S. HRG. 118–808

NOMINATIONS OF JAMES R. IVES, ROSE E. JENKINS, ADAM B. LANDY, AND KASHI WAY

HEARING

BEFORE THE

COMMITTEE ON FINANCE
UNITED STATES SENATE

ONE HUNDRED EIGHTEENTH CONGRESS

SECOND SESSION

ON THE

NOMINATIONS OF

JAMES R. IVES, TO BE INSPECTOR GENERAL, DEPARTMENT OF THE TREASURY; ROSE E. JENKINS, TO BE A JUDGE OF THE UNITED STATES TAX COURT; ADAM B. LANDY, TO BE A JUDGE OF THE UNITED STATES TAX COURT; AND KASHI WAY, TO BE A JUDGE OF THE UNITED STATES TAX COURT

JUNE 4, 2024

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NOMINATIONS OF JAMES R. IVES, TO BE INSPECTOR GENERAL, DEPARTMENT OF THE TREASURY; ROSE E. JENKINS, TO BE A JUDGE OF THE UNITED STATES TAX COURT; ADAM B. LANDY, TO BE A JUDGE OF THE UNITED STATES TAX COURT; AND KASHI WAY, TO BE A JUDGE OF THE UNITED STATES TAX COURT

TUESDAY, JUNE 4, 2024

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

The hearing was convened, pursuant to notice, at 10 a.m., in Room SD–215, Dirksen Senate Office Building, Hon. Ron Wyden (chairman of the committee) presiding.

Present: Senators Cortez Masto, Warren, Crapo, Grassley, Thune, Johnson, and Blackburn.

Also present: Democratic staff: Jonathan Goldman, Senior Tax Counsel, International; Eric LoPresti, Detailee; Joshua Sheinkman, Staff Director; Tiffany Smith, Deputy Staff Director and Chief Counsel; and Ryder Tobin, Senior Investigative Counsel and Nominations Advisor. Republican Staff: Courtney Connell, Chief Tax Counsel; Andrew Dell'Orto, Policy Advisor; Gregg Richard, Staff Director; and James Williams, Tax and Economic Policy Advisor.

OPENING STATEMENT OF HON. RON WYDEN, A U.S. SENATOR FROM OREGON, CHAIRMAN, COMMITTEE ON FINANCE

The CHAIRMAN. The Finance Committee will come to order.

Today, the committee meets to discuss four nominations. James Ives has been nominated to serve as Inspector General of the Department of the Treasury; and Rose Jenkins, Adam Landy, and Kashi Way are all nominated to serve as judges of the United States Tax Court. I will begin with the Treasury Inspector General.

Inspectors General perform an essential oversight role across the government. At the Treasury, they oversee a department with a budget of billions of dollars and immense influence over the U.S. and global economy. They do important work rooting out waste, fraud, and abuse.

There has not been a confirmed Treasury Inspector General for nearly 5 years. It is critical that the next Inspector General is undaunted by political pressure and unafraid to confront big issues, even when it is unpopular.

I am a firm believer that tough oversight results in good government. Mr. Ives brings oversight experience from all over the Federal Government to his nomination. He currently serves as the Principal Deputy Director of the Defense Criminal Investigative Service, which is the criminal investigative arm of the Department of Defense's Office of Inspector General. He has also served within the Inspector General offices at NASA and the Government Publishing Office.

He was a special agent with the State Department's Diplomatic Security Service and a reserve special agent with the U.S. Coast Guard Investigative Service. When you add it all up, he has more than 3 decades of experience in oversight and law enforcement, and that will be highly valuable in the job as Treasury Inspector General.

Next up we will hear from our three nominees for the Tax Court. The U.S. Tax Court is the judicial backbone of the Federal tax code. It is the best opportunity Americans have to dispute tax bills before they have to pay. It keeps them from getting stuck in slow-moving courts when they have a tax issue that just needs resolution.

So, this committee is thankful to have three nominees willing to take on an important job, all of whom bring a blend of public and private experience to their nominations. Rose Jenkins brings 15 years of experience in tax law to her nomination. She has particular expertise in international tax law and administrative issues. She is currently an attorney in the Office of Associate Chief Counsel for Procedure and Administration.

It is her second go-round with the IRS Chief Counsel. She previously served in the international office as well. She has valuable experience in the private sector, and she has been at NYU's Tax Law Center.

Adam Landy has been a special trial judge on the Tax Court since 2021. He too has several years of experience at the Office of the IRS Chief Counsel, serving in Baltimore and San Francisco, as well as in the private sector.

Finally, Kashi Way is a Senior Legislative Counsel with the staff of the Joint Committee on Taxation. At the Joint Committee, Mr. Way's primary focus is on energy, tax issues, and research and development, but his background covers much more.

In 18 years at the Joint Committee on Taxation, he has had a big impact on major bills, including the Energy Policy Act of 2005, the American Recovery and Reinvestment Act of 2009, the American Taxpayer Relief Act of 2012, the Tax Cuts and Jobs Act of 2017, and the Inflation Reduction Act of 2022.

I think I can fairly speak for the entire committee, Mr. Way, that we are big fans of the staff at the Joint Committee on Taxation. We simply could not do our jobs without your professionalism and that of your colleagues. You do not get a whole lot of recognition there on the staff of the Joint Committee on Taxation, but you have had a very good base of support from colleagues on both sides of this committee, and please convey that to the Joint Committee. You will make an excellent Tax Court judge, but this committee will be sorry to lose your counsel up here on Capitol Hill.

I want to thank and congratulate all four of our excellent nominees, and thank them for joining the committee this morning. I think we are going to have a good discussion.

Senator Crapo?

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

OPENING STATEMENT OF HON. MIKE CRAPO, A U.S. SENATOR FROM IDAHO

Senator CRAPO. Thank you very much, Mr. Chairman, and welcome to our four nominees: Mr. Ives, Ms. Jenkins, Mr. Landy, and Mr. Way. As Chairman Wyden has just explained, today we will first hear from James Ives, who is nominated to serve as Inspector General of the Treasury Department.

This position is responsible for keeping both the Treasury Secretary and Congress fully and currently informed about the problems and deficiencies relating to the administration of the Treasury Department programs and their operations, including the necessity for corrective action.

Mr. Ives, given your depth of experience in the Inspector General community, you are undoubtedly aware of the importance of oversight and accountability within the executive branch. If confirmed, it will be your duty to lead efforts to investigate criminal activity and employee misconduct at Treasury's bureaus; combat waste, fraud, and abuse; and detect and deter fraud tied to pandemic-related legislation and other Treasury operations.

I will be counting on an effective Inspector General to monitor these issues and ensure a professional level of work at the IG's office.

Now, moving to the other three nominees under consideration today: Ms. Jenkins, Mr. Landy, and Mr. Way, who have been nominated to the United States Tax Court. The Tax Court is committed to providing taxpayers, most of whom are self-represented, with a reasonable opportunity to challenge the IRS with as little inconvenience and expense as practicable.

If taxpayers have a disagreement with the IRS, the Tax Court serves as a venue to get a fair, impartial, and efficient hearing. The Tax Court plays a central role in the maintenance of our tax laws, the complexity of which requires highly skilled judges.

It is the Finance Committee's responsibility to ensure that judges nominated to serve on the Tax Court are prepared to tackle these complex issues. These positions are especially important to uphold the public trust in the tax system, which the American taxpayers expect and deserve.

I thank each of our nominees for your dedication to our country, and I look forward to hearing your testimony today.

Thank you very much, Mr. Chairman.

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

The CHAIRMAN. I thank my colleague.

And I did a pretty expansive introduction earlier, but suffice it to say that Mr. Ives has decades of experience in oversight and law enforcement. Ms. Jenkins has 15 years of experience in international tax law and administrative issues. Mr. Way has 18 years of experience working at the Joint Committee on Taxation. And what we are going to do is await Congressman Clyburn, who will give a formal introduction to Mr. Landy.

I think what we will do is, we will just start with you, Mr. Ives. And at some point, I would say to our witnesses, when Mr. Clyburn arrives, we will go to him to introduce Mr. Landy and then continue with our proceedings.

So, why don't you make your opening statement, Mr. Ives? And we welcome you.

STATEMENT OF JAMES R. IVES, NOMINATED TO BE INSPECTOR GENERAL, DEPARTMENT OF THE TREASURY, WASHINGTON, DC

Mr. IVES. Thank you, Mr. Chairman.

Mr. Chairman, Ranking Member Crapo, and members of the committee, I am honored to have been nominated to serve as Inspector General of the Department of the Treasury. If confirmed, I look forward to working closely with this committee in fulfilling the Office of Inspector General's vital oversight role.

I would like to recognize my wife Jennifer and our son Jordan for their continued support throughout this process. I also express my appreciation to my colleagues at the Department of Defense's Office of Inspector General for their encouragement, professionalism, and accomplishments overseeing our Nation's largest and most complex government institution.

I have dedicated my entire adult life to public service. Within 2 months of graduating college, I accepted an entry-level position with the Department of Justice. Just over a year later, I transferred to DoD IG, where I served as a special agent with their law enforcement arm, the Defense Criminal Investigative Service, for over 10 years.

I quickly came to appreciate the critical importance of the Inspector General role, seeing firsthand how well-executed IG initiatives can detect and deter fraud and abuse, and return millions of dollars of ill-gotten gains to the government. My work entailed uncovering procurement fraud, health-care fraud, cybercrimes, and diversion of sensitive military technology, resulting in successful criminal prosecutions and civil penalties and fines.

By way of example, I participated in an exhaustive 5-year investigation that resulted in the largest health-care fraud recovery in our Nation's history at the time. In 2001, my life changed dramatically when I was detailed to New York City to assist with the government's investigation and recovery efforts following the September 11th terrorist attacks.

Subsequent to the attacks, defending the country against additional terrorist events became DoD's top priority. I was then asked to serve as DoD IG's full-time representative to the FBI's Joint Terrorism Task Force upon returning home, where I conducted counterterrorism investigations on a full-time basis from 2001 through 2004. This experience taught me the value of interagency collaboration, and the importance of ensuring OIG priorities align with our Nation's broader objectives.

In 2004, I was promoted into a DoD IG headquarters position. Over the next several years, I held a variety of leadership positions at DoD IG, culminating in my appointment to the Senior Executive Service in 2009. Throughout this period, I developed a keen appreciation for the extent to which an Inspector General can foster positive change by promoting efficiency within their respective agency.

After serving for over 2 decades at DoD, I sought to diversify my portfolio and joined the National Aeronautics and Space Administration's OIG, where I led the Office of Investigations for approximately 6 years. While serving at NASA, I continued to engage in focused and objective oversight by overseeing investigations involving fraud, corruption, and other criminal activity.

I was also afforded the opportunity to serve as the Acting Inspector General of the Government Publishing Office in early 2019, while the organization was seeking a new permanent Inspector General. In 2021, I experienced a homecoming of sorts when I returned to DoD IG. I initially served as the organization's Deputy Inspector General for Overseas Contingency Operations before returning to DCIS, where I currently serve as Principal Deputy Director.

Since returning to DCIS, a primary focus has been ensuring we provide timely oversight of DoD's Ukraine response efforts. I am extremely proud of the extent to which the entire DoD IG workforce has embraced this critical mission. Having served as a member of the IG community for over 30 years, I am fully aware that the role of Inspector General can be a challenging one. IGs are unique in that they report to both the department they oversee and Congress.

Successful IGs learn to master the art of respectfully and professionally engaging agency and congressional leaders, while remaining independent, objective, and nonpartisan. I believe my experience has shown that I am capable of ensuring that Treasury Department's OIG embraces these tenets; and if confirmed, I will continue to engage in the same aggressive, objective oversight that I have consistently promoted throughout my entire career.

Thank you for considering my nomination. I would be happy to answer your questions.

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

The CHAIRMAN. Thank you, Mr. Ives.

We have had the good fortune to be able to have Congressman Clyburn here. He has been so helpful on many of this committee's issues. I cannot even remember how many times we have talked about Medicaid, for example—an area the Congressman has great interest in.

Mr. Landy, you are a lucky fellow to have Congressman Clyburn introduce you. After basketball games, my mother would always say, "Dear, I hope you're running with the right crowd tonight." If you have Congressman Clyburn, you are, Mr. Landy, running with the right crowd. So, Congressman Clyburn, why don't you go ahead and introduce Mr. Landy?

Then we will go back to our order of witnesses. So my nominees are clear, we will go to Ms. Jenkins, Mr. Landy, and Mr. Way.

Please go ahead, Congressman Clyburn.

STATEMENT OF HON. JAMES E. CLYBURN, A U.S. REPRESENTATIVE FROM SOUTH CAROLINA

Representative CLYBURN. Well, thank you very much, Chairman Wyden, Ranking Member Crapo, other members of the committee. Thank you for granting me the opportunity to introduce and speak in support of Adam Landy's nomination to the United States Tax Court.

Adam hails from the big city of Aiken, SC. Although Aiken is not in my congressional district——

The CHAIRMAN. How many people live in Aiken?

Representative CLYBURN. Well, it would be easy to count, but a little more time will be required than we have here today. Although Aiken is not in my congressional district, Adam graduated from the University of South Carolina and the University of South Carolina Law School, both of which are in the district I proudly represent here in this august body.

Adam has been associated with members of the Clyburn family for most of his life. He attended high school and law school with a cousin, Courtney Clyburn Pope, now a South Carolina State circuit judge. Courtney's mother, Mrs. Beverly Clyburn—wife of my first cousin William—is the second most senior member in the South Carolina House of Representatives. While she was a high school guidance counselor, I think she did a pretty good job guiding him along the way.

Now, my father drilled into me from childhood that experience is the best teacher, and that certainly is true with Adam. After an encounter, which resulted in a tax preparer's fees absorbing nearly all of his tax refund for filing a simple 1040–EZ, Adam vowed to never let that happen again.

As an attorney for the Internal Revenue Service, Adam has argued before the Tax Court, and has served as a special trial judge in the same venue. He remains connected to his colleagues through his membership and service in the American and National Bar Associations.

He learned how to prepare his own returns and became a preparer for his friends. As a law student at USC, Adam developed a love for the tax code and immersed himself in the intricacy of tax law. Adam began working with the Volunteer Income Tax Assistance program, where he provided vital assistance to people who desperately needed their refunds to make ends meet, as we often say in the southern culture.

He continued his work after graduation and clerked on the State Circuit Court for Judge Julie Michelle Childs, now on the prestigious United States Court of Appeals for the District of Columbia.

Adam has a diversity of experience in the profession that makes him an ideal candidate. I am pleased to be here today to speak on his behalf, and thank you so much for allowing me to help Adam continue to make South Carolina and our citizenry proud.

Thank you.

[The prepared statement of Representative Clyburn appears in the appendix.]

The CHAIRMAN. We are in turn, Congressman, very honored to have you here. And, Mr. Landy, I think you have basically been described as a human version of Direct File, because that is some send-off. And, Congressman, you are welcome to stay through our whole proceedings. I know you have a very busy schedule and calendar, but you are always welcome here, and I appreciate——

Representative CLYBURN. I thank you very, very much, and thanks to the entire committee for indulging me for these few moments.

The CHAIRMAN. Thank you.

Representative CLYBURN. By the time I see you again, Mr. Chairman, I will have an accurate count on how many people are in Aiken.

The CHAIRMAN. Great; done.

Representative CLYBURN. Thank you. Thank you so much.

The CHAIRMAN. We send you off. Thank you, Congressman.

Okay; Ms. Jenkins. That is a hard job following Congressman Clyburn.

Ms. JENKINS. It is a hard job, yes.

STATEMENT OF ROSE E. JENKINS, NOMINATED TO BE A JUDGE OF THE UNITED STATES TAX COURT, WASHINGTON, DC

Ms. JENKINS. Good morning, Chairman Wyden, Ranking Member Crapo, and other members of the Finance Committee. Thank you for holding this hearing to consider my nomination to serve on the United States Tax Court. I am also grateful to the committee staff for their efforts throughout this process.

I appreciate the opportunity to be here today, accompanied by my parents Antonio Jenkins-Lara and Rose Jenkins, and my husband Daniel Horner, whose encouragement and support have been unwavering. I would also like to thank my many mentors and other colleagues throughout my career, who have taught and challenged me to be the best tax attorney that I can be, and provided me the opportunities that have led to me being here today.

I am grateful to the President for nominating me and providing me the chance, if confirmed, to serve the tax system, of which I have been a part my entire career. I have had a variety of roles in the tax system, and have always been guided by a drive to make sense of the tax laws, and apply them in a principled manner befitting our system of voluntary tax compliance.

I have worked with taxpayers struggling to get their arms around the tax consequences of messy facts that often came about as a result of simply living their lives and operating their businesses. And I have worked with dedicated public servants who work zealously to ensure that not only the letter, but also the spirit of the law, is followed.

Ultimately, the complexity of the tax laws, the broad and uncertain scope of facts that may be relevant to any particular question, and the inherent tension between the IRS and taxpayers, mean that there may be many cases in which they do not see eye to eye. That makes the mission of the Tax Court so critical. By providing a national forum for the expeditious resolution of disputes based on a careful consideration of the merits of each case, it instills confidence in taxpayers that they will receive a fair hearing. The Tax Court's efforts to ensure a uniform interpretation of the code provide certainty and stability that benefits not only the taxpayers that appear before it, but all stakeholders in the tax system at large.

In addition to allowing me to develop a deep understanding of particular areas of tax law, my career has given me an appreciation of the differing perspectives, not only between the government and taxpayers, but also among different types of taxpayers. That understanding, as well as the experience engaging the collaborative, analytical, and decision-making processes entailed, will benefit me as a member of the Tax Court, working collegially to ensure uniform application of the law.

More broadly, my experiences throughout my career have instilled in me a propensity for close, careful listening and thorough, open-minded analysis and discussion, which are critical to fair and impartial judgment. If confirmed, I commit to maintaining these principles in service of the Tax Court's critical mission.

I look forward to the committee's questions.

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

The CHAIRMAN. Thank you very much.

Mr. Landy?

STATEMENT OF ADAM B. LANDY, NOMINATED TO BE A JUDGE OF THE UNITED STATES TAX COURT, WASHINGTON, DC

Mr. LANDY. Thank you, Mr. Chairman. Good morning, Chairman Wyden, Ranking Member Crapo, and distinguished members of the Finance Committee. Thank you for scheduling this hearing and processing my nomination. Thank you to President Biden for nominating me to serve as a judge on the United States Tax Court. I am humbled and honored by the opportunity to continue to serve on the Court if I am fortunate to be confirmed.

Thank you to Congressman Jim Clyburn for his introduction this morning, and to him and his staff for their support throughout this process. As native South Carolinians, my family and I are grateful to the Congressman for his service to this Nation and our beloved home State.

I acknowledge and thank my wife Courtney, who is here this morning, as she is my best friend, my fiercest defender, and ultimate cheerleader. My sons Brooks and Miles, whom I love so much, are here today. Because of them, I strive to be the best version of myself daily.

My father Robert is watching remotely this morning, and I thank him for modeling hard work and tenacity. I honor the memory of my mother Darlean, a former public school educator, who instilled in me the importance of obtaining an education and being there for people in their time of need. Whether it was taking my siblings and me with her to deliver meals through the Meals on Wheels program, or encouraging me to become involved with the United Way of the Midlands, she made sure we understood the duty to give back to our community and to serve others.

To my siblings Erica, Marcus, and Jason, along with extended family members, my mother- and father-in-law Ricardo and Diane Wingate, my church family and friends who are watching remotely, thank you for your love, prayers, and support.

Finally, I would like to thank the Chief Judge of the United States Tax Court; my fellow judicial officers on the court; Anita Rizek, Legislative Counsel for the Court; and my former supervisors Erik Doerring, Nancy Gilmore, and Thomas Mackinson, for their support during the public phase of this nomination process.

As a law student and young lawyer, I clerked for Judge J. Michelle Childs, now, as the Congressman said, a circuit judge for the United States Court of Appeals for the DC Circuit, but then a judge on the South Carolina Circuit Court. I learned from Judge Childs the importance of evaluating the parties' arguments thoroughly, conducting comprehensive research to provide some legal advice, and administering justice with a calm temperament. This experience is why I desire to become a judge.

As a special trial judge, I have strived daily to implement these traits of proper judicial temperament and skill to competently serve the public. Since concluding my legal education, I represented taxpayers and the IRS before the Tax Court.

As a tax lawyer, I acquired an understanding of the challenges taxpayers and the IRS face, while developing solid listening and communication skills, strong research and writing skills, and good judgment. As a special trial judge, I demonstrate traits of proper judicial temperament and skill in conducting motions hearings and trials, and resolving tax disputes through written orders and published opinions.

While the cases I will hear as a Tax Court judge, if I'm fortunate to be confirmed, will differ in the content and complexity from my current role, I will bring my current and prior professional experiences to this new role in adjudicating tax disputes in an impartial and expeditious manner.

Mr. Chairman, Ranking Member Crapo, members of the committee, thank you for your consideration. I am happy to answer any questions.

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

The CHAIRMAN. Thank you very much, Mr. Landy. And let the record also show that Mr. Landy's children have been perfectly behaved.

Mr. LANDY. Thank you, Mr. Chairman.

The CHAIRMAN. Thank you.

Mr. Way, welcome.

STATEMENT OF KASHI WAY, NOMINATED TO BE A JUDGE OF THE UNITED STATES TAX COURT, WASHINGTON, DC

Mr. WAY. Thank you. Good morning. Chairman Wyden, Ranking Member Crapo, and members of the Finance Committee, thank you for holding this hearing to consider my nomination to serve as a judge on the United States Tax Court. I am honored to have been nominated by the President, and I greatly appreciate the opportunity to be here today. Thank you also to the committee staff for their assistance throughout this process.

I am joined this morning by my wife Diane and my sons Ian and Evan, whose love and support have been a continuous source of strength for me. I am also joined by my 81 year-old mother, who flew in from California. She raised me as a single mom on a secretary's salary before going to night school to become a computer programmer. Without her as a role model, I certainly would not be here today. I also want to acknowledge Tom Barthold, my boss, and Chief of Staff of the Joint Committee on Taxation. Finally, I am grateful for the numerous friends and colleagues who are in attendance or watching virtually.

For more than 19 years, I have been serving the Congress on the staff of the Joint Committee on Taxation. During that time, I have worked under multiple chairmen from both parties, and my goal has always been to provide the best nonpartisan advice possible. As you all know, there is a lot of behind-the-scenes work that goes into every tax bill that comes up for a vote. The tax legislative process is one that requires thoughtfulness, patience, and dedication. It has truly been an honor and a privilege to help you prepare your legislation and advance your policies over these many years.

As anyone who has filed a tax return knows, our tax system is complicated and can frustrate even well-intentioned taxpayers. The Tax Court affords taxpayers a crucial forum for resolving civil disputes with the IRS. It is my desire to contribute to the fairness of the tax system by helping to resolve these disputes in a manner that ensures taxpayers have the opportunity to be heard and pay no more than what is required under the law.

