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# NOMINATIONS OF: KEITH E. GOTTFRIED, KIM KENDRICK, KEITH A. NELSON, DARLENE F. WILLIAMS, FRANKLIN L. LAVIN, ISRAEL HERNANDEZ, DARRYL W. JACKSON, AND DAVID H. McCORMICK

## HEARING

BEFORE THE

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

ONE HUNDRED NINTH CONGRESS

FIRST SESSION

ON

NOMINATIONS OF:

KEITH E. GOTTFRIED, OF CALIFORNIA, TO BE GENERAL COUNSEL, U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

KIM KENDRICK, OF THE DISTRICT OF COLUMBIA, TO BE ASSISTANT SECRETARY FOR FAIR HOUSING AND EQUAL OPPORTUNITY, U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

KEITH A. NELSON, OF TEXAS, TO BE ASSISTANT SECRETARY FOR ADMINISTRATION, U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

DARLENE F. WILLIAMS, OF TEXAS, TO BE ASSISTANT SECRETARY FOR POLICY DEVELOPMENT AND RESEARCH U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

FRANKLIN L. LAVIN, OF OHIO, TO BE UNDER SECRETARY FOR INTERNATIONAL TRADE, U.S. DEPARTMENT OF COMMERCE

ISRAEL HERNANDEZ, OF TEXAS, TO BE ASSISTANT SECRETARY FOR TRADE PROMOTION AND DIRECTOR GENERAL OF THE U.S. AND FOREIGN COMMERCIAL SERVICE, U.S. DEPARTMENT OF COMMERCE

DARRYL W. JACKSON, OF THE DISTRICT OF COLUMBIA, TO BE ASSISTANT SECRETARY OF EXPORT ENFORCEMENT, U.S. DEPARTMENT OF COMMERCE

DAVID H. McCORMICK, OF PENNSYLVANIA, TO BE UNDER SECRETARY FOR EXPORT ADMINISTRATION, U.S. DEPARTMENT OF COMMERCE

SEPTEMBER 15, 2005

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# C O N T E N T S

**THURSDAY, SEPTEMBER 15, 2005**


| | Page |
|---|---|
| Opening statement of Senator Enzi | 2 |
| Opening statements, comments, or prepared statements of: | |
| Senator Santorum | 3 |
| Senator Dewine | 4 |
| Senator Reed | 5 |
| Senator Sarbanes | 8 |


**NOMINEES**


| | |
|---|---|
| Keith E. Gottfried, of California, to be General Counsel, U.S. Department of Housing and Urban Development | 5 |
| Prepared statement | 26 |
| Biographical sketch of nominee | 33 |
| Kim Kendrick, of the District of Columbia, to be Assistant Secretary for Fair Housing and Equal Opportunity, U.S. Department of Housing and Urban Development | 9 |
| Prepared statement | 28 |
| Biographical sketch of nominee | 46 |
| Response to written questions of: | |
| Senator Santorum | 102 |
| Senator Reed | 104 |
| Senator Crapo | 107 |
| Keith A. Nelson, of Texas, to be Assistant Secretary for Administration, U.S. Department of Housing and Urban Development | 11 |
| Biographical sketch of nominee | 61 |
| Darlene F. Williams, of Texas, to be Assistant Secretary for Policy and Development and Research, U.S. Department of Housing and Urban Development | 12 |
| Biographical sketch of nominee | 70 |
| Response to written questions of Senator Reed | 108 |
| Franklin L. Lavin, of Ohio, to be Under Secretary for International Trade, U.S. Department of Commerce | 18 |
| Prepared statement | 30 |
| Biographical sketch of nominee | 77 |
| Response to written questions of: | |
| Senator Sarbanes | 111 |
| Senator Shelby | 113 |
| Senator Dole | 115 |
| Israel Hernandez, of Texas, to be Assistant Secretary for Trade Promotion and Director General of the U.S. and Foreign Commercial Service, U.S. Department of Commerce | 19 |
| Prepared statement | 31 |
| Biographical sketch of nominee | 85 |
| Darryl W. Jackson, of the District of Columbia, to be Assistant Secretary for Export Enforcement, U.S. Department of Commerce | 20 |
| Biographical sketch of nominee | 89 |
| Response to written questions of Senator Shelby | 118 |
| David H. McCormick, of Pennsylvania, to be Under Secretary for Industry and Security, U.S. Department of Commerce | 21 |
| Biographical sketch of nominee | 96 |
| Response to written questions of Senator Shelby | 119 |

**NOMINATIONS OF:**

**KEITH E. GOTTFRIED, OF CALIFORNIA,
TO BE GENERAL COUNSEL,**

**KIM KENDRICK, OF THE DISTRICT OF COLUMBIA,
TO BE ASSISTANT SECRETARY FOR
FAIR HOUSING AND EQUAL OPPORTUNITY,**

**KEITH A. NELSON, OF TEXAS,
TO BE ASSISTANT SECRETARY FOR ADMINISTRATION,**

**DARLENE F. WILLIAMS, OF TEXAS,
TO BE ASSISTANT SECRETARY FOR
POLICY DEVELOPMENT AND RESEARCH,
U.S. DEPARTMENT OF HOUSING AND URBAN
DEVELOPMENT;**

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**ISRAEL HERNANDEZ, OF TEXAS,
TO BE ASSISTANT SECRETARY FOR TRADE PROMOTION
AND DIRECTOR GENERAL OF
THE U.S. AND FOREIGN COMMERCIAL SERVICE,**

**DARRYL W. JACKSON, OF THE DISTRICT OF COLUMBIA,
TO BE ASSISTANT SECRETARY FOR
EXPORT ENFORCEMENT, AND**

**DAVID H. McCORMICK, OF PENNSYLVANIA,
TO BE UNDER SECRETARY FOR
INDUSTRY AND SECURITY,
U.S. DEPARTMENT OF COMMERCE**

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**THURSDAY, SEPTEMBER 15, 2005**

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

The committee met at 10:03 a.m., in room SD–538, Dirksen Senate Office Building, Senator Michael B. Enzi presiding.

**OPENING STATEMENT OF SENATOR MICHAEL B. ENZI**

Senator ENZI. This hearing will come to order.

Today, the Committee will hold hearings on the first panel, nominations of Keith Gottfried, to be the General Counsel at the U.S. Department of Housing and Urban Development, Kim Kendrick to be Assistant Secretary of Housing and Urban Development for Fair Housing and Equal Opportunity, Keith Nelson to be Assistant Secretary for Administration, Department of Housing and Urban Development, and Darlene Williams to be Assistant Secretary for Policy Development and Research, also at the Department of Housing and Urban Development.

The second panel will be comprised of nominees for the Department of Commerce. Before we begin, I would like the witnesses to rise, raise their hands so that I may administer the oath.

[Witnesses sworn.]

Senator ENZI. I would like to thank all the nominees who are going to come before the Committee today. Over the course of the last few months, my staff and I have had the pleasure of meeting with many of you. I am impressed with your credentials and I am confident that you have earned the honor of these nominations. As we move forward with your nomination process, I will be particularly interested in those nominees who will be dealing with export administration and enforcement with the Department of Commerce.

As many of you know, I have been working to reauthorize the Export Administration Act for over 7 years now. During that time, my staff and I have worked diligently with all parties to craft legislation that would correct some of the shortcomings in the current temporary regulation. In some ways, we have been successful. I believe that we have educated some Members about the importance of creating a strong export control system. We have built consensus around some areas of reform.

Unfortunately, we have not been successful in passing meaningful reform in the form of reauthorization of the Export Administration Act. The Department of Commerce plays a critical role in all of this. So far, the Department has streamlined some of the licensing process and relieved some of the burden of the technology companies by doing business overseas. I applaud them on their efforts.

However, they need statutory authority to make substantive improvements to law enforcement and control mechanisms. Congress should be committed to granting that authority. The Federal Government has limited resources to deal with control of dual-use exports developed within the United States. Molding export controls that focus our priorities on those products and nations that may threaten our national security is good policy. Not only will it make controls more effective, but it also will strengthen our ability to craft multilateral controls that truly keep our dual use technology out of the wrong hands.

It is very difficult for the United States to tell our international partners to stop selling goods and technology to bad actors, but we do not have a statute in place to control our own sales. I will continue to emphasize the importance of reauthorizing the Export Administration Act to my colleagues, this Committee, and elsewhere.

I look forward to the Department of Commerce's continued role in this debate and trust they will continue to make progress to get that done. I look forward to the testimony of all the witnesses, and Senator Santorum.

**OPENING STATEMENT OF SENATOR RICK SANTORUM**

Senator SANTORUM. Thank you, Mr. Chairman. I appreciate it.

I am pleased to introduce to the Committee three of the eight witnesses that are scheduled to testify here this morning. One in the first panel, Kim Kendrick, is a Pittsburgher, and two on the other panel. So if you will allow me to introducing all three of them, Mr. Chairman, even though only one of them is actually before you. Ms. Kendrick is someone who I have not had the opportunity to meet however, my staff, having talked to her recently, is very impressed with her personally and the tremendous wealth of experience that she will bring to the position of Assistant Secretary of Housing and Urban Development for Fair Housing and Equal Opportunity.

She has tremendous experience in both her educational background as well as the work that she has done in the area of housing. She has a law degree from the University of Pittsburgh, as does my wife, and so, I will put in a good plug for that. She went on to work for Neighborhood Legal Services in Pittsburgh. She later served with the Department of Housing and Urban Development in several positions, in the Office of the General Counsel.

She left HUD to go to the D.C. Housing Authority, where she served 7 years as General Counsel and in other positions at a time when the DC Housing Authority was placed in receivership and needed some strong leadership, and she was there to provide that. And after that, she spent 2 years working at Covenant House in Washington, DC, which as you know, Mr. Chairman, is one of the real outstanding philanthropic agencies not just in Washington but in many other cities, including Philadelphia, where they provide for housing services to troubled youth.

And she returned to HUD early in 2004, and she serves as Senior Counsel to the Secretary. So she has a wealth of experience both inside of Government and outside of Government and will do, I believe, an outstanding job for the Department in this regard. I know she is joined here today with her parents and her sisters, and I want to welcome her and her family to the Senate.

Two other individuals will be on your next panel, Mr. Chairman. One is David McCormick, whom I have gotten to know in his role as a community and business leader in Pittsburgh. He is a graduate of West Point, served as an Army Ranger and in the 82nd Airborne. And he earned his doctorate from Princeton University. He is Chief Executive Officer of Arriva, which is a successor company to a company started in Pittsburgh called Free Markets, and they are a major and important employer in our city and a high technology company, and he has a tremendous amount of skills in the area of technology. And for him to be nominated as Under Secretary of Commerce for Export Administration, you mentioned the concerns that you have there; he is a top flight business person, a top flight technologist, and someone who I think will be just a tremendous addition to this Administration. So, I want to introduce

him to you, and I know his family is here also. And I want to thank you, Dave, for offering your services. As you can see, he is a young man and has a lot of enthusiasm to bring to the position.

And finally, Darryl Jackson, who is from Philadelphia; he is to be nominated as Assistant Secretary of Commerce for Export Enforcement; another person, like so many in Pennsylvania with great experience and background to lend to our country. He is experienced in the practice of law. He got his law degree from Harvard University, and—Howard University, excuse me; I would have said do not hold that against him, but Howard, it is a great university, in 1977.

[Laughter.]

I did not mean to contrast that.

He began his legal career in the Legal Defender Association of Philadelphia, where he worked for 3 years. He worked as a prosecutor in the Office of the U.S. Attorney here in the District of Columbia for 12 years. He became the Executive Assistant to the U.S. Attorney for Operations, where he was responsible for overseeing legal operations and implementing prosecutorial policy.

Since 1992, he has been a partner at Arnold and Porter, where he worked as a civil litigator and a white collar criminal defense attorney. He has taught and lectured at George Washington National Law Center and Catholic University of America's Columbus School of Law. He is someone, again, who brings a wealth of experience to this position, and I know that he will serve his country well.

Senator ENZI. Thank you very much. And I should mention that the reason that Senator Shelby is not chairing this meeting at the moment is that he is chairing the debate on Commerce, Justice, State appropriations over on the floor of the Senate, and that is not optional, either. So, I am filling in for him. And we have Senator DeWine with us, who is going to make an introduction from the second panel so that he can return to the Judiciary Committee, where we are trying to get the Chief Justice of the Supreme Court finished on confirmation.

Senator DeWine.

## STATEMENT OF MIKE DeWINE
## A U.S. SENATOR FROM THE STATE OF OHIO

Senator DEWINE. Mr. Chairman, thank you for taking me out of order, and thank you for this opportunity to introduce my fellow Ohioan, Ambassador Frank Lavin of Canton, Ohio, an Ambassador whom President Bush has nominated to be the Under Secretary of Commerce for International Trade.

