

1994–2003 Vice President Government Relations
JM Family Enterprises, Inc.
Deerfield Beach, Florida

1990–1994 Director, Public Affairs
Hvide Marine, Inc.
Port Everglades, Florida

1989–92 Assistant to the President
Hvide Marine, Inc.
Port Everglades, Florida

1987–1989 Manager, Marketing
Hvide Marine, Inc.
Port Everglades, Florida

9/96–11/96 Field Director
Bob Martinez for Governor
Tallahassee, Florida

5/86–9/86 Campaign Aide
Tom Gallagher for Governor
Miami, Florida

1983–1984 Special Assistant
United States Senator Paula Hawkins
Washington, DC

6/94–11/94 Press Secretary
U.S. Congressman Connie Mack Campaign
Fort Myers, Florida

11/84–5/86 Special Assistant
U.S. Senator Paula Hawkins
Winter Park, Florida

12/82–5/83 Account Executive
Snyder Varnadore Public Relations Worldwide, Inc.
Sarasota, Florida

7/82–11/82 Campaign Aide
Van B. Poole for United States Senate Campaign
Fort Lauderdale, Florida

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.)

Broward County Consumer Affairs Board, 1990–1994.
United States Senator Connie Mack Academy Advisory Board, 1989–2000.
Broward Community College Board of Trustees, 1999–2003.
Broward County Port Director Search Committee 2003.

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

Vice President, JM Family Enterprises, Inc.
Southeast Toyota Distributors LLC.
World Omni Financial Corporation, Inc.
JM&A, Inc.
Fidelity Insurance, Inc.
Member, Board of Directors, Giant Holdings, Inc.
Hvide Marine, Inc.
Board of Trustees, Broward Community College.

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

Broward Community College Board of Trustees, 1999 to present, Chair, Board of Trustees 1999–2000, Vice Chair, 2000–2001.

Broward Alliance, member, Board of Directors, 1997 to present, Chair, Board of Directors, 2002–2003, Vice Chair, 2001–2002, Secretary, 2000–2001, Treasurer, 1999, 2000.

Broward Education Foundation, 2002 to present.

Orange Bowl Committee, member, 2000 to present.

Tower Club, member, 1994–2003.

Broward Navy Days, member, Board of Directors, 1991–2003.

Museum of Discovery & Science, member, Board of Directors, 1996–2003.

Junior Achievement of South Florida, member, Board of Directors, 1998–2003.

Coral Ridge Country Club, 2000 to present.

U.S. Senator Connie Mack's Academy Advisory Board 1989–2000.

Public Affairs Council, member, Board of Directors, 1998–2003.

Florida Chamber of Commerce, member, Board of Governors, 1998 to present.

Florida Tax Watch, member, Board of Directors, 2000–2003.

Floridian's for School Choice, member, Board of Directors, 1999–2003.

S.W.I.M. Fort Lauderdale, member, Board of Directors, 2000–2003.

Fort Lauderdale Chamber of Commerce, member, Board of Trustees, 1995–2000.

American Waterways Operators, Chair, Public Affairs Committee, 1992–1994, Port Everglades Association, member, 1987–1994.

13. Political affiliations and activities:

(a) List all offices with a political party which you have held or any public office for which you have been a candidate.

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

I have never run for public office. I have been affiliated with political committees. I was an Alternate Delegate to the 1996 Republican National Convention representing Broward County, Florida. I served on the Jeb Bush for Governor Finance Committee on his 1994, 1998 and 2002 election campaigns. I served on U.S. Senator Connie Mack's Finance Committee in 1988 and 1994. Additionally, I served on Tom Gallagher for Insurance Commissioner Finance Committee in 2000 and Tom Gallagher for Chief Financial Officer in Florida in 2002. In my capacity as Vice President of Government Relations for JM Family Enterprises I have participated in the RNC Eagle's and Team 100 program, the National Republican Congressional Committee, the Democratic Congressional Campaign Committee, the Democratic Senatorial Campaign Committee, the Republican Senatorial Campaign Committee, the Republican Governor's Association, the Southern Legislative Conference, the National Conference of State Legislators and the American Legislative Exchange Council. I served as Treasurer of the JM Family Associates Political Action Committee from 1994–2002.

(c) Itemize all political contributions to any individual, campaign organization, political party, political action committee, or similar entity of \$500 or more for the past 10 years.

Tom Gallagher for Senate Campaign—\$1,000

Tom Gallagher for Chief Financial Officer Campaign—\$500

Jeb Bush for Governor 1994—\$500, 1998—\$1,000, 2002—\$1,000

George Bush for President 2000—\$2,000

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

U.S. Coast Guard Distinguished Civilian Service Award, 2000.

Freedom Award, Broward Navy Days, 1998.

Public Affairs Council First Fellow, Public Affairs Institute, 2002.

15. Published writings: (List the titles, publishers, and dates of books, articles, reports, or other published materials which you have written.) None.

16. Speeches: Provide the Committee with two copies of any formal speeches you have delivered during the last 5 years which you have copies of on topics relevant to the position for which you have been nominated. None.

17. Selection:

(a) Do you know why you were selected for the position to which you have been nominated by the President?

Professional curriculum fit the required experience for the Federal Maritime Commission.

(b) What in your background or employment experience do you believe affirmatively qualifies you for this particular appointment?

Previous maritime experience with a U.S. diversified maritime company and participation in the industry at the national level and management and leadership experience.

B. FUTURE EMPLOYMENT RELATIONSHIPS

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

2. Do you have any plans, commitments, or agreements to pursue outside employment, with or without compensation, during your service with the government? If so, explain. No.

3. Do you have any plans, commitments, or agreements after completing government service to resume employment, affiliation, or practice with your previous employer, business firm, association, or organization? No.

4. Has anybody made a commitment to employ your services in any capacity after you leave government service? No.

5. If confirmed, do you expect to serve out your full term or until the next Presidential election, whichever is applicable? Yes.

C. POTENTIAL CONFLICTS OF INTEREST

1. Describe *all* financial arrangements, deferred compensation agreements, and other continuing dealings with business associates, clients, or customers. None.

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

I am not aware of any.

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

I am not aware of any.

4. 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.

In my position as Vice President of Government Relations for JM Family Enterprises during the last nine years my responsibility was to advocate on behalf of the company at the local, state, and Federal governments positions consistent with the goals of the corporation. JM Family Enterprises, Inc. is a \$7.8 billion diversified automotive company headquartered in Deerfield Beach, FL and ranked by Forbes as the 13th largest privately held company in the United States. In January 2002, it was ranked No.14 by a survey in Fortune magazine of the 100 Best Companies to Work For in the United States. Southeast Toyota Distributors, LLC, is the Nation's largest franchised distributor of Toyota vehicles. Other JM Family core companies include: World Omni Financial Corp., offering a complete range of automotive financial products and services and JM&A Group, providing warranty and insurance products and services to automobile dealerships throughout the country. In addition, JM Lexus is the largest volume retail dealership of Lexus cars and sport utility vehicles in the country.

5. Explain how you will resolve any potential conflict of interest, including any that may be disclosed by your responses to the above items. (Please provide a copy of any trust or other agreements.)

While I am not aware of any conflicts, if one were to arise I would seek advice of agency counsel and if advised would recuse myself or take the appropriate actions to resolve the conflict.

6. Do you agree to have written opinions provided to the Committee by the designated agency ethics officer of the agency to which you are nominated and by the Office of Government Ethics concerning potential conflicts of interest or any legal impediments to your serving in this position? Yes.

D. LEGAL MATTERS

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

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

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

Not that I am aware of.

4. Have you ever been convicted (including pleas of guilty or *nolo contendere*) of any criminal violation other than a minor traffic offense? If so, please explain. None.

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

E. RELATIONSHIP WITH COMMITTEE

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

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

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

4. Please explain how if confirmed, you will review regulations issued by your department/agency, and work closely with Congress, to ensure that such regulations comply with the spirit of the laws passed by Congress.

I will faithfully follow the guidelines and protocols for reviewing regulations with Congress and ensuring that any regulation complies with the spirit of the laws passed by Congress.

5. 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.

F. GENERAL QUALIFICATIONS AND VIEWS

1. How does your previous professional experiences and education qualify you for the position for which you have been nominated?

I believe the combination of my education and professional career has qualified me to serve on the Federal Maritime Commission. My nine years in the maritime industry where I worked for a diversified maritime transportation company with tanker, offshore supply vessel, tug and barge and tugboat operations combined with my involvement with major maritime trade associations have given me the necessary experience to serve in the capacity as Commissioner. Additionally, my subsequent experience with a diversified automobile company and as a community leader serving as the elected leader of several large professional and educational organizations has continued to build upon my experience in management and leadership of organizations.

2. Why do you wish to serve in the position for which you have been nominated?

I am honored to be considered to serve on the Federal Maritime Commission, in the public sector and working in an industry that is critical to the economic well being of our country.

3. What goals have you established for your first two years in this position, if confirmed?

I will faithfully execute the responsibilities of a Commissioner and the goals set forth by the Agency and the policies enacted by Congress for the Commission.

4. What skills do you believe you may be lacking which may be necessary to successfully carry out this position? What steps can be taken to obtain those skills?

I believe my career has prepared me to perform the duties of this position.

5. Please discuss your philosophical views on the role of government. Include a discussion of when you believe the government should involve itself in the private

sector, when society's problems should be left to the private sector, and what standards should be used to determine when a government program is no longer necessary.

I believe the role of government is to ensure the safety of its citizens, to provide the protection of their rights, support a national infrastructure, protect the environment and support a system of free enterprise. The government should enact laws that give clear guidelines with which the private sector has to operate and allow for fair market competition. Our laws traditionally have the intent of allowing for the market place to grow freely and allow for continuous development of free and uninhibited trade. Any program that is not supporting the mission of the program or the intent should be reviewed to determine if is effective. If the dynamics of society have changed or it has become outdated then it should have its mission changed, consolidated into a department or program that may have a similar function or de-authorized.

