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THE DIGNITY OF WORK

HEARING

BEFORE THE

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS UNITED STATES SENATE

ONE HUNDRED SEVENTEENTH CONGRESS

FIRST SESSION

ON

EXAMINING HOW TO BETTER HELP THE WORKING PEOPLE OF OUR NATION

APRIL 29, 2021

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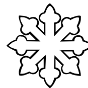

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THE DIGNITY OF WORK

THURSDAY, APRIL 29, 2021

U.S. SENATE,
COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS,
Washington, DC.

The Committee met at 10 a.m., via Webex, Hon. Sherrod Brown, Chairman of the Committee, presiding.

OPENING STATEMENT OF CHAIRMAN SHERROD BROWN

Chairman BROWN. The Senate Committee on Banking, Housing, and Urban Affairs will come to order.

This hearing is in the virtual format. A few reminders as we begin.

Once you start speaking, there will be a slight delay before you are displayed on the screen. To minimize background noise, click the mute button until it is your turn to speak.

You should all have one box on your screen labeled "Clock". For witnesses, you will have 5 minutes for your opening statements. For all Senators, the clock applies also to your questions.

At 30 seconds remaining, you will hear a bell ring to remind you your time has almost expired. It will ring again when your time has expired.

If there is a tech issue, we will move to the next witness or Senator until it is resolved.

To simplify the speaking order process, Senator Toomey and I have agreed to go by seniority for this hearing.

Yesterday in this country we marked the annual Workers' Memorial Day. We honor those Americans who have lost their lives on the job. This year, because of this virus, that number is staggering.

Far too many of these workers died because they did not have basic protections. They did not have a Government that was on their side.

On my lapel, I wear this pin depicting a canary in a bird cage, given to me two decades ago by a steelworker in the Lake Erie city of Lorain at a Workers' Memorial Day rally.

You know the story. Coal miners took a canary down into the mines with them to warn them of toxic gases. Those workers did not have a union strong enough in those days or a Government that cared enough to protect them.

Today many workers still feel a lot like those miners. They feel like they are out there on their own.

They have watched Wall Street, they have watched big corporations reward themselves—not just instead of workers, but at the

expense of workers. They have watched their Government—the people who are supposed to be on their side—let it happen.

We have created an economy that runs by Wall Street's rules. And we see the results.

The wealth on Wall Street has exploded. Corporate profits have soared. CEO compensation has doubled, tripled, but workers' wages have remained flat. CEOs' salaries now are 320 times greater than workers' pay.

Wall Street may seem disconnected from most people's lives. But behind the scenes, for so many Americans, it is the financial system that keeps their wages low, laying them off, closing their local businesses, drying up their communities.

When companies lay off workers or cut their pay, their stock prices often go up. When they raise wages or invest in worker training, their stock prices often go down.

And every time CEOs cut a job or deny a raise, they line their own pockets because they are evaluated based on quarterly stock performance and are compensated in large part with company shares.

Wall Street's and Main Street's interests no longer match up.

Yet when the financial industry cost millions of Americans their homes and their jobs, gutting communities of color, and preying on towns and neighborhoods around the country, they get a bailout. Everyone else paid the bill.

On Tuesday this week, we heard directly from workers about how Wall Street's rules affect them on the job.

We heard from Melody Crawford, whose company was bought out by a private equity firm that dumped her and 3,000 of her fellow Michigan employees into the pandemic with no job and no benefits.

We heard from Pamela Garrison, who has seen Wall Street rules ship jobs out of her community and fight against raising the minimum wage. She has worked her whole life. She has never seen that hard work pay off. She told us she has never had a vacation. And then she said something that we should all remember: "'Working poor' should not be two words that go together."

"Working" and "poor" should not be words in the same sentence.

We heard from Chase Copridge, a gig worker for several Silicon Valley tech companies that Wall Street loves to pour cash into, but who treat their employees as expendable. He works full-time. He has zero job benefits. The companies claim he is an "independent contractor." He said companies brag about flexibility, but that is a lie. "The truth is," he said, "I have almost no flexibility. I am either working, or I am looking for my next gig."

We heard from Desiree Jackson, a former Wells Fargo call center worker, who talked about how the bank misclassified her to avoid paying her overtime. She was a relatively moderately low-income salaried worker, and the company made her work 50, 55 hours a week and never paid her a dime of overtime.

We heard from Shawn Williams, in my home State of Ohio, from Ashtabula County, who does backbreaking work for an employer who is using every trick in the book to fight against a union that has already won its vote—actually not one pro-union vote but two votes—to organize.

He told us, “We rarely go a few weeks without an injury, largely because of the insane pace we work at. We have suggested that slowing the pace even a little bit would improve safety and could save money, to which we were told, quote, ‘Injuries do not cost this company much money.’ ”

In addition to these five workers, there were others who could not join us because they were at work, trying to make a living.

They provided us written accounts of their struggles. Unlike, I guess, most of us, they had to be at work. They could not just take time off. Courtenay Brown, a Navy Veteran and Amazon worker, deals with a grueling schedule and invasive tracking of every minute on the job.

Carlos Aramayo who represents workers for Wall Street hotels, that hotel group got a financial bailout during the pandemic but laid off its workers anyway.

We can do better than this.

Hard work should pay off for everyone, no matter who you are, where you live, or what kind of work you do.

For too long, we have allowed phony populists to stoke fear and place blame and divide us by race, religion, and region. We know why they do it: to distract from how they have been setting up the system and writing up all the rules to benefit the financial industry.

True populists are not racist. They do not lie. True populists do not appeal to some by pushing others down. Populism never divides. Populism unites. Populism is the common struggle of the laid-off and the low-paid; of the worker derided by her boss as expendable; of everyone out there trying just to get by.

Part of our job on this Committee—Banking, Housing, and Urban Affairs—is to make sure that Wall Street serves the real economy, not the other way around. The President said last night, “Wall Street did not build this country. The middle class built the country. Unions built the middle class.”

Wall Street has tried to convince us that when the stock market does well, the economy does well.

But look around. Visit almost any town in—three people in this panel, two grew up in Ohio, one lives in Ohio right now. Look around my State. Listen to the workers we heard from on Tuesday. To them—to most Americans—the idea that a stock market rally means more money in their pockets is laughable.

I think about the words of my fellow Ohioan Mr. Williams from Jefferson, Ohio, on Tuesday morning. He quoted Frederick Douglass: “Power concedes nothing without a demand. It never did and it never will.”

Of course, powerful special interests—CEOs, corporate elites, their allies that have set up a system where they get paid at others’ expense—of course, they want to hang onto that power. It is time for us to stop letting them.

I look forward to hearing our witnesses talk about what that system costs all of us and what we can do to create an economy where companies value the workers that make their businesses successful.

Senator Toomey, welcome. Thank you.

OPENING STATEMENT OF SENATOR PATRICK J. TOOMEY

Senator TOOMEY. Thank you, Mr. Chairman.

One of the largest contributors to our Nation's success has been our free enterprise system, which certainly elevates the dignity of work. At its core, free enterprise recognizes that the essence of human happiness is not just making money, but creating value—value in one's own life, value in the lives of others.

The path to true happiness, according to economist Arthur Brooks, is "earned success," and it speaks to the moment when your effort, your sacrifices, your investment in yourself in whatever endeavor pays off. But one to illustrate this idea, Brooks asks a question: When you get your first raise at work, will you celebrate the day you get the news or a few weeks later when you get the new paycheck?

Most people celebrate when they get the news because the reason you are celebrating is not just the material byproducts of your success, but the satisfaction of knowing that your efforts succeeded and they were recognized.

In a free enterprise system, success can be earned by anyone. Markets do not ask the color of your skin or who your parents were. There is no greater system than free enterprise for tearing down the barriers of class and status.

So how can we support such a system? The answer is simple: Mostly, get out of the way.

The most recent experiment in free enterprise occurred in the last few years when Republicans unmoored the economy from overtaxation and excessive regulation. What were the results? Well, before COVID hit, it was just the best economy of my lifetime. We had more job openings in America than people looking for jobs; we had a record-low poverty rate. Black and Hispanic unemployment rates hit all-time lows. And across the board, wages were growing, but they were growing fastest for the lowest-income Americans. So we were narrowing the income gap as well.

That is how you recognize the dignity of work—with accessible jobs for everyone and increasing pay rates. All of this was spurred on by the steps Republicans took to enact progrowth tax reform and deregulation.

Unfortunately, rather than trying to return to the best economy in 50 years, some folks are proposing policies that dramatically diminish our chances of getting back to that level. Whether it is championing stakeholder capitalism, which calls on corporations to pursue a liberal social agenda rather than prioritize its responsibilities to its owners, or paying people more not to work than they get paid to work, which, although I am sure this is not the intent, certainly seems to have the effect of denigrating the value of their work.

Although the list of ill-conceived policy ideas is long, I would like to address two specific proposals that, if passed, would certainly prevent our economy from reaching its potential. One is a prohibition on share buybacks, and the other is an increase in the capital gains tax.

I would suggest there are at least three major reasons why prohibiting stock buybacks is a really bad idea.

First, it is a direct attack on freedom. Banning share buybacks would restrict the ability of shareholders to run their own company. The owners of a company have the right to decide what to do with profits after all expenses and taxes have been paid. And share buybacks are simply a mechanism by which shareholders take out some of the money that they own.

Second, share buybacks serve a really important function in the economy. They facilitate long-term investment by redirecting funds from lower- to higher-growth firms, and banning buybacks would slow economic growth, as this capital fuels investment in businesses' futures.

Third, banning buybacks would hurt the very people that its advocates intend to help. In the U.S., about 40 percent of all equities are held in pension and retirement accounts, and share buybacks are good for their investments because it returns cash that can then be redeployed rather than sitting underutilized on a company's balance sheet.

Another terrible idea is the Biden administration's plan for a massive increase in the capital gains tax. They want to almost double the capital gains rate to a mind-boggling 43.4 percent to help pay for enormous spending. This would be a grave mistake.

There are good reasons why we tax capital gains, which is the realized gain on an appreciated asset, at a lower rate than ordinary income. First, part of an asset's appreciation is just inflation. It makes no sense to tax that. Second, in most cases, like stocks, the asset has already paid tax on its income. And, finally, investment leads to economic growth, which is something we do not want to inhibit.

Now, on top of all this, almost doubling the capital gains tax would not even increase tax collections.

According to the nonpartisan Joint Committee on Taxation, a 43.4 percent capital gains tax would actually reduce Federal tax revenue for a variety of reasons. Now, why would we want to levy a tax that will decrease investment in the economy and result in less tax revenue for the Government? That certainly does not make any sense.

Let me conclude with this: I think we should do everything we can to preserve and elevate the dignity of work. The most effective way to do that is by allowing the economy and free enterprise to flourish, thereby creating employment opportunity and increasing wages for everyone.

Capitalism has proven to be the greatest driver of prosperity in history. We should support rather than inhibit this engine of growth and opportunity for all Americans. Thank you, Mr. Chairman.

Chairman BROWN. Thank you, Senator Toomey, for your comments.

I will introduce the five witnesses, and then they will go in the order of introduction, and then the questioning will begin.

Heather McGhee is the author of "The Sum of Us" and board chair of Color of Change. Heather was also the president of Demos, an effective advocate for establishing the CFPB.

Lisa Donner is the executive director of Americans for Financial Reform and also played a huge role fighting for the reforms in the Dodd–Frank Act.

Dr. Trevon Logan is the Hazel C. Youngberg Trustees Distinguished Professor of Economics at the Ohio State University. He also serves as a research associate for the National Bureau of Economic Research and on the editorial boards of several economics research publications.

Andrew Puzder is senior fellow at the Pepperdine School of Public Policy, formerly, CEO of CKE Restaurants. Mr. Puzder was born in Cleveland and attended my wife's alma mater of Kent State and also graduated from Cleveland State University, I believe.

Vivek Ramaswamy is the former CEO of a pharmaceutical company, author of "Woke, Inc.", and hails from Cincinnati, Ohio.

So we will begin the testimony with Ms. McGhee.

STATEMENT OF HEATHER C. McGHEE, AUTHOR, "THE SUM OF US: WHAT RACISM COSTS EVERYONE AND HOW WE CAN PROSPER TOGETHER"

Ms. MCGHEE. Thank you so much. Thank you to Chair Brown and to Ranking Member Toomey for the opportunity to testify today.

In my book "The Sum of Us", I outline how racism in our politics and policymaking—by that I mean stereotyping, indifference to claims of discrimination, political scapegoating instead of problem solving—leads to bad economic policies. It has been making our economy worse in ways that do not only disadvantage people of color. It turns out it is not a zero sum. Racism has costs for White people, too. And racial equity, designing policies in ways that make them truly universal and not just one-size-fits-all, will be good for our entire economy.

I find racism creating distortions in a range of policy areas. including workers' rights, and I look forward to offering policy solutions in the discussion. But in my limited time today, I will focus on one of the most devastating recent illustrations of racism costing everyone: the financial crisis.

After decades of Government policy and business practices preventing Black communities from accessing the same subsidized mortgage market that fostered White wealth, the deregulatory zeal of the 1990s and 2000s sent communities of color experience a wealth-stripping phenomenon known as "predatory lending" or "reverse redlining." These neighborhoods became the canaries in the coal mine.

As you know, Mr. Chair, the majority Black Zip code in which you live was the community with the highest number of foreclosures in 2007. I visited your neighborhood back then and met a homeowner named Glenn who was near foreclosure.

Now, the common misperception then and still today is that homeowners like Glenn were risky borrowers buying properties they could not afford. Policymakers blinded by this stereotype refused advocates' calls to rein in predatory lending before it was too late.

But that is all it was—a stereotype. A *Wall Street Journal* analysis from 2007 showed that the majority of subprime loan holders

had prime credit and could have qualified for more affordable, safer loans. So if it was not bad credit that made one ripe for a subprime loan, what was it?

Households of color were almost two-and-a-half times as likely as White households to end up with riskier loans. And despite the excuse that subprime loans were necessary to expand home ownership, the vast majority of loans went to existing homeowners. After the crash, most of the Nation's big lenders from Wells Fargo to Countrywide would be fined for racial discrimination. But that realization would come too late.

The crisis that ensued—the crisis that my colleagues and I saw coming—would go on to cost us all: $9 trillion in lost wealth, 8 million jobs vanished, a home ownership rate that has barely recovered.

The resulting loss of wealth stands as a grave and lasting blight on the future of our diverse middle class. The racial wealth gap—Black families' having 15 cents on the dollar of the average White family—is the result of public policy, past and present. And to ward off any further stereotyping about Black work ethic, I will add that White high school dropouts have higher average household wealth than Black college graduates.

But it also not a zero sum. The racial wealth gap is costing our entire economy; closing it would make our economy $1.5 trillion larger by 2028, according to McKinsey projections. Looking beyond wealth, the racial economic divides in wages, education, housing, and investment have cost U.S. GDP $16 trillion over the last 20 years. Adding in gender, the Federal Reserve Bank of San Francisco calculated that the gap between White men and everybody else cost our economy $71 trillion over the past 30 years.

We can do better. The new Administration and Congress have a historic opportunity to rewrite the rules to restore the dignity of work and redress the injustices in our wealth-building policies now. We cannot afford to wait.

Chairman BROWN. Thank you, Ms. McGhee.

Ms. Donner, you are recognized for 5 minutes.

STATEMENT OF LISA DONNER, EXECUTIVE DIRECTOR, AMERICANS FOR FINANCIAL REFORM

Ms. DONNER. Thank you, Chairman Brown, Ranking Member Toomey, and Members of the Committee. Thanks for the opportunity to testify. I am the executive director of Americans for Financial Reform, which is a coalition of more than 200 consumer, community, labor, civil rights, and other organizations advocating for financial policies that serve workers and communities.

Over the past several decades, too many of the laws that structure finance have allowed Wall Street to profit at the expense of almost everyone else. There are a variety of reasons for the growing inequality, economic insecurity, and racial wealth gap that plague our country, but policies that allow big finance to extract increasing amounts of wealth from workers and from firms and communities are a significant factor. We need to identify and change these rules if we are going to build an economy that treats workers with dignity and enables security and the opportunity to flourish for everyone.

Decades of deregulation have led to an increase in the size of the financial industry and to the creation of banking behemoths that can put financial stability at risk for all of us through predatory practices and excessive risk taking. At the same time, Wall Street has increased its dominance over decisionmaking at firms that we think of as nonfinancial. Financial engineering and financial speculation have been rewarded and expanded to the detriment of the real economy of producing goods, providing nonfinancial services, and inventing things. Money has been pushed to shareholders and executives rather than workers. People of color have often been targeted first and worst, and working people of every kind and their families and communities have lost ground. All of these have contributed to a significant upwards transfer of wealth. Since 1989, the share of the Nation's wealth held by the middle class shrank from 35 to 28 percent. Families in the whole bottom half of the wealth distribution had 4 percent of wealth and only 2 percent now. The wealth of the top 1 percent, on the other hand, grew by more than one-third. The gap between Black and White wealth today is huge and essentially the same as it was before the civil rights movement.

Increasingly, wealth is leading to wealth, and wages are falling behind. The gap between CEO pay and typical workers' earnings has gone up tenfold over the past 50 years.

What are some of the specific mechanisms of the transfer of wealth away from workers? First, the financial sector is a greater portion of the overall economy and a larger slice of corporate profits than it was 50 years. And evidence suggests that you need a sufficiently robust financial sector to have a thriving economy. But once finance gets too big, more banking and more credit hurt rather than help with more intermediation.

Second, payments to shareholders, share buybacks, and dividends have exploded. This comes at the expense of worker pay and benefits and of investment and research and development and more capacity that would sustain and create future jobs. In 1981, before SEC deregulation enabled stock buybacks on a large scale, S&P 500 companies spent approximately 2 percent of their profits on buybacks. By 2017, it was 59 percent. Share buybacks along with debt financing are associated with the decline in the number of workers and with wage stagnation.

Third, abusive practices by private funds have an increasing impact as they grow and provide extreme examples of finance run amok. Private equities' worker-harming practices include debt-funded leveraged buyouts, financial engineering that extracts value from target firms through excessive fees, dividends, and stripping out real estate and other assets, and exploiting legal and regulatory blind spots. Private equity takeovers frequently include aggressive cost-cutting through layoffs, offshoring, and wage and benefit cuts. Equity stripping and debt loads imposed on target firms also put them in a precarious position, so PE-owned firms are more likely to end up in bankruptcy, pushing workers out of their jobs. A 2019 study found that 20 percent of the firms taken over by PE went into bankruptcy, ten times higher than the rate of non-PE acquisitions.

Fourth, financial stability can sound very abstract, but financial crises do the most harm to those who are already more economically vulnerable, compounding existing disparities. So deregulation plus mega financial institutions plus Government support for the biggest banks and the financial sector in times of crisis has enabled kind of a heads-they-win, tails-we-lose dynamic where they profit from speculation and overleveraging, get bailed out when things go wrong, and working people suffer the consequences.

Fifth, instead of consumer- and investor-facing practices that fleece people, whether it is those providing investment advice who the rules allow to be compensated more for investments that pay lower returns or have higher fees, costing people saving for retirement tens of billions a year or poverty wages and lack of regulation creating an opening for abusive credit products, including things like payday loans and frequent overdraft fees, which transfer billions of dollars a year from those who can least afford it to financial firms and their executives.

None of these dynamics are inevitable. They are a consequence of a host of interconnected policy choices that can and should be changed to honor the dignity of work and a more just economy.

Thank you.

Chairman BROWN. Thank you, Ms. Donner.

Professor Logan, you are recognized for 5 minutes.

STATEMENT OF TREVON D. LOGAN, HAZEL C. YOUNGBERG TRUSTEES DISTINGUISHED PROFESSOR OF ECONOMICS, THE OHIO STATE UNIVERSITY

Mr. LOGAN. Chair Brown, Ranking Member Toomey, and the distinguished Members of the Committee, I thank you for inviting me to testify before you today. My name is Trevon Logan, and I am a professor of economics at The Ohio State University. I am honored to provide an overview of the evidence on worker well-being and its relationship to aggregate economic conditions, policy, and the role of the financial system in this relationship.

I would like to emphasize three dimensions in which we should think about economic performance and material well-being.

First, we must provide and invest in accurate measurement of the economy about the well-being of workers and families.

Second, trends in inequality and working conditions today bear an uncomfortable similarity to the late 19th and early 20th centuries, where worker well-being was poor.

Third, these present issues of inequality are related to policy.

We many times mistake the tenuous relationship between aggregate measures of economic performance and well-being for being informative, thinking that economic growth, GDP, or well-controlled inflation are evidence of an economy that is operating successfully.

Aggregate measures tell us less than we would like about well-being. We have seen stock market returns increasing over the last several months as food pantries witnessed unprecedented demand.

Distribution and short-run changes are particularly important. We would not have known that more than a quarter of households with children were facing food insecurity without information from the Census Pulse survey. We would not have known that Black Americans waited an additional week to receive unemployment

benefits, on average, without detailed data collection. The lack of investment in Government statistical data collection has hamstrung our ability to understand our economy.

COVID–19 has exposed the growing reconstruction of what has been termed "factory discipline" by economic historians, a world in which the manager is a de facto authoritarian. They tell workers when they work and control and monitor their conduct on the job intensively. Discipline designed and implemented to coerce workers into doing more than they would freely choose is not a hallmark of a free market economy. It is the opposite.

When we hear stories of extremely long work days with no time for restroom breaks or prohibitions on having a cell phone or basic socialization, these are modern forms of the discipline in work environments that first appeared in early industrialization.

Economists have now coalesced around the rise of labor market monopsony as one reason why we see few protections for workers and why wages have stagnated. In layperson's terms, monoposony is the exact opposite of monopoly, but it has the same effect of distorting the market in uncompetitive ways. We have a monopoly when one firm supplies a good, and we have a monopsony when one firm demands a good.

How does monopsony work? In a labor market, monopsony decreases wages because there is only one employer. Recent research shows that labor markets with few employers per sector have lower wages, and that the rise of market concentration is a better explanation of the stagnation in wages for the past 40 years when compared to import competition or automation.

The following example from the product market will be useful. In 2008, the Department of Justice approved the merger of Miller and Coors, at the time the second- and third-largest brewers in the United States, leaving just one large competitor, Anheuser-Busch. While beer prices had been on a downward trend before the merger, they increased immediately after the merger by more than 5 percent. With less competition, the now two dominant firms charge higher prices estimated to be roughly 8 percent higher than what would have prevailed absent the merger, all at the expense of consumers.

Outside of mergers, market concentration and monopsony itself is the rise of what I term "21st century factory discipline." Examples include noncompete agreements and nonpoaching agreements among franchisees. Both of these can work to depress wages by structurally reducing labor market mobility. Recent survey evidence shows that one in five workers with a high school education or less is subject to a noncompete agreement. Nonpoaching agreements have also proliferated, and today more than half of all major franchises forbid their franchisees from competing for one another's workers. NCAs exacerbate racial wage gaps, accounting for as much as 9 percent of the wage differentials.

One way in which the financial sector may play a role here is in the rise of common stock investing. Common stock ownership can enhance the market coordination of firms by diminishing the competitive forces of the market.

There are solutions to this problem. The first is to understand that antitrust law should be applied to the potential labor market

impacts of monopsony power via market concentration. Second, we can discourage the use of NCAs and nonpoaching agreements, as both are against the principles of a free market competition.

Another area of focus is to encourage small business development and entrepreneurial activity. Our experience from the Paycheck Protection Program shows the ways in which the largest banks have failed small businesses, especially small Black-owned businesses.

Last, we need to stand firm on the economic principles of open, fair, and just market competition, which includes both basic protections for workers and protects their ability to move freely to better opportunities in the competitive labor market.

Chairman BROWN. Thank you, Professor Logan.

Mr. Puzder is recognized for 5 minutes. Thank you for joining us.

STATEMENT OF ANDREW F. PUZDER, FORMER CHIEF EXECUTIVE OFFICER, CKE RESTAURANTS

Mr. PUZDER. Chairman Brown, Ranking Member Toomey, and Members of the Committee, thank you for inviting me to testify on the dignity of work, an issue near and dear to me and of great importance for American workers and businesses.

I am Andy Puzder, and while I am an attorney by training, for over 16 years I had the privilege to serve as the CEO of CKE Restaurants, which owned or franchised over 3,800 Hardee's and Carl's Jr. restaurants in 45 States and 40 foreign countries employing over 75,000 Americans.

However, I was not born with a silver spoon in my mouth. Far from it. I proudly grew up in a working-class family outside of Cleveland, Ohio, although my parents always told me I could be anything I wanted to be if I was willing to do the work. And thank God I lived in a country where that was true.

As a teenager, I worked at the local Baskin-Robbins where I experienced the dignity of work. I can still recall the afternoon when the franchise owner of that Baskin-Robbins called me into her office, gave me a 10-cent-an-hour raise, handed me a key, and told me I was now the assistant manager. That remains the proudest day of my professional career. I opened up the place the following day, and I will bet we had the cleanest Baskin-Robbins in America that morning.

That promotion confirmed that what I did had value, that I could be more than I was, and that where I came from was less important than where I was going. I felt the kind of pride and self-confidence that can keep a person working or in school, striving for success, and off the streets.

Over the coming years, I worked my way through college and law school while supporting my small family doing just about any job I could find, like painting houses, cutting lawns, and busting up concrete with a jackhammer in the scorching St. Louis summer heat. I worked almost any job I could find because I had no Government or family help to get through college or law school. And as I said, eventually I became a lawyer and the CEO of an international corporation.

Now, I tell my grandchildren this story because I think it is important for them to know that there has never been another coun-

try in the history of the world where a working-class kid like me could have aspired to that level of success with any realistic chance of achieving it. That is the American dream. It exists because our free enterprise system inspires businesses to create jobs such as the ones I was privileged to hold.

I was very encouraged for America's working and minority youth when in 2018 and 2019, thanks to economic policies that cut taxes, reduced regulation, and focused on domestic energy production, we experienced the strongest labor market in my lifetime. In fact, we went into the pandemic with 24 straight months with more job openings than people unemployed, 20 straight months of 3-percent-plus wage growth and greater wage growth for low-wage workers than high-wage workers.

As a result, in 2019 family income increased a record high 6.8 percent to a new record high of $68,700 while the poverty rate dropped a 50-year record 1.3 percentage points to a new record low of 10.5 percent. And for the second year in a row, income inequality decreased.

I believe that today we need policies that will return us to the very encouraging prepandemic levels, but I have two primary concerns: first, the impact of what has been called "stakeholder capitalism"; and, second, the Government's current economic policies.

By imposing noneconomic obligations on American businesses and reducing their focus on profit, stakeholder capitalism reduces the incentive to invest and the capital available for dynamic growth. What that means for working-class and minority youth is fewer jobs and poorer-paying jobs.

Shareholder capitalism created the greatest period of prosperity in human history, bolstering freedom and quality of life. When you strike at its ability to encourage investment in profit, you strike at the good it has done for all stakeholders. As for economic policy, emerging from the recession will need America's small business to reignite labor market growth.

So the message the Government is sending to small businesses is extremely important. Unfortunately, that message currently boils down to we are going to increase your labor costs with a job-killing $15 minimum wage and your energy costs as we fight the war on carbon fuels. We are going to unionize your business whether your employees want it or not with the PRO Act and then overregulate and overtax you. We are even going to discourage people investing in your business by dramatically increasing the capital gains tax.

That is not a message that will inspire businesses to create the millions of jobs we need to return to prepandemic levels of full employment. The dignity of work is dependent on the availability and quality of the jobs investors, entrepreneurs, and business managers create. Without those opportunities, the American dream becomes an impossible dream for young workers such as I once was and as many working-class and minority youths are today.

Thank you, and I will be happy to take questions.

Chairman BROWN. Thank you, Mr. Puzder.

Mr. Ramaswamy, you are recognized for 5 minutes.

STATEMENT OF VIVEK RAMASWAMY, FOUNDER AND EXECUTIVE CHAIRMAN, ROIVANT SCIENCES

Mr. RAMASWAMY. Thank you, Mr. Chairman and Ranking Member. Thank you for the opportunity to share my perspective. I will be offering strictly my personal viewpoints and not those of any company I am affiliated with.

I was born and raised in Ohio by immigrants who came to America with almost no money. My father spent nearly 40 years working at General Electric's Evendale, Ohio, plant where he survived broad layoffs under Jack Welch' tenure and went to night school to earn a law degree to protect his job security. I spent 7 years as a biotech investor, and for 3 of those years I also attended law school part-time, just like my dad.

In 2014, I founded a biotech company that I led as CEO until January, and I am now writing a book called "Woke, Inc." to be published this summer, about stakeholder capitalism, a topic that is going to be central to today's discussion.

Stakeholder capitalism refers to the idea that companies should serve not only their shareholders but other societal interests. Big tech, big banks, and big business have now roundly endorsed this idea, and folks like Milton Friedman do not like the idea because it might leave companies to be less efficient. And while I personally do share some of this concern, there is an even bigger problem that worries me. I worry that stakeholder capitalism represents a threat to the integrity of American democracy itself, because for companies to pursue societal interests in addition to shareholder interests, companies and investors have to first define what those other societal interests ought to be. That is not a business judgment. It is a moral judgment. And speaking as an American, I can say that I do not want our capitalist elites to play a larger role than they already do in determining our society's core values.

The answers to those questions ought to be determined by America's citizens through our democratic process, publicly through open debate and privately at the ballot box. And, personally, I do not know if that is a Republican idea or a Democratic idea. I consider it an American idea.

It is puzzling to me, though, that progressives seem to love stakeholder capitalism today. Many progressives who love stakeholder capitalism abhor Citizens United because it permits companies to influence our elections and our democracy. In my view, stakeholder capitalism is Citizens United on steroids. It demands that these CEOs use corporate resources to implement the social goals that they want to push.

In the pharmaceutical industry, does rejecting stakeholder capitalism mean putting profits ahead of patients? No, it does not. But putting patients first means putting patients first, including ahead of other social causes. It means that we do not care about the race or gender of a scientist who discovers the cure to COVID–19 or whether the manufacturing and distribution process that delivers a vaccine most quickly to patients is carbon-neutral.