Frank's background is quite impressive, including several advanced degrees related to international relations and economics from Georgetown, Johns Hopkins, and Wharton. Professionally, Frank has distinguished himself through over two decades of work in Asian affairs in both government and the private sector. I have known Frank for over two decades, dating back to when I was in the House of Representatives, and he was in the Reagan Administration. He worked in the Reagan Administration at the National Security Council as Deputy Executive Secretary. He went on to serve the White House in the Office of Political Affairs.

Frank was previously nominated and served as the Deputy Assistant Secretary of Commerce for Asia and the Pacific, where he was responsible for commercial policy, assisting companies with market access, and trade negotiations for the region. He continued his connection with the region during the late 1990's as a banker and venture capitalist in Hong Kong and Singapore.

It was therefore no surprise when President Bush nominated Frank to be Ambassador to Singapore, given his professional experience within the region. And as Ambassador, Frank Lavin helped oversee the successful negotiation and enactment of the United States-Singapore Free Trade Agreement. I believe, Mr. Chairman, Members of the Committee, it is important that we have someone in this position who knows business, knows our trade rights and responsibilities, knows our trade partners, and knows how to open markets to U.S. goods.

It is particularly important to have someone like Ambassador Lavin, who has a thorough understanding of the countries in the Far East, which seems to be at the center of so many of our trade discussions today here in the Congress.

Frank has a ground floor view of the region, both from his days in the private sector and from his years spent in Government service. Adding to his professional accomplishments, I would like to mention that the Ambassador is also a lieutenant commander in the U.S. Naval Reserves and is raising three wonderful children with his wife Ann. I wish them all the best during this confirmation process.

Mr. Chairman, I thank you again for taking me out of order and allowing me to move ahead here. Thank you.

Senator ENZI. Thank you very much. Mr. Lavin, thank you.

Senator Reed, did you want to make any comments?

## COMMENTS OF SENATOR JACK REED

Senator REED. Mr. Chairman, I think we can proceed to the witness statements and questions. It would be fine. I just want to welcome today's nominees.

Senator ENZI. Thank you. We will begin with the statements, then.

Mr. Gottfried.

## STATEMENT OF KEITH E. GOTTFRIED, OF CALIFORNIA, TO BE GENERAL COUNSEL, U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Mr. GOTTFRIED. Thank you, Mr. Chairman and good morning.

I would like to thank Senator Shelby, Senator Sarbanes, and distinguished Members of the Committee for giving me the great privilege and honor to appear before this Committee today as it considers my nomination to be General Counsel of the U.S. Department of Housing and Urban Development. I know this is a particularly busy time for the Committee, for the Senate, and accordingly, I am especially grateful to this Committee for expediting the confirmation process for myself and for the other nominees present today.

I would also like to express my deep gratitude to President Bush and Secretary Jackson for the trust and confidence they have

placed in me in putting forward my nomination for this very important position. I am honored by their willingness to entrust me with a leadership position on issues that are of great importance to our Nation and that are of great interest to me personally. As Secretary Jackson continues to lead HUD in strengthening our Nation's communities, promoting affordable housing, expanding homeownership opportunities for all Americans, particularly low- and moderate-income families, vigorously enforcing the fair housing laws, and of course, providing housing and other desperately needed relief to the victims of Hurricane Katrina, if confirmed, it would be for me the honor of a lifetime to serve as his General Counsel.

Mr. Chairman, with your indulgence, I would like to introduce some family members. I would like to introduce my wife, Cindy. It is due to her love and support and with the grace of God that I am before you today, and it will be with her love and support and with the grace of God that I will be able to carry out, if confirmed, the important responsibilities that are before me. I thank her for being my closest adviser and my best friend.

I would also like to introduce my mother Rosalie Gottfried, from whom I have learned many things, including the benefits that attach to homeownership and being a vested member of a community and who has sacrificed so much so that I could have the opportunity to pursue my personalized version of the American Dream.

Mr. Chairman, I have been very blessed in my life. The most recent example of that being that my wife and I are expecting the birth of our first child in March. And as we anxiously anticipate the day that we become parents, my wife and I find ourselves very attentive, becoming more attentive to how to ensure that our children have access to the same opportunities that we had, including, of course, access to affordable housing.

I cannot begin to articulate how honored and humbled I am to appear before this Committee. I come from a very modest upbringing. I could never imagine growing up in Queens, New York, in my neighborhood, that one day, I would be nominated by the President of the United States of America to serve the American people in this very important leadership position. I feel very strongly that to those who much is given, much is expected, and that as a member of a compassionate society, I have a duty to give something back to the Nation that has given me so much.

The opportunity to serve as General Counsel of HUD would be a particularly fitting opportunity for me to give something back to this great Nation that has given me so much, not only because of my background as a lawyer, as a seasoned legal executive in the private sector, but also because of a deep personal connection I share with HUD's mission.

In 1967, one year after the cornerstone was laid for the building that would become HUD's headquarters, the building now known as the Robert C. Weaver Federal Building, named after the first Secretary of the Department of Housing and Urban Development, my parents purchased their first home in Queens, New York, using a modest downpayment and a 30-year, fixed-rate mortgage.

When their marriage dissolved some years later, my mother was extremely determined that we were not going to leave that home. She was not going to part with that home. We were not going to

move to a much smaller rental apartment. My mother, the daughter of immigrants, had grown up in the Brighton Beach section of Brooklyn, New York, and she had shared with her parents and her three siblings a one-bedroom apartment. She knew all too well that that was not the environment that she wanted for her children.

As a school teacher employed by the New York City Board of Education, she just retired, almost 40 years, my mother struggled for many years to be able to continue to make the monthly mortgage payments and to remain a member of the ownership society. Like President Bush and Secretary Jackson today, my mother recognized the value and benefits of homeownership. She believed, and I know continues to believe, the contribution that homeownership makes to a family's stable living environment.

I learned from my mother many things, and I learned from her the benefits of being a part of a closely knit community where your neighbors feel like family and where homeownership translates into greater concern for your neighbors. Almost 40 years after purchasing her home, my mother remains deeply active and deeply committed to her community.

Mr. Chairman, if confirmed, I would embrace the responsibilities and the duties of the Office of General Counsel with an abundance of enthusiasm, vigor, and dedication. Over the past few weeks, I have had the opportunity to get to know some of the staff members of the Office of General Counsel, and to date, I have been extremely impressed with the caliber and dedication of all the people that I have had the privilege of meeting, in particular, because HUD has been without a General Counsel since May 2004. I would like to recognize, acknowledge, and thank Kathleen Koch, who has served as acting General Counsel since that time.

If confirmed, I will commit myself to assisting Secretary Jackson in his ongoing efforts to make HUD a more effective, efficient, and responsive institution, one that will operate in accordance with the highest ethical and professional standards both for its employees and for its program participants. I am also committed to assisting Secretary Jackson in his ongoing efforts to create a culture that inspires confidence in HUD's programs on Capitol Hill and with all our program participants and beneficiaries.

Mr. Chairman, Members of the Committee, the Office of General Counsel at HUD is a great honor, a great responsibility, and a tremendous challenge. If confirmed, I look forward to working in a bipartisan manner with the Committee, other Members of Congress, as we together work to meet the challenges before us. As has been noted before this Committee in a number of hearings, the mission at HUD, the mission to provide affordable housing to all Americans, is not a Democratic mission; it is not a Republican mission; it is an American mission for all Americans.

At this time, Mr. Chairman, I stand ready to answer any questions or address any comments that you or any other Members of the Committee may have. I thank the Members of the Committee for the honor and the opportunity to appear before you today.

Senator ENZI. Thank you for your testimony.

We have been joined by the Ranking Member of the Committee. Senator Sarbanes, do you have a statement that you would like to make?

**STATEMENT OF SENATOR PAUL S. SARBANES**

Senator SARBANES. Thank you very much, Mr. Chairman, I appreciate that, because regrettably, I am not going to be able to stay this morning because of a number of conflicting engagements, but I do have an opening statement.

First of all, I want to thank you very much for presiding over the hearing. I think we need to get people in these jobs. These are important positions, both at HUD and at Commerce, and I am going to comment in a moment about how long some of them have been vacant. I want to congratulate all the nominees both at HUD and the Department of Commerce.

I hold public service in high esteem, and I appreciate the willingness of the nominees to serve the Nation. We have four important HUD positions; of course, HUD plays a crucial role in many communities across our country. Millions of people live in HUD-assisted housing. Millions more receive HUD-subsidized mortgages through the FHA program. About 220,000 people lived in FHA-insured single family homes that have been affected by Hurricane Katrina. Another 90,000 lived in FHA-insured apartments, and nearly 150,000 receive Section 8 vouchers or were living in public housing in those areas, so obviously, the reach of HUD into these communities is quite extensive. The Senate actually adopted, yesterday, an amendment I proposed to give authority to HUD to issue temporary Section 8 vouchers to get people housed.

HUD contributes to the vitality of communities through the Community Development Block Grant program. It increases homeownership through FHA but also through the HOME program. The American Dream Down Payment Assistance Initiative helps low-income families afford decent housing. It also seeks to ensure that all Americans have equal access to affordable housing opportunities. I want to underscore that, without regard to race or gender, and it does all this in close partnership with State and local governments.

Obviously, to meet these responsibilities, it needs top quality staff and top quality leadership, and have been concerned about these vacancies in key positions. There has not been a confirmed General Counsel at HUD since May 2004, almost 18 months. The position of Assistant Secretary for Administration has been open since February of this year. So, I look forward to reviewing the witnesses' statements and their papers and looking over the hearing records in the hopes that we can expedite the process of getting these important positions filled.

Let me say a word about the second panel which the Chairman will bring before us involving the Department of Commerce. I have had the opportunity to meet with a number of these nominees. They have critical responsibilities for promoting American exports, assuring our businesses compete on a level playing field, increasing American competitiveness while protecting our defense industrial base.

These are particularly challenging times. We have a trade deficit with China which may exceed $200 billion. The total current deficit is more than $700 billion, so we face a very difficult situation. We are seeing some effort to undermine the impact of U.S. antidumping and countervailing duty rules. These are all issues the nominees will have to confront.

This Committee has had a good working relationship with the predecessors of the people going into these Commerce jobs. Senator Enzi has taken a strong leadership role with respect to the issue of export controls and promotions. I have been pleased to work with him in that effort.

The former Under Secretary, Grant Aldonas, took a lead in the Trade Promotion Coordinating Committee Initiative. I hope that it will not lose its momentum. The one stop shops authorized in the 1992 Export Enhancement Act must continue to be used effectively. Mr. Chairman, I want to underscore the importance of the hearing, and I hope that we get these people in position.

Let me, as I close, I want to pay a note of tribute to Timothy Hauser, who had a tragic death this summer. Mr. Hauser was a career civil servant who had served as Deputy Under Secretary for International Trade since 1991. He was a mainstay of our trade programs and of the Department of Commerce. I think his career was a model one. It exemplified the commitment, the knowledge, the expertise, and the dedication of literally thousands and thousands of career civil servants, and I want to take this opportunity to acknowledge his extraordinary contributions over the course of his career.

Thank you very much.

Senator ENZI. Thank you very much, and yes, we did have some interesting times together on the Export Administration Act Reauthorization and got it through the Senate 84 to 14, and then, September 11 happened, and everybody's focus changed, and we were not able to finish it.

Senator SARBANES. Right.

Senator ENZI. So we will continue on that.

Ms. Kendrick.

**STATEMENT OF KIM KENDRICK OF THE DISTRICT OF COLUMBIA, TO BE ASSISTANT SECRETARY FOR FAIR HOUSING AND EQUAL OPPORTUNITY, U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**

Ms. KENDRICK. Good morning, Senator.

I want to thank Chairman Shelby, Ranking Member Sarbanes, and distinguished Members of this Committee. I appreciate your consideration today, especially in light of the important issues that face this Nation that require your valuable time.

I would first like to thank President Bush for nominating me to serve as HUD's Assistant Secretary for Fair Housing and Equal Opportunity. I am also profoundly grateful to Secretary Alphonso Jackson for his strong support of my nomination and his encouragement during this nomination process.

Before I go any further, I want to recognize some people who have been an important part of my life and who are with me today. First, I must acknowledge the most important sources of encouragement and support in my life, my parents, Louis and Gloria Kendrick.

Senator ENZI. Welcome.

Ms. KENDRICK. After I was notified that President Bush nominated me for this position, I immediately called my parents to relay

the good news. My father's first response was are you not glad that you have great parents?

[Laughter.]

As a matter of fact, I am. I can honestly say without their guidance, sacrifice, and love, I would not be sitting here before you today, and I want to publicly thank them for all that they have done for me.

Also with me today are my two sisters, Toni and Jerri Kendrick, my nephew of 15 years, Louis Washington, who got to get out of school today.

[Laughter.]

My cousin, Sabrina Cobb, and my godchild, whom I think you have heard, Olivia Albury, who celebrated her first birthday just 2 weeks ago.