6. Describe the current mission, major programs, and major operational objectives of the department/agency to which you have been nominated.

The core mission is administering the 1984 Shipping Act and the Ocean Shipping Reform Act of 1998 which includes the protection of U.S. Commerce from discriminatory or unfair trade practices by foreign owned or controlled carriers, licensing OTTs, ensuring financial responsibility of cruise lines to compensate passengers in the event of injury or non-performance and a forum for dispute resolution between parties in the maritime industry.

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

Continued reluctance by the governments of our major trading partners to maintain a level playing field in their shipping laws and policies, changing dynamics of world trade patterns and the understanding of the mission of the Commission by the audiences it serves.

8. In reference to question number six, what factors in your opinion have kept the department/agency from achieving its missions over the past several years?

I am not sure that I am in a position to say that the Commission did not achieve its mission.

9. Who are the stakeholders in the work of this department/agency?

Domestic and international carriers, ocean transportation intermediaries (OTT's), the United States Senate and House of Representatives, the Executive Branch and all parties that might be regulated or influenced by the functions of the Commission.

10. What is the proper relationship between the position to which you have been nominated, and the stakeholders identified in question number nine?

I believe it is important to work to achieve a comprehensive understanding of the industry, laws and policies of the Commission and be a fair, impartial and interactive Commissioner in dealing with all matters related to the Commission and its Stakeholders.

11. The Chief Financial Officers Act requires all government departments and agencies to develop sound financial management practices.

(a) What do you believe are your responsibilities, if confirmed, to ensure that your department/agency has proper management and accounting controls?

It is my understanding that the Chairman of the Commission is responsible for oversight and management of the finances of the Commission. However, I would be diligent in reviewing the annual operating budget and, if asked, provide insight and give input to the development of same. I have had extensive experience with developing and managing budgets and will use my professional experience, if called upon, to assist in this area.

(b) What experience do you have in managing a large organization?

I have been the Chairman of the Board and held other officer positions of two large organizations and have managed a multi-million dollar annual department budget for the past nine years.

12. The Government Performance and Results Act requires all government departments and agencies to identify measurable performance goals and to report to Congress on their success in achieving these goals.

(a) What benefits, if any, do you see in identifying performance goals and reporting on progress in achieving those goals?

Measuring the performance of any organization is an important management tool and I am a strong believer in utilizing benchmarks and performance results.

(b) What steps should Congress consider taking when a department/agency fails to achieve its performance goals? Should these steps include the elimination, privatization, downsizing, or consolidation of departments and/or programs?

I believe that the Agency should be reviewed by the appropriate committee(s) and a determination should be made based on the dynamics that caused the agency not to perform.

(c) What performance goals do you believe should be applicable to your personal performance, if confirmed?

I believe performance standards for individual Commissioners are related to the overall performance of the organization. Meeting the goals of the organization should be directly correlated to the overall performance of the Commission.

13. Please describe your philosophy of supervisor/employee relationships. Generally, what supervisory model do you follow? Have any employee complaints been brought against you?

I believe in a relationship that allows for personal growth of employees by providing leadership, delegating responsibility, setting performance standards and allowing the employee to thrive in an esprit de corps atmosphere. I have never had any employee complaints against me.

14. Describe your working relationship, if any, with the Congress. Does your professional experience include working with committees of Congress? If yes, please explain.

I have had many work related and personal relationship with Congress including my employ in Congress. I have maintained many relationships with current and former Members of Congress. I have worked with Committees on several issues over the last 20 years in my professional capacity as Director of Public Affairs for Hvide Marine, Inc. and Vice President of Government Relations for JM Family Enterprises, Inc. and its subsidiary companies.

15. Please explain what you believe to be the proper relationship between yourself, if confirmed, and the Inspector General of your department/agency.

I believe that there is a proper balance between the actual operation of an agency and the oversight of an agency including the role of an Inspector General. I would work with any requests from an Inspector General and treat them with respect in their effort to carry out their responsibilities.

16. In the areas under the department/agency's jurisdiction to which you have been nominated, what legislative action(s) should Congress consider as priorities? Please state your personal views.

The Ocean Shipping Reform Act of 1998 addressed many, if not most, of the current issues related to the FMC and its responsibilities. The maritime industry has been, like most industries, impacted by the rapid change in technology and the dynamics of world events. The recent changes by Congress have been effective in addressing these changes. This was summarized in a Notice of Inquiry on the impact of OSRA and the resulting published report in September 2001.

17. Within your area of control, will you pledge to develop and implement a system that allocates discretionary spending in an open manner through a set of fair and objective established criteria? If yes, please explain what steps you intend to take and a time frame for their implementation. If not, please explain why.

From the information that I have been provided and easy access to public information that the public has to public agencies and government, I think the process for discretionary spending is very transparent and available to both the internal (Congress) and external (the public) audiences of the agency. Having stated this, I will work within the structure of the Commission to act in a manner that is ethically and fiscally prudent with respect to discretionary spending.

The CHAIRMAN. Thank you very much.
Governor Brennan?

**STATEMENT OF HON. JOSEPH E. BRENNAN, NOMINATED TO
BE A COMMISSIONER, FEDERAL MARITIME COMMISSION**

Governor Brennan: Thank you very much, Mr. Chairman. It's a pleasure to appear before you as a nominee for the Federal Maritime Commission. I have served on this Commission since 1999, and I welcome the opportunity to continue in a second term. Today, I have some very brief comments.

The Commission is an independent agency that regulates common carriers in the foreign water-borne commerce of the United

States. The industry regulated by the Commission is important, clearly, to this economy. Some \$500 billion worth of goods are moved annually in containers going in and out of this country.

The Commission has numerous functions. For example, the Commission has the authority to take counteraction when the laws or policies of a foreign government unfairly and adversely U.S. shipping. Recently, the Commission has evaluated certain maritime practices in China, such as access to inland points. Last December, the Bush Administration signed a new bilateral maritime agreement with China, and this agreement may end these unfair practices in China. Although the Commission is an independent agency, I believe it should give strong consideration when dealing with restrictive maritime practice of other nations to the views of the Executive Branch which guides U.S. foreign policy.

The Commission also investigates possible statutory violations, such as mis-descriptions of cargo in operation without a bond, license, or tariff. It ensures that passenger vessel operators have adequate funds to compensate passengers in the event of non-performance or injury. Furthermore, the Commission protects against carrier agreements that might take undue advantage of the antitrust exemption given to ocean carriers.

There are also, before the Commission, several exemption petitions filed by non-vessel operating common carriers. The petitions ask for an exemption from tariff publication or the ability to enter into confidential contracts, just as vessel operating carriers do. I believe the Commission recognizes the important role that NVOs play in the industry, and the significance of the changes sought by these exemption petitions. The Commission is thoroughly reviewing the petitions and some 500 comments in the record, and is examining all of its options under the law.

In closing, I would like to note that while the two nominees today for the Federal Maritime Commission are a Democrat, and my friend, Paul Anderson, a Republican, the Commission acts as a truly nonpartisan body, especially when compared to the time I spent in the state legislature and in the Congress. In fact, being on the Commission is most like the 4 years I spent as attorney general of Maine, where you just, sort of, call them down the middle.

I want to thank you very much for considering my nomination. I'd be delighted to try to respond to any questions.

[The prepared statement and biographical information of Governor Brennan follow:]

PREPARED STATEMENT OF HON. JOSEPH E. BRENNAN, COMMISSIONER,
FEDERAL MARITIME COMMISSION

Mr. Chairman and members of the Committee, it is a pleasure to appear before you as a nominee for the Federal Maritime Commission. I have served on the Commission since 1999 and would welcome the opportunity to continue for a second term. Today I have some brief comments on the overall role of the Commission.

The Federal Maritime Commission is an independent agency that regulates common carriers in the foreign waterborne commerce of the U.S. This industry regulated by the Commission is important to the United States economy. Some \$500 billion worth of goods move annually in containers shipped to and from U.S. ports.

The Commission has numerous functions. For example, the Commission has the authority to take counteraction when the laws of a foreign government unfairly and adversely affect U.S. shipping. Recently the Commission has evaluated certain maritime practices in China, such as access to inland points. Last December the admin-

istration signed a new bilateral maritime agreement with China, and this agreement may end the alleged unfair practices in China. Although the Commission is an independent agency, I believe it should give strong consideration, when dealing with restrictive maritime practice of other nations, to the views of the executive branch, which guides U.S. foreign policy.

The Commission also investigates possible statutory violations, such as misdescriptions of cargo and operation without a bond, license, or tariff. It ensures that passenger-vessel operators have adequate funds to compensate passengers in the event of nonperformance or injury. Furthermore, the Commission protects against carrier agreements that might take undue advantage of the antitrust exemption given to ocean carriers.

There are also before the Commission several exemption petitions filed by non-vessel-operating common carriers. The petitions ask for an exemption from tariff publication or the ability to enter into confidential contracts, just as vessel-operating carriers do. I believe the Commission recognizes the important role that NVOs play in the industry and the significance of the changes sought by these exemption petitions. The Commission is thoroughly reviewing the petitions and the some 500 comments in the record and is examining all of its options under the law.

In closing, I would like to note that, while the two nominees today for the Federal Maritime Commission are a Democrat and a Republican, the Commission acts as a truly non-partisan body, especially when compared to the time I spent in the state legislature and in the Congress. In fact, being on the Commission is most like the four years I served as attorney general in Maine, where you just call them down the middle. Thank you for considering my nomination. I would be happy to answer any questions.

A. BIOGRAPHICAL INFORMATION

1. Name: (Include any former names or nicknames used.) Joseph Edward Brennan (Joe).

2. Position to which nominated: Commissioner of the Federal Maritime Commission.

3. Date of nomination: March 12, 2004.

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

Residence: Information not released to the public.

Office: Federal Maritime Commission, 800 North Capitol Street, N.W., Suite 1032, Washington, DC 20573.

5. Date and place of birth: 11/2/34; Portland, Maine.

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

Married to Constance LaPointe Brennan.