If I am confirmed, I will take the skills I have learned on the Joint Committee staff to serve the country in a different capacity. In particular, I will continue to work thoughtfully, patiently, and with dedication, to ensure fairness in the tax system. If confirmed as a judge, I promise to impartially apply the law to the facts before me in the resolution of tax disputes.

Thank you again for the opportunity to appear today, and I look forward to your questions.

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

The CHAIRMAN. Thank you very much.

Now, I think the nominees know we have some obligatory questions that we have to ask each of you. First, is there anything that you are aware of in your background that might present a conflict of interest with the duties of the office to which you have been nominated?

Mr. IVES. No.

Ms. JENKINS. No.

Mr. LANDY. No, Senator.

Mr. WAY. No.

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

Mr. IVES. No.

Ms. JENKINS. No.

Mr. LANDY. No.

Mr. WAY. No.

The CHAIRMAN. Third, do you agree without reservation to respond to any reasonable summons to appear and testify before any duly constituted committee of the Congress if you are confirmed?

Mr. IVES. I do agree.

Ms. JENKINS. Yes.

Mr. LANDY. Yes.

Mr. WAY. Yes.

The CHAIRMAN. Finally, do you commit to provide a prompt response in writing to any questions addressed to you by any Senator of the committee?

Mr. IVES. Yes.

Ms. JENKINS. Yes.

Mr. LANDY. Yes, Mr. Chairman.

Mr. WAY. Yes.

The CHAIRMAN. Okay; great. Thank you all, and let us go now to questions.

Let me start with you, Mr. Ives. You are certainly well qualified, and I look at your experience in oversight and so many issues, and they have been on high-profile matters.

There is one area—and I think we have indicated this to you—where we need reassurance before advancing your nomination. That is, we ask a lot of our Inspectors General, and particularly the Treasury Office of Inspector General. They do great work at the direction of the Congress, ferreting out waste, fraud, and abuse in programs that are critical to our country.

And the office does sterling work in that regard, and your resume makes me believe that you are well equipped to lead the office on these matters. Unfortunately, when it comes to issues of wrongdoing, corruption, conflicts of interest, or abuse of power among officials at the Treasury Department, time and again we have seen the Office of Inspector General pull its punches. Investigations are not thorough or stop just short of making tough decisions. It has been—and I want to be clear about it—disappointing, and it is unacceptable. So my question to you, Mr. Ives, is, when it comes to difficult, high-profile issues, how can you assure the Finance Committee this morning that you will be a tough investigator and speak truth to power, and when have you done so in the past?

Mr. IVES. Thank you for the question, Mr. Chairman. The short answer is, I have established a very proven track record. Over the past 30 years, I have never shied away from investigations that could potentially require the delivery of very bad news to the Department or the Congress. And many of those investigations could, quite frankly, have involved senior officials. Case in point, just for an example: just last week, an investigation involving a very senior military official, now a former military official who has been charged with bribery, was reported in media circles, and my organization played a very critical role in that investigation.

Obviously, that type of investigation does not display the Department in a favorable light. But I have never shied away from work that may require me to speak truth to power. It comes with the territory, and frankly an IG would be wholly ineffective if he or she were unwilling to do so.

The CHAIRMAN. Thank you. And you can be certain that the Senators on both sides of the dais are going to follow this up and keep that commitment that you have made today in place. The stakes are just so high. Thank you for your answer.

All right; let us go now to our Tax Court nominees. It is my view that the three of you are very qualified individuals, certainly cumulatively, you have decades of experience. I would be interested—we can just go for the three of you—Ms. Jenkins, Mr. Landy, Mr. Way—down the table.

I would be interested in what past experiences are going to most shape your time on the Tax Court?

Ms. Jenkins?

Ms. JENKINS. Thank you for the question, Mr. Chairman. My experience, particularly working on guidance and commenting on guidance from outside of the IRS, I think has been most relevant to my future work, in that it has taught me the value of listening to different perspectives and understanding the different perspectives that shape taxpayers' interactions with the government.

I look forward to continuing to consider the different perspectives of various taxpayers as they interact with the government in front of the Tax Court.

The CHAIRMAN. Mr. Landy, for your question, I would like to hear what past experiences will most shape your time on the Tax Court?

Mr. LANDY. Thank you for that question, Mr. Chairman. Certainly, my past experience working as taxpayer counsel in private practice, and also volunteering, as you heard this morning, with the Volunteer Income Tax Assistance program, has shaped me to certainly be able to understand the challenges taxpayers face; to ask the right questions; to elicit the answers that are necessary to provide sound legal advice; and to provide a conclusion, hopefully a result that would be of assistance to them.

And so, those past experiences I bring with me to this role, in addition to my current role as a special trial judge on the Court.

The CHAIRMAN. I was particularly impressed with that experience, volunteering, because when I was getting out of law school years ago, I got all the attorneys in town to volunteer to come and in effect help start the senior citizens law service, and it sounds like your background is very similar.

Mr. Way, your past experiences shaping your time on the Court.

Mr. WAY. Well certainly, on the staff of the Joint Committee on Taxation, we consider a number of different perspectives. We always try to be honest brokers in a nonpartisan way. We work with Republicans and Democrats, and try to give the best tax advice possible. I think certainly that experience has influenced me and my perspective, and if confirmed as a judge, I would try and bring that experience and that perspective and listen to all sides, try to be as fair as possible, and take all different perspectives into consideration.

The CHAIRMAN. I think all four of you are going to serve as excellent appointees, and I look forward to supporting you, and we thank you.

Senator Crapo?

Senator CRAPO. Thank you, Mr. Chairman.

And I would like to say first of all to each of you, that I appreciated Senator Wyden's questions and your answers to them. It was very helpful, and my questions are going to follow up, in a little bit different way, the same approach.

First again, Mr. Ives, you have overseen accounts with significant interest from Congress in the Inspector General Offices at both the Department of Defense and NASA. While it is important for IGs to be independent from their parent agencies' leaders, Congress is a very specific and important principal stakeholder of the results of IG reviews through committee oversight, and we take that oversight very seriously.

How would you ensure that Congress stays informed on ongoing investigations at the Treasury IG Office? And a follow-up on that is, can you discuss your interactions in the past with authorizing and appropriations committees in your IG roles?

Mr. IVES. Thank you for the question, Senator. I, having served over 30 years with the Office of Inspector General of a couple of different organizations, completely understand the relevance and importance of Congress's oversight role. So, I will do everything within my power to ensure that Congress has the information they need in furtherance of that role. I have always taken that approach.

With regard to my past interaction with Congress and staff, it has been extensive. I have always been quick to reply when receiving requests for information from Congress. Obviously, there are some factors that come into play in the investigative world. Criminal investigations have to be complete before the information is passed along. But again, the advantage I have is, having worked over 30 years in the OIG community, I understand that Congress's oversight role is just as important as the OIG's oversight role.

Senator CRAPO. Thank you. I appreciate that answer. You will get a lot of input and requests from us.

And to each of the Tax Court nominees, each of you has already responded in your own way to the issue that I want to raise with you, but I would like you to do so again, with a little more specificity on the way I am going to put it. If confirmed, you will preside over cases that involve taxpayers who often have few resources to deploy while making their case. Yet the Internal Revenue Service is a very formidable opponent on the other side of the case.

How does your professional experience lend itself to ensuring that these taxpayers will be treated not only with the respect and dignity they need, but with the fairness that they hope they will get?

Ms. JENKINS. Thank you for the question, Senator. As a preliminary matter, I would be sure to ensure that taxpayers who appear before the Court unrepresented are aware of the resources that may be available to them for assistance, including Low-Income Taxpayer Clinics and assistance from bar programs that may have pro bono programs. I would also be sure to ensure that they understand the process, and that they know that they have an impartial and open ear in me, and make sure that they are comfortable proceeding before the Court, because I think that it is very important to ensure that taxpayers who are not as comfortable with the Tax Court proceedings feel that they are receiving a full hearing.

Senator CRAPO. Thank you.

Mr. Landy?

Mr. LANDY. Ranking Member Crapo, thank you for that question. In my current role now as a special trial judge, I try to allow self-represented litigants to be heard. I do that by making sure when there is a trial session that has been scheduled, about 3 weeks out from the trial session, I attempt to call, have a conference call with the self-represented litigants to, number one, introduce myself, as I am the presiding judge over your case; introduce myself, talk about the process, ask them if they have any concerns. And we talk through what are the issues that the IRS has raised in the Notice of Deficiency so they have an idea as to what they need to bring, if they have not already provided it to the IRS for review. I make sure they have a trial where they know what the expectations will be, and at trial I allow the taxpayer petitioners to proceed in a manner that is most comfortable to them.

I certainly want to understand the facts of the case, so that as a judge I could apply the law as to those facts. So certainly, keeping and being in communication with the taxpayer.

Senator CRAPO. Thank you.

And Mr. Way?

Mr. WAY. Yes, Senator Crapo. Thank you for the question. Certainly, I agree with you that it is important that self-represented taxpayers have an opportunity to be heard in a fair and equitable way.

In my experience on the Joint Committee staff, we certainly have—sometimes we have tax LAs or people from outside groups that come in. Some of them are very sophisticated. Some of them are less sophisticated, and we adjust the kind of conversation we have based on how much knowledge about tax that they have.

Now certainly, it is a different context being a judge, with respect to a self-represented taxpayer. But I agree with my fellow nominees that it is an important issue, and I would listen and try and make those self-represented taxpayers have an ability to be heard and present their cases in the best way possible.

Senator CRAPO. Thank you. And again, I appreciated each of your responses.

The CHAIRMAN. All done? Thank you, Senator Crapo.

Senator Grassley?

Senator GRASSLEY. Mr. Ives, you talked about something you caught in the Defense Department: people stealing money. Was that that lady who stole $106 million?

Mr. IVES. No sir, that was another investigation.

Senator GRASSLEY. It was not. Okay.

Now for my first question to the Tax Court nominees. I do not want you to answer today unless you can answer this question with full knowledge of what the law is. So if you cannot, then answer these questions in writing.

But I want to start with this opening. I authored important updates to the IRS whistleblower program, which included allowing whistleblowers to appeal award determinations to the Tax Court. More recently, I have introduced legislation with Chairman Wyden, Senators Wicker and Cardin to, among other provisions, beef up anonymity protection for whistleblowers appearing before the Tax Court. Whistleblowers often take on great professional and personal risk in coming forward.

So, this is the question. Do you agree that protecting the anonymity of whistleblowers before the Tax Court is vital to maintaining the well-functioning IRS whistleblower program? Let's start with you, Ms. Jenkins.

Ms. JENKINS. Thank you for the question, Senator. I do agree that in our system of voluntary tax compliance, it is very important to protect whistleblowers and the role that they serve in ensuring that we collect our tax dollars. I would need to consider more the countervailing factors, in terms of privacy of and anonymity of whistleblowers in order to answer your specific question.

Senator GRASSLEY. Okay.

Mr. Landy?

Mr. LANDY. Thank you, Senator. I certainly agree with the comments Ms. Jenkins made. I have not seen your legislation you referenced, but certainly whistleblowers play an important role in our tax compliance system, as Ms. Jenkins said. And I would certainly believe that that is an issue: that we can make sure they have the ability to present their cases in a fair and impartial manner before our court.

Senator GRASSLEY. Mr. Way?

Mr. WAY. Thank you for the question. I definitely agree with my fellow nominees, and with the direction of your question, which is that whistleblowers are important, and it is important not just what they have to say, but to protect them, so that new whistleblowers will not feel deterred from coming forward.

With respect to your specific legislation that you have introduced, I am not familiar with it. So I would have to review it and then respond in writing.

Senator GRASSLEY. Okay.

By the way, Ms. Jenkins, you are taking the place of Elizabeth Paris, and she worked for this committee a long time. And her trophy she carried around was a well-worn tax code, and she always had it with her.

Okay. Mr. Ives, on March 11, 2024, I wrote all 74 Inspectors General requesting that they conduct a review of their agency's nondisclosure policies and similar agreements. I asked for that review to ensure compliance with the Federal anti-gag law.

Now that is law today. That law requires that government policies and agreements include the right to report wrongdoing to Congress and the Inspector General, and the Office of Special Counsel. On May 10, 2024, the Acting Treasury Inspector General found two agreements not in compliance with the law, and that the Treasury Department is working to update them.

So, my question to you: if confirmed, would you commit to ensuring all Treasury nondisclosure policies and similar agreements include the anti-gag provision that is required by law, including the two agreements identified by the Acting Inspector General?

And then a follow-up: would you also commit to ensuring Treasury employees are fully informed of their rights to report allegations of waste, fraud, and abuse?

Mr. IVES. The answer to both questions is "yes," Senator.

Senator GRASSLEY. Thank you. Now also for you, an independent Inspector General is critical to effectively and objectively carrying out functions free from bias and interference. Inspectors General must also keep Congress fully informed about the problems and deficiencies. So from that respect, I should have said I just associate my remarks with the chairman and ranking member.

So, my question to you: if confirmed, will you commit to providing independent and protective oversight? You probably already answered that question, but I would like to have it answered again. Will you also commit to keeping Congress fully informed of agency wrongdoing, recommendations of corrective action, and Treasury implementation?

Mr. IVES. Yes, I will, Senator.

Senator GRASSLEY. Okay; thank you.

Now to all Tax Court nominees: if you are confirmed to the Tax Court, you will hear cases involving many different types of taxpayers, ranging from large corporations to small businesses and individuals. Regardless of who might appear before you and what the issue might be, do you pledge to apply the tax code as written by Congress and not attempt to legislate in your capacity as a judge on the Tax Court?

Ms. JENKINS. Yes, I do, Senator.

Mr. LANDY. Yes, Senator.

Mr. WAY. Yes, Senator.

Senator GRASSLEY. Okay.

And my last question to you folks: the Tax Court is important, since it allows petitioners to challenge an assessed deficiency before having to pay that amount to the IRS. Many petitioners who go to Tax Court have little experience working through the dispute with the IRS, and may even represent themselves. Following up on the question that Senator Crapo asked, without giving them an unfair advantage, how will you ensure that all petitioners get their day in court?

Ms. JENKINS. Senator, I would make sure that they are aware of the resources that may be available to them for support, and I would also ensure that they are aware of the processes going forward, and that they have in me a fair and open ear.

Senator GRASSLEY. Okay.

Mr. LANDY. Senator, as I said earlier, I would continue with my current processes of contacting the petitioners before trial to make sure they understand when and where their trial will be conducted, communicate what issues are to be addressed, and to make sure they understand the procedure and process moving forward.

Mr. WAY. And like my fellow nominees, I would try to make sure that, particularly self-represented taxpayers have an opportunity to access volunteer resources or pro bono resources, so that they can get representation if they choose. If they appear before me and they are self-represented, I would try to have some sort of pretrial conference or something, as my fellow nominee suggested, so that they are aware of what will happen and how best to proceed.

The CHAIRMAN. The time of the gentleman has expired.

Senator GRASSLEY. Congratulations, all.

The CHAIRMAN. And thank you very much, Senator Grassley, for asking questions about the whistleblowers. And it is an honor for me to be your cochair.

Senator GRASSLEY. You bet.

The CHAIRMAN. Senator Warren is next.

Senator WARREN. Thank you, Mr. Chairman, and congratulations to all of our nominees.

Mr. Ives, you are nominated to be the Inspector General for the Treasury Department. Now, I have long been a supporter of IGs. I think their work as watchdogs is critical to protecting taxpayers, and identifying waste, fraud, and abuse. This role is particularly important when it comes to Federal ethics laws. It is an area where I have been calling for tougher laws and tougher enforcement for years, and it is an area where IGs need to do more.

Two years ago, an investigation by my office found that dozens of tax lawyers at big four accounting firms had taken key positions at Treasury and the IRS, where they wrote tax rules that saved their former clients tens of billions of dollars. That is billions with a "b." And then these tax lawyers went right back out the revolving door to their old employers, receiving big promotions and raises to boot.

Mr. Ives, do you agree that this kind of revolving door abuse is exactly the kind of issue that merits a detailed investigation by an IG?

Mr. IVES. I absolutely agree, Senator.

Senator WARREN. Good. Well, I asked the Acting IG to investigate this revolving door scandal at Treasury more than 2 years ago, and he finally released his findings in March. Let me tell you, it was not worth the wait. The report concluded that Treasury employees rewriting our tax code for the benefit of giant corporations they used to work for could not be a problem because, and I quote, "Treasury's tax guidance review process includes numerous stages of review and approval, and multiple individuals."

That is it, and because of that, the Acting IG did not bother to conduct any audit of employer self-reporting of potential conflicts. He did not conduct a detailed review of any single agency policy or agency rulemaking. Mr. Ives, does that make sense to you? Do you think the mere existence of numerous stages of review and approval are enough to insulate the Department from the impact of revolving door influence peddling?

Mr. IVES. Without speaking to the specific report, my answer is "no." I am aware of many situations whereby there was a lengthy review process in place, yet conflicts of interest existed, and they were matters that warranted investigation.

Senator WARREN. I am glad to hear that. You know, this report and its conclusions were atrocious, a whitewash of what appears to be serious ethics problems at Treasury and IRS. I wrote to the Acting IG and told him to withdraw this report and start over, and I would like to move to have that letter entered into the hearing record, Mr. Chairman.

The CHAIRMAN. Without objection, so ordered.

[The letter appears in the appendix beginning on p. 61.]

Senator WARREN. Thank you.

Mr. Ives, if you are confirmed, will you take a fresh look at this revolving door ethics problem at Treasury?

Mr. IVES. I will, Senator.

Senator WARREN. That is what I want to hear. Thank you, Mr. Ives.

You know, the work that IGs do is essential to ensuring that the Federal Government works for hardworking American taxpayers, not just big corporations and fancy tax lawyers in Washington. In addition to digging into this specific scandal with the big four accounting firms, I hope that, more broadly, you will make ethics and conflicts of interest a priority, if you are confirmed.

It is critical that IGs investigate these matters, identify whether any laws have been broken—and this is important: report to Congress if you find that the current Federal ethics laws are inadequate and need to be strengthened.

Mr. IVES. I agree, Senator.

Senator WARREN. Thank you very much.

Thank you, Mr. Chairman.

The CHAIRMAN. I thank my colleague, and these are important issues. And I raised with Mr. Ives this question as well, about this position pulling punches in the past. So we are going to be making these a priority.

Senator Blackburn?

Senator BLACKBURN. Thank you, Mr. Chairman, and welcome to each of you.

Mr. Ives, I have a couple of questions for you first.

I want to talk about, or get from you a little bit on this issue where Treasury changed the definition of "obligation" for the ARPA funds to allow States and localities to spend that slush fund that was paid out to them, to spend it past 2024, and then report that spending back to Treasury.

So I would hope that you would look at what happened with this change of definition, and that you are going to investigate how Treasury took that action; did not come to Congress, but took that action.

Mr. IVES. Thank you for the question, Senator. Candidly, I am not currently working at Treasury. I will need to be briefed more fully on that topic, but it appears to be a significant topic that warrants IG attention.

Senator BLACKBURN. Yes, I think it does warrant the IG attention, and we would like to see that.

The other question that I have for you is on the unemployment compensation fraud that has taken place. When you look at that fraud that took place during the pandemic and the estimate of $135 billion on that—the CARES Act provided $268 billion in expanded insurance benefits. And then we know that much of this fraud was conducted by some well-organized groups, and because the benefits were paid with money from the Treasury and not the State trust fund, States have little incentive to go after this.

And of course, Senator Crapo has legislation that would address this, but how do you plan to prevent these instances? What are you going to do in that investigation?

Mr. IVES. Thank you for the question, Senator. First and foremost, my understanding is that the Treasury IG is currently prioritizing those types of investigations. If I were confirmed, they would continue to do so.

I think there is more that can be done on the front end when those types of legislation are being put together, and when Treasury is formulating its own policies as far as working with the IG to establish some controls that should be in place to avoid the fraud, which obviously is more effective than going after each individual, if that is the case.

Senator BLACKBURN. Okay.

For our Tax Court nominees, one of the things we hear about in Tennessee is the case backlog and getting this resolved. So, Ms. Jenkins, starting with you and down the line, what are you going to do to address the backlog?

Ms. JENKINS. Thank you, Senator. I do think, given the significant caseload of the Tax Court, it will be important to have a full slate of appointed judges.

If confirmed, I would endeavor to maximize my efficiency in terms of case management, courtroom management, chambers management, and also encourage the parties to maximize cooperation, and seek to determine ways that I can run things more efficiently, perhaps deciding cases or issues on motions as opposed to needing to wait and conduct trials. So those are all the things that I would try to do to minimize the backlog.

Senator BLACKBURN. Thanks.

Mr. LANDY. Thank you for that question, Senator. Certainly, my commitment to you is that I will work with the parties, have as speedy a trial as we can, and to offer an opinion, an expeditious resolution, order, or published opinion in a short amount of time.

Senator BLACKBURN. Thank you.

Mr. WAY. Like my fellow nominees, I would also try to expedite the trial sessions and pretrial procedures to try and get things moving more quickly, and try to—I do want to say, there is a specific docket, and judges go to different cities. But I also understand there is an opportunity to do remote pretrial management.

And so I would try and use those processes also to try and expedite cases.

Senator BLACKBURN. Okay.

Judge Landy, I understand that as a special trial judge, you have done a good bit of your work remotely and virtually. And I would like to hear from you, are there any differences that you have seen in the virtual work as compared to doing this in person?

Mr. LANDY. Thank you for the question, Senator. I have certainly—I came on the Court during the pandemic, and virtual was the option at the time, and certainly the Court will continue to use virtual in those cities where it makes sense and for those taxpayers specifically where it makes sense.

But my experience with virtual has certainly been similar to if we were in person, to offer the taxpayers an opportunity to present their case in the manner they prefer, and to offer a fair and impartial resolution of their cases.

Senator BLACKBURN. Okay. Thank you all.

Thank you, Mr. Chairman.

The CHAIRMAN. I thank my colleague.

Senator Crapo and I have completed our questioning, but our colleague, Senator Grassley, has one additional question he would like to ask of you, Mr. Ives.

Senator GRASSLEY. Just to ask you kind of for your help. You know, I brought up the $106 million theft that went on in the Defense Department. Now, you said you were not investigating that, so obviously I cannot ask you anything about that.

But I have asked several questions of the Department about how this could be going on, the theft for over 6 years, and nobody finds it. And so I guess, number one, if you could help get answers to my question. But more importantly, I sent along with my questions a 1997 report that I issued after some investigations about the DoD check-writing machine that goes on in Cincinnati or some place in Ohio. And people were writing personal checks to their families.

So I investigated; I got an answer. I gave a report of what was wrong with the Defense Department management system that they do not catch these things, and so I put out this report.