I am blessed to have a number of great friends who came to lend support and encouragement today. I have colleagues with me today from HUD and former colleagues from both the District of Columbia Housing Authority and Covenant House Washington. Here also are friends that I have known and met through Leadership Washington, friends from the Greater Washington Area Chapter of the Women Lawyers Division of the National Bar Association, members of my sorority, Alpha Kappa Alpha, and a friend from college. I want to thank each of them for taking time out of their schedules to support me.

I will not spend a lot of time telling you about my professional journey. You have heard Senator Santorum talk about that. As you already know, I have worked for over 20 years as a lawyer and that most of my legal career has been involved with matters associated with housing, starting as an attorney with Neighborhood Legal Services in Pittsburgh, Pennsylvania, and currently serving as legal counsel to a member of the President's Cabinet who is responsible for housing for the entire Nation.

I do, however, want to share with you a bit about my personal background. I grew up in the Hill District, a number in Pittsburgh, Pennsylvania. At that time, it was the most economically depressed part of the city. However, our home life was rich, so rich that I had no idea other people considered us low income.

One of the reasons I never felt deprived was because my family always had a house that we could call our own. My parents created a home atmosphere where my sisters and I were safe and free, free to become the successful women that we are today. I am particularly proud of my sisters. My sister Toni is a principal in an inner city school in Pittsburgh. Jerri is a graduate of Carnegie Mellon University, and she is one of a few African-American female program managers for Lockheed Martin. While the successes in our lives may not solely be related to the fact that our parents were and are homeowners, it did not hurt.

The one thing that my career in housing has made very clear to me is that having a home is a critical step to achieving economic equality in this country. The Rev. Dr. Martin Luther King was assassinated on April 4, 1968, and the Fair Housing Act was enacted on April 11 of that same year.

The significance of the two events cannot be ignored. His death brought to the forefront of this country the severe inequities in its

social fabric. Dr. King often spoke about the inequities in the housing opportunities between whites and the minorities in this country. Unfortunately, Dr. King did not live to see the Fair Housing Act signed into law or see how fair housing in this country has led to a record number of minority homeowners.

However, I do know that there is more to be done. As reported in the media yesterday, minorities are twice as likely as whites to get higher priced mortgages, and we must understand these disparities and work to eliminate them. Also, I am quite aware of the number of Americans who were displaced from their homes by Hurricane Katrina, and I know there is work to be done to get those families back into their homes.

As the President's nominee for Assistant Secretary for Fair Housing and Equal Opportunity, I have been given an opportunity few people before me have been given; that is, to ensure equal access to housing for all Americans. If I am confirmed, I promise to diligently and enthusiastically carry out the duties for which I have been nominated, because I cannot think of a greater honor than to serve this Administration as the chief enforcer of the Nation's fair housing laws.

As a little girl growing up in Pittsburgh, I could never imagine I would one day be sitting in a confirmation hearing before the U.S. Senate. This kind of personal journey is only possible in the United States, and it makes me immensely proud to be an American.

Again, I thank you for your time, and I welcome any questions that you may have of me.

Senator ENZI. Thank you very much.

Mr. Nelson.

**STATEMENT OF KEITH A. NELSON, OF TEXAS, TO BE ASSISTANT SECRETARY FOR ADMINISTRATION U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**

Mr. NELSON. Thank you very much.

I would like to thank Chairman Shelby, Ranking Member Sarbanes, and distinguished Members of the Committee for holding this hearing today. It is a privilege to appear before you as the President's nominee to serve as Assistant Secretary for Administration at the U.S. Department of Housing and Urban Development. I am honored that President Bush has nominated me to serve in this position, and that this Committee is taking the time to consider my nomination.

I also want to take a moment to introduce some of my family. Especially, I am very proud to introduce my wife, Julia Gomez Nelson, and also my mother, who came from Texas. Her name is Pamela Hudson Nelson, and she is missing part of her meeting today as Vice Chairman of the U.S. Commission of Fine Arts, and also my in-laws who traveled from Florida, Guillermo and Olema Gomez, who are here with us today, and I am very excited and thankful that they are here.

Commitment to public service is a proud tradition in my family, and I have been honored to continue that tradition over the last 3-plus years at the U.S. Department of Labor. Since 2001, I have worked in management and administration at the Labor Department, most recently serving as Associate Deputy Secretary for

Management. In this capacity, I have been involved in human resource matters, information technology, budget formulation, financial management, and general operations. One of our proudest accomplishments at the Department of Labor came recently, when the Office of Management and Budget recognized the Labor Department as the best-managed in the Executive Branch.

Among Labor's most significant achievements was the collective bargaining agreement we reached earlier this year with Local 12 of the American Federation of Government Employees, which represents most of the Department's employees in the Washington, DC area. This agreement, the first since 1992, was the culmination of more than 3 years of mediation and negotiation.

The Department of Labor also successfully migrated its payroll system to the National Finance Center. This is part of a governmentwide effort to shift certain services that are not mission-specific to certain designated government service providers. This was a significant endeavor, one that required our office to coordinate the efforts of our Chief Financial Officer, the human resources staff, and regional employees in order to prepare the Department's 17,000 employees for a new payroll system.

In a more broad sense, my service at the Labor Department has allowed me to gain a clear understanding of the urgency of succession planning in the Federal Government. And through the extensive briefings and interviews that have characterized the confirmation process, I have come to appreciate how acute and serious this issue is for the Department of Housing and Urban Development.

In addition to succession planning, HUD has also performed an assessment revealing various "skill gaps" between current personnel and those required to execute the mission most effectively. If confirmed, I hope to have the opportunity to provide the Department with the training and recruitment necessary to bridge those gaps. Through these and other areas of focus, I will keep lines of communication open with stakeholders to ensure that all interested parties receive a fair hearing.

In conclusion, I am committed to the responsibilities and challenges that come with this position. Under the leadership of Secretary Jackson and Deputy Secretary Bernardi, I am confident that HUD will continue its progress to becoming a more efficient and effective operation in fulfilling its vital public mission.

I want to thank you again for scheduling this hearing during what I know is a very busy time for the Senate. I am ready for any questions you may have.

Senator ENZI. Thank you very much.

Ms. Williams.

**STATEMENT OF DARLENE F. WILLIAMS, OF TEXAS, TO BE ASSISTANT SECRETARY FOR POLICY DEVELOPMENT AND RESEARCH U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**

Ms. WILLIAMS. Thank you.

I want to thank Chairman Shelby, Ranking Member Sarbanes, and Members of the Committee for convening this hearing during what I know is a busy legislative session. It is a privilege to be here with you today. I would like to express my appreciation to

President Bush for the honor of being nominated as Assistant Secretary for the Office of Policy Development and Research. I am also grateful for your consideration today, so that I may continue my services to HUD and to Secretary Alphonso Jackson.

Before I say a few words about my nomination, I would like to acknowledge and thank a very special person in my life, my mother, Ms. Julie Bernice Walker. Without her, this would not have been possible. Through her sacrifices, she paved this road and provided me with a bridge that has allowed me to experience incredible educational and career opportunities. I would also like to acknowledge in their absence, a sincere sacrifice on their part, my father, Mr. Francis Harold Williams, Sr.; my stepfather, Mr. Nathan Walker; my dear friend, Mr. Herbert Moore, Jr.; and of course, my two brothers, Harold, Jr., and Rodger, along with the many men and women throughout my corporate and Federal careers who are shining examples of excellence.

The Office of Policy Development and Research, or PD&R, is a principal adviser to the Secretary providing support in policy development, applied social science and economic research on housing policy and issues, including, for example, advances in housing technology and evaluation and monitoring of the Department's programs. In fact, one of the very important responsibilities of PD&R is to conduct evaluations of Departmental programs to make sure they are operating effectively as Congress intended. If confirmed, I will work to ensure that this mission continues with professionalism and integrity.

As for my personal background, on June 2, 2003, I joined HUD as the General Deputy Assistant Secretary for PD&R. As such, I have served as the general manager for the office during interim periods when the office was without an Assistant Secretary.

One example of a critical initiative we undertook at PD&R was the establishment of HUD's research plan for each fiscal year. The role of the Assistant Secretary for PD&R is to establish an approved HUD research plan through the collaborative input of PD&R staff and HUD leadership. Under my leadership, PD&R developed a plan addressing research and survey activities early in the fiscal year, which ensured that staff could begin implementing the research plan once the appropriations were known. The research plan was important to PD&R because it established the work assignments for the fiscal year for staff and permitted implementation of an often lengthy and rigorous process.

Prior to entering Federal service, I gained expertise in operations, marketing research, and corporate policy at the following corporations: Pacific Bell, now known as SBC; Eastman Kodak; Ryder Systems, Incorporated; and TXU, formerly known as Texas Utilities. I believe that my earlier experiences in PD&R along with these professional experiences in corporate America helped me to be an effective leader. I would be personally honored to have the opportunity to join the men and women of PD&R, who are among the best and brightest of the HUD workforce.

Let me conclude by saying that I have a deep appreciation for Congress as an institution. I look forward to working with this Committee in an open and collaborative spirit to advance the goals of affordable housing, homeownership, and strong communities.

Thank you for your kind attention, and I will be happy to answer any questions you may have. Senator, I respectfully request that my testimony be added to the record.

Senator ENZI. Thank you very much. The complete testimony of everyone will be a part of the record, and there will be statements entered by people who have not been able to be here this morning. There will probably be some written questions that will be addressed from those who were not here and even some of those who are here, because time does place some constraints on us, and we will encourage you all to give as prompt an answer as possible, because I want to congratulate you on your nomination, and we want to make that a confirmation. So we will work with all speed to get that done.

I want to welcome all the families and friends of the nominees. It is nice that there is that kind of support there, and I know that that is where each of you got some direction for your life, as was often mentioned.

I used to be the Mayor of a boom town. It tripled in size while I was the Mayor. And the one thing that I noticed was that when a person got homeownership, their perspective changed. They suddenly become considerably more interested in the community, because they felt they had ownership not just in their house but in their community, and it is the American Dream. And you all are in charge of getting that dream to as many people as possible in the best way possible, and so, I challenge you with that.

I do have a few questions that I want to ask, and I will begin in the same order that we spoke. Mr. Gottfried, I believe your experience as corporate counsel does provide a useful background for serving as HUD's General Counsel. However, I believe there are some substantial differences. Could you offer for the Committee what you see as some of those differences in responsibilities and duties of an agency general counsel in contrast to that of serving as a corporate general counsel?

Mr. GOTTFRIED. Thank you, Senator. There are many differences between serving as a general counsel of a publicly traded company and serving as general counsel of a Federal Cabinet Department. There are also many similarities. One of my goals as General Counsel of Borland Software Corporation was to have a zero tolerance policy with respect to ethics compliance.

It was extremely important, particularly in light of the Sarbanes-Oxley Act of 2002, that we comply over and above what was required of us under that statute. Similarly, at an agency like HUD, an agency that grants significant amounts of money and has numerous program participants and beneficiaries, it is incredibly important that at HUD that we be an example of ethics and of compliance at the highest levels and that there be zero tolerance.

At Borland Software, I managed tremendous amounts of litigation, and I can say with a lot of pride that substantially all the litigation that I inherited, and it was well into the tens of millions of dollars in paid liability if not higher when I became general counsel in 2000, by the time I left, all that litigation was resolved.

HUD also has significant litigation where it is a defendant. Currently, there are approximately 510 cases where HUD is a defendant. That will be one of my priorities. One of my priorities will be

helping to resolve that litigation. For every dollar that we have to pay out in litigation costs, that is a dollar that is not going to go to help people gain access to affordable housing or in increasing access to homeownership.

Now, a great difference, of course, is that when I was at Borland Software in the private sector, and I wanted to settle a case, I would go talk to my CEO and my board, and it was fairly easy to do that. Obviously, in a Federal Cabinet Department, as General Counsel, it is not just the Secretary and I and possibly the Deputy Secretary making that decision. I have a very important co-counsel or lead counsel in the Department of Justice, and I will have to consult and work collaboratively with them.

In my corporate law background, when I was a lawyer at Skadden Arps, I had to work with lawyers all the time and lots and lots of lawyers on the other side of the table or three different sides of the table, so that is nothing new for me. And I look forward to building a collaborative relationship with the people at the Department of Justice and other agencies and obviously the Solicitor General from time to time.

Senator ENZI. Thank you.

Ms. Kendrick, I understand that you have been Secretary Jackson's primary advisor on RESPA. As you know, the Committee has a variety of concerns regarding the RESPA rule as previously proposed. If confirmed, is the Secretary's intention for you to remain as his primary counsel on RESPA, and could you share with the Committee what is the current status of HUD's RESPA efforts?

Ms. KENDRICK. The Secretary has not made a decision, Senator, on whether I should remain as his chief advisor on RESPA. I will leave that to him after the confirmation process. But what we are doing on RESPA today is, as you may know, we held seven roundtables to discuss the RESPA issue this summer. We had four in Washington, DC, one in Chicago, one in Los Angeles, and one in Fort Worth.

