

**NOMINATIONS OF DEANNA TANNER OKUN,  
RICHARD T. MORRISON, DAVID D. GUSTAFSON,  
ELIZABETH CREWSON PARIS, ERIC M. THORSON,  
AND EDWIN ECK**

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**HEARING**

BEFORE THE

**COMMITTEE ON FINANCE**

**UNITED STATES SENATE**

**ONE HUNDRED TENTH CONGRESS**

**SECOND SESSION**

**ON THE**

**NOMINATIONS OF**

DEANNA TANNER OKUN, TO BE DEPUTY U.S. TRADE REPRESENTATIVE,  
EXECUTIVE OFFICE OF THE PRESIDENT; RICHARD T. MORRISON,  
DAVID D. GUSTAFSON, AND ELIZABETH CREWSON PARIS, TO BE  
JUDGES ON THE U.S. TAX COURT; ERIC M. THORSON, TO BE INSPEC-  
TOR GENERAL, U.S. DEPARTMENT OF THE TREASURY; AND EDWIN  
ECK, TO BE A MEMBER OF THE INTERNAL REVENUE SERVICE OVER-  
SIGHT BOARD, U.S. DEPARTMENT OF THE TREASURY

APRIL 17, 2008



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THE TREASURY**

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**THURSDAY, APRIL 17, 2008**

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

The hearing was convened, pursuant to notice, at 10:08 a.m., in room SD-215, Dirksen Senate Office Building, Hon. Max Baucus (chairman of the committee) presiding.

Present: Senators Stabenow, Salazar, Grassley, Crapo, and Roberts.

Also present: Democratic staff: Russ Sullivan, Staff Director; Bill Dauster, Deputy Staff Director and General Counsel; John Angell, Senior Advisor; Demetrios Marantis, Chief International Trade Counsel; and Rebecca Baxter, Tax Counsel. Republican staff: Kolan Davis, Staff Director and Chief Counsel; Mark Prater, Deputy Chief of Staff and Chief Tax Counsel; Stephen Schaefer, Chief International Trade Counsel; David Ross, International Trade Counsel; Ellen McCarthy, Tax Counsel; Theresa Pattara, Tax Counsel; Chris Condeluci, Tax and Benefits Counsel; and Nick Wyatt, Tax Assistant.

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

The CHAIRMAN. The hearing will come to order.

Emerson called adaptability the best bulwark against hard economic times. He wrote, "The best political economy is the care and culture of men." Today we would say "human capital." Emerson wrote that the ones to succeed would be "proper individuals capa-

ble of thought and of new choice in the application of their talent to new labor.”

Today we will consider the nominations of several individuals appointed to important jobs in the economy. And as Emerson counseled, these positions will all require propriety, thought, and the ability to apply their talents to new situations.

Today we will consider the nominations of Deanna Okun to be Deputy U.S. Trade Representative; Richard Morrison, David Gustafson, and Elizabeth Paris to be judges on the U.S. Tax Court; Eric Thorson to be Treasury Inspector General; and Ed Eck to be a Member of the Internal Revenue Service Oversight Board.

First, the President has nominated Deanna Okun to be Deputy U.S. Trade Representative. She would handle many critical issues in regions including Asia. The Deputy USTR job is an important one. The person who fills this role must seek not just to expand trade, she must also ensure that our trade agreements are enforced. The Deputy USTR must engage in the art of diplomacy. She must act simultaneously as a negotiator and an enforcer, and she must, first and foremost, represent the interests of the United States.

This is no easy task. But Ms. Okun brings with her years of experience in trade, first as a congressional aide to former Senator and Finance Committee member Frank Murkowski, and also in many other areas. Most recently, she has served as Commissioner of the International Trade Commission. In that role she oversaw the enforcement of U.S. trade laws as they relate to antidumping, countervailing duties, and safeguards.

Ms. Okun's nomination raises questions under a statutory provision that bars appointments of Deputy USTRs who represented a foreign government in a trade dispute with the United States. In the mid-1990s, Congress responded to a similar issue with a joint resolution waiving application of the statute. Additionally, some Senators have indicated that they may have concerns and want to meet with Ms. Okun. Plainly, these concerns will have to be addressed before Ms. Okun's nomination can proceed.

If she is confirmed, I hope that Ms. Okun will bring a commitment to enforcement with her to USTR, and I hope she will pursue her duties with America's interests at the forefront of her heart and mind.

Next, three of our nominees today are headed for the Tax Court. The Tax Court plays a central role in the maintenance of our tax laws. Congress created the court in 1969 to be the Federal Judiciary's resident tax law experts. The increasing complexity of the tax laws demands the appointment of highly skilled judges to the bench. Every day we hear about new shelters developed that require the expertise to understand the issues and perspective from years of tax practice to analyze and accurately apply tax laws.

The Finance Committee takes seriously its role as the gatekeeper for this court. It is the committee's duty to ensure that judges nominated to serve on the Tax Court are prepared to tackle complex tax issues. All of our nominees bring with them a combination of government and private sector work in the tax field. Their experience and extensive knowledge make them well-suited to be judges on the Tax Court.

Richard Morrison has spent a number of years with the Department of Justice. He is the Deputy Assistant Attorney General of Review and Appellate. He has also practiced with a law firm in Chicago, concentrating on tax law.

David Gustafson has also spent a number of years in the Department of Justice, currently serving as a chief of the Court of Federal Claims Section with the Tax Division. Mr. Gustafson has held a number of positions with the Department of Justice and has also practiced with a firm here in Washington, DC.

And Elizabeth Paris is a very familiar face to this committee. Ms. Paris has spent the past 8 years with the Senate Finance Committee staff, helping to shepherd through several significant pieces of tax legislation. In addition to her years of government service, Ms. Paris also has extensive experience practicing law in the private sector.

I am confident that all of our Tax Court nominees possess the knowledge and experience necessary to help ensure that our tax laws are administered fairly.

Next is the Treasury's Inspector General. At the birth of our Nation, the Continental Congress appointed an Inspector General to oversee the Army. The Continental Congress charged that Inspector General with ensuring that scarce resources were spent wisely during times of war. There are reports that the then-General George Washington resented the presence of someone questioning his decisions. Plainly, not much has changed.

Mr. Thorson, like the first Inspector General, will be dealing with some strong personalities. The Treasury Department has responsibility for critical economic, international, and tax issues and attracts talented staff with expertise in these complex matters.

But like any department when it comes to management, there are bumps in the road. During the Bush administration there have been Treasury Inspector General investigations involving two of the three Secretaries of Treasury.

This committee will also rely on the IG to be our eyes and ears at the Treasury. For example, this committee has been looking closely at the Treasury's Office of Terrorism and Financial Intelligence, or TFI. The Treasury's IG Office has briefed us on the management challenge facing them with the TFI, that is—and some would call it a failure—the inability to get up and running a computer system that connects Treasury to the other intelligence agencies.

I will be counting on Mr. Thorson to monitor this issue and ensure that the professional level of work at the IG Office continues. Mr. Thorson brings with him wide-ranging experience from his current position as Inspector General of the Small Business Administration, and I hope that his previous government service for both the Senate Finance Committee and the Senate Permanent Subcommittee on Investigations has also given him the tools that he can use as the Treasury Inspector General.

There are still bruised feelings in the tax community regarding the IRS oversight hearings that Mr. Thorson coordinated in the late 1990s. We will not re-litigate those today because good reports have generally been received on Mr. Thorson's efforts as IG at the Small Business Administration, but I want to emphasize how crit-

ical it is for Mr. Thorson to be fair and impartial as he carries out his duties at the Treasury Department.

Finally, I am very pleased that a fellow Montanan, Ed Eck, has been nominated to be a Member of the Internal Revenue Service Oversight Board. The Oversight Board is an independent body responsible for overseeing all aspects of IRS strategy and operations. The IRS Oversight Board was created to improve the IRS so that it may better serve the public and meet the needs of the taxpayers.

Ed was born and raised in Lewistown, MT. He currently lives in Missoula, and there in Missoula he is a dean of the University of Montana Law School. I might add, he has done a great job as dean.

Ed brings with him 30 years of experience with tax laws as a practitioner, as an Assistant U.S. Attorney in Billings, and as an academic. Over the last 30 years, Ed Eck has looked at the tax laws from all sides, and his vast array of experience will serve him well as he takes on a new role: assisting the IRS Oversight Board in evaluating the IRS's strategies and operations.

So I hope that all the nominees before us today will be able to serve the country in these difficult economic times. I hope they will exercise propriety, thought, and the ability to apply their talents to these new situations. I hope that, thereby, they will all be able to succeed.

Senator Grassley?

**OPENING STATEMENT OF HON. CHUCK GRASSLEY,  
A U.S. SENATOR FROM IOWA**

Senator GRASSLEY. Thank you very much, Mr. Chairman. Thanks, each of you, for your public service and your desire to continue that public service.

Ms. Okun comes with the broad background that Senator Baucus has referred to, working for Senator Frank Murkowski, being on the International Trade Commission, obviously extremely well-qualified to assume these new duties as Deputy U.S. Trade Representative. I hope to see this nomination proceed expeditiously, because negotiations on international trade are so very, very important.

Then we hear from Richard Morrison, a nominee to the U.S. Tax Court. He has done extensive work in the private sector, as well as more than 6 years working at the Department of Justice.

David Gustafson, nominated for the Tax Court, boasts extensive experience from the Justice Department that is going to serve him well in that area.

I have had the honor of working with Elizabeth Paris, because she worked for the committee even before I took over the chairmanship of it, and she has served me, the committee, and eventually, one way or another, all Senators very well. I am glad that Elizabeth's father, Joel, and sister, Martha, are able to be with us today.

There is a great deal of clarity and intelligence in what Elizabeth does, so she has brought great talent to the Senate Finance Committee that benefitted many people, and probably without most of these people she contacted and worked with and worked for even realizing it.

In leaving her position as a partner of a major law firm, taking on relentless pressures that we all know about here on the Hill,



crafting tax legislation, she has grappled with issues as diverse as estate tax, highway and energy issues, and agricultural issues. Numerous sections of the Internal Revenue Code that she has worked on touch the lives of millions of people. Those provisions are better, in my judgment, for her involvement.

She attended the University of Tulsa, and Elizabeth earned beyond that an LLM in taxation at the University of Denver. Senator Baucus has already referred to her private practice. She brings a great deal of experience to her work for the Senate Finance Committee, and now will take that to the Tax Court.

She also has the personal qualities necessary to succeed in the tough and changing environment that tax law is. Elizabeth treats everyone with the greatest respect and makes herself available to listen to anyone who wants to share information with her, regardless of what side of an issue they may be approaching her on. Working in a truly bipartisan manner, she knows that nothing gets done in the Senate that is not done in a bipartisan way, so she consequently never hesitates to offer her guidance to any staffer or member, regardless of political affiliation.

These are not skills that you learn in law school or pick up in a continuing education seminar, but are nonetheless vital for this committee's work. That experience will benefit the Tax Court.

Now, obviously I am sorry, Elizabeth, that you are leaving the work of the committee, but I know that taxpayers will continue to benefit from your judgment. This nomination marks the next step in a meaningful and successful career.

Elizabeth can cite chapter and verse from the Internal Revenue Code, and you hardly ever see her walking the halls of Congress without that code being under her arm—and it is light for as small a girl as she is. [Laughter.]

She is a person who can talk aggie talk. That is beneficial for those of us who are farmers. People had to learn what a cow/calf unit was from her. Whether we are talking crops, animals, or soil of the farm itself, Elizabeth understands the practical, legal, economic, and political implications of proposals she is considering. I am very grateful for that resource.

I move on to another person I consider a friend, Eric Thorson, nominated to be Inspector General, coming from that same position at the Small Business Administration. Before he ever became Inspector General, I found Eric very helpful in my doing my job of oversight, whether it was as an individual Senator or using the resources of committees to help with that oversight work. He has been a wonderful resource and a person that digs, and digs, and digs.

I think, Mr. Chairman, that you will find him to be a person who will do exactly what you expected, to do it without any political predilections about getting the job done. As law enforcement officers, IGs and their staffs must, in fact, investigate fraud, waste, and abuse within government without any political predilections.

As citizens, we depend upon these Inspectors General to ensure that government agencies are good stewards of the resources we entrust to them. We also depend upon IGs to make sure that government officials do not abuse the authority that we give them and engage in inappropriate and sometimes criminal activity.

Mr. Thorson has continued to demonstrate that he is a man of integrity and character. He has what it takes to protect the public interest at the Treasury Department. Before working at the Small Business Administration, Eric was Chief Investigator for this committee and for the Senate Permanent Subcommittee on Investigations. As Treasury's top cop, I am confident that Eric will prove himself to be a champion of the taxpayers, and most importantly, a tireless investigator of corruption.

Our final nominee, Mr. Eck, nominated to the IRS Oversight Board, is currently dean of the University of Montana School of Law. Mr. Eck's experience in private practice and as a law professor will be of great help in assisting the IRS in implementing our tax laws, while respecting the taxpayers.

Thank you all for your willingness to serve.

The CHAIRMAN. Thank you, Senator.

Now I would like to introduce the witnesses. I understand that Senator Crapo would like to introduce Ms. Okun, and Senator Roberts, Mr. Morrison.

So, gentlemen, why don't you proceed?

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

Senator CRAPO. Thank you very much, Mr. Chairman. Thank you for holding this hearing. Thank you to all of our nominees who are here with us today for your willingness to serve our country.

Those who submit themselves to the confirmation process deserve our respect, and we owe it to them and to the public to consider their nominations in a fair and timely manner.

I especially appreciate the opportunity today to introduce Deanna Tanner Okun, who has been nominated to serve as Deputy U.S. Trade Representative. As Deputy U.S. Trade Representative, Commissioner Okun will have responsibilities with Asia and Africa. The President and Ambassador Schwab have made a great choice in selecting Deanna for this position.

Commissioner Okun is well-qualified. She has significant experience as Commissioner with the U.S. International Trade Commission, years as Senate staff, and as a trade lawyer. She has a deep understanding of essential industries to this Nation: agricultural, manufacturing, and services.

Additionally, Deanna's background and work with trade laws and regulations, trade remedy cases, dispute resolution, and tariff and non-tariff barriers demonstrate that she has the tools necessary to be an effective Deputy U.S. Trade Representative.

In this position she will be engaged in a number of trade issues of great importance to the communities and people of this great Nation. Idaho has been cited by the International Trade Commission as the sixth highest State in the Nation in terms of export growth from 2006 to 2007. Expanding trade opportunities is an essential part of our efforts to increase our Nation's global competitiveness.

When she is confirmed, Commissioner Okun will also bring to this position the valuable perspective of being from a rural farming community in Idaho. She is originally from Paul, ID. Paul is an

area located in a part of Idaho known as the “Magic Valley,” which is home to a thriving agriculture industry.

Commissioner Okun’s roots in this part of Idaho will serve her well as she works on the trade policy that is so important to our Nation’s farm families and communities across this country like Paul, ID. It is important that our Trade Representatives understand rural America and recognize that it is not just about large farms and industries, but it also about the small farmers who also need trade opportunities and market access.

Commissioner Okun has the valuable perspective of understanding the challenges of small towns across America and the differing roles that trade plays in their viability. I am confident that Commissioner Okun’s education and experience in both the public and private sectors will be a great asset to the USTR. I support her nomination and look forward to its expeditious handling, and working with my colleagues to confirm her.

And Mr. Chairman, before I give up the mic I also would be remiss if I didn’t say something about Elizabeth Paris, whom we have all worked with already. In the interest of time, I would just say that I join with the comments that both the Chairman and our Ranking Member have already made about Elizabeth. Congratulations, Elizabeth, for this important step in your career.

The CHAIRMAN. Senator Roberts?

**OPENING STATEMENT OF HON. PAT ROBERTS,  
A U.S. SENATOR FROM KANSAS**

Senator ROBERTS. Mr. Chairman, what an impressive group of nominees. I feel very, very good about this, that we have these folks who are willing to serve us in public service and climb up the ladder in doing so.

Before I get to Richard Morrison’s introduction, I would like to quickly express my strong support, along with my colleague and friend from Idaho, for Deanna Okun’s nomination for Deputy U.S. Trade Representative. If she’s from Magic Valley, she can work magic there at the USTR. We need a little magic over at the USTR. We need a little magic here in the Congress to figure out our challenges in regards to trade.

But Deanna’s extensive background and experience make her a strong match for the responsibilities of the position, and I am pleased to support her nomination. If any Senator, Mr. Chairman, has any reservations about Deanna, Mike, myself, and Bob Dole, who had the amendment that you referred to where we have to waive it, we three can go right along with her and I am sure that we three could certainly vouch for all of her talents and why we need her on board, as of yesterday.

I also want to recognize Ms. Paris and thank her for her work as Tax Counsel for this committee and her extensive work on behalf of every member. I am not going to repeat what the Ranking Member has said; he pretty well summed it up. Elizabeth said one of her first issues when she came to the committee in 2000 was working on the estate tax; so, Mr. Chairman, I would like to ask unanimous consent that we simply repeal the estate tax today, so Ms. Paris can move into her new career knowing that we have addressed her issue. [Laughter.] Without objection, it is so ordered.

[Laughter.] I do not think I have the Chairman's attention. [Laughter.]

The CHAIRMAN. But you are getting it, Senator. [Laughter.]

Senator ROBERTS. Senator Grassley mentioned "clarity" and "talent." Basically, Elizabeth has that and so much more; always friendly, always pleasant, always with the extensive background, always with the right answer. As everybody knows, we are in a briar patch—we are Br'er Rabbit, if you will—with the farm bill. If there is a thicket before us, one of the few people I know around here who can show us the way out of the thicket is Elizabeth. So she is going to do just an outstanding job, and many thanks for what you have done.

It is my great pleasure to offer for nomination as judge on the U.S. Tax Court Richard Morrison. Richard is a native Kansan. He represents the values of our State: a strong ethic and a commitment to common sense. Growing up in Hutchinson, KS, America, where he attained the rank of Eagle Scout, Mr. Morrison has long had an interest in public service. His nomination continues our State's tradition of offering outstanding individuals to serve our government.

His career path is an ideal one for the position for which he is nominated. I think Senator Grassley already went over this. He has a strong background in government and an impressive resume in the legal field. After completing his undergraduate degree at the University of Kansas, he earned his law degree at the University of Chicago.

Following law school, Richard served as law clerk for Judge Jerry E. Smith of the U.S. Court of Appeals for the Fifth Circuit. Before practicing law in Chicago, he held the position of Deputy Attorney General for the Review and Appellate Division, and most recently served as the Acting Assistant Attorney General for the Tax Division. I am sure that these positions did provide him with valuable experience and an in-depth understanding of our country's tax system and the appellate process.

His experience in both government and the legal field makes him an excellent choice to serve as judge on the U.S. Tax Court. I am very pleased—it is a personal privilege—to recommend Mr. Morrison, a fellow Kansan, as judge for the U.S. Tax Court.

So, Richard, I wish you the very best. I encourage the speedy confirmation of your nomination by this committee and the U.S. Senate.