So, I read about $106 million over 6 years being stolen by one woman in the Defense Department. And so, I sent this report along as a reminder that we have been working on this thing for a long time. And 27 years is a long time to get something done so the stealing does not go on.

And I hope people will read that 1997 report and find out that things are really wrong in the Defense Department.

Thank you very much.

The CHAIRMAN. I thank my colleague, and we go back to battles with respect to auditing the Pentagon and the like. So, I appreciate my colleague's leadership.

Okay. So, I want to thank all the members on both sides of the aisle who participated today. Based on what I have heard, I strongly support all four of these nominations.

Mr. Ives has decades of experience in oversight and law enforcement, and I want to note that several of us have asked about what is going to be done if you are confirmed as the Treasury IG. You have made it clear when it comes to issues of wrongdoing, corruption, conflicts of interest, or abuse of power among officials at the Treasury Department, if you are confirmed, the days of pulling punches are over there. And so, we very much appreciated your response.

To you, Ms. Jenkins, Mr. Landy, and Mr. Way, I believe you are highly qualified. You are going to bring decades of public and private experience to the Tax Court.

What I would say to colleagues and staff who have not been able to be here, regarding questions for the record, the deadline for members to submit these questions for the record will be this Friday, June 7th, at 5 p.m., and I have to tell my colleagues that the deadline is firm.

We thank members on both sides of the aisle for their cooperation. The committee is adjourned.

[Whereupon, at 11:07 a.m., the hearing was concluded.]

APPENDIX

Additional Material Submitted for the Record

Prepared Statement of Hon. James E. Clyburn, a U.S. Representative From South Carolina

Chairman Wyden and Ranking Member Crapo, thank you for the opportunity to speak in support of Adam Landy's nomination to the United States Tax Court.

Adam hails from the "big" city of Aiken, SC. Although Aiken is not in my congressional district, Adam has been associated with members of the Clyburn family for most of his life. He attended high school and law school with my cousin Courtney Clyburn Pope, now a South Carolina State circuit judge. Courtney's mother, Mrs. Beverly Clyburn—wife of my first cousin State Representative William Clyburn—was his high school guidance counselor. A product of South Aiken High School, the University of South Carolina, and the University of South Carolina School of Law, Adam has a fundamental understanding of what it means to look out for "the least of these."

After an encounter which resulted in a tax preparer's fees absorbing almost all of his tax refund for filing a simple 1040EZ, Adam vowed to never let that happen again. He learned how to prepare his own returns and became a tax preparer for his friends. As a law student at USC, Adam developed a love for the tax code and immersed himself in the intricacies of tax law.

As a 1L student, Adam started working with the Volunteer Income Tax Assistance program, where he provided vital assistance to people who desperately needed their refunds to live and make ends meet. He continued this work after graduation, well into his legal career as a tax attorney.

Adam has a diversity of experiences in the profession that make him an ideal candidate. As an attorney for the Internal Revenue Service, he has argued before the Tax Court and has served as a special trial judge in the same venue, calling "balls and strikes." He remains connected to his colleagues through his membership and service to the American Bar Association and the National Bar Association. Adam clerked on the State circuit court for Judge J. Michelle Childs, now on the prestigious United States Court of Appeals for the District of Columbia Circuit.

With a proven record of exceptional experience in tax law, Adam Landy is well prepared to serve on the United States Tax Court. He has already made his hometown and our State proud, and I have no doubt he will serve with distinction on this important court.

Mr. Chairman, I ask the committee's favorable consideration of this well-qualified nominee. Thank you.

Prepared Statement of Hon. Mike Crapo, a U.S. Senator From Idaho

Thank you, Mr. Chairman, and welcome to our four nominees: Mr. Ives, Ms. Jenkins, Mr. Landy, and Mr. Way. Congratulations on your nominations, and thank you all for your willingness to serve.

Today, we will first hear from James Ives, who is nominated to serve as Inspector General of the Treasury Department. This position is responsible for keeping both the Treasury Secretary and Congress fully and currently informed about the problems and deficiencies relating to the administration of Treasury Department programs and operations, including the necessity for corrective action.

Mr. Ives, given your depth of experience in the Inspector General community, you are undoubtedly aware of the importance of oversight and accountability within the executive branch. If confirmed, it will be your duty to lead efforts to investigate criminal activity and employee misconduct at Treasury's bureaus; combat waste, fraud, and abuse; and detect and deter fraud tied to pandemic-related legislation and other Treasury operations.

I will be counting on an effective Inspector General to monitor these issues and ensure a professional level of work at the IG's office.

Now, moving to the other three nominees under consideration today: Ms. Jenkins, Mr. Landy, and Mr. Way, who have been nominated to the United States Tax Court. The Tax Court is committed to providing taxpayers, most of whom are self-represented, with a reasonable opportunity to challenge the IRS, with as little inconvenience and expense as is practicable. If taxpayers have a disagreement with the IRS, the Tax Court serves as a venue to get a fair, impartial, and efficient hearing.

The Tax Court plays a central role in the maintenance of our tax laws, the complexity of which requires highly skilled judges. It is the Finance Committee's responsibility to ensure that judges nominated to serve on the Tax Court are prepared to tackle these complex issues.

These positions are especially important to uphold public trust in the tax system, which American taxpayers expect and deserve.

I thank each of the nominees for their dedication to our country, and I look forward to hearing their testimony.

PREPARED STATEMENT OF JAMES R. IVES, NOMINATED TO BE INSPECTOR GENERAL, DEPARTMENT OF THE TREASURY

Mr. Chairman, Ranking Member Crapo, and members of the committee, I am honored to have been nominated to serve as Inspector General of the Department of the Treasury. If confirmed, I look forward to working closely with this committee in fulfilling the Office of Inspector General's vital oversight role.

I would like to recognize my wife Jennifer and our son Jordan for their continued support throughout this process. I also express my appreciation to my colleagues at the Department of Defense's Office of Inspector General (DoD IG) for their encouragement, professionalism, and accomplishments overseeing our Nation's largest—and most complex—government institution.

I have dedicated my entire adult life to public service. Within 2 months of graduating college, I accepted an entry-level position with the Department of Justice. Just over a year later, I transferred to DoD IG, where I served as a special agent with their law enforcement arm, the Defense Criminal Investigative Service (DCIS), for over 10 years. I quickly came to appreciate the critical importance of the Inspector General role, seeing firsthand how well-executed OIG initiatives can detect and deter fraud and abuse and return millions of dollars of ill-gotten gains to the government. My work entailed uncovering procurement fraud, health-care fraud, cybercrimes, and diversion of sensitive military technology, resulting in successful criminal prosecutions and civil penalties and fines. By way of example, I participated in an exhaustive 5-year investigation that resulted in the largest health-care fraud recovery in our Nation's history at the time.

In 2001, my life changed dramatically when I was detailed to New York City to assist with the government's investigation and recovery efforts following the September 11th terrorist attacks. Subsequent to the attacks, defending the country against additional terrorist events became DoD's top priority. I was then asked to serve as DoD IG's full-time representative to the FBI's Joint Terrorism Task Force upon returning home, where I conducted counterterrorism investigations on a full-time basis from 2001 through 2004. This experience taught me the value of interagency collaboration, and the importance of ensuring OIG priorities align with our Nation's broader objectives.

In 2004, I was promoted into a DoD IG headquarters position. Over the next several years, I held a variety of leadership positions at DoD IG, culminating in my appointment to the Senior Executive Service in 2009. Throughout this period, I developed a keen appreciation for the extent to which an Inspector General can foster positive change by promoting efficiency within their respective agency.

After serving for over 2 decades at DoD, I sought to diversify my portfolio and joined the National Aeronautics and Space Administration's OIG, where I led the Office of Investigations for approximately 6 years. While serving at NASA, I continued to engage in focused and objective oversight by overseeing investigations involving fraud, corruption, and other criminal activity. I was also afforded the opportunity to serve as the Acting Inspector General of the Government Publishing Office in early 2019 while the organization was seeking a new permanent Inspector General.

In 2021, I experienced a homecoming of sorts when I returned to DoD IG. I initially served as the organization's Deputy Inspector General for Overseas Contingency Operations before returning to DCIS, where I currently serve as Principal Deputy Director. Since returning to DCIS, a primary focus has been ensuring we provide timely oversight of DoD's Ukraine response efforts. I am extremely proud of the extent to which the entire DoD IG workforce has embraced this critical mission.

Having served as a member of the OIG community for over 30 years, I am fully aware that the role of Inspector General can be a challenging one. IGs are unique in that they report to both the department they oversee and Congress. Successful IGs learn to master the art of respectfully and professionally engaging agency and congressional leaders while remaining independent, objective, and nonpartisan. I believe my experience has shown that I am capable of ensuring that the Treasury Department's OIG embraces these tenets. And if confirmed, I will continue to engage in the same aggressive, objective oversight that I have consistently promoted throughout my entire career.

Thank you for considering my nomination. I would be happy to answer your questions.

SENATE FINANCE COMMITTEE

STATEMENT OF INFORMATION REQUESTED OF NOMINEE

A. BIOGRAPHICAL INFORMATION

1. Name (include any former names used): James Richard Ives.
2. Position to which nominated: Inspector General, Department of the Treasury.
3. Date of nomination: January 11, 2024.
4. Address (list current residence, office, and mailing addresses):
5. Date and place of birth: July 2, 1970, Glens Falls, NY.
6. Marital status (include maiden name of wife or husband's name):
7. Names and ages of children:
8. Education (list all secondary and higher education institutions, dates attended, degree received, and date degree granted):

   Georgetown University, 2004–2005.
   Master of Policy Management, granted in May 2005.

   State University of New York's College at Brockport, 1990–1992.
   Bachelor's Degree in Criminal Justice, granted in May 1992.

   Adirondack Community College, 1988–1990.
   Associate's Degree in Police Science, granted in May 1990.

   Hudson Falls High School, 1984–1988.
   High School Diploma, granted in June 1988.

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

1992–1994.
U.S. Department of Justice, Immigration and Naturalization Service.
Montreal, Canada.
Position held: Immigration Inspector.

1994–1998.
U.S. Department of Defense, Office of Inspector General, Defense Criminal Investigative Service.
Boston, MA.
Position held: Special Agent.

1998–1999.
U.S. Department of State, Diplomatic Security Service.
Washington, DC.
Position held: Special Agent.

1999–2015
U.S. Department of Defense, Office of Inspector General Defense Criminal Investigative Service.
Boston, MA; Arlington, VA; Alexandria, VA.
Positions held:

- Special Agent (1999–2004, Boston, MA).
- Criminal Intelligence Program Manager (2004–2005, Arlington, VA).
- Assistant Deputy Director for National Security (2005–2007, Arlington, VA).
- Deputy Director of Investigative Operations (2007–2008, Arlington, VA).
- Special Agent-in-Charge, Mid-Atlantic Field Office (2008–2009, Arlington, VA).
    - *Note:* While serving in this position, I temporarily served as DoD IG's Acting Principal Director of the Office of Professional Responsibility for approximately a 4-month period.
- Assistant Inspector General for Investigative Operations/Deputy Director of the Defense Criminal Investigative Service (Arlington, VA and Alexandria, VA, 2009–2015).
    - *Note:* While serving in this position, I temporarily served as Acting Deputy Inspector General for Intelligence and Special Assessments for approximately a 4-month period.

2015–2021.
National Aeronautics and Space Administration.
Office of Inspector General.
Washington, DC.
Position held: Assistant Inspector General for Investigations.

- *Note:* While serving in this position, I served on a detail assignment as the Acting Inspector General of the Government Publishing Office in Washington, DC for a 4-month period.

2021–present.
U.S. Department of Defense, Office of Inspector General.
Alexandria, VA.
Positions held:

- Deputy Inspector General for Overseas Contingency Operations (2021).
- Principal Deputy Director of the Defense Criminal Investigative Service (2021–present).

Other Employment

1998–2006.
U.S. Coast Guard Reserve.
Coast Guard Investigative Service.
Boston, MA and Washington, DC.

Active Reservist (E5), 1998–2000.
Individual Ready Reserve, 2000–2006.
Position held: Special Agent (reservist).

2017–present.
American University.
Washington, DC.
Position held: Adjunct Professorial Lecturer (part-time).

2007–present.
University of Maryland Global Campus.
Adelphi, MD.
Position held: Adjunct Professor (part-time).

10. Government experience (list any current and former advisory, consultative, honorary, or other part-time service or positions with Federal, State, or local governments held since college, including dates, other than those listed above):

    All government experience is listed above.

11. Business relationships (list all current and former positions held as an officer, director, trustee, partner (*e.g.,* limited partner, nonvoting, etc.), proprietor, agent, representative, or consultant of any corporation, company, firm, partnership, other business enterprise, or educational or other institution):

    None.

12. Memberships (list all current and former memberships, as well as any current and former offices held in professional, fraternal, scholarly, civic, business, charitable, and other organizations dating back to college, including dates for these memberships and offices):

    Council of the Inspectors General on Integrity and Efficiency (CIGIE), Chair of the Assistant Inspector General for Investigations (AIGI) Committee (2020–2021).

    Fairfax County Police Department's Citizens Advisory Committee, Sully District, Vice Chair (2017–2018).

    Senior Executives Association (approximately 2011–2021), member.

    Federal Law Enforcement Officers Association, member (approximately 1994–2021).

    Association of Inspectors General (2021–present), member.

    Chantilly National Country Club (2021–present), Chantilly, VA, member.

    Alpha Phi Sigma National Criminal Justice Honor Society, inducted in 1992.

    Phi Theta Kappa National Honor Society, inducted in 1990.

13. Political affiliations and activities:

    a. List all public offices for which you have been a candidate dating back to the age of 18.

       None.

    b. List all memberships and offices held in and services rendered to all political parties or election committees, currently and during the last 10 years prior to the date of your nomination.

       None.

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

       None.

14. Honors and awards (list all scholarships, fellowships, honorary degrees, honorary society memberships, military medals, and any other special recognitions for outstanding service or achievement received since the age of 18):

SCHOLARSHIPS

Women in the Marines Corp scholarship (sponsored by grandmother), 1988.

Adirondack Community College academic scholarship (full tuition), 1988–1990.

FELLOWSHIP

Senior Executive Fellowship, Harvard University, November 2017.

AWARDS AND RECOGNITIONS

Received DoD IG's Distinguished Career Achievement Award upon departing the organization in 2015.

Received DoD IG's Team Work Award for contributing to the agency's prolonged multicomponent oversight efforts in Iraq, Kuwait, and Afghanistan (2014).

Received DCIS's Manager of the Year award (2007).

Received DoD OIG's Team Work Award for working in conjunction with other DCIS program managers to prepare an intelligence assessment deemed relevant to a multitude of DoD assets (2005).

Received a certificate of appreciation from the President's Council for Integrity and Efficiency for substantial participation in the U.S. Government's response to terrorist attacks upon New York City on September 11, 2001. I was one of a group of DCIS special agents who were immediately detailed to New York for several months to assist in the government's investigation and recovery efforts (2001).

Received the Department of Health and Human Services Office of Inspector General Cooperative Achievement Award for Investigative Excellence (2000).

Received the President's Council for Integrity and Efficiency Award for Investigative Excellence (2000).

Received the U.S. Attorney's Office (District of Massachusetts) Award for Investigative Excellence (2000).

Received the Federal Law Enforcement Training Center Award for Academics upon achieving a 95.68 cumulative exam score (1998).

Throughout my career, I received approximately 12 separate outstanding performance awards or special act awards with accompanying cash awards of varying amounts, as well as a quality step increase.

Inducted into the Hudson Falls, NY Central School District's Wall of Distinction (2010), which honors highly successful graduates of the Hudson Falls Central School District who have gone on to distinguished careers in various fields and become role models in their communities.

15. Published writings (list the titles, publishers, dates, and hyperlinks (as applicable) of all books, articles, reports, blog posts, or other published materials you have written):

    Authored an article entitled, "Inspectors General: Prioritizing Accountability," which was featured in the Fall/Winter 2009–2010 edition of *The Journal of Public Inquiry*. See page 25 at: *https://www.ignet.gov/sites/default/files/files/fw09jpi.pdf*.

16. Speeches (list all formal speeches and presentations (*e.g.,* PowerPoint) you have delivered during the past 5 years which are on topics relevant to the position for which you have been nominated, including dates):

    None.

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

    I am a seasoned Federal Government oversight professional who possesses over 3 decades of highly relevant experience, to include 28 years' experience within the U.S. Inspector General community, and 14 years' experience as a senior executive at the U.S. Department of Defense and the National Aeronautics and Space Administration. I possess wide-ranging experience conducting and overseeing exceptionally complicated investigations, audits, inspections, and evaluations pertaining to some of our Nation's most sensitive initiatives. I also possess extensive experience detecting, investigating, and deterring multifaceted corporate fraud, public corruption (*e.g.,* bribery, kickbacks, gratuities, and conflicts of interest), procurement and acquisition fraud, complex financial crimes, accounting fraud, arrant mismanagement, grievous policy or procedural violations, and employee misconduct.

    The investigations I have conducted or overseen have resulted in billions of dollars in penalties, fines, and restitution being returned to the U.S. Government. By way of example, I participated in an exhaustive 5-year long health-care fraud investigation that uncovered a wide-ranging conspiracy to defraud Medicare, TRICARE (the military's health-care system), and a variety of other Federal health-care programs. The investigation resulted in the largest health-care fraud recovery in our Nation's history at the time, and several high-level executives pleaded guilty to criminal charges.

Also noteworthy is the fact that I was a member of a group of OIG special agents who responded to the tragic terrorist attacks of September 11, 2001. In the aftermath of the attacks, I was immediately deployed to New York City, where I assisted with the government's recovery and investigative efforts for several months.

My entire adult life has been devoted to public service, and I look forward to continuing to serve the country in this new capacity if I am privileged to be confirmed.

B. FUTURE EMPLOYMENT RELATIONSHIPS

1. Will you sever all connections (including participation in future benefit arrangements) with your present employers, business firms, associations, or organizations if you are confirmed by the Senate? If not, provide details.

   Yes.

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

   No.

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

   No.

4. If you are confirmed by the Senate, do you expect to serve out your full term or until the next presidential election, whichever is applicable? If not, explain.

   Yes.

C. POTENTIAL CONFLICTS OF INTEREST

1. Indicate any current and former investments, obligations, liabilities, or other personal relationships, including spousal or family employment, which could involve potential conflicts of interest in the position to which you have been nominated.

   None.

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

   None.

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

   None.

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

   In connection with this nomination process, I have consulted with the Office of Government Ethics and the Designated Agency Ethics Official at the Department of the Treasury to identify any potential conflicts of interest. I am unaware of any potential conflicts of interest. In the event that an actual or potential conflict of interest arises during my appointment, I will consult with the Treasury Department's ethics counsel and take the measures necessary to resolve the conflict.

D. LEGAL AND OTHER MATTERS

1. Have you ever been the subject of a complaint or been investigated, disciplined, or otherwise cited for a breach of ethics for unprofessional conduct before any court, administrative agency (*e.g.,* an Inspector General's office), professional association, disciplinary committee, or other ethics enforcement entity at any time? Have you ever been interviewed regarding your own conduct as part of any such inquiry or investigation? If so, provide details, regardless of the outcome.

   No.

2. Have you ever been investigated, arrested, charged, or held by any Federal, State, or other law enforcement authority for a violation of any Federal, State, county, or municipal law, regulation, or ordinance, other than a minor traffic offense? Have you ever been interviewed regarding your own conduct as part of any such inquiry or investigation? If so, provide details.

   No.

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

   Yes. In 2013, I was one of numerous individuals listed as a defendant in a Federal civil suit (complaint for damages pursuant to 18 U.S.C. § 1331 and Bivens) filed in the Middle District of Georgia (3:13–cv–175–J–99TJC–MCR, *Debra L. Long vs. David E. Nammias et al.*). The plaintiff (Long) claimed her Fourth Amendment rights were violated when she was investigated, arrested, and prosecuted for defrauding the government (she was ultimately acquitted). Although I was not directly involved in conducting the investigation, I was named in the suit by virtue of my role as Special Agent-in-Charge of the DCIS field office responsible for conducting the investigation. The case was dismissed without prejudice in 2015.

   In 2014, I was the plaintiff in a small claims case (GV14017343–00, *James R. Ives vs. Jeremy Trujillo*) in the General District Court of Virginia (Fairfax County). I filed a warrant in debt suit when a contractor accepted a deposit but failed to provide deck sealing services at my home. The case was dismissed at my request when the contractor performed the required services.

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

   No.

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

   I have served honorably as a Federal law enforcement officer for over 30 years. I have held a top-secret security clearance for my entire adult life. I have never been subjected to any form of discipline. I enjoy a stellar reputation throughout the OIG community.

E. TESTIFYING BEFORE CONGRESS

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

   Yes.

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

   Yes.

QUESTIONS SUBMITTED FOR THE RECORD TO JAMES R. IVES

QUESTIONS SUBMITTED BY HON. CATHERINE CORTEZ MASTO

Question. There are significant opportunities for artificial intelligence to extend the abilities of an Inspector General in assuring accountability of government agencies. If confirmed to this role, will you commit to investigate how AI can be implemented to help provide independent, objective, and unbiased reviews of the department's operations?

Answer. Artificial intelligence technologies hold great promise for the government sector and present enhanced opportunities for government agencies to benefit the public and increase mission effectiveness. If confirmed, I commit to exploring the ways in which artificial intelligence technologies can be leveraged to improve the work of Treasury's Office of Inspector General, including by enhancing the OIG's ability to analyze data to identify patterns that indicate possible waste, fraud, and abuse. I commit that any such use of these technologies will be undertaken with structured governance and that I will make myself available to work with you and your staff on this important issue.

Question. A March 6, 2024 Treasury Office of Inspector General Report (OIG–24–025) found that OFAC complied with requirements regarding Ukraine/Russia-related Sanctions but documentation was not consistently complete nor timely closed.

Given your previous experiences, I am sure you understand the importance of effective and efficient anti-money laundering programs to prevent terrorist financing. If confirmed to this role, how will you work with the offices within Treasury to ensure speedy and accurate compliance of all rules, regulations, and statutes?

Answer. Having been a member of the Inspector General community for over 30 years, mostly in the national defense space, I certainly understand the importance of a robust OIG that holds agencies accountable for maintaining compliance with all rules, regulations, and statutes. Both Congress and the American people must have confidence that their government is working for them, and I have seen first-hand how an effective OIG can greatly enhance transparency and accountability, leading to better government.

Throughout my career, I have learned that successful Inspectors General respectfully and professionally engage agency leaders to elicit timely and necessary information, while remaining wholly independent, objective, and impartial in their reviews. If confirmed, I commit that I will approach the Inspector General role at Treasury in this manner, exhibiting the diligence and integrity that I have shown throughout my entire career to achieve successful outcomes. Further, I will do everything I can to ensure that all OIG employees have the tools and resources necessary to be successful at their jobs.