Conflicts of interest lie at the heart of this debate. In the real world, most conflicts are not financial. If I am a public company CEO and I decide to use the corporate piggybank to make a donation to, say, my high school or my temple, that should raise a red

flag since my high school and my temple have nothing to do with my business. But why is it any different if the CEO uses the corporate piggybank to make a donation to a climate change organization or to a specific racial advocacy movement? Many CEOs did exactly that last year, and they were applauded for it. Yet in both cases, the CEO derives a personal benefit from using the company's piggybank to make a donation. That is a conflict of interest, and personally I find it curious that the conflict-of-interest hawks seem blithely unconcerned about this one.

No doubt many CEOs are going to advise you to do things like mandate ESG-related disclosures as public companies. My humble advice to you is this: Ask yourself what these business leaders hope to achieve for themselves. Some of them may hope to distract you from other regulatory issues that pose real risks to their business. For a soft drink manufacturer, advocating for voting rights is very easy. Reckoning with the nationwide health impacts of soda consumption? That is hard work.

When choosing between constraints on matters that relate to the core of your business versus matters that do not, self-interested CEOs are generally going to choose the latter.

I do have other concerns that I would be glad to address in the Q&A. Having stakeholder capitalism tends to favor incumbents over startups. That is why the Business Roundtable and the Davos crowd tends to favor it rather than small business owners. I also think that the ESG movement is on its way to contributing to an ESG-linked asset bubble, akin to the pre-2008 housing bubble. But those are secondary issues.

The bigger issue is the threat to American democracy because when we demand that corporations make moral judgments and exercise political power, democracy loses not once, but twice. We lose integrity in lawmaking through corporate overreach on the one hand, and we lose social solidarity as a people when the private sector itself becomes political. Stakeholder capitalism poisons democracy. Partisan politics poisons capitalism. And in the end, we are left with neither.

So, in closing, I urge you as Members of the Senate to implement your chosen policies through the front door rather than sneaking them in through the back door. Do not use companies as instruments to accomplish what you cannot get done directly as legislators, because unlike you, CEOs are not democratically accountable, and that might make for a convenient solution in the short run, but corporations make for fickle friends, and in the long run you will create a monster that you cannot put back in its cage. That is not just bad for Republicans or Democrats. It is bad for America. And speaking as an American, I can say that I do not want to live in a corporatocracy. I do not want to live in a one-dollar/one-vote system. I do not want to live in a modern version of Old World Europe where a small group of wealthy elites get to decide what is good for the rest of society. I want to live in a democracy where everyone's vote and everyone's voice is weighted equally.

Thank you again for the time and the opportunity.

Chairman BROWN. Thank you, Mr. Ramaswamy.

Let me start with Lisa Donner. Ms. Donner, explain why when our economy runs on Wall Street's rules it results in transferring

our wealth and prosperity away from workers and to giant corporations.

Ms. DONNER. Thank you, Senator. Let me start by digging a little further to an example that you talked about in your opening remarks this morning. Melody Crawford, who spoke at the event you had earlier this week, worked at Art Van Furniture in Michigan, and she described losing her job because of financial engineering. She talked about being tossed out overnight without insurance during the pandemic after 13 years with the company while the Wall Street executives who bought that business and looted it walked away with millions. There were a whole slew of rules that made that job loss and the hundreds of thousands of jobs like hers lost in PE-owned retail alone, not to mention all the other sectors where there have been job losses more likely.

Wall Street-dominated rules enabled the financial firm to buy that company with a lot of money, borrowed money, and then put the responsibility for paying back the debt on the company they bought and not have any liability for themselves, and then burden it further and make more money for themselves by selling the company's real estate, which it then had to lease back. And when that drove the business into the ground, Wall Street already had their money, and workers and their families were left high and dry. Destroying viable businesses also leaves behind fewer companies that are large and more powerful, making markets less competitive, and this approach was enabled—in fact, incentivized by corporate tax laws as they exist now, by liability laws, by bankruptcy laws, by securities laws written around the idea that what works best for Wall Street automatically will be best for the rest of us. And as you point out, Senator, that is an argument that needs to be challenged again and again in each of those—making decisions about each of those specific laws.

Chairman BROWN. Thank you, Ms. Donner.

Dr. Logan, you spoke about when markets get concentrated, big corporations have more power over their workers. Does that disproportionately impact workers of color? And if so, how does it do that?

Mr. LOGAN. Yes, it does, Chair Brown. There are two dimensions in which this occurs. So the first is when I was speaking, I was talking about overall and more global measures of market concentration, but local measures of market concentration, say, in the health care sector, which disproportionately employ Black Americans, for example, are also highly concentrated markets now given the consolidation in the health care sector. So at the very local level, you will see that this has a particularly poor outcome for African-American workers.

Another outcome of this is that research has shown that in rural areas, the rise of monopsony power is quite acute, so African-Americans in rural areas, which have seen business destruction on top of market consolidation, are even more prone to having markets which are monopsonized.

Chairman BROWN. Thank you, Professor.

Ms. McGhee, first of all, thank you for writing "The Sum of Us", which I read over the weekend. I put that book alongside two other illuminating, I think earth-shaking in many ways, books about race

and class and housing, next to "Evicted" and to "The Color of Law". I think those three books together can teach much of America so much about our country, our economy, about race, about class, all of that. So thank you for that.

In your testimony you said Congress and regulators failed to get ahead of the 2008 financial crisis because subprime mortgages were mostly targeted at Black and Brown families; in other words, policymakers did not think it was important to protect people of color who also—parenthetically, you talked about how they were so often refinancing, not buying homes for the first time. Put that aside. But, Ms. McGhee, based on what you have just heard from Dr. Logan and Ms. Donner, do you think there are parallels between what policymakers failed to do before the financial crisis and what has been happening in our economy over the last decade?

Ms. MCGHEE. I do, and thank you for those kind words, Chair. I think that we are seeing it in a couple of different ways. The central metaphor at the heart of my book is the story of what happened not just in the segregated South but across the country when public swimming pools were drained rather than integrated. I use that as a metaphor to talk about what happened to the public social contract that created the greatest middle class the world had ever seen in the middle of the 20th century, in the New Deal era, and then switched to the more neoliberal inequality era. And I think we are seeing that across our society in what has happened to the affordability of college with the debt-for-diploma system, which disproportionately impacts Black borrowers, eight out of ten who have to borrow to graduate from college, but also impacts the majority of White borrowers.

I think we are also seeing it in the opposition to refilling the pool of public goods for everyone today with the opposition to the American Jobs Plan, which would have something for nearly every single American, which is really a positive sum vision of getting us back on track, building things in America, and providing for soft and hard infrastructure that our country needs. And a lot of the opposition to it has fallen back on dog whistles and racial resentment and distracting with a culture war when it is a majority popular plan because the country recognizes that we need to refill the pool of public goods for everyone, from child care to housing to rural broadband.

Chairman BROWN. Thank you, Ms. McGhee.

Senator Toomey.

Senator TOOMEY. Thank you, Mr. Chairman.

Let me start with Mr. Puzder. You know, I think there has been a narrative and there are some people who believe apparently that share repurchases are some kind of nefarious scheme to artificially inflate the price of a company's stock and that they come at the expense of growing the business.

Now, you were in business for many years. You have been a CEO. In your experience do you think CEOs pass up attractive investment opportunities to grow their business in order to take cash and use it for share buybacks? Why do companies engage in share buybacks? Your mic is not on.

Now we got you.

Mr. PUZDER. I do not know any instance where a CEO did a share buyback where they had a materially better investment they could have made with the cash that was available. The idea with share buybacks is that your company may be a very good investment, and if the value of your stock is low, your dollars might best be spent investing in your own company, which is good for shareholders because it indicates to everybody that you believe in the company, you believe in the company's future. It is good for people that sell shares when you sell your shares because you create a demand for the shares so the price will probably go up. And it is good for the people that hang onto the shares because their shares will increase in value. Their gains on those shares will increase. And, in fact, they will get capital gains treatment on those gains if they hang onto them for a long enough period of time.

But if you are not spending your money—if a CEO is not spending money, the corporate funds, on things that improve the profitability of the company, that create jobs, that generate growth, that do the kinds of things that really raise a company's value in the markets, then it does not make any difference if you do share buybacks or not because your stock price is going to go down. So it would really be counterproductive just to go out there and take your money to do a share buyback to get a temporary boost in your share price, unless you are going to sell your shares immediately, which CEOs generally cannot do. It is really not going to benefit you long term or short term.

Senator TOOMEY. Another premise that seems to be implicit in some of the discussion we hear sometimes is that a company's profit comes at the expense of its workers. Now, if this were true, I guess it would follow that more profitable companies would have less-well-paid workers and companies that are not very profitable would have higher-paid workers. Is that a phenomenon that we see in the real world?

Mr. PUZDER. Look, in the real world, if you are running a company, the one thing you know is your most valuable asset is your workforce. Your workforce needs to be happy. Your workforce needs to be productive. If your workforce is not happy and productive, you are going to go out of business. You are not going to last. And I think with a small business that is almost always the case, because you know all your employees, you know their families, you know their financial situation. With larger employers, you know, I would use the examples of Volkswagen in Tennessee, Boeing in South Carolina, Nissan in Mississippi, and most recently, Amazon in Alabama, where workers have rejected unions because they are very happy with their employers. In fact, in this recent Amazon vote, while 85 percent of the workers were Black workers, only 16 percent of workers in the plant, despite President Biden's support and despite Senator Bernie Sanders heading down there, only 16 percent of the employees voted for unionization. You could have tripled that, and they still would have lost the union election. So——

Senator TOOMEY. All right. Let me——

Mr. PUZDER. ——I do not think you are seeing the kind of things that people are saying we are seeing.

Senator TOOMEY. I appreciate it. Let me move on. I have a quick question for Mr. Ramaswamy. I think Mr. Puzder makes a good

case that it is in the interest of shareholders to treat employees well. I think that is true about other stakeholders. But if you elevate stakeholders and say a corporation's responsibility is to all these stakeholders, how does the management resolve competing demands among different stakeholders?

Mr. RAMASWAMY. Well, in my opinion, this is actually a gift to the management class of a company to escape accountability, actually. Underperforming CEOs—here is the secret that they do not teach you in business school. I have seen this firsthand. The more people you are accountable to, the less accountable you are to any of them. In fact, in the venture capital world, in my world of biotech, that is actually why many CEOs want to take their companies public, is that when you have thousands of shareholders, you actually are less accountable many times than when you have a small group of shareholders as a private company. But then this stakeholder capitalism movement is really taking that to the next level by saying literally by making you accountable to everyone, you actually become accountable to no one.

So even though I think the goal of being accountable to stakeholders is a worthy goal, the best mechanism to accomplish that, even if imperfectly, might actually be and in my opinion is through being accountable for delivering financial metrics and performance that benefit everyone rather than empowering these CEOs who ultimately become accountable to no one in the end.

Senator TOOMEY. Thank you, Mr. Chairman.

Chairman BROWN. Thank you, Senator Toomey.

Senator Menendez from New Jersey is recognized for 5 minutes.

Senator MENENDEZ. Thank you, Mr. Chairman.

Ms. McGhee, are undocumented immigrants contributing to the safety and recovery as essential workers during the COVID–19 pandemic?

Ms. MCGHEE. Thank you, Senator. Disproportionately so, yes. In fact, there are probably about 5 million undocumented workers who are essential workers, including 1 million DREAMers.

Senator MENENDEZ. About 74 percent of undocumented immigrants are essential workers. During the pandemic undocumented immigrants harvested and served our food, cared for our children and elderly, treated our patients. When we were all told to stay home in order to avoid being infected with the virus and to spread it, they were on the front lines. They were on the front lines.

So if that is the case, shouldn't Congress include undocumented essential workers as part of our effort to end the pandemic?

Ms. MCGHEE. I think this is essential not only to those families, their loved ones, and the communities that they are serving, but to our broader economy. You cannot ask the most out of people to serve this country and then give them the least and, in fact, make them invisible as we talk about who the American people are. Those who have sacrificed so much during this pandemic, who have died disproportionately, served disproportionately, need to be included in pandemic relief. This is something that is popular with a majority of the American people, that essential workers, regardless of immigration status, should be eligible for things like what New York has passed, the Excluded Workers Fund, to allow cash assistance to people who have been excluded from all of the bene-

fits of the past year that have gone to Americans during the pandemic.

Senator MENENDEZ. I appreciate that. You know, it seems to me it is not enough to say that essential workers are heroes. Congress has to treat essential workers like heroes. And in my view, that includes providing a pathway to citizenship for undocumented workers so that, in fact, we do not continue to have an underclass in this Nation that can be used in such a way that ultimately undermines, you know, income, wages, and other elements.

It seems to me, both on the industry side and as the American people, we use these people at poultry plants, at meatpacking plants. They are the ones who pick the crops in the field to put, you know, your breakfast food on the table. They are the ones who deliver when everybody else is staying home. They are the ones who are taking care of our elderly. I am a little tired of hearing about people who are heroes and then we treat them far less than a hero. We do not even treat them appropriately. I hope we can do something about that.

Let me ask you, in the coming months, Congress is going to be working on an infrastructure package. One problem that I think does not get enough attention is how infrastructure affects access to good jobs. A study by the National Bureau of Economics showed that housing prices in high-income, job-rich areas have been increasing, and this has contributed to rising income inequality.

So, Ms. McGhee, does a lack of affordable housing in job-rich areas limit workers' access to good jobs?

Ms. MCGHEE. It absolutely does, and in many ways, this type of segregation away from good jobs was done by design, and so I want to take a moment to applaud the way that the Biden administration is taking responsibility for past decisions to segregate and discriminate and, through the guise of urban renewal, make it difficult for Black and Brown communities to be connected to job-rich area.

This is a massive problem affecting every part of the country in one way or another, and we do need to really invest in public transit and in affordable housing and to marry those two goals in ways that are going to green our economy and provide a lot more economic vitality to strategically disinvested neighborhoods across the country.

Senator MENENDEZ. Well, I appreciate you bringing both the transit equation and the housing equation together. I am in agreement. That is actually what my legislation on livable communities does. It marries transit and housing and looks at some of the redevelopment of our urban communities or other places that have that infrastructure in place but that can now marry the opportunity to create housing, access to good jobs, and to be able to move.

And then the final point I would make, I hope—I have seen study after study in which diverse corporate boards' senior executive management procurement produces profitable corporations. It seems to me that having disclosure, simple disclosure, of what corporate boards' senior executive management status is, is an important tool for shareholders to make decisions on and for consumers to make decisions on.

Thank you, Mr. Chairman.

Chairman BROWN. Thank you, Senator Menendez.

Senator Warner from Virginia is recognized for 5 minutes.

Senator WARNER. Well, thank you, Mr. Chairman, and I really appreciate you holding this hearing. This is an area, as you know, that I have been looking at for the last 5-plus years, how we make capitalism actually work for a broader group of people.

I have to tell you I very much disagree with Mr. Ramaswamy's notion. I was a venture capitalist for 20 years, longer than I have been a Senator, and the idea that the only standard you need to hold a CEO accountable toward is short-term, quarter-by-quarter profitability is frankly not the right metric. I can tell you that as a venture capitalist. I can tell you that as the funds who have invested in venture capital funds have longer-term goals as well. So, again, I just very much disagree and frankly think stakeholder capitalism, American capitalism post-World War II was not perfect. It was, again, not fair to people of color, not fair to a lot of women. But for 40-plus years, there was a mantra that you could make money for shareholders, but still do well by your workers and do well by your communities. I think that was radically disrupted in the late 1980s, early 1990s, and we have now created a system, unfortunately, where way too many particularly young people do not believe that capitalism can actually lift people out of poverty. And I think we need to address that. I think honestly I have not met a CEO from the literally hundreds of firms I invested in as a venture capitalist or large firms that do not talk about, well, our biggest assets is our people. We have nothing in our tax system, accounting system, or reporting system that incents any CEO to invest in human capital. I think that is a bad long-term business decision.

If we go back and look at after the Depression, the accounting profession came together and said, "We need some common standards." They created GAAP so we could measure metrics of capital investment and machinery investment. We have not really updated that in many ways to meet what, again, every CEO and every firm I invested in as a VC said our biggest asset was our people, yet there is no place for that kind of people investment.

I want to give credit—there were a lot of differences I had with the previous Administration. Jay Clayton at the Trump SEC actually moved the SEC down the path toward human capital disclosure. So I want to start, Professor Logan, you talked about the need to better measure the state of our economy. You mentioned that we need to get better information about how workers are faring. I very much agree with that. I am reintroducing my Workforce Investment Disclosure Act to make sure that the SEC works in a coordinated fashion so, again, you do not have companies doing one-off braggings about what they may be doing for a subset of their workforce, but there is some standardization. The same way we needed GAAP back after the Depression, we need that same kind of standardized disclosure in this 21st century economy.

So, Professor Logan, can you speak to this? And there are, obviously, things—JUST Capital is out doing some efforts on this. There are other groups that are trying to measure this. But it is pretty hit and miss. Can you talk about how, if we are going to

really measure what companies are investing in their human capital, how we might address this problem a little more holistically.

Mr. LOGAN. This is a very large problem, and it is an information problem in the labor market. If you imagine the situation of someone in the labor market looking for employment, two firms which might have observationally equivalent positions but one that has more strategic and long-term investment in the human capital of their workers, longer tenure, would in expectation be a better employer. And so there is this degree to which this information being obscured leads to a serious information problem in the labor market, but would also drive, to the extent that the labor market is competitive, pressure on firms to better invest in the human capital of their workers if that information is public and it is actually observable by the labor market and potential employees. So it has positive externalities of providing that information by adding to the competitive pressures in the labor market and encouraging firms to invest in their workforce.

Senator WARNER. Professor Logan, I am having a little problem hearing all you are saying. I hope other Members are able to hear. But I absolutely believe we need some level of standardization here. You know, without that standardization, we have no ability to judge. And since CEOs and boards themselves say this is one of their top three things, measurement of human capital, you have got investors who say they want that information. I think it is time the SEC catches up with the reality of the marketplace today.

Thank you, Mr. Chairman.

Chairman BROWN. Thank you, Senator Warner.

I will next call on Senator Hagerty from Tennessee. I need to step out for just a short moment to go to the Finance Committee in the other room. And so after Senator Hagerty, Senator Warren will proceed. So you are recognized for 5 minutes, Senator Hagerty.

Senator HAGERTY. Thank you, Chairman Brown, and thank you, Ranking Member Toomey, for hosting this meeting today. It is a great opportunity to remember that America is the greatest Nation in the world for opportunity, and as Senator Toomey mentioned, that opportunity in the capitalist system is colorblind. The last thing we should do is to contort our capitalist system in a way that would destroy opportunities in the long run. Capitalism requires a strong rule-of-law culture, but too much Government involvement, especially Government coercion of economic activity, will destroy jobs, it will destroy wages, and it will destroy our entrepreneurial spirit.

Mr. Ramaswamy, I appreciate you mentioning in your testimony that many proponents of stakeholder capitalism are indeed throwing up a smokescreen that could distract from potentially nefarious business practices. On the Government side, the last thing we need to do is create another Government power grab in the form of contorting our regulatory framework for opaque and ill-defined objectives that are really a smokescreen, as you say, to allow for a regulatory back door to implement social policy that cannot be secured through legislation.

America's unique strength is its clear-eyed capitalism that has generated the greatest economic success the world has ever seen. This shift in semantics from shareholder to stakeholder by Demo-

crats is indeed a thinly veiled power grab by them to create yet another end run around our legislative process and further empower unelected bureaucrats to impose social policy that could not survive congressional debate.

Today we are fortunate to have one of America's most respected and clear-thinking business leaders testify. Mr. Puzder, thank you so much for joining us today.

Mr. PUZDER. My pleasure.

Senator HAGERTY. I appreciate that in your testimony you have laid out a tremendous framework. You know, we both live in a State where the economy is on fire. Wages are growing, unemployment is low, and people are moving to our State in record numbers. We both know the reason why. Tennessee has implemented low taxes and a friendly regulatory environment. We have created an environment that allows Tennessee operators and entrepreneurs to compete and to win. True entrepreneurs with a clear mandate thrive in our State, and more broadly, they do in our Nation.

So, Mr. Puzder, could you discuss how CKE might have evolved differently under this less focused sort of stakeholder mandate that we are talking about today? Thank you.

Mr. PUZDER. It would have been a big problem for us because you cannot—we would have been pressured to spend money that we invested in creating jobs, in growing our restaurant brands, in producing returns for our investors. We would have been pressured to put those monies and those efforts into projects that had nothing to do with creating jobs or raising wages or producing returns for our shareholders. It would have been a very devastating policy. It would have made the company very hard to run, like big States, it is—if you are not tethered to profit as a motive for your business, you are untethered. If your responsibility is not to your shareholders, if it is to everybody, then your responsibility is to nobody and you end up with CEOs feeling like they can do whatever they want because it is going to address some stakeholders' needs somewhere.

This focus on trying to generate returns for your shareholders which results in jobs and growth is the way to go. It is what made America the Nation that it is and produced that incredible labor market that we had in 2018 and 2019 in particular.

Senator HAGERTY. Well, thank you, Mr. Puzder. We both know this as well: that certainty begets more capital investment and uncertainty puts a real cloud on capital investment. In your management of CKE, you had a company that thrived, CKE and its franchisees thrived not only in the United States but internationally. You spent a lot of time thinking and writing and talking about this. Could you share for the rest of the Committee what you believe the impact of excessive regulation could be on the success of businesses like yours?

Mr. PUZDER. Well, California is a great example of the impact of excessive regulation. In fact, we moved to Tennessee from California in part because of the incredible regulatory burdens in California. We actually, in my experience—when we were opening ne restaurants at Carl's, we actually could open easier in Shanghai, China, or in Novosibirsk, Russia, which is in Siberia, than we could in Los Angeles or San Francisco, and that killed jobs growth. That

is where you create the jobs. It is the restaurant you open; it is the businesses you open; it is those small businesses. And when you make it more difficult to open, you kill job creation.

Senator HAGERTY. Indeed. Thank you, Mr. Puzder, and I think with the Chairman's departure, Senator Warren is next. Thank you.

Senator WARREN. Thank you.

So unions and working people spent decades fighting for a fair work week. It was a fight that led to the enactment of the Fair Labor Standards Act and to the 40-hour limit on the work week.

The 40-hour work week was intended to ensure that workers, no matter their occupation, had time for rest, time for families, time for their own lives. But instead of improving on the protections in that foundational legislation, we have been chipping away at the promise of a fair work week, and I will identify three ways.

First, the gig economy companies like Uber stripped those Federal protections away by misclassifying their workers as independent contractors.

Second, Congress has not raised the minimum wage in over a decade, so people take on second and third jobs just to be able to make ends meet.

And, third, companies are subjecting workers to unstable, unpredictable schedules.

Ms. McGhee, I want to talk about those unpredictable schedules. Does the Fair Labor Standards Act include any protections for workers to have stable schedules

Ms. MCGHEE. No, it does not.

Senator WARREN. So, in fact, as I understand it, employers can change someone's schedule without any prior notice, and this type of disruptive scheduling practice hits low-income workers the hardest. About half of low-wage workers report that they have little or no say over the hours that they work.

Ms. McGhee, can you say something about how unpredictable schedules impact low-wage workers?

Ms. MCGHEE. I can. This is an issue that we worked on while I was president of Demos. Hourly workers in general are struggling, right? They are reporting going hungry, losing housing, scrambling to find child care, unable to invest in their own higher education. But those with unpredictable schedules, those who have such a narrow band of response time for bosses that say, "Please come into work now," or, "Come into work tomorrow at a different time than you did yesterday," are twice as likely to report those kinds of indicators of economic stress, even if they have the same wages and hours and employers. And there are racial disparities among who gets the most unpredictable schedules. And this is one of those issues that is wreaking quiet havoc on the upward mobility of some of our most essential hourly workers.

Senator WARREN. Well, I appreciate your raising this. You know, I have a bill with Representative Rosa DeLauro to take on this problem. Our Schedules That Work Act would guarantee that workers had the right to rest between shifts. It would ensure that workers in certain industries are required to get their schedules with advance notice. And it would protect workers who ask for schedule changes from being retaliated against just for asking.

So let me ask, Ms. McGhee, do you think that addressing unstable, unpredictable, and rigid scheduling practices like the kinds of changes that I want to put in my bill, would this benefit workers and families?

Ms. MCGHEE. It would absolutely benefit workers and families, and I want to thank you and Congresswoman DeLauro for introducing it time and time again, actually. And it is high time, I believe, that the Congress pass this bill. I am reminded of a person named Katy Montuse who works at PetSmart, who said, "At PetSmart it seems we are expected to be available at all hours, even when we are not given enough hours to make ends meet, and must seek out additional work elsewhere to pay our bills. It is a vicious cycle, and it is not at all fair."

That is the kind of sort of quiet rule that needs to be rewritten to make sure that workers have a say. I want to also add, of course, the PRO Act, which would give workers more of a choice on the job, which I know you are supportive of. We have simply got to restore the balance and give back the dignity of work to workers who are being abused, often in the name of efficiency as driven by Wall Street.

Senator WARREN. Yeah, well, I really appreciate your testimony here today. Our laws should afford dignity for every worker, and when companies try to get around those laws, we need to strengthen the laws.

My Schedules That Work Act with Representative DeLauro would take steps toward making sure that workers have time to invest in themselves, in their families, in their own well-being. President Biden has called for Congress to pass legislation to give workers more stable and predictable schedules, and Congress should pass my Schedules That Work Act and get this done. So Congresswoman DeLauro and I are going to be fighting for Congress to pass this bill as soon as possible.

Thank you very much, Mr. Chairman. In the absence of the Chairman, I recognize Senator Van Hollen for 5 minutes. Senator Van Hollen.

Senator VAN HOLLEN. Thank you, Senator Warren, and thank you to all our witnesses who are here today.

President Biden was right on target last night when he observed that trickle-down economics has been a miserable failure in our country. It has been great for those at the very high end of the income scale, but very bad for everybody struggling to get ahead. We have seen over the decades larger and larger gaps between high-flying CEO compensation and the amounts that they pay the workers that make those businesses successful.

We also see many occasions when, after corporations lay off workers, their stock prices go up. And, of course, last year, 2020, we saw the S&P 500 rise by 16 percent even as millions of Americans lost their jobs.

So, clearly, there is a disconnect between how the stock market and Wall Street are performing versus how everyday Americans are doing.

So I would like to address a couple questions to you, Dr. Logan, regarding something I am very worried about as the economy begins to pick up. We obviously have seen positive signs, including

today, as we beat this pandemic. And with the passage of the American Rescue Plan, we do expect to see more people get back to work.

At the same time, long-term unemployment remains a real threat to workers and our economy. We now have over 4 million Americans who have been looking for a job for more than 6 months but have not been able to find one. That does not even include those who have dropped out of the workforce, millions of other Americans. And even before the pandemic, we had over a million Americans who were long-term unemployed.

I strongly believe that if you want to work to support yourself and your family, you should be able to find a job in this economy. And that is why I proposed the Long-Term Unemployment Elimination Act along with Senator Wyden and others that would provide a job subsidy on a short-term basis to private sector employers, nonprofits, and the public sector to help support the hiring of the long-term unemployed, provide job training so people can get on their feet and then get back into the workforce.

Could you, Dr. Logan, please talk about this issue and whether our response to this crisis should include policies to ensure that people who are long-term unemployed or dropped out of the workforce and want to get back in are able to do so as the economy recovers? And what policy ideas would you suggest?

Mr. LOGAN. Thank you, Senator Van Hollen, and I appreciate this issue because this is something labor economists have studied for some time, those who have been chronically unemployed, durations lasting more than 6 months, and also those who are dropping out of the labor force entirely, and we have seen that in our employment population ratios reached really disturbing levels in the last several years.

The pandemic has intensified that, and now you have a situation where you have literally millions of workers who have been chronically unemployed for a very long period of time due to the pandemic or have dropped out of the labor force.

And so the question is, we know from experimental evidence that workers and, in fact, gaps in employment lead to negative labor market outcomes when they are subsequently employed, if they become subsequently employed. So targeting those workers with a program that would subsidize their employment could reattach them to the labor force. And what is critically important, we know now from social psychology and other areas, is that employment itself has significant benefits for the employed above and beyond a paycheck. And we have talked about that in this meeting. And yet for these workers who have skills, who have employment possibilities, but who now are workers who have been detached from the labor force are not as competitive, and we have to think about strategies that would make them more competitive in the market, and part of that would be incentivizing hiring those workers to reattach them to the labor force.

Senator VAN HOLLEN. Well, thank you. We are working to try to include something along those lines as part of either the American Jobs Act or the American Families Act, because as you say, the longer you are out of the workforce, the harder it is to get back in, and that obviously hurts also your long-term retirement prospects

and everything else in life. So I appreciate that, and we may be working—I look forward to working with you as we try and pass this legislation. Thank you.

Now, Chairman Brown is not back yet. I understand that Senator Tillis is next, if he is with us.

Senator TILLIS. Thank you, Senator Van Hollen, and thanks to all the witnesses and to the Chair for holding this hearing.

I just want to touch a little bit on stakeholder capitalism. The core ideas behind stakeholder capitalism have always been odd and really very confusing to me. The concept that a business should be responsible to and reflective of the customers and communities they serve certainly sounds good. But the question then becomes: In a Nation of 330 million people where many Americans of good faith disagree on political issues, what constituencies do corporations then serve? If a solar energy company found itself surrounded by a community of oil pipeline workers, should it alter its business to reflect that? Should a pharmaceutical company that produces abortion pills be required to reflect the beliefs of millions of pro-life Americans?

I imagine most of my colleagues would say no. But this is the logic of stakeholder capitalism as it is applied. That corporations must be accountable to anyone with a stake in it is so vague and undefined that it simply subjects companies to the whims of the loudest voices in a room, oftentimes a minority but with loud voices, regardless of whether or not they represent a constructive of profitable business viewpoint.

When viewed from this angle, I think anyone can see that stakeholder capitalism for what it really is, less of a productive idea and more of an ideological and political cudgel.