Thank you, Mr. Chairman. I am also very happy that his dad, Bob, is in the audience. He is blessed with two great parents who have been great friends of mine. Thank you very much, sir.

The CHAIRMAN. Thank you, Senator.

Let me introduce the rest. David Gustafson, as I mentioned before, is nominated to be judge of the Tax Court; Elizabeth Paris, about whom we have heard very much—all accurate—nominated to be a judge of the U.S. Tax Court; Ed Thorson, Inspector General; and Ed Eck, IRS Oversight Board. Thank you for coming.

Frankly, at this point I would like to maybe go down the line here. Some of you may have family you want to introduce. So, we would like to be introduced to your family if you have some family here.

Ms. Okun, why don't you begin?

Ms. OKUN. Thank you, Chairman Baucus, for the opportunity to introduce my family. I am joined here today by my husband, Bob Okun; by my daughter Kelsi, who turned 10 on Monday; my daughter Rachel, who is 12; and my mother, Beverly Morgan, who is visiting.

The CHAIRMAN. Could you all just stand? This is a big day. Could you all stand up? Thank you very much for, together, doing all this.

[Applause.]

Ms. OKUN. Thank you, Mr. Chairman.

The CHAIRMAN. This is a common effort, a team effort.

Mr. Morrison?

Mr. MORRISON. Thank you, Mr. Chairman. I am happy to be joined here today by my wife, Rebecca and my father, Dr. Robert Morrison.

The CHAIRMAN. Why don't you both stand, too? That is great. Thank you very much. Thank you.

[Applause.]

The CHAIRMAN. Mr. Gustafson?

Mr. GUSTAFSON. Thank you, Mr. Chairman. My wife, Sharon Fast Gustafson is here, along with eight of my children.

The CHAIRMAN. Wow.

Mr. GUSTAFSON. My son Adam and his wife Catherine; my daughter Story; my son Ansel; my daughter Susan; my son Gray; another son, Garrett; and two daughters, Sara and Sonnet; and also my sister, Gail Maynard, are here today.

The CHAIRMAN. You said eight of your children. Do you have more?

Mr. GUSTAFSON. Sigrid is 22 months old and does not really have a proper interest in civic matters. [Laughter.]

The CHAIRMAN. All right. Would you all stand, please, the whole family?

[Applause.]

The CHAIRMAN. Thank you all very much.

Ms. Paris?

Ms. PARIS. Thank you, Mr. Chairman. My father, Joel Crewson, is here from Tulsa, OK, and my sister, Martha Mitchell, is here from Fayetteville, AR.

The CHAIRMAN. Super. Stand up, please.

[Applause.]

The CHAIRMAN. Mr. Thorson?

Mr. THORSON. Mr. Chairman, I would like to introduce my wife, Susan, and my father-in-law, Arthur White.

The CHAIRMAN. Good. Stand please. Thank you.

[Applause.]

Mr. ECK. Mr. Chairman, I would like to introduce my wife, Joyce, and my sister Elaine, and I have two nephews, Noam and Steiff Wiggs, who are in the back of the hearing chamber.

The CHAIRMAN. Great. All four of you stand.

[Applause.]

The CHAIRMAN. All right.

Why don't you begin, Ms. Okun?

I might say, Ms. Paris, Senator Grassley deeply apologized that he cannot be here for the rest of the hearing. He said he is very

embarrassed. "I should be here for her testimony," he said. But he has to leave to go to another meeting. He wanted me to tell you that.

Ms. PARIS. I appreciate that. The farm bill. I understand.

The CHAIRMAN. All right. Thank you.

Ms. Okun?

**STATEMENT OF HON. DEANNA TANNER OKUN, NOMINATED TO BE DEPUTY U.S. TRADE REPRESENTATIVE, EXECUTIVE OFFICE OF THE PRESIDENT, WASHINGTON, DC**

Ms. OKUN. Thank you, Mr. Chairman and members of the committee. I am honored to appear before you today as President Bush's nominee for Deputy U.S. Trade Representative. I am grateful to the President for nominating me for a position central to pursuing America's pro-growth trade agenda. I also want to say thank you to Senator Crapo, my home State Senator, for your words of support this morning.

I last appeared before this committee 8 years ago when I was a nominee for my current position as Commissioner with the U.S. International Trade Commission. I know this committee places a strong emphasis on nominees who will open overseas markets by defending America's trade interests and enforcing our trade agreements.

If confirmed, I look forward to representing the United States in the international trade arena by enforcing and defending U.S. trade laws, breaking down barriers to trade and investment, and pursuing market-opening opportunities that benefit America's manufacturers, ranchers, farmers, service providers, and workers.

I pledge to vigorously pursue every avenue, both bilaterally and multilaterally, to enforce our trade laws. USTR is tasked with opening markets and ensuring they stay open. As Ambassador Schwab has said, negotiation and enforcement are "both equally important tools in our fight to keep American workers competitive in the international market." Absent effective enforcement, a trade agreement can become just another piece of paper. Every single negotiator who works for USTR understands that a core part of his or her job is holding other governments to their word.

Mr. Chairman, I want to reassure this committee that, if confirmed, my top priority will be to ensure that our trading partners live up to their trade obligations.

America's trade policy ultimately depends on a partnership between Congress and the President, and this in turn is dependent on a level of trust between members of Congress, the President, and his team. If I am confirmed by the Senate, I will strive to establish a strong working relationship with members of this committee. I will seek your advice, and I would welcome the opportunity to meet with you, to travel to your States to hear firsthand from your constituents about trade issues important to them.

I have served the public for 15 years, first as a legislative aide in the U.S. Senate, and for the last 8 years as a Commissioner on the International Trade Commission. My public service, combined with my private sector experience as a lawyer, has provided a unique perspective on the tangible effects of trade in our economy.

I have a deep appreciation for the importance of enforcing our trade laws and holding our trade partners accountable to their commitments. If confirmed, I will put my experience to work on behalf of America's workers, farmers, and ranchers.

As a Commissioner, I have developed extensive knowledge about the challenges faced by U.S. manufacturers, service providers, and agriculture in today's global marketplace. I have participated in more than 1,000 antidumping, countervailing duty, safeguard, and other types of cases brought by the domestic industry under U.S. trade laws.

Through adjudicating trade remedy cases at the Commission, I have gained insight into the importance of enforcing trade laws. Much of my experience is hands-on learning, where I have had the opportunity to travel across the United States and to other countries to visit factories and farms.

As noted, I am also a former Senate staffer. I served as an aide to Senator Frank Murkowski, who sat on this committee, advising him on trade and foreign policy issues. I want to assure the committee that I understand the critical role that Congress plays in developing U.S. trade policy and the importance of a healthy working relationship between the administration and Congress, and with members of this committee in particular. If confirmed as a member of the President's trade team, I pledge to continue to work closely with the Congress.

On a personal note, as Senator Crapo noted, I grew up in the Magic Valley in Southern Idaho. I know firsthand the issues facing our farming communities, which are the backbone of our trade exporting community. If confirmed, I will bring this knowledge, my public and private sector experience, as well as my education and background to effectively serve our country as Deputy USTR.

Let me close by again thanking the President for nominating me to be the Deputy U.S. Trade Representative. I would also like to reiterate my appreciation to you, Mr. Chairman, to Senator Grassley, and to the other members of the committee for allowing me to appear before you today.

Last, and most importantly, I want to thank my husband Bob, my children, Rachel and Kelsi, and my parents and sister for their support for me while I have been in public service.

Mr. Chairman and members of the committee, I would be pleased to answer any questions you have, and of course to respond to any Senator's written inquiries.

Thank you.

The CHAIRMAN. Thank you, Ms. Okun.

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

The CHAIRMAN. Mr. Morrison?

**STATEMENT OF RICHARD T. MORRISON, NOMINATED TO BE A  
JUDGE OF THE U.S. TAX COURT, WASHINGTON, DC**

Mr. MORRISON. Thank you, Mr. Chairman, and thank you, members of the committee. Thanks for holding this hearing and considering these nominations. I appreciate the kind remarks of Senator Pat Roberts of Kansas. I wish to thank President Bush for putting forward my nomination to the Tax Court.

The Tax Court assures taxpayers that they can challenge the determinations of the Internal Revenue Service before an independent and impartial decision maker. If I am confirmed, I look forward to participating in this important work.

Currently, I serve as Deputy Assistant Attorney General in the Department of Justice's Tax Division. In the course of my work, I participated in several trials of complex tax cases, I have helped represent the government in over 100 tax cases heard by the U.S. Court of Appeals—many of which were on appeal from the Tax Court—and I have helped to resolve over 100 civil tax cases through settlement or through concession.

One of my first duties upon joining the Department in 2001 was not a tax litigation matter, it was to provide assistance to the September 11th Victims Compensation Fund and in resolving the fund's tax issues. From July, 2007 to January, 2008, I was privileged to serve as Acting Assistant Attorney General for the Tax Division.

Among the many rewards of my job is the opportunity to work with dedicated lawyers like David Gustafson, sitting directly to my left, a fellow nominee for the Tax Court bench, and the head of the Tax Division's representation before the Court of Federal Claims.

I have also had the honor of working with two excellent leaders of the Tax Division: Eileen O'Connor, a former Assistant Attorney General of the Tax Division who is here today, and Nathan Hochman, who is our current Assistant Attorney General for the Tax Division, who is arguing a case before the Ninth Circuit today.

Before my tenure at the Department of Justice, I represented taxpayers before the U.S. Tax Court, and therefore I have experience seeing both sides of tax controversies, both from the taxpayers' view and from the government's view.

On a personal side, I wish to thank my family for their support. My wife Rebecca, who is here today, has been wonderful and is the mother of my two boys; and my father, Robert Morrison, and my mother, Wanda Morrison.

Finally, I owe a special debt to the person who first hired me in my first legal job, and that is my brother, Robert Morrison. He hired me as a tax clerk in his bankruptcy practice 20 years ago.

Finally, thank you again for the opportunity to testify, Mr. Chairman. I look forward to any questions the committee might have.

The CHAIRMAN. Thank you, Mr. Morrison.

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

The CHAIRMAN. Mr. Gustafson?

**STATEMENT OF DAVID D. GUSTAFSON, NOMINATED TO BE A  
JUDGE OF THE U.S. TAX COURT, WASHINGTON, DC**

Mr. GUSTAFSON. Thank you, Mr. Chairman. It is an honor to appear before this committee of the U.S. Senate, having been nominated by the President to be a judge on the U.S. Tax Court. I thank this committee for its consideration of my nomination.

I am also grateful to the Tax Division of the Department of Justice for allowing me, over the last 24 years, to learn, practice, and supervise tax litigation. In 1989, I became an Assistant Chief, and



in 2005 the Chief, of a litigating section in which I supervised a staff of 20 tax litigators who handle a docket of some 500 cases, representing about \$3 billion in tax claims against the United States.

Our cases run the gamut from the small and simple to the complex and enormous. My section defends small-dollar refund suits brought by indigent taxpayers and multi-million-dollar claims by Fortune 500 and multinational corporations. We answer tax protestor arguments on the one hand, and on the other we address sophisticated issues involving complicated provisions of the Internal Revenue Code, Treasury regulations, and tax treaties. The broad range of our subject matter includes tax exemption, life insurance taxation, excise taxes, partnerships, interest computation, and a myriad of other issues.

In addition, for 4 years I had the privilege of serving as the coordinator of tax shelter litigation for the entire Tax Division, and in that post I had a wide exposure to some of the government's most important tax controversies. In that context, it was my great good fortune to work with then-Assistant Attorney General Eileen O'Connor, who, as Rich Morrison noted, is here today.

An attorney who has been especially encouraging and inspiring to me, both professionally and personally, is Sharon Fast Gustafson, my wife of 27 years and the mother of my 9 children. I am grateful that she could be here today with 8 of them.

In the United States, the tax law is the creature of Congress, a fact of which I am keenly aware as I appear before this congressional committee that plays a key role in the legislative process. The tax collector does not make the tax law, but administers it. Judges in tax cases do not make the tax law, but apply it in deciding the cases before them. I am committed to that distinction, and if I am confirmed as a judge I will do my best to faithfully and honestly interpret and apply the law.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Mr. Gustafson.

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

The CHAIRMAN. Ms. Paris, you have a lot to live up to here. [Laughter.]

**STATEMENT OF ELIZABETH CREWSON PARIS, NOMINATED TO  
BE A JUDGE OF THE U.S. TAX COURT, WASHINGTON, DC**

Ms. PARIS. Thank you, Mr. Chairman.

The CHAIRMAN. I might add, I agree with everything that has been said here. You have done a terrific job in helping the committee, and therefore the country. It just amazes.

Ms. PARIS. Thank you, Mr. Chairman. I truly appreciate it. It has been a wonderful 8 years.

In addition, I want to say thanks to all the Senators of the Finance Committee, and also to all of their very hardworking tax staff.

Even though I have had the opportunity to sit at this table many times over the past 8 years, today is very different. Today I appear before the Finance Committee for your consideration of my nomination to be a judge on the U.S. Tax Court. I am honored and hum-

bled that President Bush has given me the opportunity to continue to serve this great country in this new capacity, but I truly believe that this nomination is a continuation of my government service and the privilege of serving this Senate committee as Tax Counsel since the 106th Congress.

Previous to joining the Finance Committee staff in 2000, I enjoyed the experience of practicing, publishing, and teaching tax law. I was active in my professional organizations through the American Bar Association, and both the Colorado and Oklahoma Bar Associations. In addition, I previously held leadership positions in both the American and the Colorado Bar Associations.

Although all of these prior experiences have been valuable attributes, it is actually the experiences gained working for the Senate that best exemplify the qualifications I could offer if I am confirmed as a judge to the U.S. Tax Court.

During that time, I have served this committee as Tax Counsel on important tax policy issues that I passionately care about, to include energy, agriculture, rural America issues, estate tax reform, and highway trust fund issues. Those 12 original bills were initiated by this committee, then approved by Congress and signed into law by the President.

With that knowledge, I realize that every word, comma, and cross-reference in title 26 of the U.S. Code has a very specific and defined purpose. The Internal Revenue Code has been structured a bit like the Periodic Table of Elements. Much like the numbers assigned to the elements, the very location of the code section reflects the defined purpose and meaning behind the concept. Each provision in those 12 bills had very specific congressional intent, and all of the professional and technical staff involved in a bipartisan and bicameral manner attempted to draft legislative language to accomplish that intent.

In doing so, congressional staff reviewed and coordinated thousands of pages of the Internal Revenue Code so that inconsistencies were eliminated and definitions were clarified. So with that detailed background and education in the tax code, I believe the duty of a Tax Court judge is to view the facts and the law of each case and determine if the controversy is based on some confusing inconsistency that could be misinterpreted either by the government or the taxpayer, or could it possibly be a situation where, in spite of all congressional intent, there are those who specifically manipulated the complexity of the code to obtain results that are not appropriate.

In front of me are the Internal Revenue Codes from January of 2001 and January of 2008, and you can see there is a substantial difference in size. As new provisions and policies have been added, the code has grown in complexity. Every case that appears in front of the U.S. Tax Court can be found intertwined somewhere within these codes. Given the opportunity of confirmation as judge, it will continue to be my responsibility to try to help make that determination of consistency and clarification.

In closing, I want to especially thank my mother and father, Joel and Judy Crewson, and my sister Martha, who is here with me today. So many times over the past few decades my family has graciously coordinated functions around tax deadlines or Senate sched-

ules. Ironically, a copy of the Internal Revenue Code has attended many a family occasion just in case someone happened to call. [Laughter.]

In addition, I also want to thank Senator Grassley and Senator Baucus for allowing me to spend many hours as their Tax Counsel, working on important tax policy issues that many members of this committee passionately care about. It has been an honor to help accomplish the policy goals of the U.S. Senate Finance Committee.

Thank you again, and thank you for your time today.

The CHAIRMAN. Thank you, Ms. Paris. It is also very impressive that both the 2001 and 2007, they are both dog-eared.

Ms. PARIS. Yes, they are. [Laughter.] With love.

The CHAIRMAN. With love. All right.

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

The CHAIRMAN. Mr. Thorson?

**STATEMENT OF HON. ERIC M. THORSON, NOMINATED TO BE INSPECTOR GENERAL, U.S. DEPARTMENT OF THE TREASURY, WASHINGTON, DC**

Mr. THORSON. Chairman Baucus, members of the committee, thank you for the opportunity to appear before you as the nominee to serve as the Inspector General of the Department of the Treasury.

As someone who believes strongly in oversight and accountability, it is especially gratifying to be given the chance to serve in two different agencies as an Inspector General. I am at present the IG of the Small Business Administration. That experience for nearly the last 2 years has prepared me well for the new challenges that I can expect, if confirmed for the position at Treasury.

As a bit of background, I am a graduate of the U.S. Air Force Academy and served as an Air Force pilot for approximately 7 years. I was fortunate to be offered the chance to return to the military as a member of the Air Force Secretariat in 1985. After 4 years in the Pentagon, I began a number of years as a congressional investigator, culminating in serving as the Chief Investigator for both the Senate Permanent Subcommittee on Investigations and the Senate Finance Committee.

Both of those positions were under the chairmanship of a very fine man, the late Senator William Roth. He set a very high standard for the integrity of the investigations that we conducted, and that is a standard that I strive to maintain today.

In the spring of 2006, I was confirmed as the IG of the SBA. This was during the aftermath of Hurricanes Katrina and Rita, with substantial challenges to the Agency in its recovery assistance role. Within 90 days of my appointment, we had established an IG Office in New Orleans with a staff of both auditors and investigators that would serve as the headquarters for a region extending from Florida to the Texas border. These are specialists who can assess the disaster work of the Agency and provide assistance in getting help to victims in a more efficient and timely way.

Our criminal investigators have been very highly effective in bringing to justice those individuals who have attempted to illegally receive vital funds that were meant for victims. We are also

a very active member of the Katrina Fraud Task Force, led by the Department of Justice

The role of Inspector General is challenging, if for no other reason than the dual reporting requirement to both the department the IG oversees, and to the Congress. I believe that my time at SBA has proven that one can fairly and respectfully interact with the Agency leadership and yet still remain independent in its findings. In reporting to the Congress through the appropriate oversight committees, I believe that it is imperative to be absolutely nonpartisan in responding to congressional requests and inquiries.

It has been a pleasure to work with the staffs of both sides of the Senate and House Committees on Small Business, partly because I believe they recognized we made a true effort to be fair and impartial in every interaction.

I made a promise to Senator Kerry in my last confirmation hearing, and I will make the same promise to this committee: there will never be any politics to the work that we do.

Like my appointment to SBA after the hurricanes, this appointment comes at a critical time for the Department of the Treasury and our economy. The very words spoken by the Secretary can affect financial markets worldwide, and ultimately affect each American's financial well-being. I will make every effort, if confirmed, to ensure that the Office of Inspector General is a positive aspect of that work, seeking to improve the efficiency and operations of the many various offices within the Department.