QUESTIONS SUBMITTED BY HON. CHUCK GRASSLEY

Question. During the hearing you testified that "over the past 30 years, I've never shied away from investigations that potentially require the delivery of very bad news to the Department or the Congress for that matter," and "just last week, an investigation involving a very senior military official, now a former military official, who has been charged with bribery, was reported in media circles. And my organization played a very critical role in that investigation." I asked whether this was in reference to the approximately $106 million dollars that former Army civilian employee Janet Mello was convicted of stealing in March of 2024, and you said "no."

Regarding Janet Mello, on March 19, 2024, I first wrote to Defense Finance Accounting Service (DFAS) Director Davis requesting answers how Janet Mello could have obtained 43 fraudulent payments from DFAS totaling approximately $106 million over the course of 7 years for a fake company created and owned in Mello's name. I've included my March 19, 2024, letter and my May 28, 2024, follow-up letter to DFAS.

Has the DoD OIG opened or plan to open an investigation into the circumstances that allowed Janet Mello to steal the approximately $106 million from taxpayers over 7 years? If not, why not?

Answer. The DoD OIG component that I currently oversee, the Defense Criminal Investigative Service (DCIS), played no role in the investigation at issue. My understanding is that the investigation was conducted by the U.S. Army's Criminal Investigation Command (Army CID) in conjunction with the Internal Revenue Service's (IRS) Criminal Investigations Division and the Department of Justice.

As DoD OIG's law enforcement arm, DCIS's role is typically limited to the investigation of potential criminal violations, whereas other OIG components, by virtue of their responsibilities, explore the circumstances that may have resulted in deficiencies that could lead to fraud, waste, or abuse. Since the underlying investigation is complete and the subject of the investigation has pleaded guilty, DCIS does not plan to launch its own investigation. My responsibilities at DoD OIG are specific to DCIS, so I am uncertain whether other OIG components plan to open inquiries (audits, evaluations, et cetera) that are directly or indirectly related to this matter.

Question. When did the DoD OIG become aware of Mello's fraudulent conduct?

Answer. See above. The investigation at issue was conducted by Army CID and IRS. DCIS played no role in the investigation. I first became aware of the matter when reviewing a Department of Justice press release and related media coverage referencing Mello's indictment on December 6, 2023. I would respectfully refer you to Army CID and IRS for more information on their investigative work.

Question. Did the DoD OIG receive any tips concerning Mello's fraudulent conduct prior to and after the criminal investigation leading to her arrest? If yes, please describe in detail the actions taken by the DOD OIG office to investigate these tips.

Answer. See above. DCIS was not involved in the investigation at issue. To the best of my knowledge, DCIS has never received tips or other complaints pertaining to Mello. I would respectfully refer you to Army CID and IRS for more information on their investigative work.

Question. Reports and court records indicate the IRS first caught wind of Mello's fraudulent activity. When did the IRS first contact DoD about suspicions concerning Mello?

Answer. See above. DCIS was not involved in the investigation at issue. I am unaware of the particulars regarding the IRS's interactions with Army CID. I would respectfully refer you to Army CID and IRS for more information on their investigative work.

Question. Did the DoD or DoD OIG open and then initiate an investigation into Mello after being notified about the IRS investigation? If not, why not?

Answer. See above. DCIS was not involved in the investigation involving Mello. I am unaware of the particulars regarding the IRS's interactions with Army CID. I would respectfully refer you to Army CID and IRS for more information on their investigative work.

Question. Have any corrective actions been taken against employees who allowed Janet Mello to fraudulently steal the approximately $106 million from Army? If yes, please provide a detailed description of the corrective actions. If not, why not?

Answer. See above. As DCIS played no role in the investigation at issue, I am unaware of the corrective action(s) the Army has taken—or plans to take—in response to this matter. I would respectfully refer you to Army CID and IRS for more information on their investigative work.

Question. In your testimony, you stated that "I initially served as the organization's Deputy Inspector General for Overseas Contingency Operations before returning to DCIS, where I currently serve as principal deputy director. Since returning to DCIS, a primary focus has been ensuring we provide timely oversight of DOD's Ukraine response efforts. I am extremely proud of the extent to which the entire DOD IG workforce has embraced this critical mission."

On October 17, 2023, I wrote to DoD Secretary Austin concerning the DoD OIG report titled, *The DoD's Accountability of Equipment Provided to Ukraine,* which found non-U.S. weaponry was, at one point, stolen from Ukraine fighters by criminals, volunteer fighters, and arms traffickers. The DoD OIG report "found that the DoD was unable to provide end-use monitoring (EUM) in accordance with DoD policy because of limited U.S. presence in Ukraine." While some oversight efforts have been reportedly improved since the IG report, DoD OIG has indicated that oversight of U.S.-provided weaponry continues to be an issue as recent as May and June of 2023. It is imperative that the government properly oversees how taxpayer funds and military equipment, supported by the taxpayer, have been used and that the equipment is not trafficked to arm our enemies.

Since the release of the DoD OIG report mentioned above, what efforts has the DoD OIG taken to:

- Ensure DoD has the adequate number of personnel to access and track U.S.-provided weapon deliveries to Ukraine?

- Account for how much U.S. weaponry is missing and the total dollar amount of that equipment?
- Ensure DoD has taken steps to prevent U.S.-provided weaponry to Ukraine is not sold on the black market or by other illicit means?

Answer. The report referenced above was issued by DoD OIG's Evaluations component. The DoD OIG component that I currently oversee, DCIS, did not play a substantive role in the review that resulted in the issuance of the report, nor was I personally involved in the review. Given this fact, I cannot speak to the report's findings or the follow-on actions associated with the report. However, DCIS has assigned senior investigators to Embassy Kiev who routinely engage with U.S. and host nation officials regarding criminal allegations involving related matters. DCIS is currently prioritizing any/all investigations involving the potential diversion of U.S. defense articles destined for Ukraine and other fraudulent schemes involving DoD's Ukraine-response efforts.

Question. How many DoD personnel currently have on-the-ground access to U.S.-provided weapons deliveries in Ukraine? How do they track U.S. equipment and at what stages in the delivery process do they track it?

Answer. See above. The DoD OIG component that I currently oversee, DCIS, did not play a substantive role in the review that resulted in issuance of the report. Given this fact, I am unable to elaborate on the report's findings or follow-on actions associated with the report. I would respectfully refer you to DoD OIG's Evaluations component for more information about their work.

Question. How much U.S.-provided weaponry to Ukraine is unaccounted for? What is the total dollar amount of that equipment?

Answer. See above. The DoD OIG component that I currently oversee, DCIS, did not play a substantive role in the review that resulted in issuance of the report. Given this fact, I am unable to elaborate on the report's findings or follow-on actions associated with the report. I would respectfully refer you to DoD OIG's Evaluations component for more information about their work.

Question. What steps have you taken to ensure U.S.-provided weaponry to Ukraine is not sold on the black market or by other illicit means? To-date, has DoD encountered any diverted, U.S.-provided equipment intended for Ukraine? If so, please explain the details of the equipment, the facts surrounding each diversion, and whether the equipment was recovered.

Answer. DCIS is one of several law enforcement organizations responsible for investigating the alleged diversion of U.S.-provided equipment intended for Ukraine, to include items sold on the black market or by other illicit means. At my direction, the component is currently prioritizing these investigations. To date, DCIS's investigations have not substantiated any such instances, however, we continue to aggressively pursue any/all allegations involving potential diversion.

Question. You were not present at the DOD Office of Inspector General (OIG) during the investigation that led up to the OIG's 2020 Report on the Joint Enterprise Defense Infrastructure (JEDI) Cloud Procurement. However, you returned to the DOD OIG in 2021, a time period when I and other members of Congress were criticizing that report and serious omissions that rendered its conclusions questionable. Since then, members have asked for the names of OIG officials who worked on the report, but the office has failed to provide that information to Congress. I addressed the U.S. Senate on March 14, 2024, highlighting failures in the report related to its analysis of ethics issues involving Senior Advisor to Secretary James Mattis, Sally Donnelly, and her business partner, Andre Pienaar.

The OIG has failed to respond to that address or to my inquiry about how new information I revealed in 2022 may have affected its JEDI conflicts analysis. This information included the identity of the company that purchased Ms. Donnelly's firm as she entered DOD service, which the DOD OIG failed to obtain during its investigation. Internal emails omitted from the OIG's report show Ms. Donnelly working behind the scenes to favor Amazon in the early stages of the JEDI procurement, even though she was receiving payments for the sale of her company to an Amazon-affiliated company. Despite this, the OIG found no areas where Ms. Donnelly violated any of her ethical obligations.

Did you have any role at all, or did you discuss with anyone in DOD, in the DOD OIG, or outside DOD at any time, any of the inquiries I have made related to the

JEDI procurement? If so, please describe your role and the content of those conversations to the best of your memory.

Answer. No. I did not play any role in the DoD OIG inquiry at issue, nor have I discussed related matters with anyone in DoD, in the DoD OIG, or outside DoD at any time.

Question. Did you have any role in the DOD IG's response to my October 24, 2022 letter, which provided details related to the sale of Ms. Donnelly's company, SBD Advisors? If so, describe that role and whether you played any role in the OIG's failure to answer the issues I raised.

Answer. No. I did not play any role in this matter.

Question. Did anyone at DOD OIG raise concerns with you about the integrity of the OIG's JEDI report at any time? If so, what were those concerns, and who raised them?

Answer. No. I did not play any role in this matter. No one at DoD OIG has raised concerns with me regarding this matter.

Question. Have you heard of the concept of "rounding" OIG reports? If so, what do you take that term to mean, and are you aware of any instances where the practice was employed at the DOD OIG?

Answer. No. I am unfamiliar with the term "rounding." I have not heard this term referenced in discussions with any DoD OIG employees.

Question. Do you believe an Inspector General has the right to refuse to supply the names of public servants who worked on a report, paid for by the taxpayer, where Congress requests that information due to serious concerns about the work product? Will you pledge to provide the names of those who work on reports in your new role, if Congress asks for that information?

Answer. I believe that an Inspector General should be as transparent as possible when receiving requests from Congress. If confirmed, I will pledge to review all Treasury OIG polices relating to the release of information requested by Congress in conjunction with the organization's Office of Counsel, and ensure said policies advance transparency and comply with acceptable legal standards and relevant governing principles.

Question. Do you know the names of any OIG officials who worked on the 2020 JEDI report? If so, please name all officials you know who worked on the report and their role in it.

Answer. Since I did not play any role in the review or responding to follow-on inquiries, I am not able to name the OIG officials who worked on the report and/or describe their roles.

Question. Have you worked on any other matters at DOD OIG where anyone alleged Amazon had received improper preference in any contract, or had improperly been awarded a contract? If so, please describe the subject of the investigation, your role in it, and the status and/or conclusion of that investigation.

Answer. No.

Question. If you are confirmed, how would you handle a similar inquiry from Congress that questions the integrity and conclusions of one of your reports? Please distinguish what steps you would take and how they would differ from the steps the DOD OIG has taken in responding to congressional inquiries related to JEDI.

Answer. Since I did not play any role in the review or responding to follow-on inquiries, I am unable to comment on the steps that DoD OIG has taken in responding. However, if I were confirmed and Congress were to raise concerns regarding the integrity and conclusions of any Treasury OIG report, I would ensure that those concerns were thoroughly investigated. And if necessary, I would ensure that appropriate corrective action was taken in the event a report was found to be deficient.

United States Senate

CHARLES E. GRASSLEY
PRESIDENT PRO TEMPORE EMERITUS

WASHINGTON, DC 20510–1501

March 19, 2024

The Honorable Audrey Y. Davis
Director
Defense Finance and Accounting Service
8999 East 56th St.
Indianapolis, IN 46249

Dear Director Davis:

I am writing to request information and supporting documentation pertaining to 43 fraudulent payments totaling $103.3 million that your office made to a fake company, CHYLD, created by an Army employee, Janet Y. Mello.

In order to help me understand how such a large sum of money could be paid to a non-existent company from 2016 to 2023 without detection by internal controls and/or vigilant oversight, I request that you provide the following documents and answers to related questions:

- A list of all payments to CHYLD/Mello, including date of payment, amount of payment, payee, reemit address;
- All 43 payment vouchers;
- Were all payments made with U.S. Treasury checks?
- The indictment indicates that CHYLD/Mello award packages included her memoranda giving DFAS "**instructions** to cut a check to the entity specified in the award package, CHYLD. DFAS would then mail the check to CHYLD per **shipping instructions** detailed in the memo." The checks were sent via FEDEX to a UPS Mailbox rented by Mello and located at 20770 Hwy 281 N Suite 108–421, San Antonio, TX 78258 and other addresses. Is there anything unusual or suspicious about her special instructions on handling and delivery of the 43 checks?
- DFAS payments are automatically mailed or transmitted directly to a remit address. So why were special instructions necessary for her checks?
- Law requires a taxpayer identification number (TIN) on all certified payment vouchers submitted to a disbursing officer for payment. The TIN is a unique 9-digit identifier assigned to all individuals by the Social Security Administration and to businesses by the Internal Revenue Service (IRS). Did the TIN and other data on the Mello payment vouchers match up with pertinent data on U.S. Treasury checks?
- Were tax forms or any other tax reporting documents submitted to the IRS concerning thepayments to CHYLD?
- When did IRS first alert DFAS to the potential fraud on CHYLD payments?
- Provide any DFAS communications with IRS regarding this matter.
- Vendors, which have completed a service contract with the Army's Child and Youth Services Division (CYS), submit an invoice requesting payment. Mello, however, seemed to bypass invoicing procedures. Apparently, she substituted a Standard Form (SF) 1080, which is normally used to transfer funds between agencies, for an invoice. Court documents indicate that her use of an SF 1080 **signaled** to DFAS that "CHYLD was recognized as a government vendor allowing payment to proceed without an invoice." Was this a blatant misuse of an SF 1080? Since an SF 1080 is used for fund transfers between appropriations, how can that form be used to invalidate the requirement for invoices to document the delivery of goods and services at an agreed upon price?
- Where in the regulations does it say that an SF 1080 can be substituted for an invoice?
- Who in DFAS management approved the substitution of an SF 1080 for an invoice? Isn't that a violation of financial management regulations?
- Why did Mello insist on an SF 1080 versus invoice?
- Isn't this a red flag?
- Were all 43 payments totaling $103 million made without invoices?

- Please provide all Mello's instructions contained in the memoranda that formed the foundation for her allegedly fraudulent payments. If all are identical, then just provide one example.
- Why didn't due diligence detect this sham operation early on? How could it continue for 7 years undetected?
- Was there anything out of the ordinary about the documentation presented in support of the CHYLD/Mello checks?
- Did any of these payments raise red flags? Did any questions or concerns surface within DFAS regarding any of these payments? If so, please provide all pertinent details.
- Director Davis, when did you first become aware of Mello's alleged fraudulent activity?
- Since the fraud continued for 7 years without interruption, who in the Department is chiefly responsible for this colossal failure of internal controls? Has anyone been held accountable?
- DFAS employees have access the DoD-wide Hotline. Were there any Hotline complaints regarding these payments?
- Was having Mello listed as the point of contact on all 43 payments a red flag?
- Was the role of IMCOM [1] in this matter in any way improper or unusual?

The answers to these questions may pinpoint where and how internal controls failed. With that information, maybe we can solve this problem.

It seems inconceivable that the Army and DFAS could pour $103 million into just one simple military-connected 4-H youth project over the short span of 7 years without raising any questions or having one overseer curious enough to inspect the project. The address of the fake company was not more than a few miles from the CYS program management office at Fort Sam Houston in San Antonio where Mello was employed. A spot check would have been so quick and easy, and the fraud would have been exposed instantly.

I look forward to your full support and cooperation in addressing this matter. I expect all of my questions to be answered by March 29, 2024. If you need to discuss my inquiry, you may contact Charles Murphy or Noah Parlee in my office. Your assistance in resolving these issues would be appreciated.

Sincerely,

Charles E. Grassley,
U.S. Senator

United States Senate

CHARLES E. GRASSLEY
PRESIDENT PRO TEMPORE EMERITUS

WASHINGTON, DC 20510–1501

May 28, 2024

Director Audrey Y. Davis
Defense Finance and Accounting Service
8999 East 56th Street
Indianapolis, IN 46249

Dear Director Davis:

Your May 7th response to my March 19th inquiry regarding the $109 million in fraudulent payments to Ms. Janet Mello is unsatisfactory for three reasons: (1) You do not answer my questions; (2) You do not explain why the Mello case was allowed to fester undetected for 6 years; and (3) You do not explain how you will bring internal controls up to required standards.

First, please answer all my questions. The list is attached for your convenience.

Second, your letter opens with this truncated thought: "financial controls are very important to the Defense Department and Defense Finance and Accounting Service

[1] Installation Management Command, at Fort Sam Houston.

(DFAS)," as they should be. However, you need to expand on that. As the Pentagon's chief bill payer, you need to explain why internal controls are important. You need to explain how they should play a key role in detecting and deterring theft and preventing fraudsters like Mello from ripping off the **taxpayers.** You need to tell us why they failed in the case of Mello, and fully explain how you are planning to beef up controls. You need to get to work with the financial managers in the Pentagon on designing a whole new system of internal controls that will permanently plug all the holes. To get there, the department should acquire modern, fully integrated accounting systems that are capable of tracking transactions—the lifeblood of controls.

Third, you also make a claim that defies understanding given the hundreds of millions of taxpayer dollars lost to fraud. You assert that the fraudulent payments to Ms. Mello **"complied with applicable DoD regulations and policy."** What is the meaning of that statement? Clearly, something is very wrong. Mello was able to drive a Mack Truck right through gaping holes in DFAS controls from at least December 2016 until August 2023. DFAS was clueless until the Army's investigative agency blew the whistle. To make matters worse, in reading court documents, I see a number of irregularities or red warning flags. Mello—with DFAS cooperation—may have used some very unusual and clever payment procedures to circumvent controls. Her complicated payment instructions should have alerted DFAS watchdogs: "Something doesn't smell right." A quick spot check of Mello's fictitious "work site" could have blown her cover in short order. On-site inspections are a valuable way to verify delivery with certainty.

The importance of delivery verification—be it goods or services—was hammered home in a review of DoD internal controls prepared by my Judiciary Oversight Subcommittee staff 25 years ago. That investigation was led by Mr. A. Ernest Fitzgerald, Management Systems Deputy of the Air Force, who was detailed to my staff to conduct this review.[1] This investigation was triggered by the theft of large sums of money by four crooks—military and DoD civilians. They mirror the Mello case. With Ernie's leadership, we tested controls by tracking 200 invoices generated by an office in the Pentagon where fraud had occurred. We followed them through the entire cycle of transactions—from request to purchase, to contract award, to invoice, to payment and issuing of U.S. Treasury checks, and to delivery verification, including, for example, an on-site inspection of audiovisual equipment serial numbers in the National Military Command Center to be sure they matched supporting documentation. Verification depended on meticulous document and hardware match-ups.

I forward the September 1998 staff report to you, hoping it will give you insight on the Mellocase and how any official with oversight responsibilities can take the initiative and check todetermine whether a transaction is legitimate.[2]

Given the magnitude of the fraudulent payments to Mello, I think you owe Congress a full report on what happened, who is responsible, and what corrective action is planned, including the need for administrative and disciplinary action. With the red flags highlighted in court documents, a watchful eye might have caught the fraudulent payments early on. Approving $109 million in fraudulent payments without a spot check to verify delivery is unacceptable. Heads should roll.

In closing, I would like to remind you that Mello is just one small dot on a long trail of thefts—a trail that keeps reinforcing this inescapable truth: **DoD/DFAS Internal controls are weak or non-existent.** This warning has been popping up in audit reports for 30–40 years. The taxpayers deserve better. DFAS needs to get on the stick and establish effective controls over the peoples' money.

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[1] Ernie Fitzgerald was removed from his senior position at the direction of President Nixon for "committing truth" on the C–SA aircraft cost overrun. After 12 years of legal battles, he was reinstated in his former position by court order but was never allowed to do this job. He was relegated to a cubbyhole in the attic of the Pentagon until retirement. His 2-year assignment to my staff allowed him to apply his vast knowledge to oversight of wasteful DoD spending practices.

[2] *https://www.grassley.senate.gov/imo/media/doc/grassley_staff_joint_review_of_internal_control_at_dod_1998_report.pdf.*

Your full cooperation and prompt response will be appreciated.

Charles E. Grassley
U.S. Senator

QUESTIONS SUBMITTED BY HON. TODD YOUNG

Question. In your opinion, is it ever acceptable for an IRS employee or contractor to disclose confidential taxpayer data illegally, "yes" or "no"? If your answer is "yes," please provide examples of the circumstances you believe would warrant such illegal activity.

Answer. No. The safety and security of taxpayer data are of critical importance, and IRS employees and contractors have a duty to safeguard this confidential information and comply with all legal obligations that govern the sharing of taxpayer data. Any individual who unlawfully discloses confidential taxpayer information should be held accountable under the law. It is my understanding that the Treasury Inspector General for Tax Administration (TIGTA) has jurisdiction over Internal Revenue Service matters, including unlawful disclosures of taxpayer information. However, if confirmed to lead Treasury's Office of Inspector General, I commit to working closely with TIGTA and Treasury leadership to ensure that the security of taxpayer data is a top priority.

Question. In the event that an IRS employee or contractor illegally discloses confidential taxpayer information, in your opinion as a lay person do you believe that individual should be criminally charged for each individual offense, "yes" or "no"? If your answer is "no," please explain. Note that this question asks your opinion as a lay person and does not ask how you would approach any kind of recommendation if you were to be confirmed to this position.

Answer. It is my understanding that TIGTA has jurisdiction over Internal Revenue Service matters, including the unlawful disclosure of taxpayer information, and that the Department of Justice is responsible for making charging decisions where an individual has violated the law. I am aware that the Internal Revenue Code imposes strict confidentiality requirements with respect to taxpayer data and imposes penalties for unlawful disclosures of this information. Any individual who unlawfully discloses confidential taxpayer information should be held accountable under the law.

Having spent more than 3 decades in the Inspector General community—a substantial part of which was in the DoD IG's law enforcement arm, I appreciate the critical importance of holding criminal wrongdoers accountable. Throughout my career, my investigations have resulted in successful criminal prosecutions and civil penalties and fines. If confirmed, I commit to you that I will continue to vigorously investigate potential violations of law within the purview of Treasury's Office of Inspector General to help ensure that individuals who break the law are held accountable.

Question. As a current Inspector General, does it strike you as surprising or alarming that it took over 2 years for the ProPublica leaker, Charles Littlejohn, to be charged for his crimes? Why or why not?

Answer. I believe this government functions best when there is robust, rigorous, and timely oversight of alleged waste, fraud, and abuse. The American people and Congress deserve transparency and accountability from their government agencies, and IG offices have a responsibility to act expeditiously to deliver clarity and provide answers as promptly as possible.