Mr. Ramaswamy, I know that some of my colleagues—or you argued, I should say, that stakeholder capitalism leads to unaccountable CEOs. I tend to agree. Some of my colleagues across the aisle have disagreed with you and perhaps maybe mischaracterized your position. Would you like to respond to that?

Mr. RAMASWAMY. Yeah, sure.

Senator TILLIS. Or respond to some of the other testimonies?

Mr. RAMASWAMY. Thank you, Senator Tillis. I wanted to first respond to correct any misunderstanding about what I said earlier as reflected by perhaps Senator Warner's comments. Classical capitalism does not demand that companies think for the short run. Certainly some business leaders do believe that thinking for the short run is the right way to run their businesses. Others do not. That is a debate within classical capitalism. Even Milton Friedman believed the only companies that were going to survive over the long run were the ones that actually generated profitability over the long run. And to the extent that a company actually makes a short-run business decisions that is a shortsighted one, that actually creates an opportunity for somebody else to take advantage of it. If you pursue a short-run opportunity but leave long-run value on the table, that is an opportunity for somebody else.

In fact, businesses like Berkshire Hathaway, investors like long-term value investors have benefited from exactly that kind of short-termism. But the point is that is internal to capitalism.

So that raises the question of why we need this new name for stakeholder capitalism, and the optimistic view is that actually there is just a semantic distinction, that we all mean the same thing, that when we say shareholder capitalism or stakeholder capitalism, by serving stakeholders, if you are just doing it for the long run, this is sort of the Business Roundtable perspective.

I think it is more nefarious than that. I think the vagueness that you cited about stakeholder capitalism is not a bug. It is a feature. It is a feature that allows the people who invent these terms to aggregate more power for themselves. And the thing that puzzles me is for the set of people who are so skeptical about the intentions of these corporate executives and these corporate boards, why in the world would we want to aggregate even more power in their hands to now not just exercise economic power in the marketplace but social and political power in the marketplace of ideas? To me that is the mystery at the heart of this debate.

Senator TILLIS. Thank you very much. Thank you, Mr. Chair—actually, I see Mr. Puzder there. It is good to see you.

Mr. PUZDER. Good to see you, Senator.

Senator TILLIS. Maybe to give you an opportunity—I am afraid that I was not able to participate in some of the other testimony. I was responsible for a markup of two bills in Judiciary. But in the same vein as Mr. Ramaswamy, are there any things that you have heard here that you would like to opine on or take an opposing view?

Mr. PUZDER. Yeah, I would like to talk a little bit about bringing people back into the labor force because I think it is critically important and it is what happened in 2018 and 2019. Look at 2019. Every month we had unemployment that was below what the CBO said it would be if we had full employment. Every month we had almost a million or a million or more job openings than people unemployed. Every month 3-percent-plus wage growth, more for low-wage workers than high-wage workers. That pulled people back into the labor force. We had 74 percent of the people that became employed in the fourth quarter of 2019 came from outside the labor force. That was the highest percentage since the BLS began reporting the data back in 1990. We need to create jobs. That will drive wages, and that will pull those people back into the labor force. We do not need Government policies that order them to come back in. We need Government policies that encourage growth, that encourage businesses to grow, that encourage them to create jobs, and that will bring people back into the labor force.

Senator TILLIS. Thank you.

Thank you, Mr. Chair.

Chairman BROWN. Thank you, Senator Tillis.

Senator Smith from Minnesota is recognized for 5 minutes.

Senator SMITH. Thank you, Chair Brown, and thanks to all of you for being here today.

I would like to start with Dr. Logan, if I could. From the end of World War II until about 1980, economic data shows that workers' wages rose at about the same rate as worker productivity. Yet since then, real wages, real wage growth has slowed considerably, even while productivity has continued to increase. And over this same period, union membership rates have plummeted also, in part

because of what had been really aggressive anti-union tactics taken by companies that have made it harder and harder for workers to come together and organize collectively for better wages, better benefits, better working conditions, lifting up their families.

So, Dr. Logan, let me ask you, what do you think is the relationship between this decline in union membership on the one hand and this kind of decoupling of productivity and worker wages on the other hand?

Mr. LOGAN. Thank you, Senator Smith, and I should mention I am a native Minnesotan, and so it is very—born and raised in St. Paul, so very delighted to answer this question. This disconnect between productivity and wages is very curious because it is not subject to the typical ways that we think that there might be a disjoint or wedge between these, say, automation or import competition. It has been going on for far too long. So we now know that market concentration plays a role in this, and some very new research from Suresh Naidu at Columbia University and Ilyana Kuziemko of Princeton University has shown that declining union membership does play a role in the stagnation of wages. In particular, high school and less than high school educated workers, to the extent that there was a union membership benefit for them, are now increasingly not unionized and in unionized occupations, and so it has led to a widening of wage inequality, and that is one relationship that we now know from the entirety of the 20th century is a relationship between wages and the types of workers who are unionized. There is still a union premium, but that premium is now applying to a much smaller segment of the labor force, and increasingly those with less education are increasingly not unionized.

Senator SMITH. So you had a situation where increasingly low-wage workers, who often are predominantly workers of color, are not able to participate in the benefits of the union, and lo and behold, the disconnect between productivity and wage levels seems to grow greater.

So let me turn to you, Ms. McGhee. Some would argue—in fact, I think some have argued this today—that if you just leave businesses alone, they are going to create jobs and growth, and all boats are going to be lifted, and they are going to keep the best interests of their employees in mind, and so we should just let it all be.

Tell me what you think the evidence shows.

Ms. MCGHEE. I think the evidence shows that a business is not just the C-suite and the board of trustees; the business is also the workers who put in their time and sweat and creativity and innovation every single day. So I think, first of all, the very narrow view and, frankly, elitist and often racist and gendered view, which is often that C-suites are occupied by White men when much of the workforce is more diverse, particularly in some of our larger, more frontline industries, is a totally cramped view of who really are the business. And when we have seen economies, including our own in the past, where more of the people who contribute to the baking of the pie every day are the ones deciding what ingredients go in it and making it grow and, in fact, getting a bigger and bigger slice of it for themselves, we have seen the entire economy prosper.

This idea that trickle-down economics, that tax cuts are responsible for economic growth has been repudiated on a global scale by scores of economists, and I do want to take this moment to push back on the idea that the job gains that we saw in 2018 and 2019 were because of tax cuts, when we also had a reversal of the austerity that had set in from 2010 to 2018 with a very large stimulus 2018 spending package that, in fact, a lot of Republicans said was too big and it was a repudiation of the austerity, it was the beginning of the most impactful way to grow the economy, which was from the bottom up and the middle out. And we also had a Federal Reserve that is not getting enough credit for what it was beginning to do in 2018 and 2019 by keeping rates low, so the least efficient part of the overall stimulus package that was created in the 2018–2019 era.

Senator SMITH. So you are really making the case that trickle-down economics is not working for working people, and especially for lower-wage working people and working people of color who are often the low-wage workers. And I would say to all of my colleagues on this Committee that this is exactly the argument for why we need to move the PRO Act forward so that we can expand the benefits of people being able to come together collectively to all workers in this country. Thank you, Mr. Chair.

Chairman BROWN. Thank you, Senator Smith.

Thank you to the five witnesses. I will close the hearing. I want to make just a couple of comments. Yesterday or last evening, President Biden laid out what he called a "blue-collar blueprint." Today we heard from experts why after years of divisiveness and division that plan is the key to bringing this country back together to fight for prosperity for everyone. The term "dignity of work" first came to me—I have this statue behind me that you can perhaps see. It is behind me every hearing. It is a statue my wife found at a consignment store. It is a statue—I am not Roman Catholic, but it is a statue of Leo XIII, known as "the Labor Pope." He was the first one in my mind that coined the term "dignity of work." It was popularized much more by Dr. Martin Luther King. As I think most of you know, Dr. King said, "No job is menial if it pays an adequate wage." He said, "All work has dignity, whether done by a street sweeper or Michelangelo or Beethoven." And as we know, Dr. King was killed fighting for workers and civil rights, understanding the two go together, in Memphis fighting for some of the most exploited workers in the country, African-American sanitation workers in the city of Memphis. He understood, as I do—and this hearing is about when you love this country, you fight for the people who make it work. It means building our society from the bottom up, from the middle class out. Whether you punch a clock or swipe a badge, whether you work for tips or for a salary, whether you are caring for aging parents or raising children, all work should have dignity.

We will continue, this Committee will continue working with this Administration to make sure hard work pays off for everyone.

Thank you all. The Committee is adjourned.

[Whereupon, at 11:29 a.m., the hearing was adjourned.]

[Prepared statements and responses to written questions supplied for the record follow:]

PREPARED STATEMENT OF CHAIRMAN SHERROD BROWN

Yesterday we marked Workers' Memorial Day, when we honor those Americans who have lost their lives on the job. This year, because of this virus, that number is staggering.

Far too many of those workers died because they didn't have basic protections—they didn't have a Government that was on their side.

On my lapel, I wear this pin depicting a canary in a birdcage—it was given to me two decades ago by a Lorain steelworker at a Workers Memorial Day rally.

We all know the story—coal miners took a canary down into the mines with them to warn them of poisonous gases. Those workers didn't have a union strong enough, or a Government that cared enough to protect them.

Today, too many workers still feel a lot like those miners—they feel like they're on their own.

They've watched Wall Street and big corporations reward themselves—not just instead of workers, but at the expense of workers. And they've watched their Government—the people who are supposed to be on their side—let it happen.

We've created an economy that runs by Wall Street's rules. And we see the results:

The wealth on Wall Street has exploded. Corporate profits have soared. CEO compensation has doubled and tripled—but workers' wages have remained flat. CEOs' salaries are 320 times greater than workers' pay.

Wall Street may seem pretty disconnected from most people's lives. But behind the scenes, for so many Americans, it's the financial system that's keeping their wages low, laying them off, closing their local businesses, and drying up their communities.

When companies lay off workers or cut their pay, their stock prices go up. When they raise wages or invest in worker training, their stock prices often go down.

And every time CEOs cut a job or deny a raise, they're lining their own pockets, because they're evaluated based on quarterly stock performance and are compensated in large part with company shares.

Wall Street's and Main Street's interests no longer match up.

Yet when the financial industry cost millions of Americans their homes and their jobs, gutted communities of color, and preyed on towns and neighborhoods around the country—they got a bailout. Everyone else paid the bill.

On Tuesday, we heard directly from workers about how Wall Street's rules affect them on the job—in their everyday lives.

We heard from Melody Crawford, whose company was bought out by a private equity firm that dumped her and 3,000 of her fellow employees into the pandemic with no job and no benefits.

We heard from Pamela Garrison, who has seen Wall Street rules ship jobs out of her community and fight against raising the minimum wage. She's worked her whole life, she's never seen that hard work pay off, she's never had a vacation. She said: "'Working poor' should not be two words that go together."

We heard from Chase Copridge, a gig worker for several Silicon Valley tech companies that Wall Street loves to pour cash into, but who treat their employees as expendable. He works full-time, but has zero job benefits, because the companies claim he's an "independent contractor." He said companies brag about flexibility, but that's a lie. "The truth is I have almost no flexibility. I am either working, or looking for my next gig."

We heard from Desiree Jackson, a former Wells Fargo call center worker, who talked about how the bank misclassified her to avoid paying her overtime.

We heard from Shawn Williams, in my own State of Ohio, who does backbreaking work for an employer who is using every trick in the book to fight against a union that's already won its vote—not just one, but two votes—to organize.

He told us, "We rarely go a few weeks without an injury, largely because of the insane pace we work at. We have suggested that slowing the pace even just a little bit would improve safety and could save money, to which we were told, quote, 'Injuries don't cost the company much money.'"

In addition to these five workers, there were others who couldn't join us because they were at work, trying to make a living.

But they provided us written accounts of their struggles—Courtenay Brown, a Navy Veteran and Amazon worker who deals with a grueling schedule and invasive tracking of every minute on the job.

And Carlos Aramayo who represents workers for Wall Street-owned hotels. That hotel group got a financial bailout during the pandemic—but laid off workers anyway.

We can do better.

Hard work should pay off for everyone—no matter who you are, where you live, or what kind of work you do.

For too long, we've allowed phony populists to stoke fear and place blame and divide us by race and religion and region. We know why they do it—to distract from how they've been setting up the system and writing up all the rules to benefit the financial industry.

True populists aren't racist. They don't lie. True populists don't appeal to some by pushing others down. Populism never divides. True populism unites. True populism is the common struggle of the laid-off and the low-paid; of the workers derided by their bosses as expendable; of everyone out there just trying to get by.

Part of our job on this Committee is to make sure that Wall Street is serving the real economy, not the other way around. As the President said last night, Wall Street didn't build this country. The middle class built the country. And unions built the middle class.

Wall Street has tried to convince us that when the stock market does well, the economy does well.

But look around—visit almost any town in Ohio. Listen to the workers we heard from on Tuesday. To them—to most Americans—the idea that a stock market rally means more money in their pockets is laughable.

I think about the words of my fellow Ohioan Mr. Williams on Tuesday morning—he quoted Frederick Douglass that "Power concedes nothing without a demand. It never did and it never will."

Of course powerful special interests—CEOs and corporate elites and their allies that have set up a system where they get paid at everyone else's expense—of course they want to hang onto that power. It's time for us to stop letting them.

I look forward to hearing our witnesses talk about what that system costs all of us, and what we can do to create an economy where companies value the workers that make their businesses successful.

PREPARED STATEMENT OF SENATOR PATRICK J. TOOMEY

Thank you, Mr. Chairman.

One of the largest contributors to our Nation's success has been our free enterprise system, which elevates the dignity of work. At its core, free enterprise recognizes that the essence of human happiness is not just getting money, but creating value-in one's own life and in the lives of others.

This path to happiness, which economist Arthur Brooks calls "earned success," speaks to the moment when your effort, your sacrifices, and your investment in yourself, pays off. To explain this term, Brooks asks a question: When you get your first raise at work, will you celebrate the day you get the news, or a few weeks later when you get the new paycheck? Most people celebrate when they get the news because the reason you're celebrating isn't simply the material byproducts of your success, but the satisfaction of knowing your efforts succeeded.

In a free enterprise system, success can be earned by anyone. Markets don't ask the color of your skin or who your parents were. There is no greater system than free enterprise for tearing down the barriers of class and status.

So how can we support such a system? The answer is simple: get out of the way.

The most recent experiment in free enterprise occurred during the last few years when Republicans unmoored the economy from over taxation and statist control. What were the results? Before COVID, we had the best economy of my lifetime: more jobs than people looking for work and a record low poverty rate.

This is how you recognize the dignity of work—with jobs accessible and paying well. All of this was spurred on by the steps Republicans took to enact progrowth tax reform and deregulation.

Whether it is championing stakeholder capitalism, which calls for corporations to pursue a liberal social agenda rather than prioritize its responsibilities to its owners, or paying people more not to work, which obviously denigrates the value of their work.

Although the list of ill-conceived policy ideas is long, I'd like to address two proposals that—if passed—would prevent our economy from reaching its potential: prohibitions on share buybacks, and an increased capital gains tax.

There are three major reasons why prohibiting stock buybacks is a terrible idea.

First, it constitutes a very disturbing attack on freedom. Banning share buybacks would restrict the ability of shareholders to run their own company. The owners of a company have the right to decide what to do with its profits after all expenses and taxes have been paid. Share buybacks are simply a mechanism for shareholders to take out some of the money that they own.

Second, share buybacks serve an important function in the economy. They facilitate long-term investment by redirecting funds from lower, to higher growth firms. Banning buybacks would slow economic growth, as this capital fuels investment in businesses' futures.

And third, banning buybacks would hurt the very people that its advocates intend to help. In the U.S., about 40 percent of all equities are held in pension and retirement accounts. Share buybacks are good for their investments because it returns cash that can then be redeployed, rather than sitting unused on a company's balance sheet.

Another terrible idea is the Biden administration's plan to raise capital gains taxes. They want to almost double the capital gains tax to a mind-boggling 43.4 percent to help pay for its enormous spending plans. This would be a grave mistake.

There are good reasons why we tax capital gains—the realized gain on an appreciated asset—at a lower rate than ordinary income. First, part of an asset's appreciation is inflation, which makes no sense to tax. Second, in most cases, like stocks, the asset has already paid tax on its income. And finally, investment leads to economic growth, which is something we don't want to inhibit.

On top of all of this, almost doubling the capital gains tax wouldn't even increase tax collections. According to the nonpartisan Joint Committee on Taxation, a 43.4 percent capital gains tax would reduce Federal tax revenue for a variety of reasons. Why would we want to levy a tax that would decrease investment in the economy and result in less tax revenue for the Government? That certainly doesn't make sense.

Let me conclude with this: I think we should do everything we can to preserve and elevate the dignity of work. The most effective way to do that is by allowing the economy and free enterprise to flourish, thereby creating employment opportunity and increasing wages for everyone.

Capitalism has proven to be the greatest driver of prosperity in history. We should support rather than inhibit this engine of growth and opportunity for all Americans.

PREPARED STATEMENT OF HEATHER C. MCGHEE

AUTHOR, *The Sum of Us: What Racism Costs Everyone and How We Can Prosper Together*

APRIL 29, 2021

Thank you, Chairman and Ranking Member, for the opportunity to testify today.

What I have learned in nearly two decades of economic policy advocacy is that racism in policymaking—stereotyping, indifference to claims of discrimination, insufficient commitment to equitable policymaking—leads to bad economic decision making. It's been making our economy worse, in ways that don't only disadvantage people of color. It turns out it's not a zero sum. Racism has costs for White people, too. And racial equity, designing policies in ways that make them truly universal and not just one-size-fits-all, will be good for our entire economy.

In "The Sum of Us", I find racism creating distortions in a range of policy areas including public investment and workers' rights. In my limited time today, however, I'll focus on one of the most devastating recent illustrations of racism costing everyone: the financial crisis.

After decades of Government policy and business practices preventing Black communities from accessing the same subsidized mortgage market that fostered White wealth, the 1990s and 2000s saw communities of color experience a wealth-stripping phenomenon known as reverse redlining.

In the wake of Washington's deregulatory zeal, lenders and brokers were free to target hard-working families in neighborhoods of color with predatory financial products, particularly mortgages with features such as exploding adjustable rates, deceptive teaser rates, and balloon payments. These neighborhoods became the canary in the coal mine. As you know, Mr. Chairman, the majority-Black zip code in which you live was the community with the highest number of foreclosures in 2007. I visited your neighborhood back then and met a homeowner named Glenn who was near foreclosure.

The common misperception then and still today is that homeowners like Glenn were risky borrowers buying properties they couldn't afford. Policymakers blinded by this stereotype refused advocates' calls to reign in predatory lending before it was too late.

But that's all it was—a stereotype: a *Wall Street Journal* analysis from 2007 showed that the majority of subprime loan holders had prime credit [1] and could have qualified for more affordable, safer loans. If it wasn't bad credit that made one ripe for a subprime loan, what was it?

Households of color were almost two-and-a-half times as likely as White households to end up with riskier loans. [2] And despite the excuse that subprime loans were necessary to expand home ownership, the vast majority of loans went to existing homeowners. [3]

After the crash, most of the Nation's big lenders from Wells Fargo to Countrywide would be fined for racial discrimination. But that realization would come too late. These loans spread out past the confines of Black and Brown neighborhoods like Glenn's and into the wider, Whiter mortgage market.

The crisis that ensued—the crisis that my colleagues and I saw coming—would go on to cost us all: $9 trillion in wealth lost, [4] 8 million jobs vanished, [5] a home ownership rate that still hasn't recovered.

The resulting loss of wealth stands as a grave and lasting blight on the future of our diverse middle class. [6] The racial wealth gap—Black families' having 15 cents on the dollar of the average White family [7]—is the result of public policy, past and present. And to ward off any further stereotyping about Black work ethic, I'll add that White high school dropouts have higher household wealth than Black college graduates. [8] It's about history showing up in your wallet.

But it's also not a zero sum. The racial wealth gap is costing our entire economy; closing it would make our economy $1.5 trillion larger in 2028, according to McKinsey & Company projections. [9] Looking beyond wealth, the racial economic divides in wages, education, housing, and investment have cost U.S. GDP $16 trillion over the last 20 years. [10] Adding in gender, the Federal Reserve Bank of San Francisco calculated that the gap between White men and everybody else cost our economy $71 trillion over the past 30 years. [11]

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[1] Rick Brooks and Ruth Simon, "Subprime Debacle Traps Even Very Credit-Worthy; As Housing Boomed, Industry Pushed Loans to a Broader Market", *Wall Street Journal*, December 3, 2007, *https://www.wsj.com/articles/SB119662974358911035.*

[2] Jacob W. Faber, "Racial Dynamics of Subprime Mortgage Lending at the Peak", Housing Policy Debate, 23:2, 328–349; and Badger, Emily, "The Dramatic Racial Bias of Subprime Lending During the Housing Boom", Bloomberg CityLab, August 16, 2013. *https://www.bloomberg.com/news/articles/2013-08-16/the-dramatic-racial-bias-of-subprime-lending-during-the-housing-boom* ("In 2006, at the height of the boom, Black and Hispanic families making more than $200,000 a year were more likely on average to be given a subprime loan than a White family making less than $30,000 a year.")

[3] Justin P. Steil, Len Albright, Jacob S. Rugh, and Douglas S. Massey, "The Social Structure of Mortgage Discrimination". *Housing Studies* 33, no. 5 (2018): 759–76, *https://doi.org/10.1080/02673037.2017.1390076.*

[4] William R. Emmons, Bryan J. Noeth, "Household Financial Stability: Who Suffered the Most from the Crisis?" Federal Reserve Bank of St. Louis, July 2012, *https://www.stlouisfed.org/publications/regional-economist/july-2012/household-financial-stability-who-suffered-the-most-from-the-crisis.*

[5] Christopher J. Goodman and Steven M. Mance, "Employment Loss and the 2007-09 Recession: An Overview", *Monthly Labor Review*, Bureau of Labor Statistics, April 2011, *https://www.bls.gov/opub/mlr/2011/04/art1full.pdf.*

[6] Sarah Burd-Sharps and Rebecca Rasch, "Impact of the U.S. Housing Crisis on the Racial Wealth Gap Across Generations", Social Science Research Council, June 2015, *https://www.aclu.org/sites/default/files/field-document/discrimlend-final.pdf.*

[7] Neil Bhutta, Andrew C. Chang, Lisa J. Dettling, and Joanne W. Hsu, "Disparities in Wealth by Race and Ethnicity in the 2019 Survey of Consumer Finances", FEDS Notes, Board of Governors of the Federal Reserve System, September 2020, *https://www.federalreserve.gov/econres/notes/feds-notes/disparities-in-wealth-by-race-and-ethnicity-in-the-2019-survey-of-consumer-finances-20200928.htm.*

[8] Darrick Hamilton, William Darity, Jr., Anne E. Price, Vishnu Sridharan, Rebecca Tippett, "Umbrellas Don't Make It Rain: Why Studying and Working Hard Isn't Enough for Black Americans", Insight Center for Community Economic Development, 2015, *http://www.insightcced.org/wp-content/uploads/2015/08/Umbrellas-Dont-Make-It-Rain—Final.pdf.*

[9] Nick Noel, Jason Wright, Duwain Pinder, Shelley Stewart III, "The Economic Impact of Closing the Racial Wealth Gap", McKinsey and Company, August 13, 2019, *https://www.mckinsey.com/industries/public-and-social-sector/our-insights/the-economic-impact-of-closing-the-racial-wealth-gap#.*

[10] Dana M. Peterson and Catherine L. Mann, "Closing the Racial Inequality Gaps: The Economic Cost of Black Inequality in the U.S.", Citi GPS: Global Perspectives & Solutions, September 2020, *https://www.citivelocity.com/citigps/closing-the-racial-inequality-gaps/*.

[11] Shelby R. Buckman, Laura Y. Choi, Mary C. Daly, Lily M. Seitelman, "The Economic Gains From Equity", Federal Reserve Bank of San Francisco, January 19, 2021, *https://www.frbsf.org/our-district/about/sf-fed-blog/economic-gains-from-equity/*.

We can do better. The new Administration and Congress have an historic opportunity to rewrite the rules to restore the dignity of work and redress the injustices in our wealth-building policies now. We can't afford to wait.

PREPARED STATEMENT OF LISA DONNER

EXECUTIVE DIRECTOR, AMERICANS FOR FINANCIAL REFORM

APRIL 29, 2021

Testimony before the Committee on Banking, Housing, and Urban Affairs
United States Senate

The Dignity of Work

April 29, 2021

Lisa Donner
Executive Director
Americans for Financial Reform

Chairman Brown, Ranking Member Toomey and members of the Senate Banking Committee, thank you for inviting me to testify on the critical issue of Wall Street's impact on the dignity of work. My name is Lisa Donner, I am the executive director of Americans for Financial Reform, a coalition of more than 200 consumer, community, labor, civil rights, and other organizations dedicated to advocating for policies that shape a financial sector that serves workers, communities and the real economy, and provides a foundation for advancing economic and racial justice.

Today, and over the past several decades, too many of the laws and rules that structure finance have allowed Wall Street to profit and grow at the expense of almost everyone else. There are a variety of reasons for the growing inequality, yawning racial wealth gap, and economic vulnerability for tens of millions of people that plague our country, but policies that allow big finance to extract increasing amounts of wealth from workers, communities, and customers are a significant factor. We need to identify, understand, and change these rules if we are to build an economy that treats workers with dignity and delivers security and the opportunity to flourish for everyone.

These laws and rules have enabled banks, investment firms and Wall Street to secure a heightened level of power and influence over the entire economy. And they have encouraged financial firms and investors to deploy an increasingly complex array of financial instruments and products that add to their revenue and their control.

The era of financial deregulation and gradually increasing dominance of finance is generally believed to have begun in the late 1970s and early 1980s. Since that time, the size of the financial sector as a share of the economy has steadily grown until it is now double what it was in the 1970s. But that is only part of the story. It is increasingly the case that corporations that are nominally non-financial are also driven by Wall Street priorities and goals. Executives are incentivized to maximize short-term stock prices at the expense of workers and communities, including through the structure of their compensation. Many firms are directly owned or partly owned by Wall Street in the form of private equity or hedge funds. And companies can find financial speculation is more lucrative in the short term than producing goods or providing services. This set of dynamics is often referred to as financialization.

Financialization can lead to an upside-down situation where rather than the financial sector serving the real economy by allocating credit and capital, the real economy serves and is at the mercy of finance. Workers have lost out as financialization-driven shareholder primacy pushed layoffs and wage cuts to boost stock prices. More of the nation's wealth has become derived from financial engineering and market speculation, and these earnings and wealth accrue almost exclusively to the very wealthiest people. This has enriched financial companies and private funds and their executives but has put jobs and wages at risk and helped drive growing economic inequality and the widening racial wealth gap.

Along with and enabling these increases in economic power, the financial industry and financial executives have amassed more political power that shapes public life and public policy, designing and exploiting regulatory, legal, and tax loopholes that have further enriched themselves at the expense of workers and virtually everyone else.

Since the era of financial deregulation, we have also seen a steady stream of financial booms and busts driven by essentially fraudulent behavior in finance. Examples include the S&L crisis, the accounting scandals of the late 1990s and early 2000s connected to the stock market bubble, and most devastatingly the financial crisis of 2008. The boom-bust cycle has increased the wealth of those at the top positioned to gain from financial bubbles, while the financial collapse and its economic effects has devastated low- and middle-income families, with especially persistently negative impacts on Black and Latinx households.

The 2008 crisis was a consequence of financial speculation, massive use of complex and interconnected financial instruments, and the hyper-promotion of abusive and high-priced debt that produced bonuses and profits on Wall Street while putting families at risk. Millions of Americans lost their jobs, and millions of Americans lost their homes. Black and Latinx families experienced the steepest job losses and a disproportionate share of the foreclosures that destroyed household wealth. Now, while hundreds of thousands of people lost their lives during a pandemic that disproportionately impacted Black and Latinx families and tens of millions lost their jobs and economic security, America's billionaires prospered. The more than 700 U.S. billionaires' net worth climbed by $1.6 trillion between March 2020 and April 2021.[1]

The impact of Wall Street's boom-bust cycle on wealth has been increased by the fact that the Federal government has repeatedly prioritized bailing out Wall Street and asset owners over assistance to middle- and lower-income families affected by economic downturns. In the system we have created, the Federal Reserve can channel trillions of dollars into financial markets almost overnight to support the price of financial assets, while assistance to ordinary people facing foreclosure or unemployment comes more slowly and is limited and contested. We could see this process in the 2008 bailout, where in addition to the Congressionally provided TARP funding the Federal Reserve independently provided over $1 trillion in credit to Wall Street for over six months to reverse the impact of the financial collapse on the markets, even as inadequate economic stimulus and insufficient foreclosure relief programs resulted in millions losing their homes and in enduring losses of wealth.

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[1] Americans for Tax Fairness and Institute for Policy Studies. "Billionaire pandemic wealth gains of 55%, or $1.6 trillion, come amid three decades of rapid wealth growth." April 15, 2021.

This pattern emerged again in March 2020, when the Federal Reserve independently reactivated all of its 2008 emergency funding programs for Wall Street, and then Congress in the CARES Act provided them massive additional firepower to provide unprecedented support for the entire corporate credit market. The liquidity boost provided by these actions has been a major contributor to the tremendous growth in stock prices and the growth in the wealth of billionaires we have seen over the past year. The American Rescue Plan Act and the infrastructure and jobs programs now being developed and discussed include many useful and important correctives to this pattern; these features need to be enhanced and passed.

This testimony discusses the rise in the size and scope of the financial sector and the diversion of resources from the real economy and from workers' compensation, the financialization of the rest of the economy and the distorting incentives that undermine workers, how these dynamics drive economic and racial inequality, the financial sector's role in consolidation, which concentrates the economy in fewer corporate hands to the detriment of workers, how the financial industry's considerable political clout distorts public policy debates and puts Wall Street interests above the public interest. It also touches on a few commonsense policy approaches to rebalance the system.

1) The outsized growth of the financial industry

The size of the financial industry has ballooned over the past 50 years, but there is little evidence that this surging scale and scope has provided much additional benefit to the economy at large. To the contrary, there is considerable evidence that the swollen financial industry has distorted the real economy, reduced investment in productive economic activity that would sustain good jobs, undermined economic growth, and contributed to America's growing economic and racial inequality.