I do not expect the leadership to always like what we may write in our reports, but it is my hope that they will recognize the fairness, impartiality, and positive motivation with which the Office of Inspector General will do its work.

Thank you again for considering me for confirmation in this important position, and I will be happy to answer any questions you might have.

The CHAIRMAN. Thank you, Mr. Thorson, very much.

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

The CHAIRMAN. Now, Mr. Eck?

**STATEMENT OF EDWIN ECK, NOMINATED TO BE A MEMBER  
OF THE INTERNAL REVENUE SERVICE OVERSIGHT BOARD,  
U.S. DEPARTMENT OF THE TREASURY, WASHINGTON, DC**

Mr. ECK. Mr. Chairman, members of the committee, thank you for the opportunity to be with you today. I thank the President for nominating me, and, Mr. Chairman, I thank you for recommending me to him.

I have served as dean of the University School of Law for approximately 12 years. It is the only law school in our State. As dean, I have had the responsibility for ensuring that the school provides the services that are reasonably expected by our students, faculty, staff, and alumni.

Because we are the only law school in the State, we also have responsibilities to the State judiciary and other State officers, the State's Attorneys, and most importantly, the public who are served by our graduates. During my service as dean, we have developed two strategic plans and we have had 13 annual budgets that have

been balanced. Our teaching, learning technology, and other informational and technological services have been greatly expanded.

Prior to my administrative work, I taught courses on trusts, estates, estate planning, and Federal estate and gift taxation. I also practiced law, tax law, with an emphasis on Federal estate and gift taxation. Most of my clients were small business people; some were farmers, some were ranchers.

As you know, they all desire a system of taxation which is understandable, where all of our citizens pay what is owed under the code. They want access to websites, pamphlets, and Internal Revenue Service employees who will help them report their taxes as required by law. They look to me to help them plan some of their business affairs, and, though I no longer practice law, I remain acquainted with many of these small business people and with the tax professionals who serve them.

Serving others has given me my greatest satisfaction. In addition to serving clients and the school's many constituents, I have been fortunate to co-chair a committee that gave rise to a new trust code for our State. Also, as a Uniform Law Commissioner I have been fortunate to advocate to our State legislature that it adopt many uniform laws.

I desire to undertake public service at a national level, and I believe my experience will contribute to the work of the Oversight Board and the Internal Revenue Service's administration of our country's tax laws and regulations. If confirmed, I look forward to working with the board members and with the members of this committee on the challenges that face the administration of our tax system, and I pledge to work on behalf of the American people to fulfill my responsibilities on the Oversight Board, if I am confirmed.

Thank you, Mr. Chairman, members of the committee. I would be pleased to respond to your questions.

The CHAIRMAN. Thank you, Mr. Eck, very much. We appreciate your dedication, as well as everyone else here, to public service. I think service is the most noble human endeavor. Each of us serves in different capacities: friends, relatives, church, synagogue, public service, whatnot, and just thank you very much for spending so much of your time now in the service of other people. We are all deeply appreciative.

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

I have some basic questions I have to ask each of you before we get to the substance of the matter. Before beginning, I will ask each of you the question and I just need some kind of a response, and hopefully affirmative.

I will begin with you, Ms. Okun. Is there anything that you are aware of in your background that might present a conflict of interest with the duties of office to which you have been nominated?

Ms. OKUN. No.

The CHAIRMAN. Mr. Morrison?

Mr. MORRISON. No.

The CHAIRMAN. Mr. Gustafson?

Mr. GUSTAFSON. No.

The CHAIRMAN. Ms. Paris?

Ms. PARIS. No, Mr. Chairman.

Mr. THORSON. No, sir.

Mr. ECK. No.

The CHAIRMAN. Thank you.

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

Ms. OKUN. No, Mr. Chairman.

Mr. MORRISON. No, sir.

Mr. GUSTAFSON. No, sir.

Ms. PARIS. No, Mr. Chairman.

Mr. THORSON. No, sir.

Mr. ECK. No.

The CHAIRMAN. Thank you.

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

Ms. OKUN. Yes, sir.

Mr. MORRISON. Yes, sir.

Mr. GUSTAFSON. Yes, sir.

Ms. PARIS. Yes, Mr. Chairman.

Mr. THORSON. Yes, sir.

Mr. ECK. Yes, Mr. Chairman.

The CHAIRMAN. Thank you.

I would now like to turn to Senator Stabenow. I am going to have to leave, and Senator Salazar will chair the rest of the hearing. We are right in the middle of negotiations on a farm bill, and I have to be there, partly because the Finance Committee and the House Ways and Means Committee have to come up with about \$10 billion in revenue to get a farm bill. So we are hopefully in the final days and can get this wrapped up, but I have to attend to help make that happen. Thank you very much.

Senator Stabenow, you are next.

Senator STABENOW. Thank you, Mr. Chairman. I will be following very quickly after to join you at that meeting.

The CHAIRMAN. And I am going to need your assistance, so I hope you come quickly.

Senator STABENOW. Thank you. Thank you, Mr. Chairman.

Thank all of you for your willingness to serve. I particularly want to thank Elizabeth Paris, and join in the chorus, for all of your help and assistance and professionalism. I think this is a spot for you where you will do an excellent job, so we just want to thank you for working with myself and my staff on so many issues. We have accomplished many things. So, thank you. Thank you to each of you.

My questions specifically are for Ms. Okun because of the incredibly important role that you are being nominated for and the impact of that on the people I represent in Michigan, the impact on businesses, on workers.

I find myself in a situation where we have been, unfortunately, the epicenter of what happens in a global economy when our trade laws are not enforced. Three-quarters of the staff focus of the efforts at the USTR are focused on negotiating agreements. Twenty-five percent, from what we can tell and what information has been given to us, is put on enforcement, which frankly right now, given

the impact and the loss of jobs in this country, I think is probably the opposite of what ought to be happening and is of deep, deep concern to me.

So I have a couple of questions. By the way, I am remiss in not starting out and saying that it is wonderful to see your family and having had the chance to meet Rachel and Kelsi and your husband, and I know you are very, very proud of them and their personal efforts as well. So, it is wonderful that they are here.

Ms. OKUN. Thank you.

Senator STABENOW. But I find myself in a situation with very deep concerns, both in terms of what I know you are being tasked with if you are in that position, in terms of working out issues that would allow trade agreements like South Korea to go forward when the people I represent do not want that trade agreement to go forward.

In fact, I will be helping to lead the effort to stop that trade agreement if the President sends it forward. People I represent are not interested in having more work done at this point to resolve outstanding issues because of the fact of the impact of that agreement on the people that I represent.

I will just give you an example. There are certainly many issues, but we have three in Michigan. The ever-changing standards that have shut out U.S. auto companies. While in the last year there were 770,000 South Korean vehicles that were brought into this country, allowed to come in, there were only 6,300 American-made autos that were allowed to be sold in South Korea. They have the most closed market of any developed country.

It is hard to believe the trade agreement will change that, considering the fact that we have had two Memorandums of Understanding that have failed to do so. Given the history, I find it amazing that the USTR agreed to tariff cuts on auto imports into the United States without first having South Korea prove that they would abide by past agreements or the current agreement.

I also have very esteemed and distinguished and successful appliance makers in Michigan who are very frustrated because South Korea refuses to publicize their standard test results. There is nothing in there that guarantees, by the way, that that would change.

This new agreement would also require U.S. growers of specialty crops—of which I have been proud to be the leader in addressing in the farm bill—the new agreement would require U.S. growers of apples, pears, and other fruits to continue suffering under double-digit tariffs for decades. Adding insult to injury, the phyto-sanitary standards that South Korea uses to block imports of these fruits are not going to change under the agreement.

So in short, unfortunately, contrary to other interests certainly of distinguished members of the committee, my interest is not proceeding to work out other areas of an agreement that has damaged the people of Michigan, the businesses of Michigan and America, and that is of great concern to me.

So I am wondering if you might address, from your perspective, on that particular issue, given the fact that you would, in fact, be overseeing this agreement, Asian markets, and so on, how you might respond to the concerns that we have.

Ms. OKUN. Thank you, Senator Stabenow, for allowing me the opportunity to respond to that.

Let me start on the enforcement side, because I am not sure about the statistics you cited of enforcement versus what else USTR does. Let me assure you that in preparing for this hearing I have met with the members of all the teams at USTR, I have met with Ambassador Schwab, and if I heard anything from them it was, here is the list of the issues we have out there where we need enforcement, where we need compliance. That is going to be my job, my job to drive that.

I had also, in addition to reading and reviewing the list of barriers in the countries around the world, the subsidy report on China, WTO compliance—the ITC just finished a big study on Chinese practices and procedures. I look at all that and say, my priority has to be in looking at those things. I look forward to the opportunity of sitting down with you further to talk about what our priority should be in enforcement in those areas, and there are many. We have to decide, what is the best avenue? Do we have allies who have concerns? On China, certainly we do. That might provide an opportunity for better enforcement.

So I also had an opportunity to review your legislation, the Trade Enforcement Act. I read the provision in there, the section in there about identifying priorities. I looked at that and thought, Senator, that is what I am there to do. I want to sit down with you and have you tell me what your priorities are. Let me, if I am confirmed, sit down with the team, find out where things are, and move forward on those, travel to Michigan to see what their priority areas are. Obviously it is a big region. We have issues with beef that needs to flow into Asia that was shut out. To me, that is enforcement. They are not living up to OIE standards. I am going to work on that.

So I see the ability, if I am confirmed, that I add to the enforcement. Not having a deputy there, I mean, some of these things do not get done because you do not have the right person to travel to Asia. Ambassador Schwab cannot be everywhere. Ambassador Veroneau is now spread over the entire world as opposed to his portfolio.

So I hope that I would, in fact, be another weapon in our arsenal, another tool, whichever analogy works for you, to do more on enforcement, not less.

Senator STABENOW. I appreciate your saying that. The challenge for me is that, having been involved prior to the U.S.-Korea agreement being completed, having traveled to Seoul, Korea, to have been involved, literally in the hours before that agreement was completed, to try to address the issues of millions of Americans who work in manufacturing and the other areas that I mentioned—these things were not addressed. They were not addressed in the trade agreement in a way that was satisfactory. So it is difficult for me then to assume there is a commitment from those whom you will be working for to, in fact, proceed. That is just difficult for me. That is not my experience. Certainly we want to continue to work with you to do that.

Let me just add one other thing. I do apologize—we will have other opportunities to speak, and in the interest of also going to the



conference committee on the farm bill—I do want to say, though, despite what I am sure of in regard to your knowledge, competency, and so on, my concern in terms of, again, sort of looking at the record, not looking at what we hear from the administration but looking at the record, in the end we are exporting jobs as well as products, and way too many jobs.

Knowing that some middle-class Americans are losing their jobs right now because we have put forward trade deals that have not worked and are not enforced—they might have worked if they were enforced, but they have not been enforced—for years, for me to go forward without tougher trade enforcement laws, trade adjustment assistance, dealing with what families and businesses in America are dealing with, is just not something I can do.

But I also have to say that, when we look at the important role of the International Trade Commission and the fact that companies come to the Trade Commission, they put forward cases of injury, and to see that, on final determinations—not the initial, because your voting has been on a majority of cases to allow it to move forward; it is kind of like a motion to proceed in the Senate—but on the final determinations, 78 percent of the time, between January of 2005 and January of this year, on final injury determinations or second remands, you have voted 78 percent of the time that there was not injury to an American company. That is difficult for me. In the cases when voting affirmatively, those were essentially slam-dunk cases where it was unanimous, or 5 to 1. So I am, with all due respect, at a point of watching what has happened in Michigan and in this country to the manufacturing base of our country and the words that have not reflected the actions that need to be taking place to fight for American interests, American businesses, American workers. I am at a point now where just more reassurances, with all due respect, are not enough for me.

So, I certainly would welcome your comments in terms of your reluctance to find injury when other fellow Commissioners have, on cases—I do not have specific cases but I do have the record. It is just, from my perspective on what is happening to this country and the economy, we need to be standing up for American interests, American businesses.

Ms. OKUN. Senator, I hope I have an opportunity to respond.

Senator STABENOW. Yes.

Senator SALAZAR. Why don't you take about 2, 3 minutes to respond, because I have to wrap this up as well.

Ms. OKUN. Well, I am certainly very happy to share with the committee all of my vote records, including my decisions, so that you can read them.

Senator STABENOW. Yes.

Ms. OKUN. I am not sure the statistic you cite—I have looked back. I had 215 final injury investigations that I voted on, finals. I voted 133 times in the affirmative, again, finding relief for the domestic industry, and 92 times in the negative. It is a 59.1 percent affirmative rate. The Commission as a whole, during that period, was 63.1 percent.

Senator, I have never viewed my record at the ITC simply by the percentages, and I hope that is not how I am judged. When I was confirmed by this committee 8 years ago, it was to go to the Com-

mission to be fair and objective, to approach each case on the merits of that case. These investigations, as you know—you have appeared before the committee during the 201 cases that I voted in favor of—are very fact-intensive.

At the end of the day, I hope what I have done is approached each case, applied the statute to the facts, and issued the best decision that I can. I believe if you look at my record as a whole—and I am happy to go through that in more detail with you in another setting—I have been, I think, the mainstream of the Commission. I believe the Commission overall—I am very proud of it.

As you know, there are three Democrats, three Republicans on the ITC. One of the things that I think is the greatest about that Commission, it is never a political vote. If you look at our votes, you will see very few that have ever split 3:3, Republicans and Democrats. If they do, it is an oddity and it has nothing to do with politics. The Commissioners up there look at the cases. They are tough. I mean, it is not easy. So I am very proud of my record. I would like to go over that because I do not think that those are accurate percentages of what I know. I can also show you the China-specific voting. I think the Commission is now at about an 80 percent affirmance rate. So, I hope I have the opportunity to go through that, and I appreciate your comments.

Senator STABENOW. I would appreciate having the opportunity to receive more information.

Ms. OKUN. All right.

Senator STABENOW. And my concern is not that votes are political, it is the view of trade, the world view. There has been a view that America should not stand up and fight for American businesses and American workers. That has gone on too long. We are seeing an economy that is devastated in many parts of the country and becoming worse in others because we have had a foolish view that has not been shared by any other country in the world, that we should not be having American business interests and worker and family interests first. My saying that does not go just to you. This is a broader question for me. This is a broader question of seeing us not act, or act in ways that are costing jobs and families and the economy in this country. For me, I cannot do it anymore.

So I would welcome the opportunity to talk with you more about your record. My comments are not about partisanship or politics, it is about not understanding what is happening to Americans and whose side we ought to be on when it comes to a world economy, where every other country gets whose side they are on except us.

So, thank you, Mr. Chairman.

Senator SALAZAR. Thank you, Senator Stabenow. Ms. Okun and others, there will be oral questions, and perhaps written questions that will be submitted to each of you, and we would expect that each of you respond to those written questions before the committee's consideration on your nominations. I am certain Senator Stabenow will have some additional questions to you, Ms. Okun.

I have one question on behalf of the Chairman for you, Ms. Okun, and that has to do with involvement that you had from 1991 to 1993 with the government of Ontario. Under a provision of U.S. law enacted in 1995, a person who has represented a foreign gov-

ernment in a trade dispute with the United States cannot be appointed as Deputy USTR.

I understand that from 1991 to 1993 you represented the government of Ontario in a softwood lumber dispute against the United States, and I know it is something that members of this committee are aware of. For our purposes in terms of how we move forward, it would be important for us to know, number one, what was the extent of your involvement in this dispute, and number two, will your past representation of Ontario affect your ability to enforce our softwood lumber agreement with Canada.

Ms. OKUN. Thank you, Senator Salazar. I appreciate the opportunity to provide further information for the committee. After leaving law school in May of 1990, I went to the DC law firm of Hogan & Hartson. In reviewing the billing records in 1991, as a second-year associate, I was assigned by various partners to work on matters for 31 clients of the firm, including, as you reference, a countervailing duty investigation involving lumber imports from Canada.

In this investigation, the billing partner was Mark McConnell, who is still at Hogan & Hartson, and his client was the government of the Province of Ontario. As a very junior associate, all of my duties and work product were subject to the supervision, direction, and control of Mark McConnell. I was assigned to research and prepare legal memoranda. My name appears with the other firm associates and partner as counsel for Ontario on pleadings submitted in the course of these proceedings; however, I did not present oral arguments on behalf of Ontario and I did not personally advise Ontario government officials regarding these proceedings.

My work in 1992 and 1993 also involved legal research and writing in connection with filings to Binational Panels reviewing the decisions of the Department of Commerce and the International Trade Commission in these investigations. As in the underlying proceeding, my name appears on the brief but I did not present oral arguments.

In May of 1993, and prior to the Binational Panel decisions being issued, I left Hogan & Hartson to come work in the Senate as a legislative aide for Senator Frank Murkowski, and that was the last of my involvement.

Senator SALAZAR. Would you say then your involvement was a minor involvement as a junior associate in the firm?

Ms. OKUN. In my view it was, Senator.

Senator SALAZAR. All right.

And on the second question in terms of it affecting your ability to enforce the agreement with Canada?

Ms. OKUN. Yes. Thank you. I look at the work that I did at Hogan & Hartson as a lawyer as informing me about trade laws and how one argues them. However, I do not believe it influences at all my ability to represent the U.S. Government in our interests, and I believe I have demonstrated that in my service, both on the International Trade Commission and serving as a Senate aide.

I would note that at the International Trade Commission, for 6 of the 8 years I have been there as a Commissioner, the Commission has been involved in the subsequent investigations of softwood

lumber. There is no conflict of interest. As a Commissioner, I voted on those cases in favor of the domestic industry in 5 out of 6 times.

In one instance, the Commission was forced by the Binational Panels to change our vote. So, no, Senator, I do not believe that it would influence how I would approach—even though softwood lumber is not in my portfolio, it would not influence how I would approach any issue involving any foreign government, including the government of Canada.

Senator SALAZAR. Thank you, Ms. Okun.

Let me, first of all, congratulate each and every one of you for your nominations. I echo what Senator Baucus said to all of you, and that is, it is a privilege to serve and to have an appointment by the President and to now be before the Finance Committee and the U.S. Senate under the advice-and-consent clause for these confirmation proceedings. They are major milestones, I am sure, in your personal lives, but also they stand for the proposition that great people are still ready to serve in our government at its highest levels, and for each of your positions they are very important positions.

So, I congratulate you, and I congratulate all of your family who have filled this room here to come and witness this historic confirmation hearing before the Finance Committee.

To you, Elizabeth Paris, I just want to say we are very, very proud of you. You exemplify what I have come to know in my very short time on this committee, which is now less than a year, the very best that there is among our U.S. Senate staffers. If we could only take what we do here in the Finance Committee and clone it across the entire U.S. Senate and the U.S. House of Representatives, we might end up having a whole new spirit of results and success here.

I just want to say, I have very much enjoyed our work together on energy issues, on farm bill issues, and a whole host of other issues, and look forward to very much supporting you in your confirmation.

With that, I believe we have done what we have to do in this hearing, and I look forward to the further consideration.