From my time in the Inspector General community, I know that investigation timelines can vary substantially. For example, complex investigations that involve a large number of parties and require substantial forensic analysis can take longer to conduct, but it is critically important that these investigations be thorough and comprehensive so that no one escapes accountability. Throughout my career, I have always prioritized being both timely and thorough in my work, and, if confirmed, I will ensure that Treasury's Office of Inspector General conducts its investigations in this manner.

Question. If you were to be confirmed to this position and there were to be another incident of illegal IRS data disclosure during your tenure, do you commit to investigating the matter as promptly as possible and providing both majority and minority staff of this committee with monthly updates regarding the investigation, "yes" or "no"? If you answer is "no," please explain and provide an alternative periodic update schedule that you commit to maintain if this issue were to arise.

Answer. I deeply respect the important oversight role of Congress and, having spent my career in the IG community, understand that Congress can be an important partner to IG offices. I recognize that Congress requires timely information from the executive branch, including IG offices, in order to conduct its work, and, if confirmed, I will ensure that me and my team regularly engage with this committee on a bipartisan basis to provide timely and accurate responses to your questions.

With respect to unlawful disclosures of taxpayer information, it is my understanding that TIGTA has jurisdiction over these and other Internal Revenue Service matters. However, if confirmed to lead Treasury's Office of Inspector General, I will be a close partner to TIGTA and will certainly raise your concerns about the security of taxpayer data with TIGTA's leadership.

Question. Do you agree with the Supreme Court's holding in *Americans for Prosperity vs. Bonta,* "yes" or "no"? If your answer is "no," please explain.

Answer. A key responsibility of OIGs is to ensure that the government agencies they oversee comply with both statutes and applicable judicial holdings. In executing this responsibility, OIG employees must always act independently and impartially, regardless of their personal views on the state of the law. If confirmed, I would be happy to meet with you to discuss how Treasury's Office of Inspector General ensures that the Department adheres to legal requirements imposed on it by statute and case law.

Question. Do you believe that charitable giving serves a valuable role in society and existing laws regarding illegal disclosure of charitable donor information should be vigorously enforced, "yes" or "no"? If your answer is "no," please explain.

Answer. While I certainly agree that charitable giving serves a valuable role in society, if confirmed, I would need to look into this issue and the role of Treasury's Office of Inspector General in this space vis-à-vis TIGTA. It is my understanding that TIGTA has jurisdiction over Internal Revenue Service matters, including unlawful disclosures of taxpayer information. If confirmed, I commit to working with you and your staff regarding your interest in this issue.

Question. On May 14, 2024, I introduced S. 4326, the Protecting Charitable Giving Act, with Senator Lankford. I am attaching a copy of that legislation to these questions for your reference.

In your opinion as a lay person, do you support this legislation, "yes" or "no"? If your answer is "no," please explain. Note that this question asks your opinion as a lay person and does not ask how you would approach any kind of recommendation if you were to be confirmed to this position.

Answer. A key function of an Inspector General is to ensure that laws, as enacted, are being complied with. In fulfilling this duty, an IG must always act in an impartial and unbiased manner, without showing preference towards a particular policy position or proposed legislation. If confirmed, I commit that I will carry out my duties impartially and independent of any personal policy views, as I have done throughout my long career in the IG community.

Question. As you know, my Republican colleagues and I are concerned about the alarming incidents of fraud in the various COVID pandemic relief programs. We want to ensure that taxpayer dollars were used efficiently and effectively, and that fraudsters are identified and brought to justice. I understand that pandemic fraud as a whole is still under investigation. The Department of the Treasury Inspector General has jurisdiction over the CARES Act's Coronavirus Relief Fund (CRF) and the American Rescue Plan Act's State and Local Fiscal Recovery Funds (SLFRF) program. Both were significant sums of money given to States and localities to use for a broad range [1] of purposes.[2] I am interested in learning the answers to the following two questions:

How much money from each fund that was improperly spent by localities has been recouped?

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[1] *See, e.g., https://home.treasury.gov/system/files/136/CRF-Guidance-Federal-Register_2021-00827.pdf.*

[2] *See, e.g., https://home.treasury.gov/policy-issues/coronavirus/assistance-for-state-local-and-tribal-governments/state-and-local-fiscal-recovery-funds.*

What steps are being taken in terms of audits and investigations? For example, how many audits and/or investigations are active and what is their status?

If you are confirmed, do you commit to providing my staff, along with the majority and minority committee staffs, a briefing on the above requests within 60 days of taking office, "yes" or "no"? If your answer is "no," please provide an alternative time frame to which you are willing to commit.

Answer. Throughout my career, I have seen how well-executed OIG initiatives can detect and deter fraud and abuse and return millions of dollars of ill-gotten gains to the government. My work over the past 3 decades has entailed uncovering elaborate fraud schemes, including one investigation that resulted in the largest health care fraud recovery in our Nation's history at the time. If confirmed as Treasury Inspector General, I commit that investigating fraud will be a top priority for the office.

Because I am not currently in Treasury's Office of Inspector General, I do not know the answers to your questions above, but I will look into these issues promptly, if I am confirmed. Further, if confirmed, I commit to working with you and other members of the committee concerning your interest in pandemic relief programs. I believe it is important for IGs to be close partners to Congress, and I know this is an issue in which there is significant congressional interest.

PREPARED STATEMENT OF ROSE E. JENKINS, NOMINATED TO BE A JUDGE OF THE UNITED STATES TAX COURT

Good morning, Chairman Wyden, Ranking Member Crapo, and other members of the Finance Committee. Thank you for holding this hearing to consider my nomination to serve on the United States Tax Court. I'm also grateful to the committee staff for their efforts throughout this process. I appreciate the opportunity to be here today, accompanied by my parents, Antonio Jenkins-Lara and Rose Jenkins, and my husband, Daniel Horner, whose encouragement and support has been unwavering. I would also like to thank my many mentors and other colleagues throughout my career who have taught and challenged me to be the best tax attorney that I can be and provided me the opportunities that have led to me being here today. And I am grateful to the President for nominating me and providing me the chance, if confirmed, to serve the tax system of which I have been a part my entire career.

I have had a variety of roles in the tax system and have always been guided by a drive to make sense of the tax laws and apply them in a principled manner befitting our system of voluntary tax compliance. I have worked with taxpayers struggling to get their arms around the tax consequences of messy facts that often came about as a result of simply living their lives and operating their businesses. And I have worked with dedicated public servants who work zealously to ensure that not only the letter but the spirit of the law is followed. Ultimately, the complexity of the tax laws, the broad and uncertain scope of facts that may be relevant to any particular question, and the inherent tension between the IRS and taxpayers mean that there are many cases in which they do not see eye to eye. That makes the mission of the Tax Court so critical. By providing a national forum for the expeditious resolution of disputes, based on a careful consideration of the merits of each case, it instills confidence in taxpayers that they will receive a fair hearing. And the Tax Court's efforts to ensure a uniform interpretation of the code provide certainty and stability that benefit not only the taxpayers that appear before it, but all stakeholders in the tax system at large.

In addition to allowing me to develop a deep understanding of particular areas of the tax law, my career has given me an appreciation of the differing perspectives, not only between the government and taxpayers, but also among different types of taxpayers. That understanding, as well as the experience engaging in the collaborative, analytical, and decision-making processes entailed, will benefit me as a member of the Tax Court working collegially to ensure uniform application of the law. More broadly, my experiences throughout my career have instilled in me a propensity for close, careful listening and thorough, open-minded analysis and discussion, which are critical to fair and impartial judgment. If confirmed, I commit to maintaining these principles in service of the Tax Court's critical mission. I look forward to answering the committee's questions.

SENATE FINANCE COMMITTEE

STATEMENT OF INFORMATION REQUESTED OF NOMINEE

A. BIOGRAPHICAL INFORMATION

1. Name (include any former names used): Rose Elena Jenkins.
2. Position to which nominated: Judge, United States Tax Court.
3. Date of nomination: February 1, 2024.
4. Address (list current residence, office, and mailing addresses):
5. Date and place of birth: December 29, 1984; Minneapolis, Minnesota, USA.
6. Marital status (include maiden name of wife or husband's name):
7. Names and ages of children:
8. Education (list all secondary and higher education institutions, dates attended, degree received, and date degree granted):

   Clements High School.
   Attended August 1997–May 1998.
   No degree conferred.

   Hightower High School.
   Attended August 1998–May 2001.
   High school diploma conferred May 2001.

   Stanford University.
   Attended September 2001–August 2005.
   BA—Economics, German Studies—conferred June 12, 2005.
   MA—International Education Administration and Policy Analysis—conferred September 29, 2005.

   Bucerius University.
   Attended September–December 2007 as part of law school study abroad program.
   No degree conferred.

   The University of Texas at Austin.
   Attended August 2005–May 2008.
   JD—conferred May 17, 2008.

   New York University.
   Attended September 2009–December 2011.
   Executive LLM—conferred January 23, 2012.

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

   Student Supervisor—Stanford University Residential Services—Stanford, CA—June–August 2005.

   VITA Site Manager—Foundation Communities, Community Tax Centers—Austin, TX—January–April 2006.

   Summer Associate—Vinson and Elkins LLP—Houston, TX—May–July 2006.

   Law Clerk—Texas Association of School Boards—Austin, TX—July 2006–May 2007.

   VITA Site Manager—Foundation Communities, Community Tax Centers—Austin, TX—January–April 2007.

   Summer Associate—Skadden, Arps, Slate, Meagher and Flom LLP—New York, NY—May–July 2007.

   Summer Associate—Vinson and Elkins LLP—Houston, TX—July–August 2007.

   VITA Site Manager—Foundation Communities, Community Tax Centers—Austin, TX—January–April 2008.

Tax Associate—Skadden, Arps, Slate, Meagher and Flom LLP—New York, NY—September 2008–January. 2013.

Editor/Author, State and Local Tax—Thomson Reuters—New York, NY—January 2013–November 2013.

Attorney, Branch 2, Office of Associate Chief Counsel (International)—Internal Revenue Service, Office of Chief Counsel—Washington, DC—November 2013–August 2017.

Senior Counsel, Branch 2, Office of Associate Chief Counsel (International)—Internal Revenue Service, Office of Chief Counsel—Washington, DC—August 2017–June 2019.

Special Counsel, Office of Associate Chief Counsel (International)—Internal Revenue Service, Office of Chief Counsel—Washington, DC—June 2019–February 2020.

Managing Director, Washington National Tax-International Tax—KPMG—Washington, DC—February 2020–August 2021.

Senior Attorney Advisor—The Tax Law Center at NYU Law—New York, NY (working remotely from Washington, DC)—August 2021–January 2023.

Attorney, Branch 2, Office of Associate Chief Counsel (Procedure and Administration)—Internal Revenue Service, Office of Chief Counsel—Washington, DC—January 2023–present.

10. Government experience (list any current and former advisory, consultative, honorary, or other part-time service or positions with Federal, State, or local governments held since college, including dates, other than those listed above):

    None.

11. Business relationships (list all current and former positions held as an officer, director, trustee, partner (*e.g.,* limited partner, nonvoting, etc.), proprietor, agent, representative, or consultant of any corporation, company, firm, partnership, other business enterprise, or educational or other institution):

    None.

12. Memberships (list all current and former memberships, as well as any current and former offices held in professional, fraternal, scholarly, civic, business, charitable, and other organizations dating back to college, including dates for these memberships and offices):

Professional

New York State Bar—2009–present.
New York State Bar Association and New York State Bar Association Tax Section—2020–2022.
New York State Bar Association Tax Section Executive Committee—2022.

Scholarly

Texas Journal of Women and the Law—2006–2008.

Civic/Charitable

Stanford Alumni Association—2005–present.

Manhattan Institute—~2008–2009.

Friends of the National Zoo—2014–2022.

Capitol Hill Restoration Society—2015–present.

Studio Theater Friends with Benefits—2016–2017.

Martin House—2019–2020.

Round House Inner Circle—2020–2021.

13. Political affiliations and activities:

    a. List all public offices for which you have been a candidate dating back to the age of 18.

       None.

b. List all memberships and offices held in and services rendered to all political parties or election committees, currently and during the last 10 years prior to the date of your nomination.

None.

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

None.

14. Honors and awards (list all scholarships, fellowships, honorary degrees, honorary society memberships, military medals, and any other special recognitions for outstanding service or achievement received since the age of 18):

Research/Academic

Chappell-Lougee Scholarship granted by Stanford Undergraduate Research Opportunities in 2003.

Fulbright Scholarship offered but not accepted in 2005.

"With honors" recognition upon conferral of JD from The University of Texas at Austin.

Professional

Chief Counsel National Recognition for Superior Achievement Award in Legal Research and Writing in 2014.

Department of the Treasury Legal Research and Writing Award in 2014.

Associate Chief Counsel (International) Quick Hit Award in 2016.

Department of the Treasury Certificate of Appreciation in 2016.

Chief Counsel National Recognition for Superior Achievement in Legal Research and Writing in 2016.

Commissioner's Award in 2017.

Department of the Treasury Legal Team of the Year in 2018.

Chief Counsel National Outstanding Published/Technical Guidance Award in 2019.

Commissioner's Award in 2019.

Deputy Commissioner for Services and Enforcement Award in 2021.

15. Published writings (list the titles, publishers, dates, and hyperlinks (as applicable) of all books, articles, reports, blog posts, or other published materials you have written):

IRS Materials Co-Authored with Other IRS and Department of the Treasury Colleagues

Notice 2014–51, Section 1298(f) Reporting Requirements for U.S. Persons that Hold Stock of a Passive Foreign Investment Company that is Marked to Market Under Section 475 or Another Chapter 1 Code Provision Other Than Section 1296, September 29, 2014, available at *https://www.irs.gov/irb/2014-40_IRB#NOT-2014-51.*

Notice 2014–52, Rules Regarding Inversions and Related Transactions, October 14, 2014, available at *https://www.irs.gov/irb/2014-42_IRB#NOT-2014-52.*

Chief Counsel Attorney Memorandum 2015–001, Earnings and Profits Consequences of Section 951(a) Income Inclusions, available at *https://www.irs.gov/pub/irs-counsel/AM2015-001.pdf.*

United States Property Held by Controlled Foreign Corporations in Transactions Involving Partnerships; Rents and Royalties Derived in the Active Conduct of a Trade or Business, available at *https://www.federalregister.gov/documents/2015/10/29/2015-27604/united-states-property-held-by-controlled-foreign-corporations-in-transactions-involving*.

TD 9733, September 2, 2015, available at *https://www.federalregister.gov/documents/2015/09/02/2015-21574/united-states-property-held-by-controlled-foreign-corporations-in-transactions-involving*.

TD 9733 Preamble Correction, October 29, 2015, available at *https://www.federalregister.gov/documents/2015/10/29/2015-27604/united-states-property-held-by-controlled-foreign-corporations-in-transactions-involving*.

TD 9733 Correction, October 29, 2015, available at *https://www.federalregister.gov/documents/2015/10/29/2015-27603/united-states-property-held-by-controlled-foreign-corporations-in-transactions-involving*.

REG–155164–09, September 2, 2015, available at *https://www.federalregister.gov/documents/2015/09/02/2015-21572/united-states-property-held-by-controlled-foreign-corporations-in-transactions-involving*.

REG–155164–09 Preamble Correction, October 29, 2015, available at *https://www.federalregister.gov/documents/2015/10/29/2015-27601/united-states-property-held-by-controlled-foreign-corporations-in-transactions-involving*.

TD 9792, November 3, 2016, available at *https://www.federalregister.gov/documents/2016/11/03/2016-26425/united-states-property-held-by-controlled-foreign-corporations-in-transactions-involving*.

TD 9792 Preamble Correction, December 28, 2016, available at *https://www.federalregister.gov/documents/2016/12/28/2016-31364/united-states-property-held-by-controlled-foreign-corporations-in-transactions-involving*.

TD 9792 Correction, December 28, 2016, available at *https://www.federalregister.gov/documents/2016/12/28/2016-31411/united-states-property-held-by-controlled-foreign-corporations-in-transactions-involving*.

United States Property Held by Controlled Foreign Corporations Through Partnerships With Special Allocations

REG–114734–16, November 3, 2016, available at *https://www.federalregister.gov/documents/2016/11/03/2016-26424/united-states-property-held-by-controlled-foreign-corporations-through-partnerships-with-special*.

REG–114734–16 Correction, December 28, 2016, available at *https://www.federalregister.gov/documents/2016/12/28/2016-31358/united-states-property-held-by-controlled-foreign-corporations-through-partnerships-with-special*.

REG–122387–16, Treatment of Related Person Factoring Income; Certain Investments in United States Property; and Stock Redemptions Through Related Corporations, November 3, 2016, available at *https://www.federalregister.gov/documents/2016/11/03/2016-26423/treatment-of-related-person-factoring-income-certain-investments-in-united-states-property-and-stock*.

Notice 2017–55, Treatment Under Section 956(c) of Certain Property Temporarily Stored in the United States Following Hurricane Irma or Hurricane Maria, October 16, 2017, available at *https://www.irs.gov/irb/2017-42_IRB#NOT-2017-55*.

Notice 2017–68, Treatment Under Section 956(c) of Certain Receivables Following Hurricane Irma or Hurricane Maria, November 13, 2017, available at *https://www.irs.gov/irb/2017-46_IRB#NOT-2017-68*.

Inversions and Related Transactions

TD 9761, April 8, 2016, available at *https://www.federalregister.gov/documents/2016/04/08/2016-07300/inversions-and-related-transactions*.

REG–135734–14, April 8, 2016, available at *https://www.federalregister.gov/documents/2016/04/08/2016-07299/inversions-and-related-transactions*.

REG–135734–14 Preamble Correction, June 2, 2016, available at *https://www.federalregister.gov/documents/2016/06/02/2016-13015/inversions-and-related-transactions-correction*.

TD 9761 Preamble Correction, June 23, 2016, available at *https://www.federalregister.gov/documents/2016/06/23/2016-14648/inversions-and-related-transactions-correction*.

TD 9761 Correction, June 23, 2016, available at *https://www.federalregister.gov/documents/2016/06/23/2016-14649/inversions-and-related-transactions-correction*.

TD 9761 Correction, July 19, 2016, available at *https://www.federalregister.gov/documents/2016/07/19/2016-16470/inversions-and-related-transactions-correction.*

TD 9834, July 12, 2018, available at *https://www.federalregister.gov/documents/2018/07/12/2018-14693/inversions-and-related-transactions.*

REG–125135–15, Ownership Attribution for Purposes of Determining Whether a Person Is Related to a Controlled Foreign Corporation; Rents Derived in the Active Conduct of a Trade or Business, May 20, 2019, available at *https://www.federalregister.gov/documents/2019/05/20/2019-10464/ownership-attribution-for-purposes-of-determining-whether-a-person-is-related-to-a-controlled.*

Amount Determined Under Section 956 for Corporate United States Shareholders

TD 9859, May 23, 2019, available at *https://www.federalregister.gov/documents/2019/05/23/2019-10749/amount-determined-under-section-956-for-corporate-united-states-shareholders.*

Correction to TD 9859, June 25, 2019, available at *https://www.federalregister.gov/documents/2019/06/25/2019-13489/amount-determined-under-section-956-for-corporate-united-states-shareholders-correction.*

REG–114540–18, November 5, 2018, available at *https://www.federalregister.gov/documents/2018/11/05/2018-24140/amount-determined-under-section-956-for-corporate-united-states-shareholders.*

REG–105474–18, Guidance on Passive Foreign Investment Companies, July 11, 2019, available at *https://www.federalregister.gov/documents/2019/07/11/2019-12030/guidance-on-passive-foreign-investment-companies.*

Regulatory Comment Letters Co-Authored with Colleagues or Other Tax Practitioners

New York State Bar Association Tax Section, Report No. 1448—Report on Proposed Regulations Providing Guidance Related to the Foreign Tax Credit, February 9, 2021, available at *https://nysba.org/app/uploads/2021/02/Report-1448.pdf.*

The Tax Law Center at NYU Law, Additional Recommendations for Guidance on the Corporate Alternative Minimum Tax, December 6, 2022, available at *https://www.law.nyu.edu/sites/default/files/Tax%20Law%20Center%20Comment%20on%20CAMT%20%2812-6-2022%29_508.pdf.*

KPMG Publications Co-Authored with KPMG Colleagues

KPMG report: Analysis of final FDII regulations *Tax reform, July 31, 2020, available at https://assets.kpmg.com/content/dam/kpmg/us/pdf/2020/07/tnf-kpmg-report-analysis-final-fdii-regulations-july31-2020.pdf.*

KPMG report: Analysis of final and proposed regulations, high-tax exception under GILTI and subpart F, August 13, 2020, available at *https://assets.kpmg.com/content/dam/kpmg/us/pdf/2020/08/tnf-kpmg-report-gilti-hte-aug13-2020.pdf.*

KPMG report: Initial impressions of final and proposed foreign tax credit regulations, October 5, 2020, available at *https://assets.kpmg.com/content/dam/kpmg/us/pdf/2020/10/tnf-kpmg-report-ftc-regulations-oct5-2020.pdf.*

KPMG report: Summary and initial analysis of Pillar Two Blueprint, October 12, 2020, available at *http://www.in.kpmg.com/TaxFlashNews-INT/KPMG-report-Summary-and-initial-analysis-of-Pillar-Two.pdf.*

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KPMG report: Permanent establishment-related considerations, employees working remotely, June 14, 2021, available at *https://assets.kpmg.com/content/dam/kpmg/us/pdf/2021/06/21257.pdf.*

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As co-author—The Hamilton Project and The Tax Law Center at NYU Law, Six Economic Facts on International Corporate Taxation, June 2022, available at *https://www.hamiltonproject.org/wp-content/uploads/2023/03/Six_Facts_on_International_Corporate_Taxation_-_Final.pdf.*

As co-author—The Tax Law Center at NYU Law, Limit the Use of Abusive Valuation Discounts in the Transfer Tax System, October 21, 2022, *https://www.law.nyu.edu/sites/default/files/Limit%20the%20Use%20of%20Abusive%20Valuation%20Discounts%20in%20the%20Transfer%20Tax%20System.pdf.*

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Despite busyness, students find time for . . . Spirituality on the Farm, April 1, 2003, available at *https://archives.stanforddaily.com/2003/04/01?page=1&section=MODSMD_ARTICLE7#article.*

New phone-a-thon greets Class of 2007, April 17, 2003, available at *https://archives.stanforddaily.com/2003/04/17?page=2&section=MODSMD_ARTICLE8#article.*

Freshmen dean begins campaign of kindness, May 6, 2003, available at *https://archives.stanforddaily.com/2003/05/06?page=2&section=MODSMD_ARTICLE13#article.*

A safer, cheaper option for rocket fuel . . . Rocket scientists make candle wax into fuel, February 1, 2005, available at *https://archives.stanforddaily.com/2005/02/01?page=3&section=MODSMD_ARTICLE16#article.*

Bacteria-powered cars? Researchers investigate hydrogen-producing bacteria, February 8, 2005, available at *https://archives.stanforddaily.com/2005/02/08?page=3&section=MODSMD_ARTICLE15#article.*

Tension, Sinus Migraine: More than just a pain in the head, February 24, 2005, available at *https://archives.stanforddaily.com/2005/02/24?page=5&section=MODSMD_ARTICLE20#article.*

Green Dorm Project team plans to bring eco-friendly dorm to campus, March 1, 2005, available at *https://archives.stanforddaily.com/2005/03/01?page=3&section=MODSMD_ARTICLE16#article.*

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Stanford, WTO partnership digitizes documents, May 10, 2005, available at *https://archives.stanforddaily.com/2005/05/10?page=3&section=MODSMD_ARTICLE14#article.*

Exotics in Eden? Alan Burdick discusses why non-native species don't always spell doom, June 1, 2005, available at *https://archives.stanforddaily.com/2005/06/01?page=18&section=MODSMD_ARTICLE35#article.*

Racing against the clock without a driver, June 1, 2005, available at *https://archives.stanforddaily.com/2005/06/01?page=7&section=MODSMD_ARTICLE21#article.*

Bay Area serves as startup breeding ground, June 10, 2005, available at *https://archives.stanforddaily.com/2005/06/10?page=8&section=MODSMD_ARTICLE20#article.*

Greenwell departs for S.F State, July 14, 2005, available at *https://archives.stanforddaily.com/2005/07/14?page=3&section=MODSMD_ARTICLE4#article.*

Students Work to Protect Passwords: Computer Science Researchers Hope to Stump Hackers, August 4, 2005, available at *https://archives.stanforddaily.com/2005/08/04?page=10&section=MODSMD_ARTICLE20#article.*

16. Speeches (list all formal speeches and presentations (*e.g.,* PowerPoint) you have delivered during the past 5 years which are on topics relevant to the position for which you have been nominated, including dates):

I have not given any formal speeches. I have participated in the following public panel discussions concerning tax but had at most partial responsibility for the written presentations, if any:

International Tax Institute presentation on recent IRS guidance, June 11, 2019—I participated in this presentation as part of my position at the IRS, Office of Associate Chief Counsel (International), and upon departing my position there in February 2020, I ceased to have access to materials from that position.