The financial sector represents a greater portion of the overall economy, a larger slice of corporate profits, and a bigger proportion of workers than it did in the late 1970s (see Figures 1 to 3). Although finance's growing share is in part due to the decline in the manufacturing sector, finance has grown faster even than other service sectors.[2]

The financial industry share of GDP rose from about one-seventh of the economy in the mid-1970s to over one-fifth of the economy in 2001, dipping after the financial crisis before rebounding again.[3] The financial industry's corporate profits exceeded 15 percent of all profits only 3 times from 1940 to 1986, before soaring to over 20 percent of profits in 1990 and only dropping back below 15 percent in 2008.[4]

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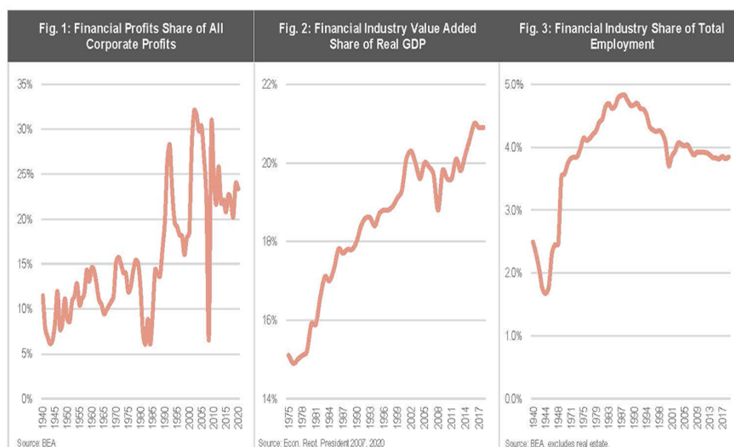
[2] Gennaioli, Nicola, Andrei Scleifer, and Robert Vishny. "Finance and the preservation of wealth." *Quarterly Journal of Economics*. Vol. 129, No. 3. September 2014 at 1222.

[3] Economic Report of the President 2007. Finance, insurance, and real estate value added as share of GDP. Table B-12: Gross domestic product by industry, value added, in current dollars and as a percent of GDP; Economic Report of the President 2020. Table B-12: Gross domestic product by industry, value added, in current dollars and as a percent of GDP.

[4] Bureau of Economic Analysis (BEA). National Income and Product Accounts (NIPA). Corporate Profits by Industry. Table 6.16. Excludes Federal Reserve bank profits. Available at www.bea.gov.



The expansion of the financial industry has also increased the number of highly-educated employees who perform increasingly complex roles for more lucrative compensation.[5] The share of people working at banks, investment firms, stock and commodity brokerages, insurance companies and other financial firms (excluding real estate) doubled from under 2 percent in the mid-1940s to about 4 percent today (see Figure 3).[6] In 1940, only one out of every 500 workers was a stockbroker, but by 2018, one out of 145 workers were employed by stock and commodity brokerages.[7] The high profits and compensation in the financial industry has attracted an outsized portion of human talent that formerly might have gone to other uses — like corporate management, engineering, or medicine.[8] As the Bank for International Settlements observed "finance literally bids rocket scientists away from the satellite industry. The result is that people who might have become scientists, who in another age dreamt of curing cancer or flying to Mars, today dream of becoming hedge fund managers."[9]

Although the financial industry fills important economic roles in supplying credit, allocating capital, safeguarding household savings, and more, an ever-expanding financial sector can actually reduce economic output as more resources are pulled from other uses to financial engineering, speculation, fee taking and wealth accumulation by a small number of finance executives. A cross national study

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[5] Glode, Vincent, Richard C. Green, and Richard Lowery. "Financial expertise as an arms race." *Journal of Finance*. Vol. 67, No. 5. October 2012 at 1723.
[6] BEA NIPA. Full-Time Equivalent Employees by Industry. Table 6.5. Available at www.bea.gov.
[7] *Ibid.*
[8] Bolton, Patrick, Tano Santos, and Jose A. Scheinkman. NBER. "Cream Skimming in financial markets." NBER Working Paper No. 16804. February 2011 at 2 and 33 to 34.
[9] Cecchetti, Stephen G. and Enisse Kharroubi. Bank of International Settlement. "Reassessing the Impact of Finance on Growth." BIS Working Paper No. 381. July 2012 at 1 o 2.

by the Bank for International Settlement found that when the financial sector's employment exceeded 3.5 percent, it had a negative impact on growth.[10]

The study concluded that "with finance you can have too much of a good thing. That is, at low levels, a larger financial system goes hand in hand with higher productivity growth. But there comes a point — one that many advanced economies passed long ago — where more banking and more credit are associated with lower growth."[11] The U.S. economic growth rate declined during the financialization era, and so did that of other major industrialized nations where financial markets have swelled.[12]

The creation and evolution of new financial products and instruments like CDOs, asset-backed securities, etc., have increased the size of the financial sector, and the number of transactions, and they have contributed both to building wealth for executives in finance, and to financial risk – as evident in the 2008 financial crisis. But it is not at all clear that they have had a positive impact on economic development. As University of Chicago finance professor Luigi Zingales noted in a 2015 paper "I am not aware of any evidence that the creation and growth of the junk bond market, the option and futures market, or the development of over-the-counter derivatives are positively correlated with economic growth."[13] He also noted that there has been no shortage of incentives to hunt for such growth, making its absence particularly striking.

Much of the activity of the financial sector is redistributing the ownership of assets not additional investments in economic activity. As Nobel Laureate Joseph Stiglitz observed, "most of these resources are not spent in raising new funds but in rearranging ownership claims on society's resources. They are a part of the quest for rents. They affect who gets the returns to society's productive assets, not which investments get made. Resources devoted to gambling—and to short-term speculation in the stock market—could be devoted to more productive uses."[14] The conservative American Compass think tank concurred with this assessment in a recent essay:

> Most of what we call investment today is the acquisition of an asset. When a private equity firm buys a company, it has not invested, it has traded a pile of money for a pile of equity. This confusion over the nature of investment is pervasive among economic policymakers and commentators, has bled into the popular culture, and threatens the nation's future prosperity. Actual-investment, by which I mean the allocation of capital toward the development of new productive capacity—the building of structures, the installment of machines, the creation of intellectual property—has been weakening in America for decades now. By contrast, what we often call investment, and what seems constantly to expand as a share of our economic activity, is merely the trading of assets for profit and power.[15]

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[10] *Ibid.*
[11] *Ibid.* at 1.
[12] Palley, Thomas I. The Levy Economics Institute of Bard College. "Financialization: What It Is and Why it Matters." Working Paper No. 525. December 2007 at 9.
[13] Zingales, Luigi. National Bureau of Economic Research. "Does Finance Benefit Society?" Working Paper No. 20894. January 2015 at 11.
[14] Stiglitz, Joseph E. "Using tax policy to curb speculative short-term trading." *Journal of Financial Services Research*. Vol. 3. 1989 at 109.
[15] Cass, Oren. American Compass. "We're just speculating here." March 25, 2021.

2) The financialization of non-financial firms

Beginning in the late 1970s, Wall Street drove more companies to reorient their businesses towards prioritizing stock price increases along with increased shareholder payments and share buybacks. These strategies frequently relied on cost cutting to boost earnings which meant less investment in capital improvements and ratcheting down on labor costs, through offshoring, layoffs, and wage cuts. They recast workers as costs to be managed and diminished rather than essential contributors to an enterprise.

These changes were accompanied by an increased reliance on debt and leverage to generate outsized profits on investments, including the rise of leveraged buyouts by private equity firms. Non-financial firms also substantially increased their financial activities and financial orientation as well as launching their own financial business lines.[16]

At some apparently 'non-financial' firms, these financial business lines began to eclipse the real economy operations, so revenues and profits flowed from investments and financial holdings instead of manufacturing or sales or non-financial services.[17] For example, the retailer Sears began to make more of its income from its Discover credit card and General Motors auto lending business GMAC grew into the mortgage lender Ally Financial (which collapsed into bankruptcy during the subprime mortgage meltdown).[18] Economist Thomas Palley describes the consequence of these changes as "corporate behavior… becom[ing] increasingly dominated by and beholden to financial markets."[19]

Corporate leveraged lending and private equity leveraged buyouts, Companies and private equity firms have used debt to increase leverage, fund dividends and buybacks, and generate outsized returns on their investments, but these hyper leveraged investments can create bubbles and also lead to bankruptcies.[20] Corporate sector debt is now at a record level as a proportion of GDP, and private equity takeovers rely on leveraged buyouts that have been financed by more than 50 percent debt over the past five years.[21]

This increase in high-risk debt has repeatedly been singled out by analysts and regulators as a threat to economic stability. The last three financial stability reports by the Federal Reserve Board have all highlighted this type of leveraged business debt as a key economic vulnerability.[22] High levels of leveraged lending pose potential macroeconomic threats, including amplifying recessionary downturns as companies struggle to service their debt loads. Increasing defaults could contribute to

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[16] Epstein, Gerald. University of Massachusetts. Political Economy Research Institute. "Financialization: There's Something Happening Here." Working Paper No. 394. August 2015 at 7.
[17] Palladino, Lenore. Roosevelt Institute. "Corporate Financialization and Worker Prosperity: A Broken Link." January 2018 at 10 to 11.
[18] Lin, Ken-Hou, Donald Tonaskovic-Devey. "Financialization and U.S. income inequality, 1970-2008." *American Journal of Sociology*. Vol. 118, No. 5. March 2013 at 1293; Reindl, J.C. "Ally Bank gets back into mortgages, but not the subprime ones." *Detroit Free Press*. December 12, 2016.
[19] Palley (2007) at 18.
[20] Epstein (2015) at 7.
[21] American Investment Council. "Private equity trends Q3 2020: Private equity continues to navigate the pandemic." 2020.
[22] Board of Governors, Federal Reserve System. "Financial Stability Report." 2020 and prior years.

instability in the financial system due to losses experienced by banks and investors, along similar lines to the ways the subprime mortgage meltdown stressed the financial system in 2008.[23]

Shareholder primacy and short-termism: The over-focus on short term shareholder value and re-orienting corporate strategies to boost short-term stock prices as the preeminent corporate mission sacrifices other important stakeholders, primarily workers and the public, to facilitate wealth accumulation by shareholders.[24] It has led companies to cut costs, including labor costs, reduce capital investments, and increase shareholder payouts.[25] The hostile takeover wave beginning in the 1980s also encouraged companies to severely cut workforces and wages to boost share prices and stave off takeover bids.[26] Professor Gerald Epstein has noted that "there is significant empirical evidence that 'short-termism' and other aspects of financial orientation have negative effects on workers' well-being, productivity and longer-term growth."[27]

Wall Street analysts have even downgraded the ratings of firms that have announced wage increases, punishing firms that give workers a share of the earnings and profits they helped generate. For example, Delta Airlines share price fell nearly 4 percent in 2019 after a stock analyst switched Delta from a "buy" to "neutral" because the company announced wage increases.[28] In 2017, Bank of America Merrill Lynch downgraded Chipotle because it was raising scheduled hours for its staff instead of cutting hours and reducing labor costs, driving the company's share price down 2 percent the next day.[29]

Hyped up shareholder payouts and sky-high executive compensation harm workers and long-term economic capacity: Driven in part by Wall Street demands for returns, shareholder payouts — share buybacks and dividends — have soared in recent years, at the same time as increasing executive compensation through stock-based pay packages. This takes dollars that could be invested in worker wages and benefits, processes and materials to increase productivity, or research and development and puts them in the pockets of shareholders and executives instead.

Share buybacks enable companies to use earnings to artificially boost share prices by buying up shares, reducing the number of shares on the market and increasing the value of each share. Hiking dividends also passes earnings onto shareholders and further heightens shareholder return, which is the gain (or change) in share prices plus stock payouts like dividends.

Share buybacks on the open market were essentially considered market manipulation before a 1982 deregulatory rule change by the Securities and Exchange Commission (SEC),[30] According to an analysis by Erdem Sakinc prepared for Senator Baldwin, in 1981 before the change, "the S&P 500 spent approximately two percent of its profits on buybacks. In 2017, those same companies spent 59

[23] Kaplan, Robert. Federal Reserve Bank of Dallas. "Corporate Debt as a Potential Amplifier in a Slowdown." March 5, 2019.
[24] Epstein (2015) at 8 and 9.
[25] *Ibid.* at 8.
[26] Palladino (2018) at 8.
[27] Epstein (2015) at 12.
[28] Van Voorhis, Scott. "Delta shares dive amid analyst downgrade over rising costs." *The Street.* October 3, 2019.
[29] Frank, Thomas. "Chipotle downgraded by Bank of America on concerns that labor is still too expensive." *CNBC.* October 19, 2017.
[30] 17 C.F.R. § 240.10b-18.

percent of their profits on buybacks."[31] Before the pandemic, total payouts to shareholders by S&P 500 companies (buybacks and dividends) had more than tripled between 2009 to 2017, from about 2 percent of GDP to nearly 7 percent.[32] The 2017 Tax Cuts and Jobs Act (TCJA) set off a particularly massive increase in stock repurchases. The legislation provided major tax cuts and benefits to large corporations, such as a lower corporate tax rate and an incentive to repatriate offshore cash. In the first two months after the tax cut passed, companies on the S&P 500 made nearly $160 billion in share buybacks but only committed $1.5 billion to wage increases.[33] Goldman Sachs noted that share buybacks were the "dominant" source of all demand for stocks in 2019 — far above mutual funds, exchange traded funds, or households.[34] A forthcoming paper from University of Massachusetts economists Lenore Palladino and William Lazonick finds that U.S. companies spent $6.3 trillion on stock buybacks between 2010 and 2019.

When companies divert increasing resources to rewarding shareholders and executives it harms workers and undermines long-term economic growth. University of Massachusetts economist William Lazonick has argued that these shareholder distributions and lavish executive pay have been a driving factor in economic inequality as businesses have shifted from "'retain-and-reinvest' to 'downsize-and-distribute.'"[35]

In this vein, a 2021 American Compass study found that the number of companies that extracted value from their firms including shareholder payouts faster than they invested in new capital expenditures had risen from only 6 percent of companies before 1985 to nearly half (49 percent) of companies in 2017 (based on market capitalization).[36] The study concluded that "the effect of these corporate decisions has been to turn the relationship between the real economy and the financial markets on its head, so that it is now the former that seems to be serving the latter."[37] The rise of debt financing and share buybacks, key elements of financialization, was associated with a 12 percent reduction in the number of workers at the biggest U.S. companies from the mid-1980s to 2008.[38] And a 2020 study found that increasing shareholder primacy is associated with stagnant U.S. wages.[39]

It is also notable that buybacks are increasingly funded by debt, even as amounts that go to buybacks are exceeding amounts being retained for investment. In 2019 Goldman Sachs was projecting close to a trillion dollars in buybacks that year, with increases in buybacks substantially higher than increases in investments in capital, or research and development, and that funding was coming from

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[31] Office of Senatory Baldwin, Tammy. "Reward Work Not Wealth." Senator Baldwin Staff report. 2019 at note 47 at 27.
[32] S&L Financial and Americans for Financial Reform (AFR) calculations. S&P 500 represent firms in the index during the year.
[33] Wartzman, Rick and William Lazonick. "Don't let pay increases coming out of tax reform fool you." *Washington Post*. February 6, 2018.
[34] Matthews, Chris. "Buybacks are the 'dominant' source of stock-market demand, and they are fading fast: Goldman Sachs." *MarketWatch*. November 9, 2019.
[35] Lazonick, William. Brookings Institute Center for Effective Public Management. "Stock buybacks: From retain-and-reinvest to downsize-and-distribute." April 2015.
[36] Cass, Oren. American Compass. "The Corporate Erosion of Capitalism." March 2021 at 1 to 2.
[37] *Ibid.* at 6.
[38] Tomaskovic-Devey, Donald and Ken-Hou Lin. "Financialization: Causes, inequality consequences, and policy implications." *North Carolina Banking Institute*. Vol 167. 2013 at 184.
[39] Palladino, Lenore. "Financialization at work: Shareholder primacy and stagnant wages in the United States." *Competition and Change*. June 2020.

a continuing rise in debt and leverage[40] In 2017, a third of stock buybacks were being financed with borrowed money, and in particular with leveraged loans, contributing to corporate debt being at an all-time high. The growing volume of leveraged loans is a source of instability for the financial system.[41]

The same pattern with regard to shareholder distributions, but on a still greater scale, is evident among financial firms in particular. The six largest systemically significant banks substantially shifted revenues to shareholder distributions, from about 5 percent of gross revenues in 2009 to 35 percent in 2019 — even higher than the peak 25 percent of revenues before the financial crisis.[42]

These distributions have additional implications at banks. Dividend payments distribute capital to shareholders that could instead be used to support the economy, which is especially important during this crisis period. Every credit extension by banks — including forbearance on consumer loans during a period of unprecedented economic shutdowns — is supported either by private capital or by government support from the public. At the end of the first quarter of 2020, when the economic impact of the pandemic was rapidly and disastrously unfolding, big banks committed to paying out some $13 billion in shareholder dividends.[43] By permitting banks to pay out those dividends, regulators were effectively allowing banks to transfer funds to wealthy shareholders and leaving the public purse to fill in the gaps. U.S. banking regulators proposed a new rule during the pandemic that would have the effect of facilitating bank capital distributions during the crisis period.[44]

The $265 billion the biggest banks diverted to shareholders during 2018 and 2019 could have been available to support trillions in additional lending to aid the economy during the pandemic. Allowing big banks to pay record levels to wealthy shareholders while providing public support to these banks during the pandemic is a striking example of privatizing gains and socializing risks and losses. During good times, banks and other companies can shift all their profits to shareholders but during economic crises they receive public support.

Although the proponents of shareholder primacy suggest that everyone benefits from an economy primarily oriented towards the stock market, in addition to draining resources from other investments which would benefit workers and the long-term health of a firm, the overwhelming majority of shareholder benefits go only to the very richest people, and that proportion has been increasing during the age of financialization.

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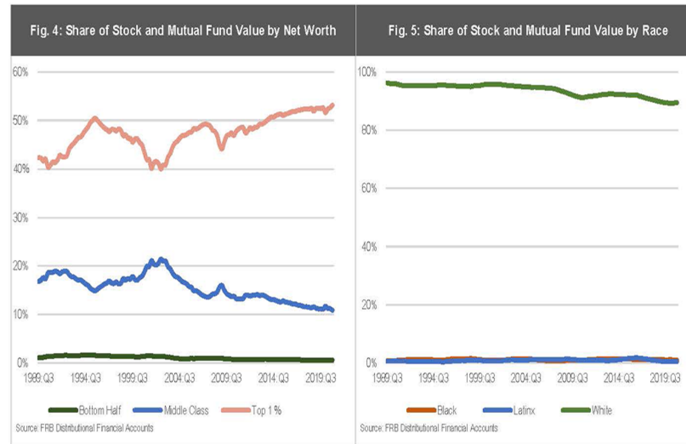
[40] Cox, Jeff. "Companies are ramping up share buybacks, and they're increasingly using debt to do so." *CNBC*. July 30, 2019.

[41] Steven Pearlstein, Steven. "Beware the 'mother of all credit bubbles.'" *Washington Post*. June 8, 2018; Greene, Megan and Dwight Scott, "Do leveraged loans pose a threat to the US economy?" *Financial Times*. February 11, 2019; Chappatta, Brian, "Leveraged-loan protections go from bad to worse." *Bloomberg*. January 24, 2019.

[42] S&L Financial and AFR calculations. The "Big Six" banks are the six largest systemically significant U.S. banks -- JP Morgan Chase, Bank of America, Morgan Stanley, Goldman Sachs, Citigroup, and Wells Fargo

[43] Represents dividend payments for Q1 2020 by banks with over $250 billion in assets, from their quarterly earnings. Specific banks are the Big Six (Bank of America, Citigroup, Goldman Sachs, JP Morgan Chase, Morgan Stanley, and Wells Fargo) plus Bank of New York Mellon, Capital One, PNC Financial, State Street, Truist Financial, and U.S. Bankcorp.

[44] 12 CFR 324.2. March 20, 2020.



Policy makers and the press often confuse the health of the stock market with the health of the economy, but the wealthiest top 1 percent of households control more than half of all stock market and mutual fund value, the middle class (families in the 50th to 90th percentile of household wealth) hold only 11 percent of this value and the remaining half of households combined hold only 1 percent of stocks and mutual funds (see Figure 4).[45] Black and Latinx families have received almost none of the increase in stock market value. These Black and Latinx families hold only 1 percent of the stock and mutual fund value, a figure that has not budged in 30 years (see Figure 5).[46] To put this in perspective, if the value of the stock market rises by $1 trillion, each of the richest 1 percent of households gain $414,000 while each of the families in the remaining half half get only $156.

This wealth inequality has also been heightened by the extraordinary levels of executive pay. The highest paid corporate executives have been getting richer from reorienting their companies to boost short-term stock prices instead of long-term investments.[47] Executives now receive the bulk of their compensation from stock awards and stock options — often more than 80 percent — which incentivizes them to take actions to bump share prices for their own benefit.[48] In 2018 research from then SEC Commissioner Robert Jackson showed that "executives personally capture the benefit of the short-term stock-price pop created by the buyback announcement."[49] A 2020 paper by

[45] Federal Reserve Board (FRB). Distributional Financial Accounts.
[46] FRB. Distributional Financial Accounts.
[47] Dünhaupt, Petra. Berlin Institute for International Political Economy. "The effect of financialization on labor's share of income." Working Paper No. 17/2013. 2013 at 8.
[48] Lazonick, William. "Profits without prosperity." *Harvard Business Review*. September 2014.
[49] Securities and Exchange Commissioner Jackson Jr., Robert J. Jackson. [Speech]. "Stock Buybacks and Corporate Cashouts." June 11, 2018.

Palladino similarly found that corporate insiders like executives are more frequently selling their own shares and profiting during corporate buybacks.[50]

When executives decide to buy back shares, it effectively increases not only the company's share price but also their own compensation and the value of their own stockholdings.[51] The TCJA tax cut proceeds were used for shareholder payouts, and at the same time a substantial portion of the corporate tax cut benefits went to the most highly-paid executives. A 2021 study by a Grinnell College economist found that upwards of one-fifth of the corporate tax breaks were dedicated to hiking compensation for the five most highly paid executives at a firm.[52]

Executive compensation has reached extraordinarily high levels and has risen faster during the financialization era and massively outpaced growth in workers' salaries and wages. The gap between CEO pay and typical workers' earnings has gone up 10-fold over the past 50 years. In 1978, the CEO-worker pay ratio was 31-to-1, but by 2019 it reached 320-to-1 according to the Economic Policy Institute.[53] At least 50 S&P 500 companies paid their CEOs more than 1,000 times more than typical workers in 2019.[54] In 2019, CEOs received average realized compensation of $21.3 million, a $2.6 million pay increase over 2018.[55]

During the pandemic, executive compensation continued to soar even as tens of millions of workers lost their jobs, contributing further to increasing economic inequality. Executives at companies like Boeing and Hilton Hotels slashed jobs and took substantial corporate losses but still took home over $21 million and $55 million, respectively.[56] Executives at 18 companies received a combined $135 million weeks before they declared bankruptcy in 2020 and laid off tens of thousands of low-wage workers, most earning less than $29,000 annually.[57] Former Labor Secretary Robert Reich described the executive payouts during and economic catastrophe as "the logical consequence of our total embrace of shareholder capitalism, starting with the corporate raiders of the 1980s, to the exclusion and sacrifice of all else, including American workers."[58]

3) Financialization drives economic and racial inequality

The growth of the financial sector, and Wall Street's increasing impact on our national economy, is a central driver of America's persistent and growing economic and racial inequality. The past three decades have seen a massive upward redistribution of wealth in this country coinciding with the

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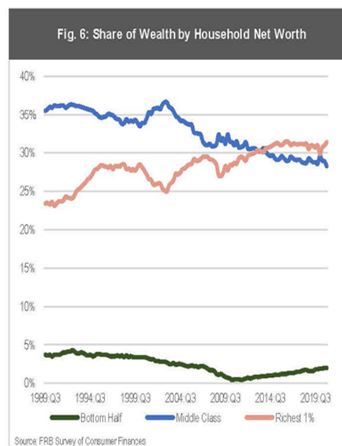
[50] Palladino, Lenore. "Do corporate insiders use stock buybacks for personal gain?" *International Review of Applied Economics*. Vol. 34, Iss. 2. 2020.
[51] Epstein (2015) at 8.
[52] Ohrn, Eric. Grinnell College Department of Economics. "Corporate Tax Breaks and Executive Compensation." February 2021.
[53] Mishel, Lawrence and Jori Kandra. Economic Policy Institute. "CEO Compensation Surged 14% in 2019 to $21.3 million." August 18, 2020.
[54] Anderson, Sarah and Sam Pizzigati. Institute for Policy Studies. "Executive Excess 2019: Making Corporations Pay for Big Pay Gaps." September 2019.
[55] Mishel and Kandra (2020).
[56] Gelles, David. "C.E.O. pay remains stratospheric, even at companies battered by pandemic." *New York Times*. April 24, 2021.
[57] Bhattarai, Abha and Daniela Santamariña. "Bonuses before bankruptcy: Companies doled out millions to executives before filing for Chapter 11." *Washington Post*. October 26, 2020.
[58] Gelles (2021).

increasing financialization of the economy. The rise in financial extraction, cost cutting-driven layoffs and wage suppression to boost stock prices, and increases in Wall Street and other executive pay has reduced the earnings and wealth accumulation of working families and driven a bigger wedge between the haves and have-nots.

Since 1989, there has been a great transfer of wealth ownership from the middle class (families in the 50th to 90th percentile of household wealth) to the very wealthy top one percent of households (see Figure 6).[59] The share of nation's wealth held by the middle class shrank over this period by one-fifth, dropping from 35 percent (slightly less than their 40 percent share of households) to 28 percent. Families in the bottom half of the wealth distribution (50 percent of all households) started with very little wealth, and have seen their share of the nation's wealth cut in half, dropping from about 4 percent to only 2 percent of the nation's wealth.

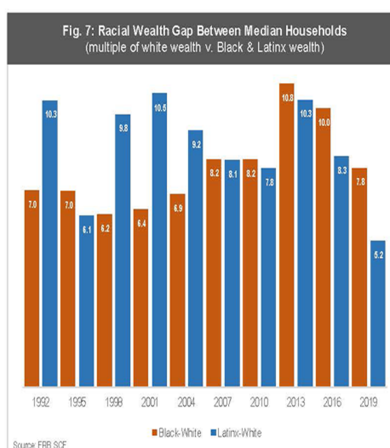


The great beneficiaries of this change have been the top 1 percent of wealth holders — today, those worth over $11 million. This group has seen their share of national wealth grow by more than one-third, from less than one-fourth of the nation's wealth to nearly one-third (23 percent to 31 percent). To put this in concrete dollar terms, over the past three decades the wealthiest 1 percent have gained over $10 trillion in additional wealth by grabbing a greater share of the pie than they had in 1989. This wealth was redistributed from the middle class and the bottom half of families to the very-wealthy over the past three decades.

The tremendous headwind of upward wealth distribution has also contributed to the long-term failure to make progress on America's historic racial wealth inequalities, most notably the Black-white and Latinx-white wealth gap. The gap between Black and white wealth today is essentially the same as it was before the civil rights movement — a depressing failure to make progress on economic equality.[60] Typical white families have had about 8 times the net worth of typical Black and Latinx families for the past three decades (see Figure 7).[61] The typical Black household still has only about one-seventh of the wealth of the typical white household, a ratio that has remained similar for some 60 years.

[59] FRB. Survey of Consumer Finances. 2020.
[60] Kuhn, Moritz, Moritz Schularick, and Ulrike I. Steins. CESifo. "Income and Wealth Inequality in America, 1949-2016." Working Paper No. 6608. June 2018.
[61] FRB. Survey of Consumer Finances. 2020.

Financialization is a big part of the growing gulf between the richest and everyone else. The financial orientation of non-financial firms has led to offshoring, downsizing, layoffs, and wage cuts while rewarding executives and shareholders with ever bigger payouts. The growth in the value of the stock market and other Wall Street holdings means that more of the national income comes from investment earnings that are generally held by the richest households and concentrated amongst the wealthiest 1 percent.[62] A 2013 study by University of Massachusetts-Amherst and University of Texas-Austin professors concluded that "financialization is at its root a system of income redistribution which favors the finance sector over the non-finance sector, financial investments over investments in production, and shareholders and top executives over workers and middle-class citizens."[63]



Another study by the same authors found that the increased reliance on earnings through financial channels — the financialization of non-financial firms — led to 58 percent of the decline of workers' share of national income, 10 percent of the rise in executive compensation, and 10 percent increase in income wage inequality between 1970 and 2008.[64] Another paper by the same authors found that deregulation-driven financialization shifted $6.5 trillion in profits and earnings to the financial sector between 1980 and the 2008 financial crisis which the authors argue was "a tremendous transfer of income and wealth from both households and the real economy to financial sector firms, their owners, and, to some extent, their employees."[65] A 2013 study of 13 advanced economies found that increasing financialization, especially through short-termism and increased financial activities of non-financial firms, had a significant negative impact on workers' share of economic output and income.[66]

Other studies have found that simply the surging size of the financial industry has exacerbated inequality. A 2018 paper found that a larger financial sector measured as a share of value-added in the economy was associated with more wealth going to the richest 1 percent and with higher income inequality.[67] A 2020 paper by economists from Bucknell University and the University of Siena

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[62] Huber, Evelyne, Bilyana Petrova, and John D. Stevens. Luxembourg Income Study. "Financialization and inequality in coordinated and liberal market economies." LIS Working Paper No. 750. September 2018 at 8.
[63] Tomaskovic-Devey and Lin (2013) at 191.
[64] Lin and Tomaskovic-Devey (2013) at 1310 to 1313.
[65] Tomaskovic-Devey and Lin (2013) at 177.
[66] Dünhaupt (2013) at 17.
[67] Huber, Petrova, and Stevens (2018) at 8.

found that increasing the share of people working in the financial sector by 1 percentage point increased income inequality by between 0.25 percent and 0.5 percent (measured by the Gini index) which in turn was associated with greater concentration of wealth in financial assets.[68]

The financial industry also contributes to wealth inequality through exploitative financial products and contracts. The profusion of predatory mortgage contracts, many of which were designed to strip home equity from consumers rather than offer a reasonable and affordable loan product, was at the heart of the 2008 financial crisis.[69] Predatory lending ranging from high-interest payday and car title loans to overdraft fees, continues to strip billions of dollars from low- and moderate-income consumers each year, and to trap people in debt. These high-cost lenders — some of them owned by Wall Street firms — target people with low wages or incomes, and profit from the fact that they do not earn enough to make ends meet.[70] After wages are negatively impacted by financialization, some workers are penalized again by abusive financial practices. These household debt traps make it much harder for lower-income families to build wealth and disproportionately target Black and Latinx families.