We wanted to get a sense around the country of what the industry and consumers were thinking about RESPA, what they are interested in, what they do not want, what they do want, and is RESPA viable? Is it viable to do a RESPA rule this year? And so, this year, we are still in that thought process. There is no rule in a drawer. We have not made a decision about whether there will be a RESPA rule, and before we even think about whether we are going to do a rule, we will come back and see the Senate; we will talk to the House Members, we will talk to everyone, sir.

Senator ENZI. Thank you, and I hope he does rely on you. I am sure you have a great deal of expertise on that and can continue that.

Mr. Nelson, the GAO has testified before this Committee that HUD's financial management systems cannot currently provide the day-to-day information needed by its managers to effectively manage and monitor the Department's programs. I believe it is critical that HUD have reliable financial and accounting systems. Do you share this concern with respect to the critical importance of reliable financial and accounting systems, and do you have any thoughts for addressing those deficiencies?

Mr. NELSON. Thank you for your question, Senator.

That GAO report is certainly one that we are very interested in trying to close those recommendations one-by-one. In fact, there is a very useful report that I have seen that we keep track of on a monthly basis of all the GAO reports and Inspector General reports that we are needing to deal with and close down these recommendations.

Certainly, financial management is an important point of any department and agency, and if you do not get the data right, and you do not have the numbers right, it is very difficult to operate efficiently and effectively. So that is a key concern, and if confirmed, I will work very hard along with the CFO to establish better measures for that.

Senator ENZI. Thank you.

Ms. Williams, HUD over the last decade or so has been increasingly reliant on outside contractors to perform many of its responsibilities. I know that is not an issue solely in the research area, but it does seem that most of the research produced by HUD is conducted by outside parties. I am concerned about HUD's ability to effectively monitor those contractors. Could you detail for the Committee your relevant experience in monitoring and evaluating contract performance?

Ms. WILLIAMS. Thank you, Senator.

The Office of Policy Development and Research is comprised of professionals with backgrounds in social science along with engineering, architecture, and many of the skills that are necessary not only programmatically for the Office to determine the types of research that need to be conducted but also for further monitoring and evaluation. Additionally, many of the members, the 156 individuals have been involved in other program offices prior to joining the Office of Policy Development and Research, so we are going to continue to use the talent that we have.

We are also putting into place a succession plan to ensure that we continue to have great HUD content. As you have indicated, we have relied significantly on outside contractors, but that does not mean that the individuals within the program areas as well as within the Office of Policy Development and Research are not quite often extensively involved in the contracting arena.

Senator ENZI. Thank you.

Mr. Gottfried, you mentioned in your testimony your experience practicing before the SEC and your understanding of how regulatory agencies work. I believe it is vital for an agency general counsel to have a strong knowledge and appreciation of administrative procedures, particularly rulemaking. Could you offer the Committee a little more detail about your interaction with Federal agencies and your knowledge of administrative procedures?

Mr. GOTTFRIED. Yes, as a lawyer in New York, most of my career has been as a mergers and acquisitions and public company lawyer with substantial expertise in securities laws and in negotiating with the Securities and Exchange Commission to get large, billion dollar transactions completed. I have not done a lot of work with administrative procedures, like the Administrative Procedure Act. Most of my compliance work was in complying with securities laws and the numerous regulations of the Securities and Exchange Commission.

Senator ENZI. Thank you.

Ms. Kendrick, I believe your past experience working at a public housing authority will prove invaluable to HUD. I also find it interesting that part of your responsibilities were defending the D.C. Housing Authority against fair housing complaints. Could you share with the Committee any reflections you gained from, as you state in your testimony, being on both sides of the issue, and do you believe a greater focus on public housing authorities should be a greater priority for HUD?

Ms. KENDRICK. Thank you, sir.

The appreciation I received from my experience is that everyone is entitled to a decent, safe, sanitary unit that can be accommodated for a disability. I think it is very important that persons with disabilities have decent housing, they have available housing, and that public housing authorities and private landlords should make that effort to make sure that those accommodations are met, especially in the public arena, where public housing authorities and other people who receive public dollars, they should be required to make their units adaptable for persons with disabilities.

And I gained a strong appreciation, because if you have ever seen people who are in wheelchairs who cannot find housing, people who have children who are in multiple wheelchairs who do not have housing, it is very sobering, and it must be incumbent upon public housing authorities to make sure those units are available, because they are receiving public dollars for housing people.

Senator ENZI. Thank you.

Mr. Nelson, earlier, I asked Ms. Williams about contractors performing their responsibilities and the ability to effectively monitor those contractors. Could you comment on that issue as well?

Mr. NELSON. Certainly. Thank you, Senator.

Contracting is more important than ever now in the Federal Government with more and more contractors doing work that is really not mission specific to Federal agencies, and so, writing and executing good contracts is paramount. Where we can, if confirmed, I will try to really build on performance-based contracting, where if vendors do jobs faster and better, they will get rewarded, and if they do it slower, they will be penalized. And those types of contracts are going to move the Government forward in this arena.

Senator ENZI. Thank you.

And Ms. Williams, you get kind of the key question of the issue of the day, which is Katrina. One of the things I have noticed in areas hit by hurricanes and flooding is that some homes stand up better than others. Generally, it is the newer, better ones that survive, and one of the programs administered under PD&R is the Partnership for Advancing Technologies in Housing Initiative, known as PATH. Now, this program is intended to encourage the development of innovative buildings and technologies.

Could you share with the Committee any thoughts you have on whether increasing research into this area may result in the development of technologies which advance the capabilities of homes to withstand wind and flood damage?

Ms. WILLIAMS. Yes, sir; thank you, Senator.

The Partnership for Advancing Technologies in Housing, as you have indicated, has been very involved with Katrina and even last

season, when we had the terrible devastation in Florida and the other areas in the United States.

And although this has been a terrible devastation, I am pleased to share with you that PATH and the Office of Policy Development and Research have already contributed somewhat by noting where there are sites available for temporary housing in the region and also by already focusing, as you have indicated, on available resources and information, alternative housing, building technologies such as modular, and flood-proof housing.

Yes, I do believe that more research in this area would be a very positive element for HUD, and we are already doing great work in that area, so we will continue.

Senator ENZI. Thank you very much.

I want to thank this panel for their testimony and their answers to the questions but most of all for your enthusiasm for what you are about to undertake. That goes a long way in making sure that the jobs get done more than adequately, and I am convinced that we will have an outstanding team at HUD with this group of people. So do your best, do what is right. Thank you very much.

And a vote is imminent, so rather than interrupt the next panel, I will recess so I can run over and come right back so we can do the next panel, hopefully without interruption. That is usually not the way things work out around here, however, so we will recess.

[Recess.]

Senator ENZI. We will go ahead and reconvene the hearing. I appreciate all of your patience. We will begin with the second panel. It is Mr. Franklin Lavin, the Under Secretary of Commerce for International Trade designee, U.S. Department of Commerce; Mr. Israel Hernandez, the Assistant Secretary of Commerce and Director General of the U.S. Foreign and Commercial Service designate, U.S. Department of Commerce; Mr. Darryl W. Jackson, the Assistant Secretary of Commerce designate for the U.S. Department of Commerce; and Mr. David H. McCormick, the Under Secretary of Commerce for Export Administration of the U.S. Department of Commerce.

I thank all of you for being here today. I will ask if you can condense your remarks so that we can hopefully finish this before the next set of votes.

Senator ENZI. So without further ado, Mr. Lavin.

## STATEMENT OF FRANKLIN L. LAVIN, OF OHIO, TO BE UNDER SECRETARY FOR INTERNATIONAL TRADE U.S. DEPARTMENT OF COMMERCE

Mr. LAVIN. Thank you, Mr. Chairman and to the other Members of the Committee. I am very grateful for the opportunity to——

Senator ENZI. Excuse me; I am sorry. Could you please rise so I can swear you in?

[Witnesses sworn.]

Thank you. Be seated, and I apologize for interrupting.

Mr. LAVIN. I am grateful to appear here today, and I also want to thank Senator DeWine for his very gracious introduction, and I am proud that he represents my home State.

My wife and three children cannot be here today, separated as we are by the oceans and the miles, but they are certainly here in

spirit, and I am honored that my in-laws are here today, retired Congressman George Whartley and his wife, Barbara are able to join us. Thank you for your presence.

Senator ENZI. Welcome.

Mr. LAVIN. I would also like to recognize my fellow Commerce nominees here on the panel, and if confirmed, I look forward to working with them. Taking your guidance, Mr. Chairman, I would like to submit written testimony for the record, but maybe I can offer just a brief comment in summary.

It has been a privilege for me to serve the President and the American people, Mr. Chairman, as the U.S. Ambassador to Singapore. I am very honored that the President and Secretary Gutierrez have asked me to serve as Under Secretary of Commerce for International Trade.

If confirmed, I will be guided by three principles: First, I firmly believe that there are tremendous export opportunities for U.S. companies, large and small. We produce world class goods and services, and we can win in the global marketplace. The second principle is that we must use all the tools at our disposal to ensure that American businesses face fair competition. We must enforce the rules; we must hold our trading partners accountable to the agreements that they have signed. Third, cooperation between the Legislative Branch and ITA is essential for a constructive international trade policy. I look forward to working with the Senate on the vital issues that we face.

The men and women of the International Trade Administration are a talented and dedicated group. Their mission is vital to the economic security of the Nation, and if confirmed, I would be honored to join them. Thank you for your time.

I would be happy to answer any questions the Committee may have.

Senator ENZI. Thank you, and thank you for your brevity.

Mr. Hernandez.

**STATEMENT OF ISRAEL HERNANDEZ, OF TEXAS, TO BE ASSISTANT SECRETARY FOR TRADE PROMOTION AND DIRECTOR GENERAL OF THE U.S. AND FOREIGN COMMERCIAL SERVICE, U.S. DEPARTMENT OF COMMERCE**

Mr. HERNANDEZ. Mr. Chairman, good morning. Thank you for granting me this hearing today. I will also condense my remarks, and I will submit one for the public record.

Senator ENZI. Yes, your full statements, for all of you, will be in the record.

Mr. HERNANDEZ. Great.

I am also privileged to be here alongside with Ambassador Frank Lavin and others who will be within the Department of Commerce, if confirmed. If confirmed, I pledge to define and lead the U.S. Foreign and Commercial Service based on a clear and strategic mission to ensure that small and medium-sized companies gain greater access to international markets.

I will ensure that the team of specialists within the service have the tools necessary to anticipate commercial interests of our American exporters and rapidly adapt to the ground to meet their needs.

Organizations are only as good as their people, and I will work to foster a diverse environment where women and men of the Commercial Service continue to grow in discipline and expertise.

I will also be a disciplined and accountable steward of the people's money, and I will commit to a thorough assessment of our resources to ensure that the Service not only meets but also exceeds the highest expectations, and I will work to build on the essential relationships with the Federal and State level.

Thank you for your time, and I will be happy to take any questions following our comments.

Senator ENZI. Thank you. Excellent job.

Mr. Jackson.

**STATEMENT OF DARRYL W. JACKSON OF THE DISTRICT OF COLUMBIA, TO BE ASSISTANT SECRETARY OF EXPORT ENFORCEMENT, U.S. DEPARTMENT OF COMMERCE**

Mr. JACKSON. Mr. Chairman, thank you, and my thanks to Senator Santorum for his wonderful introduction this morning.

I am honored to be here today as the President's nominee for the position of Assistant Secretary of Commerce for Export Enforcement. The President has my deepest gratitude for the trust and confidence he has reposed in me, and I would also like to thank Secretary Gutierrez, with whom I look forward to serving.

Several days ago, as you know, we marked the fourth year since the tragic events of September 11, 2001, occurred. In his Patriot Day 2005 proclamation, President Bush stated that, "The mission that began on September 11 continues." The President went on to discuss the military's continuing role in keeping us safe at home, and also noted that, "Thousands of other Americans, from intelligence analysts to border guards to countless others, are doing vital work to help defend America and prevent future attacks."

Those who work at the Bureau of Industry and Security's Export Enforcement Division play an important role in that critical task. They vigorously enforce the export regulations concerning dual-use goods and technology, as well as the antiboycott laws. Their goal is to keep the most sensitive dual-use goods out of the most dangerous hands. As a top priority, they pursue violations that involve weapons of mass destruction proliferation, terrorists and terrorist support, and unauthorized military use. That approach is consistent with views that the President expressed in his 2003 remarks concerning Libya's pledge to dismantle its weapons of mass destruction programs. Therein, the President said that, "Opposing proliferation is one of the highest priorities of the war on terror" because the danger is, "dramatically increase when regimes build or acquire weapons of mass destruction and maintain ties to terrorist groups."