The hearing is adjourned. Thank you.

[Whereupon, at 11:23 a.m., the hearing was concluded.]

# **A P P E N D I X**

## **ADDITIONAL MATERIAL SUBMITTED FOR THE RECORD**

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### **Statement for the Record Senator Maria Cantwell**

#### **Senate Finance Committee Hearing on Pending Nominations April 17, 2008**

Mr. Chairman, thank you so much for calling this hearing. I want to also express my appreciation to the nominees for their willingness to contribute their time and talent to public service.

The U.S. Tax Court may not be very familiar to people outside the Beltway, but it serves an important function in maintaining balance between the vigorous enforcement of our tax laws and the rights of taxpayers to have disputes fairly litigated.

The diversity of our economy and increasing complexity of the tax code require that the judges who serve on the Court possess a unique level of technical knowledge and expertise.

Each of the nominees before this committee possesses the qualities needed to be fair and effective judges on the court. I commend the President for sending us these qualified professionals and commend you, Mr. Chairman, for expeditiously moving these nominees through the committee.

I want to especially congratulate Elizabeth Paris on her nomination. Elizabeth has been a staff member on this committee for several years. She is a talented tax law specialist who has provided me and my staff with valuable insight and assistance.

It has been a pleasure to work with her. I know I speak for other members of this committee when I not only express our gratitude for her service here, but offer our sincere best wishes as she takes on this next phase of her professional endeavors.

Thank you.

**Statement of E. Edwin Eck  
To be a Member of the Internal Revenue Service Oversight Board  
U.S. Department of Treasury  
  
Senate Committee on Finance  
April 17, 2008**

Mr. Chairman, Senator Grassley, and Members of the Committee, thank you for this opportunity to speak with you. I thank the President for nominating me to the Internal Revenue Service Oversight Board and I thank you, Mr. Chairman, for encouraging the President to do so.

I have served as Dean of the University of Montana School of Law, the only law school located in our state, for more than twelve years. As dean, I have been responsible for ensuring that the school provides the services reasonably expected by its students, faculty, staff, and alumni, as well as the state judiciary, other state government officials, the state's attorneys, and the public who will be served by the school's graduates. During my service as dean, our school has developed two strategic plans and thirteen annual budgets have been balanced. Teaching and learning technology and other informational technology services have greatly expanded.

Prior to my current administrative work, I taught law school courses on wills, trusts, estates, estate planning, and, estate and gift taxation. Also, I practiced tax law with an emphasis on estate and gift taxation. Most of my clients were the owners of small businesses, including farmers and ranchers. As you know, they desire an understandable system of taxation where all of our citizens pay what is owed. These taxpayers want access to websites, pamphlets, and IRS employees who will help them report their taxes as required by law. They looked to me to help them plan their business affairs. Although I no longer practice law, I remain acquainted with many small business people and with tax professionals who serve them.

Serving others has provided me with my greatest satisfactions. In addition to serving clients and a school's many constituents, I have been fortunate to co-chair a committee which drafted Montana's trust statutes and successfully sought their enactment. Also as a Uniform Law Commissioner, I have derived satisfaction urging our state legislature to adopt many uniform laws.

I desire to undertake public service on the national level. I believe my experience will contribute to the work of the Oversight Board and the Internal Revenue Service's administration of our country's tax laws and regulations.

If confirmed, I look forward to working with Board members and with members of this Committee on the challenges that face the administration of our tax system. I pledge to work on behalf of the American people to fulfill my responsibilities with the Oversight Board.

Thank you, Mr. Chairman, Senator Grassley and Members of the Committee. I would be pleased to answer any questions you may have.

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

**A. BIOGRAPHICAL INFORMATION**

1. Name: (Include any former names used.) E. Edwin Eck. Other names include Earl Edwin Eck II and Ed Eck.
2. Position to which nominated: IRS Oversight Board
3. Date of nomination: February 26, 2008
4. Address:  

Office: University of Montana School of Law, Missoula, MT 59812
5. Date and place of birth:  

Date: November 4, 1947  
Place: Lewistown, MT
6. Marital status: (Include maiden name of wife or husband's name.)  

Married.  
My wife's name is Joyce Pedersen Eck.
7. Names and ages of children:  

None
8. Education: (List secondary and higher education institutions, dates attended, degree received, and date degree granted.)  

Culver Summer Schools, Culver, IN; attended summers 1961, 1962, and 1963;  
Certificate of Graduation, August 22, 1964

Fergus County High School, Lewistown, MT; attended 09/61 to 05/65; high school diploma; May 25, 1965

Carleton College, Northfield, MN, attended 09/65 to 06/69; BA, June 13, 1969

University of Montana School of Law, Missoula, MT, attended 09/70 to 06/73;  
JD, June 10, 1973

Georgetown University Law Center, Washington, DC, attended 06/77 to 05/78;  
LL.M. (in taxation), May 21, 1978

9. Employment record: (List all jobs held since college, including the title or description of job, name of employer, location of work, and dates of employment.)
- Reporter, Magic Land Times, Anaconda, MT, 08/69 to 11/69
  - Army basic training and advanced individual training, U.S. Army, Ft. Benning, GA, Ft. Jackson, SC, and Redstone Arsenal, AL, 11/69 to 05/70
  - Army Reserve, Missoula, MT and Billings, MT, 05/70 to 11/75
  - Campaign staff, Jack Rehberg, Billings, MT, 05/70 to 09/70
  - Shoe salesman, J.C. Penny, Missoula, MT, 07/71 to 08/71
  - Research Assistant, UM School of Law, Missoula, MT, 08/71 to 09/71
  - Intern, Montana Attorney General, Helena, MT, 06/72 to 09/72
  - Law Clerk, U.S. District Court Judge James F. Battin, Billings, MT, 06/73 to 06/75
  - Assistant U.S. Attorney, Billings, MT, 06/75 to 08/76
  - Executive Director, Montana President Ford Committee, Billings, MT, 08/76 to 11/76
  - Attorney, Morrow, Sedivy, Olson, and Eck, Bozeman, MT, 07/78 to 09/81
  - Visiting Assistant Professor, University of Montana School of Law, Missoula, MT, 09/81 to 06/83
  - Attorney, Brown, Gerbase, Cebull, and Jones, Billings, MT, 06/83 to 09/84
  - Professor, University of Montana School of Law, Missoula, MT, 09/84 to 07/95
  - Attorney, part-time solo practice, Bozeman and Missoula, MT, 06/85 to 07/95
  - Dean, University of Montana School of Law, Missoula, MT, 07/95 to present
10. Government experience: (List any advisory, consultative, honorary, or other part-time service or positions with Federal, State or local governments, other than those listed above.)
- Member of the Judicial Education Committee of the Montana Judges Association since approximately 2001
11. Business relationships: (List all positions held as an officer, director, trustee, partner, proprietor, agent, representative, or consultant of any corporation, company, firm, partnership, other business enterprise, or educational or other institution.)



My wife and I are sole partners in A.C. Pedersen and Associates, LLP. The partnership owns a 35-acre, undeveloped parcel of real property in Missoula County, Montana.

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

Member of the State Bar of Montana, P.O. Box 557, Helena, MT 59624 since 1973

- Co-chair of the Trust Law Revision Committee which produced a Trust Code adopted by the Montana Legislature in 1989
- Chair, Continuing Legal Education Institute from 1986-88
- Legislative Chair of the Trusts, Estates, Tax & Business Law Section 1987-95

Member of the American Bar Association, 321 North Clark Street, Chicago, IL 60610, since the late 1980s

Member of the National Conference of Commissioners of Uniform State Laws, 211 E. Ontario Street, Suite 1300, Chicago, IL 60611 since 1989.

Member of Missoula Rotary Club of Missoula, P.O. Box 8867, Missoula, MT 59807 since 1995

Member of Montana Ambassadors, Box 722, Anaconda, MT 59711 since January, 2008

Member of various masonic groups including:

- Friendship Lodge No. 37, Masonic Temple, 322 W. Broadway, Lewistown, MT 59457
- Scottish Rite of Freemasonry, P.O. Box 677, Livingston, MT 59047
- York Rite Masonic Bodies, P.O. Box 576, Bozeman, MT 59771-0576
- Al Bedoo Shrine Temple, P.O. Box 20673, Billings, MT 59104-0673

13. Political affiliations and activities:

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

None

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

Member of:

- Five Valley Pachyderm Club
- Republican Lawyers Association

- 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.

<u>Date</u>	<u>Description</u>	<u>Amount</u>
09/19/1998	MT Republican Party	100.00
01/16/1999	MT Republic Party	100.00
11/19/1999	MT Republican Party	100.00
09/17/2000	Jim Shockley State Legislature	100.00
09/17/2000	Jerry Allen State Legislature	100.00
10/12/2000	Bob Brown for Sec. of State	200.00
04/06/2002	MT Republican Party	100.00
05/01/2002	Jim Shockley State Legislature	100.00
06/01/2002	Brent Cromley for State Senate	100.00
07/13/2002	Justice Leaphart for Supreme Court	200.00
08/17/2002	Mike Wheat State Legislature	200.00
09/21/2002	Rehberg for Congress	500.00
05/26/2003	Bob Brown for Sec of State	200.00
02/07/2004	Rehberg for Congress	500.00
03/11/2004	MT Republican Party	100.00
04/03/2004	Friends of Conrad Burns	500.00
04/30/2004	Jim Shockley State Legislature	130.00
06/01/2004	MT Republican Party	115.00
06/23/2004	Ken Pedersen for State Legislature	100.00
06/28/2004	Friends of Conrad Burns	1,000.00
09/04/2004	Bob Brown Governor	500.00
09/20/2004	Doug Mood for Public Service Com.	130.00
09/25/2004	Brian Pedersen for WY Legislature	100.00
10/10/2004	Rehberg for Congress	500.00
10/12/2004	Larry White State Legislature	130.00
12/18/2004	Brad Johnson Sec. of State	500.00
04/07/2005	Friends of Conrad Burns	500.00
08/09/2005	Friends of Conrad Burns	100.00
11/27/2005	Rehberg for Congress	500.00
12/15/2005	Gene Jarussi State Legislature	130.00
02/22/2006	Rehberg for Congress	100.00
05/31/2006	John Parker State Legislature	100.00
05/31/2006	Ken Peterson State Legislature	100.00
05/31/2006	Mike Milburn State legislature	100.00

05/31/2006	Gordon Hendrick State Legislature	100.00
08/15/2006	Rehberg for Congress	500.00
08/15/2006	Friends of Conrad Burns	500.00
09/12/2006	Friends of Conrad Burns	500.00
09/12/2006	Rehberg for Congress	500.00
10/14/2006	Friends of Conrad Burns	250.00
05/02/2007	Brad Johnson Sec. of State	250.00
11/10/2007	Mike McGrath for Supreme Court	100.00

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.)
- Member Phi Beta Kappa
  - Graduated magna cum laude and with distinction in Government and International Relations, Carleton College
  - U.S. District Judge Charles Pray Scholarship, University of Montana School of Law
  - Teacher of the Year, University of Montana School of Law, 1982-83
15. Published writings: (List the titles, publishers, and dates of all books, articles, reports, or other published materials you have written.)
- Uniform Code Commission Celebrates 100th, 18 The Montana Lawyer 6 (November, 1992)
  - Drafting Considerations in Appointing the Surviving Spouse as Trustee of the Non-Marital Trust, 45 Mont. L. Rev. 215, reprinted in 35 (No. 8) Digest of Tax Articles 64
  - Some Estate Tax Blessing Amid Reform News, 125 Trusts and Estates (No. 3) 22 (March, 1987)
16. Speeches: (List all formal speeches you have delivered during the past five years which are on topics relevant to the position for which you have been nominated. Provide the Committee with **two** copies of each formal speech.)
- None
17. Qualifications: (State what, in your opinion, qualifies you to serve in the position to which you have been nominated.)

I have managed a state law school, the only law school in my state, for more than 12 years. Constituents of a such a law school include not only students, faculty, staff, and alumni, but also include the state judiciary, other state government officials, the state's

attorneys, and the public who will be served by the school's graduates. As dean, I have been responsible for ensuring that the law school provides the services reasonably expected by all of these constituencies. Those services focus on education of our students, and also include continuing education of attorneys and judges, education of our citizens on aspects of the law, and work with our state legislature on law reform projects. I have been responsible for ensuring that the law school provides the services reasonably expected by all of these constituencies.

During my service as dean, our school has developed two strategic plans and thirteen annual budgets have been balanced. Teaching and learning technology and other informational technology services have greatly expanded.

I received an LL.M. (in taxation) from Georgetown University Law Center in 1978. I taught estate tax and related estate planning courses for ten years at the University of Montana School of Law. Also, I practiced tax law with an emphasis on estate and gift taxation. Most of my clients were the owners of small businesses, including farmers and ranchers. They desire an understandable system of taxation where all of our citizens pay what is owed. These taxpayers want access to websites, pamphlets, and IRS employees who will help them report their taxes as required by law. They looked to me to help them plan their business affairs. Although I no longer practice law, I remain acquainted with many small business people and with tax professionals who serve them.

I desire to undertake public service on the national level. I believe my experience will contribute to the work of the I.R.S. Oversight Board and the Internal Revenue Service's administration of our country's tax laws and regulations.

**B. FUTURE EMPLOYMENT RELATIONSHIPS**

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

No. I intend to remain employed by the University of Montana.

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

No.

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

No.

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

Yes.

**C. POTENTIAL CONFLICTS OF INTEREST**

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

I do not perceive I have any conflicts of interest.

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

None.

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

As the dean of the University of Montana School of Law, I have attempted to persuade the Montana Legislature to appropriate money for Montana's law school and I have sought federal funds through the Montana Congressional delegation. As a Uniform Law Commissioner, I have asked the Legislature to consider various uniform laws.

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

As I indicated, I do not perceive I have any conflicts of interest. I will not participate personally and substantially in any particular matter that has a direct and predictable effect on my financial interests or those of any other person whose interest are imputed to me, unless I first obtain a written waiver.

5. **Two** copies of written opinions should be provided directly to the Committee by the designated agency ethics officer of the agency to which you have been nominated and by the Office of Government Ethics concerning potential conflicts of interest or any legal impediments to your serving in this position.

Attached.

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

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

n/a

**D. LEGAL AND OTHER MATTERS**

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

No.

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

No.

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

Yes. In 1994, I was a plaintiff with others alleging that the defendants oppressed minority shareholders in a closely-held corporation. *Les Alweis, Norm Alweis, Don Alweis, Elaine Ziskind, Lois Bourke, Virginia Rutter, Ed Eck, and Joe Alweis Realty Co., a Montana corporation vs. J. Robert King, Gerald D. Myers, King Nutronics Corporation, a California Corporation*, No. BC096909, Superior Court of the County of Los Angeles, California 90012. I was the smallest of the minority shareholders. I owned 20 shares which represented approximately .1% of the total outstanding shares.

The plaintiffs collectively owned 3,720 shares. After substantial pre-trial discovery and motions, the parties settled the case.

Also, in 2002 I was one of six University employees who were named defendants in a suit brought by former students who claimed that they should have been entitled to resident status and therefore lower tuition. The name of the case was *D'Angelo and Gibson vs. Crofts, Eck, Bain, Ashley, Nelson, and Bumbeck*. CV 02-16-M-ORFC, U.S. District Court for the District of Montana. In response to motions made by counsel for the University and the Commissioner on Higher Education, judgement was entered for all of the defendants.

Further, in December 2007 I was named as one of three defendants in a suit brought by the Christian Legal Society concerning the funding of a local chapter of that organization. The name of the case is *Christian Legal Society; Christian Legal Society Chapter at the University of Montana School of Law, a student organization at The University of Montana School of Law vs. E. Edwin Eck, in his official capacity as Dean of The University of Montana School of Law; Margaret A. Tonon, in her official capacity as Director for Student Affairs; and Members of the Executive Board of the Student Bar Association of the University of Montana School of Law*, CV 07-154-M-DWM-JCL. A motion to dismiss the suit is pending before the court.

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.

**Ed Eck**  
**Responses to Questions for the Record**

**Questions from Chairman Baucus**

1. **The IRS Oversight Board was created to serve as a governance and management body that would focus on strategic issues facing the IRS. Mr. Eck, based on your extensive experience, what do you consider to be the three biggest strategic issues currently facing the IRS?**

**Answer:**

I believe the three biggest strategic issues are taxpayer service, tax law enforcement, and the modernization of the IRS. In fact, these are the three strategic goals identified by the IRS in its 2005-09 Strategic Plan (adopted with the approval of the Oversight Board). Although I believe that the IRS has made significant progress addressing these three matters since the adoption of Strategic Plan, more work remains.

2. **One of the IRS's strategic priorities is enhancing enforcement of the tax law. With the \$290 billion annual net tax gap, what role do you see the Oversight Board playing in working with the IRS to help close the tax gap? What dollar figure would you consider to be an acceptable tax gap each year?**

**Answer:**

Under the Internal Revenue Restructuring and Reform Act of 1998, the Oversight Board has specific responsibilities to review and to approve strategic plans and to review and to approve the IRS budget in light of the strategic plan. In fulfilling these responsibilities, the Oversight Board has made the following recommendations to reduce the tax gap:

1. Simplify of the tax code
2. Increase informational reporting
3. Improve customer service
4. Conduct more research on the major sources of noncompliance
5. Promote a better partnership between the IRS and the tax administration community
6. Emphasize personal integrity

I think the Board appropriately fulfilled its role by making these recommendations. Further, I believe these recommendations are reasonable. If confirmed, I would work to monitor the IRS' success in meeting these objectives.

In response to your question about the dollar figure for an acceptable tax gap, I believe it is \$0. As articulated by Oliver Wendell Holmes, taxation is the price of civilized society. We are all obliged to pay what we owe under a system of taxation enacted by our elected representatives. However, I understand that there will shortcomings. I am aware that the IRS Oversight Board has set a goal of an 86% voluntary compliance rate. Until further



study would cause me to conclude differently, I currently assume that 86% is a reasonable goal.

3. **Describe the appropriate relationship between the IRS Oversight Board and the IRS. To what extent should the Board influence tax policy and administration? How should differences of opinion between the IRS and the Board be resolved?**

**Answer:**

Under the Internal Revenue Restructuring and Reform Act of 1998, the Oversight Board is to oversee the Internal Revenue Service in the administration, management, conduct, direction, and supervision of the execution and application of the internal revenue laws and related statutes. In addition to its specific responsibilities concerning strategic planning and budget, the Act charges the Board with specific responsibilities concerning operational functions, management, and the proper treatment of taxpayers.

However, the Act expressly excludes the Board from any responsibility or authority with respect to federal tax policy and specific law enforcement activities, specific procurement activities, and specific personnel actions.

If the Oversight Board fulfills its statutory oversight responsibilities and avoids those areas where it has no authority, the potential differences of opinion will focus on important matters central to the success of the IRS. An independent Oversight Board should express potential differences with the IRS and with the Treasury frankly and respectfully.