Wall Street also takes a bite out of working people's savings. Compensation structures which pay professionals giving investment "advice" more for putting clients in higher fee, lower return, or riskier products transfer billions of dollars a year from working people saving for retirement, or to fund buying a home or paying for their children's education to Wall Street intermediaries. In 2015, the Council of Economic Advisors estimated that in the space regulated by the Department of Labor (just one slice of the market) these kinds of conflicts of interest cost everyday, small-scale investors some $17 billion a year in additional fees or lower returns.[71]

4) Wall Street and consolidation

The financial industry has gotten bigger and much more consolidated over the past several decades, but Wall Street has also been a key player facilitating and promoting mergers and consolidation in the rest of the economy. An increasingly concentrated economy makes it easier for larger and interconnected businesses to extract value, leaving workers and consumers with less, and further exacerbating economic inequality. Market consolidation is also related to financialization-driven short-termism, with more concentrated industries increasing shareholder payouts, share buybacks, and reducing capital investments.[72] Workers and consumers suffer in a more consolidated economy where bigger businesses have more power to impose price hikes, limit wages and worsen working conditions.

Wall Street investors and banks provide the infrastructure for the ongoing wave of consolidation that has swept the U.S. economy. These firms often act as the catalyst and profit centers for mergers and acquisitions, offering not only advisory services to both buyers and targets but also often

[68] Dávila-Fernández, Marwil J. and Lionello F. Punzo. "Some new insights on financialization and income inequality: Evidence for the US economy, 1947-2013." *International Review of Applied Economics*. December 2020.
[69] Financial Crisis Inquiry Commission. "The Financial Crisis Inquiry Report." January 2011 at Chapter 6.
[70] Standaert, Diane and Delvin Davis. Center for Responsible Lending (CRL). "Payday and Car Title Lenders Drain $8 Billion in Fees Every Year." January 2017; CRL. "Financial Fairness for All." March 2019.
[71] Office of the White House Press Secretary. [Fact sheet]. "Middle Class Economics: Strengthening Retirement Security by Cracking Down on Backdoor Payments and Hidden Fees." February 23, 2015.
[72] Palladino (2018) at 15 to 16

underwriting the financing necessary to complete the takeovers. Merger services provided by investment and commercial generate significant fees for the financial firms. In 2019, M&A advisory fees reached $30 billion.[73] Even during the pandemic, Wall Street merger fees shot up to $45 billion in the first nine months of 2020, exceeding the peak before the financial crisis.[74]

Financial firms fee-generating involvement in takeovers effectively encourages and promotes more mergers. A 2004 paper by MIT economists found that optimistic merger analysts were more able to finalize mergers, which created conflicted incentives to promote mergers to capture advisory fees.[75] A 2007 paper by Drexel University and Arizona State University economists found that investment bank merger advisors have conflicts of interest to promote merger completion — both because of fees and to maintain clients — and optimistic analyst recommendations are "a significant contributor to merger completion."[76]

A 2001 study by a University of Cambridge economist found that bank advisory market share was associated with higher M&A fees and increased likelihood of deal completion.[77] In the first nine months of 2020, the five biggest banks — JPMorgan, Goldman Sachs, Bank of America, Morgan Stanley, and Citigroup — captured one third of the M&A advisory fees totally nearly $20 billion.[78]

Private equity firms have supercharged the recent wave of consolidation by financing nearly half of all U.S mergers. Private equity deals were less than one fourth of all North American mergers in 2009 (23.9 percent) but rose to nearly four in ten deals by early 2019 (39.4 percent).[79] Deals slowed during at least the earlier parts of the pandemic, but private equity takeovers continued to account for about 40 percent of deals in 2020.[80]

Private equity firms also contribute to consolidation because firms in some sectors pursue a strategy of "rolling-up" fragmented industries to increase their market power. The private equity firms use "add-on" deals to purchase multiple competitors of a portfolio company to create a much bigger player in an industry. These add-on deals are now the majority of private equity takeovers, over 70 percent of private equity deals in 2020.[81] These roll-ups have been especially prevalent in healthcare where private equity snaps up many smaller businesses (like ambulance companies, medical practice groups, dermatologists or dental offices) into larger firms that can negotiate for higher prices, charge consumers excessive fees by staying out-of-network (a surprise billing strategy), or offer ancillary

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[73] Platt, Eric. "Wall Street M&A fees drop by more than $500m in 2019." *Financial Times*. January 17, 2020.
[74] Saigol, Lina and Paul Clarke. "Wall street banks net $63 billion in fees in bumper year for M&A and IPOs." *MarketWatch*. October 1, 2020.
[75] Kolasinski, Adam C. and S.P. Kothari. MIT Sloan School of Management. "Investment Banking and Analyst Objectivity: Evidence form Analysts Affiliated with M&A Advisors." August 2004.
[76] Becher, David A. and Jenifer L. Juregens. Drexel University and Arizona State University. "Analyst Recommendations and Mergers: Do Analysts Matter." April 2007 at 4 to 6, 24 and 31.
[77] Rau, P. Raghavendra. "Investment bank market share, contingent fee payments, and performance of acquiring firms." *Journal of Financial Economics*. Vol. 56, No. 2. 2005.
[78] Saigol and Clarke (2020).
[79] Lykken, Alex. Pitchbook. "PE's prominence in the M&A scene continues to grow." August 2, 2019.
[80] Pitchbook reports private equity accounted for an estimated $724 billion in U.S. mergers and an estimated total $1.7 trillion in North American mergers. Femyhough, Wylie and Rebecca Springer. Pitchbook. "US PE Breakdown Q1 2020." April 2021 at 4; Femyhough, Wylie and Rebecca Springer. Pitchbook. "North American M&A Report 2020 Annual." 2021 at 3.
[81] Femyhough, Wylie and Rebecca Springer. Pitchbook. "US PE Breakdown Q1 2020." April 2021 at 5.

services that are not covered by insurance to drive up revenues.[82] For example, the two largest helicopter ambulance firms are private equity-owned, were formed by private equity buying up scores of separate firms, and now control more than half of the national market and routinely "surprise bill" transported patients as much as $30,000 to $40,000.[83]

In addition to promoting consolidation in other sectors, the banking and financial industry itself has become more consolidated. Mergers in the financial sector have left fewer, bigger banks and other financial institutions with more power over the economy. For example, the national deposit share of the top four banks nearly quadrupled from 1995 to 2020 from under 10 percent in 1995 to 35.9 percent in 2020.[84] Banks have merged with brokerages and asset managers as well as expanding their financial businesses into more areas. At the same time, the growth of the private equity industry has created mammoth firms that are now sitting on over $1.5 trillion in dry powder cash reserves dedicated to leveraged buyouts and roll-ups that drive consolidation.[85]

5) Private equity abuses and financial engineering harm real economy, hurt workers

Private equity abuses are emblematic of the corrosive effect hyper financialization can have on workers and the economy. Private equity's predatory practices include debt-funded leveraged buyouts; financial engineering that extracts value from target firms through excessive fees, dividends, and stripping out real estate and other valuable assets; and exploiting regulatory blind spots and tax loopholes like the carried interest rules to shift value and profits from the real economy to Wall Street firms and executives.

Private equity takeovers have been highly lucrative for private equity executives but exacerbate economic and racial inequality by enriching a tiny number of private equity executives while destroying hundreds of thousands of jobs, pushing down on wages and benefits, and worsening working conditions. The top earners at private equity firms are extremely well-paid.[86] In 2020, when tens of millions of workers lost their jobs and millions more struggled to be paid fairly or have working conditions that allowed them to stay safe during the pandemic, nearly 60 percent of private equity partners and managers got a raise on their already substantial compensation.[87] Those at the very top have gotten absurdly rich. The 2021 *Forbes* billionaire list included 40 private equity leaders with a combined net worth of over $200 billion.[88]

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[82] American Medical Association (AMA). Proceedings of the AMA 2019 Annual Meeting. 2019 at 446.
[83] Tozzi, John. "Air ambulances are flying more patients than ever, and leaving massive bills behind." *Bloomberg*. June 11, 2018; Roland, Christopher. "Why the flight to the hospital is more costly than ever." *Washington Post*. July 1, 2019.
[84] AFREF analysis of Federal Deposit Insurance Corporation (FDIC) Statistics on Depository Institutions data. Available at https://www7.fdic.gov/sdi/index.asp. Accessed October 2020.
[85] Espinoza, Javier and Eric Platt. "Private equity races to spend record $2.5tn cash pile." *Financial Times*. June 27, 2019.
[86] Dorbian, Iris. "Compensation spikes across PE as fundraising nears record level, ex-Lariat partner re-activates independent sponsor shop." *PE Hub Wire*. October 30, 2019.
[87] Saacks, Bradley. "Private equity pay revealed: Here's a look at how much people are making, broken down by level of experience and firm size." *Institutional Investor*. October 24, 2020.
[88] Dolan, Kerry A., Jennifer Wang and Chase Peterson-Withorn. "World's billionaires list: The richest in 2021." *Forbes*. April 7, 2021.

This wealth is substantially accumulated at working people's expense. Private equity takeovers pursue aggressive cost-cutting that frequently involves layoffs, offshoring, and wage and benefit cuts.[89] The financial engineering and debt loads imposed on target firms make them more financially precarious. Private equity-owned firms are more likely to slide into bankruptcy and liquidation, costing more workers their jobs and economic security. By raising already sky-high earnings for top executives, financializing a broader swath of the U.S. economy, and destroying family-sustaining jobs, private equity is exacerbating the gulf between the haves and have-nots in America, and increasing economic insecurity for working people.

Nor — despite industry claims — have the pension investors in private equity funds fared particularly well overall, especially more recently. The high fees, high risks, and upon closer examination often indifferent returns have meant that pension fund investments in private equity firms have often failed to outperform comparable public equities. In the last few years, in fact, research increasingly shows that these investments on average have underperformed comparable public equities.[90] The high and often hidden fees that private equity firms charge pension funds erode pension investment and shift money from retirees into the pockets of Wall Street.[91] According to Ludovic Phalippou, Professor of Financial Economics at the University of Oxford's Said Business School, and leading expert in the area "this wealth transfer might be one of the largest in the history of modern finance: from a few hundred million pension scheme members to a few hundred people working in private equity."[92]

The workers at the companies taken over by private equity pay the price for leveraged buyouts and other extraction tactics. First, cost cutting strategies to boost profits are often taken out of workers through workforce downsizing, lowering wages or eliminating raises, reducing benefits like health care and retirement, and eliminating severance payments.[93] Even for workers in unions, some private equity takeovers have forced benefit or wage cuts from workers and occasionally efforts to decertify existing unions or marginalize union workers.[94]

Private equity takeovers are more likely to lead to layoffs than other mergers and acquisitions. A 2019 study by University of Chicago and Harvard economists found that after two years, companies taken over by private equity had cut 4.4 percent more workers than comparable companies that were not taken over.[95] The job losses doubled within five years of private equity takeovers, the authors found in a subsequent study.[96]

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[89] Dmitrieva, Katia. "It might be making inequality worse." *Businessweek.* October 3, 2019.
[90] Sonti, Samir. City University of New York School of Labor and Urban Studies. Prepared for American Federation of Teachers and Americans for Financial Reform Education Fund (AFREF). "Lifting the Curtain on Private Equity: A Guide for Institutional Investors and Policymakers." March 2021.
[91] Phalippou, Ludovic. University of Oxford, Said Business School. "An Inconvenient Fact: Private Equity Returns & the Billionaire Factory." June 10, 2020.
[92] Le, Adam. "Story of the year: The private equity performance debate." *Private Equity International.* December 23, 2020.
[93] Coleman-Lochner, Lauren and Eliza Ronalds-Hannon. "What happens to a company when PE buys it?" *Businessweek.* October 3, 2019.
[94] Applebaum, Eileen and Rosemary Batt. Center for Economic and Policy Research. "A Primer on Private Equity at Work." February 2012 at 20.
[95] Davis, Steven J. et al. "The Social Impact of Private Equity Over the Economic Cycle." January 1, 2019 at 5.
[96] Davis, Steven J. et al. "Private equity, jobs, and productivity." *American Economic Review.* Vol. 104, No. 12. December 2014 at 3958.

During the pandemic, workers at private equity-owned firms could face higher risks. For example, Workers at private equity-owned PetSmart and PetCo reported that they were forced to work without adequate protective equipment in often overcrowded stores and without receiving adequate pay or benefits during the pandemic.[97] All nursing home workers reported a lack of protective equipment during the pandemic, but workers at private equity-backed nursing homes in New Jersey were disproportionately likely to contract and die of coronavirus.[98]

Cannibalizing Newspapers: Private equity firms and hedge funds have bought hundreds of newspapers over the past two decades, accelerating the pressure on an industry roiled by competition for advertising revenue and content from online platforms. Private equity's severe cost cutting has fired thousands of reporters, editors, designers, and printing-press operators to drive revenues and profits.[99] The five largest private equity and hedge fund-backed newspaper chains went from owning 226 daily newspapers in 2004 to 517 in 2020 — 41 percent of all daily papers in the country.[100] The *American Prospect* concluded that "Private equity has been gobbling up newspapers across the country and systematically squeezing the life out of them to produce windfall profits."[101] This has cost thousands of jobs, and also compromised news coverage and local government accountability for thousands of communities that have lost newspapers.

Alden Capital has been called the destroyer of newspapers.[102] Alden slashed two-thirds of the newspaper staff including unionized newspaper guild workers in the first seven years after it took over the Digital First Media newspaper chain.[103] Alden also shifted $900 million worth of newspaper real estate — offices and printing plants — into a separate Alden subsidiary, stripping assets out of the newspaper businesses.[104] Alden decimated the newsroom staffs at major metropolitan papers like the *Denver Post, Orange County Register*, and *San Jose Mercury News* as well as smaller dailies across the country.[105] Recently, Alden has been fending off a billionaire's attempt to buy Tribune Publishing and keep storied newspapers like the *Chicago Tribune* and *Baltimore Sun* independent.[106] Alden is not the only private fund snapping up newspapers, the trend includes the Apollo-backed GateHouse News' $1.8 billion buyout of Gannett, which includes USA Today and a fleet of major and minor dailies across the country.[107]

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[97] Saluto, Michael. "Pet adoption booming amid pandemic but workers accuse retailers of abuses." *The (UK) Guardian*. November 19, 2020; Louch, William. "PetSmart workers ask retailer's private equity owner for Coronavirus protections." *Wall Street Journal*. July 8, 2020.
[98] AFREF "The Deadly Combination of Private Equity and Nursing Homes During a Pandemic." August 2020.
[99] Posner, Michael. "Hedge funds and newspapers: A bad mix." *Forbes*. January 18, 2019.
[100] AFR analysis of the Database of Newspapers. University of North Carolina at Chapel Hill's Center for Innovation and Sustainability in Local Media. Available at https://www.usnewsdeserts.com/; Abernathy, Penelope Muse. University of North Carolina at Chapel Hill's Center for Innovation and Sustainability in Local Media. "News Deserts and Ghost Newspapers: Will Local News Survive." July 2020 at 15 and 35.
[101] Kuttner, Robert and Hildy Zenger. "Saving the free press from private equity." *American Prospect*. December 22, 2018.
[102] Abernathy, Penelope Muse. University of North Carolina at Chapel Hill's Center for Innovation and Sustainability in Local Media. "News Deserts and Ghost Newspapers: Will Local News Survive." July 2020 at 84
[103] Reynolds, Julie. "Meet the vulture who savaged the Denver Post." *The Nation*. April 13, 2018.
[104] O'Connell, Jonathan and Emma Brown. "A hedge fund's 'mercenary' strategy: Buy newspapers, slash jobs, sell the buildings." *Washington Post*. February 11, 2019.
[105] Nocera, Joe. "Imagine if Gordon Gekko bought news empires." *Bloomberg*. March 26, 2018.
[106] Dinsmore, Christopher. "Tribune Publishing sticking with Alden offer for now over bid by Maryland businessman and Swiss billionaire." *Baltimore Sun*. April 14, 2021.
[107] O'Connell, Jonathan. "As Gannett merger nears completion, union claims 'journalism will suffer' under deal." *Washington Post*. November 8, 2019.

Private equity bankruptcies cost jobs: The private equity industry's reliance on leveraged buyouts that burden the takeover target firms with often unsustainable debt loads can — and often do — imperil the finances of portfolio companies and even drive them into bankruptcy. Portfolio firm bankruptcies and liquidations cost workers their jobs and benefits, but also often severance payments, and retirement security as well.

Private equity portfolio firms are much more likely to go bankrupt than firms that were not taken over by private equity. A 2019 California Polytechnic State University study found that 20 percent of the firms taken over by private equity went into bankruptcy — a rate ten times higher than the non-private equity firms.[108] A 2019 Pitchbook analysis found that more than one-eighth (12.1 percent) of private equity takeovers over $500 million between 2016 and 2018 went bankrupt, more than double the 5.4 percent bankruptcy rate for other transactions, which Pitchbook attributed to the tremendously high levels of debt from the leveraged buyouts.[109]

Private equity-driven bankruptcies have led to significant job losses. The highly-leveraged takeover of Harrah's (now Caesar's Entertainment) saddled the casino with $24 billion in debt that drove it into bankruptcy; there were 19,000 fewer workers when it emerged from bankruptcy.[110] Private equity dismantled the Hahnemann University Hospital in Philadelphia, costing 2,500 jobs and eliminating a critical safety net hospital that served a predominantly Black and Latinx neighborhood on the eve of the pandemic.[111]

Eileen Applebaum and Rosemary Batt compared private equity-owned and non-private equity-owned grocery chains and found that private equity LBO debt loads, dividend extraction, and real estate stripping compromised the viability of the 50 supermarket chains taken over by private equity. One chain that went into bankruptcy pushed nearly 15,000 workers out of defined pension plans into 401Ks. Applebaum and Batt's report also found that the publicly traded Kroger kept its debt loads low, and invested in its stores while raising wages for its workers by $500 million while Albertsons, owned by the private equity firm Cerberus, was overburdened with debt and struggled to go public or find a buyer.[112] When Albertsons sought to renegotiate its union contract with the United Food and Commercial Workers in the Washington, DC area, it tried to slough off its

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[108] Ayash, Brian and Mahdi Rastad. California Polytechnic State University. "Leveraged Buyouts and Financial Distress." July 19, 2019.
[109] Dowd, Kevin. Pitchbook. "Are take-private buyouts worth the risk?" April 17, 2019.
[110] Indap, Sujeet. "What happens Vegas ... the messy bankruptcy of Caesars Entertainment." *Financial Times*. September 26, 2017; Morgenson, Gretchen. "Caesars" debt: A game of dealer's choice." *New York Times*. September 13, 2014; "Caesars casinos files for bankruptcy." *Reuters*. January 15, 2015; Harrah's Entertainment, Inc. U.S. Securities and Exchange Commission (SEC). Form 10-K. March 1, 2007 at 8; Caesar's Entertainment Corporation. SEC Form 10-K. February 22, 2019 at 8;
[111] Rush, Mariah. "Hahnemann University Hospital's inner turmoil: A timeline of changes, layoffs, and closing." *Philadelphia Inquirer*. July 1, 2019; "Owners of Hahnemann University Hospital file for bankruptcy protection." *WPVA ABC-6*. July 2, 2019; "Hahnemann University Hospital to close, leaving thousands out of work." *WCAU NBC-10*. June 26, 2019; "Hahnemann's closure will leave medical residents scrambling." *WHYY FM-91*. July 5, 2019.
[112] Appelbaum, Eileen and Rosemary Batt. Center for Economic and Policy Research. "Private Equity Pillage: Grocery Stores and Workers at Risk." Fall 2018.

responsibility to fully fund the pension plan; Albertsons only agreed to fulfill its obligations after the union threatened to strike in 2020.[113]

Private equity and the retail apocalypse: Private equity has had a disastrous impact on the retail industry, driving dozens of firms into bankruptcy, shutting down tens of thousands of stores, and costing hundreds of thousands of jobs nationwide. These layoffs upend the already fragile economic security of the low-paid and often Black and Latinx women who work in retail. Private equity retail shutdowns also undermine local economies when retailers large and small disappear, compromising the future of shopping centers and eroding local sales and business tax revenues.

Many private equity-owned retail chains that have disappeared over the past two decades caused devastating layoffs across the country — like the failures of Payless Shoes, Toys R Us, and the downsizing of Sears/Kmart. Other private equity-driven failures have destroyed popular regional chains like A&P (Northeast), Fred's (Southeast and Midwest), Mervyn's (West and Southwest), and Shopko (Midwest to West).

Large debt loads from PE leveraged buy outs have been major contributors to these bankruptcies, as firms were unable to service them and maintain successful operations. While the private equity firms and executives typically walk away largely unscathed or even profiting from the deals that led to the retailer's collapse, hundreds of thousands of women and people of color in frontline retail jobs have lost their livelihoods, often with no severance and no recourse.

The pandemic is exacerbating the headwinds challenging the brick-and-mortar retail industry, but the extractive private equity business model compromised the economic viability of retailers long before the pandemic. Private equity-owned retailers had slashed over half a million jobs before the pandemic, disproportionately hitting women of color working in low wage jobs.[114] These job losses included an estimated 300,000 women, 101,000 Latinx workers, and 68,000 Black workers based on their share of the retail workforce.[115]

More than half (55.4 percent) of retail bankruptcies since 2015 were at private equity chains. Before the pandemic, from 2015 to 2019, nearly two-thirds (62.5 percent) of retail chains that entered bankruptcy were owned by private equity firms. During 2020, when the pandemic drove a broader retail downturn, nearly two out of five (39.3 percent) of bankruptcies were at private equity-owned chains.[116]

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[113] Gregg, Aaron and Abha Bhattaral. "Safeway workers prepare for strike vote as contract negotiations remain stalled." *Washington Post*. February 29, 2020; Woodfork, Rob. "Union, Safeway reach agreement just hours before planned strike." *WTOP-FM*. March 5, 2020.

[114] AFREF, Center for Popular Democracy, and United for Respect. "Double Exposure: Retail Workers Nationwide Hammered by Combo Crisis of Pandemic and Private Equity." December 2020.

[115] Anderson, D. Augustus and Lynda Laughlin. U.S. Census Bureau. "Retail Workers: 2018." ACS-44. August 2020 at 4.

[116] Analysis of ownership of 175 retail firms that entered bankruptcy from 2015 to September 2020. The retail chain bankruptcies were derived from "Here's a list of 113 bankruptcies in the retail apocalypse and why they failed." *CB Insights*. Research Brief. July 30, 2020; "The running list of 2020 retail bankruptcies." *Retail Dive*. September 14, 2020; Hirsch, Lauren. "Guitar Center files for bankruptcy." *New York Times*. November 22, 2020. This analysis excludes chains on these lists that do not sell merchandise at brick-and-mortar stores such as restaurants, service sector chains, e-commerce, or brand manufacturers and distributors. Ownership based on corporate documents, reports, and filings as well as media reporting and determination from the Pitchbook database.

6) Wall Street uses its political power to shape law and regulation at the expense of workers

The financial industry's economic and political power have fed each other, with vast resources helping it to continue to shape and reshape policy. Financial interests and their allies have a well-funded political and lobbying apparatus that they have used to advance policies that create the structures and dynamics discussed in this testimony. In 2020, for the second presidential election cycle in a row, the financial services industry made more campaign donations than any other specific industry, and was the second largest spender on lobbying (behind health care), according to Center for Responsive Politics data.[117] During 2019 and 2020, Wall Street and financial interests spent $2.9 billion in lobbying and campaign contributions, about $4 million every day and 50 percent more than they spent during the prior presidential election cycle.[118] And these numbers do not even come close to describing the full scope of their policy and political activities, which include "dark money" spending not counted in these amounts, and many activities to influence legislation and regulation which are not reported as lobbying.

Especially since the late 1970s, Wall Street and banking interests lobbied hard to deregulate the financial markets and to fend off consumer and investor protections. Congress, banking and securities regulators, and federal courts went along, eroding structural and consumer protection safeguards in ways that that enabled and emboldened financial firms to expand in size and offer more and more complex financial products.[119] The deregulatory efforts expanded the powers of banks, weakened oversight and safety and soundness protections, allowed banks and financial firms to expand into new businesses and merge banking and other financial products like securities trading and insurance, deregulated Wall Street trading markets, weakened corporate accounting rules, and facilitated the explosion of subprime predatory mortgages and derivatives market in the early 2000s.

The weakened oversight and enhanced room for speculation and concentration they secured led to the 2008 financial crisis.[120] Then, even in the face of those devastating consequences, most of the industry aggressively fought to block the passage or weaken the Dodd-Frank Wall Street Reform and Consumer Protection Act, and have continued to try to chip away at it, as well as to prevent passage of additional or more robust financial reforms since then.

Lobbying to strip away many of the New Deal era banking and securities laws in the late 1990s through the Gramm-Leach Bliley Financial Services Modernization Act of 1999 and the Commodity Futures Modernization Act of 2000 in particular helped to create the too-big-to-fail financial conglomerates that catalyzed the 2008 financial crisis. The commercial banking, investment banking, and insurance industry lobbied for years to eliminate the Glass-Steagall barriers to merging their businesses, spending an estimated $300 million on the effort.[121]

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[117] AFR. "Wall Street Money in Washington: 2019-2020 Campaign and Lobby Spending by the Financial Sector." March 2021 at 21 and 26; AFR. "Wall Street Money in Washington: 2015-2016 Campaign and Lobby Spending by the Financial Sector." March 2017 at 13 and 18.
[118] AFR (March 2021).
[119] Tomaskovic-Devey and Lin (2013) at 170 to 175.
[120] *See* Financial Crisis Inquiry Commission. "The Financial Crisis Inquiry Report." January 2011.
[121] Ridgeway, James. "It's the deregulation, stupid." *Mother Jones*. March 28, 2008; Ritholtz, Barry. "Repeal of Glass-Steagall: Not a cause but a multiplier." *Washington Post*. August 4, 2012.

The industry has often claimed that the deregulation they sought would improve the economic well-being of low- and moderate-income and of Black and Latinx communities. For example, prior to the 2008 financial crisis, industry advocates argued that subprime mortgages would help close the Black-white homeownership gap, and that regulating abusive mortgage practices would harm Black homeowners — a contention that community leaders and housing advocates contested sharply at the time, and that was devastatingly contradicted when millions of families lost their homes and their household wealth in the subprime mortgage meltdown.

Below we outline just a few recent examples of Wall Street lobbying against workers and communities.