7. Names and ages of children: (Include stepchildren and children from previous marriages.)

Joseph E. Brennan, Age 34; Tara E. Brennan, Age 32.

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

Cheverus High School, Diploma, 1948–1952

Boston College, B.S., 1952–53, 1955–1958

University of Maine School of Law, J.D., 1960–63

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 Army, 1953–55

Teacher, Oxford High School, Oxford, Maine, 1959

Sales representative, P. Lorrillard Co. Portland, Maine, 1959–60

Operator of beach concession, self-employed, 1961–62

Library aide, Univ. of Maine School of Law library, 1960–63

Solo legal practice, Portland, Maine, 1963–73

State representative, Maine House of Representatives, 1965–71

County attorney, Cumberland County, Maine, 1971–73

State senator, Maine State Senate, 1973–74

State attorney general, State of Maine, 1974–78

Governor of Maine, 1979–86

Member of Congress, U.S. House of Representatives, 1987–91
 Of counsel attorney, Verner Liipfert, Washington, D.C., 1991–94
 Commissioner, Federal Maritime Commission, 1999 to present

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

State representative, Maine House of Representatives, 1965–71
 County attorney, Cumberland County, Maine, 1971–73
 State senator, Maine State Senate, 1973–74
 State attorney general, State of Maine, 1974–78
 Governor of Maine, 1979–86
 Member of Congress, U.S. House of Representatives, 1987–91

11. Business relationships:(List all positions held as an officer, director, trustee, partner, proprietor, agent, representative, or consultant of any corporation, company, firm, partnership, or other business enterprise, educational or other institution.) None.

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

Maine Bar Association
 American Legion Amvets
 Irish-American Society
 Cathedral of the Immaculate Conception Parish

13. Political affiliations and activities:

(a) List all offices with a political party which you have held or any public office for which you have been a candidate.

I have held no office in a political party. I have been a candidate and elected to all offices listed for Question 10. I have also been a candidate for the U.S. Senate.

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

I have been a member of the Democratic Party and have supported candidates of my party for 40 years, but I have held no office in the Party.

(c) Itemize all political contributions to any individual, campaign organization, political party, political action committee, or similar entity of \$500 or more for the past 10 years.

None of \$500 or more.

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

I have received honorary degrees or awards from the following institutions:

Bowdoin College
 University of Maine
 St. Joseph's College
 University of New England
 Thomas College
 Boston College Alumni Award
 Military medal—National Defense Medal and Good Conduct. U.S. Army, 1953–55

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

During a number of campaigns for public office, various op-ed pieces of mine were published, none dealing with the Federal Maritime Commission.

16. Speeches: Provide the Committee with two copies of any formal speeches you have delivered during the last 5 years which you have copies of on topics relevant to the position for which you have been nominated.

I have attached two copies of the three speeches that I have given on the topic of the Federal Maritime Commission:

(1) Remarks before the National Customs Brokers and Forwarders Association of America, Inc., Tucson, Arizona, March 14, 2000.

(2) Remarks before conference of Lloyd's List Events on Mediterranean Sea Transport and Logistics, Marseille, France, November 12, 2002.

(3) Remarks in briefings of International Management and Development Institute, Copenhagen, Denmark, April 24, 2003, and Oslo, Norway, April 25, 2003.

17. Selection:

(a) Do you know why you were selected for the position to which you have been nominated by the President?

I was interested in continuing to serve on the Commission, and I believe that the President was advised that I could serve effectively.

(b) What in your background or employment experience do you believe affirmatively qualifies you for this particular appointment?

I have served as a commissioner of the Federal Maritime Commission since November 17, 1999. Before that time, I served four years in the U.S. House of Representatives on the Committee for Merchant Marine and Fisheries, which had certain oversight responsibilities over the maritime industry. I have also have substantial public policy experience as a district attorney, attorney general, and governor of Maine.

B. FUTURE EMPLOYMENT RELATIONSHIPS

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

2. Do you have any plans, commitments, or agreements to pursue outside employment, with or without compensation, during your service with the government? If so, please explain. No.

3. Do you have any plans, commitments, or agreements after completing government service to resume employment, affiliation, or practice with your previous employer, business firm, association, or organization? No.

4. Has anybody made a commitment to employ your services in any capacity after you leave government service? No.

5. If confirmed, do you expect to serve out your full term or until the next Presidential election, whichever is applicable?

I intend to serve the full term.

C. POTENTIAL CONFLICTS OF INTEREST

1. Describe *all* financial arrangements, deferred compensation agreements, and other continuing dealings with business associates, clients, or customers. None.

2. 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.

3. 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.

4. 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.

From 1991–94, I was with the law firm of Verner Liipfert Bernhard McPherson Hand of Washington, D.C. During that period, I occasionally met with members of Congress on issues such as a space station, possible asbestos legislation, and consumer issues. To the best of my knowledge, none of these meetings dealt with the responsibilities of the Federal Maritime Commission.

5. Explain how you will resolve any potential conflict of interest, including any that may be disclosed by your responses to the above items. (Please provide a copy of any trust or other agreements.)

There are none.

6. Do you agree to have written opinions provided to the Committee by the designated agency ethics officer of the agency to which you are nominated and by the Office of Government Ethics concerning potential conflicts of interest or any legal impediments to your serving in this position? Yes.

D. LEGAL MATTERS

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

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

I have never been convicted of a crime. I have never been charged with a crime. Approximately 50 years ago, as a teenager, I was detained by the police. There were no charges filed, no court action, and no conviction record. This may have taken place before my 18th birthday.

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

Yes. (1) *Spickler v. Brennan*. Alleged that I illegally attached real estate. Dismissed upon summary judgment motion; found to be without merit. (2) *Brennan v. Brennan*. Divorce proceedings; resolved amicably. Sept. 22, 1976. Both of above suits were brought in Cumberland County Superior Court, Portland, Maine.

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

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

I am not aware of any unfavorable information. I believe that my background as listed in answer to Questions A.9 and A.17 may speak to favorable information.

E. RELATIONSHIP WITH COMMITTEE

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

Yes, to the best of my ability.

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

Yes, to the best of my ability.

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

4. Please explain how if confirmed, you will review regulations issued by your department/agency, and work closely with Congress, to ensure that such regulations comply with the spirit of the laws passed by Congress.

I will work with the agency's executive director and all staff to assess the effectiveness of the agency's regulations in terms of both the letter and the spirit of the law. I will also encourage the agency's continued efforts to inform Congress of the agency's regulatory functions by means of reports and congressional testimony.

5. 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.

F. GENERAL QUALIFICATIONS AND VIEWS

1. How does your previous professional experiences and education qualify you for the position for which you have been nominated?

I served four years in the U.S. House of Representatives as a member of the Subcommittee on Merchant Marine and Fisheries. I also have substantial experience in public policy as a state legislator, state attorney general, governor, and member of Congress.

2. Why do you wish to serve in the position for which you have been nominated?

I have had a long and very active interest in public policy. I believe that I can use my experience in Congress and other high government positions, as well as my experience in the practice of law, to make a positive contribution to carrying out the mission of the Federal Maritime Commission.

3. What goals have you established for your first two years in this position, if confirmed?

My basic goal would be to carry out the mandate of the Commission as set out by Congress. In broad terms, this involves insuring a fair, efficient, and competitive system of oceanborne transportation in the foreign commerce of the United States.

4. What skills do you believe you may be lacking which may be necessary to successfully carry out this position? What steps can be taken to obtain those skills?

I am not aware of any.

5. Please discuss your philosophical views on the role of government. Include a discussion of when you believe the government should involve itself in the private sector, when society's problems should be left to the private sector, and what standards should be used to determine when a government program is no longer necessary.

I believe that government should not be involved in matters that freely acting individuals can best take care of themselves. I also recognize that government does have a responsibility to help those in need, such as the elderly, the disabled, and children. Government recognizes this responsibility today with Social Security, Medicare, and programs that help children of low-income families.

I think government has a role in assuring a safe workplace for its citizens, and I believe it is meeting that responsibility.

I think that government involvement can go too far. For example, in my home state of Maine, the state used to operate liquor stores. I believe that the private sector is capable of selling liquor under appropriate regulation that protects against sales to minors or visibly intoxicated people.

I think that government can help business by guaranteeing loans to business. This has been done in Maine to help create economic development and jobs.

Before we enact legislation or adopt a regulation, the question must first be asked, "Is this law or regulation necessary?" Then a second question should be, "Will the burden imposed by the proposed law or regulation outweigh the good that might be done?" The test must be one of balance. This same standard—whether the burden imposed outweighs the good intended—should also be used to weigh whether or not an existing law or regulation should be repealed.

In short, government should become involved in the private sector when the private sector is not itself protecting the public interest, public health, and public safety, and we must always be cognizant of the balance between the burden imposed and the good intended.

6. Describe the current mission, major programs, and major operational objectives of the department/agency to which you have been nominated.

The Commission insures reasonable commercial practices by shippers, common carriers, transportation intermediaries, and marine terminal operators in the foreign oceanborne commerce of the U.S. The FMC is working to prevent anticompetitive practices and certain other commercial conduct prohibited by the Shipping Act of 1984 and other statutes administered by the agency. Because the law gives ocean common carriers a limited immunity from the antitrust laws, the Commission must monitor conference agreements and discussion agreements entered into by ocean common carriers. If an ocean carrier agreement is likely, by a reduction in competition, to produce an unreasonable reduction in transportation service or an unreasonable increase in transportation cost, the Commission may seek to prevent the agreement from taking effect. The Commission also licenses ocean transportation intermediaries and requires that certain passenger vessel operators prove adequate financial ability to pay judgments for personal injury or death of passengers or to repay fares in the event of nonperformance.

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

I believe the main challenges for the Commission are the petitions filed by ocean transportation intermediaries seeking exemptions from various provisions of the Shipping Act of 1984, the rulemaking on changing the level of financial security for the passenger vessel security program, and the rulemaking that would change the agency's rules as to the filing of carrier agreements. These are all key areas of the Commission's work.

8. In reference to question number six, what factors in your opinion have kept the department/agency from achieving its missions over the past several years?