4. **What are your priority issues that you bring to the Board? What unique contribution will you make to improve tax administration?**

**Answer:**

In my view, the tax gap is a priority issue. Other significant issues include the Internal Revenue Service's information technology and human capital.

As a former practitioner who served small businesses, including farmers and ranchers, and who has regular contact with tax practitioners who still serve those small business people, I will provide an important perspective to the Oversight Board. Although I cannot predict the specific contributions that I will make if I am confirmed, I pledge to apply the breadth of my experience to help the Board achieve its mission of overseeing the effective and efficient operation of the IRS.

5. **What actions will you take to ensure that the Board has an effective working relationship with Treasury and the IRS?**

If confirmed, I will urge the Board to be continually mindful of its statutory mandate. An independent Oversight Board will have an effective working relationship with Treasury and the IRS so long as it exercises those oversight functions with respect toward both the Treasury and the IRS.

Max V. Kidalov, Esquire  
P.O. Box 2545  
Arlington, Virginia 22202

April 16, 2008

VIA FAX

The Honorable Max Baucus  
Chairman  
The Honorable Charles Grassley  
Ranking Member  
Committee on Finance  
United States Senate

RE: Statement for the hearing on the nomination of Eric M. Thorson  
to serve as Inspector General of the Treasury Department

Dear Chairman Baucus and Ranking Member Grassley:

It is my understanding that your Committee will be holding a hearing on the nomination of Eric M. Thorson for the position of Inspector General of the U.S. Department of the Treasury. On my own initiative, I write to strongly endorse his confirmation. I believe that my background enables me to offer unique and comprehensive insights on this nomination.

I became acquainted with Eric in the second half of 2005, when the President nominated him to serve in the same capacity at the Small Business Administration. As Counsel to the Senate Committee on Small Business and Entrepreneurship, then chaired by Senator Olympia J. Snowe, I was the primary Republican Committee staff member responsible for reviewing his background, qualifications, and overall fitness to serve. To say that my position obligated me to learn in-depth about Eric's work, life, character, and reputation would be an understatement. It was a responsibility which I took very seriously, and I am pleased to say that I came away from that experience with deep personal respect for Eric.

As part of that process, I have conducted an extensive review of all publications and records I could find on all aspects of Mr. Thorson's work, especially his service in senior positions at the Air Force and in Congressional committees. I had the opportunity to interview a number of people who know Mr. Thorson personally and professionally. More specifically, I had the opportunity to hear from, or read the testimonies of, the people who have been directly affected by Eric's work. These testimonies were deeply touching. Without fail, they described how Eric went the extra mile to ensure good government for the taxpayers, responsible defense contracting for our military, justice for parents whose children died in "friendly fire" incidents in defense of our country, equal treatment for IRS employees victimized by racial discrimination, and due process for hard-working taxpayers dealing with the IRS. You may find these testimonies referenced or reprinted in the public record of his confirmation.

Eric also has a proven record of approaching his responsibilities in a thoughtful, fair, and thorough way. Indeed, his diligence and fairness in investigating the IRS as part of the Senate Finance Committee hearings were strongly endorsed by the late Senate Finance Committee Chairman William Roth in his book, *The Power to Destroy: How the IRS Became America's*

Kidalov Statement to Senator Baucus and Senator Grassley  
 April 16, 2008  
 page 2 of 2

*Most Powerful Agency, How Congress Is Taking Control, and What You Can Do To Protect Yourself Under the Law.* I encourage anyone who wants to know more about Eric's professional ethic to read this book. To be sure, not everyone agreed with the need for those investigations, the factual findings made at those hearings, or the policy reforms which followed. These questions were fully considered and resolved by the Senate Small Business Committee during Eric's confirmation as Inspector General of the SBA. The record of that hearing, S. Hrg. 109-431, *Nomination of Eric Thorson to be Inspector General of the Small Business Administration*, established that Eric conducted his work honestly, reasonably, and in good faith, resulting in overwhelming bi-partisan support of the Small Business Committee. In fact, Eric's fairness made him one of those uncommon people whose career path took them to conduct oversight on behalf of both Republican and Democratic Congressional offices.

After Eric got confirmed in the spring of 2006, we have worked closely together on improving integrity of small business programs. Thanks to Eric's responsiveness, forthrightness, and professional dedication, we developed an excellent working relationship. Indeed, since assuming position as the SBA Inspector General, Eric made cooperation with Congress his top priority. Mr. Thorson personally went to New Orleans to ensure that the SBA's disaster-related activities were compliant, efficient, and smart. Mr. Thorson opened the SBA Inspector General's office in New Orleans. Under Mr. Thorson's leadership, the SBA also began an aggressive effort to target fraud and misrepresentation of small business status in government contracting. Eric aggressively moved to eliminate loopholes in the False Claims Act through testimony before the Senate Small Business Committee, outreach to the Federal Sentencing Commission, and leading his office to develop a guide to Federal agencies on enforcement of anti-misrepresentation status. Eric consistently showed an even-handed temperament and a desire to work cooperatively with the agency he was overseeing. At the same time, he has not shied away from exposing deficiencies where necessary, such as in the investigation of fraudulent SBA-backed business loans or of Katrina disaster loans. If your Committee confirms him, you can expect the same active, cooperative, and sensible Inspector General to work with.

I have also observed Mr. Thorson's work from the private-sector perspective, and was reinforced in my favorable impression. In June 2007, I left the Senate to become Vice President & General Counsel of a small information technology firm, where I also lead the corporate Ethics & Business Conduct Committee. In addition, I serve on the board of directors of a small business trade association. I have continued interacting with Mr. Thorson and watching his performance in office with great interest. Based on my experience in the industry, I am pleased to say that Eric developed an excellent reputation in the small business community and brought credit to the SBA Office of Inspector General. I am confident he will be a credit and an honor to the Treasury Department. I respectfully request your support for his confirmation.

Should you have any questions or require additional information, please do not hesitate to contact me by phone at [REDACTED]

Sincerely,

  
 Max Kidalov

**STATEMENT BY DAVID D. GUSTAFSON, NOMINEE FOR JUDGE OF UNITED STATES  
TAX COURT, BEFORE THE SENATE COMMITTEE ON FINANCE  
APRIL 17, 2008**

It is an honor to appear before this Committee of the United States Senate, having been nominated by the President to be a Judge on the United States Tax Court. I have always appreciated that the Framers of our Constitution imposed a separation of powers upon the federal government, but this nomination experience has made that doctrine more real and mundane for me than it ever was before. Not even the President of the United States can simply make someone a judge; it requires a political consensus that includes even the President's opponents. I thank this Committee for its consideration of my nomination.

I am also grateful to the Tax Division of the Department of Justice, for allowing me over the past 24 years to learn, practice, and supervise tax litigation. In 1989 I became an Assistant Chief and, in 2005, the Chief of a litigating section, in which I supervise a staff of 20 tax litigators who handle a docket of some 500 cases, representing about \$3 Billion in tax claims against the United States. Our cases run the gamut from the small and simple to the complex and enormous: My section defends small-dollar refund suits brought by indigent taxpayers, and multi-million-dollar claims by Fortune 500 and multinational corporations; we answer "tax protestor" arguments on the one hand, and on the other we address sophisticated issues involving complicated provisions of the Internal Revenue Code, Treasury Regulations, and tax treaties; the broad range of our subject matter includes tax-exemption, life insurance taxation, excise taxes, partnerships, interest computation, and myriad other issues. In addition, for four years I had the privilege of serving as the Coordinator of Tax Shelter Litigation for the entire Tax Division, and in that post I had a wide exposure to some of the Government's most important tax controversies. I could not ask for any better preparation for adjudicating cases in the Tax Court. Over the years my mentors and superiors in the Tax Division--including Eileen J. O'Connor, Claire Fallon, Mildred Seidman, Theodore Peyser, Robert S. Watkins, Gerald Leedom, and William C. Rapp--have been generous with their support; and I hope that, if I am confirmed, my work as a Tax Court judge will reflect well on them.

An attorney who has been especially encouraging and inspiring to me, both professionally and personally, is Sharon Fast Gustafson, my wife of 27 years and the mother of my nine children. Her combination of zeal, diligence, competence, reasonableness, and civility in a challenging and stressful law practice is the example I hold before myself as I try to be a good attorney, and I will continue to hold her example before me if I become a judge. I am grateful that she could be here today with seven of our children.

In the United States, the tax law is the creature of Congress, a fact of which I am keenly aware, as I appear before this congressional Committee that plays a key role in the legislative process. The tax collector does not make the tax law, but administers it; and judges in tax cases do not make the tax law, but apply it in deciding the cases before them. I am committed to that distinction; and if I am confirmed as a judge, I will do my best to faithfully and honestly interpret and apply the law.

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

**DAVID GUSTAFSON**

**A. BIOGRAPHICAL INFORMATION**

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

David Douglas Gustafson

2. Position to which nominated:

Judge, United States Tax Court

3. Date of nomination:

February 14, 2008

4. Address:

Office street address:

Room 8804A  
555 4<sup>th</sup> Street, N.W.  
Washington, DC 20001

Office mailing address:

P.O. Box 26  
Ben Franklin Post Office  
Washington, DC 20044

5. Date and place of birth:

October 13, 1956, Greenville, SC

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

Married August 2, 1980, to Sharon Fast Gustafson

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

Duke University School of Law  
Durham, NC  
August 1978 to May 1981  
J.D. with distinction, May 1981

Bob Jones University  
Greenville, SC  
September 1974 to May 1978  
B.A. *summa cum laude*, May 1978

Bob Jones Academy  
Greenville, SC  
September 1970 to May 1974  
Diploma, May 1974

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.)

U.S. Department of Justice, Tax Division (1983 to the present):  
Chief, Court of Federal Claims Section (2005 to the present)  
Coordinator of Tax Shelter Litigation (2002 to 2006)  
Assistant Chief, Court of Federal Claims Section (1989 to 2005)  
Trial Attorney, Court of Federal Claims Section (1983 to 1989)

Sutherland, Asbill & Brennan, Washington, DC (1981 to 1983):  
Associate attorney in the firm's tax group

Shearman & Sterling, New York, NY (Summer 1980) :  
Summer associate

BJU Press, Greenville, SC (Summer 1979):  
Copy editor for textbooks

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

Court of Federal Claims Advisory Council:  
Member, 2001 and 2006 to the present

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

Court of Federal Claims Bar Association:  
President, 2001  
Member of the Board of Governors, 1997 to 1999

The Falls Church (Anglican):  
Member of the Vestry (parish lay council), 2005 to 2007

All of the foregoing positions were uncompensated.

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

Bar of the District of Columbia, December 1981 to the present  
The Federalist Society, 1987 to the present  
The Angkor Association (Cambodian-American civic association),  
1992(?) to the present  
The Falls Church (Anglican), 1998 to the present  
Alexandria Bible Church, 1985 to 1998  
Duke Law School alumni association, 1981 to the present  
Bob Jones University alumni association, 1978 to the present

13. Political affiliations and activities:

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

None.

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

None.

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

None.

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

Tax Division Distinguished Service Award (1987)

Tax Division Outstanding Attorney Awards

(1985, 1989, 1997, 2001, 2002, 2003, 2004, 2005)

Federal Bar Association's Younger Attorney Award (1991)

Duke University School of Law:

Merit scholarship (1978-1981)

Executive Editor, *Duke Law Journal* (1980-81)

Order of the Coif (1981)

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

Professional:

Carolyn Chiechi & David Gustafson, 338-2d T.M. (BNA), *Private Foundations—Sections 4940 and 4944* (1983).

John Behringer & David Gustafson, "The Risk of Placing a Nonpatented Invention On Sale," *The Practical Lawyer* (July 15, 1983).



Non-professional:

Dwight Longenecker & David Gustafson, *Mary: A Catholic-Evangelical Debate*, Brazos Press 2003.

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

I have not given any such speeches. I have participated on panels at conferences (e.g., ABA Tax Section (May 2006), U.S. Court of Federal Claims Judicial Conference (Oct. 2003, Nov. 2005), and D.C. Bar Taxation Institute (Nov. 2004)), but my remarks were extemporaneous, and I am not aware of any transcripts having been made.

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

My principal qualification is 26 years of practice in the area of tax law--first for 2-1/2 years at a private law firm as a junior associate, and then for 24 years at the Tax Division of the Department of Justice, in its Court of Federal Claims Section, as a litigator.

At the Department of Justice, I initially served as a "line attorney" with responsibility for the day-to-day handling of a docket of cases in the Court of Federal Claims, handling during my tenure approximately 70 such cases, large and small. In 1989 I was appointed Assistant Chief of the Section, and in 2005 was appointed Chief. As such, I am responsible for overseeing the work of 20 attorneys who are handling the more than 500 tax cases pending in the Court of Federal Claims, in which cases a total of about \$3 Billion is claimed against the Government.

In addition to my work that is specific to cases in the Court of Federal Claims, from 2002 to 2006 I served as the Coordinator of Tax Shelter Litigation for the entire Tax Division--serving as a liaison, resource, and facilitator for all of the tax shelter cases in the district courts and the Court of Federal Claims, which were many of the Division's most significant cases.

My work in all of these roles has given me a broad exposure to tax law, to litigation practice, and to the challenges of managing a docket of cases--all of which are part of the job of a Judge on the Tax Court.

**B. FUTURE EMPLOYMENT RELATIONSHIPS**

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

Yes, if I am confirmed, I will sever my employment connection with the Department of Justice, and I will commence no other business relationships. (I would not expect to end uncompensated connections of the sort listed in paragraphs 11 and 12, *supra*.)

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

No.

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

No.

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

Yes.

**C. POTENTIAL CONFLICTS OF INTEREST**

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

My only significant investment is in the Federal Thrift Savings Plan ("TSP"), and my wife's only significant investment is in a mutual fund. I own common stock in two publicly traded companies, with a combined value of less than \$1,000.

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

As an attorney with the Tax Division of the Department of Justice for 24 years, I have represented the Government's interests in tax controversies.

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

None.

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

I would expect to recuse myself from any case involving the entities referred to in paragraph 1, *supra*, and from any case with an issue as to which I had substantially participated in developing the Government's position, in the litigation described in paragraph 2, *supra*. In making such judgments, I would consult the Chief Judge and any other appropriate ethics advisor, and would keep in mind the need both to avoid impropriety and to avoid the appearance of impropriety.

5. **Two** copies of written opinions should be provided directly to the Committee by the designated agency ethics officer of the agency to which you have been nominated and by the Office of Government Ethics concerning potential conflicts of interest or any legal impediments to your serving in this position.

Not applicable.

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

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

Not applicable.

**D. LEGAL AND OTHER MATTERS**

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

No.

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

No.

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

From 2005 to 2007, I was one of the 18 individuals who serve on the Vestry (the lay parish council) of the Falls Church. On January 31, 2007, when the Episcopal Church (and its Diocese of Virginia) sued 11 congregations that had disaffiliated with that church in late 2006, it also sued about 200 individuals who were the Vestry members, trustees, and clergy of those congregations. *See Multi-Circuit Episcopal Church Property Litigation*, CL-2007-0248724 (Fairfax County Circuit Court). However, Va. Code § 8.01-220.1:1.A provides that uncompensated directors of a not-for-profit corporation are immune from suit, absent willful or criminal misconduct. I and the other individual defendants were dismissed from the suit by order of August 28, 2007.

In about 1979 I was a plaintiff in a small claims suit against K-Mart in Greenville, SC, involving the loss of photographic film; and in about 1984 I was a plaintiff in a small claims suit against a car dealer in Upper Marlboro, MD, involving warranty coverage for repairs on a car I purchased. Both claims were settled. I cannot find any paperwork related to these suits.

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 know of 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.

**DAVID GUSTAFSON**  
Nominee for Judge of the U.S. Tax Court  
Questions for the Record by Chairman Max Baucus

**1) To what extent does the IRS choose appropriate cases to take to Tax Court?**

Although taxpayers, as petitioners, are the parties who definitively choose which cases they bring in the Tax Court, the IRS obviously influences those choices upstream in the process by its own administrative decisions. Those administrative decisions include general policies such as what initiatives shall be undertaken and which returns shall be examined in the audit process, and case-specific judgments such as which identified disputes shall be "designated" for litigation (and therefore not settled). I have no opinion about the agency's actions in this regard.

**2) Does the IRS use its settlement authority appropriately?**

Because my work has involved tax cases within the jurisdiction of the Department of Justice, I have not often been privy to the IRS's settlement of the cases within its own authority. However, sometimes an IRS settlement initiative is publicly disclosed, where a settlement proposal is made to a large number of taxpayers with a common issue; and I have no criticism to offer about the instances with which I am familiar.

In addition, I have observed the IRS in its collaboration and advice in Justice's settlement of tax cases (for which settlements the views of the IRS are solicited), and in that context the IRS's work devoted toward settlement has generally been appropriate.

However, if I confirmed to be a Tax Court judge and must decide cases in which the IRS's conduct of settlement negotiations is an issue, I will make no assumption about the course of those negotiations, but will decide each case on the basis of its own facts.

**3) What can the IRS do to ensure the cases going to Tax Court represent the best utilization of IRS and Tax Court resources?**

The best utilization of IRS and Tax Court resources will be promoted by appropriate identification of "designated cases" (*i.e.*, cases to be set up by the IRS for litigation rather than being settled). I have not been involved in this identification process, and I have no opinion about the agency's judgments in this regard.

**4) To what extent does the complexity of our tax laws contribute to the cases coming before the Tax Court?**

I think there can be no doubt that increased complexity in the Internal Revenue Code multiplies the issues that can arise, and therefore multiplies the potential disputes and, thus, the potential lawsuits. I do not know how to quantify this effect.

**5) The Tax Court has played an important role aggressively policing tax shelters that undermine the spirit of our tax laws, even when lawyers fashion technical arguments for compliance. Has the Tax Court's role been appropriate?**

I believe the Tax Court's role has been appropriate. In general, the Courts of Appeals have tended to affirm the Tax Court's decisions on tax shelter matters; and if I become a judge on the Tax Court, I would follow those appellate precedents.

**6) Are there judicial doctrines that the Tax Court has used in the past that you endorse or oppose?**

As I understand the term "judicial doctrines" in this context, it refers to principles such as "economic substance," "business purpose," "substance over form," and "step transaction" that have been employed by the courts generally—and by the Supreme Court in particular—to interpret the tax law in such a manner that the law is applied to the economic reality of a transaction and not just its superficial form. If I become a judge on the Tax Court, I will follow and apply these doctrines.

**7) What responsibility does the Tax Court have, as the technical tax law experts in our judicial system, to the rest of the judiciary and the tax system?**

Because of its unique position in the judicial system, the Tax Court has two duties that are particularly important to fulfill: consistency and promptness. First, it is especially important that the decisions of the Tax Court be consistent. The Tax Court has nationwide jurisdiction and decides the great majority of tax cases. For taxpayers to have confidence in the fairness of the system, they must believe that the decisions of the Tax Court are in keeping with its own prior decisions and the precedents of the Courts of Appeals and the Supreme Court. The Tax Court's system for the collegial review of its decisions promotes this consistency.