Private equity backed chain restaurant firm brags of stopping $15 minimum wage: Roark Capital has focused on restaurant brand chains through its subsidiary Inspire Brands.[122] Inspire held a portfolio of over 20 fast food brands with about 60,000 locations and $14.6 billion in pre-pandemic sales at chains like Sonic, Arby's, Dunkin' Donuts, Hardee's, Buffalo Wild Wings, Jimmy Johns and more.[123] Roark Capital spent $1.2 million on campaign contributions and lobbying from 2017 to 2020.[124] In 2021, Roark's Inspire Brands sent a memo to its workers and franchises saying that it had successfully lobbied to block a $15 an hour minimum wage along with measures in the PRO Act to protect workers trying to form unions from the Biden pandemic stimulus legislation.[125] The Inspire memo stated "We were successfully in our advocacy efforts to remove the Raise the Wage Act, which would have increased the federal minimum wage to $15 and eliminated the tip credit."[126]

Private equity dramatically waters down surprise medical billing legislation: Patients are vulnerable to expensive "surprise" medical bills when they unknowingly receive out-of-network care that insurers will not cover or fully reimburse, leaving patients to cover an often-expensive balance. Private equity firms have driven the rise in surprise billing that threatens the financial stability of vulnerable patients. Millions of people receive surprise medical bills annually and these private-equity imposed bills have worsened the widespread and significant burden of medical debt, which contributes to two-thirds of household bankruptcies.[127] A 2019 Stanford University study found that 43 percent of patients received surprise emergency room and hospital inpatient bills in 2016, a considerably higher proportion of patients than in 2010, and that the cost of those out-of-network bills rose to over $2,000.[128] In 2019, Envision, TeamHealth and other private equity-financed groups

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[122] Hirsch, Lauren. "Do Dunkin' and Arby's go together? Private equity group bets $11 billion they do." *New York Times*. October 30, 2020.
[123] Sorvino, Chloe. "Why fast food's smartest operator is expanding when business is terrible." *Forbes*. July 27, 2020; Hirsch (2020).
[124] Center for Responsive Politics. Open Secrets database. Roark Capital Group for lobbying and campaign contributions 2017 to 2020. Accessed April 2021.
[125] Sirota, David, Andrew Perez, and Walker Bragman. "This fast food giant bragged about killing the $15 minimum wage." *Newsweek*. March 27, 2021.
[126] *Ibid*.
[127] Kliff, Sarah and Margot Sanger-Katz. "Surprise medical bills cost Americans millions. Congress finally banned most of them." *New York Times*. December 22, 2020; Ford, Jonathan. "Private equity has inflated US medical bills." *Financial Times*. October 6, 2019; Himmelstein, David U. et al. "Medical bankruptcy: Still common despite the affordable care act." *American Journal of Public Health*. Vol. 109, No. 3. March 2019 at 431 to 433.
[128] Sun, Eric C. et al. "Assessment of out-of-network billing for privately insured patients receiving care in in-network hospitals." *JAMA Internal Medicine*. August 12, 2019.

spent over $55 million in lobbying and advertising to derail efforts to effectively curb surprise billing.[129] In the face of their lobbying, the legislation that was passed in 2020 left gaps and loopholes that will allow harm to patients, and windfall profits to private equity owned firms, to continue. The provisions did not ban higher out-of-network charges and billing disputes will go to arbitration, what *Bloomberg* called a "win for the [private equity] health care companies."[130] And while the language did cover air ambulances, ground ambulances were excluded from the legislative fix and can still charge surprise bills.[131] Private equity firms began to buy up ambulance companies after the 2008 financial crisis and more than 80 percent of ground ambulance trips result in surprise medical bills that can run from $2,000 to $4,000.[132]

Lobbying for tax cuts yields billions in profits: During the battle over the 2017 TCJA tax legislation, Business Roundtable lobbying under the stewardship of JPMorgan CEO Jamie Dimon, quadrupled in one quarter to over $17 million.[133] Dimon later bragged that the tax cuts boosted JPMorgan's profits by $3.7 billion.[134] Wells Fargo, a bank mired in repeated scandals like creating fake consumer accounts, got a $3.7 billion bump in profits from the 2017 tax cuts (about 47 times more than the cost of the wage increase it promised to $15 an hour in response to criticisms).[135] In 2017, Wells' CEO promised to use the tax cuts to reward shareholders, telling CNN "is it our goal to increase return to our shareholders and do we have an excess amount of capital? The answer to both is yes so our expectation should be that we will continue to increase our dividend and our share buybacks next year and the year after that and the year after that."[136] A few months later, Wells announced a 350 million share buyback, which boosted its scandal-plagued share price.[137]

Lobbying to sustain valuable "carried interest" tax loophole: Private equity firms benefit from provisions of the tax code that apply lower 20 percent capital gains tax rates to the distributions from their investments than they would pay if these earnings were taxed at as ordinary income (where rates top out at 37 percent).[138] This is known as the carried interest loophole, the highest-profile of the tax treatments that benefit the private equity industry. It provides private equity managers an enormous tax break, taxing their earnings below income generated by other types of managers and allows super wealthy private equity executives to be taxed on this income at lower rates than teachers and firefighters.[139] The 2017 tax cut maintained the carried interest loophole for investments held over three years, which include virtually all private equity investments which are

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[129] Dexheimer, Elizabeth. "Blackstone-KKR hidden hand in ad blitz unleashes Washington fury." *Bloomberg*. January 8, 2020; Lewis, Adam. Pitchbook. "PE digs in as battle to end surprise medical bills wages on." March 6. 2020.
[130] Perlberg, Heather and Melissa Karsh. "Private equity dodges worst from surprise-billing crackdown." *Bloomberg*. December 22, 2020.
[131] Kliff and Sanger-Katz (2020).
[132] Webb, Olivia. "Private equity chases ambulances." *American Prospect*. October 3, 2019; Bailey, Melissa. "Ambulance trips can leave you with surprising – and very expensive – bills." *Washington Post*. November 20, 2017.
[133] "U.S. business group lobbying surged as tax reform took shape—report." *Reuters*. January 22, 2018.
[134] Horowitz, Julia. "Jamie Dimon says tax cuts added $3.7 billion to JPMorgan's profit." *CNN*. April 4, 2019.
[135] Grabar, Henry. "All it took for Wells Fargo to raise wages by a buck-fifty was $3.7 billion in tax cuts." *Slate*. December 21, 2001.
[136] DePillis, Lydia. "Why Wells Fargo could be one of tax reform's big winners." *CNN Money*. December 18, 2017.
[137] Wells Fargo & Co. [Press release]. "Wells Fargo & Company announces common dividend and increased common stock repurchase authority." January 23, 2018.
[138] Marples, Donald J. Congressional Research Service. "Taxation of Carried Interest." Report No. R46447. July 9, 2020 at 3.
[139] Rep. Pascrell, William. [Press release]. "Pascrell, Levin, Porter move to close infamous tax loophole favored by Wall Street bankers." February 16, 2021.

typically held more than 5 years.[140] Taxing these earnings as ordinary income would generate between $1.4 billion and $18 billion in revenues annually.[141]

Wall Street and the private equity industry have fought for years to exempt their income from fair taxation. Blackstone's CEO Steven Schwarzman said that defeating efforts to close the carried interest loophole was "a war. It's like when Hitler invaded Poland," although he later apologized for the Nazi analogy.[142]During the 2017 tax cut lobbying frenzy, the private equity industry's main trade association, the American Investment Council (AIC), was "busy pushing for tax reforms that would keep carried interest — the tax-advantaged profit share keeping private equity managers wealthy — in play," according to ***Institutional Investor***.[143] The industry prevailed by keeping the carried interest loophole largely intact in the 2017 tax cuts. The Trump administration National Economic Council director and former Goldman Sachs president, Gary Cohn, attributed the industry's success to private equity's "very large presence in the House and the Senate" and its "really strong relationships on both sides of the aisle."[144] During the 2018 election cycle, AIC backed Republican candidates two-to-one over Democrats after the 2017 tax legislation failed to close the carried interest loophole.[145] As the Biden administration considers closing corporate tax breaks and loopholes including the carried interest loophole, AIC and individual private equity firms are investing in top tier lobbying talent to save their preferential tax treatment.[146]

7) Policy approaches to rebalance the economy towards workers and communities

There is a wide array of policy responses needed to address the causes and consequences of a damagingly Wall Street centric economy, including both legislative and regulatory change. We cannot build a more safe and just economy for working people of all races without reshaping the rules of finance so they better serve the public interest, and insist on more accountability for Wall Street, or without public alternatives to the exclusive control of investment and financial services by Wall Street.

Our policy recommendations assembled in preparation for the new administration lay out many such policies covering financial regulation, consumer protection, and housing.[147] They include a set of levers that de-incentivize speculation and limit financial institutions' ability to pursue predatory strategies that maximize their own short-term profits while trapping people in debt, increasing wealth inequality, undermining racial justice, and threatening the stability of the broader economy. In

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[140] Marples (2020) at 4.
[141] *Ibid.* at 5; Merle, Renae. "What is 'carried interest' and why it matters in the new GOP tax bill." *Washington Post*. November 7, 2017.
[142] Clark, Andrew. "Blackstone billionaire is sorry for Nazi jab against Obama's tax policies." *The Guardian*. August 17, 2010.
[143] McElhaney, Alicia. "Inside the private equity lobby." *Institutional Investor*. November 8, 2017,
[144] Rappeport, Alan. "Trump promised to kill carried interest. Lobbyists kept it alive." *New York Times*. December 22, 2017.
[145] Primack, Dan. "Private equity's lobbying group donates more to Republicans." *Axios*. October 5, 2020.
[146] Schwartz, Brian. "Investment firms, private equity advocacy group hires lobbyists as lawmakers target tax loopholes." *CNBC*. March 8, 2021.
[147] AFR. "Issues and Recommendations for a Safe and Just Financial System." November 2020; AFR. "AFR Consumer Finance Priorities for 2021." December 2020.

addition, we need meaningful campaign finance reform to prevent Wall Street and all corporate special interests from overwhelming public policy debates with lobbying dollars and campaign contributions. And the country needs measures to increase worker power and ability to organize and form unions.

Here we point to a few key items as examples:

Rein in private equity abuses: The Stop Wall Street Looting Act would eliminate tax, securities and bankruptcy law carve-outs that allow Wall Street titans to make billions at the expense of workers, communities and pensions. It would protect jobs and advance economic justice. As written now, Federal law establishes incentives for private equity firms and private equity executives to engage in the very practices that are causing harm. The Stop Wall Street Looting Act would prohibit or eliminate tax preferences that facilitate key predatory practices central to the harm caused by today's private equity business model. It would eliminate the loopholes that make it easier for private equity firms to use leveraged buyouts to profit from destroying American jobs, ban practices that drain value from companies owned by predatory funds, protect investors including pension funds from reckless and deceptive financial managers, and provide more compensation for workers if their employer enters bankruptcy. It would also close the "carried interest" tax loophole and hold billionaire profiteers personally accountable for the damage they do, whether that be to workers or to the environment.

Stop manipulative stock buy backs: Congress should revise rules governing stock buybacks to sharply restrict when they are permitted and when they are assumed to be market manipulation. The Reward Work Act would ban open-market stock buybacks that overwhelmingly benefit executives and activist hedge funds at the expense of workers and retirement savers. It does this by repealing SEC rule 10-b18 which shields companies from manipulation charges when buying back their stock in the open market. The Reward Work Act also reforms corporate governance to empower workers and to give them more of a say in decision-making. The SEC could also take action without statutory change to regulate stock and limit stock buybacks.[148]

Make Wall Street and the super wealthy pay their fair share of taxes: Predatory behavior by financial institutions has redirected wealth to those already at the top. The fact that this wealth is undertaxed further increases inequality and reinforces incentives for financial engineering. This reduction in tax receipts is then used as an excuse for why the United States cannot "afford" a robust safety net. Congress should take action to fairly tax Wall Street wealth and pay for programs that reduce inequality and provide social benefits. They should also take steps to eliminate tax code provisions that encourage financial engineering, which will help rebalance the economy in favor of productive investments. Specific tax proposals include imposing a wealth tax, closing the carried interest loophole and more broadly taxing income from wealth and investments on a par with income from wages, rather than at a lower rate, and instituting a financial transaction tax. Enhanced tax enforcement, including a focus on tax avoidance schemes frequently used by private funds, is also very important.

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[148] Palladino, Lenore. "The $1 trillion question: New approaches to regulating stock buybacks." *Yale Journal on Regulation*. Vol. 36. 2018.

Stop predatory lending: High-cost lending, including pay day, car title, and much overdraft lending traps people in debt, and transfers billions of dollars a year from economically vulnerable people to financial firms. It turns low wages and inadequate incomes into one more opportunity for finance to make money at the expense of people who are economically vulnerable. Many states have passed interest rate limits with overwhelming and bipartisan public support — most often through the initiative process, because industry lobbying and campaign contributions make it so difficult to accomplish through state legislatures. For the same reasons, people in many states remain unprotected, and Congress has thus far failed to take action. Now, even the existing state law interest rate caps are threatened by a 2020 Office of the Comptroller of the Currency (OCC) rule that allows predatory lenders to partner with a bank to evade state laws. Congress should act swiftly to pass the Congressional Review Act Resolution overturning the OCC rule, and then it should pass a Federal interest rate cap, as embodied in the Veterans and Consumers Fair Credit Act.

Improve the regulation of big banks: After the effective reversal of Glass-Steagall restrictions on the activities of mega-banks in the late 1990s, the largest Wall Street banks can use their large asset base to finance the full range of risky financial activities, including private equity and hedge fund speculation and all kinds of securitization and derivatives transactions. We saw the results of this in the 2008 financial crisis, where big banks played a central role in creating the "toxic" mortgage assets that sank the economy. The Dodd-Frank Act toughened regulations of these banks by requiring them to provide more loss-absorbing capital and imposing controls on proprietary trading and funds activities through the Volcker Rule. However, these restrictions were never implemented in a strong enough fashion and were then severely weakened during the Trump Administration. Without strengthening regulation of big banks at the center of the financial system it will be difficult to control the harmful activities they finance and otherwise ensure financial stability.

Develop Public Alternatives: Even when Wall Street predatory practices can be better controlled, private investment for profit will not fully serve critical public needs. We need institutions that make retail banking services available regardless of income. In investment markets, new institutions are needed that make patient capital available for long-term, high road growth strategies, including investments in developing a low carbon economy, addressing systemic discrimination and racial inequality, and creating robust infrastructure and industrial development in every region to enable opportunity. These should be delivered via new public institutions that can provide alternatives for investment and financial services that prioritize public needs. Specific examples include robust Fed accounts, postal banking and measures to encourage and support state and local public banks, and the creation of a Public Investment Bank.

PREPARED STATEMENT OF TREVON D. LOGAN

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APRIL 29, 2021

Chair Brown, Ranking Member Toomey, and the distinguished Members of the Committee, I thank you for inviting me to testify before you today. My name is Trevon Logan and I am a professor of economics at The Ohio State University, where I teach courses in economic history and population economics. As an economic historian whose scholarship is focused on understanding the historical roots of contemporary disparities and inequality, I am honored to provide an overview of the evidence on worker well-being and its relationship to aggregate economic conditions, policy, and the role of the financial system in this relationship.

The COVID–19 pandemic presents us with stark and uncompromising evidence that economic inequality in our country has material consequences for worker well-being and, indeed, the overall functioning of our economy. We must recognize the role that Government has to play in both setting a floor for working conditions, including a minimum wage that tracks the cost of living, ensuring our labor and product markets are competitive, as well as investing in public goods, such as physical and social infrastructure, that boost productivity and produce high-quality jobs. [1]

I would like to emphasize three dimensions in which we should think about economic performance and material well-being. First, we must improve and invest in accurate measurement of the economy and disaggregated, granular information about the well-being of workers and families. Second, trends in inequality and working conditions today bear an uncomfortable similarity to the late 19th and early 20th centuries, where we know worker well-being was poor despite significant economic growth. Third, these present issues of inequality are related to policy, sometimes in unanticipated ways.

Measuring the Economy and Well-Being

Many times we mistake the tenuous relationship between aggregate measures of economic performance and well-being for being more informative than it is—for example, thinking that economic growth, GDP, or well-controlled inflation are evidence of an economy that is operating appropriately and successfully. While such measures are useful in thinking about trends and long-run changes, it is important to stress several fundamental aspects that should give us pause.

First, aggregate measures tell us less than we would like about well-being, even in a general sense. Average income, for example, may be relatively uninformative about measures of well-being such as health, security, and quality of life. We have seen periods of average income and wages increasing while at the same time household well-being in other dimensions declined. This has happened in the U.S. history and is also one of the hallmarks of the early years of the Industrial Revolution more generally. [2] A period of increasing wages but declining health is not unprecedented, and assuming a direct linear relationship between averages in one measure and well-being more generally is often incorrect.

We also have seen stock market returns increasing over the past several months despite increasing precarity in the labor market and as food pantries witnessed unprecedented demand. By one measure our large corporate sector is optimistic and has fully recovered, but by another hunger and starvation are at unprecedented levels. And both can be true simultaneously. An additional example can be seen in something as presumably straightforward as inflation. Economists know well the problems of bias in the CPI, and their impact on Federal expenditures and private

[1] Washington Center for Equitable Growth, "More Than 200 Economists to Congress: Seize 'Historic Opportunity To Make Long-Overdue Public Investments' To Boost Economic Growth", Press Release, April 6, 2021, available at *https://equitablegrowth.org/press/more-than-200-economists-to-congress-seize-historic-opportunity-to-make-long-overdue-public-investments-to-boost-economic-growth/*.

[2] See, for example, Stephen Nicholas and Richard Steckel, "Heights and Living Standards of English Workers During the Early Years of Industrialization, 1770–1815", *Journal of Economic History* 51 (4) (1991): 937–957. Sara Horrell and Jane Humphries, "Old Questions, New Data, and Alternative Perspectives: Families' Living Standards in the Industrial Revolution", *Journal of Economic History* 52 (4) (1992): 849–880. Timothy Cuff, "The Hidden Cost of Economic Development: The Biological Standard of Living in Antebellum Pennsylvania" (2005). Roderick Floud Burlington, Robert W. Fogel, Bernard Harris, and Sok Chul Hong, "The Changing Body: Health, Nutrition, and Human Development in the Western World Since 1700", Cambridge: Cambridge University Press (2011).

expenditures tied to it.[3] What is less appreciated is that households of different types are more exposed to some types of price changes than others.[4] A household in a food insecure environment, with limited transportation options, faces much more exposure to increases in food prices than a household who can more easily shift to bulk buying and substituting to cheaper food options. An average change in prices for all households does not reflect the changes for particular groups.

Second, distribution and short-run changes are particularly important. We saw during this pandemic the need to accurately measure such impacts. We would not know that real personal income grew twice as fast for the top 10 percent of income earners following the Great Recession as for the bottom 50 percent without the Bureau of Economic Analysis' new distributed personal income prototype.[5] We would not have known that more than a quarter of households with children were facing food insecurity this summer without granular information from the Census Pulse survey.[6] We would not have known that Black Americans waited an additional week to receive unemployment benefits, on average, without detailed data collection.[7] And we would not have known that more than a decade of gains made in closing the racial disparities in life expectancy between Black and White Americans was erased in one year of a devastating pandemic.[8] It is critical that we redouble our efforts to collect data that will allow us to understand the ways in which our economy is functioning at a microeconomic way. We have seen a tremendous outpouring of data in light of the COVID–19 pandemic, but at the same time the lack of investment in Government statistical data collection hamstrings our ability to understand all features of our economy.[9]

Third, economists have long understood that quality of work is an important dimension to measure the economy. COVID–19 has exposed the growing reconstruction of what has been termed "factory discipline" by economic historians.[10] Factory discipline is a world in which the manager is a de facto authoritarian. They tell workers when they work, control their conduct on the job, and make sure that they stayed on task. A major distinction in this factory discipline system is that workers were rewarded not just for the output that they produce but also for their conduct on the job. There are large and frequent punishments for even minor infractions, and this does not matter if they are related to output. Some economists view this type of discipline as a failure of the free market system. Discipline designed and implemented to coerce workers into doing more than they would have freely chose, in controlling their conduct in a manner approaching abuse, is not a hallmark of a free market economy, in fact, it is the opposite.

In a coercive framework discipline is profitable because you can force workers to exert more effort than they would otherwise choose. Theoretically, in a competitive market employers must pay a "disgust premium" in order to get workers to subject themselves to the conditions of factory discipline. A "disgust premium" is like haz-

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[3] See Dora Costa, "Estimating Real Income in the U.S. From 1888 to 1994: Correcting CPI Bias Using Engel Curves", *Journal of Political Economy* 109 (6) (2001): 1288–1310. Trevon D. Logan, "Are Engel Curve Estimates of CPI Bias Biased?" *Historical Methods*, 42 (3) (2009): 97–110. Thomas Stapleton, "The Cost of Living in America: A Political History of Economic Statistics", 1880–2000, Cambridge: Cambridge University Press (2009) for historical CPI bias estimates and corrections.

[4] Xavier Jaravel, "The Unequal Gains From Product Innovations: Evidence From the U.S. Retail Sector", *Quarterly Journal of Economics* 134 (2) (2019): 715–783.

[5] Austin Clemens, "New Great Recession Data Suggest Congress Should Go Big To Spur a Broad-Based, Sustained U.S. Economic Recovery", Washington Center for Equitable Growth, March 4, 2021, available at *https://equitablegrowth.org/new-great-recession-data-suggest-congress-should-go-big-to-spur-a-broad-based-sustained-u-s-economic-recovery.*

[6] Diane Whitmore Schanzenbach and Abigail Pitts, "Estimates of Food Insecurity During the COVID–19 Crisis: Results From the COVID Impact Survey, Week 1, April 20–26, 2020", Institute for Policy Research Rapid Research Report, available at *https://www.ipr.northwestern.edu/news/2020/food-insecurity-triples-for-families-during-covid.html.*

[7] Jevay Grooms, Alberto Ortega, and Joaquin Alfredo-Angel Rubalcaba, "The COVID–19 Public Health and Economic Crises Leave Vulnerable Populations Exposed", The Brookings Institution (2020), available at *https://www.brookings.edu/blog/up-front/2020/08/13/the-COVID–19-public-health-and-economic-crises-leave-vulnerable-populations-exposed/.*

[8] Theresa Andrasfay and Noreen Goldman, "Reductions in 2020 U.S. Life Expectancy Due to COVID–19 and the Disproportionate Impact on the Black and Latino Populations", *Proceedings of the National Academy of Sciences* 118 (5) (2021).

[9] See Austin Clemens and Michael Garvey, "Structural Racism and the Coronavirus Recession Highlight Why More and Better U.S. Data Need To Be Widely Disaggregated by Race and Ethnicity", Washington Center for Equitable Growth (2020), available at *https://equitablegrowth.org/structural-racism-and-the-coronavirus-recession-highlight-why-more-and-better-u-s-data-need-to-be-widely-disaggregated-by-race-and-ethnicity/.*

[10] See Gregory Clark, "Factory Discipline", *Journal of Economic History* 54 (1) (1994): 128–163.

ard pay, but instead of being for hazards inherent to the occupation itself (say, a firefighter's risk of harm in preventing the spread of a fire), the premium has to do with the working conditions being relatively intolerable. Now, it has to be true that the disgust premium must be less than the gains that you realize from the increased output. Firms will pay this disgust premium when the amount of fixed capital per worker is high—so it is opportune to industries with extensive capital investment, including automation that must be regularly monitored by workers.

It is important to stress that high levels of fixed capital per worker are consistent with essential worker positions in manufacturing and other industries that could not transition substantially to remote work. We know that essential workers were more likely to be Black Americans, who make up nearly 20 percent of this sector.[11] When we hear stories of extremely long work days with no time for restroom breaks, prohibitions on having a cell phone present on the factory floor, limitations on social interactions with coworkers, and other working conditions that these are modern parts of the discipline in work environments that first appeared with early industrialization.[12] This type of discipline can also manifest itself in the way labor is organized in contemporary settings. The use of part-time work, the increasing number of workers who are part time, and the volatility of shift assignments can lead to significant income volatility and poor working conditions.[13]

What I just said should seem to be inconsistent with other facts about the economy that we generally accept. We know that wages of workers have stagnated, and I just noted that there should be a disgust premium for this type of work settings. Over time, either this premium should increase—leading to higher wages, or the working conditions would significantly improve in these industries. Our evidence points to little improvement in working conditions and little movement in real wages. This implies something else is happening to our labor market. Economists have now coalesced around the rise of labor market monopsony as one reason why wages have stagnated and why we can see both high levels of factory discipline, few protections for workers, and flat real wages.[14]

Labor Market Monopsony

Monopsony is a topic rarely taught in a standard introduction to economics course, but it is playing a large role in the way in which we understand the labor market today. In layperson's terms, monopsony is the exact opposite of monopoly, but it has the same effect of distorting the market in uncompetitive ways. We have a monopoly when one firm supplies a good, and we have a monopsony when one firm demands a good. In both cases, the market is inefficient.[15] How does monopsony work? In a labor market, monopsony decreases wages—there is only one employer—and it can increase inequality and can lower productivity. Moreover, the existing scholarship on monopsony shows it to be particularly powerful in low-wage labor markets, where workers have fewer employment substitutes and where other market frictions could strengthen the effects of market concentration on wages, where both the frictions and market concentration have a disproportionate impact on Black workers.[16]

Recent research shows that labor markets with high degrees of market concentration and few employers per sector have lower wages, and that the rise of market concentration is a better explanation of the stagnation in wages for the past 40

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[11] Molly Kinder and Tiffany N. Ford, "Black Essential Workers' Lives Matter. They Deserve Real Change, Not Just Lip Service", The Brookings Institution (2020), available at *https://www.brookings.edu/research/black-essential-workers-lives-matter-they-deserve-real-change-not-just-lip-service/*.

[12] Michael Sainato, "14-Hour Days and No Bathroom Breaks: Amazon's Overworked Delivery Drivers", *The Guardian*, March 11, 2021, available at *https://www.theguardian.com/technology/2021/mar/11/amazon-delivery-drivers-bathroom-breaks-unions.*

[13] James P. Ziliak, Bradley Hardy, and Christopher Bollinger, "Earnings Volatility in America: Evidence From Matched CPS", *Labour Economics* 18 (6) (2011): 742–754. Bradley L. Hardy, "Black Female Earnings and Income Volatility", *The Review of Black Political Economy* 39 (4) (2012): 465–75.

[14] Given the problems with appropriately measuring CPI, real wages for low-wage workers could not only have stagnated, but they could have declined in the last several decades.

[15] Orley C. Ashenfelter, Henry Farber, and Michael R. Ransom, "Labor Market Monopsony" *Journal of Labor Economics* 28 (2) (2010): 203–10. Sydnee Caldwell and Suresh Naidu, "Wage and Employment Implications of U.S. Labor Market Monopsony and Possible Policy Solutions", Washington Center for Equitable Growth (2020), available at *https://equitablegrowth.org/wage-and-employment-implications-of-us-labor-market-monopsony-and-possible-policy-solutions/*.

[16] Alan B. Krueger and Eric A. Posner, "A Proposal for Protecting Low-Income Workers From Monopsony and Collusion", Policy Proposal 2018-05, *The Hamilton Project* (2018), available at *https://www.hamiltonproject.org/papers/a-proposal-for-protecting-low-income-workers-from-monopsony-and-collusion.*

years when compared to import competition or automation, which are more recent phenomena.[17] There are also studies which look at particular labor markets, such as those for nurses and in the retail sector, which show that wages do not respond in markets with high levels of market concentration, a sign that competition is stymied.[18]

On the other side of the labor market, recent research analyzing millions of job ads finds that many Americans are located in local labor markets where only a few employers posted the majority of job ads.[19] Even more important, as concentration increases, wages decline dramatically, and this effect is more pronounced in rural areas, which are more likely to be dominated by a small number of employers.

How far could this market concentration reach? The following example from the product market would be useful. In 2008, the U.S. Department of Justice approved the merger of Miller and Coors, at the time the second- and third-largest brewers in the United States, and leaving the market with just one large competitor, Anheuser Bush. When the merger was approved, the Department of Justice reasoned that the decreased cost of beer production would outweigh any anticompetitive forces given the increase in market concentration. While beer prices had been on a downward trend before the merger, they increased immediately after the merger by more than 5 percent in the market. Changes in consumer demand for beer or cost increases do not account for this. Rather, with less competition, the two dominant firms can charge higher prices estimated to be roughly 8 percent higher than what would have prevailed absent the merger, all at the expense of consumers.[20]

The analysis of the market effects of mergers after they are approved is still a relatively new area of research in industrial organization, and the analysis that we have is somewhat limited about the impact of mergers on labor demand and the scope for monopsony.[21] At the same time, some basic facts about the role of market concentration and wages are becoming clear. While productivity has continued to increase, the median pay for American workers has stagnated.[22] There is an abundance of research showing that, overall, labor's share of income has declined over time. This is inconsistent with the gains in productivity and a well-functioning labor market, and the wedge between worker productivity and wages is widening.

Workers certainly face a smaller number of employers than before. In the last 30 years small employers have vanished while large companies have become more dominant. Firms with fewer than twenty employees have declined 15 percent as a share of total employment, while firms that have 10,000 or more employees have grown 16 percent in the same timespan. More than a quarter of employment in the United States today is in the largest firms.[23] In the last 15 years market concentration has accelerated. For example, the two largest firms in hardware stores, shipbuilding, tobacco, pharmacies, car rentals, amusement parks, and mattress manufacturing control over 50 percent of their markets. In some high tech sectors the concentration is even more pronounced: the two largest firms in smartphones and social networking control more than 80 percent of the total market. When one factors in local market concentration, which we typically do not estimate, the situation is even more extreme.[24]

Outside of mergers, market concentration, and monopsony itself is the rise of what I term 21st century factory discipline. This new form of discipline is related to what you can do during and even after your employment ends. Employers now

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[17] Efraim Benmelech, Nittai Bergman, and Hyunseob Kim, "Strong Employers and Weak Employees: How Does Employer Concentration Affect Wages?" NBER Working Paper 24307 (2018), available at *https://www.nber.org/papers/w24307.*

[18] Jordan D. Matsudaira, "Monopsony in the Low-Wage Labor Market? Evidence From Minimum Nurse Staffing Regulations", *Review of Economics & Statistics* 96 (1) (2014): 92–102. Arindrajit Dube, Laura Giuliano, and Jonathan Leonard, "Fairness and Frictions: The Impact of Unequal Raises on Quit Behavior", *American Economic Review*, 109 (2) (2019): 620–63. Naomi Hausman and Kurt Lavetti, "Physician Practice Organization and Negotiated Prices: Evidence From State Law Changes", *American Economic Journal: Applied Economics* 13 (2) (2021): 258–296.

[19] Jose Azar, Ioana Marinescu, and Marshall I. Steinbaum, "Labor Market Concentration", NBER Working Paper 24147 (2019), available at *https://www.nber.org/papers/w24147.*

[20] Nathan H. Miller and Matthew Weinberg, "Understanding the Price Effects of the Miller/Coors Joint Venture", *Econometrica*, 85 (6) (2017): 1763–1791.

[21] See Nancy Rose, "Thinking Through Anticompetitive Effects of Mergers on Workers", MIT Working Paper (2019).

[22] Marshall Steinbaum, "Antitrust, the Gig Economy, and Labor Market Power", 82 *Law and Contemporary Problems*, (2019): 45–64.

[23] David Leonhardt (2018). "Big Business, Squashing Small", *New York Times*, June 18, Section A, p. 23 New York Edition.

[24] David Leonhardt (2018). "The Monopolization of America", *New York Times*, Nov. 26 Section A, p. 23 New York Edition.

are not only attempting to control the work environment of today, they are also holding workers to agreements that extend beyond their employment. Examples include noncompete agreements and nonpoaching agreements among franchisees. Both of these can work to depress wages by structurally reducing labor market mobility, where firms compete for workers who have a choice of whom they will provide their labor to. Recent survey evidence shows that one in five workers with a high school education or less are subject to a noncompete agreement. Nonpoaching agreements have also proliferated, and today more than half of all major franchises forbid their franchisees from competing for one another's workers.[25]

New survey evidence shows that noncompete agreements lower workers' earnings and reduce job mobility. Even more alarming is that more granular work shows that if one works in a State with strict NCA laws but lives in a neighboring State without strict NCA laws, the negative effects of the NCAs still hold. Moreover, workers without NCAs can be negatively impacted by workers with NCAs as they have large negative spillovers in the labor market. We now know that NCAs also exacerbate racial wage gaps, accounting for as much as 9 percent of the wage differentials.[26] Workers are not free to search freely for better opportunities to the degree that they were in the past. Discipline within firms still exist, but now the discipline of postemployment options is more prominent than ever, and is related to lower wages.