KPMG presentation concerning considerations in making a section 962 election, September 25, 2020—I participated in this presentation as part of my position at KPMG, and upon departing my position there in August 2021, I ceased to have access to materials from that position.

District of Columbia Bar Taxation Community presentation concerning GILTI high-tax election, October 22, 2020—I participated in this presentation as part of my position at KPMG, and upon departing my position there in August 2021, I ceased to have access to materials from that position.

USA Branch of the International Fiscal Association 49th Annual Conference presentation concerning foreign tax credit rules, April 23, 2021—materials available at *https://cdn.ymaws.com/www.ifausa.org/resource/resmgr/conference_2021/20210423_1400_tangles_and_tr.pdf.*

Tax Policy Center, The Prescription: Fiscal Policy for Today's Economy, December 23, 2021—video available at *https://www.youtube.com/watch?v=_l4UYgMA9DI.*

New York State Bar Association 2022 Law Student Meet and Greets, February 17, 2022—No materials were prepared for this informal discussion.

DC Bar Tax Community 2022 Tax Legislative and Regulatory Update Conference presentation concerning outbound tax developments, May 5, 2022—I participated in this presentation as part of my position at The Tax Law Center at NYU Law, and upon departing my position there in January 2023, I ceased to have access to materials from that position.

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

    My 15 years of experience in the field of tax law have allowed me to develop a deep understanding of our Nation's tax system from a variety of perspectives that I would bring to my role as a United States Tax Court judge, if confirmed. During law school, I worked at Volunteer Income Tax Assistance (VITA) centers, which exposed me to the experiences of lower-income individual taxpayers as I worked to help educate them on their tax obligations and file their tax returns. My public service since then has given me an opportunity to branch out and handle an array of matters affecting the implementation of tax laws, including administrative law and procedural issues that underlie the Court's work with all taxpayers. I was afforded this opportunity as well during my work at the Tax Law Center at New York University School of Law, where I focused on a broad spectrum of issues, including making the tax system more transparent and inclusive, as well as technical tax issues. More than 5 years in private practice, both at law and accounting firms, also provided me insight into large, sophisticated taxpayers with complex returns and tax issues. Similarly, during much of my time working for IRS Chief Counsel, I focused on international tax issues, including advising on examinations, litigation, and development of legal guidance following the enactment of the Tax Cuts and Jobs Act. This array of experiences has allowed me to see firsthand how tax law affects everyone, from low-income families to the largest businesses. This broad understanding of the tax landscape and my deep knowledge of tax law would fruitfully inform my work as a Tax Court judge.

B. FUTURE EMPLOYMENT RELATIONSHIPS

1. Will you sever all connections (including participation in future benefit arrangements) with your present employers, business firms, associations, or organizations if you are confirmed by the Senate? If not, provide details.

   Yes.

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

   No

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

   No.

4. If you are confirmed by the Senate, do you expect to serve out your full term or until the next presidential election, whichever is applicable? If not, explain.

   I expect to serve out my full term.

C. POTENTIAL CONFLICTS OF INTEREST

1. Indicate any current and former investments, obligations, liabilities, or other personal relationships, including spousal or family employment, which could involve potential conflicts of interest in the position to which you have been nominated.

   My father, Antonio Jenkins-Lara, has a consulting business that includes consulting on FATCA and other U.S. tax-related issues. His clients could potentially have matters that would be litigated in Tax Court.

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

   I have provided tax advice to clients of KPMG that could potentially result in positions that would be litigated in Tax Court. Similarly, as an employee of the IRS, I have engaged in rulemaking activity and advised on examination and other administrative activity that could potentially be implicated in litigation in Tax Court.

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

   Both as a member of the New York State Bar Association Tax Section and as an employee of the Tax Law Center at NYU Law, I participated in drafting formal comment submissions and engaging in other commentary intended to affect the administration of tax law. *See, e.g.,* Regulatory Comment Letters and Other Tax-Related Published Writings under Part A.15 above.

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

   If confirmed, I would take whatever steps were necessary and appropriate after carefully and diligently applying 28 U.S.C. section 455, Canon 3 of the Code of Conduct for United States Judges, and other relevant canons, provisions and guidance, including recusal.

D. LEGAL AND OTHER MATTERS

1. Have you ever been the subject of a complaint or been investigated, disciplined, or otherwise cited for a breach of ethics for unprofessional conduct before any court, administrative agency (*e.g.,* an Inspector General's office), professional association, disciplinary committee, or other ethics enforcement entity at any time? Have you ever been interviewed regarding your own conduct as part of any such inquiry or investigation? If so, provide details, regardless of the outcome.

   No.

2. Have you ever been investigated, arrested, charged, or held by any Federal, State, or other law enforcement authority for a violation of any Federal, State, county, or municipal law, regulation, or ordinance, other than a minor traffic offense? Have you ever been interviewed regarding your own conduct as part of any such inquiry or investigation? If so, provide details.

   No.

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

   No.

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

   No.

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

   None.

E. TESTIFYING BEFORE CONGRESS

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

   Yes.

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

   Yes.

QUESTIONS SUBMITTED FOR THE RECORD TO ROSE E. JENKINS

QUESTION SUBMITTED BY HON. CATHERINE CORTEZ MASTO

Question. If confirmed as a judge to the United States Tax Court, you will be responsible for interpreting how our tax laws apply to a wide variety of plaintiffs—everything from multinational corporations with large legal teams to small businesses and individuals who appear before court without counsel.

What role would you give to legislative intent, conference report language, or statements from members of Congress as you interpret and apply regulations affecting tax law?

Answer. If confirmed, in addition to applying any binding precedent, I would apply established methods of interpretation to determine the meaning of a statute or regulation, including by starting with a careful reading of the plain text of the provision and consideration of a rule's place in the broader context of the Internal Revenue Code and Treasury regulations. In addition to considering whether certain canons of construction would be helpful, I would also consider whether it would be appropriate to take into account legislative history in interpreting the rule. I believe that, to the extent legislative history provides insight into legislative intent, such intent can reasonably inform a decision between multiple textually plausible interpretations, though it cannot override clear statutory text.

QUESTIONS SUBMITTED BY HON. MIKE CRAPO

Question. In Fiscal Year 2023, there were around 22,000 cases filed and 31,500 closed at the Tax Court. That was the second-least amount of cases filed in the last 7 years and the second-most cases closed in the same time span.

If confirmed, how will you prioritize providing fair and impartial decisions while also managing your caseload efficiently?

Answer. The Tax Court function of providing a national forum for the expeditious resolution of disputes and careful consideration of the merits of each case serves an important role of fostering trust in our system of voluntary tax compliance. If confirmed, I would commit to consider all issues and arguments presented by petitioners with an open mind, in order to provide them the fair and impartial hearing that they deserve. I would also seek to provide them the expediency they deserve by encouraging cooperation between the parties and considering opportunities to decide cases or issues without the need for a trial.

Question. The IRS Office of Chief Counsel is responsible for representing the government in matters before the Tax Court, and is thereby involved in every dispute before the court. Some stakeholders have expressed concern that this close relationship may lead to unjust outcomes.

If confirmed, what will you do to ensure you remain fair and impartial to all parties, and ensure you will not provide special preferences?

Answer. I believe providing a fair and impartial hearing to petitioners before the Tax Court is critical to providing all taxpayers certainty and confidence in the tax system. Over my career, I've analyzed tax law on behalf of a variety of types of stakeholders with different interests in the tax system. I think this gives me a particularly well-rounded view of the tax system that would enhance my ability to remain neutral as a Tax Court judge, if confirmed. My diversity of experience together with my established practice of independent thought would bolster my commitment and propensity toward fairness and impartiality.

QUESTION SUBMITTED BY HON. STEVE DAINES

Question. As of April 2024, the U.S. Tax Court had a backlog of 750 conservation easement cases. Last Congress, my bill, the Charitable Conservation Easement Program Integrity Act, was signed into law to provide clarity on a number of these cases. Since then, a number of cases have been decided with differing outcomes, setting various precedents, and a large backlog remains.

If confirmed to the U.S. Tax Court, how will you approach these cases and help clear the backlog?

Answer. In recent years, the Tax Court has seen an increase in its case load due, in part, to an increase in petitions in complex, fact-intensive cases, like conservation easement cases. If confirmed, I would endeavor to support the Tax Court mission of providing expeditious resolution of cases in order to address the case load and provide certainty to taxpayers as quickly as possible, taking into account applicable precedent and legislation. I would seek to minimize resolution time by encouraging cooperation between the parties in all phases of the proceedings. I would also strongly consider opportunities to decide cases or issues based on motions and stipulations, in order to minimize the amount of time needed to wait for and conduct trials. And, as the Tax Court has already done in some conservation easement cases, I would consider ways of narrowing the scope of factual review required in cases with parallel or otherwise related issues.

QUESTIONS SUBMITTED BY HON. TODD YOUNG

Question. The Tax Court plays a critical role in interpreting tax law and resolving disputes between the IRS and taxpayers. As a nominee for this Article I judgeship, you will be responsible for hearing a wide range of cases.

Can you elaborate on your approach to applying the law impartially and ensuring consistent application of tax code to all taxpayers, regardless of their background?

Answer. I believe that the Tax Court mission of uniform interpretation of the Internal Revenue Code serves an important function in society by providing all taxpayers certainty, stability, and confidence in the tax system. If confirmed as a judge on the United States Tax Court, my approach to cases would be one of respect for established precedent and a commitment to consider all issues and arguments presented by petitioners, regardless of their background, with an open mind. From the variety of experiences I have had in my career, I have learned the importance of considering the perspectives from which different parties may approach an issue and listening carefully and engaging actively to ensure open and clear communication.

Question. Given the tremendous backlog of cases currently facing the U.S. Tax Court, what specific strategies would you implement to expedite case resolution?

Answer. If confirmed, I would place emphasis on the expeditious resolution of cases in order to address the Tax Court case load and support its mission. I would encourage cooperation between the parties in all phases of the proceedings. I would also strongly consider opportunities to decide cases or issues based on motions and stipulations, in order to minimize the amount of time needed to wait for and conduct trials. And I would keep a perpetual eye on efficiency in my courtroom and my chambers.

Question. Would you consider increasing the number of hours that the U.S. Tax Court is open to hear cases?

Answer. If confirmed, I would consider, based on my experience and learning as a judge, and in consultation with the Chief Judge, ways to enhance productivity, taking into account applicable laws, regulations, and systems, as well as the staffing of the Tax Court.

Question. How do you envision these strategies mitigating the harmful effects that prolonged case backlogs have on taxpayers awaiting decisions?

Answer. Taxpayers deserve certainty as quickly as possible both in order to minimize the financial costs relating to prolonged litigation and so that they can go on with their lives. I expect that a full bench of judges on the Tax Court working toward efficient adjudication of petitions will help to continue to mitigate the negative effects on taxpayers of the recent increase in the Tax Court case load.

Question. The lack of access to the Public Access to Court Electronic Records (PACER) service has been a significant concern for many taxpayers. It often takes an expensive courier service or an in-person visit for a taxpayer to access records on their case.

What measures would you propose to enhance the accessibility and transparency of court records through PACER?

Answer. It is important for the Tax Court to have an electronic record system to ensure accessibility for petitioners and to foster efficiency in managing the court's case load. The Tax Court has, in recent years, improved accessibility and transparency through its DAWSON case management system. From public statements, my understanding is that the Tax Court continues to consider possibilities for enhancements while taking into account the need to protect personally identifiable information. If confirmed, I would look forward to learning about the Tax Court's efforts and considering how to further and balance the important goals of accessibility, transparency, and privacy protection.

Question. How do you believe improved access to these records would impact taxpayer service and trust in the judicial process?

Answer. Electronic access to records related to a taxpayer's own case can facilitate timely, effective participation with minimal burden and thus improve case management and the experience of the taxpayer with the system. Broader electronic access to court records can provide stakeholders throughout the system greater insight into function and thinking of the court that can both facilitate enhanced administration and foster increased trust in the legal process.

Prepared Statement of Adam B. Landy, Nominated to be a Judge of the United States Tax Court

Thank you, Chairman Wyden, Ranking Member Crapo, and distinguished members of the Finance Committee. Thank you for scheduling this hearing and processing my nomination.

Thank you to President Biden for nominating me to serve as a judge on the United States Tax Court. I am humbled and honored by the opportunity to continue to serve on the court, if confirmed.

Thank you to Congressman James E. Clyburn for his introduction this morning, and to him and his staff for their support throughout this process. As native South Carolinians, my family and I are grateful to the Congressman for his service to this Nation and our beloved home State.

I acknowledge and thank my wife Courtney, who is my best friend, fiercest defender, and ultimate cheerleader. My sons Brooks and Myles, whom I love so much, are here today, and because of them, I strive to be the best version of myself daily.

My father Robert is watching remotely this morning, and I thank him for modeling hard work and tenacity. I honor the memory of my mother Darlean, a former public school educator, who instilled in me the importance of obtaining an education and being there for people in their time of need. Whether it was taking my siblings and me with her to deliver meals through the Meals on Wheels program or encouraging me to become involved with the United Way, she made sure we understood the duty to give back to our community and to serve others.

To my siblings Erica, Marcus, and Jason, along with extended family members, my mother and father-in-law, Major (Ret.) Ricardo and Dr. Diane Wingate, my church family and friends who are watching remotely, thank you for your love, prayers, and support. Finally, I would like to thank the Chief Judge of the Tax Court; my fellow judicial officers on the Court; Anita Rizek, Legislative Counsel for the Tax Court; and my former supervisors Erik Doerring, Nancy Gilmore, and Thomas Mackinson, for their support during the public phase of this nomination process.

As a law student and young lawyer, I clerked for Judge J. Michelle Childs, now a Circuit Judge for the United States Court of Appeals for the DC Circuit, but then a judge on the South Carolina Circuit Court. I learned from Judge Childs the importance of evaluating the parties' arguments thoroughly, conducting comprehensive research to provide sound legal analysis, and administering justice with a calm temperament. This experience is why I desired to become a judge. As a special trial judge, I have strived daily to implement these traits of proper judicial temperament and skill to competently serve the public.

Since concluding my legal education, I represented taxpayers and the IRS before the Tax Court. As a tax lawyer, I acquired an understanding of the challenges taxpayers and the IRS face while developing solid listening and communication skills, strong research and writing skills, and good judgment. As a special trial judge, I demonstrate proper traits of proper judicial temperament and skill in conducting motions hearings and trials and resolving disputes through written orders and published opinions. While the cases I will hear as a Tax Court judge will differ in content and complexity from my current role, I will bring my current and prior professional experiences to this new role, if confirmed, in adjudicating tax disputes in an impartial and expeditious manner.

Mr. Chairman, Ranking Member Crapo, and members of the committee, thank you for your consideration. I am happy to answer any questions.

SENATE FINANCE COMMITTEE

STATEMENT OF INFORMATION REQUESTED OF NOMINEE

A. BIOGRAPHICAL INFORMATION

1. Name (include any former names used): Adam Brooks Landy.
2. Position to which nominated: Judge, United States Tax Court.
3. Date of nomination: February 1, 2024.
4. Address (list current residence, office, and mailing addresses):
5. Date and place of birth: April 28, 1982; Aiken, South Carolina.
6. Marital status (include maiden name of wife or husband's name):
7. Names and ages of children:
8. Education (list all secondary and higher education institutions, dates attended, degree received, and date degree granted):

   South Aiken High School.
   Aiken, South Carolina.
   August 1996–May 2000.
   High school diploma, May 2000.

   University of South Carolina.
   Columbia, South Carolina.
   August 2000–May 2004.
   Bachelor's degree, Chemistry, May 2004.

   University of South Carolina.
   Columbia, South Carolina.
   August 2004–May 2006.
   Master's degree, Sport & Entertainment Management, May 2006.

   University of South Carolina Joseph F. Rice School of Law.
   Columbia, South Carolina.
   August 2006–May 2009.
   Juris Doctor, May 2009.

Northwestern University Pritzker School of Law.
Chicago, Illinois.
September 2009–May 2010.
LL.M, Taxation, May 2010.

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

Adjunct Professor.
University of Baltimore School of Law.
1401 N. Charles Street.
Baltimore, Maryland 21201.
August 2022–May 2023; January 2024–present.

Special Trial Judge.
United States Tax Court.
400 Second Street, NW.
Washington, DC 20217.
December 2021–present.

Senior Attorney.
IRS Office of Chief Counsel.
Small Business/Self-Employed Division.
31 Hopkins Plaza, Suite 1320.
Baltimore, Maryland 21230.
August 2018–December 2021.

Senior Attorney.
IRS Office of Chief Counsel.
Small Business/Self-Employed Division.
100 First Street, Suite 1800.
San Francisco, California 94105.
August 2016–August 2018.

Associate Attorney.
McNair Law Firm, PA.
(The law firm merged with Burr and Forman, LLP, in 2019, with the resulting firm being Burr and Forman).
1221 Main Street, Suite 1800.
Columbia, South Carolina 29201.
July 2010-August 2016.

Law Clerk.
Gergel, Nickles and Solomon, PA (now defunct law firm).
1519 Richland Street.
Columbia, South Carolina 29201.
February 2008–May 2008 and August 2008–May 2009.

Law Clerk.
The Honorable J. Michelle Childs.
South Carolina Judicial Department.
Richland County Judicial Center.
1701 Main Street.
Columbia, South Carolina 29201.
May 2008–August 2008.

Law Clerk.
Greenville County Attorney's Office.
301 University Ridge, Suite 2400.
Greenville County Square.
Greenville, South Carolina 29601.
May 2007–August 2007.

Graduate Assistant.
University of South Carolina Athletics Department.
Rice Athletics Center.
1304 Heyward Street.
Columbia, South Carolina 29208.
August 2004–July 2006.

Equipment Manager.
Benedict College.

1600 Harden Street.
Columbia, South Carolina 29204.
July 2004–August 2006.

Student Assistant—Gamecock Club.
University of South Carolina Athletics Department.
1304 Heyward Street.
Columbia, South Carolina 29205.
January 2004–August 2004.

Student Worker.
R.C. McEntire Trucking, Inc.
2040 American Italian Way.
Columbia, South Carolina 29209.
May 2003–August 2003.

Recreation Department Assistant.
Mount Pleasant Recreation Department.
100 Ann Edwards Lane.
Mt. Pleasant, South Carolina 29464.
May 2002–August 2002.

Student Research Assistant.
University of South Carolina School of Medicine.
6311 Garners Ferry Road.
Columbia, South Carolina 29209.
May 2001–August 2001.

10. Government experience (list any current and former advisory, consultative, honorary, or other part-time service or positions with Federal, State, or local governments held since college, including dates, other than those listed above):

None.

11. Business relationships (list all current and former positions held as an officer, director, trustee, partner (*e.g.,* limited partner, nonvoting, etc.), proprietor, agent, representative, or consultant of any corporation, company, firm, partnership, other business enterprise, or educational or other institution):

Saluda Shoals Foundation Board, Director, 2015–2016 (approximate).

12. Memberships (list all current and former memberships, as well as any current and former offices held in professional, fraternal, scholarly, civic, business, charitable, and other organizations dating back to college, including dates for these memberships and offices):

Admissions:
South Carolina Bar, 2009–present.
United States Tax Court, 2010–present.
District of Columbia Bar, 2020–present.

Professional:
American Bar Association.
Association Member, 2006–present.
Delegate, House of Delegates, 2020–2023; 2016–2017.
Member, Coalition on Racial and Ethnic Justice, 2016–2019.
Member, Judicial Division—Lawyers Conference, 2020–2021.
Member, Judicial Division—National Conference of Federal Trial Judges, 2022–present.
Member, Section on Taxation, 2010–present.
Member, Standing Committee on Membership, 2019–2022.
Member, Standing Committee on Meetings and Travel, 2022–present.

American Constitution Society Member, 2020–2021 (approximate).

Black Law Students Association Member, 2006–2009.

Columbia, South Carolina Tax Study Group Member, 2010–2016.

Chicago Bar Association, Association Member, 2009–2010.

District of Columbia Bar, Bar Member, 2020–present.
Member, Innovations in Legal Practice Committee (f/k/a the Global Legal Practice Committee), 2020–present.

Federal Bar Association, Association Member, 2022–present.

J. Edgar Murdock American Inns of Court Member, 2021–2022.

National Bar Association, Association Member, 2021–present.
Member, Section on Taxation, 2021–present.
Treasurer, Section on Taxation, 2021.