Second, a Tax Court opinion that resolves an important and recurring issue can be beneficial in the resolution of that issue generally throughout the tax system, by the influence of the Tax Court's expert opinion on the "generalist" judges in the other forums that decide tax cases. That effect is magnified where the Tax Court renders its decision promptly, so that judges and litigants in other cases benefit early in the process of litigating their own cases. On the other hand, when a Tax Court decision on a given issue lags, its influence is diminished, and the resources expended on that Tax Court case have a lesser return. The Tax Court should therefore decide promptly those cases that include important and recurring issues.

**STATEMENT BY RICHARD T. MORRISON, NOMINEE FOR JUDGE OF UNITED STATES TAX COURT, BEFORE THE SENATE COMMITTEE ON FINANCE  
APRIL 17, 2008**

Chairman Baucus, Ranking Member Grassley, and members of the Committee:

Thank you for considering my nomination to the United States Tax Court. I wish to thank President Bush for putting forward my nomination. And I appreciate the support of Senator Pat Roberts of Kansas.

The Tax Court assures taxpayers that they can challenge the determinations of the Internal Revenue Service before an independent and impartial decision maker. If I am confirmed, I look forward to participating in this important work.

I currently serve as Deputy Assistant Attorney General in the Department of Justice's Tax Division. I am primarily responsible for appellate litigation of civil tax cases, and the review of significant settlements in civil tax cases. In the course of my duties, I have participated in several trials of complex tax cases. I have also helped represent the government in over a hundred tax cases heard by the United States Court of Appeals, many of which were on appeal from the Tax Court. One of my first duties after joining the Department in 2001 was to provide assistance to the September 11th Victims Compensation Fund in resolving tax issues. From July 2007 to January 2008, I served as Acting Assistant Attorney General for the Tax Division.

Among the many rewards of my job is the opportunity to work with dedicated lawyers like David Gustafson, the Chief of the Tax Division's Court of Federal Claims Section, and a fellow nominee to the Tax Court bench. I also have had the honor of working with two excellent leaders of the Tax Division: Eileen O'Connor, former Assistant Attorney General and Nathan Hochman, the current Assistant Attorney General for the Tax Division.

Before I joined the Department of Justice, I represented taxpayers in cases before the Tax Court. Thus, I have seen tax litigation from both the side of the taxpayer and the government.

I am happy to be joined today by Rebecca, my wonderful and loving wife, and mother of my two boys. I wish to thank my family for their support, including my parents--Robert and Wanda Morrison. And I owe a special debt to the person who supervised me in my first legal job, my brother Robert Morrison, who hired me over twenty years ago as a clerk in his real-estate and bankruptcy practice.

Thank you again for the opportunity to testify, Mr. Chairman.



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

**A. BIOGRAPHICAL INFORMATION**

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

Richard Thane Morrison

2. Position to which nominated:

Judge, United States Tax Court

3. Date of nomination:

November 15, 2007

4. Address:

Office: Department of Justice, 950 Pennsylvania Ave., NW, Washington, DC 20530.

5. Date and place of birth:

June 10, 1967.

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

Married to Rebecca Khamneipur Morrison (Maiden name: Rebecca Yasmin Khamneipur).

8. Education: (List secondary and higher education institutions, dates attended,

degree received, and date degree granted.)

- Hutchinson High School, Hutchinson, Kansas, September 1981 to May 1985, Diploma received May 1985.
  - University of Kansas, Lawrence, Kansas, September 1985 to May 1987, and September 1988 to May 1989. B.S. and B.A. degrees received May 21, 1989.
  - Mansfield College, Oxford University, United Kingdom. October 1987 to June 1988. No degree received.
  - University of Chicago, Chicago, Illinois, September 1989 to April 1993. M.A. received, March 18, 1994. J.D. received, March 19, 1993.
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.)
- Kelly Services, Hutchinson, Kansas. Temporary worker, May 1990 to July 1990.
  - Manpower, Hutchinson, Kansas. Temporary worker, May 1990 to July 1990.
  - Judge Richard Posner, University of Chicago Law School. Research Assistant, June 1991 to August 1991.
  - Christy & Viener, New York City, New York. Summer associate, June 1991 to August 1991.
  - Baker & McKenzie, Chicago, Illinois. Part-time law clerk, August 1993 to April 1993. Summer Associate, June 1992 to August 1992. Associate, October 1994 to May 1996.
  - Judge Jerry E. Smith, United States Court of Appeals for the Fifth Circuit, Houston, Texas. Law clerk, September 1993 to September 1994.
  - Baker & Botts, Houston, Texas. Summer associate, June 1993 to July 1993.
  - Fulbright & Jaworski, Houston, Texas. Summer associate, May 1993 to June 1993.
  - Mayer Brown & Platt, Chicago, Illinois, Associate, June 1996 to August 2001.
  - United States Department of Justice, Washington, D.C. Deputy Assistant Attorney General (Review & Appellate), September 2001 to June 2007. Acting Assistant Attorney General, Tax Division, July 2007 to present.
10. Government experience: (List any advisory, consultative, honorary, or other part-

time service or positions with Federal, State or local governments, other than those listed above.)

- Senator Robert Dole, Washington, D.C. Intern, August 1987.
  - Bureau of Computer Services, Department of Transportation, State of Kansas. Intern, June 1987 to July 1987.
11. Business relationships: (List all positions held as an officer, director, trustee, partner, proprietor, agent, representative, or consultant of any corporation, company, firm, partnership, other business enterprise, or educational or other institution.)
- None.
12. Memberships: (List all memberships and offices held in professional, fraternal, scholarly, civic, business, charitable, and other organizations.)
- Member, American Bar Association Section on Taxation, 1995 to present.
  - Member, Federalist Society. From 1998, I was an officer in the Chicago Lawyers Chapter of the Federalist Society. I was also chairman of the Tax Working Group of the Federalist Society from 1998 to 2001.
  - Member, Chicago Bar Association (until 2001). Member of drafting committee for the Association's comments regarding corporate tax shelter disclosure regulations, 2000.
  - Member, Investigation Division of the Judicial Evaluation Committee of the Chicago Bar Association, 2000.
  - Advisor, Federal Bar Association Tax Law Conference, 2006, 2007.
  - Treasurer, Center for Self-Government, approximately 1998.
  - Beta Theta Pi fraternity, Alpha Nu Chapter.
13. Political affiliations and activities:
- a. List all public offices for which you have been a candidate.
- None.
- b. List all memberships and offices held in and services rendered to all

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.

**Richard Morrison**

**Nominee for Judge of the U.S. Tax Court  
Questions for the Record by Chairman Max Baucus**

**1) To what extent does the IRS choose appropriate cases to take to Tax Court?**

The IRS can influence the cases that reach the Tax Court through its ability to settle disputes with taxpayers. Settlement can take place at various stages in the dispute process, including at examination, at the IRS Appeals office, or with the IRS Office of Chief Counsel. When the IRS proposes adjustments that are not agreed to by the taxpayer or otherwise resolved in the examination, a Statutory Notice of Deficiency is issued. The taxpayer has the option of petitioning the Tax Court or seeking a refund in district court or the Court of Federal Claims. Other than through settlement, the IRS does not control the taxpayer's decision to litigate or the choice of forum. In determining whether to settle a dispute with a taxpayer, the IRS can consider the merits of the dispute, litigation hazards presented by the facts and the law, its chance of collecting the tax in question, and other factors. In any given case, IRS may decide that it is in the interest of the government to litigate a particular case rather than settle it on terms which a taxpayer is willing to propose or accept. Whether a settlement will be achieved depends not only on the IRS, but, in equal part, on the taxpayer's willingness to settle. Sometimes, but not frequently, the IRS may, because of the importance of obtaining judicial clarification of an issue, or for other reasons, "designate" a case for litigation. When the parties fail to come to terms in the pre-litigation process, the case will end up before the Tax Court if the taxpayer files a petition in the Tax Court. Once the case is before the Tax Court, there are further opportunities for settlement. When a settlement cannot be reached, the case should be decided on the merits.

**2) Does the IRS use its settlement authority appropriately?**

The Treasury Inspector General for Tax Administration and the National Taxpayer Advocate have access to broad swaths of IRS data, and have written numerous studies critiquing various aspects of the IRS settlement program. For example, on July 17, 2006, the Treasury Inspector General for Tax Administration issued a report entitled *The Offer in Compromise Program Is Beneficial but Needs to be Used More Efficiently in the Collection of Taxes*. And the National Taxpayer Advocate criticized aspects of the IRS settlement program in its 2007 annual report to Congress, volume 1, page 374-394. As explained below, I am not in a position to agree or disagree with such conclusions as a general matter.

I am not informed of settlement activities in cases under IRS jurisdiction. There are some exceptions: (1) a DOJ settlement in which I am involved may span tax years that are also pending before the IRS, (2) the IRS may engage in unsuccessful settlement negotiations before it refers the case to the DOJ, (3) the IRS may publicly announce general settlement terms applicable to a particular group of similar cases. The subset of cases of which I am aware is not sufficiently large for me to draw broad conclusions. My ability to evaluate the appropriateness of IRS settlement activity is also limited by the fact that I do not have the management information necessary to evaluate all the costs and benefits to the IRS of settling a case.

At a high level of generality, the goals of the IRS settlement program seem appropriate. For example, section 35.5.1.3 of the Internal Revenue Manual provides that: "The established goals of both the Office of Chief Counsel and the Service are to settle as many Tax Court cases as possible at the earliest possible date prior to the cases being calendared for trial, to prepare adequately for trial in those cases not settled, and to dispose of all pending cases in the most efficient and expeditious manner." Of the settlement activities of which I am aware, it is not uncommon for a government lawyer to disagree with another's evaluation of the government's risk of loss. This is the most common disagreement that I have had with IRS settlement decisions. Such disagreements are inevitable in an uncertain field such as litigation.

If I am confirmed by the Senate to be a Tax Court judge, I would evaluate each case on its merits in determining whether the IRS had appropriately used its settlement authority (assuming this is legally relevant to the case). Also, when appropriate, I can use the experience I gained in private practice and as the Deputy Assistant Attorney General with responsibilities over the Office of Review, to facilitate settlement discussions between the parties.

### **3) What can the IRS do to ensure the cases going to Tax Court represent the best utilization of IRS and Tax Court resources?**

Like any party to litigation, the IRS should consider the costs and benefits of litigation. It should attempt to realistically estimate the probability of prevailing in court. Often parties have unrealistic views of their probability of success. It is often appropriate for a court to help the parties come to more realistic assessments. This often facilitates settlement. In particular cases, some form of alternative dispute resolution, such as mediation, may help the parties reach a negotiated resolution, or reach an agreement sooner, using the resources of the Tax Court, the IRS, and the taxpayers more efficiently. Settlement is desirable for all concerned because it avoids the cost of litigation. However, it is not appropriate for a judge to attempt to use the powers of the court to force a party to settle a case.

**4) To what extent does the complexity of our tax laws contribute to the cases coming before the Tax Court?**

There is an ever-present set of cases in the courts that involve disputes over ambiguous provisions of the Internal Revenue Code. One major cause of ambiguity is the number of provisions in the Code. As the Code grows longer, it becomes more difficult for Congress to coordinate each successive amendment to the Code with existing Code provisions.

For example, the Code provisions governing tax procedure involve a layering of new provisions over old provisions in a way that has left many gaps and ambiguities. As a result, many tax disputes pending before the courts hinge on the effect of recent statutory amendments to the Code provisions involving overpayment and underpayment interest, offsets, partnership proceedings, penalties, statutes of limitations, and collection activity.

It is important for the Treasury Department and the Internal Revenue Service to provide timely written guidance to clarify new statutory provisions. Also, the need for litigation can be lessened through education of taxpayers about their rights and responsibilities and providing public warnings about tax scam artists and tax shelter promoters.

**5) The Tax Court has played an important role aggressively policing tax shelters that undermine the spirit of our tax laws, even when lawyers fashion technical arguments for compliance. Has the Tax Court's role been appropriate?**

I generally agree with the outcome of the recent court decisions involving transactions considered to involve tax shelters.

With respect to tax shelters, as in all cases, the best approach is for the court to apply the law. Thus, the various characteristics that are commonly attributed to tax shelters – widespread marketing, cookie-cutter methods, lack of business purpose, abusive effects – should be taken into account by the Tax Court to the extent the characteristics are relevant to the legal principles that control the particular case.

**6) Are there judicial doctrines that the Tax Court has used in the past that you endorse or oppose?**

Most, if not all, of the judicial doctrines employed by the Tax Court are compelled by binding case law of the relevant United States Court of Appeals or the Supreme Court. For example, the principle that the tax consequences of a transaction are determined by the economic realities of a transaction is

manifested in binding case law. I would follow the applicable case law and apply legal principles to the facts of each case if I am confirmed to the Tax Court. I also think that the related principles of "economic substance," "step transaction," and "substance over form" are independently justified under the general methods of statutory interpretation employed by the courts. There are legitimate sub-questions about how courts should apply these principles to particular cases, and I will carefully consider the arguments of the parties in this regard. Likewise, to the extent that judicial precedent allows the Tax Court the choice of whether to employ or reject a particular judicial doctrine, I would consider carefully the arguments for and against the application of the judicial doctrine in a particular case.

**7) What responsibility does the Tax Court have, as the technical tax law experts in our judicial system, to the rest of the judiciary and the tax system?**

In determining what meaning should be attributed to a term in a statute, a court should take into account whether a particular meaning is compatible with the related body of statutory provisions into which the provision is integrated. It should be expected that a specialized knowledge of tax law would be helpful in such determinations. In addition, because the Tax Court handles so many cases, its decisions provide guidance to taxpayers, practitioners, and courts other than the Tax Court facing similar controversies.

Even though it is a specialist court, the Tax Court is obligated to follow general principles of law to the extent those principles control tax disputes. Thus, for example, the United States Court of Appeals in *Swallows Holding Ltd. v. Commissioner*, 515 F.3d 162 (3d Cir. 2008), held that the Tax Court should evaluate the validity of Treasury Regulations by reference to the general test set forth by the Supreme Court in 1984 in *Chevron U.S.A., Inc. v. Natural Resources Defense Council, Inc.*, 467 U.S. 837.



**STATEMENT OF DEANNA TANNER OKUN  
NOMINEE, DEPUTY UNITED STATES TRADE REPRESENTATIVE  
OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE  
Before the  
SENATE COMMITTEE ON FINANCE  
April 17, 2008**

Mr. Chairman, Senator Grassley, and Members of the Committee, I am honored to appear before you today as President Bush's nominee for Deputy United States Trade Representative. I am grateful to the President for nominating me for a position central to pursuing America's pro-growth trade agenda. I last appeared before this Committee over eight years ago when I was a nominee for my current position as Commissioner with the U.S. International Trade Commission. I know the Committee places a strong emphasis on nominees who will open overseas markets by defending America's trade interests and enforcing our trade agreements.

If confirmed, I look forward to representing the United States in the international trade arena by enforcing and defending U.S. trade laws, breaking down barriers to trade and investment, and pursuing market-opening opportunities that benefit America's manufacturers, ranchers, farmers, service providers and workers. I pledge to vigorously pursue every avenue – both bilaterally and multilaterally - to enforce our trade laws. USTR is tasked with opening markets and ensuring they stay open. As Ambassador Schwab has said, negotiation and enforcement are “both equally important tools in our fight to keep American workers competitive in the international market. Absent effective enforcement, a trade agreement can become just another piece of paper. . . . Every single negotiator who works for USTR understands that a core part of his or her job is holding other governments to their word.” Mr. Chairman, I want to reassure this Committee that, if confirmed, my top priority will be to ensure that our trading partners live up to their trade obligations.

America's trade policy ultimately depends on a partnership between Congress and the President, which in turn is dependent on the level of trust between Members of Congress and the President and his team. If I am confirmed by the Senate, I will strive to establish a strong working relationship with the Members of this Committee. I will seek your advice, and I would welcome the opportunity to meet with you and to travel to your states to hear first-hand from your constituents about trade issues important to them.

Mr. Chairman, I have served the public for 15 years, first as a legislative aide in the U.S. Senate and for the last eight years as a Commissioner on the U.S. International Trade Commission. My public service, combined with my private sector experience as a lawyer, has provided a unique perspective on the tangible effects of trade in our economy. I have a deep appreciation for the importance of enforcing our trade laws and holding our trading partners accountable to their commitments. If confirmed, I

will put my experience to work on behalf of America's workers, farmers and ranchers.

As a Commissioner, I have developed extensive knowledge about the challenges faced by U.S. manufacturers, service providers, and agriculture in today's global marketplace. I have participated in more than 1,000 antidumping and/or countervailing duty cases, safeguard, and other types of cases brought by the domestic industry under U.S. trade laws. Through adjudicating trade remedy cases at the Commission, I have gained unique insight into the importance of enforcing the trade rules. Much of my experience is based on "hands-on" learning where I have had the opportunity to travel across the United States and to other countries to visit factories and farms.

Mr. Chairman, I also am a former Senate staffer. For seven years I served as an aide to Senator Frank Murkowski – who sat on this Committee – advising him on trade and foreign policy issues. I want to assure this Committee that I understand the critical role Congress plays in developing U.S. trade policy and the importance of maintaining a healthy working relationship between the Administration and Congress, and with the members of the Committee in particular. If confirmed, as a member of the President's trade team, I pledge to continue to work closely with the Congress.

On a personal note, I grew up in rural southern Idaho and know first-hand the issues facing our farming communities, which are the backbone of our trade exporting community. If confirmed, I will bring this first-hand knowledge to the role of the Deputy USTR.

If confirmed, my public and private sector experience, as well as my education and background, will enable me to effectively serve our country as Deputy United States Trade Representative.

Let me close by once again thanking the President for nominating me as Deputy United States Trade Representative. I also would like to reiterate my appreciation to you, Mr. Chairman, to Senator Grassley, and to the other Members of the Committee for allowing me to appear before you today.

Last, and most importantly, I would like to thank my husband, Bob, my children, Rachel and Kelsi, and my parents and sister for their support for me while I have been in public service.

Mr. Chairman and Members of the Committee, I would be pleased to answer any questions that you may have, and, of course, to respond to any Senator's written inquiries.

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

**A. BIOGRAPHICAL INFORMATION**

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

**Deanna Tanner Okun  
nee Deanna May Tanner**

2. Position to which nominated:

**Deputy United States Trade Representative**

3. Date of nomination:

**December 19, 2007**

4. Address:

**Office: U.S. International Trade Commission  
500 E Street, SW  
Washington, DC 20436**

5. Date and place of birth:

**02/08/1963, Jeffrey City, WY**

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

**Married, Bernard Robert ("Bob") Okun**

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

**Minidoka County ("Minico") High School, Rupert, ID  
08/1978 – 05/1981, High School Diploma, Valedictorian, *with honors***

**Utah State University, Logan, UT  
08/1981 – 05/1985, BA, political science, *Magna Cum Laude***

**Duke University School of Law, Durham, NC  
08/1987 – 05/1990, Juris Doctorate *with honors***

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.)