One particular way in which the financial sector may play a role here is in the rise of passive investing and market segment (common stock) investing in particular. Under the principles of diversification, investors have sought to invest in markets, not companies. Holding shares in a sector fund, for example, make investors relatively agnostic about which particular firm is doing best. With more investors following this line of thought and remaining relatively silent shareholders, the rise of monopsony power drives anticompetitive forces in markets as investors are concerned with the sector as opposed to specific firms. Common stock ownership can enhance the market concentration of firms by diminishing the competitive forces of the market—they can unintendedly lead to more apparently collusive behavior that can lead to both monopsony and duopoly style pricing for consumers.[27]

From Discipline to Worker Freedom

There are solutions to this problem. The first is to understand that antitrust law can and should be applied to the potential labor market impacts of monopsony power via market concentration.[28] Second, we discourage the use of NCAs and nonpoaching agreements, as both of these harm workers and are against the principles of a free market competition. Indeed, recent research has shown that bans on NCAs increase wages overall by more than 2 percent, and for the workers where the NCAs are more common by even more, as high as 15 percent.[29] Despite the coalescence of research on negative effects of NCAs, nearly 80 percent of States have failed to comprehensively study their NCA statutes, leading to a national patchwork of legal environments.

Both Federal antitrust and State NCA law can move us in positive directions, but both of these require investments in items I mentioned at the outset. First, better, broader and more frequent information about workers, wages, and market concentration are needed. We also need to carefully consider the labor market implications of mergers (large and small), and specifically model the potential for market collusion to harm consumers and workers simultaneously. Third, we must begin to think about how the rise of passive investing influences firm competitive decisions, which can give rise to de facto collusion leading to higher prices and lower wages.

A fourth area of focus is to encourage small business development and entrepreneurial activity, the benchmark of market competition and innovation. Our experience from the Paycheck Protection Program shows the ways in which the largest banks have failed small businesses, especially small Black-owned businesses. Black-owned firms faced major delays in securing much-needed PPP funds, and a higher share of Black businesses closed. Part of this is due to many small Black businesses'

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[25] Alan B. Krueger and Eric A. Posner, "A Proposal for Protecting Low-Income Workers From Monopsony and Collusion", (2018).

[26] Mathew Johnson, Kurt Lavetti, and Michael Lipsitz, "The Labor Market Effects of Legal Restrictions on Worker Mobility", Working Paper, The Ohio State University (2020), available at *http://dx.doi.org/10.2139/ssrn.3455381.*

[27] Jose Azar, Martin C. Schmalz, and Isabel Tecu, "Anticompetitive Effects of Common Ownership", *Journal of Finance*, 73(4) (2018): 1513–1565. Lysle Boller and Fiona Scott Morton, "Testing the Theory of Common Stock Ownership", Working Paper, Yale University (2019).

[28] Suresh Naidu, Eric Posner, and E. Glen Weyl, "Antitrust Remedies for Labor Market Power", 132 *Harvard Law Review* 537 (2018).

[29] Lipsitz, Michael, and Evan Starr, "Low-Wage Workers and the Enforceability of Noncompete Agreements", Forthcoming, Management Science (2021).

lack relationships with the largest banks, who dominated the PPP market. We now know that that only a third of healthy or stable Black employers had received bank funding in the past 5 years, while more than half of White owned businesses have.[30]

Lastly, we need to stand firm on economic principles of open, fair, and just market competition, which includes both basic protections for workers and protects their ability to freely move to better opportunities in the workplace.

PREPARED STATEMENT OF ANDREW F. PUZDER

FORMER CHIEF EXECUTIVE OFFICER, CKE RESTAURANTS

APRIL 29, 2021

I want to thank Chairman Brown, Ranking Member Toomey, and the Members of the Senate Banking, Housing, and Urban Affairs Committee for giving me the opportunity discuss the "Dignity of Work" an issue near and dear to me and of great importance for American workers and businesses alike.

My name is Andrew F. Puzder. For over 16 years it was my privilege to serve as the CEO of CKE Restaurants, which, during my tenure, owned or franchised over 3,800 restaurants in 45 States and 40 foreign countries employing over 100,000 people internationally, about 80 percent of whom worked in the United States.

The story of how I became CEO is a distinctively American story, and it says a lot about the importance and value of work in our national character.

The Dignity of Work

My father's parents came to our shores from Eastern Europe in the early 1900s in search of a better life—as immigrants have done throughout our history as a Nation. My grandfather was a construction worker until he died during the Great Depression. My grandmother got a job in the janitorial department at Thompson Products to support my dad and his sister after my grandfather's death.

My dad was a WWII combat vet; after the war, he and mom set up their home in a working class neighborhood outside of Cleveland. Dad was a Ford car salesman. Neither he nor Mom had what today we would call an advanced education—I'm not even certain they graduated from high school. But, as a kid, I was always told I could be anything I wanted to be—if I was willing to do the work.

And thank God, I lived in a country where that was true. There was a path to success. For me, it wasn't an easy path. In fact it was an arduous path, but there was a path. In my grandparents' native country, there was not.

As a teenager, I worked at the local Baskin-Robbins scooping ice cream. It's a job where I learned about being part of a team, the importance of showing up on time, being polite and courteous to customers, dealing with things like inventory and product quality and, perhaps most importantly, the personal satisfaction that comes with taking pride in your work.

I can still recall when the franchise owner of that Baskin-Robbins called me into her office, gave me a 10 cent an hour raise (to $1.10), handed me a key, and told me I was now the Assistant Manager. It remains the proudest day of my career. I opened up the place the following day and I'll bet we had the cleanest Baskin-Robbins in America that morning.

That 10 cent raise meant little in real dollars but it was a confirmation that what I did had value, that I could be more than I was, and that where I came from was less important than where I was going. I felt the kind of pride and self-confidence that can keep a person working or in school, striving for success, and off the streets.

Would I have been as inspired to work as hard if I knew I would keep that job regardless of how well I performed? Would I have felt as proud or as self-confident if I got that promotion because of who I was rather than what I did? For those who have never shared the work experience, or any experience where success is not assured and failure is always a possibility, the answer is—unequivocally—No! There is no substitute for earned success.

That was my first experience with the dignity of work.

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[30] This is despite Black-owned firms being significantly more likely to be located in COVID–19 hotspots. See Claire Kramer Mills and Jessica Battisto, "Double Jeopardy: COVID–19's Concentrated Health and Wealth Effects in Black Communities", Federal Reserve Bank of New York (2020), available at *https://www.newyorkfed.org/medialibrary/media/smallbusiness/DoubleJeopardy—COVID19andBlackOwnedBusinesses*. Rob Fairlie, "The Impact of COVID–19 on Small Business Owners: Evidence of Early Stage Losses From the April 2020 Current Population Survey", NBER Working Paper No. 27309 (2020), available at *https://www.nber.org/papers/w27309.*

Over the coming years, I worked my way through college and law school while supporting my small family (a wife and two children) doing just about any job I could find like painting houses, cutting lawns, and busting up concrete with a jackhammer in the scorching St. Louis summer heat. I worked every job I could find as I had no Government or family help to get through college or law school.

And, as I noted, I eventually became a successful lawyer and CEO.

Today, I tell this story to my grandchildren. They seem surprised that their grandpa once worked as a laborer, and that our family once had a different standard of living than the one we enjoy today.

I tell them there's never been another country in the history of the world where a working-class kid like me could have aspired to that level of success with any realistic chance of achieving it. They should understand that, had our family lived in almost any other country, my story—and theirs—would have been very different. Had I been born in a socialist country—the Soviet Union of old, or Cuba and Venezuela of today—the notion of lifting myself up from the working class—more likely the working poor—would either never have occurred to me or, if it had, would have seemed an unachievable dream.

The most gratifying part of my being a CEO was seeing this process repeat itself over and over in our restaurants. Young people, often immigrants or the children of immigrants, would start off working in our restaurants at an entry level position, then eventually become shift leaders or managers, some became franchisees who owned their own restaurants while others used the job to help get them through college or to get the experience required for a different job. Many with dreams of a better life similar to mine.

That's the American Dream. It exists because our free enterprise system inspires a thriving private sector—businesses small and large that create jobs and job opportunities such as the ones I was privileged to hold. When we encourage that private sector, it thrives and creates the kind of opportunities that were open to me. This is why I have always fought for policies that encourage job creation and opposed those that kill the entry-level jobs that America's youth, particularly underprivileged youth, need to get on the ladder of success.

We should never ignore the needs of those living in poverty. I hope that, as a Nation, we never will. But it is also a mistake to ignore the reality that most Americans want to earn their success. For that, we need the jobs private sector businesses create and policies that encourage them to do so.

When we encourage the private sector, entrepreneurs thrive and create the kind of opportunities that were open to me. But we don't have to look back to the 1960s and 70s to see how the economy and public policy impact workers lives.

The Impact of Public Policy

In 2019, for example, the Tax Cuts and Jobs Act, broad-based deregulation and a focus on domestic energy production, inspired American businesses to focus on making a profit and growing. As a result, America experienced the strongest labor market in my lifetime and perhaps ever. The job opportunities, particularly for low-wage and minority workers, were nothing short of historic.

For every month in 2019, the unemployment rate was at or near a 50-year low and lower than the CBO forecast it would be with full employment. In every month there were more job openings than people unemployed and for most months there were over 1 million more job openings than people unemployed.

With employers competing for workers, year-over-year wages rose 3 percent or more every month and rose more for low wage workers than high wage workers. For the first time in decades, it was harder to find blue collar workers than it was to find White collar workers.

As a result, people who had given up and dropped out began flocking back into the labor force. In the fourth quarter of 2019, 74.2 percent of workers entering employment came from out of the labor force rather than from the ranks of the unemployed—the highest share since 1990, when the Government began reporting the data.

With wages rising and good quality jobs abundant, median family income grew to a record high $68,703, an impressive 6.8 percent increase over 2018. It was the largest 1-year increase in median income on record going back to 1967. Household income grew by an even greater 7.9 percent for Black Americans, 7.1 percent for Hispanic Americans, and 10.6 percent for Asian Americans. All record highs as were the new income levels for each of these groups.

As household income grew, the poverty rate plummeted 1.3 percentage points to a 60-year low of 10.5 percent. This was the largest reduction in poverty in over 50 years. The decline in poverty for minorities was even greater. Black poverty fell by 2.0 percentage points, Hispanic poverty fell by 1.8, and Asian poverty fell by 2.8.

With more jobs, higher wages, and declining poverty, income inequality also declined in 2019—and for the second year in a row.

I've discussed these statistics but I can't emphasize enough that there are real people behind the figures—people who felt like their efforts were paying off for themselves and their families, because they were—just as I had felt 50 years before.

This broad based labor market strength was the result of business friendly Government policies and the desire every entrepreneur has to make a profit. It's good to keep in mind that, in free market economies, businesses profit only by meeting the needs of others. Capitalism encourages people to improve their own lives by providing the products or services that other people want at a price they can afford.

Grocery stores are a good example of this dynamic in action. Their shelves are lined with literally thousands of products, each one representing a business or an entrepreneur trying to get your attention and convince you that they have what you want at a price you can afford. It's no surprise that visitors from socialist Nations are astonished by the abundance in our grocery stores.

So, far from encouraging a self-centered outlook, Capitalism is actually a constraint on that evil. Businesspeople cannot succeed unless they look outward and try to understand the needs, desires, and perspectives of their customers. When they do that well and they make a profit, they better their own lives, with the enormous added benefits of creating prosperity and abundance, jobs and incomes, tax revenue and communal goods for society in general.

The reality is that businesses striving for profit benefit society as a whole—and create the jobs that make the dignity of work a reality.

Going forward, I have two primary concerns when it comes to Government policies, job creation and the potential loss of opportunities for working and middle class Americans. First, the impact of what has been called stakeholder capitalism and, second, the Biden administration's current economic policies.

The Impact of Stakeholder Capitalism on Job Opportunities

Today, a major threat to the kind of opportunities that were available to me in my youth comes from what is called "stakeholder capitalism." It is an effort to expand a business' primary responsibility from maximizing returns for its shareholders to addressing the needs of various other so called "stakeholders," such as employees, customers, suppliers, and the community in general.

No discussion of this topic would be complete without at least a reference to Milton Friedman's belief that a business' only social responsibility is to "use its resources and engage in activities designed to improve its profits" consistent with law and "ethical custom."

In other words, businesses must and do attend to the needs of their customers and employees; they can't survive, much less prosper, without doing that. In addition, businesses must and should comply with laws, like environmental regulations, that address and account for social goals that are externalities in the profit/loss equation. The importance of "ethical custom" comes into view especially when businesses operate internationally; American businesses should stay within the limits of American ethics when considering, for example, selling surveillance technology to Chinese companies engaged in oppressing the Uighurs in Xinjiang province.

But Friedman's point was that within those relatively broad limits it is not only permissible for businesses to pursue profit as the primary goal; it is the only way they can fulfill their broader social purpose: creating and broadly distributing wealth and opportunity to our people—the wealth and opportunity that cannot be created other than through profit-driven capitalism, and without which the social goals of the stakeholder capitalists are unachievable.

It's important to examine why the law recognizes the corporate form in the first place—why we have a business structure that exists apart from its owners and how society benefits from that structure.

Corporate ownership exists primarily to facilitate investment. It permits people to start a business, invest in it by purchasing stock and limit their personal liability to the loss of that investment. Assuming shareholders and management abide by the law and respect the corporate formalities, the corporate entity shields investors from personal liability for the broader obligations of the business—such as debts or lawsuits. If the business goes under, they'll lose their investment, but only their investment.

This structure provides tremendous societal and economic benefit by encouraging people to start, invest in, and grow businesses. Faced with high levels of risk, people tend to put their money under the mattress so to speak. If we limit investor exposure to the known risks of business success or failure, they are more likely to invest. In this respect, corporations are the primary risk limiting vehicle for business formation and growth. As businesses grow so do opportunities, jobs, wages, and wealth.

This corporate structure has been overwhelmingly successful in generating investment, broad based economic growth, and prosperity. There is a reason virtually every country, and certainly every prosperous country, allows and encourages the corporate structure.

Because capital investment is a critical component of economic prosperity, the next question is why do people invest in a business?

The answer is profit. The greater the potential for profit—or a return on their investment—the greater the attraction of investment and the greater the associated economic growth.

My biggest concern with stakeholder capitalism is the opportunity costs of trying to turn businesses into engines of social rather than economic progress. When corporations assume or are forced to assume noneconomic obligations and thereby reduce their focus on profit, it reduces the incentive to invest and the capital available for dynamic growth. What that means for the broader community is fewer jobs, poorer paying jobs, reduced innovation, fewer products for consumers, and reduced prosperity in general. In short, lost opportunity.

To be sure, corporations, like all businesses, are engines of economic production, and people need more than just wealth. That is why healthy societies have healthy families, strong religious organizations, flourishing arts, and other social institutions through which people find love, moral clarity, inspiration, and emotional stability. Businesses are not and cannot be the primary agents for meeting those needs. But what they can and will do is provide the wealth which supports the rest of society—if the Government allows the profit motive to do its work.

In reality, corporate focus on private sector profit has played a major role in lifting not only the United States, but humankind itself from centuries of privation and misery to an era of unparalleled prosperity. Over the past 25 years, living standards have improved as annual global output has grown from around $39 trillion to $80 trillion because of "economic freedom underpinned by free-market capitalism," according to the Heritage Foundation's Index of Economic Freedom for 2020. In economically free societies people live longer, are healthier, take better care of the environment, and push scientific innovation further.

If we are to continue to prosper, thrive and create opportunities for people to experience the dignity of work and the benefits of earned success, it is extremely important that businesses retain their focus on business success rather than solving problems better addressed by other social and governmental institutions.

Concerns With Respect to the Biden Administration's Economic Policy

As we emerge from the recession, we will need America's small businesses to reignite labor market growth. Coming out of the last recession, small businesses created nearly two-thirds of all new private-sector jobs. But these are the businesses that were hit hardest by the pandemic's economic lockdowns and they will need to hire (or rehire) enthusiastically to reach the Biden administration's goal of returning the labor market to prepandemic levels of full employment.

So the message the Biden administration is sending to small businesses is extremely important.

This is Job Creation Rule number one: businesses invest in growth and hiring when they can forecast a profit. Unfortunately, the Biden administration's message to American businesses boils down to: "We're going to increase your labor and energy costs, unionize your business whether your employees want it or not, and then over-regulate and over-tax you." That message will not inspire businesses to create millions of jobs.

Let's take a look at that message from the perspective of small businesses.

The Biden administration is clearly committed to increasing labor costs. Take the proposal for a $15 minimum wage. Business owners around the country are considering right now whether to reopen and try to grow their companies—whether to invest more of their money or try to raise money from others—knowing that a very large increase in the price of entry level labor may be coming, making it more difficult if not impossible for them to be profitable. Will that increase make it more or less likely that they will invest?

Small businesses also see energy costs increasing as the Biden administration ramps up its efforts to limit carbon emissions, including the cancelation of the Keystone XL oil pipeline and suspending the issuance of oil and gas permits on Federal lands. This will mean increased transportation, heating and cooling costs, not to mention increased prices at the pump reducing consumers' spendable cash.

Then there are proposals to change the nature of the employer/employee relationship which could overturn whole models of doing business. The House has already passed the Protecting the Right to Organize Act, which, among other things, would expand the "joint employer" doctrine making it easier to unionize hundreds of thou-

sands of small, franchised, and gig economy businesses by deeming franchisors "joint employers" of their franchisees' employees and converting independent contractors into employees. The Department of Labor has already moved to expand the "joint employer" definition.

The restaurant chain I ran consisted mostly of franchised stores. I don't believe our model could survive if the corporate entity were made jointly responsible for the franchisees employees. Why would we, or our franchisees, have invested in business and job growth if it seemed likely that the Government was going to outlaw our business model?

Small businesses are also factoring in a deluge of unfriendly business regulations when contemplating growth. To implement Green New Deal—even Green New Deal Lite—policies alone, small businesses are anticipating a regulatory onslaught.

Finally, there are tax increases. Treasury Secretary Janet Yellen recently acknowledged that tax rates could increase on corporations, individuals, capital gains, and dividends. The tax hikes are coming and small business owners know their customers will have less to spend and that a good chunk of any profits they manage to earn will go to the taxman.

So what are many small businesses and entrepreneurs thinking right now? The economy is likely to see a surge based on pent up consumer demand and Government spending. There will be an opportunity for profit in the short term, but higher costs, more regulations, and tremendous uncertainty are just over the horizon. If I were still in business, I would be concentrating on making money while the Government spending lasts, and save it rather than invest in expansion under conditions where it's likely the return on investment will not be there.

Business owners know that eventually they are going to have to operate in a normalized environment without massive government spending.

In fact, given the tremendous uncertainty the government is creating with all these proposals that are so costly for business, I'm not even sure how a small business owner or investor could calculate the likely return on investment. What will labor and energy costs be 2 years from now? How much money will consumers have to spend? What is going to happen with inflation? With all those unanswered and unanswerable questions, it's better to invest passively rather than in business growth.

Conclusion

The dignity of work is dependent on the availability and quality of the private sector jobs investors, entrepreneurs, and business managers create. Without those opportunities, the American Dream becomes an impossible dream for young workers such as I once was and as many working class and minority youths are today.

Due to the pandemic, they have just experienced a lost year, one they will never get back. We need policies that work and help recreate the historic prepandemic labor market conditions that so successfully and broadly expanded opportunities. It is our responsibility to pursue policies that encourage job growth and empower these young Americans to realize their potential and earn their success.

We know what works.

Thank you.

PREPARED STATEMENT OF VIVEK RAMASWAMY

FOUNDER AND EXECUTIVE CHAIRMAN, ROIVANT SCIENCES

APRIL 29, 2021

Personal Background

My name is Vivek Ramaswamy, and I would like to thank you for inviting me to share my perspectives on this important set of issues. By way of personal background, I am from southwest Ohio. I studied biology in college and spent nearly 7 years as a biotech investor at an institutional investment firm. For three of those years, from 2010 to 2013, I attended law school while continuing to work as an investor. In 2014, I left my role as an investor to found a biopharmaceutical company which I led as CEO from May 2014 through January 2021. I have also cofounded two technology startup companies.

I serve on the board of directors of two nonprofit organizations—the Philanthropy Roundtable and the Foundation for Research on Equal Opportunity. Starting one year ago, I began publishing op-eds and speaking publicly about issues relating to capitalism, democracy, and American identity. I have been a public critic of stakeholder capitalism, a topic that is relevant to today's hearing. I am writing a book about some of these topics, which will be published this summer.

Last month, I stepped down as CEO of the company I founded, in part to separate my voice as a citizen from the voice of the company. In today's written and oral commentary, I offer strictly my personal viewpoints as a citizen, not those of any company or organization that I am affiliated with. Thank you in advance for understanding that.

My Perspectives on Corporate Purpose

I will start by sharing my perspective on stakeholder capitalism.

Stakeholder capitalism refers to the idea that companies should serve not only their shareholders, but also other societal interests. Companies across Wall Street, Silicon Valley, and everywhere in between have endorsed stakeholder capitalism. In 2019, the Business Roundtable, which represents many of America's largest corporations, overturned a 22-year-old policy statement that previously said a corporation's paramount purpose is to serve its shareholders. In its place, its 181 members signed and issued a commitment to lead their companies for the benefit of all stakeholders—not only shareholders, but customers, suppliers, employees, and communities. The multistakeholder model is no longer merely on the rise in corporate America. Today it is the arguably the dominant perspective.

On its face, stakeholder capitalism is in tension with the demands of corporate law in many States, which holds that directors and executives of a company have a duty to one master: shareholders. In his famous 1970 essay published by *The New York Times*, Milton Friedman expressed concern that a shift away from shareholder primacy would cause companies to operate less efficiently and to be less profitable, leaving not only investors but also other stakeholders—including workers and consumers—worse off in the end.

I share Mr. Friedman's concerns, but my main problem with stakeholder capitalism is different. My problem is that it strengthens the link between democracy and capitalism at a time when we should instead disentangle one from the other. Stakeholder capitalism, including its allies in the ESG movement, demands that companies and their leaders play a fundamental role in determining and implementing society's core values. But for companies to pursue social causes in addition to shareholder interests, companies and investors must first define what those other societal interests should be. That is not a business judgment. It is a moral judgment.

Speaking as a former investor, a former CEO, and now as a private citizen, I do not want American capitalists to play a larger role than they already do in defining and implementing our country's political and social values. The answers to these questions should, in my opinion, be determined by our citizenry—publicly through debate and privately at the ballot box.

Democratically elected officeholders like yourselves, not CEOs and portfolio managers, should lead the debate about what social values we ought to prioritize over others. Managers of corporations should rightly decide whether to build a manufacturing plant or a research lab; whether to invest in one piece of software or another; whether to promote one aspiring executive or a competitor.

But a democracy should not want or pressure its business leaders to make the moral judgment about whether a minimum wage for American workers is more important than full employment, or whether minimizing society's carbon footprint is more important than raising prices on consumer goods. Investors and CEOs are no better suited to make these decisions than, with all due respect, any Member of this Committee is to make the day-to-day operating decisions of a biotechnology company.

I was a biotech investor for nearly 7 years, and I was a biotech CEO for nearly 7 years after that. I have many personal beliefs on matters that went beyond biotechnology. For example, I'm vegetarian because I believe it is wrong to kill sentient animals for culinary pleasure. But I never banned my employees from eating meat. I had no special standing to legislate my morals as an investor or a CEO, even though I did make corporate decisions about drug development.

Proponents of this new model of capitalism argue that companies will be more successful over the long run in serving shareholders if they also serve societal interests along the way. But if that's true, then classical capitalism should do the job just fine, since only companies that serve society will ultimately thrive, and "stakeholder capitalism" would be superfluous. In my opinion, social activism by companies is often business interest masquerading as moral judgment.

It is puzzling that stakeholder capitalism is now viewed as a liberal idea. Many liberals who love stakeholder capitalism abhor the Supreme Court's 2010 ruling in Citizens United v. Federal Election Commission because it permits corporate money to influence elections and thereby implement corporations' values. In my opinion, stakeholder capitalism is Citizens United on steroids: it demands that powerful com-

panies implement the social goals that their CEOs want to push. Companies should focus on providing goods and services that consumers want, not pushing social values that only a subset of people agree with.

My colleagues in the pharma industry have often asked: does rejecting stakeholder capitalism mean putting profits ahead of patients? My answer to this question is emphatically no—because over the long run, the only way for a pharmaceutical company to be successful is by serving patients first.

But putting patients first also means putting patients ahead of fashionable social causes. It means that we don't care about the race or gender of a scientist who discovers the cure to an important disease, or if the manufacturing and distribution process that delivers a COVID–19 vaccine most quickly to patients is carbon-neutral or not.

Historically, stakeholder capitalism reflects conservative European social thought, which was skeptical of democracy and convinced that well-meaning elites should work together for the common good—as defined by them. In the Old World, that often meant some combination of political leaders, business and labor elites and the church working together to define and implement social goals. But America was supposed to offer a different vision: Citizens—not the church, not corporate leaders, not large asset managers—define the common good through the democratic process, without elite intervention.

Conflicts of Interest

Conflicts of interest lie at the heart of the stakeholder capitalism debate. There are two kinds of conflicts of interest that I will discuss. The first relates to conflicts of interests of corporate executives. The second relates to the conflicts of interest of companies who advocate for the kind of legislation that you may contemplate—for example, legislation to compel more ESG-related corporate disclosures.

Today, corporate law generally defines conflicts of interest in financial terms. Proving that an executive or director of a company has a conflict of interest means proving that the director has a financial interest that runs contrary to the interests of the corporation on whose board he or she serves. For example, if you serve on the board of a company, but that company is also a major customer of another firm that you own, then that's a financial conflict of interest that may disqualify you from making an impartial business judgment.

But suppose you're an ex-politician—one who might want to get appointed to the Cabinet of a Presidential administration or want to run for office again—and you're on the board of a large manufacturer. Now suppose it comes to a decision about whether to shut down U.S. manufacturing plants here in the U.S. and to relocate them to a less expensive country like Mexico. You'll be less popular politically if you support moving the plant to Mexico. That means you have a conflict of interest, even though it's not a strictly financial conflict of interest.

If Board Member A makes a decision to shortchange the company's shareholders by a little bit because of a personal financial conflict, and Board Member B makes the same decision because of a personal reputational benefit, why should the law treat them any differently? In my opinion, it should not.

Maintaining your personal brand or reputation is not the only form of non-financial conflicts of interest. Personal social commitments can be a source of conflict too. Suppose a public company's CEO uses the corporate piggy bank to make a donation to his own high school, or his church. Most people would view this as an improper act, since his high school and his church have little to do with his business.

But what if he uses the corporate piggy bank instead to make a large donation to a climate change organization? Or a specific racial advocacy movement? These causes also have little to do with his business. Yet over the last year, countless executives at companies both large and small have used the corporate piggy bank to donate to precisely these kinds of causes. And they are often lauded as heroes for doing so. They are using corporate resources to derive personal reputational benefit and personal moral satisfaction. That's often as serious of a conflict of interest as many financial ones.

Finally, I would like to point out one other conflict of interest borne by many practitioners and proponents of "stakeholder capitalism." Their visible "do-good" behavior creates a smokescreen that distract investors, employees, and—with all due respect—lawmakers and regulators from more nefarious business practices. Whenever the leaders in a regulated industry ask for greater regulation, the real question is what they hope to achieve for themselves in the process. These are, in my opinion, relevant questions for policymakers to ask. For banks, committing to board diversity is easy; improving evaluation practices for new mortgages is hard. For soda companies, advocating for voting rights is easy; reckoning with the nationwide health im-

pacts of soda consumption is hard. For Silicon Valley titans, disclosing climate-related risks is easy; building a sound business model that ensures privacy and doesn't harvest sensitive user data is hard. For an online retail monopoly, issuing a declaration about racial injustice is easy; treating workers respectfully while maximizing your operating margin is hard. When choosing between accepting constraints on matters that relate to the core of your business versus constraints on matters that are ancillary to your business, self-interested business leaders will generally choose the latter.

ESG Asset Bubble

I worry about the possibility of an ESG-linked asset bubble. In order to understand why, certain factors leading to the 2008 financial crisis are instructive.

The standard explanation for the pre-2008 subprime mortgage bubble was that predatory lenders were greedy sharks who took advantage of the opportunity to make home loans to individual borrowers who weren't very creditworthy. That's why they were called "subprime" mortgages. Prime mortgages were home loans made to people with reasonable creditworthiness. Subprime referred to everything else. Wall Street banks bundled up these different mortgages to reduce risk, then sold them to speculative investors. That bundle is what we call mortgage-backed securities.

But the unsatisfying thing about just blaming greed for the 2008 financial crisis is that it fails to account for the fact that the greediest thing that someone could have done in 2006 and 2007 was also the smartest thing: bet against those mortgages. In retrospect it should have been obvious that many of these subprime borrowers would default on their home loans, and that's exactly what happened. If Wall Street bankers were so greedy, then why did they fail to capitalize on the opportunity? As it turns out, some did.

But an important culprit was upstream of that greed: bad Government policy. Starting in the late 20th century, the U.S. Government embarked on an ambitious policy to drive home ownership in America. The idea of owning a home—as opposed to, say, renting one—was seen as the pinnacle of the American dream. The Government decided to help make that dream come true by creating special categories of loans to spur more home ownership, including among people whose incomes didn't support the value of the homes they went on to buy. In part, that's how quasigovernment, quasiprivate institutions like Fannie Mae and Freddie Mac came into being. The real question isn't why predatory lenders lent money to people who had poor credit scores; it's why bad predatory lenders had all that money to give out in the first place. One answer to that question is Government policy itself.

In my opinion, that ought to be one of our key lessons from the 2008 financial crisis: socially driven economic policy risks creating asset bubbles. And when those bubbles burst, they often end up hurting the very causes whom the original policy was intended to help. That's exactly what happened when the mortgage bubble burst in 2007, especially when that subsequently led to the failure of large investment banks in 2008.

I am not a world expert on these matters. Others are. My reason for bringing it up isn't to offer a history lesson. Rather it's to offer an early warning: if hindsight is 20/20, it's particularly true for asset bubbles.