I believe the Commission has been able to achieve its mission in recent years. The Commission has, for example, carefully scrutinized possible unfair shipping practices in the People's Republic of China, as well as laws and regulations relating to Japanese ports. Both matters are the subject of pending rulemakings at the agency. The Commission continues to review information reports filed by Japanese and U.S.-flag carriers on the effects of Japanese port practices and changes to Japanese laws and regulations. The Commission has also been effective in monitoring U.S. ocean shipping to uncover any unreasonable or otherwise prohibited practices under the Shipping Act of 1984. In the past Fiscal Year, the Commission collected approximately \$3 million in fines and penalties.

9. Who are the stakeholders in the work of this department/agency?

The main stakeholders are vessel-operating carriers, non-vessel-operating common carriers, freight forwarders, shippers, marine terminal operators, and U.S. consumers generally.

10. What is the proper relationship between the position to which you have been nominated, and the stakeholders identified in question number nine?

The Federal Maritime Commission has a quasi-judicial role with regard to complaints before the Commission and a quasi-legislative function regarding the promulgation of regulations. Commissioners make decisions based on Federal law, and those decisions affect the daily operations of industry participants.

11. The Chief Financial Officers Act requires all government departments and agencies to develop sound financial management practices.

(a) What do you believe are your responsibilities, if confirmed, to ensure that your department/agency has proper management and accounting controls?

I would not have a direct role in this area, because the Chairman of the Federal Maritime Commission is responsible for the financial management of the agency. I would support his or her efforts to use the financial resources of the agency most efficiently.

(b) What experience do you have in managing a large organization?

I have managed organizations of considerable size and complexity as the county attorney for Cumberland County in Maine (1971-73), attorney general of Maine (1974-78), and governor of Maine (1979-86).

12. The Government Performance and Results Act requires all government departments and agencies to identify measurable performance goals and to report to Congress on their success in achieving these goals.

(a) What benefits, if any, do you see in identifying performance goals and reporting on progress in achieving those goals?

While the Commission's functions are determined by statute, the identification of performance goals, as well as reports to Congress on the success in achieving those goals, can help the agency and Congress to assess the agency's overall performance. Such goals and reporting may lead to a more efficient regulatory process, increased compliance with the law, fair and efficient enforcement, better use of technology, and more efficient management of the agency.

(b) What steps should Congress consider taking when a department/agency fails to achieve its performance goals? Should these steps include the elimination, privatization, downsizing, or consolidation of departments and/or programs?

The latter steps are available to Congress as possible remedies for failed performance by a department or agency. Elimination, downsizing, etc. may be warranted in some circumstances, while in others a lack of funding or personnel may be the cause of failed agency performance. I believe that Congress should take action that addresses the problem at issue, dealing with each case individually.

(c) What performance goals do you believe should be applicable to your personal performance, if confirmed?

I believe that, broadly speaking, my performance goals are to administer relevant Federal laws and regulations impartially and, where appropriate, to improve the fair and efficient administration of the law and public policy.

13. Please describe your philosophy of supervisor/employee relationships. Generally, what supervisory model do you follow? Have any employee complaints been brought against you?

I believe that it is essential to hire and to promote the best people one can find. I think it is critical to listen to staff and to support them, but also to remember that it is ultimately my responsibility as a commissioner to carry out my independent judgment. I believe it is important to publicly recognize quality work by staff and likewise to address promptly any work that is not of the quality that the people of the United States have a right to expect from their public servants. To the best of my knowledge, no employee complaint has been brought against me during my some 30 years in high-level, supervisory positions.

14. Describe your working relationship, if any, with the Congress. Does your professional experience include working with committees of Congress? If yes, please explain.

I served four years in the U.S. Congress, where I was privileged to work with numerous members, many of whom still serve in Congress.

15. Please explain what you believe to be the proper relationship between yourself, if confirmed, and the Inspector General of your department/agency.

As a commissioner, I am available to assist the Office of the Inspector General in its monitoring of the efficiency, effectiveness, and any abuse in the programs of the Commission. Fair consideration must be given to any recommendations presented by the IG for the management and operations of the agency.

16. In the areas under the department/agency's jurisdiction to which you have been nominated, what legislative action(s) should Congress consider as priorities? Please state your personal views.

The level of financial security for nonperformance by a passenger vessel is a regulatory matter, but the amount of casualty coverage is set by statute. Congress may wish to consider increasing the level of coverage for casualty (death or injury during a cruise) or allowing the Commission to establish an adequate level by rule. The statute currently sets casualty coverage for cruise lines at \$20,000 (46 U.S.C. App. 817d). This level of coverage may be inadequate to compensate passengers who suffer death or injury on a cruise.

17. Within your area of control, will you pledge to develop and implement a system that allocates discretionary spending in an open manner through a set of fair and objective established criteria? If yes, please explain what steps you intend to take and a time frame for their implementation. If not, please explain why.

I believe that such matters are outside of my area of control. The chairman of the Federal Maritime Commission is charged with the fair and objective allocation of discretionary spending, and I can assist him or her in that function as needed.

The CHAIRMAN. Thank you, Governor.

Mr. McGregor?

STATEMENT OF JACK E. MCGREGOR, NOMINATED TO BE A MEMBER OF THE ADVISORY BOARD, SAINT LAWRENCE SEAWAY DEVELOPMENT CORPORATION

Mr. MCGREGOR. Chairman McCain, Senator Hollings, and Members of the Committee, it's an honor to be here before you. Thank you for the opportunity to meet with you as you consider my nomination by President Bush to the Advisory Board of the Saint Lawrence Seaway Development Corporation.

My background includes four different corporate leadership positions, nine years of public service, extensive experience with regulatory and administrative processes, familiarity with some transportation issues, and active strategic planning participation on several boards of substantial institutions and companies, all over a professional career encompassing 41 years.

If confirmed, my goals will be to work with fellow board members, the Seaway Development Corporation's administrator, and Members of Congress to help ensure the long-term safety, security, reliability, competitiveness, and enhancement of trade development of the Saint Lawrence Seaway.

The seaway is nearly 50 years old, and has experienced diminishing traffic in recent years. It is my hope that, with fellow board members and the agency's leadership, we can help develop a road-map for the waterway's next 50 years.

I'll be pleased to respond to any questions you and your colleagues may have, Mr. Chairman.

[The prepared statement and biographical information of Mr. McGregor follow:]

PREPARED STATEMENT OF JACK E. MCGREGOR, NOMINEE FOR ADVISORY BOARD,
SAINT LAWRENCE SEAWAY DEVELOPMENT CORPORATION

Chairman McCain, Senator Hollings, and members of the Committee, it is an honor to be here before you. Thank you for the opportunity to meet with you as you consider my nomination by President Bush to the Advisory Board of the Saint Lawrence Seaway Development Corporation.

My background includes four different corporate leadership positions, nine years of public service, extensive experience with regulatory and administrative processes, a familiarity with some transportation issues, and active strategic-planning partici-

pation on several Boards of substantial institutions and companies, all over a professional career encompassing 41 years.

If confirmed, my goals will be to work with fellow Board members, the Seaway Development Corporation's Administrator, and members of Congress to help ensure the long-term safety, security, reliability, competitiveness, and enhancement of trade development of the Saint Lawrence Seaway.

The Seaway is nearly 50 years old, and has experienced diminishing traffic in recent years. It is my hope that with fellow Board members and the agency's leadership, we can help develop a roadmap for the waterway's next 50 years.

I will be pleased to answer any questions you and your colleagues may have, Mr. Chairman.

A. BIOGRAPHICAL INFORMATION

1. Name: (Include any former names or nicknames used.) Jack Edwin McGregor.
2. Position to which nominated: Advisory Board Member, St. Lawrence Seaway Development Corporation.
3. Date of nomination: November 25, 2003.
4. Address: (List current place of residence and office addresses.)
 Residence: Information not released to the public.
 Office: 1115 Broad Street, Bridgeport, CT 06604
5. Date and place of birth: September 22, 1934; Kittanning; PA.
6. Marital status: Married, Mary-Jane Foster.
7. Names and ages of children: (Include maiden name of wife or husband's name.)
 Nancy D. McGregor, 45; Douglas H. McGregor, 44; Elisabeth M. Ives, 43; Heather M. Worthington, 41.
 Stepchildren: DeVer F. Warner, 19; Margaret R. Warner, 17.
8. Education: (List secondary and higher education institutions, dates attended, degree received, and date degree granted.)
 Wilkesburg High School, 1949–52, Academic, June 1952
 Yale University, 1952–56, B.S., June 1956
 University of Pittsburgh School of Law, 1959–62, LL.B., June 1962
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.)
 1956–59—Second and then First Lieutenant, U.S. Marine Corps.; Quantico VA, Camp LeJeune NC, U.S. Navy 6th Fleet (Atlantic and Mediterranean), Arlington VA
 1959–61—Captain, U.S. Marine Corps Reserve
 1959–62—Pitt Law Library Staff Assistant (part-time while in law school)
 1960—Rockwell Manufacturing Co., Pittsburgh, PA—summer research intern
 1961—Alcoa, Pittsburgh, PA—summer research intern
 1962–70—State Senator, Commonwealth of Pennsylvania, Harrisburg, PA
 1962–68—Associate, law firm of Reed Smith, Pittsburgh, PA
 1966–70—President, Pittsburgh Penguins, Pittsburgh, PA
 1970–71—Associate, Reed Smith, Washington, D.C.
 1971—Assistant Legal Adviser, U.S. Department of State
 1972—General Counsel, U.S. Pay Board, U.S.. Office of Economic Stabilization
 1972–74—General Counsel and then Vice President and General Counsel, Potomac Electric Power Company, Washington, D.C.
 1974–79—Vice President and General Counsel and then Executive Vice President and Chief Operating Officer, Carey Energy Corp. and New England Petroleum Corp., New York, NY
 1979–85—President, Hampton-Douglas Corp., International Water Resources, Ltd., and Caribbean Basin Corp., all in Bedford, NY and New York, NY
 1985–95—Executive Vice President, then President and Chief Operating Officer, then President and C.E.O. of Aquarion Company (formerly The Hydraulic Company), Bridgeport, CT
 1995 to present—Of Counsel, law firm of Cohen and Wolf, P.C., Bridgeport, Connecticut

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.)