**6/1985 to 7/1985 Intern, National Association of Realtors, Washington, D.C.**

**7/1985 to 5/1987 Policy Analyst, Competitive Enterprise Institute, Washington, D.C.**

**5/1988 to 9/1988 Summer Associate, Miller & Chevalier, PC, law firm, Washington, D.C.**

**5/1989 to 7/1989 Summer Associate Hogan & Hartson law firm, Washington, D.C.**

**7/1989 to 9/1989 Summer Associate, Gibson, Dunn & Crutcher law firm, Los Angeles, CA**

**10/1990 to 5/1993 Associate, Hogan & Hartson law firm, Washington, D.C.**

**5/1993 to 1/2000 Counsel for International Affairs, Senator Frank H. Murkowski (R-AK), U.S. Senate, Washington, D.C.**

**1/2000 to 6/2000 Commissioner, U.S. International Trade Commission, Washington, D.C.**

- 6/2000 to 6/2002 Vice Chairman, U.S. International Trade Commission, Washington, D.C. (designated by President William J. Clinton)**
- 6/2002 to 6/2004 Chairman, U.S. International Trade Commission, Washington, D.C. (designated by President George W. Bush)**
- 6/2004 to 6/2006 Vice Chairman, U.S. International Trade Commission, Washington, D.C. (designated by President George W. Bush)**
- 6/2006 to present Commissioner, U.S. International Trade Commission, Washington, D.C.**

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

**None**

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

**None**

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

**Alaska State Society (1995-2002)**  
**Boca Raton Resort and Club (1992-present)**  
**Chesterbrook Swim & Tennis Club (1997-present)**  
**Chi Omega Alumni Association (1985-present)**  
**D.C. International Trade Bar Association (1990-present)**  
**D.C. Bar Association (1990-present)**  
**Duke University Alumni Association (2000-present)**  
**Federal Circuit Bar Association (2002-present)**  
**Federalist Society (1987-1990), President, Duke University School of Law Chapter**  
**Friends of National Zoo (2000-2004)**  
**McLean Racquet Club (2000-2003)**  
**New Dominion Women's Club (1998-present)**

**St. John's Episcopal Church (2002-present)**  
**ThanksUSA, 501(c)(3)(Vice President, 10/26/05-7/10/06; Vice Chairman, 7/10/06-4/15/07)**  
**The Association of Women in International Trade (2000-present)**  
**Trade Policy Forum (1995-present)**  
**Utah State Alumni Association (2001-present)**  
**Washington Golf & Tennis Club (Spouse is Member, Nominee has spousal privileges)**  
**Washington International Trade Association (2000-present)**

13. Political affiliations and activities:

**I am a registered Republican in Fairfax County, Virginia**

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

**None**

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

**None**

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

**My spouse is Vice President, and head of government relations, Washington Office, NBCU (National Broadcasting Corporation Universal). In that capacity, he makes contributions to Political Action Committees and candidates. These contributions are listed below as they might have been drawn on our joint checking account.**

**1998 National Republican Congressional Committee \$250  
Gregory Walden (Candidate for Congress) \$500**

**1999 National Republican Congressional Committee \$300  
Senator John Kerry (D-MA) \$500**

**2001 National Republican Congressional Committee \$700  
Federal Victory Fund \$495**

**2002 General Electric Company Political Action Committee \$600**

**2003 General Electric Company Political Action Committee \$400  
Cong. Richard Burr (R-NC) \$599**

**2005 National Republican Congressional Committee \$1000  
General Electric Company Political Action Committee \$1100  
Professionals in Advertising Political Action Committee \$500  
Impact America \$1000**

**2006 General Electric Company Political Action Committee \$500  
Daniel Webster PAC \$1000  
Cong. Zach Wamp (R-TN) \$668**

**2007 General Electric Company Political Action Committee \$500**

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

**Alumnus of the Year, Utah State University, 2000**

**Commencement Speaker and Outstanding Alumnus, Minidoka County High School, 1998**

**Duke University School of Law Juris Doctorate degree awarded *with honors***

***Alaska Law Review*, Executive Editor**

**Moot Court Board, Duke University School of Law**

**Hunton & Williams Scholarship to Duke University School of Law**

**Utah State University Bachelor of Arts degree awarded *magna cum laude***

**Utah State University Scholarship for Outstanding Pre-Law Student**

**Phi Beta Kappa member**

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

**I have not had any books, articles or reports published as an individual. As a Commissioner on the U.S. International Trade Commission, all Commission reports requiring the approval of the Commissioners bear the**

**individual Commissioner names. If desired, I can provide the Committee with a complete listing of the USITC publications during my tenure on the Commission.**

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

**Listed below are the speeches I have delivered in formal settings. I would note that because an ITC Commissioner can only deliver remarks on behalf of themselves, and not for the Commission as a whole, it has been the practice of Commissioners to not prepare "formal" papers or speeches for inclusion in materials. In most instances, however, I do have power point slides, or speaking notes, which I am providing. Speeches where I did not use written material are marked with an asterisk.**

**9/25/06, District of Columbia Bar, International Law Section/International Trade Committee's "The Future of Trade Remedy Proceedings."**

**\* 7/10/06, Intellectual Property Owners Association's "Demystifying §337 Investigations at the ITC."**

**5/23/06, USC Gould School of Law, 2006 Intellectual Property Institute, "Role of the U.S. International Trade Commission in Enforcing Intellectual Property Rights against Infringing Imported Products Under Section 337."**

**2/16/06, PricewaterhouseCoopers Leadership Forum on "The Role of the Commissioners in Section 337 Investigations."**

**5/11-13/05, U.S. Antidumping and Section 337 Investigations Seminar (Guangzhou, Shanghai & Beijing, China) on "The Role of Patent Protection and Antidumping Law in Doing Business with the United States."**

**3/4/05, Georgetown University Law Center Continuing Legal Education and The American Bar Association Section of International Law and Practice on "Sunset Cases: Lessons Learned from the First Round of Reviews, Judicial Review and Dispute Settlement."**

**10/8/04, Consumer Specialty Products Association on "Overview of the U.S. International Trade Commission."**

**9/29/04, The Council of State Governments on "The Pacific Rim: Emerging Trends in U.S. Asia Relations."**



**6/27/04, Federal Circuit Bar Association's 6<sup>th</sup> Bench and Bar Conference on "Precedential Value of NAFTA and WTO Panel Decisions for Agency and Appellate Practice in Antidumping and Countervailing Duty Law."**

**6/8/04, National Milk Producers Federation on "Conditions of Competition for Milk Protein Products in the U.S. Market."**

**11/13/03, 2003 U.S.-China Legal Exchange Trade Remedies Seminar (Beijing, China) on "Investigations before the U.S. International Trade Commission under Section 337."**

**11/13/03, 2003 U.S.-China Legal Exchange Trade Remedies Seminar (Beijing, China) on "Investigations before the U.S. International Trade Commission under Section 421."**

**10/28/03, Collier Shannon Conference on "Protecting & Enforcing Intellectual Property in China."**

**9/15/03, IPO Annual Meeting on "Investigations before the U.S. International Trade Commission under Section 337."**

**9/15/03, Chicago Bar Association on "Current Trade Issues at the U.S. International Trade Commission."**

**6/2/03, New American Century and American Enterprise Institute on "Prospects & Politics of a U.S.-Taiwan Free Trade Agreement."**

**\* 5/28/03, American Bar Association Intellectual Property Section in California.**

**5/23/03, Federal Circuit Bar Association's 5<sup>th</sup> Annual Bench and Bar Conference on "Federal Circuit Deference to the Court of International Trade and Agencies in Customs and Trade."**

**4/23/03, International Association of Drilling Contractors on "The U.S. International Trade Commission Oilfield Services Study."**

**4/10/03, Washington International Trade Association Trade Policy Series Program on "Inside the U.S. International Trade Commission."**

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

**I believe that my public sector experience as a Commissioner on the U.S. International Trade Commission and as a legislative aide in the U.S. Senate, combined with my private sector experience as a lawyer in international trade practice, have provided me with the experience and expertise required of a Deputy United States Trade Representative.**

**Most recently, my eight years as a Commissioner on the U.S. International Trade Committee have provided me with a unique perspective on the tangible effects of trade in our economy. I would like to highlight three aspects of my experience on the Commission that help prepare me for this role. First, I have participated in approximately 1,000 antidumping and/or countervailing duty cases, safeguard, and other types of cases brought by the domestic industry under U.S. trade laws. In investigating trade remedy cases, I have learned about the role of imports in industries as diverse as large manufacturing plants producing millions of tons of product, to small farmers producing several hundred acres of a specialty crop. Through the litigation arising from trade remedy cases, I am familiar with NAFTA and WTO dispute resolution. I have a deep appreciation for the importance of enforcing our trade laws.**

**Second, I have a well grounded understanding of the value of intellectual property to companies competing in today's global marketplace through my role in adjudicating unfair trade cases involving alleged infringement by imports of intellectual property rights.**

**Finally, I have developed extensive knowledge about numerous industries, including manufacturing, services and agriculture, as well as a broad understanding of the macroeconomic effects of trade in the U.S. and world economies through the Commission's preparation of industry and economic analysis on major trade-related issues including: the probable economic effects of trade agreements; the competitive conditions faced by U.S. industries ranging from beef to medical devices; practices and policies influencing decision making in the Chinese economy; and, analysis of preferential trading arrangements such as AGOA and CBERA. Part of this experience is hands on learning where I have had the opportunity to travel across the United States and to other countries to visit factories and farms.**

**During my eight years on the Commission, I served as the Chairman from 2002 until 2004, and as Vice Chairman from 2000 to 2002 and again from 2004 to 2006. In these leadership and managerial roles, I was in frequent contact with the Commission's congressional authorizing and appropriating committees and was involved in several interagency consultations. This experience would guide me as a member of the**

**President's trade team to consult closely with the Congress and with other government agencies.**

**As the counsel for international affairs for seven years to a Senator who was a member of the Committee on Finance and Committee on Foreign Relations and also was Chairman of the Committee on Energy and Natural Resources, I gained insight into congressional expectations for the office of the United States Trade Representative and for the trade policy agenda of the U.S. government. My experience included analyzing and preparing advice on trade negotiating authority, trade adjustment assistance, the Uruguay Round Agreements Act and North American Free Trade Agreement implementing legislation, as well as Most Favored Nation legislation. Moreover, as the Senator's foreign policy advisor, I also was involved with issues related to the Asian financial crisis, sanctions and overseas corruption and the impact on the business climate in the United States, including traveling extensively throughout Asia.**

**As a lawyer in the international trade practice of a law firm, I gained substantial technical knowledge of trade laws and regulations both here and abroad, including unfair trade practices, tariff and non-tariff barriers, export controls and sanctions.**

**On a personal note, I grew up in rural southern Idaho and was exposed to the issues facing our farming communities, which are the backbone of our trade exporting community. I think this is an important perspective to bring to the role of the Deputy USTR.**

**If confirmed, I believe my public and private sector experience, as well as my education and background, make me well qualified for the office of the Deputy United States Trade Representative.**

**B. FUTURE EMPLOYMENT RELATIONSHIPS**

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

**Yes**

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.

**I have no formal plans, commitments, or agreements to pursue**

**employment, with or without compensation, with any business, association or other organization. In 2005, my family formed ThanksUSA, a charitable 501(c)(3) organization dedicated to providing scholarships to the children and spouses of active duty troops. I hold no formal position. I plan to remain affiliated informally since my entire family donates time and energy to the effort.**

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

**No**

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

**Yes**

**C. POTENTIAL CONFLICTS OF INTEREST**

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

**My husband currently is employed by NBC Universal (NBCU), a subsidiary of General Electric Corporation. He also holds various equity interests in General Electric in the form of common stock, vested and unvested restricted stock, and vested and unvested stock options.**

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

**None**

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

**None**

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

**I will recuse myself from personally and substantially participating in any particular matter that will have a direct and predictable effect on the financial interests of General Electric, unless I first obtain a written waiver, pursuant to section 208(b)(1), or qualify for a regulatory exemption, pursuant to section 208(b)(2).**

**Although 18 U.S.C. § 208 does not prohibit me from participating in a matter, such as a trade agreement, that focuses on the interests of a large and diverse group of persons, in order to avoid an appearance of a conflict of interest, I will not participate in any discrete component of such a matter that will have a direct and predictable effect on the financial interests of General Electric, either as an individual party or as a member of a discrete and identifiable class, unless I have been authorized to do so by my ethics officer.**

**Additionally, to further reduce the appearance of a conflict of interest, within 90 days of my confirmation, I and my husband will divest all of our holdings in General Electric that are vested and have value at the time of confirmation. Specifically we will divest all of our holdings in unrestricted General Electric common stock, all of our holdings in vested General Electric restricted stock, and all of our vested options, which currently have a strike price lower than the price of General Electric Stock at the time of confirmation.**

5. **Two** copies of written opinions should be provided directly to the Committee by the designated agency ethics officer of the agency to which you have been nominated and by the Office of Government Ethics concerning potential conflicts of interest or any legal impediments to your serving in this position.

**It is my understanding that these opinions have been provided to the Committee.**

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

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

December 1995), and the number of hours spent on the representation.

**In January 1991, when I was a second-year associate at Hogan & Hartson, I was assigned to work on a countervailing duty investigation conducted by the Department of Commerce and the International Trade Commission. After Commerce and the ITC issued their determinations in the investigation, I was assigned to work on binational panel reviews of those determinations conducted under domestic U.S. law, Section 516A(g) of the Tariff Act of 1930. Hogan & Hartson represented the province of Ontario in the investigation and the panel reviews. I spent approximately 1400 hours on these matters, performing legal research, gathering information, assisting preparing written submissions, and meeting with counsel for other interested parties. My work on this matter ended in April 1993.**

**Also in 1991, Hogan & Hartson assigned me to research Customs marking decisions concerning the importation of brochures for the Ministry of Tourism of the Commonwealth of the Bahamas. I spent approximately 3 hours on this subject.**

**D. LEGAL AND OTHER MATTERS**

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

**No**

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

**No**

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

**No**

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

**No**

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

**None**

**E. TESTIFYING BEFORE CONGRESS**

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

**Yes**

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

**Yes**

**STATEMENT BY ELIZABETH CREWSON PARIS, NOMINEE FOR JUDGE OF UNITED STATES TAX COURT, BEFORE THE SENATE COMMITTEE ON FINANCE  
APRIL 17, 2008**

Thank you, Chairman Baucus and Ranking Member Grassley. In addition, thanks to all of the Senators on the Finance Committee and also to their very hard working tax staff. Even though I have had the opportunity to sit at this table many times over the past eight years, today is very different. Today I appear before the Finance Committee for your consideration of my nomination to be a judge on the United States Tax Court.

I am honored and humbled that President Bush has given me an opportunity to continue to serve this great country in a new capacity. But I truly believe this nomination is a continuation of my government service and the privilege of serving this Senate committee as tax counsel since the 106<sup>th</sup> Congress.

Previous to joining the Finance Committee staff in 2000, I enjoyed the experience of practicing, publishing and teaching tax law. I was active in my professional organizations through the American Bar Association and both the Colorado and Oklahoma Bar Associations. In addition, I previously held leadership positions in both the American and the Colorado Bar Associations. Although all of these prior experiences have been valuable attributes, it is actually the experiences gained working for the Senate that best exemplify the qualifications I could offer if I am confirmed as a judge on the U.S. Tax Court.

During that time, I have served this Committee as the tax counsel on important tax policy issues that I passionately care about, to include Energy, Agriculture and Rural America issues, estate tax reform and highway trust fund issues. Those 12 original bills were initiated by this committee, then approved by Congress and signed into law by the President. With that knowledge, I realize that every word, comma and cross reference in Title 26 of the U.S. Code has a very specific, defined purpose. The Internal Revenue Code has been structured a bit like the periodic table of elements – much like the numbers assigned to the elements, the very location of the code section reflects the defined purpose and meaning behind the concept. Each provision in those 12 bills had very specific Congressional intent and all of the professional and technical staff involved in a bipartisan and bicameral manner attempted to draft legislative language to accomplish that intent.

In doing so, Congressional staff reviewed and coordinated thousands of pages of the Internal Revenue Code so that inconsistencies were eliminated and definitions were clarified. So with that detailed background and education in the tax code – I believe the duty of a Tax Court judge is to view the facts and the law of each case and determine if the controversy is based on some confusing inconsistency that could be misinterpreted either by the government or by the taxpayer. Or could it possibly be a situation where in spite of all Congressional intent, there are those who specifically manipulated the complexity of the Code to obtain results that are not appropriate.

In front of me are the Internal Revenue Codes from January of 2001 and January of 2008, as you can see there is a substantial difference in size. As new provisions and policies have been added, the Code has grown in complexity. Every case that appears in front of the U.S. Tax Court can be



found intertwined somewhere within these Codes. Given the opportunity of confirmation as judge, it will continue to be my responsibility to try to help make that determination of consistency and clarification.

In closing, I want to especially thank my father Joel Crewson and my sister, Martha Mitchell who are here with me today. So many times over the past few decades my family has graciously coordinated family functions around tax deadlines or Senate schedules. Ironically, a copy of the Internal Revenue Code has attended many a family occasion – just in case.

In addition, I also want to thank Senator Grassley and Senator Baucus for allowing me to spend many hours as their tax counsel, working on important tax policy issues that many Members of this Committee passionately care about, it has been an honor to help accomplish the policy goals of the United States Senate Finance Committee. Thank you again and thank you for your time today.

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

**A. BIOGRAPHICAL INFORMATION**

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

Elizabeth Crewson Paris

2. Position to which nominated:

Judge of the United States Tax Court

3. Date of nomination:

February 14, 2008

4. Address:

Current Office: U.S. Senate Finance Committee, Senate Dirksen 219,  
Washington, D.C. 20510.

5. Date and place of birth:

January 14, 1958  
City of Altus, Jackson County, Oklahoma

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

Divorced

7. Names and ages of children:

None

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

Nathan Hale High School  
September 1973 to May, 1976  
H.S. Degree May, 1976;

University of Tulsa,  
September 1976 to May, 1980  
Bachelor of Science, May, 1980;

University of Tulsa, College of Law  
September 1985 to December 1987  
Juris Doctorate, December 1987;

University of Denver  
June 1992 to March 1993  
LLM – Taxation, March 1993

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.)