Richland County, South Carolina Bar Association Member, 2010–2016.

South Carolina Bar, Bar Member, 2009–present.
Member, Conventions Committee, 2014–present.
Member, Diversity Committee, 2018–2022.
Member, Section on Taxation, 2010–2016.
Co-Chair, Young Lawyers Division Annual Bar Convention Committee, 2015–2017; Member, 2014.
Chair, Volunteer Income Tax Assistance Program, 2011–2016.

United States Tax Court.
Member, Human Resources Committee, 2021–present.
Member, STJ Retirement Implementation Committee, 2023–present.
Member, Information Technology Committee, 2021–present.
Member, Judicial Security Working Group, 2023–present.

Charitable:
United Way of the Midlands.
Member, Chair-Elect, Chair, Former Chair, Young Leaders Society, 2011–2016.

Other:
Capital City Club, Columbia, South Carolina Member, 2011–2016 (approximate).
The Y of Central Maryland Member, 2023–present.
University of South Carolina Alumni Association (I do not recall the dates of membership).
University of South Carolina/Gamecock Club Member, 2001–present.

13. Political affiliations and activities:

a. List all public offices for which you have been a candidate dating back to the age of 18.

I have never been a candidate for public office.

b. List all memberships and offices held in and services rendered to all political parties or election committees, currently and during the last 10 years prior to the date of your nomination.

Volunteer Letter Writer, Swing Left, Fall 2020.

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

Act Blue/Biden for President and Biden Fight Fund, $128.
Act Blue/Jaime Harrison for U.S. Senate (South Carolina), $125.
Act Blue/Democratic National Committee, $62.34.
Vincent Sheheen for Governor (South Carolina), $400.

14. Honors and awards (list all scholarships, fellowships, honorary degrees, honorary society memberships, military medals, and any other special recognitions for outstanding service or achievement received since the age of 18):

Phi Delta Phi Honor Society Membership Inducted, 2007.

University of South Carolina Dean's List, 2000–2001.

University of South Carolina Joseph F. Rice School of Law.
Carolina Legal Merit Scholarship, 2006–2009.
Dean's List, 2008–2009.
Special Projects Editor, *Journal of International Law and Business,* 2008–2009.

15. Published writings (list the titles, publishers, dates, and hyperlinks (as applicable) of all books, articles, reports, blog posts, or other published materials you have written):

Contributing Author, McNair Law Insights, "South Carolina Economic Development Incentives: Sales and Use Tax Exclusions and Exemptions," May 19, 2016, *https://www.burr.com/tax-law-insights/south-carolina-economic-development-incentives-sales-and-use-tax-exclusions-and-exemptions*.

Contributing Author, Tax Law Insights, "Wait a Minute: Congress Passes Law Requiring Consistent Basis Reporting between Estates and Beneficiaries for Estate Tax Purposes," March 30, 2016, *https://www.burr.com/tax-law-insights/wait-a-minute-congress-passes-law-requiring-consistent-basis-reporting-between-estates-and-beneficiaries-for-estate-tax-purposes*.

Contributing Author, Tax Law Insights, "South Carolina Economic Development Incentives: Job Development Credit," March 23, 2016, *https://www.burr.com/tax-law-insights/south-carolina-economic-development-incentives-job-development-credit*.

Contributing Author, Tax Law Insights, "South Carolina's Motion Picture Project and Production Facility Credit," November 6, 2015, *https://www.burr.com/tax-law-insights/south-carolinas-motion-picture-project-and-production-facility-credit-2*.

Contributing Author, Tax Law Insights, "The Revocable Trust: Is This a Necessary Component of Your Estate Plan? (Part 2)," October 16, 2015, *https://www.burr.com/tax-law-insights/the-revocable-trust-is-this-a-necessary-component-of-your-estate-plan*.

Contributing Author, Tax Law Insights, "Forget to File Your FBAR? Don't Worry, You Can Still File Without Incurring Penalties!", previously located at *www.sctaxlawyers.net,* June 22, 2015.

Contributing Author, Tax Law Insights, "South Carolina Department of Revenue Issues Guidance Regarding the Tax Treatment for Married Same-Sex Couples," December 10, 2014, *https://www.burr.com/tax-law-insights/south-carolina-department-of-revenue-issues-guidance-regarding-the-tax-treatment-for-married-same-sex-couples*.

Contributing Author, Tax Law Insights, "Same Sex Couples May Now File Married Income Tax Returns in South Carolina," November 24, 2014, *https://www.burr.com/tax-law-insights/same-sex-couples-may-now-file-married-income-tax-returns-in-south-carolina*.

Contributing Author, Tax Law Insights, "Same-Sex Marriages in South Carolina: Tax Implications of *Condon v. Haley*," November 14, 2014, *https://www.burr.com/tax-law-insights/same-sex-marriages-in-south-carolina-tax-implications-of-condon-v-haley*.

Contributing Author, Tax Law Insights, "IRS Announces New Procedures for U.S. Citizens Residing Overseas Who Have Not Filed Tax Returns and Reported Income," September 12, 2012, *https://www.burr.com/tax-law-insights/new-procedures-for-u-s-citizens-residing-overseas-who-have-not-filed-tax-returns-and-reported-income*.

Contributing Author, Tax Law Insights, "The Importance of a Qualified Appraisal for Conservation Easements," August 1, 2012, *https://www.burr.com/tax-law-insights/importance-of-qualified-appraisal-for-conservation-easements*.

Contributing Author, Tax Law Insights, "IRS Announces More Flexible Offer-in Compromise Terms to Help More Struggling Taxpayers Make a Fresh Start," June 5, 2012, *https://www.lexology.com/library/detail.aspx?g=0a69ae3b-6a08-4cc0-bb36-f4bc95594d3b*.

Contributing Author, Tax Law Insights, "IRS Revises Streamlined Installment Agreement Program," March 22, 2012, *https://www.lexology.com/library/detail.aspx?g=c68700e8-d7e3-4fe9-8762-4352fc9289eb*.

Contributing Author, Tax Law Insights, "Reinstatement for Tax-Exempt Organizations Whose Exemption Status was Automatically Revoked by the IRS," March 7, 2012, *https://www.burr.com/tax-law-insights/reinstatement-automatic-revocation-tax-exempt-status-org*.

Contributing Author, Tax Law Insights, "United States Tax Court Agrees with Taxpayer and Finds Reasonable Cause to Abate Employment Tax Penalties," July 29, 2011, *https://www.burr.com/tax-law-insights/us-tax-court-agrees-with-taxpayer*.

16. Speeches (list all formal speeches and presentations (*e.g.,* PowerPoint) you have delivered during the past 5 years which are on topics relevant to the position for which you have been nominated, including dates):

Co-Presenter, Important Tax Court Procedural Cases, September 26, 2023, U.S. Tax Court, Washington, District of Columbia. Copy of prepared materials provided.

Presenter, Conversation with Nonprofit Organizations Clinic Students and Professor Jaclyn Cherry, University of South Carolina Joseph F. Rice School of Law, March 28, 2023, via Zoom. I have no notes, transcript, or recording.

Co-Presenter, Important Tax Court Procedural Cases, November 10, 2022, U.S. Tax Court, Washington, District of Columbia. Copy of prepared materials provided.

Presenter, A View from The Bench: An Update on Recent Developments in the U.S. Tax Court, University of Baltimore School of Law, November 4, 2022, via Zoom. Copy of prepared materials provided.

Co-Presenter, Federal Career Opportunities in Tax Law, August 30, 2022, via Zoom. I have no notes, transcript, or recording.

Presenter, 2022 AI Todd Estate Planning and Taxation Workshop—Special Edition, June 19, 2022, Kiawah Island, South Carolina. Copy of prepared materials provided.

Presenter, A View from The Bench: An Update on Recent Developments in the U.S. Tax Court, May 26, 2022, National Bar Association Tax Section, via Zoom. Copy of prepared materials provided.

Co-Presenter, Federal Careers in Tax Law Panel, August 30, 2022, Internal Revenue Service Office of Chief Counsel, via Zoom. I have no notes, transcript, or recording.

Co-Presenter, Tax Court Updates: The View from the Bench, American Bar Association—Tax Section May Meeting, May 14, 2022, Marriott Marquis Hotel, Washington, District of Columbia. I have no notes, transcript, or recording.

Co-Presenter, Diversity in Tax Law, Maryland State Bar Association, April 15, 2022, via Zoom. I have no notes, transcript, or recording.

Presenter, Income Taxation and the Cannabis Industry for IRS Chief Counsel Attorneys, June 2020, Baltimore, Maryland. Upon resigning from the IRS Office of Chief Counsel in December 2021, I no longer have access to these internal presentation materials.

Co-Presenter, Interview Techniques and Strategies for IRS Examination Personnel, May 2020, Baltimore, Maryland. Upon resigning from the IRS Office of Chief Counsel in December 2021, I no longer have access to these internal presentation materials.

Co-Presenter, Civil Fraud Examination Strategies and Indirect Methods of Proving Gross Income, IRS East Territory and Legacy Territory Personnel, September 2019, Baltimore, Maryland. Upon resigning from the IRS Office of Chief Counsel in December 2021, I no longer have access to these internal presentation materials.

Presenter, Interview Techniques and Strategies for IRS Examination Personnel, August 2018, San Jose, California. Upon resigning from the IRS Office of Chief Counsel in December 2021, I no longer have access to these internal presentation materials.

Presenter, Bridging the Gap Between Chief Counsel and IRS Examination Personnel, April 2018, San Jose, California. Upon resigning from the IRS Office of Chief Counsel in December 2021, I no longer have access to these internal presentation materials.

Co-Presenter, Audit Techniques Training for Marijuana Dispensaries for IRS Northern California and Southwestern Territory Examination Personnel, March 2017 and June 2017, San Francisco, California. Upon resigning from the IRS Office of Chief Counsel in December 2021, I no longer have access to these internal presentation materials.

Co-Presenter, The Repeal of TEFRA: What Tax Practitioners Need to Know, McNair Law Firm, P.A. Tax Practice Group Summer Series, May 2016, Columbia, South Carolina. Upon resigning from McNair Law Firm, P.A. in August 2016, I no longer have access to these presentation materials.

Co-Presenter, South Carolina Sales and Use Taxes: Operation and Administration of the Taxes and Potential Discharge in Bankruptcy, South Carolina Bankruptcy Law Association Annual Meeting, May 2015, Savannah, Georgia. Upon resigning from McNair Law Firm, P.A. in August 2016, I no longer have access to these presentation materials.

Presenter, Tax Implications of *U.S. v. Windsor*—Repeal of the Defense of Marriage Act, South Carolina Bar Convention—Tax Section, January 2014, Kiawah Island, South Carolina. Upon resigning from McNair Law Firm, P.A. in August 2016, I no longer have access to these presentation materials.

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

I have tax litigation experience from all three perspectives: representing taxpayers, representing the Internal Revenue Service, and adjudicating cases as a special trial judge on the United States Tax Court. As a special trial judge, I have conducted motion hearings and trials and have resolved these disputes through written orders and published opinions. These opportunities have allowed me to demonstrate my patience, judicial temperament, and case management skills. Furthermore, my service on court committees has allowed me to understand the Court's jurisprudence and internal processes. The combination of these experiences has equipped me with the requisite skills to further the Court's mission to provide expeditious resolution of tax disputes.

B. FUTURE EMPLOYMENT RELATIONSHIPS

1. Will you sever all connections (including participation in future benefit arrangements) with your present employers, business firms, associations, or organizations if you are confirmed by the Senate? If not, provide details.

If confirmed by the Senate, I will continue to work at the United States Tax Court but in a new role. Also, I have served as an adjunct professor at the University of Baltimore School of Law. If confirmed and if offered by the law school, I plan to periodically teach a course, with the approval of the Chief Judge of the United States Tax Court. Otherwise, I do not have any plans, commitments, or agreements to pursue other outside employment.

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

See response to question B.1. above.

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

No.

4. If you are confirmed by the Senate, do you expect to serve out your full term or until the next presidential election, whichever is applicable? If not, explain.

Yes.

C. POTENTIAL CONFLICTS OF INTEREST

1. Indicate any current and former investments, obligations, liabilities, or other personal relationships, including spousal or family employment, which could involve potential conflicts of interest in the position to which you have been nominated.

My spouse is employed by UnitedHealth Group Incorporated (UHG) and has been awarded equity in UHG. My spouse and I also own stock in other publicly traded companies. If confirmed, I will recuse myself from all discussions related to UHG, any subsidiary corporations owned by UHG, and any entities in which my spouse and I are stockholders.

2. Describe any business relationship, dealing, or financial transaction which you have had during the last 10 years (prior to the date of your nomination), whether for yourself, on behalf of a client, or acting as an agent, that could in any

way constitute or result in a possible conflict of interest in the position to which you have been nominated.

Presently, I recuse myself and will continue to recuse myself with respect to any cases I worked on while employed by the IRS Office of Chief Counsel.

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

   None.

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

   If confirmed, I would take whatever steps were necessary and appropriate after carefully and diligently applying 28 U.S.C. section 455, Canon 3 of the Code of Conduct for United States Judges, and other relevant canons, provisions, and guidance, including recusal.

D. LEGAL AND OTHER MATTERS

1. Have you ever been the subject of a complaint or been investigated, disciplined, or otherwise cited for a breach of ethics for unprofessional conduct before any court, administrative agency (*e.g.,* an Inspector General's office), professional association, disciplinary committee, or other ethics enforcement entity at any time? Have you ever been interviewed regarding your own conduct as part of any such inquiry or investigation? If so, provide details, regardless of the outcome.

   Yes.

   On April 26, 2023, a taxpayer in a docketed case before the United States Tax Court filed a Complaint Relating to Judicial Conduct or Disability of Judges and Special Trial Judges (the "Complaint") contending that I engaged in judicial misconduct. In the Complaint, the taxpayer alleged that I: (1) improperly permitted an attorney for the IRS Office of Chief Counsel to represent the IRS Appeals Office prior to (and subsequently at) trial, (2) failed to determine that the issued notice of deficiency was invalid, (3) improperly directed the taxpayer's attention to a non-precedential bench opinion issued by the Court regarding similar arguments raised by this taxpayer in a prior docketed case for reference, (4) demonstrated improper bias and partiality in the docketed case, and (5) erred in failing to recuse myself from the case.

   The United States Tax Court Judicial Conduct and Disability Council investigated the Complaint, and on June 12, 2023, the Court dismissed the Complaint. The Council determined that my judicial decisions in the docketed case were merit-related.

2. Have you ever been investigated, arrested, charged, or held by any Federal, State, or other law enforcement authority for a violation of any Federal, State, county, or municipal law, regulation, or ordinance, other than a minor traffic offense? Have you ever been interviewed regarding your own conduct as part of any such inquiry or investigation? If so, provide details.

   No.

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

   No.

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

   No.

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

   None.

E. TESTIFYING BEFORE CONGRESS

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

   Yes.

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

   Yes.

QUESTIONS SUBMITTED FOR THE RECORD TO ADAM B. LANDY

QUESTION SUBMITTED BY HON. CATHERINE CORTEZ MASTO

Question. If confirmed as a judge to the United States Tax Court, you will be responsible for interpreting how our tax laws apply to a wide variety of plaintiffs—everything from multinational corporations with large legal teams to small businesses and individuals who appear before the Court without counsel.

What role would you give to legislative intent, conference report language, or statements from members of Congress as you interpret and apply regulations affecting tax law?

Answer. The U.S. Supreme Court has established judicial precedent regarding the interpretation and application of statutes and regulations affecting tax law. I adhere to that precedent in my current role as a special trial judge of the U.S. Tax Court, and if confirmed as a judge, I will continue to do so.

QUESTIONS SUBMITTED BY HON. MIKE CRAPO

Question. In Fiscal Year 2023, there were around 22,000 cases filed and 31,500 closed at the Tax Court. That was the second-least amount of cases filed in the last 7 years and the second-most cases closed in the same time span.

If confirmed, how will you prioritize providing fair and impartial decisions while also managing your caseload efficiently?

Answer. From my experiences as a special trial judge, I have developed processes to handle my caseload efficiently. If confirmed, I will promptly review cases assigned to me by the Chief Judge to determine whether any legal disputes exist which would prevent the cases from being calendared for trial. Thereafter, I will encourage communication and cooperation between taxpayers and the IRS to facilitate settlement or a streamlined trial if settlement cannot be reached. Next, I will use the case management features in DAWSON, the Court's document management system, to ensure all deadlines are properly calendared and to monitor the litigants' compliance with all deadlines. Finally, I will allow the parties to be heard through pretrial evidentiary hearings or through testimony elicited at trial which will allow me to issue fair and impartial opinions.

Question. The IRS Office of Chief Counsel is responsible for representing the government in matters before the Tax Court, and is thereby involved in every dispute before the Court. Some stakeholders have expressed concern that this close relationship may lead to unjust outcomes.

If confirmed, what will you do to ensure you remain fair and impartial to all parties, and ensure you will not provide special preferences?

Answer. As a special trial judge, I take my ethical responsibilities and obligations seriously and will continue to do so, if confirmed. I will treat all parties who come before the Court in the same manner and apply the law evenhandedly to the facts presented.

QUESTION SUBMITTED BY HON. STEVE DAINES

Question. As of April 2024, the U.S. Tax Court had a backlog of 750 conservation easement cases. Last Congress, my bill, the Charitable Conservation Easement Program Integrity Act, was signed into law to provide clarity on a number of these cases. Since then, a number of cases have been decided with differing outcomes, setting various precedents, and a large backlog remains.

If confirmed to the U.S. Tax Court, how will you approach these cases and help clear the backlog?

Answer. Presently, the Court schedules conservation easement cases for trial when taxpayers and the IRS can commit to a definite trial date. If confirmed, I will request assignment of easement cases which are ripe for trial and subsequent opinion. Upon assignment of these cases, I will work with taxpayers and the IRS to get the cases ready for trial. Specifically, I will solicit cooperation between the litigants to identify as many efficiencies as possible in the pretrial process, for instance, permitting the parties to stipulate as many undisputed facts as possible through the discovery process and other pretrial means. Hopefully, this approach will facilitate seamless trial presentation and expeditious resolution of the cases by published opinion or resolution by the parties.

QUESTIONS SUBMITTED BY HON. TODD YOUNG

Question. The Tax Court plays a critical role in interpreting tax law and resolving disputes between the IRS and taxpayers. As a nominee for this Article I judgeship, you will be responsible for hearing a wide range of cases.

Can you elaborate on your approach to applying the law impartially and ensuring consistent application of tax code to all taxpayers, regardless of their background?

Answer. As a special trial judge, I strive to understand the litigants' positions, clearly communicate my expectations for the case as it progresses from the pretrial phase to trial, and carefully review the evidence and arguments presented by the litigants at trial. This approach has allowed me to apply the law evenhandedly to the facts presented. If confirmed as a judge of the U.S. Tax Court, I will continue to take this approach, which I believe helps me apply the law impartially while ensuring consistent application of the Internal Revenue Code.

Question. Given the tremendous backlog of cases currently facing the U.S. Tax Court, what specific strategies would you implement to expedite case resolution?

Answer. As a special trial judge, I work to expeditiously resolve tax disputes through written orders and published opinions. I will employ the same approach to expedite case resolution, if confirmed. I will emphasize communication and cooperation between the litigants to resolve any legal problems hindering the case from proceeding to trial and case resolution. If confirmed, I will expedite resolution of tax disputes by continuing to implement the strategies I developed while serving as a special trial judge.

Question. Would you consider increasing the number of hours that the U.S. Tax Court is open to hear cases?

Answer. The Chief Judge of the U.S. Tax Court assigns trial sessions to judges. For certain cities and when necessary, the Court increases the number of trial sessions, as well as the total number of cases assigned to those cities. If confirmed, I commit to being assigned as many trial sessions as possible to resolve the Court's collective case inventory.

Question. How do you envision these strategies mitigating the harmful effects that prolonged case backlogs have on taxpayers awaiting decisions?

Answer. These strategies will facilitate the expeditious resolution of the parties' tax disputes. If confirmed, I will continue to incorporate these strategies developed as a special trial judge to reduce the time taxpayers wait for a resolution of their tax disputes.

Question. The lack access to the Public Access to Court Electronic Records (PACER) service has been a significant concern for many taxpayers. It often takes an expensive courier service or an in-person visit for a taxpayer to access records on their case.

What measures would you propose to enhance the accessibility and transparency of court records through PACER?

Answer. The U.S. Tax Court does not use PACER for management of court records. The U.S. Tax Court utilizes a case document management system, known as DAWSON, to allow taxpayers to file petitions electronically and for the parties to file and access pleadings and other documents electronically for no fee. The U.S. Tax Court balances the need for access to court records with the duty to prevent the inadvertent disclosure of taxpayers' financial and personally identifiable information, which are commonly included in Tax Court filings. The public may, free of charge, utilize DAWSON to search, view, and print court orders and published opinions. In August 2023, the Court further expanded free public access to stipulated decisions, posttrial briefs, and amicus briefs.

Question. How do you believe improved access to these records would impact taxpayer service and trust in the judicial process?

Answer. Improved access to court records via DAWSON instills public confidence in the U.S. Tax Court's mission to provide uniform interpretation of internal revenue laws in a fair and transparent manner.

SUBMITTED BY HON. ELIZABETH WARREN,
A U.S. SENATOR FROM MASSACHUSETTS

Congress of the United States

Washington, DC 20515

May 10, 2024

Richard K. Delmar
Acting Inspector General
Office of the Inspector General
U.S. Department of the Treasury
1500 Pennsylvania Avenue, NW, Room 4436
Washington, DC 20220

Dear Mr. Delmar:

We write regarding your recently released "Inquiry on Revolving Door Between the Largest Accounting Firms and the Department of the Treasury."[1]

We requested that you conduct this investigation in February 2022, after *The New York Times* reported that "[t]he largest U.S. accounting firms have perfected a remarkably effective behind-the-scenes system to promote their interests in Washington,"[2] and our investigation revealed that "since 2001, at least 24 . . . employees [of big accounting firms] left to take senior tax-policy positions in the Federal Government, including at Treasury and [the Internal Revenue Service], and returned to their firms after government work, often receiving massive promotions and raises."[3]

It took you over 2 years to conduct your review—and the result was an irresponsible whitewash that failed to seriously investigate the problem or hold any individual or company accountable. This represents a failure on your part—you failed to conduct a serious inquiry, and you should retract this report and start over in order to conduct a meaningful review of the scope and significance of this revolving door problem at the Treasury Department.

Your report concluded that:

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[1] U.S. Department of the Treasury, Office of Inspector General, "Inquiry on Revolving Door Between the Largest Accounting Firms and the Department of the Treasury," OIG–CA–24–015, March 21, 2024, *https://oig.treasury.gov/sites/oig/files/2024-03/OIG-CA-24-015%20%28508%20compliant%20-%20secured%29.pdf*.