In carrying out their mission, those who work in Export Enforcement protect our national security, while also advancing the foreign policy and economic interests of the United States. If confirmed, I look forward to joining them in their mission. Meeting these challenges is of the utmost importance for our generation. That we do so is also of great importance to younger generations, which look to us for their protection. I will bring to the position the

full range of my experience, which includes more than a decade as a Federal prosecutor and more than a decade as a litigation partner in a private corporate law firm.

As I close, I would like to remember my departed parents, Woodrow and Elizabeth Jackson, who would be very pleased today, and without whose unwavering devotion and support I would not be here. I would also like to thank my wife, Amy, who is here today, as well as our two sons, David and Matthew, for their continuing support.

I would like to conclude by thanking the Committee for its prompt consideration of my nomination. If confirmed, I look forward to working with you and your staff. I would be happy to answer any questions that you have.

Thank you.

Senator ENZI. Thank you very much. Mr. McCormick.

**STATEMENT OF DAVID H. McCORMICK, OF PENNSYLVANIA, TO BE UNDER SECRETARY FOR EXPORT ADMINISTRATION U.S. DEPARTMENT OF COMMERCE**

Mr. MCCORMICK. Thank you, Mr. Chairman.

It is a great honor for me to be here today as the President's nominee for the position of Under Secretary of Commerce for Export Administration. I thank the President and Secretary Gutierrez for their confidence and trust. I would also like to thank my wife, Amy Richardson, and our three young children for their ongoing support and dedication and good behavior up until this point.

As its name suggests, the Commerce Department's Bureau of Industry and Security, which I would lead as Under Secretary, operates at the intersection of issues involving industry and national security. The Bureau's primary mission is administering and enforcing U.S. dual-use export controls, but its responsibilities go far beyond that. Across a wide range of activities from ensuring U.S. industry compliance with international arms control treaties to monitoring the health for our own defense industrial base, from implementing the Defense Priorities Allocation System to spearheading ongoing high technology cooperation talks with India, the Bureau's central objective remains the same: Establishing a strong foundation of security upon which U.S. exports can grow and U.S. industry prosper.

As the former CEO of a global technology company, I understand very personally the challenges U.S. companies face in maintaining competitiveness and negotiating their way through an ever-changing regulatory environment. I recognize, too, that both U.S. prosperity and security in the longer-run depend on Government's ability to minimize the burdens it places on industry, creating an economic climate where businesses can prosper.

At the same time, as a former soldier and concerned American, I also fully appreciate the critical importance of protecting the country's security by ensuring that our sensitive technologies do not fall into the wrong hands. Our national nightmare on September 11 made all too clear that these sensitive technologies in the hands of our adversaries, or even potential adversaries, abroad pose a devastating and unacceptable threat to us at home.

If confirmed, I am committed to pursuing policies that advance these complementary objectives, enhanced security and expanded trade. Indeed, in today's rapidly changing, technology-driven environment, one cannot be achieved without the other. I am devoted also to bringing focused leadership and management to the Bureau of Industry and Security and acting as a conscientious steward of the valuable taxpayer resources that would be entrusted to this office.

I would like to conclude my remarks by thanking the Committee for its prompt consideration of my nomination and reiterating my commitment to work closely with you. I am happy to answer any questions you may have at this time.

Thank you.

Senator ENZI. Thank you very much, and I do want to express my deep appreciation for the brevity of your statements. Your full statement will be a part of the record, and that gives us a chance to hopefully ask a few questions before we get interrupted by a vote again. Sometimes, those votes seem like a huge nuisance, but apparently, it is our most important job, so we have to leave for those.

I will begin with Mr. Lavin. One important Commerce Department function involves joint export trade, whereby U.S. exporters can cooperatively access foreign markets that might be out of reach to them individually, and joint export trade is facilitated by antitrust safe harbors, including the Webb-Pomerine Act and the Export Trading Company Act, which is administered by Commerce. Export associations using these provisions account for many billions of dollars worth of export trade annually, supporting good jobs across a wide range of manufacturing and foreign service sectors in the national economy.

So amazingly, at a time when the U.S. trade deficit is a subject of huge public concern, and we need all the export successes we can possibly muster, a blue ribbon panel of antitrust scholars, the Antitrust Modernization Commission, has decided to study whether these successful export trade measures should be repealed.

I am aware that the Under Secretary for International Trade, Grant Aldonas, wrote to the Antitrust Modernization Commission in March affirming Commerce's support for joint export trade and for the current statutory work. I would like for you to share your views on that to see how similar or dissimilar they might be.

Mr. LAVIN. Thank you very much, Mr. Chairman.

I very much support the position held by my predecessor that the establishment of the Joint Export Trade Mechanism gives our exports flexibility to work together in the international arena that allows them to compete more effectively. To the extent that the antitrust concerns are valid, I think that we should remind ourselves that it is an issue which would apply in the domestic U.S. market, but when we are looking at a more competitive international market, the ability of particularly the small and medium-sized enterprises to work together is something we should find ways to facilitate and not impede.

Senator ENZI. Thank you.

Mr. Hernandez, if confirmed, you will be the lead office for trade promotion for the Federal Government, a mission near and dear to

the heart of this Committee, of course. Do you believe that the current structure of the Federal Government for trade promotion is appropriate? Are there areas for improvement? To the extent there are areas where the structure and the process could be improved, could you provide the Committee with some sense of how you would go about that?

Mr. HERNANDEZ. Yes, sir.

Mr. Chairman, I think that there are mechanisms in place at this point to make sure that those agencies that work on trade are united, and that is through the Trade Promotion Coordinating Committee, which is led by the Department of Commerce and in many ways affords us the opportunity to leverage our resources so that we have seamless assistance to companies that need assistance overseas.

There are units within SBA, within Ex-Im Bank, within the Departments of Agriculture, Commerce, and State, and we work together to help, in many ways, companies do better business abroad. So, I think there is a mechanism for us to help companies, for those who do trade, as far as finding better ways. I think I will be actively engaged in working with these agencies to figure out how we can find better opportunities for businesses to do commerce overseas.

Senator ENZI. Thank you.

Mr. Jackson, a Department of Commerce Inspector General report stated the Bureau of Industry and Security's level of cooperation with other Federal agencies, including the U.S. Attorney's office, the Department of Homeland Security, the FBI, and other agencies was deficient. It has also noted that cooperation with the intelligence community is similarly lacking. Can you assure the Committee that you are prepared to work closely with other agencies of the Federal Government, including law enforcement agencies, in the best interests of the national security of the United States? And any suggestions you have for ways that it can be done?

Mr. JACKSON. Thank you, Senator, for that question. It is a very important one, and I am certainly fully prepared to work broadly with other law enforcement agencies as well as the intelligence community in my current role.

I had the experience of doing so both as a line prosecutor in the U.S. Attorney's office here, where I worked cases that involved task forces from various agencies, Federal and local, and also had that responsibility at a higher level when I was the Executive Assistant U.S. Attorney for Operations, the number three position, and coordinated our law enforcement efforts at a higher policy level. So I know the importance of coordination and the impact that it can bring to a law enforcement position, and I certainly look forward to that aspect of the job.

Senator ENZI. Thank you.

Mr. McCormick, the Department of Commerce has made significant progress on regulations that help streamline the licensing process for technology and other goods, but there is still work to do, and I know the Department needs the statutory authority to improve law enforcement procedures and collect increased penalties.

This year, at a meeting of the President's Export Council, Commerce Secretary Gutierrez and Acting Under Secretary Peter Lichtenbaum both shared my interest in getting an EAA bill done. I am committed to getting the job done. Could you please explain the current efforts of the Department in streamlining the licensing process for technology and what you need from the Congress in the near future to help you get the job done?

Mr. MCCORMICK. Thank you, Senator, and thank you for your leadership on this issue, and thank you to Senator Shelby and others for their leadership on this issue as well.

I would say first that you are right: There has been real progress made in terms of streamlining the licensing process. If you look at the 2004 data, which I suspect you are familiar with, the amount of licenses that have been processed with roughly the same resources have increased by about 25 percent, while the cycle time has gone down by about 20 percent.

So there has definitely been a focus on productivity. With that said, there is much more to be done, and one critical component of that would be a renewal of an EAA that has broad support and broad consensus. And that would put, clearly, the Bureau of Industry and Security in a position to more forcefully and effectively execute its mission of managing, overseeing, and enforcing the export of dual-use items.

Senator ENZI. Thank you.

The Department of Commerce is working by the interagency process on a number of proposed rules in relation to the export controls, and because this is the Committee of jurisdiction for those rules, we hope to continue to be consulted on the Agency's process and look forward to working with you on that.

Mr. Lavin, you authored a very insightful article in *Foreign Affairs* in 1994 that described the Chinese approach to international negotiations and how that approach differs from that of the United States. You have since served as U.S. Ambassador to Singapore, from which vantage point you have been able to observe United States-China negotiations for the past several years. Can you offer the Committee some insight on whether the disparities in negotiating strategies have been adequately addressed by the United States? What recommendations would you make to improve the United States posture in bilateral negotiations with China?

Mr. LAVIN. Thank you, Mr. Chairman.

As you know, we were able to successfully conclude a United States-Singapore Free Trade Agreement about 18 months ago, and that provided a very interesting contrast to some of my work both in government and in banking in China. Singapore is a much more advanced society economically, comes from a British colonial tradition and uses British corporate law. It is a much more rules-based society and has a firm philosophical commitment to open trade.

China, again, all those criteria I think suffers from the fact that they did not have a strong inherited legal tradition. It is a much less advanced country economically, although they have seen rapid economic progress. Even though they have moved away from a Marxist economic orientation, there can still be a bureaucratic hangover in that regard in many sectors, which is to say there is

lack of a broad consensus on trade liberalization, although it does tend to dominate.

So, I found trade negotiation with China far more incremental, far more adversarial, and far more protracted. It took an enormous amount of time to gain consensus on a particular point, and it took an enormous amount of time, then, to get to implementation and enforcement with a point, and I think some of what we see in dealing with China is this is what we have when we are dealing with a less advanced economy that does not come from an open market tradition.

I think my first word of advice would be we have to apply resources accordingly. We are simply not going to make the kind of progress in China that we might make with other, more advanced economies, and we have to devote significantly greater resources to try to move ahead. And I think we have to realize the time horizon in building a consensus and trying to move toward an agreement is just going to be longer than it is in market-oriented economies.

Senator ENZI. Thank you. I have been reading *The World is Flat* by Friedman.

Mr. LAVIN. Yes, sir.

Senator ENZI. Hoping kids across the Nation will read that book. It scares the heck out of me.

Mr. LAVIN. It is very well done. It is a new era.

Senator ENZI. It should increase a lot of interest in science, technology, and commerce and the way it is going to be in the global economy.

So, I appreciate the answers from all of you, and I look forward to your confirmation and working with you. The record, of course, will remain open subject to call of the Chair with the approval of the Ranking Member so that additional questions can be submitted for your answers in writing if anyone from the Committee desires it. So, I thank everyone for their participation today. This hearing is adjourned.

[Whereupon, at 11:43 a.m., the hearing was adjourned.]

[Prepared statements, biographical sketches of nominees, response to written questions, and additional material supplied for the record follow:]

**PREPARED STATEMENT OF KEITH E. GOTTFRIED**

GENERAL COUNSEL-DESIGNATE,
U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

SEPTEMBER 15, 2005

Chairman Shelby, Senator Sarbanes and distinguished Members of the Committee, my name is Keith Gottfried, and I thank you for giving me the great privilege and honor to appear before this Committee today as it considers my nomination to serve as General Counsel of the U.S. Department of Housing and Urban Development. I know that this is a particularly busy time for the Senate and, accordingly, I am especially grateful to this Committee for expediting the confirmation process for myself and the other nominees present today.

I would like to express my deep gratitude to President Bush and Secretary Jackson for the trust and confidence they have placed in me in putting forward my nomination for this very important position. I am honored by their willingness to entrust me with a leadership position on issues that are of great importance to our Nation and which are of deep interest to me personally. As Secretary Jackson continues to lead HUD in strengthening our Nation's communities, promoting affordable housing, expanding homeownership opportunities for all Americans, particularly low- and moderate-income families, meeting President Bush's goal of at least 5.5 million new minority homeowners before the end of the decade, ending chronic homelessness, vigorously enforcing fair housing, civil rights, and antidiscrimination laws, and, of course, providing housing and other desperately needed relief to the victims of Hurricane Katrina, it will be the honor of a lifetime to serve as his General Counsel.

With your indulgence, I would like to introduce my wife Cindy. It is due to her love and support, and with the grace of God, that I am before you today and it will be with her love and support, and with the grace of God, that, should I be confirmed, I will be able to carry out the important responsibilities that will be before me. I thank her for being my closest adviser and my best friend.

I would also like to introduce my mother Rosalie from whom I first learned the benefits that attach to homeownership and being a vested member of a community, and who has sacrificed so much so that I would have the opportunity to pursue my personalized version of the American Dream.