Morningstar estimates about $50 billion of capital flows into U.S. sustainable open-end and exchange-traded funds in 2020—approximately 10 times more than in 2018 and 2.5 times more than in 2019. According to the United States Forum for Sustainable and Responsible Investment's 2020 report, total U.S.-domiciled assets under management employing ESG (environmental, social, and corporate governance) investing strategies increased 42 percent between 2018 and 2020, up to $17 trillion. This means that ESG-mandated assets now represent 33 percent of the $51.4 trillion U.S. assets under professional management. This composition is only expected to rise, with ESG-mandated assets representing 50 percent of all managed assets in the U.S. by 2025. This is a staggering rise in assets invested behind a socially driven investment strategy. More money going into the same asset class only helps push prices higher. Higher prices mean higher returns for investors in the short run, but it is also a formula for creating asset class bubbles.

Do ESG funds outperform the market? Based upon my review of empirical data while conducting research for my forthcoming book, the answer to this question is unclear at best. Some datasets support ESG investment outperformance; other datasets support the opposite conclusion. The existence of dueling datasets shouldn't surprise anyone. I believe that these so-called "empirical" exercises are often agenda-driven, with preordained conclusions. Fudge factors include which companies to include versus exclude, the relevant time horizon to examine, what benchmark indices to use, and so on. Those are fundamentally subjective decisions, ones often made by people who know what conclusion they wish to reach.

I do not know whether we are in the early stages of an ESG asset bubble. But if we are, then public policies that fuel this bubble could add kerosene to an early fire. I believe we learned as much from the American experience of economic policies to expand home ownership in the 1990s and early 2000s. By using disclosure requirements and other statutory or regulatory mechanisms to favor ESG investments today, we risk creating overinvestment in companies that advance a narrow set of noneconomic agendas. These policies may favor the industry leaders who advocate for them, but that does not necessarily make them good economic policies for America at large. It is worth noting that the fund managers who market these products often earn a hefty fee for doing so—just as subprime mortgage brokers did in the period leading up to 2008.

Furthermore, the average U.S. investor is nearing retirement age or is already in retirement. According to the U.S. Federal Reserve Board's Survey of Consumer Finances, individuals over the age of 45 owned over 67 percent of all U.S. equities over the past 30 years. Most of their stock is held in retirement accounts such as 401ks and IRAs, to which they've spent decades contributing their hard-earned income. Older people don't necessarily want to use their retirement savings to subsidize social causes. Most need the money to live out their golden years and want to have some left over to pass on to their children and grandchildren.

That's not to say that older Americans are greedy. Many tend to be extremely generous. They care about supporting charitable causes, but they prefer to choose them for themselves, rather than leaving it to their mutual fund managers or CEOs of companies that they invest in. According to The Philanthropy Roundtable (whose board I joined last year), older people are more philanthropic because they tend to have more savings, time, and motivation to help others. Charitable giving peaks between ages 61 and 75, when up to 77 percent of households donate. If older people want to support specific social causes, their dollar may go further via a direct contribution to the specific charities and nonprofits that they care about, rather than companies that an expensive fee-charging investment manager happens to like.

Unforeseen Negative Externalities

Stakeholder capitalism creates a negative externality for American democracy. There is a social cost to America's democratic fabric when business elites tell ordinary Americans what causes they are supposed to prioritize and what causes they needn't heed as much. I believe that much of current populist backlash and mistrust in our institutions originates not from the idea that companies pursue the interests of their shareholders, but rather from the idea that companies wield too much social power on normative questions that go beyond the marketplace. Continuing to demand that companies make moral judgements and exercise their social power is likely to fuel greater resentment from America's citizenry towards business and political elites who sidestep open public debate in our democracy to enforce a monolithic social agenda using their market power.

RESPONSES TO WRITTEN QUESTIONS OF SENATOR WARNOCK FROM HEATHER C. MCGHEE

Q.1. *Essential Workers Unionization/PRO Act*—Thank you Mr. Chairman. Last month, this Committee held a briefing where we had a chance to hear directly from various workers, employed in different sectors of our economy, about reforms needed to better protect and strengthen our country's workforce. This hearing continues that discussion. The COVID–19 pandemic has underscored both the importance of unions in giving workers a collective voice in the workplace, as well as the urgent need to reform U.S. labor laws to stop the erosion of union rights. During the crisis, unionized workers have been able to secure enhanced safety measures, additional premium pay, paid sick time, and a direct say, in terms of furloughs and other forms of alternative work-share arrangements to help save jobs. These pandemic-specific benefits build on the many ways unions help workers. Unfortunately, however, while providing "essential" services we rely on daily, many nonunion workers have not been able to secure those same type of benefits. Workers have been forced to work without adequate personal protective equipment; many have no access to paid sick and family leave; and when workers have spoken up about health and safety concerns, some have even been fired.

Can you talk about how unionization would better protect and strengthen our essential worker labor force, and how it would impact our economy?

A.1. The pandemic laid bare the problems with our labor system and how it continues to exploit workers. Unionization would better protect and strengthen our essential worker labor force by giving them the collective bargaining power to make permanent improvements to their lives and livelihoods. Despite facing a pandemic, an economic depression and the ongoing racism and violence against Black communities, tens of millions of workers that we deemed "essential" have been forced to risk their lives for less than $15 an hour, without protective gear or paid sick leave. These workers are mostly low-wage earners and disproportionately women, workers of color, and/or immigrants. We have witnessed firsthand the need for change—more than just expressing gratitude, we need to respect, protect and properly compensate essential workers during covid and beyond.

Improving the wages and protections our essential labor workforce is crucial to this country's economic recovery post-covid. The creation of good-paying union jobs is key to rebuilding our fallen economy. Just 1 in 10 essential workers are represented by a union; percentages are especially low for food, agriculture and health care workers. Passing the PRO Act is just one of the many ways Congress can support working families as they try to dig themselves out of the economic hole that the pandemic created.

Sources: *https://www.epi.org/publication/why-unions-are-good-for-workers-especially-in-a-crisis-like-covid-19-12-policies-that-would-boost-worker-rights-safety-and-wages/*; *https://www.epi.org/blog/who-are-essential-workers-a-comprehensive-look-at-their-wages-demographics-and-unionization-rates/*; *https://www.vox.com/2021/6/16/22535274/poll-pro-act-unionization-majority-bipartisan*; *https://www.americanprogress.org/issues/econ-*

omy/reports/2021/02/03/495406/covid-19-economic-recovery-investments-must-benefit-american-workers/; *https://www.brookings.edu/blog/up-front/2020/09/03/essential-workers-during-covid-19-at-risk-and-lacking-union-representation/*.

Q.2. *Racial Wage Gap/PRO Act*—Thank you Mr. Chairman for holding this important hearing. Last month, this Committee held a briefing where we had a chance to hear directly from various workers, employed in different sectors of our economy, about reforms needed to better protect and strengthen our country's workforce. This hearing continues that discussion. The right to organize and collectively bargain is tied directly to the urgent national conversation around the persistent economic disparities, particularly within our rural and low-income communities of color. Reports have shown that unionized labor and collective bargaining help shrink the racial wage gap, largely because compared to their White brothers and sisters, Black and Brown workers are more likely to have jobs represented by an organized union. And as we know, union workers overall get a larger boost to wages from being in a union than nonunion workers.[1] In fact, an Economic Policy Institute study found that Black workers represented by a union are paid 14 percent more than their nonunionized peers, and Hispanic workers represented by unions are paid 20 percent more than their nonunionized peers. This means that the decline of unionization across this country has played a significant role in widening the racial wage gap over the last four decades, and that more unionized labor could help reverse this trend.

Can you talk about how increasing the unionization of workers can help address the racial wage gap in our country?

A.2. Increasing the unionization of workers can definitely help address the racial wage gap in our country. As far back as reconstruction, there's proof that unions can provide a multiracial coalition of workers with good paying jobs, leaving both White workers and Black workers with working conditions that allowed for class mobility and the foundation of the middle class. The 40-hour workweek, overtime, health insurance, retirement benefits, and increased wages are all benefits that stem from union collective bargaining. Originally, Black workers were left behind, paid lower wages to create a hierarchy that White workers supported because they were treated better. With the formation of multiracial unions, both Black and White workers could reap the benefits of collective bargaining. With racial solidarity, White workers could not be threatened with replacement by lower wage Black workers, and Black workers were no longer second tier as compared to their White counterparts.

However, there's still more work to be done. To this day, workers of color continue to be left behind, by misclassifying employees as independent contractors and through other means. Whole swaths of workers of color are unable to unionize because aggressively anti-union employers currently have the power to interfere. And according to researchers, while the share of workers in a union has di-

[1] *https://www.epi.org/press/union-workers-are-paid-11-2-more-and-have-greater-access-to-health-insurance-and-paid-sick-days-than-their-nonunion-counterparts-policymakers-must-strengthen-workers-ability-to-form-unions/*

rectly tracked the share of the country's income that goes to the middle class, as union density is declining, the portion going to the richest Americans has increased.

That is why we need the PRO Act. The PRO Act restricts anti-union activity coming from employers and attaches civil penalties for employers that break the rules. It also stops employers from misclassifying employees as independent contractors or freelancers, something they often do to prevent those workers from joining unions. Union jobs are a crucial step towards closing the racial gap because union jobs mean consistent work, a livable wage, worker protections, and benefits, all things that workers of color need to build generational wealth. Simply having unionized workers in an industry and/or region raises the standard for nonunion employers operating in the same industry and/or region.

Sources: *https://www.epi.org/blog/three-reasons-why-the-pro-act-wont-destroy-freelancing-or-the-gig-economy/*; *https://www.epi.org/publication/why-workers-need-the-pro-act-fact-sheet/*; *https://www.nber.org/papers/w24587*.

RESPONSES TO WRITTEN QUESTIONS OF SENATOR WARNOCK FROM LISA DONNER

Q.1. *Essential Workers Unionization/PRO Act*—Thank you Mr. Chairman. Last month, this Committee held a briefing where we had a chance to hear directly from various workers, employed in different sectors of our economy, about reforms needed to better protect and strengthen our country's workforce. This hearing continues that discussion. The COVID–19 pandemic has underscored both the importance of unions in giving workers a collective voice in the workplace, as well as the urgent need to reform U.S. labor laws to stop the erosion of union rights. During the crisis, unionized workers have been able to secure enhanced safety measures, additional premium pay, paid sick time, and a direct say, in terms of furloughs and other forms of alternative work-share arrangements to help save jobs. These pandemic-specific benefits build on the many ways unions help workers. Unfortunately, however, while providing "essential" services we rely on daily, many nonunion workers have not been able to secure those same type of benefits. Workers have been forced to work without adequate personal protective equipment; many have no access to paid sick and family leave; and when workers have spoken up about health and safety concerns, some have even been fired.

Can you talk about how unionization would better protect and strengthen our essential worker labor force, and how it would impact our economy?

A.1. The labor movement and unionization has been a critical bulwark in delivering an economy that more broadly shares economic prosperity for everyone. People join unions to improve their working conditions, wages, and benefits such as paid sick days and health coverage that have been essential during the pandemic. As the share of workers in unions has declined, the share of the U.S. national income going to the top 10 percent of earners has increased substantially, according to the Economic Policy Institute. Over the past four decades, the unionized share of the workers has

fallen from 27 percent in 1979 to under 12 percent in 2018, while the share of income going to the top tenth of the earnings doubled to over half of all U.S. income in 2018.[1] Research has shown that higher union density not only raises unionized worker wages but it also buoys the wages of nonunion workers, especially for those without college degrees.[2]

The decline in unionization was driven in part by the increased power and financialization of corporations that prioritized short-term stock performance, as discussed in my testimony. These strategies harmed workers through severe cost-cutting that led to layoffs, offshoring, and wage and benefit cuts.[3] These trends greatly exacerbated economic inequality and racial economic inequality and harms those working families but also the broader economy. As real median household earnings have largely plateaued, families have less disposable earnings to spend in a consumption-driven economy. Many families have resorted to high-cost debt to cover expenses and purchases as an increasing share of the national earnings have been diverted to the richest households. The economic inequality harms the economy by stifling overall consumption and demand, encouraging companies to pursue rent-seeking and monopolistic strategies that raise prices and reduce economic efficiency, and allowing wealthy families to hoard educational and economic opportunities that hinders talent and innovation.[4] As Nobel Laureate Joseph Stiglitz has noted that "greater equality and improved [overall] economic performance are complements."[5]

Q.2. *Racial Wage Gap/PRO Act*—Thank you Mr. Chairman for holding this important hearing. Last month, this Committee held a briefing where we had a chance to hear directly from various workers, employed in different sectors of our economy, about reforms needed to better protect and strengthen our country's workforce. This hearing continues that discussion. The right to organize and collectively bargain is tied directly to the urgent national conversation around the persistent economic disparities, particularly within our rural and low-income communities of color. Reports have shown that unionized labor and collective bargaining help shrink the racial wage gap, largely because compared to their White brothers and sisters, Black and Brown workers are more likely to have jobs represented by an organized union. And as we know, union workers overall get a larger boost to wages from being in a union than nonunion workers.[6] In fact, an Economic Policy Institute study found that Black workers represented by a union are paid 14 percent more than their nonunionized peers, and Hispanic workers represented by unions are paid 20 percent more than their

[1] Shierholz, Heidi. Economic Policy Institute. "Labor Day 2019: Working People Have Been Thwarted in the Efforts To Bargain for Better Wages by Attacks on Unions". August 27, 2019 at 2 to 3.

[2] EPI. "Unions Help Reduce Disparities and Strengthen Our Democracy". April 23, 2021, at 4.

[3] Epstein, Gerald. University of Massachusetts. Political Economy Research Institute. "Financialization: There's Something Happening Here". Working Paper No. 394. August 2015 at 8.

[4] See Boushey, Heather. "Unbound: How Inequality Constricts Our Economy and What We Can Do About It". *Harvard University Press*: Boston. 2019.

[5] Stiglitz, Joseph. "Inequality and Economic Growth". 2016 at 149.

[6] *https://www.epi.org/press/union-workers-are-paid-11-2-more-and-have-greater-access-to-health-insurance-and-paid-sick-days-than-their-nonunion-counterparts-policymakers-must-strengthen-workers-ability-to-form-unions/*

nonunionized peers. This means that the decline of unionization across this country has played a significant role in widening the racial wage gap over the last four decades, and that more unionized labor could help reverse this trend.

Can you talk about how increasing the unionization of workers can help address the racial wage gap in our country?

A.2. Growing unions are an essential component of redressing America's shameful legacy of racism and racial economic inequality by raising wages and the ability to save and amass household wealth. U.S. labor law has built-in racial bias by exempting domestic and agricultural workers from many important worker protections, disproportionately harming Black and Latinx workers, and some unions have had a problematic history of discriminatory exclusion, but unions today are among the most racially inclusive institutions in the country and union membership significantly reduces (but does not eliminate) both racial income and racial wealth inequality.

Union membership boosts wages for Black and Latinx workers. The Economic Policy Institute found that the racial wage gaps between unionized Black and Latinx workers and White workers are far smaller than for nonunion workers, and that the union wage premium for Black and Latinx workers was bigger than for White workers (with unionized Black workers receiving 15 percent more, unionized Latinx workers receiving 22 percent more, and unionized White workers earning 10 percent more than their nonunion counterparts).[7] A 2016 Center for Economic and Policy Research study found that Black unionized workers had 16 percent higher wages than nonunionized Black workers and far more likely to have employer-sponsored health care coverage and retirement plans (17 percent and 18 percent, respectively).[8]

The White–Black and White–Latinx wealth gap for workers in unions is substantially lower than for nonunionized workers, according to a Center for American Progress study.[9] White workers in unions have five times the household wealth as Black union workers, an unacceptably giant gap but far lower than the 37-fold difference for nonunion workers.[10] White unionized workers have four times the household wealth of unionized Latinx workers but White nonunionized workers have 28-times more wealth than nonunionized Latinx workers.

The big business backed erosion of U.S. labor law has made it easier for corporations to fight unionization efforts, retaliate against workers seeking to form unions, and refuse to bargain in good faith with newly formed unions. Legislation like the PRO Act would begin to restore the balance between workers and employers and make it easier for workers to form unions, which would substantially benefit Black and Latinx workers through higher wages, better benefits, and an improved ability to build household savings

[7] Bivens, Josh, et al. Economic Policy Institute. "How Today's Unions Help Working People". August 24, 2017.
[8] Bucknor, Cherrie. Center for Economic and Policy Research. "Black Workers, Unions, and Inequality". August 2016.
[9] Weller, Christian E., and David Madland. Center for American Progress. "Union Membership Narrows the Racial Wealth Gap for Families of Color". September 4, 2018, at 2.
[10] Weller, Christian E., and David Madland. Center for American Progress. "Union Membership Narrows the Racial Wealth Gap for Families of Color". September 4, 2018, at 2.

and wealth that would begin to redress America's stubborn and immoral racial economic inequalities.

RESPONSES TO WRITTEN QUESTIONS OF SENATOR WARNOCK FROM TREVON D. LOGAN

Q.1. *Essential Workers Unionization/PRO Act*—Thank you Mr. Chairman. Last month, this Committee held a briefing where we had a chance to hear directly from various workers, employed in different sectors of our economy, about reforms needed to better protect and strengthen our country's workforce. This hearing continues that discussion. The COVID–19 pandemic has underscored both the importance of unions in giving workers a collective voice in the workplace, as well as the urgent need to reform U.S. labor laws to stop the erosion of union rights. During the crisis, unionized workers have been able to secure enhanced safety measures, additional premium pay, paid sick time, and a direct say, in terms of furloughs and other forms of alternative work-share arrangements to help save jobs. These pandemic-specific benefits build on the many ways unions help workers. Unfortunately, however, while providing "essential" services we rely on daily, many nonunion workers have not been able to secure those same type of benefits. Workers have been forced to work without adequate personal protective equipment; many have no access to paid sick and family leave; and when workers have spoken up about health and safety concerns, some have even been fired.

Can you talk about how unionization would better protect and strengthen our essential worker labor force, and how it would impact our economy?

A.1. The evidence we now have is that unions provide a great deal of worker protection and improved working conditions. The positive impact of unions still exist, but what has happened in recent decades is the erosion of organized labor in the low-wage labor market. According to the estimates from Henry S. Farber, Daniel Herbst, Ilyana Kuziemko, Suresh Naidu ("Unions and Inequality over the Twentieth Century: New Evidence from Survey Data" forthcoming in *Quarterly Journal of Economics*), the union wage premium has remained remarkably constant from the middle of the 20th century until today. However, those with a high school education or less are now less likely to be union members. The decline in unionization is also related to the increase in income inequality.

Q.2. *Racial Wage Gap/PRO Act*—Thank you Mr. Chairman for holding this important hearing. Last month, this Committee held a briefing where we had a chance to hear directly from various workers, employed in different sectors of our economy, about reforms needed to better protect and strengthen our country's workforce. This hearing continues that discussion. The right to organize and collectively bargain is tied directly to the urgent national conversation around the persistent economic disparities, particularly within our rural and low-income communities of color. Reports have shown that unionized labor and collective bargaining help shrink the racial wage gap, largely because compared to their White brothers and sisters, Black and Brown workers are more likely to have jobs represented by an organized union. And as we

know, union workers overall get a larger boost to wages from being in a union than nonunion workers.[1] In fact, an Economic Policy Institute study found that Black workers represented by a union are paid 14 percent more than their nonunionized peers, and Hispanic workers represented by unions are paid 20 percent more than their nonunionized peers. This means that the decline of unionization across this country has played a significant role in widening the racial wage gap over the last four decades, and that more unionized labor could help reverse this trend.

Can you talk about how increasing the unionization of workers can help address the racial wage gap in our country?

A.2. Unionization in the past, as of, say, the middle of the 20th century, was more concentrated among the less educated and the non-White than today. The precipitous decline of union membership in the private sector has left less educated Black and Hispanic workers less likely to be covered by unions than in the past, and this is directly related to increasing racial/ethnic income inequality. The unionization premium is significant, so coverage among these populations would, by definition, help to close the racial/ethnic wage gap in the United States.

RESPONSES TO WRITTEN QUESTIONS OF SENATOR WARNOCK FROM ANDREW F. PUZDER

Q.1. *Essential Workers Unionization/PRO Act*—Thank you Mr. Chairman. Last month, this Committee held a briefing where we had a chance to hear directly from various workers, employed in different sectors of our economy, about reforms needed to better protect and strengthen our country's workforce. This hearing continues that discussion. The COVID–19 pandemic has underscored both the importance of unions in giving workers a collective voice in the workplace, as well as the urgent need to reform U.S. labor laws to stop the erosion of union rights. During the crisis, unionized workers have been able to secure enhanced safety measures, additional premium pay, paid sick time, and a direct say, in terms of furloughs and other forms of alternative work-share arrangements to help save jobs. These pandemic-specific benefits build on the many ways unions help workers. Unfortunately, however, while providing "essential" services we rely on daily, many nonunion workers have not been able to secure those same type of benefits. Workers have been forced to work without adequate personal protective equipment; many have no access to paid sick and family leave; and when workers have spoken up about health and safety concerns, some have even been fired.

Can you talk about how unionization would better protect and strengthen our essential worker labor force, and how it would impact our economy?

A.1. First, I'd like to note that I am a big believer in the right of employees to join or not join a labor union. However, I am not a fan of compelling workers either to unionize or to join a union. As such, I am not a fan of the so-called PRO Act.

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[1] *https://www.epi.org/press/union-workers-are-paid-11-2-more-and-have-greater-access-to-health-insurance-and-paid-sick-days-than-their-nonunion-counterparts-policymakers-must-strengthen-workers-ability-to-form-unions/*

Senator Warnock's question seems to assume that "unionization would better protect and strengthen our essential worker labor force . . . ." But many workers simply don't see it that way.

In reality, unions have been having a difficult time convincing workers of their value in recent years. The result has been a significant decline in union membership with private-sector union membership down from 24.2 percent in 1973 to 6.3 percent today. Unions have also suffered a number of high profile losses in union election.

For example, in 2014 the United Auto Workers attempted to unionize workers in Volkswagen's Chattanooga, Tennessee, manufacturing plant. Volkswagen's management did not oppose the attempt. "This vote was essentially gift-wrapped for the union by Volkswagen," a Detroit-area labor lawyer told the *Wall Street Journal*.

Nonetheless, the workers voted it down. The Volkswagen workers rejected the union again in 2019.

Workers also rejected unionization in 2017 at Nissan's plant in Canton, Mississippi, and at Boeing's plant in North Charleston, South Carolina.

There are even union issues in far-left California, where in 2018 farm workers rejected a unionization bid by a 5–1 margin. In 2019, hospital workers in Los Angeles voted to decertify their union.

Most recently, the union movement suffered a significant loss in its attempt to unionize employees at Amazon's warehouse facility in Bessemer, Alabama. Of the workers eligible to vote, an embarrassingly small 16 percent voted to join the Retail, Wholesale, and Department Store Union.

Unionization remains an important option for employees and provides an incentive for management not to undervalue the importance of robust compensation for current employees. Nonetheless, it appears that many of today's workers prefer having a good-paying job with a healthy employer over having a union.

As a practical matter unions need to prove their worth to workers if they are to increase membership. They need to demonstrate that unionization can actually "better protect and strengthen our essential worker labor force." So the question is what can unions do to help workers? After all, there is a cost to joining a union—the dues for one thing—and there is a risk that the union will threaten their livelihoods by creating unreasonable and unsupportable demands that disrupt their workplaces.

Private sector unions were strong throughout the 60s and declined quickly thereafter. Why did that happen? I think one reason is that on workplace issues everyone, including the unions, began focusing on governmental policies and laws as the relevant thing for employees. It used to be if you were an employee and wanted protection at the workplace you organized, got a union, and negotiated those protections in a contract that your union participated in administering. Now you hire your own lawyer and go to one of a myriad of Government agencies that protect workers rights or you sue.

At the same time unions began being more and more overtly political, and their politics diverged in important ways from many of the workers they were seeking to represent. They still do.

As reported on the pro-union website Strikewave last October, polling data commissioned by the progressive think tank Data for Progress found that active union members were more strongly Republican (31 percent) than strongly Democrat (29 percent), though a slight majority lean Democrat. Yet, according to OpenSecrets.org, labor organizations contributed a whopping $27.5 million to President Biden's campaign and groups that supported him, while President Trump took in a mere $360,000.

That kind of political bias might be helpful if the unions were trying to organize Harvard professors or the top-level executives in multinational corporations. But it wasn't a plus in Alabama, where Trump got 62 percent of the vote—much of which came from precisely the kind of employees who work in the Amazon warehouse.

Really if unions would focus on demonstrating that "unionization would better protect and strengthen our essential worker labor force" and deliver to employees benefits that are relevant to them in their workplaces they could well begin winning representation elections without further help from the Government—and they would also be of greater help to their people when they did win.

Q.2. *Racial Wage Gap/PRO Act*—Thank you Mr. Chairman for holding this important hearing. Last month, this Committee held a briefing where we had a chance to hear directly from various workers, employed in different sectors of our economy, about reforms needed to better protect and strengthen our country's workforce. This hearing continues that discussion. The right to organize and collectively bargain is tied directly to the urgent national conversation around the persistent economic disparities, particularly within our rural and low-income communities of color. Reports have shown that unionized labor and collective bargaining help shrink the racial wage gap, largely because compared to their White brothers and sisters, Black and Brown workers are more likely to have jobs represented by an organized union. And as we know, union workers overall get a larger boost to wages from being in a union than nonunion workers. [1] In fact, an Economic Policy Institute study found that Black workers represented by a union are paid 14 percent more than their nonunionized peers, and Hispanic workers represented by unions are paid 20 percent more than their nonunionized peers. This means that the decline of unionization across this country has played a significant role in widening the racial wage gap over the last four decades, and that more unionized labor could help reverse this trend.

Can you talk about how increasing the unionization of workers can help address the racial wage gap in our country?

A.2. As for racial income disparities, Senator Warnock's question assumes that "increasing the unionization of workers can help address the racial wage gap in our country." I don't believe it can. It certainly did not in prior years when the percentage of unionized workers was much higher. However, free market economic policies—such as reduced taxes, reduced regulation and a focus on do-

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mestic energy production—can reduce such disparities as they did in 2019 during the Trump administration.

For example, the Census Bureau reported that real median household income grew to $68,703 in 2019, an impressive 6.8 percent increase over 2018. It was the largest 1-year increase in median income on record going back to 1967. It was also 45 percent more growth in a single year ($4,379) than Obama/Biden produced in their entire 8 years in office ($3,021).

The economic benefits were widespread. While the overall growth rate was 6.8 percent, real median income grew by an even greater 7.9 percent for Black Americans, 7.1 percent for Hispanic Americans, and 10.6 percent for Asian Americans. All record highs as were the new income levels for each of these groups thus reducing the income disparity to which Senator Warnock refers.

The poverty rate also plummeted 1.3 percentage points to a 60 year low of 10.5 percent. This was the largest reduction in poverty in over 50 years. It lifted over 4.1 million people out of poverty, the largest yearly decrease since 1966. Just for comparison purposes, over the Obama/Biden era, the number of people living in poverty increased by 787,000.

Minority groups again experienced the largest improvements. While the overall poverty rate declined 1.3 percentage points, Black poverty fell by 2.0 percentage points, Hispanic poverty fell by 1.8, and Asian poverty fell by 2.8. The poverty rate for Blacks fell below 20 percent for the first time (including years in which much higher percentages of workers were unionized). In fact, according to the White House Council of Economic Advisers "the poverty rate fell to an all-time record low for every race and ethnic group in 2019."

With incomes growing and poverty declining, income inequality also declined for the second consecutive year as the share of income held by the bottom 20 percent of earners increased by 2.4 percent.

Private sector union membership declined from 2016 to 2019 from 6.4 percent to 6.2 percent while union membership for blacks declined from 13 percent to 11.2 percent Nonetheless, the wage/income gap also meaningfully declined.

RESPONSES TO WRITTEN QUESTIONS OF SENATOR WARNOCK FROM VIVEK RAMASWAMY

Q.1. *Essential Workers Unionization/PRO Act*—Thank you Mr. Chairman. Last month, this Committee held a briefing where we had a chance to hear directly from various workers, employed in different sectors of our economy, about reforms needed to better protect and strengthen our country's workforce. This hearing continues that discussion. The COVID–19 pandemic has underscored both the importance of unions in giving workers a collective voice in the workplace, as well as the urgent need to reform U.S. labor laws to stop the erosion of union rights. During the crisis, unionized workers have been able to secure enhanced safety measures, additional premium pay, paid sick time, and a direct say, in terms of furloughs and other forms of alternative work-share arrangements to help save jobs. These pandemic-specific benefits build on the many ways unions help workers. Unfortunately, however, while providing "essential" services we rely on daily, many nonunion

workers have not been able to secure those same type of benefits. Workers have been forced to work without adequate personal protective equipment; many have no access to paid sick and family leave; and when workers have spoken up about health and safety concerns, some have even been fired.

Can you talk about how unionization would better protect and strengthen our essential worker labor force, and how it would impact our economy?

A.1. This was outside the scope of my oral testimony. That being said, I have some concerns that unionization may have unintended consequences for businesses, workers, and customers.

Q.2. *Racial Wage Gap/PRO Act*—Thank you Mr. Chairman for holding this important hearing. Last month, this Committee held a briefing where we had a chance to hear directly from various workers, employed in different sectors of our economy, about reforms needed to better protect and strengthen our country's workforce. This hearing continues that discussion. The right to organize and collectively bargain is tied directly to the urgent national conversation around the persistent economic disparities, particularly within our rural and low-income communities of color. Reports have shown that unionized labor and collective bargaining help shrink the racial wage gap, largely because compared to their White brothers and sisters, Black and Brown workers are more likely to have jobs represented by an organized union. And as we know, union workers overall get a larger boost to wages from being in a union than nonunion workers. [1] In fact, an Economic Policy Institute study found that Black workers represented by a union are paid 14 percent more than their nonunionized peers, and Hispanic workers represented by unions are paid 20 percent more than their nonunionized peers. This means that the decline of unionization across this country has played a significant role in widening the racial wage gap over the last four decades, and that more unionized labor could help reverse this trend.

Can you talk about how increasing the unionization of workers can help address the racial wage gap in our country?

A.2. I do not have a perspective on this.

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