Borough of Forest Hills, PA, Election Board Member, 1960–62
 Pennsylvania Arts Commission, 1966–70
 Director, N.Y.C. Off-Track Betting Corp., 1978–81
 Member, State of Connecticut's Team Bridgeport, 1995–96
 see Paragraph 9 above, 1956–59 and 1962–72

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

Governor, National Hockey League
 President and Director, Pittsburgh Penguins Hockey Club
 Trustee, Barnum Museum
 Trustee, Greater Bridgeport YMCA
 Trustee, Mystic Aquarium
 Director, N.Y.C. Off-Track Betting Corp.
 President and Director, National Association of Water Companies
 Trustee, Seven Springs, Inc.
 Trustee, Point Park College
 Trustee, Fairfield University
 Trustee, University of Bridgeport
 Trustee, Yale-New Haven Hospital
 Trustee, Western Pennsylvania School for the Deaf
 General Counsel and later Vice President, Potomac Electric Power Company
 General Counsel and later Executive Vice President and Chief Operating Officer, Carey Energy Corp. and New England Petroleum Corp.
 President, Hampton-Douglas Corp.
 President, International Water Resources, Ltd.
 President, Caribbean Basin Corp.
 Chairman and Director, Bridgeport Regional Business Council
 Director, The Bank Mart
 Director, People's Bank
 Director, Bay State Gas Company
 Director, Physicians Health Services, Inc.
 President and COO, later CEO, Bridgeport Hydraulic Company
 Executive Vice President, later Chief Operating Officer, then President and CEO, Director, The Hydraulic Company, later Aquarion Company
 Director, Aquarion Water Company; Director, CDG Technology, Inc.
 Director, Connecticut Committee of Regional Planning Association; Director, Atlantic League of Professional Baseball Clubs, Inc.
 Managing Member, Bridgeport Bluefish Professional Baseball Club, LLC
 Managing Member, Bridgeport Waterfront Investors, LLC
 Managing Member, Freeborn Investors LLC
 Managing Member, Westchester Baseball LLC

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

Connecticut Bar Association
 District of Columbia Bar Association
 Greater Bridgeport Bar Association
 Allegheny County Bar Association
 Pennsylvania Bar Association
 American Bar Association; Delta Kappa Epsilon
 Aspetuck Fish and Game Club

Skull and Bones; Mory's Association
 Congregational Church of Easton
 St. Timothy's Episcopal Church of Fairfield
 Edgewood Presbyterian Church
 Chevy Chase Presbyterian Church
 Greenfield Hill Congregational Church
 Bedford Presbyterian Church
 Marine Corps League
 Order of the Coif
 Country Club of Fairfield
 Chevy Chase Club
 Brooklawn Country Club
 Connecticut Golf Club
 Bedford Golf and Tennis Club
 Columbia Country Club
 Edgewood Country Club
 Racquet & Tennis Club
 Yale Club of NYC
 Yale Club of Western Pennsylvania
 Edgewood Community Club
 F Street Club

13. Political affiliations and activities:

(a) Offices held—Pennsylvania State Senator, 1962–70; Member, Forest Hills Election Board, 1960–62

(b) Memberships and offices held in political parties or election committees in last 10 years—Member, Republican Party; Vice Chairman, Congressman Christopher Shays Finance Committee; Member, Re-Elect Governor Rowland Finance Committee; Co-Chairman, Governor-Elect Rowland Transition Committee; Member, Re-Elect Lt. Governor Rell Finance Committee; Member, Torres Finance Committee; Member, Connecticut Republicans Finance Committee

(c) Political contributions aggregating \$500 or more from 1994 to date:

Americans for Common Sense Gov't PAC (Shays) \$5,000
 Aquarion PAC (Aquarion Water Co.) \$2,740
 Big Tent PAC (Specter) \$500
 BridgePac (Bridgeport GOP) \$3,000
 Committee for Responsible Gov't PAC (Whitman) \$1,000
 NAWC PAC (Nat'l Ass'n of Water Cos.) \$1,400
 Amicone for Mayor \$2,500 (Jt.Ckg.); \$2,500
 Bernhard for State Rep. \$500
 Blumenthal for A.G. \$500 (Jt.Ckg.); \$250
 Boyle for Probate Court \$500
 Burnham for Senate \$900
 Bush-Cheney Recount Fund \$1,000
 Bush for President \$3,000
 Caruso for Probate Court \$1,100
 CT Republican Federal Campaign Committee \$2,600
 CT Republicans \$20,150
 Curwen for State Rep. \$500
 Dole for President \$1,000
 Easton Republicans \$525
 Friends of Giuliani \$1,000
 Ganim for Mayor \$1,000 (Jt.Ckg.); \$2,400
 Guman for Mayor \$500 (Jt.Ckg.); \$250
 Hammers for State Senate \$500
 Harkins for State Rep. \$525

Hastert for Congress \$500
 Hatch for President \$1,000
 Hatch for Senate \$2,500
 Jeffords for Senate \$2,000
 Johnson for Congress \$500
 Kemp for Vice President \$500
 Larson for Congress \$600 (Jt.Ckg.); \$100
 Lazio for Senate \$750
 Lieberman for President \$1,000
 Maloney for Congress \$750 (Jt.Ckg.); \$400
 Martensen for City Council \$1,000
 McKinney for State Senate \$1,250
 Metsopoulos for 1st Selectman \$1,050
 Mulrow for Comptroller \$2,000 (Jt.Ckg.); \$1,500
 National Republican Senatorial Committee \$6,350
 Newton for State Rep. \$250 (Jt.Ckg.); \$250
 Nielsen for Congress \$4,250
 Norton for Congress \$1,000
 O'Connor for Congress \$500
 Pataki for Governor \$1,000 (Jt.Ckg.); \$1,000
 Penn for State Senate \$750 (Jt.Ckg.); \$1,700
 Rell for Lt. Governor \$450 (Jt.Ckg.); \$2,825
 Republican Governors Association \$1,000
 Republican National Committee \$2,430
 Republican Senatorial Inner Circle \$1,500
 Restiano for Mayor \$2,000 (Jt.Ckg.); \$500
 Rowland for Governor \$1,000 (Jt.Ckg.); \$7,350
 Scarpetti for State Senate \$500
 Schiavone for Mayor \$500
 Shays for Congress \$1,500 (Jt.Ckg.); \$7,300
 Simmons for Congress \$900
 Spano for County Exec. \$750 (Jt.Ckg.)
 Specter for Senate \$2,000
 Stone for State Rep. \$525
 Torres for Mayor \$2,250

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

Honorary Doctor of Laws, Quinnipiac University
 Entrepreneur of the Year, Greater Bridgeport Junior Chamber of Commerce
 Good Scout Award, Eastern Fairfield County, Boy Scouts of America
 University of Pittsburgh Medallion of Distinction
 Member, President Reagan's Business Task Force to Grenada
 Businessman of the Year, Allegheny County;
 Order of the Coif
 Outstanding State Legislator (Rutgers Univ.). Scholarships included Regular NROTC and Yale Club of Pittsburgh, to Yale, and full scholarship from University of Pittsburgh School of Law

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

Note—Broadcast Licensee's Past Conduct as a Determinant of the Public Interest, 23 *University of Pittsburgh Law Review* 157–171
 Book Note—Andrew Johnson, President on Trial, 23 *University of Pittsburgh Law Review* 256–57

Recent Decision: Taxation—Bond Premium Amortization Deduction, 22 University of Pittsburgh Law Review 639–43

Article—Problems of U.S. Participation in the European Common Market, Co-Author, U.S. Participation and the Constitution, 23 University of Pittsburgh Law Review 637–58.

During the course of forty-one professional years, I have written occasional letters to the editor of local newspapers responding to assorted issues.

16. Speeches: Provide the Committee with two copies of any formal speeches you have delivered during the last 5 years which you have copies of on topics relevant to the position for which you have been nominated.

None on topics relevant to the position for which I have been nominated.

17. Selection:

(a) Do you know why you were selected for the position to which you have been nominated by the President?

My understanding is that I was selected for this position because of my prior experience of nine years of public service, my familiarity with transportation issues relating to petroleum products, my extensive experiences with regulatory and administrative processes, and my participation on 27 different Boards of substantial institutions and companies over a professional career encompassing 41 years.

(b) What in your background or employment experience do you believe affirmatively qualifies you for this particular appointment?

In my 8 years service as a Pennsylvania State Senator and chairman of the Senate's Federal Relations Committee, I was actively involved in Great Lake States Compact initiatives. In my 4 years with the National Hockey League, I interfaced with several Canadian industry and government leaders. In my 3 years in the electric utility industry and 10 years in the drinking water industry, I was actively engaged in many administrative and regulatory proceedings. In my one year with the Federal Government, I was actively engaged in administrative rule making proceedings. In my 5 years in the oil industry and then 7 years of active involvement in oil-related projects, I was regularly exposed to maritime transportation matters. My participation on 27 different Boards as a director or trustee of substantial institutions and companies over a professional career encompassing 41 years also affirmatively qualifies me for this position. My exposure to and experience with environmentally sensitive economic projects in 3 different northeastern states adds a timely dimension to my qualifications. Finally, my experience in supervising military and law enforcement personnel is another added dimension of my relevant experiences.

B. FUTURE EMPLOYMENT RELATIONSHIPS

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

It has been my understanding that I need not sever my of Counsel relationship with my law firm nor my Managing Member relationships with my two investment/development firms should I be confirmed for this Advisory Board position. Should the Senate be of a different view, I would have to reconsider my availability for this 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, explain.

I have no commitments or agreements to pursue outside employment during my service with the government, but I hope to do so, as set forth in B(1) above.

3. Do you have any plans, commitments, or agreements after completing government service to resume employment, affiliation, or practice with your previous employers, business firms, associations, or organizations?