[2] *New York Times,* "How Accounting Giants Craft Favorable Tax Rules from Inside Government," Jesse Drucker and Danny Hakim, September 19, 2021, *https://www.nytimes.com/2021/09/19/business/accounting-firms-tax-loopholes-government.html*.

[3] Senator Elizabeth Warren, "Warren, Jayapal Call on Treasury, Tax Inspectors General to Investigate Unethical Revolving Door Between Treasury and 'Big Five' Accounting Firms," press release, February 22, 2022, *https://www.warren.senate.gov/newsroom/press-releases/warren-jayapal-call-on-treasury-tax-inspectors-general-to-investigate-unethical-revolving-door-between-treasury-and-big-five-accounting-firms*.

Letter from Senator Elizabeth Warren and Representative Pramila Jayapal to Department of the Treasury Inspector General Richard K. Delmar and Treasury Inspector General for Tax Administration J. Russell George, February 18, 2022, *https://www.warren.senate.gov/imo/media/doc/2022.02.18%20Letter%20to%20Treasury%20IGs%20on%20Revolving%20Door.pdf*.

> Treasury has policies and procedures in place to protect Treasury and its tax policies and revenue rulings from undue influence by employees with potential conflicts of interest. Specifically, Treasury's tax guidance review process includes numerous stages of review and approval of tax guidance before publication. The process is coordinated with multiple individuals and offices within IRS and Treasury from the tax guidance development's earliest stages.[4]

This conclusion—and the rationale by which you reached it—is absurd. In simple terms, you concluded that because many Department officials are involved in developing important tax rules, there can be no meaningful conflicts of interest. This fails a basic test of logic and common sense: in reality, the more Treasury or IRS Department officials that are working on a key tax rule—particularly in the absence of key rules and regulations to address revolving door conflicts of interest—the more likely these rules are to be affected by conflicts of interest.

That is why, when your sister Inspector General (IG) office—the Treasury Inspector General for Tax Administration—conducted a similar review, that review determined that, "between 2017 and 2021, 496 IRS employees—or 15 percent of the agency's workforce—received income from a large accounting firm or large corporation," that "37 of those employees were IRS executives, senior officials responsible for key agency decision-making," and that in several instances, "employees . . . charged time to a private letter ruling in which the taxpayer's representative was the same large accounting firm that the employee recently worked for before joining the IRS or left the IRS to join"—"rais[ing] impartiality concerns."[5]

The decision to write off obvious opportunities for Treasury employees to exert improper influence on tax policies is not the only gap on your report. You indicated that "Treasury relies primarily on employees self-reporting" to identify and prevent conflict of interest.[6] But you conducted no audit of any employee's reporting to determine if this reliance was justified, and you "did not perform a review of the information in the Ethics Tracker" that the Treasury Department uses to retain ethics information on employees, and did not conduct a detailed review of any single agency policy action or rulemaking.[7]

This was a drive-by investigation that appeared to be designed to reach preconceived results absolving Treasury officials of wrongdoing despite the obvious evidence of serious revolving door conflicts of interest.

Your office can and must do better. Given our concerns about this matter, and the ongoing ethics threats to agency policymaking, we ask that you retract this report and its conclusions, and conduct a more thorough and meaningful review.

Sincerely,

Elizabeth Warren
United States Senator

Pramila Jayapal
Member of Congress

Prepared Statement of Kashi Way, Nominated to be a Judge of the United States Tax Court

Chairman Wyden, Ranking Member Crapo, and members of the Finance Committee, thank you for holding this hearing to consider my nomination to serve as a judge on the United States Tax Court. I am honored to have been nominated by the President, and I greatly appreciate the opportunity to be here today. Thank you also to the committee staff for their assistance throughout this process.

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[4] U.S. Department of the Treasury, Office of Inspector General, "Inquiry on Revolving Door Between the Largest Accounting Firms and the Department of the Treasury," OIG–CA–24–015, March 21, 2024, p. 3, *https://oig.treasury.gov/sites/oig/files/2024-03/OIG-CA-24-015%20%28508%20compliant%20-%20secured%29.pdf.*

[5] Letter from Senator Elizabeth Warren and Representative Pramila Jayapal to IRS Commissioner Danny Werfel, September 27, 2023, pp. 1–2, *https://www.warren.senate.gov/imo/media/doc/2023.09.27%20Letter%20to%20IRS%20on%20TIGTA%20Report.pdf;* Treasury Inspector General for Tax Administration, "Processes Are in Place to Identify and Address Potential Conflicts of Interest in Large Corporate Tax Administration," August 24, 2023, pp. 5 and ii, *https://www.tigta.gov/sites/default/files/reports/2023-08/202340047fr.pdf.*

[6] U.S. Department of the Treasury, Office of Inspector General, "Inquiry on Revolving Door Between the Largest Accounting Firms and the Department of the Treasury," OIG–CA–24–015, March 21, 2024, p. 4, *https://oig.treasury.gov/sites/oig/files/2024-03/OIG-CA-24-015%20%28508%20compliant%20-%20secured%29.pdf.*

[7] *Id.*

I am joined this morning by my wife Diane and my sons Ian and Evan, whose love and support have been a continuous source of strength for me. I am also joined by my 81-year-old mother, who flew in from California. She raised me as a single mom on a secretary's salary before going to night school to become a computer programmer. Without her as a role model, I certainly would not be here today. I also want to acknowledge Tom Barthold, my boss and the Chief of Staff of the Joint Committee on Taxation. Finally, I am grateful for the numerous friends who are in attendance or watching virtually.

For more than 19 years, I have been serving the Congress on the staff of the Joint Committee on Taxation. During that time, I have worked under multiple chairmen from both parties, and my goal has always been to provide the best nonpartisan advice possible. As you all know, there is a lot of behind-the-scenes work that goes into every tax bill that comes up for a vote. The tax legislative process is one that requires thoughtfulness, patience, and dedication. It has truly been an honor and a privilege to help you prepare your legislation and advance your policies over these many years.

As anyone who has filed a tax return knows, our tax system is complicated and can frustrate even well-intentioned taxpayers. The Tax Court affords taxpayers a crucial forum for resolving civil disputes with the IRS. It is my desire to contribute to the fairness of the tax system by helping to resolve these disputes in a manner that ensures taxpayers have the opportunity to be heard and pay no more than what is required under the law.

If I am confirmed, I will take the skills I have learned on the Joint Committee staff to serve the country in a different capacity. In particular, I will continue to work thoughtfully, patiently, and with dedication to ensure fairness in the tax system. If confirmed as a judge, I promise to impartially apply the law to the facts before me in the resolution of tax disputes.

Thank you again for the opportunity to appear today, and I look forward to your questions.

SENATE FINANCE COMMITTEE

STATEMENT OF INFORMATION REQUESTED OF NOMINEE

A. BIOGRAPHICAL INFORMATION

1. Name (include any former names used): Kashi Manu Way.
2. Position to which nominated: Judge, United States Tax Court.
3. Date of nomination: February 1, 2024.
4. Address (list current residence, office, and mailing addresses):
5. Date and place of birth: East Greenville, PA.
6. Marital status (include maiden name of wife or husband's name):
7. Names and ages of children:
8. Education (list all secondary and higher education institutions, dates attended, degree received, and date degree granted):

   University of Southern California, 1988–1993, B.A., December 1993.

   University of Sussex, England, 1992–1993 (year abroad; no degree).

   Columbia University, 1993–1994, M.A., February 1995.

   University of Virginia, 1996–1999, J.D., June 1999.

   Georgetown University, Spring 2004 (took one course on consolidated tax returns; no degree).

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

   Research Assistant to Dr. Seweryn Bialer, Columbia University, Graduate School of Arts and Sciences, New York City, NY, 1993–1994 (academic year).

   Paralegal Specialist, United States Department of Justice, Washington, DC, 1994–1996.

   Research Assistant to Professor A. E. Dick Howard, University of Virginia, School of Law, Charlottesville, VA, 1997 (summer).

   Summer Associate, Dewey Ballantine, LLP, New York City, NY, 1998 (summer).

   Clerk to Judge Joseph Gale, United States Tax Court, Washington, DC, 1999–2001.

   Associate, Covington and Burling, LLP, Washington, DC, 2001–2005.

   Legislation Counsel and Senior Legislation Counsel, United States Congress, Joint Committee on Taxation, Washington, DC, March 2005–present.

   Professorial Lecturer, George Washington University Law School, Washington, DC, spring semester 2023 (taught a 2-unit evening tax course).

10. Government experience (list any current and former advisory, consultative, honorary, or other part-time service or positions with Federal, State, or local governments held since college, including dates, other than those listed above):

    None.

11. Business relationships (list all current and former positions held as an officer, director, trustee, partner (*e.g.,* limited partner, nonvoting, etc.), proprietor, agent, representative, or consultant of any corporation, company, firm, partnership, other business enterprise, or educational or other institution):

    Treasurer (volunteer), East Rockville Civic Association, Rockville, MD, 2015–present (this is a neighborhood civic association with an annual budget of approximately $1,000).

12. Memberships (list all current and former memberships, as well as any current and former offices held in professional, fraternal, scholarly, civic, business, charitable, and other organizations dating back to college, including dates for these memberships and offices):

    Virginia Tax Review, Editor, then Editor-in-Chief, 1997–1999 (academic journal at the University of Virginia School of Law).

    California Bar (inactive), Member, 1999–present.

    Washington, DC, Bar, Member, 2000–present.

    East Rockville Civic Association, Treasurer (volunteer), 2015–present; Member, 2014–present.

13. Political affiliations and activities:

    a. List all public offices for which you have been a candidate dating back to the age of 18.

       None.

    b. List all memberships and offices held in and services rendered to all political parties or election committees, currently and during the last 10 years prior to the date of your nomination.

       None.

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

       July 2019—donated $200 to Friends of Suzan Pitman. Suzan Pitman was a candidate for the city of Rockville, MD, city council.

14. Honors and awards (list all scholarships, fellowships, honorary degrees, honorary society memberships, military medals, and any other special recognitions for outstanding service or achievement received since the age of 18):

Phi Beta Kappa, 1992.

Virginia Governor's Fellow, 1997.

15. Published writings (list the titles, publishers, dates, and hyperlinks (as applicable) of all books, articles, reports, blog posts, or other published materials you have written):

    State and Local Sales Tax on Internet Commerce: Developing a Neutral and Efficient Framework, 19 *Virginia Tax Review* 115, Summer 1999.

    Want a new way to commute? Ride a scooter!, *Greater Greater Washington,* December 3, 2015 (attached and available online at Want a new way to commute? Ride a scooter!—Greater Greater Washington *(https://ggwash.org/contributors/kway)*).

16. Speeches (list all formal speeches and presentations (*e.g.,* PowerPoint) you have delivered during the past 5 years which are on topics relevant to the position for which you have been nominated, including dates):

    None.

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

    I have been working as a tax lawyer for more than 24 years, first as a clerk at the Tax Court, then in private practice at a large DC law firm, and since March 2005 on the staff of the Joint Committee on Taxation. During that time, I have worked in many areas of taxation, covering both corporate and individual income taxes. In addition to this deep knowledge base, I have spent nearly 2 decades providing technical tax advice on a nonpartisan basis to members of the House and Senate and their staff. With respect to the Senate Finance Committee in particular, I have assisted the majority and minority staff under multiple Chairmen in the development of their tax proposals. I have also provided similar assistance to the legislative aides of individual Senators serving on the committee.

    My role has always been to provide the best nonpartisan advice possible, with the goal of improving whatever idea or proposal with which I have been presented. This service has helped me to develop the kind of balanced temperament important for a judge. Finally, to give back to the tax community, I taught an evening tax seminar in the spring of 2023 at the George Washington University Law School. With this background, I believe I have the knowledge, skill, and temperament to be a successful Tax Court judge.

B. FUTURE EMPLOYMENT RELATIONSHIPS

1. Will you sever all connections (including participation in future benefit arrangements) with your present employers, business firms, associations, or organizations if you are confirmed by the Senate? If not, provide details.

   Yes.

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

   No.

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

   No.

4. If you are confirmed by the Senate, do you expect to serve out your full term or until the next presidential election, whichever is applicable? If not, explain.

   Yes.

C. POTENTIAL CONFLICTS OF INTEREST

1. Indicate any current and former investments, obligations, liabilities, or other personal relationships, including spousal or family employment, which could involve potential conflicts of interest in the position to which you have been nominated.

   None.

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

   None.

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

   In the fall of 2014, I opposed the construction of a self-storage facility in my Rockville, MD, neighborhood. To that end, I spoke in opposition at several city of Rockville Mayor and council and planning commission meetings.

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

   If confirmed, I would take whatever steps were necessary and appropriate after carefully and diligently applying 28 U.S.C. section 455, Canon 3 of the Code of Conduct for United States Judges, and other relevant canons, provisions and guidance, including recusal.

D. LEGAL AND OTHER MATTERS

1. Have you ever been the subject of a complaint or been investigated, disciplined, or otherwise cited for a breach of ethics for unprofessional conduct before any court, administrative agency (*e.g.,* an Inspector General's office), professional association, disciplinary committee, or other ethics enforcement entity at any time? Have you ever been interviewed regarding your own conduct as part of any such inquiry or investigation? If so, provide details, regardless of the outcome.

   No.

2. Have you ever been investigated, arrested, charged, or held by any Federal, State, or other law enforcement authority for a violation of any Federal, State, county, or municipal law, regulation, or ordinance, other than a minor traffic offense? Have you ever been interviewed regarding your own conduct as part of any such inquiry or investigation? If so, provide details.

   No.

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

   In 2011–2012, my wife and I were two of more than 25 named defendants in a civil suit in Florida relating to my wife's deceased uncle's estate. The purpose of the lawsuit was to recover money from the estate and the estate's beneficiaries. Since neither my wife nor I were beneficiaries of the estate, the judge granted our motion to be dismissed from the case. Other than that, we have not been parties in any litigation or regulatory matters.

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

   No.

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

   None.

E. TESTIFYING BEFORE CONGRESS

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

   Yes.

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

   Yes.

QUESTIONS SUBMITTED FOR THE RECORD TO KASHI WAY

QUESTION SUBMITTED BY HON. CATHERINE CORTEZ MASTO

Question. If confirmed as a judge to the United States Tax Court, you will be responsible for interpreting how our tax laws apply to a wide variety of plaintiffs—everything from multinational corporations with large legal teams to small businesses and individuals who appear before court without counsel.

What role would you give to legislative intent, conference report language, or statements from members of Congress as you interpret and apply regulations affecting tax law?

Answer. If confirmed, I would apply any binding precedent and rely on well-established tools of statutory interpretation—starting with the plain text of the law—in determining the meaning of a statute. Legislative history, including conference report language and statements from members of Congress, may be considered and can be useful where the meaning of the statutory text and any judicial precedent and binding administrative guidance is ambiguous, but cannot override a plain reading of a clear statute.

QUESTIONS SUBMITTED BY HON. MIKE CRAPO

Question. In Fiscal Year 2023, there were around 22,000 cases filed and 31,500 closed at the Tax Court. That was the second-least amount of cases filed in the last seven years and the second-most cases closed in the same time span.

If confirmed, how will you prioritize providing fair and impartial decisions while also managing your caseload efficiently?

Answer. If confirmed, I will work hard to provide fair and impartial decisions in a timely manner. Every case is different, and each petitioner deserves to have their case thoughtfully considered. If confirmed, I will strive to do that without any unnecessary delays.

Question. The IRS Office of Chief Counsel is responsible for representing the government in matters before the Tax Court, and is thereby involved in every dispute before the Court. Some stakeholders have expressed concern that this close relationship may lead to unjust outcomes.

If confirmed, what will you do to ensure you remain fair and impartial to all parties, and ensure you will not provide special preferences?

Answer. If confirmed, I will treat both petitioners and the IRS respondent in an equal and professional manner and not favor any particular litigant or their representative, regardless of whether they appear routinely before the Tax Court. To this end, I will strive to maintain a neutral decorum to avoid even the appearance of bias.

QUESTION SUBMITTED BY HON. STEVE DAINES

Question. As of April 2024, the U.S. Tax Court had a backlog of 750 conservation easement cases. Last Congress, my bill, the Charitable Conservation Easement Program Integrity Act, was signed into law to provide clarity on a number of these cases. Since then, a number of cases have been decided with differing outcomes, setting various precedents, and a large backlog remains.

If confirmed to the U.S. Tax Court, how will you approach these cases and help clear the backlog?

Answer. I believe taxpayers deserve certainty and efficiency in our system of taxation. If confirmed, I will impartially apply the various precedents to the facts of any conservation easement cases that come before me. As more cases are decided, the law should become more settled, allowing for cases to be resolved more quickly. I would also encourage the parties to work cooperatively so that issues may be resolved without the need for a trial.

QUESTIONS SUBMITTED BY HON. TODD YOUNG

Question. The Tax Court plays a critical role in interpreting tax law and resolving disputes between the IRS and taxpayers. As a nominee for this Article I judgeship, you will be responsible for hearing a wide range of cases.

Can you elaborate on your approach to applying the law impartially and ensuring consistent application of tax code to all taxpayers, regardless of their background?

Answer. If confirmed, I will impartially apply any applicable provisions of the Internal Revenue Code, taking into account the plain text of those provisions and any binding precedent. I will consistently apply this interpretive process to all cases that come before me, regardless of the background or sophistication of the petitioner. In addition, to ensure a consistent application of the facts to the law, I will strive to allow all petitioners, regardless of background and to the extent permitted under the law, to make their best case and present all relevant facts.

Question. In your time at the Joint Committee on Taxation you have worked on a number of legislative items, including the IRA-related energy provisions.

Should the court hear cases on these and other legislative items, how would you differentiate your role as instrumental in constructing the law with your role to impartially hear the case of taxpayers?

Answer. I recognize that the judicial process is fundamentally different from the legislative process. If confirmed, I will apply the law *as written* to any case before me. To that end, I would apply any applicable provisions of the Internal Revenue Code, taking into account the plain text of those provisions and any binding precedent. I would not consider any role I or my Joint Committee on Taxation staff colleagues may have had in the legislative process.

Question. Given the tremendous backlog of cases currently facing the U.S. Tax Court, what specific strategies would you implement to expedite case resolution?

Answer. If confirmed, I would strive to resolve cases promptly, while at the same time ensuring that every petitioner has an opportunity to be heard and have their case thoughtfully considered. To the extent possible and where amenable to the parties, I will seek to leverage the Tax Court's relatively recent ability to have remote trial sessions, where that might prove convenient for taxpayers.

Question. Would you consider increasing the number of hours that the U.S. Tax Court is open to hear cases?

Answer. If confirmed, I would certainly consider ways to make the Tax Court more productive such that cases are resolved efficiently, taking into account any relevant laws and regulations. including consulting with the Chief Judge.

Question. How do you envision these strategies mitigating the harmful effects that prolonged case backlogs have on taxpayers awaiting decisions?

Answer. If implemented, I would envision these strategies as helping to reduce the backlog of cases while ensuring that every case is thoughtfully considered.

Question. The lack of access to the Public Access to Court Electronic Records (PACER) service has been a significant concern for many taxpayers. It often takes an expensive courier service or an in-person visit for a taxpayer to access records on their case.

What measures would you propose to enhance the accessibility and transparency of court records through PACER?

Answer. I understand that the Tax Court's DAWSON case management system operates in a manner similar to PACER and makes many documents publicly available, while at the same time protecting certain personally identifiable information.

If confirmed, I will encourage the Tax Court to increase the effectiveness of DAWSON while maintaining these privacy protections.

Question. How do you believe improved access to these records would impact taxpayer service and trust in the judicial process?

Answer. Easy access to court records that maintain protections for personally identifiable information can reduce the costs and frustration associated with an in-person visit or courier service. Any reduction in administrative burdens would improve taxpayer confidence and satisfaction with the process and increase transparency and public accountability more broadly.

PREPARED STATEMENT OF HON. RON WYDEN,
A U.S. SENATOR FROM OREGON

The Finance Committee meets this morning to discuss four nominations. James Ives is nominated to serve as Inspector General of the Department of the Treasury. And Rose Jenkins, Adam Landy, and Kashi Way are all nominated to serve as judges of the United States Tax Court.

I'll begin with the Treasury IG. Inspectors General perform an essential oversight role across the government. At the Treasury, they oversee a department with a budget of billions of dollars and immense influence over the U.S. and global economy. They do important work rooting out waste, fraud, and abuse.

There has not been a confirmed Treasury Inspector General for nearly 5 years. It's critical that the next IG is undaunted by political pressure and unafraid to confront big issues, even when it's unpopular. I'm a firm believer that tough oversight results in good government.

James Ives brings oversight experience from all over the Federal Government to his nomination. He currently serves as the Principal Deputy Director of the Defense Criminal Investigative Service, which is the criminal investigative arm of the Department of Defense's Office of Inspector General. He's also served within the IG offices at NASA and the Government Publishing Office.

He was also a special agent with the State Department's Diplomatic Security Service and a reserve special agent with the U.S. Coast Guard Investigative Service. All in all, he has more than 3 decades of experience in oversight and law enforcement, which will be highly valuable in the top job as Treasury IG.

Next up, the three nominees for the tax court. The U.S. Tax Court is the judicial backbone of the Federal tax code. It's the best opportunity Americans have to dispute tax bills before they have to pay. And it keeps them from getting stuck in slow-moving courts when they have a tax issue that needs resolution.

So this committee is thankful to have three nominees willing to take on this important job—all of whom bring a blend of public and private experience to their nominations.

Rose Jenkins brings 15 years of experience in tax law to her nomination, with particular expertise in international tax law and administrative issues. She is currently an attorney in the Office of Associate Chief Counsel for Procedure and Administration. It's her second go-round with the IRS Chief Counsel, as she previously served in the international office as well. She has valuable experience in the private sector and at NYU's Tax Law Center.

Adam Landy has been a special trial judge on the Tax Court since 2021. He too has several years of experience at the Office of the IRS Chief Counsel, serving in Baltimore and San Francisco, as well as in the private sector.

And finally, Kashi Way is a Senior Legislative Counsel with the staff of the Joint Committee on Taxation. At the Joint Committee, Mr. Way's primary focus is on energy tax issues and R&D, but his background covers a lot more.

In 18 years at JCT, he's had a big impact on such landmark bills as the Energy Policy Act of 2005, the American Recovery and Reinvestment Act of 2009, the American Taxpayer Relief Act of 2012, the Tax Cuts and Jobs Act of 2017, and the Inflation Reduction Act of 2022.

I speak for this entire committee when I say that we are big fans of the staff over at JCT. We would not be able to do our jobs without their expertise and professionalism, and they rarely get the recognition they deserve. Mr. Way will make an excellent Tax Court judge, but this committee will be sorry to lose his counsel here on Capitol Hill.

I want to congratulate all four nominees and thank them for joining the committee this morning. I look forward to our discussion.

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