Mr. Chairman, I have been very blessed in my life, the most recent example of that being that my wife and I are expecting the birth of our first child in March. As we anxiously anticipate the day we become parents, my wife and I find ourselves becoming more attentive to how to ensure that our children will have access to the same opportunities that we had.

Over the past two decades, I have had wonderful and enriching career opportunities to work for a number of prestigious organizations, first as an accountant and auditor with the Philadelphia office of Arthur Young & Company, one of the predecessor firms to Ernst and Young LLP, and then later as a lawyer focused on corporate transactions and securities law compliance for two excellent law firms, first, following law school, at Blank Rome LLP in Philadelphia and then, for most of the 1990's, at Skadden, Arps, Slate, Meagher & Flom LLP in New York. During my tenure at Skadden Arps, I counseled clients in a variety of industries on mergers, acquisitions and other corporate transactions aggregating tens of billions of dollars. I also counseled clients with respect to corporate governance issues, securities law compliance, SEC reporting issues, and New York Stock Exchange and Nasdaq compliance. As a function of my securities law compliance work, I practiced extensively before the Securities and Exchange Commission and developed an understanding of, and deep respect for, how regulatory agencies work.

In June 2000, I relocated to Silicon Valley to join Borland Software Corporation as its General Counsel and Chief Legal Officer. Borland is a publicly traded, Nasdaq-listed software development company headquartered in Scotts Valley, California. During my tenure as General Counsel of Borland, I significantly overhauled almost every aspect of the company's worldwide legal function to make it more efficient and responsive to the needs of the company and more in tune with the company's business objectives as well as to have the company serve as a model of state-of-the-art corporate governance and disclosure practices. I also was responsible for overseeing the company's implementation of the necessary systems and processes to comply with the requirements of the Sarbanes-Oxley Act of 2002, which had recently been enacted. As General Counsel of Borland, I strived for the highest levels of transparency and accuracy in all of our public disclosures and communications, whether they were press releases, analyst conference calls, or periodic filings with the SEC. I also strived to create a culture that accorded respect for, and adherence to, the highest standards of ethical conduct. In addition, as General Counsel,

though I am not a litigator by training, I achieved an impressive track record in managing and resolving complex, potentially high-exposure litigation.

I cannot begin to articulate how honored and humbled I am to appear today before this Committee. I come from a very modest upbringing and never did I imagine growing up in Queens, New York that one day I would be nominated by the President of the United States to serve the American people in this position.

I feel very strongly that to those to whom much is given much is expected and that, as a member of a compassionate society, I have a duty to give something back to the Nation that has given me so much. The opportunity to serve as General Counsel of HUD would be a particularly fitting opportunity for me to give something back to our Nation, not only because of my background and experience as a lawyer and as a seasoned legal executive in the private sector, but also because of a deep personal connection that I share with HUD's mission.

In 1967, one year after the birth of HUD and one year after the cornerstone was laid for HUD's current headquarters, the building now known as the Robert C. Weaver Federal Building, my parents purchased their first home in Queens, New York using a modest downpayment and a 30-year, fixed-rate mortgage. When their marriage dissolved some years later, my mother was extremely determined to keep our home—notwithstanding much advice to the contrary that she should sell it and move the family to a much smaller rental apartment. My mother, the daughter of immigrants, had grown up in the Brighton Beach section of Brooklyn, where she shared a one-bedroom apartment with her parents and three siblings, so she knew all too well that this was not the environment she wanted for her family. As a schoolteacher employed by the New York City Board of Education, my mother struggled for many years to keep our home and to remain a member of the "ownership society," often taking on extra class coverage assignments at her school as well as additional work in after-school, weekend, and summer school programs, to be able to continue to make the monthly mortgage payments.

Like President Bush and Secretary Jackson today, my mother recognized the value and benefits of homeownership. She believed, and continues to believe, that homeownership plays an immeasurable contribution to a family's stable living environment. From the time I was an infant until I left home to attend college, I lived in the same home and maintained the same group of friends. I also had numerous surrogate parents among our neighbors and the parents of my friends, something of obvious comfort to a working single parent. Because of my mother's strong determination to remain a homeowner, neither my sister nor I ever had to switch elementary, middle, or high schools. While our home was modest in size, we each had our own bedroom. Not sharing a bedroom meant that I had a place to retreat to each evening after clearing the dinner table, a place where I could focus on my schoolwork in an atmosphere of relative quiet and take advantage of the opportunities afforded to me by the New York City public school system.

I learned from my mother first-hand the benefits of being part of a closely knit community where your neighbors feel like family and where homeownership translates into greater concern for your community and the welfare of your neighbors. In addition to working as a schoolteacher and her numerous ancillary jobs, my mother was an active and concerned member of the community, leading a Girl Scouts troop, tutoring neighborhood children for little or no compensation, and serving as an executive officer of the local chapter of CancerCare, a national, nonprofit organization that provides free, professional support services to anyone affected by cancer.

My mother's home and community continue to be sources of great pride to her. Almost 40 years after purchasing her home, my mother remains deeply active in, and committed to, her community. Just a few weeks ago, she convinced all the neighbors on her block to organize a neighborhood block party so that the "old-timers" and those who more recently had moved onto her block or into the community could get to know each other.

Mr. Chairman, if confirmed, I would embrace the responsibilities and duties of the Office of the General Counsel with an abundance of enthusiasm, vigor, and dedication. Over the past few weeks, through a variety of briefings, I have had the opportunity to familiarize myself with some of the responsibilities of the Office of General Counsel, the myriad of statutes and regulations that apply to the programs that HUD administers or has enforcement authority over, and how the Office of General Counsel ensures that HUD achieves its mission consistent with applicable law and Congressional intent. To date, I have been extremely impressed with the caliber and dedication of all the staff members in the Office of General Counsel that I have had the privilege of meeting. In particular, because HUD has been without a General Counsel since May 2004, I want to acknowledge and thank Kathleen Koch who has served as the Acting General Counsel since that time.

I am also extremely committed to assisting Secretary Jackson in his ongoing efforts to make HUD a more effective, efficient, and responsive institution, one that will operate in accordance with the highest ethical and professional standards, both for its employees and for its program participants. Additionally, I am committed to assisting Secretary Jackson in his ongoing efforts to create a culture that inspires confidence in the integrity of HUD's programs on Capitol Hill and with all of our program participants and beneficiaries. I am very respectful of the independence of the Government Accountability Office and the HUD Inspector General. I also appreciate the valuable oversight functions that they perform. If confirmed, I will dedicate myself to building on the constructive working relationships that have developed during the course of the current Administration between the Office of the General Counsel and both the GAO and the HUD IG. I would also seek to be a catalyst for the development of constructive working relationships between the Office of the General Counsel and the Members of this Committee, as well as other Members of Congress.

Mr. Chairman and Members of the Committee, the Office of General Counsel at HUD is a great honor, a great responsibility, and a tremendous challenge. If confirmed, I look forward to working in a bipartisan manner with this Committee and other Members of Congress as we meet the challenges before us. As has been noted a number of times in prior hearings of this Committee, the mission at HUD is neither a Democratic nor a Republican mission, but rather a mission on behalf of all Americans.

At this time, Mr. Chairman, I stand ready to answer any questions or comments that you or the other Members of the Committee may have. I thank the Members of the Committee for both the honor and the opportunity to appear before them today.

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## PREPARED STATEMENT OF KIM KENDRICK

ASSISTANT SECRETARY-DESIGNATE,

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

SEPTEMBER 15, 2005

Chairman Shelby, Ranking Member Sarbanes, and distinguished Members of the Committee, I appreciate your consideration today, and welcome this opportunity to share my vision for the future of the Office of Fair Housing and Equal Opportunity at the Department of Housing and Urban Development.

I would first like to thank President Bush for nominating me to serve as an Assistant Secretary at HUD. I also appreciate Secretary Jackson's strong support of my nomination and his encouragement during this process. This is truly an immense honor.

Before I go any further, I want to recognize some of the people who have been important in my life and are here with me today.

First, I must acknowledge the most important sources of encouragement and support in my life: My parents Louis and Gloria Kendrick and my two sisters, Toni and Jerri, my nephew Louis, and one of my three godchildren, Olivia.

After I heard that the President had nominated me, I immediately called my parents to relay the good news. My father's first response was, "Aren't you glad you had great parents?" As a matter of fact, I am. I can honestly say that without their guidance, sacrifice, and love, I would not be sitting before you today, and I want to publicly thank them for all they have done for me.

I feel blessed to have a number of friends, former colleagues, fellow church members, associates from the Greater Washington Area Chapter, Women Lawyers Division, National Bar Association (GWAC) and members of my sorority, Alpha Kappa Alpha, all here supporting me today.

I grew up in the Hill district of Pittsburgh. And although it was the most economically depressed part of the city, my home-life was rich—so rich that I had no idea other people considered us low income.

One of the reasons I never felt poor was because my family always had a house we could call our own—not an apartment or a rented house, but a home with a mortgage in our name. My parents created a home atmosphere where my sisters and I felt safe and free—free to become the women we are today. My older sister, Toni, is an educator. She is a principal in an inner-city middle school, where every day she has to deal with more than just educating her students. Jerri, my younger sister, is an engineer. When Jerri graduated from Carnegie Mellon University, there were few African-American women in her class and in her field of study. Today, she

is one of a few African-American women program managers who work for Lockheed Martin.

While our successes may not be solely related to the fact that our parents were homeowners, it did not hurt. President Bush understands the power of homeownership and has worked to expand it to new segments of the population. I am proud that this Administration has created 2.3 million new minority homeowners since June 2002, and will create in excess of 2.2 million more by 2010.

I want to tell you a little about my professional history. I first began working with HUD in the winter of 1987, when I took a job as a trial attorney for the Department. For 8 years, I made certain that HUD program offices not only followed the Nation's housing laws, but also helped reinforce the housing laws through litigation, including the fair housing laws.

In 1995, I became the General Counsel for the District of Columbia Housing Authority. In that position I was responsible for defending the Housing Authority against complaints from public housing residents and from complaints from HUD. I defended the Housing Authority against fair housing complaints and accusations. I am grateful to have had the opportunity to examine the fair housing question from both sides, and I fully understand the responsibilities and challenges associated with enforcing the Fair Housing Act.

I also have experience managing a staff and running a large organization. For almost 4 years, I was responsible for managing and operating 3,000 units at the Columbia Housing Authority. My time at the DC Housing Authority allowed me to move beyond the legal field to an area where I could address the challenges facing low-income persons searching for housing. This experience made very clear to me that having a home is a critical step to achieving economic equality.

The Rev. Dr. Martin Luther King was assassinated on April 4, 1968, and the Fair Housing Act was enacted on April 11, 1968. The significance of the two events cannot be ignored. His death brought to the forefront of this country the severe inequities in its social fabric. Dr. King spoke often about the inequities in housing opportunities between whites and other minorities.

Unfortunately, Dr. King did not live to see the enactment of the Fair Housing Act or to see how fair housing in this country has led to a record number of minority homeowners. As the President's nominee for Assistant Secretary for Fair Housing and Equal Opportunity, I have been given an opportunity few people before me enjoyed: To ensure equal access to housing for all Americans.

HUD's Office of Fair Housing and Equal Opportunity has initiated a number of actions in the last several years. For example, HUD, under the leadership of Secretary Jackson, recently published a study that took a look at how persons with disabilities are treated in the housing rental market. The results of the study show that people with disabilities experience more discrimination when seeking rental housing than do racial minorities. This is a problem that demands immediate attention and, if I am confirmed, I can promise it will be one of my highest priorities.

I would also take a look at the manner in which HUD's fair housing complaint process works. As it stands right now, HUD may be unintentionally discouraging some people from filing complaints because of overly confusing paperwork and procedures. We need a system that is complainant-friendly and quick to process violation claims: A system that can work without the involvement of lawyers and the inevitable delays that can bring. When we accomplish this, we will be able to return to the business of improving people's lives.

Last, it is becoming clear that predatory lending is on the rise. In order to affect widespread change, we need to move beyond prosecution and do a better job educating borrowers and lenders about this kind of lending and its consequences. If we are successful, we will be able to stop predatory lending before it starts.

If confirmed, I promise to diligently and enthusiastically carry out the duties for which I have been nominated, because I cannot think of a greater honor than to continue serving this Nation.

As a poor girl growing up in Pittsburgh, I never imagined I would one day be sitting in a confirmation hearing before the U.S. Senate. This kind of personal journey is only possible in the United States, and it makes me immensely proud to be an American.

Again, thank you very much for your time, and I welcome any questions you might have.

**PREPARED STATEMENT OF FRANKLIN L. LAVIN**

UNDER SECRETARY-DESIGNATE, U.S. DEPARTMENT OF COMMERCE

SEPTEMBER 15, 2005

Mr. Chairman, Senator Sarbanes, and distinguished Members of the Committee, thank you for the opportunity to appear here today.