After completing this particular government service, I hope to continue my professional relationships as noted in B(1) above but have no commitments nor agreements to do so.

4. Has anybody made a commitment to employ your services in any capacity after you leave government service? No.

5. If confirmed, do you expect to serve out your full term or until the next Presidential election, whichever is applicable?

If confirmed, I expect to serve at the pleasure of the President.

C. POTENTIAL CONFLICTS OF INTEREST

1. Describe *all* financial arrangements, deferred compensation agreements, and other continuing dealings with business associates, clients, or customers.

I have no financial arrangements nor deferred compensation agreements with business associates, clients or customers other than (a) 50 percent equity in the investment and development firm of Freeborn Investors, LLC; (b) 29 percent equity in the sports development firm of Westchester Baseball, LLC; (c) 20 percent of law firm fees received from clients generated by me; and (d) pensions from three previous employers, set forth in my financial disclosures in Section G(1) and (8) below. My spouse holds an identical percentage in (a) and (b).

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

I have no investments, obligations, liabilities, or other relationships that could involve current or potential conflicts of interest.

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

I have had no such business relationship, dealing, or financial transaction for myself, a client, or as agent, in the past 10 years.

4. 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.

In 1994–95, I served as Chairman of the Bridgeport Regional Business Council, which attempts to influence public policy regarding regional economic development matters. Until 1995, I was active in the National Association of Water Companies (NAWC) and served as its President in 1994; NAWC attempts to influence the administration and execution of law and public policy relating to the investor-owned drinking water industry. I've engaged in no other lobbying activities in the past 10 years.

5. Explain how you will resolve any potential conflict of interest, including any that may be disclosed by your responses to the above items. (Please provide a copy of any trust or other agreements.)

(Not Applicable)

6. Do you agree to have written opinions provided to the Committee by the designated agency ethics officer of the agency to which you are nominated and by the Office of Government Ethics concerning potential conflicts of interest or any legal impediments to your serving in this position? Yes.

D. LEGAL MATTERS

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

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

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

Yes. See below.

(a) In my capacity as General Counsel of the U.S. Pay Board in 1971–72, I participated in the rule-making proceedings of that administrative agency. In my capacity as Vice President and General Counsel of Potomac Electric Power Company in 1971–74, I was involved in several administrative proceedings with the Public Service Commissions in Maryland, Virginia, and the District of Columbia, and in some civil litigation. In my capacity as Vice President and General Counsel, then Executive Vice President and Chief Operating Officer, of Carey Energy Corp. and New England Petroleum Corp. in 1974–79, I was involved in some administrative proceedings with the New York Public Service Commission and several civil litigation matters, which included parties such as Libyan National Oil Company, National Iranian Oil Company, Con Edison of N.Y., and Long Island Lighting Company.

(b) In my capacity of director at People's Bank and The Bank Mart, I was one of a class of defendants in some nuisance litigation and, in the case of Bank Mart, was one of 15 former directors of a savings bank sued by the FDIC for alleged negligence. The bank failed 3 or so years after I left its Board to go on the People's Bank Board. The complaint, brought in 1995, regarded Board approval of certain real estate development loans in the 1980s over a 7-year period, 3 of which I had

served on the Board but not on its Loan Review Committee. *FDIC, as Receiver for The Bank Mart v. Barbara A. Bodine as Executrix of the Estate of Richard P. Bodine, et al.*, U.S. District Court, District of Connecticut Docket No. 3:95 CV563AHN, was settled in 1998.

(c) While serving as Executive Vice President of The Hydraulic Company (THC), beginning in 1985, and President of its Bridgeport Hydraulic Company (BHC) water utility subsidiary, commencing 1986, the company initiated administrative proceedings before the Connecticut Department of Public Utility Control (DPUC) to increase water service rates as follows:

Effective Date of Rate Cases for BHC:

9/16/86
6/1/89
1/1/91
8/1/93

Additionally, BHC's Stamford Water Company (SWC) subsidiary initiated similar proceedings before the DPUC to increase water service rates as follows:

Effective Date of Rate Cases for SWC:

7/29/85
12/30/86
8/28/91

Also, while serving as Executive Vice President of THC, and President of its BHC water utility subsidiary, the DPUC in December 1986 concluded an investigation of BHC's meter testing and meter test reporting practices by entering into a settlement agreement with the Company. Under the settlement, BHC submitted a management control plan regarding the meter testing function and agreed to donate \$15,000 to a local charity.

In October 1987, while serving as Executive Vice President and a Director of THC and President of its BHC water company subsidiary, the DPUC ordered seven utilities including BHC and SWC to show cause why the rates should not be reduced to pass on to customers benefits to lower Federal taxes resulting from the Tax Reform Act of 1986. Under the terms of a negotiated settlement, BHC and SWC agreed to decrease their water rates by 1.02 percent and 6.3 percent, respectively.

In 1988, while serving as the President and a Director of THC and Chairman and CEO of the company's Timco lumber processing subsidiary, the New Hampshire Department of Environmental Services issued an administrative order for excessive carbon monoxide emissions from Timco's co-generation facility. In January 1989 Timco submitted to the DES a preliminary plan to bring the plant into compliance with applicable regulations.

In 1989, YMC, Inc., a subsidiary of SRK, Inc., disclosed to the EPA certain facts concerning testing conducted and reported in 1986 and in 1987 in a manner that violated a laboratory contract with the EPA. After cooperating fully with the EPA's investigation, YWC subsequently entered a guilty plea and was fined and agreed to pay the expenses of DOJ and to temporarily withdraw from the contract laboratory program until YWC was acquired by The Hydraulic Company, while I was serving as President and CEO and a Director of THC, which occurred on December 7, 1990.

While serving as President and CEO and a Director of THC, on February 16, 1990 the company's Timco subsidiary received a notice of violation in testing requirements from the USEPA relating to its co generation facility's air emissions. Timco renovated the facility to comply with DES emission standards. A settlement relating to Timco's emissions was signed in 1991 by the USEPA, the DES and Timco, and Timco paid a \$4,000 fine to settle the matter.

1992 No legal proceedings
1993 No legal proceedings
1994 No legal proceedings
1995 No legal proceedings

Note: On October 1, 1995, I became Chairman of the Board of Aquarion Company, successor to THC, and under a management succession plan relinquished my responsibilities as President and CEO. I served as Chairman until October 1996, whereupon I continued to serve as a Director of Aquarion and its BHC water company subsidiary. Since 1999, I have served on the Board of Aquarion Water Company, its successor.

On October 1, 1996, while serving as a Director of BHC, its Ridgefield Water Company, which was subsequently merged into the company's BHC subsidiary, entered into a consent agreement with the State of Connecticut DEP relating to certain water supply sources located in the town of Ridgefield. The consent agreement requires BHC to meet various milestones on certain dates in order to St. Lawrence Seaway Development Corporation Advisory Board bring the Ridgefield water supply system into compliance with DEP water diversion regulations.

While serving as a Director of Aquarion on March 26, 1997, the company sold its IEA subsidiary to American Environmental Network. On February 26, 1997, an employee of IEA filed suit in New Jersey Superior Court, Docket No. L 130-997, alleging her employment had been terminated because of pregnancy. On April 27, 1997, Aquarion was named a defendant. There was no finding of liability against Aquarion, and due to AEN's bankruptcy, the suit did not proceed.

1998 No legal proceedings

While serving as a Director of Aquarion Company, in a complaint filed in the Connecticut Superior Court in 1999 against the Company's Main Street South subsidiary, plaintiffs alleged damages from a leaking underground storage tank located on property owned by the Company. The matter was resolved through a settlement agreement reached among the parties in 2003.

While serving as a Director of Aquarion Water Company, in a complaint filed in the Connecticut Superior Court, Bridgeport, dated June 20, 2000, and revised on September 20, 2000, three plaintiffs commenced action against Aquarion alleging the Company overcharged for water service by permitting an oversized water meter to remain installed at a property site for 10 years. In October 1998, after being informed of the problem Aquarion installed a smaller meter. The matter was resolved through a settlement agreement in October 2002.

While serving as a Director of Aquarion Water Company, on or about January 31, 2002, the Company was served with a complaint by an employee that had been filed with the Connecticut Commission of Human Rights & Opportunities alleging discrimination on the basis of race and sex when she was suspended pending further investigation of job performance. Subsequently the employee was terminated. While Aquarion denied all of the material allegations, the matter was resolved through a confidential settlement agreement and all claims against the Company were dismissed.

While serving as a Director of Aquarion Water Company, in 2003, a plaintiff filed a series of lawsuits arising from the condemnation of an easement by the Connecticut Department of Transportation (DOT) and the subsequent installation of a fire hydrant on the easement area by Aquarion. The action against Aquarion, the DOT, and the City of Stamford was filed in a complaint dated January 31, 2003. In this case, the DOT took by eminent domain a 5-foot wide easement along the front yard of the plaintiff in a project implementing various improvements to the street. During the course of the project, Aquarion relocated an existing fire hydrant from the existing sidewalk on the front of the property into the newly acquired easement area on the street side of plaintiff's picket fence. The hydrant was moved approximately 4 feet from its prior location. Underlying plaintiff's claims against Aquarion is his contention that the placement of a fire hydrant on the easement area was unlawful and constituted a trespass. Aquarion denies all material allegations and the matter is still pending.

(d) Additional civil litigation: *Jack E. McGregor v. Carol D. McGregor*; Bridgeport Superior Court Docket No. FA-01-02818825, marital dissolution matter, final divorce decree entered March 6, 1992; *William M. Robinson, Trustee v. Hein*, Bridgeport Superior Court Docket No. CV-92-02998935—I was witness and primary beneficiary in this breach-of contract action, settled in February 2003; served papers on January 30, 2004 regarding a Petition before the Supreme Court of the State of New York, County of Westchester, for a Judgment to annul a Special ordinance adopted by Yonkers City Council in October 2003 permitting construction of a professional baseball park, because of some alleged flaws in the environmental review process. Index No. 04-1386—the suit names as defendants the Mayor, City Council, Yonkers Industrial Development Agency, other City officials, and Westchester Baseball, LLC—nominee is a Managing Member of the last named defendant.