Tax Counsel  
United States Senate Finance Committee  
Washington, D.C.  
July 2000 to Present

Tax Attorney – Partner  
Reinhart, Boerner, VanDeuren, Norris & Reiselbach  
Denver, Colorado  
February 1998 to July 2000

Tax Attorney – Senior Associate  
McKenna & Cuneo LLP  
Denver, Colorado  
August, 1994 to February, 1998

Tax Attorney – Partner  
Brumley Bishop and Paris  
Tulsa, Oklahoma  
March 1993 to August 1994

Employment Record Continued:

Elizabeth Crewson Paris, P.C., Attorney at Law  
Tulsa, Oklahoma  
August, 1992 to August 1994

Attorney – Senior Associate  
LaSorsa Weber & Miles  
Tulsa, Oklahoma  
February, 1990 to August 1992

Attorney – Associate  
McCormick, Andrew & Clark  
Tulsa, Oklahoma  
February, 1988 to February 1990

Legal Intern – Associate  
Boyd, Nichols & Cates  
Tulsa, Oklahoma  
February, 1985 to February, 1988

Broker  
Merrill Lynch Realty  
Tulsa, Oklahoma  
November, 1983 to February 1985

Broker  
Horizon Real Estate  
Edmond, Oklahoma  
November 1982 to November, 1983

Retail Buyer (and various other retail positions part time and full time all through  
high school and college)  
Looboyle Sporting Goods  
Tulsa, Oklahoma  
June, 1973 to June, 1982

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

Same as above - Tax Counsel, United States Senate Finance Committee  
Washington, D.C., July 2000 to Present

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

None

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

Admissions:

1988 to Present: Oklahoma Supreme Court; U.S. District Court, District of Oklahoma;

1993 to Present: U.S. Tax Court; U.S. Court of Federal Claims; U.S. Court of Appeals, Tenth Circuit;

1994 to Present: Colorado Supreme Court.

Professional:

1988 To Present - American Bar Association (Member - Real Property Probate and Trust Section, Vice Chair, Entity Selection Committee, Condemnation Committee; Taxation Section, Partnership and Agriculture Committees, former Vice Chair);

1994 To Present - Colorado Bar Association (Member, Trust and Estates Section- Editor Trust and Estates Notes; Tax Section - Executive Council officer, Editor Tax Section Newsletter);

1987 To Present - Oklahoma Bar Association.

Charitable:

1997 TO 2000 – National Sports Center for the Disabled (Trustee).

13. Political affiliations and activities:

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

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 during the last 10 years.

None

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

None

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

Pi Sigma Alpha; Phi Alpha Theta; American Jurisprudence Award in Real Estate, Distinguished Alumni - University of Tulsa College of Law.

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

Author: *Articles* - American Bar Association, Section of Real Property, Condemnation Committee; (1991) "Railroad Rights-of-Way Rails to Trails," (1992) "Temporary Takings, Fact, Fee or Fiction," (1994) "Tax Ramifications of Condemnation". American Bar Association, Section of Taxation, Agriculture Committee; (1997) "Section 2032A and Conservation Easements," (1998) "Section 2031(c) Qualified Conservation Easements and Agricultural Property," (1998) "Family Owned Business Exclusions Section 2033A." Notre Dame Tax Planning Institute; (1998) "Qualified Conservation Easements." American Bar Association, Section of Taxation, Real Estate Committee; (1999, 2000) "Conservation Easements and Real Estate Credits."

Author: *Chapters* - Matthew Bender RET: Nichols on Eminent Domain, Pub. 243/460, Ch. 21 (1992) "Railroad Rights-of-Way"; Ch. 12 (1993) "Partial Takings"; Ch. 8A (1993) "Tax Consequences of Condemnation Awards." Matthew Bender RET: Modern Estate Planning, Ch. 22 (1994) "Farm and Ranch Estate Planning."

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

Since becoming Tax Counsel for the Senate Finance Committee in 2000, I have made many presentations in my governmental capacity based upon Senate Finance Committee Reports and Congressional Conference Reports. Supplemental documents supporting those presentations have always been copies of public documents, and I have delivered no formal speeches.

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

I am a fully qualified tax attorney, with an advanced degree in tax and over twenty years of legal experience. My non- government career included leadership positions in both state and American bar associations, teaching and publication commitments to my field of expertise. In addition, I have had the very unique opportunity for the last seven years as Tax Counsel to the Senate Finance Committee to participate as either lead tax counsel or on the tax team in the full legislative process of twelve significant tax bills signed into law by the President. Those legislative vehicles have covered diverse areas of the law and have touched the Internal Revenue Code throughout. The legislative process offers hours of legislative drafting, negotiation and explanation prior to a bill coming to a successful conference and those hours offer intense education in Congressional intent behind each change in the Internal Revenue Code. I truly believe that knowledge and appreciation for Congressional intent and a respect and understanding for the structural integrity of the Internal Revenue Code will allow me the opportunity to continue my government service as a thoughtful and well educated judicial official which qualifies me to serve in the position of Tax Court Judge to which I have been nominated.

**B. FUTURE EMPLOYMENT RELATIONSHIPS**

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

Yes, I will sever my connection with my present employer if confirmed by the Senate.

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.

I have no plans, commitments or agreements to pursue outside employment, but for a current adjunct professor position with Georgetown Law School, which has previously been disclosed to Senate Ethics.

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.

There have been no commitments or agreements to employ my services after I leave government services.

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.

If confirmed by the Senate, I expect to serve my full term of 15 years.

**C. POTENTIAL CONFLICTS OF INTEREST**

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

To the best of my knowledge I have no investments, obligations, liabilities, or other relationships which would involve a potential conflict of interest.

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

I have been an employee of the U.S. Senate for the last 8 years and to the best of my knowledge there would be no conflicts.

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

The American Bar Association Tax Section will annually submit comments on the tax code, to include potential legislation. Prior to joining the Finance Committee as Tax Counsel in 2000, I had participated in the ABA government comments and Hill visits. I have not participated since 2000.

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

To the best of my knowledge there are no potential conflicts of interest.

5. **Two** copies of written opinions should be provided directly to the Committee by the designated agency ethics officer of the agency to which you have been nominated and by the Office of Government Ethics concerning potential conflicts of interest or any legal impediments to your serving in this position.



Not Applicable

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

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

**D. LEGAL AND OTHER MATTERS**

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

Colorado Supreme Court Regulatory Counsel – Investigation request, August 2002, regarding legal work completed in 1999. Regulation Counsel conducted interviews and reviewed all files and documents of attorneys involved in the transaction. Regulation Counsel determined no ethical violations had occurred and closed the investigation request.

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

To the best of my knowledge I have not 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.

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

I have not been involved as a party in interest in any administrative agency proceeding or civil litigation, but for Divorce Decree – 98DR 2007, City and County of Denver, State of Colorado, dated September 23, 1998.

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.

I have not been convicted (including pleas of guilty or *nolo contendere*) of any criminal violation.

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

There is no additional information that I believe should be considered with this nomination.

**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?

If confirmed by the Senate, I am willing to appear and testify before any duly constituted committee of the Congress.

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

If confirmed by the Senate, I am willing to provide information requested by Congressional committees.

**Senator Olympia Snowe**  
**Finance Committee Statement**  
**Confirmation Hearing**  
**April 17, 2008**

Mr. Chairman, I thank you for holding this hearing on the nominations to fill positions on the U.S. Tax Court, the Inspector General of the Department of Treasury, and a position on the Internal Revenue Service (IRS) Oversight Board. These posts differ greatly in the functions that they fulfill, but they have one overarching responsibility that is so very critical to an efficient and trustworthy executive branch – ensuring that the laws that this Committee, this Senate, and this Congress enact each year are administered in a way that is fair and efficient to the American taxpayer.

I must say that I'm impressed with the slate of nominees that this Committee has before it today. Mr. Morrison has a very impressive blend of both public sector experience and employment at some of the more distinguished law firms in the Country. Mr. Gustafson like Mr. Morrison currently serves a critical role within the Department of Justice's Tax Division, an experience that will be invaluable to both gentlemen if they are confirmed to be a Judge on the U.S. Tax Court where they will be charged with ensuring that our nation's tax laws are properly interpreted by the Executive Branch and taxpayers are treated justly under the law. Similarly, Mr. Eck's blend of experience in both the private sector and the world of academia will make him an valuable member of the IRS Oversight Board, I am confident.

But, Mr. Chairman, I would like to focus my remarks on two outstanding candidates for their respective posts who I have come to know personally – Eric Thorson to be Inspector General of Treasury Department and Elizabeth Paris to also be a Judge on the U.S. Tax Court.

Mr. Thorson has a distinguished record of serving his country, ranging from service in the United States Air Force, to President Reagan's administration, to work on Republican and Democratic Congressional staffs. Furthermore, Mr. Thorson has a depth and breadth of experience in his current role as SBA Inspector General, with the responsibility of determining whether SBA's administrative procedures measure up to the expectations of America's small business owners.

In his role as SBA Inspector General, Mr. Thorson has shown dedicated leadership in his responsibility for seeking out fraud and assisting the SBA in continually bettering, refining, and reforming its policies and practices. He has exercised these responsibilities with the sense of integrity, vigor, and passion for good government that he has shown throughout his tenure with the federal government. As formerly Chair and now Ranking Member of the Small Business Committee, I can honestly say that I speak from personal experience when extolling Eric's qualifications.

Inspector General Thorson has not only promoted sound management practices and assured the integrity of agency operations, but he has also provided Congress with timely and accurate information when conducting independent reviews, audits and investigations of all SBA programs and participants.

Mr. Thorson's role as the SBA Inspector General couldn't have been during a more critical time given the enormous challenges the Agency has confronted – areas such as

the disaster loan program's operation and unacceptable response to hurricanes Katrina and Rita, enforcement of government-wide small business contracting rules, and the oversight of SBA lending problems.

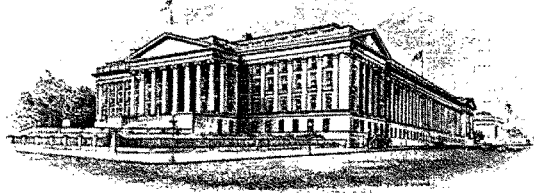
With his broad investigative experience and 20 years of private practice and federal government and Congressional experience, Mr. Thorson has brought an exceptional background to the SBA. His experience has helped to ensure that our nation's 25 million small businesses and their employees receive the most efficient and effective services possible. Eric Thorson is quite simply an superb nominee for this critical post.

Finally, I must say that this Committee will certainly suffer a loss should nomination of Elizabeth Paris be confirmed by the Committee and the Senate, a sentiment that I am sure that the Ranking Member shares. Let me be clear, this is an excellent nomination, but we will sorely miss her expertise and passion for enacting solid legislation. I seriously appreciate her assistance and advice to my staff and me over the past few years as I have drafted and pushed energy efficiency incentives that are now in law, and in need of an extension, I might add!

My staff has told me that they question whether she sleeps with her well worn and tabbed copy of the tax code by her bedside and extraordinary ability to cite very specific code sections that some of the nation's leading tax attorney's likely do not know exists. I have one word of advice for lawyers who may argue a case before her Court – BE PREPARED! And, Ranking Member Grassley, as you have witnessed first hand, it is this passion for good policy that will make Elizabeth an excellent addition to the U.S. Tax Court.

I would like to thank you again, Mr. Chairman, for holding this hearing so that we may have an opportunity to learn more about these qualified nominees.

Thank you.



## U.S. TREASURY DEPARTMENT OFFICE OF PUBLIC AFFAIRS

### STATEMENT BY ERIC M. THORSON, NOMINEE FOR INSPECTOR GENERAL, BEFORE THE SENATE COMMITTEE ON FINANCE

Chairman Baucus, Senator Grassley and Members of the Committee, thank you for the opportunity to appear before you as the nominee to serve as the Inspector General of the Department of the Treasury. As someone who believes strongly in oversight and accountability, it is especially gratifying to be given the chance to serve in two different agencies as an Inspector General (IG). I am, at present, the IG of the Small Business Administration (SBA). That experience, for the last nearly two years, has prepared me well for the new challenges that I can expect, if confirmed for the position at Treasury.

As a bit of background, I am a graduate of the United States Air Force Academy and served as an Air Force pilot for approximately seven years. I was fortunate to be offered the chance to return to the military as a member of the Air Force Secretariat in 1985. After four years in the Pentagon, I began a number of years as a Congressional investigator, culminating in serving as the Chief Investigator for both the Senate Permanent Subcommittee on Investigations and the Senate Finance Committee. Both of those positions were under the chairmanship of a very fine man, the late Senator William Roth. He set a very high standard for the integrity of the investigations that we conducted, and that is a standard that I strive to maintain today.

In the spring of 2006, I was confirmed as the IG of the SBA. This was during the aftermath of the hurricanes Katrina and Rita, with substantial challenges to the Agency in its recovery assistance role. Within 90 days of my appointment, we had established an IG office in New Orleans, with a staff of both auditors and investigators that would serve as the headquarters for a region extending from Florida to the Texas border. These are specialists that can assess the disaster work of the Agency and provide assistance to the Agency in getting help to victims in a more efficient and timely way. Our criminal investigators have been highly effective in bringing to justice those individuals who have attempted to illegally receive vital funds that were meant for victims. We are a very active member of the Katrina Fraud Task Force led by the Department of Justice.

The role of an Inspector General is challenging, if for no other reason than the dual reporting requirement to both the Department the IG oversees, and to the Congress. I believe that my time at SBA has proven that one can fairly and respectfully interact with the Agency leadership and yet still remain independent in its findings. In reporting to the Congress, through the appropriate oversight committees, I believe that it is imperative to be absolutely non-partisan in responding to Congressional requests and inquiries. It has been a pleasure to work with the staffs of both sides of the Senate and House Committees on Small Business, partly because I believe they recognized we made a true effort to be fair and impartial in every interaction. I made a promise to Senator Kerry in my last confirmation hearing,

and I will make the same to this committee. There will never be any politics involved in the work that we do.

Like my appointment to SBA after the hurricanes, this appointment comes at a critical time for the Department of the Treasury and our economy. The very words spoken by the Secretary can effect financial markets world wide, and ultimately affect each American's financial wellbeing. I will make every effort, if confirmed, to ensure that the Office of Inspector General is a positive aspect of that work, seeking to improve the efficiency and operations of the many various offices within the Department. I don't expect the leadership to always like what we may write, but it is my hope that they will recognize the fairness, impartiality and positive motivation with which the Office of the Inspector General will do its work.

Thank you again for considering me for confirmation to this important position, and I will be happy to answer any questions that you might have.

SENATE FINANCE COMMITTEE  
STATEMENT OF INFORMATION REQUESTED OF  
NOMINEE

ERIC M. THORSON

BIOGRAPHICAL INFORMATION

- 1 Eric Mines Thorson
- 2 Position to which nominated: Inspector General of the Department of the Treasury
- 3 Date of Nomination:
- 4 Addresses:  
  

Office:  
U.S. Small Business Administration  
Office of the Inspector General  
409 3<sup>rd</sup> St., SW  
Suite 7150  
Washington, DC 20416
- 5 Date and place of birth: December 8, 1944 at Los Angeles, California
- 6 Marital status: Married to Susan Lynn White Thorson
- 7 No children
- 8 Education:
  - A. Los Angeles High School – Grad 1962
  - B. United States Air Force Academy, B.S., 1967
  - C. Univ. of Southern California , Masters program in Aerospace Operations Management, 1969-70, (No degree)
- 9 Employment Record: See Tab 1.
- 10 Government Experience: See Tab 1.
- 11 Business Relationships:
  - A. President, Executive Aviation Services, 1973-1985
  - B. President, Eric M. Thorson & Associates, LLC, 1998-2005
  - C. President and Chairman, Association of Graduates (AOG), United States Air Force Academy, 1989-1991
  - D. Director, AOG Reunification Committee (ARC), 2004-2005

## 12 Memberships:

- A. Association of Graduates (AOG), United States Air Force Academy
- B. Federal law Enforcement Officers Association (FLEOA)

## 13 Political affiliations and activities:

- A. Never been a candidate for public office
- B. Member of the Republican Party
- C. \$2000 – Bush/Cheney Re-election Committee 2004
- D. \$100 – Kyl for Senate 2006
- E. \$100 – Shays for Congress 2006
- F. \$100 – Tom Boetcher for Senate (Primary-Okla)

## 14 Honors and Awards:

- A. Distinguished Flying Cross
- B. Air Medal (4)
- C. Meritorious Service Medal
- D. Armed Forces Expeditionary Medal
- E. Republic of Viet Nam Campaign Medal
- F. Viet Nam Service Medal
- G. National Defense Service Medal
- H. Air Force Medal for Exceptional Civilian Service

## 15 Published Writings: None

## 16 Speeches:

- A. I have given numerous speeches (100+), primarily on the subject of the importance of Congressional oversight and investigations. All have been informal without prepared formal comments.

## 17 Qualifications:

- A. I have served as the Chief Investigator of the Senate Permanent Subcommittee on Investigations, the Chief Investigator of the Senate Committee on Finance, and am currently the Inspector General of the Small Business Administration

FUTURE EMPLOYMENT RELATIONSHIPS

- 1 Will you sever all connections with your present employer, etc.?
  - A. N/A – Present employer is U.S. Govt.
- 2 Do you have any plans, etc. to pursue outside employment during your service with the government?
  - A. No.



- 3 Has any person or entity made a commitment or agreement to employ your services in any capacity after you leave government service?  
A. 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?  
A. Yes.

POTENTIAL CONFLICTS OF INTEREST

- 1 Indicate any investments, obligations, liabilities or other relationships which could involve potential conflicts of interest in the position to which you have been nominated.  
A. None
- 2 Describe any business relationship, dealing or financial transaction which you have had during the last 10 years, whether for yourself, on behalf of a client, or acting as an agent, that could in any way constitute or result in a possible conflict of interest in the position to which you have been nominated.  
A. None
- 3 Describe any activity during the past 10 years in which you have engaged for the purpose of directly or indirectly influencing the passage, defeat or modification of any legislation.  
A. None.
- 4 Explain how you will resolve any potential conflict of interest.  
A. No conflicts cited.
- 5 Two copies of written opinions should be provided directly to the Committee by the designated ethics officer of the agency to which you have been nominated.  
A. Ethics officer will comply

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 or unprofessional conduct before any court, administrative agency, professional association, etc.?  
A. A referral of improper investigation was made by an SBA/OIG employee to the PCIE on September 5, 2007. The investigation was initiated by me as SBA Inspector General after learning that a program office of the SBA had surreptitiously retrieved the emails of an OIG confidential source. While we recognize the right of any Executive Branch Agency to review employee emails, the retrieval of a single employee's emails appeared to have great potential for whistleblower retaliation. I notified the Administrator, the Deputy Admin., and the General Counsel. None had

objections to the investigation. No action by the PCIE to date. SBA/OIG report to the Agency on this matter is attached at Tab 2.

- 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?
  - A. No.
- 3 Have you ever been involved as a party in interest in any administrative agency proceeding or civil litigation?
  - A. Between 1973 and 1985, while president of my company, I was involved in several law suits connected with normal business operations. I never lost a case nor had a judgment entered against me.
  - B. In 1985, I sold my residence in California to accept a position with the Federal Government in DC. I carried a second deed of trust that the buyer defaulted on. I instituted legal proceedings against him and eventually was awarded a judgment in the case against the buyer and his bank which had provided a letter of credit.
- 4 Have you ever been convicted (including pleas of guilty or *nolo contendere*) of any criminal violation other than a minor traffic offense?
  - A. No.
- 5 Please advise the Committee of any additional information favorable or unfavorable, which you feel should be considered in connection with your nomination.
  - A. None.

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