I want to thank Senator DeWine for his gracious introduction. I admire his service, and I am proud that he represents my home State.

I would also like to recognize my fellow Commerce nominees here on the panel, and if confirmed, I look forward to working with David McCormick, Israel Hernandez, and Darryl Jackson.

Mr. Chairman, it has been a privilege to serve the President and the American people as the U.S. Ambassador to the Republic of Singapore. I am honored that President Bush and Secretary Gutierrez have asked me to serve as Under Secretary of Commerce for International Trade.

If confirmed, I will be guided by three principles. First, U.S. companies can compete internationally. I firmly believe that there are tremendous export opportunities for U.S. companies, large and small. We produce world-class goods and services, and we can win in the global marketplace. The second principle is that we must use all of the tools at our disposal to ensure that American businesses face fair competition. We must enforce the rules. And we must hold our trading partners accountable to the agreements they have signed. Third, cooperation between the legislative branch and ITA is essential for a constructive international trade policy. I look forward to working with the Senate on the vital issues we face. Let me elaborate on these principles.

U.S. businesses are capable of competing and winning in the global market. Americans are resourceful, innovative, and quite nimble at adapting to change. We are living in an era of economic transition, but I have no doubt that American companies can successfully grapple with this challenge. Advances in technology allow even the smallest U.S. firms the opportunity to do business outside our borders.

I have spent a number of years in the public and private sectors helping U.S. companies navigate the international marketplace. I firmly believe that there are tremendous export opportunities for all U.S. companies, large and small. We must use all of the tools at our disposal to ensure that American businesses face fair competition. We must enforce the rules. And we must hold our trading partners accountable to the agreements they have signed.

Government must be a cooperating partner, opening markets and enforcing the rules that govern free trade. The Office of the U.S. Trade Representative negotiates trade agreements on behalf of all Americans. ITA then oversees compliance with, and enforcement of, all trade agreements. ITA is involved in every step of the implementation process.

The Senate is uniquely positioned to know first-hand about trade problems encountered by constituent companies. You have my commitment that ITA will work closely with Congress and remain attuned to any concerns about ITA-related matters. If confirmed, I will maintain an on-going dialogue with the Senate about trade and attendant commercial issues.

As an example of these principles, I would like to cite the Singapore FTA. It committed Singapore to maximum liberalization for bilateral trade in goods and services. It included state-of-the-art commitments in e-commerce, customs cooperation, transparency, and the protection of intellectual property rights, and it incorporated a constructive model for workforce and environmental matters. Since this FTA went into effect in 2004, U.S. exports have grown at a run-rate of almost 30 percent.

In closing, I would like to express my enthusiasm about ITA's critical mission. The men and women of ITA are professional and dedicated. The mission of ITA is to create economic opportunity for American workers and businesses by promoting international trade, opening foreign markets, ensuring compliance with trade laws and agreements, and supporting U.S. commercial interests at home and abroad. The men and women of ITA work around the world to support that mission. I firmly believe that their work has never been more critical to both our economic well-being and our national security. If confirmed, I would be honored to lead them in this endeavor.

Thank you for your time. I would be happy to answer any questions that the Committee may have.

**PREPARED STATEMENT OF ISRAEL HERNANDEZ**

ASSISTANT SECRETARY AND DIRECTOR GENERAL-DESIGNATE
U.S. DEPARTMENT OF COMMERCE

SEPTEMBER 15, 2005

Mr. Chairman, Ranking Member Sarbanes, and distinguished Members of the Committee, thank you for granting me this hearing today. I am humbled and honored to be here as President Bush's nominee for the position of Assistant Secretary for Trade Promotion and Director General of the United States and Foreign Commercial Service. I am also privileged to be here alongside Ambassador Frank Lavin with his nomination to be Under Secretary of the International Trade Administration, Mr. Darryl Jackson to be Assistant Secretary of Commerce, and Mr. David McCormick to be Under Secretary of Commerce for Export Administration.

I would also like to thank President Bush and Secretary Gutierrez for supporting my nomination and note how proud I will be to work under their leadership.

If confirmed, I look forward to working with each of you to ensure America builds on its status as the world's largest exporter.

Although my family was able to attend my hearing before the Commerce, Science, and Transportation Committee, they are unable to attend today's hearing. Instead, they are supporting my sister Veronica who is recovering well from a recent surgery. Even so, many friends and loved ones are here today and I thank them for their support.

Before I expand on the importance of trade and market-oriented economies, I would like to call attention to the Department of Commerce's Hurricane Katrina relief efforts. Although we are involved in many aspects of this effort, Commerce Secretary Gutierrez recently established a nationwide Hurricane Relief Call Center (888–4USADOC or 888–487–2362) to shepherd all private sector in-kind donations. The Department of Commerce will serve as the repository for these contributions and help steer each contribution to families and businesses in need of our help. Phone lines at the Department of Commerce will be staffed by caseworkers from 8 a.m. to 8 p.m. EDT, 7 days a week. By establishing the Call Center, the Department of Commerce has teamed with the White House, Department of Homeland Security, and other agencies involved in the relief and rebuilding effort.

In the 21st century, opening our doors to trade is the surest way to create opportunity for all Americans. Trade is not mere economics. Free and open trade is economic diplomacy, which promotes the spread of ideas, friendships, and the habits of liberty—and ultimately encourages the spread of democracy, economic stability, and stronger partnerships.

I come before this Committee during a unique and transformational moment in history. A time when democracy is taking hold around the world and we are experiencing a great shift in economies around the world.

The pursuit of liberty and new opportunities was a motivating force in bringing our Founding Fathers to this great land, and it is this freedom that has become the foundation for the entrepreneurial spirit embedded in the hearts and minds of the American people.

From the first electric light—to the first flight—to nanotechnology, the entrepreneurial spirit that exists today has created a dynamic and vibrant community of enterprises second to none. Government must create an environment where entrepreneurs and risktakers can realize their dreams.

Giants like Ford and Microsoft were not so long ago small businesses striving to realize the dreams of Henry Ford and Bill Gates. Today, small businesses create 70 percent of new American jobs, employ the majority of American workers, and are responsible for the majority of our Nation's economic output. Small business owners are economic patriots taking risks and pursuing dreams. A vibrant small business sector is necessary for the economic health of our country.

If confirmed, I pledge to define and lead the U.S. and Foreign Commercial Service based on a clear and strategic mission to ensure that small- and medium-sized businesses gain greater access to international markets. I will ensure that the team of specialists within the Service has the tools necessary to anticipate the commercial interests of our American exporters and rapidly adapt on the ground to meet their needs.

The U.S. and Foreign Commercial Service, created by Congress a quarter century ago, does what no other entity in the United States can do—provide a global infrastructure in more than 80 countries and a domestic platform in 109 cities with the exclusive purpose of promoting American goods and services. We ensuring a level export playing field abroad, and in 2004, the volume of those export sales exceeded $26 billion.

The Commercial Service offers end-to-end export solutions helping smaller firms increase profits and lower risks in accessing markets otherwise difficult to enter. The worldwide network of trade specialists provides export counseling, customized market research, trade leads, and advocacy to help companies compete in global markets. This worldwide network is essential to today's market economy in which 95 percent of the world's consumers live outside of the United States.

U.S. exports support millions of American jobs. Approximately 1 of every 5 factory jobs—or 20 percent of all jobs in America's manufacturing sector—depends on exports. Moreover, research shows that workers in jobs supported by exports typically earn wages higher than the national average.

If confirmed, I will serve as a disciplined and accountable steward of the people's money.

I will commit to a thorough assessment of our resources to ensure that the Commercial Service not only meets but also exceeds the highest expectations. I will work to build on the essential relationships with partners at the Federal, State, and local level—such as the Trade Promotion Coordinating Committee (TPCC). The TPCC is a critical interagency task force that leverages scarce resources and provides a "one-stop" shop for American companies wanting to expand and sell the goods and services in foreign markets.

Theodore Roosevelt was right when he said, "[t]he best executive is the one who has sense enough to pick good men to do what he wants done and self-restraint enough to keep from meddling with them while they do it." Organizations are only as good their people, and I will work to foster a diverse environment where the women and men of the Commercial Service continue to grow in discipline and expertise—an environment where our people have the tools and capability to provide the highest quality of service to our constituents—American businesses and their employees, owners, and communities. I will hold myself and the entire organization to a standard of accountability that demands integrity, efficiency, and effectiveness.

I hail from the Southwest Texas border, an area often considered one of the final U.S. frontiers. I am privileged to be here with you today, and my presence is a testament to America's place as a haven for dreamers and doers. My loved ones—my family and my friends—along with our diverse community, represent America's potential, and I wish to thank them for all they have done (and will do) to support me in this important post.

Still today people from around the world see America as a land of freedom and opportunity. The President once said, "[w]e in the United States live in liberty, trade in freedom, and grow in prosperity." We certainly face challenges, but we also face a world of great opportunities, and a choice on how to proceed. If confirmed, I look forward to the challenge of helping ensure that our Nation—and its economy—remains a beacon for the world.

Thank for your time. I will be happy to answer any questions you might have and welcome your comments.

## STATEMENT FOR COMPLETION BY PRESIDENTIAL NOMINEES

**Name:** Gottfried (Last) Keith (First) Evan (Other)

**Position to which nominated:** General Counsel, U.S. Department of Housing and Urban Development

**Date of nomination:** July 27, 2005

**Date of birth:** 11/11/66 (Day) (Month) (Year) **Place of birth:** New York, New York

**Marital Status:** Married **Full name of spouse:** Cindy Goldwasser

**Name and ages of children:** None

**Education:**

| Institution | Dates Attended attended | Degrees Received | Dates of Degrees |
|---|---|---|---|
| Boston University Graduate School of Management Joint Juris Doctor / M.B.A. degree Program | 6/89 – 5/92 (took leave of absence from M.B.A. portion of joint J.D. / M.B.A. program from 5/92 to 5/95) | M.B.A. degree, high honors | 9/95 |
| Boston University School of Law Joint Juris Doctor / M.B.A. degree Program | 9/89 – 5/92 | Juris Doctor degree, cum laude | 5/92 |
| The University of Pennsylvania, The Wharton School | 9/83- 5/87 | Bachelor of Science Degree in Economics (Concentration in Accounting) | 5/87 May 1987 |
| Harvard University | 6/82 – 8/82 | Summer Program (coursework in Computer Software Programming and Journalism) | N/A |

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

Law School:
- Edward F. Hennessey Distinguished Scholar of Law (Top 25 students in third-year class) (1992)
- G. Joseph Tauro Scholar of Law (Top 25% of first-year section) (1990)

Graduate Business School:
- Elected to Member (1995)

Listing Inclusions:
- Who's Who in America
- Who's Who in American Law

**Memberships: List below all memberships and offices held in professional, fraternal, business, scholarly, civic, charitable and other organizations.**

| Organization | Offices held (if any) attended | Dates* |
|---|---|---|
| Silicon Valley Association of General Counsel | None | 2000 – 2003 |
| American Corporate Counsel Association | None | 2000 – Present |
| American Society of Corporate Secretaries (n/k/a The Society of Corporate Governance Professionals) | None | 2000 – Present |
| American Bar Association | None | 1992 – 2004 |
| Business Software Alliance (BSA) | Board Member | 2001 – 2004 |
| Software and Information Industry Association (SIIA) | Member, Government Affairs Council | 2000 – 2003 |

*Dates Approximate

**Employment record:**
**name of employment, location of work, and inclusive dates of employment.**

| Title | Employer | Location | Dates |
|---|---|---|---|
| Senior Vice President - Corporate Affairs and Special Advisor to the CEO | Borland Software Corporation | Scotts Valley, CA & Cupertino, CA | October 2003 - April 2004 |
| Senior Vice President, General Counsel, Corporate Secretary and Chief Legal Officer | Borland Software Corporation | Scotts Valley, CA & Cupertino, CA | June 2000 – October 2003 |
| Corporate Associate | Skadden, Arps, Slate, Meagher & Flom LLP | New York, NY | February 1994 - June 2000 |
| Corporate Associate | Blank Rome LLP | Philadelphia, PA | August 1992 - January 1994 |
| Staff Accountant / Auditor | Arthur Young & Company (N/K/A Ernst & Young LLP) | Berwyn, PA & Philadelphia, PA | June 1987 - June 1989 |
| Internal Audit Intern | Metropolitan Transportation Authority Of The State Of New York (MTA) | New York, NY | Summers 1985, 1986 |

**Government experience: List any experience in or direct association with Federal, State, or local governments, including any advisory, consultative, honorary or other part time service or positions.**

5/03 – Present Member, U.S. Department of Commerce Industry Trade Advisory Committee, jointly appointed by U.S. Secretary of Commerce and U.S. Trade Representative.