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

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

E. RELATIONSHIP WITH COMMITTEE

1. Will you ensure that your board/commission complies with deadlines for information set by congressional committees?

To the best of my ability.

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

To the best of my ability.

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

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

F. GENERAL QUALIFICATIONS AND VIEWS

1. How do your previous professional experiences and education qualify you for the position for which you have been nominated?

In my 8 years service as a Pennsylvania State Senator and Chairman of the Senate's Federal Relations Committee, I was actively involved in Great Lake States Compact initiatives. In my 4 years with the National Hockey League, I interfaced with several Canadian industry and government leaders. In my 3 years in the electric utility industry and 10 years in the drinking water industry, I was actively engaged in many administrative and regulatory proceedings. In my one year with the Federal Government, I was actively engaged in administrative rule making proceedings. In my 5 years in the oil industry and then 7 years in oil-related projects, I was regularly exposed to maritime transportation matters. My participation on 27 different Boards as a director or trustee of substantial institutions and companies over a professional career encompassing 41 years also affirmatively qualifies me for this position. My exposure to and experience with environmentally sensitive economic projects in 3 different northeastern states adds a timely dimension to my qualifications. Finally, my experience in supervising military and law enforcement personnel is another added dimension of my relevant experiences.

My bachelor of science undergraduate degree, my law degree, my military service, my 9 years of public service, and in depth, multi-faceted careers in the private sector provide me with the ability to work with the senior leadership of the SLSDC. The SLSDC, as a wholly-owned government corporation, operates much like a private sector company. I intend to use my experiences to help the agency meet its strategic, performance, and operational goals.

2. Why do you wish to serve in the position for which you have been nominated?

Because of the opportunity to serve my country and my interest in the subject matters the position encompasses.

3. What goals have you established for your first two years in this position, if confirmed?

My goals are to work with the SLSDC Administrator to ensure the long-term reliability and competitiveness of the St. Lawrence Seaway. The waterway is nearly 50 years old and has experienced diminishing traffic results in recent years. I intend to work with my fellow Advisory Board members and the agency leadership to help develop a roadmap for the waterway's next 50 years.

4. What skills do you believe you may be lacking which may be necessary to successfully carry out this position? What steps can be taken to obtain those skills?

I need to develop a better understanding of the complexities inherent in commercial navigation on the St. Lawrence Seaway System. I understand the waterway is unique and different from any other waterway in the United States. For example, the waterway is shared with Canada, only attracts a limited and specialized vessel fleet, does not move containers, and is not utilized by U.S. flag vessels. Through interaction with agency staff, my fellow Board members, and the key stakeholders in the Great Lakes Seaway System region, I will develop the knowledge.

5. Please discuss your philosophical views on the role of government. Include a discussion of when you believe the government should involve itself in the private sector, when society's problems should be left to the private sector, and what standards should be used to determine when a government program is no longer necessary.

The principal role of government should be the preservation of individual and societal liberties, the enhancement of individual and societal security, the education of its citizens, a sound monetary policy, modest regulatory oversight of an otherwise free, market-driven economy, and reasonable regulation of land use, of the environment, of transportation, and of food and health minimum standards. Government

should not engage in ventures that can more effectively and efficiently be undertaken by the private sector. Standards that should be used to determine when a government program is no longer necessary include whether the program is appropriate for the targeted benefit, whether the private sector could manage and invest in the program more efficiently, whether public support for the program is adequate to justify its cost, and whether the public benefit at least equates to the public expenditures.

6. Describe the current mission, major programs, and major operational objectives of the board/commission to which you have been nominated.

The SLSDC, a wholly-owned government corporation and an operating administration of the U.S. Department of Transportation, is responsible for the operations and maintenance of the U.S. portion of the St Lawrence Seaway between Montreal and Lake Erie. This responsibility includes managing vessel traffic control in areas of the St. Lawrence River and Lake Ontario as well as maintaining and operating the two U.S. Seaway locks located in Massena, New York. In addition, the SLSDC performs trade development functions designed to enhance Great Lakes St. Lawrence Seaway System utilization.

Maritime commerce on the Seaway System, which is a critical transportation link to and from the agricultural and industrial heartland of North America, annually generates more than 150,000 U.S. jobs, \$4.3 billion in personal income, \$3.4 billion in transportation-related business revenue, and \$1.3 billion in federal, state, and local taxes.

The SLSDC coordinates its activities with its Canadian counterpart, the St. Lawrence Seaway Management Corporation (SLSMC), particularly with respect to navigational rules and regulations, overall day-to-day operations, traffic management, navigation aids, safety, environmental programs, operating dates, and trade development programs. The unique binational nature of the Seaway System requires 24-hour, year-round coordination between the two Seaway entities. SLSDC annual performance and strategic plans include goals and objectives for safety, reliability, trade development, and management accountability.

7. What do you believe to be the top three challenges facing the board/commission and why?

Three of the top challenges facing the SLSDC and its board are (1) working with the Congress to ensure sufficient operations and maintenance funding for the agency, including enhanced security precautions in the post 9/11 era; (2) working with the U.S. Army Corps of Engineers and the Canadian Seaway entity on the completion of the on-going Great Lakes St. Lawrence Seaway Study; and (3) working with industry to recapture grain, steel, and iron ore trade levels that have been eroding over the past decade.

8. In reference to question number six, what factors in your opinion, have kept the board/commission from achieving its missions over the past several years?

Although I'm not familiar with the present Board's interaction with agency staff, members of Congress, and key stakeholders, the SLSDC's Advisory Board members should be fully engaged with all three groups to help the agency attain more effective funding and new trade for the binational waterway.

9. Who are the stakeholders in the work of this board/commission?

The key stakeholders for the St. Lawrence Seaway include: (1) U.S. and Canadian commercial navigation interests, including ports, terminals, carriers, importers, exporters, and labor; (2) foreign customers, primarily in Europe, South America, and North Africa; (3) members of Congress and other state and local leaders in the eight-state Great Lakes region; and (4) those law enforcement and homeland security personnel in the region pertinent to GLSL Seaway security.

10. What is the proper relationship between the position to which you have been nominated, and the stakeholders identified in question number nine?

One of the key roles of the SLSDC Advisory Board is to assist the Administrator in working to establish new business contacts that could result in future commercial business for the waterway. The agency does not directly negotiate contracts, but does serve to facilitate trade between all stakeholders. In my role as a member of the Advisory Board, I intend to increase the agency's contacts database.

11. Please describe your philosophy of supervisor/employee relationships. Generally, what supervisory model do you follow? Have any employee complaints been brought against you?

I have generally followed a supervisory model of initial mentoring, then fairly full delegation, coupled with an oversight style of devil's advocacy. No employee complaints have been brought against me in my 41 years of professional life.

12. Describe your working relationship, if any, with the Congress. Does your professional experience include working with committees of Congress? If yes, please explain.

I have not had a working relationship with Congress, although I have supervised the work of lobbyists who in turn had a working relationship with congressional committees.

13. In the areas under the board/commission jurisdiction to which you have been nominated, what legislative action(s) should Congress consider as priorities? Please state your personal views.

As mentioned in the answer to question number 7, the Congress should focus some attention on ensuring the long-term viability of the Seaway System. Over the past decade, the SLSDC has received minimal funding increases that barely offset its mandatory pay and benefit increases, leaving the agency with little to no funding for key capital maintenance projects. A careful review of possible need for security enhancement funding should also be undertaken. The waterway is nearing its 50th year of operation and should have a long-term capital plan that the Congress is committed to funding. In addition, the Congress, through its work with the U.S. Army Corps of Engineers, needs to carefully consider any navigational improvements recommended by the Corps in its on-going study.

14. Please discuss your views on the appropriate relationship between a voting member of an independent board or commission and the wishes of a particular president.

A voting member of an independent board should be sensitive to the wishes of a president, should be willing to rethink his own views should they be at odds with those of his appointing power, but should vote his conscience (and be prepared to relinquish his position) should he not be able to reconcile his views with those of the President.

The CHAIRMAN. Thank you very much.

Ms. Hersman, there has been an allegation in the press that there's now not enough aviation expertise on the NTSB. Have you heard about that?

Ms. HERSMAN. Yes, sir, I have.

The CHAIRMAN. And your response?

Ms. HERSMAN. Well, I am concerned, because I've spent a lot of time on multiple modes of transportation, including aviation, since I've been here, worked on safety issues, such as the H-60 issue, security issues. After 9/11, I became much more involved in aviation. But since November 2001, the board has only launched from headquarters on one major aviation incident, and that was Charlotte. During that same time, they've launched on numerous surface transportation incidents—the tanker truck explosion in Baltimore, Staten Island Ferry, and the Baltimore Water Taxi. So I think it's important to be well-rounded on all of these modes, and understand safety.

The work of the investigation is really done by the professionals of the board. There's 400 staff there, and I will rely on them, I'm sure, on all investigations, to give me excellent advice. I hope that I can bring an expertise to the board on surface transportation issues, particularly railroad issues, that they have not had for some time. And I will continue to do my best to get up to speed on all issues, as I have when I've worked for this Committee.

Thank you.

The CHAIRMAN. Thank you.

Mr. Kassinger, what's your view of climate change?

Mr. KASSINGER. I share the President's view that it's—

The CHAIRMAN. Pardon me?

Mr. KASSINGER. Senator, I share the President's view that it's a matter of serious concern, and it's something that we ought to devote, as we are, substantial resources to understanding and addressing. The government currently spends upwards of \$5 billion on a combination of research into climate-change causes and re-

lated scientific issues and technologies to address the contributors to climate change, including emissions of carbon dioxide and other contributors to the emissions into the atmosphere.

I think that the Commerce Department, as you know, has led the Climate Change Research Group. That effort is about to be manifested in an incredibly detailed, comprehensive program that gained high praise from the National Science Foundation, and the National Research Council, recently. It would be the first time in history that the Government's efforts in the climate change area will have been consolidated and focused not only on producing excellent science, but directing that science to matters that are important to decisionmakers in the Congress, as well as in the executive branch.

As you also—just one other point, sir—I think that one of the most important programs we have in the Commerce Department—again, reflecting our concern about the importance of this issue—is the Global Observation System that Admiral Lautenbacher has conceived and is implementing through NOAA at the end of this coming month, in April. We'll be leaders in Tokyo, at the World Conference that will launch this—on a global basis, this Climate Change Observation program that will develop a great deal of additional information that will help us address the issues.

The CHAIRMAN. Do you know when the—what year the first report will be made to Congress?

Mr. KASSINGER. From the Climate Change Research Program? The reports, in my recollection, will be rolling out, I think, the first one, as early as next year, but I'll get back to you on that.

The CHAIRMAN. Maybe we're not talking about the same proposal, Mr. Kassinger. We have received no reports from the Administration, and the proposal that we read that was in the nice, glossy, pink binder—the first report is the year 2012. Well, it's obvious the position of the Administration on this issue has been very disappointing. We've not seen any concrete action. So far, we've heard of a lot of research and a lot of study.

The National Academy of Sciences overwhelmingly believes that, one, climate change is real and is a growing threat. And the view of—overwhelming view of the scientific community and the world on this is that this Administration is doing little to nothing about it. I hope that—I probably can't change the position of the Commerce Department or the Administration, but we're going to pay a very heavy price for the inattention to this issue on the part of the Administration.

You just mentioned Admiral Lautenbacher. I believe it was before this Committee, he said, "Well, all you need to do is go to sleep for"—30 years, it was? Yes, "go to sleep for 30 years," anybody who's interested in climate change.

It's hurting us in the near term because of the damage that's being done to the Earth's atmosphere and the Earth, and it's hurting us internationally, because the view of Europeans and the world community concerning our lack of seriously addressing this issue. So I hope that maybe you'll come up with a little better information and a little bit better strategy than what we've seen so far. I've been in this issue for a long, long time. You're not doing enough.

Mr. McGregor and Mr. Brennan—excuse me—Mr. Anderson and Governor Brennan, what do you think of the Jones Act?

Mr. ANDERSON. Mr. Chairman, I believe very strongly in the Jones Act. I spent 9 years with a company that was exclusively a Jones Act operating company, carrying liquid petroleum products, chemical products, tug and barge operations in the United States. I think it's a very important part of our country's efforts to maintain a domestic fleet and shipbuilding base.

The CHAIRMAN. Do you think there should be exceptions to the Jones Act, Mr. Anderson?

Mr. ANDERSON. With respect to what, Mr. Chairman?

The CHAIRMAN. Any exceptions.

Mr. ANDERSON. Well, there are some exceptions to the Jones Act. I'm familiar with a couple that I actually participated in. One was a Wrecked Vessel Act project which joined two wrecked vessels, and we needed an exemption to the Jones Act. Another one was for some vessels that—

The CHAIRMAN. How about for cruise ships?

Mr. ANDERSON. I think it would depend on the circumstances, Mr. Chairman.

The CHAIRMAN. Governor Brennan?

Governor Brennan: I'd say, first, we deal strictly with the foreign water-borne commerce, so we don't deal with the Jones Act, but I did deal with it, to a certain extent, when I served in the House. And, in many senses, the issue was treated as sort of the sacred cow. I didn't see it changing a great deal. So that's about where I am at it.

The CHAIRMAN. What are the major challenges that you see, Governor Brennan, particularly in light of this threat of terrorism that's associated with our ports and our maritime activity?

Governor Brennan: I think it is a very serious threat, and the Commission has worked with naval intelligence, worked with the various subsets of Homeland Security, including the Coast Guard and Customs, but we don't have a lot of troops on the ground. We have about five people actually on the ground making observations in five major ports. But we do have a lot of commercial data, a lot of information, and we see ourselves in a really important supportive role to try to help the agencies that actually do the policing.

The CHAIRMAN. Mr. Anderson?

Mr. ANDERSON. Yes, sir. Mr. Chairman, I believe that it is a very important for our country to have port security and maritime security. And as my colleague, Commissioner Brennan, mentioned, we—as an agency, don't play a front-line role. We are a support agency. We have quite a bit of commercial information, where we licence and bond ocean transportation intermediaries. We have had meetings, as late as yesterday, with TSA, Customs, and some other security agencies to work out ways with which we can share the information that we have in an effort to support our security efforts of the country.

The CHAIRMAN. Thank you. Congratulations to all of you, and we will move your nominations as quickly as possible so that you can get to work, or back to work.

Thank you very much. This hearing is adjourned.

[Whereupon, at 3:20 p.m., the hearing was adjourned.]

A P P E N D I X

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

Mr. Chairman, Senator Hollings and to my colleagues, as we hold many nomination hearings in this Committee, and we say many things about the nominees, usually in praise of them, but at times questioning them. This nomination is a personal one for many of us, as we have all watched Debbie work tirelessly on behalf of us and our constituents.

Before I discuss all of the reasons that Debbie is absolutely the right person for this position, I want to proudly state she is a West Virginian. Both of her parents were raised in Roane County, West Virginia. In addition, she has many proud relatives in Spencer and Charleston, West Virginia. I know that the people of West Virginia share my pride in all of Debbie's accomplishments.

Before coming to the Senate Commerce Committee, Debbie worked for then Congressman Wise of West Virginia in many capacities, including chief of staff. Governor Wise called me to support her nomination, and we wholeheartedly agreed that there was no better person for the job. Debbie has spent a career working for the people of West Virginia, and I know the entire country will benefit from her presence on the National Transportation Safety Board.

Each of us has had to call on the National Transportation Safety Board, or watched on CNN, the work that they do in sifting through a disaster site and in dealing with family members following an aviation tragedy. We rely on their independence to provide Congress and the transportation regulatory agencies recommendations to improve safety. It is a critical role that they play, and one divorced from politics and partisanship. The National Transportation Safety Board deals with situations where tragedies affect many people and that makes it all the more important that we select someone with both the technical knowledge to contribute to the board's work and the human compassion needed in the context of these tragedies. Debbie melds these two important requirements in a particularly special manner.

Each Board Member is an independent source of knowledge and information. While the Board votes on matters, and we hope that all agree on the safety recommendations, each is charged with independently making a decision based on the facts and analysis of its expert staff. A small agency, with some 429 employees, its expertise and knowledge is recognized around the world.

Debbie, who has worked on this Committee for five years, has worked with all of us on transportation safety and regulatory issues, using her expertise and talents to push for improvements. Her primary focus has been surface transportation, but I know that she has spent a considerable amount of time on aviation safety issues, and helped with aviation security matters following 9/11. I know she worked on the highway bill while a House staff member, and that knowledge will help her in her new position.

Her talents, wit, charm and expertise will be sorely missed. I wish you the best of luck in your new position, and while none of us hope to see you about a tragedy in our states, we know that whatever the situation, the NTSB will be in good hands with Debbie there.

PREPARED STATEMENT OF HON. E. CLAY SHAW, JR.

Mr. Chairman, Senator Hollings, Members of the Committee:

I'm proud to be here this afternoon with my Florida colleagues in support for the nomination of Mr. Alan Paul Anderson for the Federal Maritime Commission.

This is a special opportunity for me, for not only is Paul Anderson a constituent, but he's a friend. Paul is a resident of Florida's 22nd congressional district where he has lived and worked for many years.

Paul's commitment to South Florida is evident in the number of organizations and affiliations he associates himself. Whether it's as a trustee for Broward Community College, the Broward Alliance or the Broward Education Foundation, Paul serves his community and state well.

Today, you consider his name for the Federal Maritime Commission. Up until his work with JM Family Enterprises Inc., where he served as vice president of government relations, Paul was employed for 8 years with Hvide Marine, Inc. based at Port Everglades, Florida. There Paul served as manager of marketing, assistant to the president and director of public affairs.

Hvide Marine was a U.S. flag diversified marine transportation company with tanker, offshore supply vessel, tug and barge and tug boat operations in the U.S. and international markets. In his capacity, Paul represented Hvide to the national maritime trade associations assisting the industry in facing the many public policy challenges.

With a distinguished background in business and the marine industry, I believe Paul Anderson will be a tremendous asset to the Federal Maritime Commission.

I'm honored to be here today and speak on behalf of my friend, Paul Anderson. Thank you, Mr. Chairman.

COMMERCIAL VEHICLE SAFETY ALLIANCE
Washington, DC, March 29, 2004

Senator JOHN MCCAIN,
Chairman,
Senate Committee on Commerce, Science, and Transportation,
Washington, DC.

Dear Mr. Chairman:

On behalf of the Commercial Vehicle Safety Alliance, I am writing to recommend the Committee approve the nomination of Deborah A. Hersman to serve as a member of the National Transportation Board.

CVSA is an association of truck and bus safety enforcement officials and industry representatives in Canada, Mexico and the United States. We have worked with Ms. Hersman in her capacity as the Democratic Senior Professional Staff Member for the Surface Transportation and Merchant Marine Subcommittee of the Senate Commerce, Science, and Transportation Committee on a number of important commercial vehicle safety legislative issues.

We believe she is well qualified to fill the position for the NTSB member term expiring at the end of this year. In our experience working with her on the Motor Carrier Safety Improvement Act of 1999, Mexican border safety issues, and the process currently underway to reauthorize the Transportation Equity Act for the 21st Century, we have found her to be knowledgeable on transportation matters and willing to listen to all sides of an issue. She works hard to seek consensus and bipartisan solutions that enhance public safety and prevent the recurrence of transportation related accidents. These qualifications will help to ensure a cooperative working relationship between the NTSB, the Administration, the Congress private industry and the public.

Again, in the interest of transportation safety we hope you and the Committee approve Ms. Hersman's nomination to serve as a member of the National Transportation Safety Board.

Sincerely,

STEPHEN F. CAMPBELL,
Executive Director.

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