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

"Is It Time to Move On? 14 Questions To Ask Yourself About Your Career," *ACC Docket,* Vol. 23, No. 4(April 2005), pp. 79-91

**Political Affiliations and activities:**
**parties or**
**election committees during the last 10 years.**

Member, Finance Committee (California), Bush-Cheney '04 Presidential Campaign, 2003 - 2004

Member, Finance Committee, Rosario Marin for U.S. Senate '04 Campaign, 2003 - 2004

Host Committee, Luncheon in Honor of President George W. Bush, San Francisco, CA, June 2003

Host Committee, Luncheon in Honor of President George W. Bush, Fresno, CA, October 2003

Attorney-Observer, Bush-Cheney '04 Presidential Campaign, Philadelphia, PA, Election Day 2004

Host Committee, Breakfast in Honor of Speaker of the House, J. Dennis Hastert (R. Illinois), Menlo Park, CA, August 15, 2003

Host Committee, Luncheon in Honor of U.S. Senator John Ensign (R. Nevada), Menlo Park, CA, January 10, 2005

Host Committee, Breakfast in Honor of U.S. Senator John Ensign (R. Nevada), San Jose, CA, February 24, 2005

**Political Contributions: Itemize all political contributions of $500 or more to any individual, campaign organization, political party, political action committee or similar entity during the last eight years and identify specific amounts, dates, and names of recipients.**

| Recipient | Amount | Date |
|---|---|---|
| Bush-Cheney '04 | $2,000 | 6/23/03 |
| Keep our Majority PAC | $1,000 | 9/10/03 |
| John Ensign for U.S. Senate | $500 | 4/2/05 |

**Qualifications: State fully your qualifications to serve in the position to which you have been named. (attach sheet)**

See attached statement

**Future Employment Relationships:**

**1. Indicate whether you will sever all connections with your present employer, business firm, association or organization if you are confirmed by the Senate.**

Yes.

**2. As far as can be foreseen, state whether you have any plans after completing government service to resume employment, affiliation or practice with your previous employer, business firm, association or organization.**

I have no plans to resume employment, affiliation or practice with any previous employer, business firm, association or organization after completing my government service.

**3. Has anybody made you a commitment to a job after you leave government?**

No.

**4. Do you expect to serve the full term for which you have been appointed?**

Yes.

**Potential Conflicts of Interest:**

**1. Describe any financial arrangements or deferred compensation agreements or other continuing dealings with business associates, clients or customers who will be affected by policies which you will influence in the position to which you have been nominated.**

None.

**2. List any investments, obligations, liabilities, or other relationships which might involve potential conflicts of interest with the position to which you have been nominated.**

See Attached Appendices A, B and C.

**3. Describe any business relationship, dealing or financial transaction (other than tax paying) which you have had during the last 10 years with the Federal Government, whether for yourself, on behalf of a client, or acting as an agent, that might in any way constitute or result in a possible conflict of interest with the position to which you have been nominated.**

None.

**4. List any lobbying activity during the past ten years in which you have engaged in for the purpose of directly or indirectly influencing the passage, defeat or modification of any legislation at the national level of government or affecting the administration and execution of national law or public policy.**

I testified before the U.S. House of Representative, Subcommittee on Trade of the Committee on Ways and Means, on June 10, 2003, in support of pasage of the U.S. Bilateral Free Trade Agreements with Chile and Singapore. ("Implementation of U.S. Bilateral Free Trade Agreements with Chile and Singapore," in Hearings Before the Subcommittee on Trade of the Committee on Ways and Means, U.S. House of Representatives, One Hundred Eighth Congress, June 10, 2003).

**5. Explain how you will resolve any conflict of interest that may be disclosed by your responses to the items above.**

Pursuant to my Ethics Agreement dated July 28, 2005 with the Office of General Counsel at HUD, in order to avoid a potential conflict of interest under 18 U.S.C. § 208, within 90 days of my confirmation for the position of General Counsel of the U.S. Department of Housing and Urban Development, I agree to divest my ownership of stock in the companies listed on Appendix A hereto.

I also understand that my ownership of stock in the companies listed on Appendix B is a prohibited financial interest under HUD's Supplemental Standards of Ethical Conduct regulation at 5 C.F.R. § 7501.106(c)(1). Therefore, within 90 days of my confirmation, I will divest my holdings in these companies. Until these transactions are complete, pursuant to 18 U.S.C.§ 208(a), I will recuse myself and not participate personally and substantially in any particular matter that will have a direct and predictable effect on the financial interests of these entities, unless I obtain a written waiver or qualify for a regulatory exemption.

In addition, I understand that my ownership of the stocks listed in Appendix C present a potential conflict of interest under 18 U.S.C. § 208(a), although it has been determined that it is not necessary at this time for me to divest these interests. I will not participate in any particular matter that will have a direct and predictable effect on the financial interests of the entities listed in Appendix C, unless I first obtain a written waiver or qualify for a regulatory exemption.

In addition, I am currently serving as a representative member, in my private capacity, on the U.S. Department of Commerce Industry Trade Advisory Committee (ITAC) on Information and Communications Technology, Services and Electronic Commerce. I agree to resign from my position with such ITAC upon my confirmation.

A copy of my Ethics Agreement is attached.

**Civil, criminal and investigatory actions:**

**1. Give the full details of any civil or criminal proceeding in which you were a defendant or any inquiry or investigation by a Federal, State, or local agency in which you were the subject of the inquiry or investigation.**

*Federal inquiries or investigations:*

The only federal inquiries or investigations that, to my knowledge, I have been the subject of is the background investigation of me in connection with this nomination.

*Civil Proceedings:*

In connection with my former employment as an executive officer of Borland Software Corporation, I am a defendant in a stockholder class action Dieterich v. Harrer, et al, Case No. 024-N, filed against the former directors of Starbase Software Corporation (a wholly owned subsidiary of Borland Software Corporation) in Chancery Court of the State of Delaware, alleging breach of fiduciary duties by the former directors of Starbase. The following is a brief summary of the case extracted from the Annual Report on Form 10-K filed by Borland Software Corporation with the U.S. Securities and Exchange Commission on March 30, 2005.

"On November 27, 2002, a stockholder class action and derivative lawsuit, Dieterich v. Harrer, et al., Case No. 02CC00350, was filed against Starbase Corporation, or Starbase, and five former directors of Starbase in the Superior Court of the State of California for Orange County, claiming that the former directors had breached fiduciary duties owed to Starbase and stockholders of Starbase. We are paying the costs of defending this litigation pursuant to indemnification obligations under the merger agreement relating to our acquisition of Starbase. Following a series of motions, the case was dismissed without prejudice on August 20, 2003.

On October 28, 2003, a stockholder class action relating to the same matter, Dieterich v. Harrer, et al, Case No. 024-N, was filed against the former directors of Starbase in Chancery Court of the State of Delaware, alleging breach of fiduciary duties by the former directors of Starbase. The lawsuit also named as defendants Borland, Dale L. Fuller, Keith E. Gottfried, and the following former executive officers of Borland: Frederick A. Ball, and Doug Barre. Defendants moved to dismiss and in August 2004, the Chancery Court granted in part and denied in part the motion to dismiss. Discovery has commenced and there is no date set for trial. "

**2. Give the full details of any proceeding, inquiry or investigation by any professional association including any bar association in which you were the subject of the proceeding, inquiry or investigation.**

None

**Statement of Qualifications**
**Keith E. Gottfried**

**Nominee to the position of**
**General Counsel of**
**the U.S. Department of Housing and Urban Development**

I am humbled and honored to be the choice of President Bush and Secretary Jackson to serve as General Counsel for the U.S. Department of Housing and Urban Development. If confirmed, I look forward to being part of the team at HUD that will work with this Committee to address the housing and economic development needs in our nation's communities.

I am a seasoned legal executive, most recently serving as Senior Vice President, General Counsel, Corporate Secretary and Chief Legal Officer for Borland Software Corporation, a publicly-held global provider of software development solutions.

After having represented Borland as its outside counsel, I joined the company's executive management team in June 2000 as Senior Vice President, General Counsel, Corporate Secretary and Chief Legal Officer. In this position, I reported to the Chief Executive Officer and was responsible for all aspects of the company's worldwide legal function including, but not limited to, managing the company's worldwide legal affairs (including law-related strategic and policy issues), organizing the hiring, development, promotion and disposition of worldwide legal staff, hiring and management of outside counsel, software licensing, commercial contracts, corporate governance, matters pertaining to the Board of Directors, SEC and Nasdaq Stock Market compliance and reporting requirements, risk management, patent prosecution, strategic partnerships, mergers and acquisitions, equity investments, insurance, trademark prosecution, litigation and compliance with export regulations. I also served as the company's Chief Compliance Officer and Chief Corporate Governance Officer.

In my last position at Borland prior to departing the company at the end of April 2004, I served as the Senior Vice President-Corporate Affairs and Special Advisor to the CEO and was responsible for enhancing the company's relationships, domestically and overseas, with industry leaders, potential strategic partners, certain focal sales accounts and domestic and foreign governments. I was also responsible for exploring new revenue generating initiatives. During my tenure as a senior executive at Borland, I played a central and pivotal role in the turnaround of the company and the reinvigoration of the company's global franchise. While at the company, revenue grew by more than two-thirds from approximately $175 million for the 1999 fiscal year to approximately $295 million for the 2003 fiscal year. During that same time period, the number of employees doubled.

While at Borland, I also served as Borland's unofficial "ambassador" to the world, representing

Borland at global conferences like the annual APEC summits and in meetings with governmental leaders around the world in places as varied as Mexico, Brussels, Poland, Czech Republic, India, Singapore, Malaysia, Thailand, China, Hong Kong, Ghana, South Africa, Egypt and Morocco, not to mention Washington, D.C. In addition, accompanied former U.S. Secretary of Commerce Donald L. Evans on trade missions to China, Mexico, Ghana and South Africa and have also accompanied other senior officials of the U.S. Commerce Department on trade missions to Egypt, Morocco, Singapore and Malaysia. I currently serve on a U.S. Department of Commerce Industry Trade Advisory Panel and was jointly appointed to such panel by former U.S. Secretary of Commerce Donald L. Evans and former U.S. Trade Representative Robert B. Zoellick.

In addition, while at Borland, I served as a member of the Board of Directors of the Business Software Alliance (BSA), the leading trade association representing the U.S. software industry. As a member of the BSA board, I spoke at numerous venues on issues of relevance to the software industry and American industry in general such as the need for increased protection overseas for intellectual property rights and the continuing need for a reduction in the barriers to international trade. In June 2003, I testified on behalf of the BSA before the Subcommittee on Trade of the Committee on Ways and Means of the U.S. House of Representatives in support of the free trade agreements between the U.S. and Chile and Singapore. In addition, I was a frequent speaker on the topic of how the software industry can be a force for economic growth in the developing world.

Prior to joining Borland, I was a corporate attorney in the New York office of the law firm Skadden, Arps, Slate, Meagher & Flom LLP for close to seven years. While at Skadden, I was a member of the firm's mergers & acquisitions group and represented U.S. and non-U.S. clients, private and publicly-held, in negotiated transactions, including mergers, stock or asset purchases, as well as contested transactions such as tender offers, proxy fights and other transactions involving changes in corporate control. I also counseled clients with respect to recapitalizations and restructurings, including spin-offs, divestitures and other techniques for enhancing or maximizing stockholder value. Prior to joining Skadden, I was a corporate attorney in the Philadelphia office of the law firm Blank Rome LLP.

I am also a Certified Public Accountant (CPA) and, prior to attending law school, practiced public accounting with the Philadelphia office of Arthur Young & Company, a predecessor firm to Ernst & Young LLP. As a member of that firm's audit practice and entrepreneurial services groups, I advised clients on compliance with Generally Accepted Accounting Principles (GAAP) and applicable SEC accounting standards.
Though San Jose, California has been my home for the past five years, I am a proud native of Queens, New York City, a proud graduate of the New York City public school system and a proud son of a single mother who, until her recent retirement as a school teacher with the NYC Board of Education, worked three jobs for over three decades to send her two children to school

and to pay off the mortgage on the single-family ranch house she purchased in 1967 in the southeastern section of Queens, New York. Accordingly, I understand the benefits that attach to families through home ownership, having lived in the same home in Queens, New York from the time I was a year old until the time I left home at age sixteen to attend college in Philadelphia. As a result of my mom's home ownership, I never had to change from one elementary, middle or high school to another, I had substantially the same group of friends for my entire childhood and I had the benefit of feeling very connected to a community notwithstanding that we lived in one of the world's largest cities. Accordingly, I also understand the benefits that come from being a member of a community and from having close, and longstanding, ties and bonds with your neighbors. My mother's homeownership provided an anchor for our family and a source of stability. It also serves today as the foundation of my mother's financial security and, to a great extent, was the foundation by which I was able to pursue the American dream..

While I believe that I bring considerable skills and experience to this position that I have accumulated over the past two decades, such as my strong organizational skills, my ability to plan and accomplish goals, my ability to take decisive action, my solid analytical skills and legal judgment and acumen, I also bring to the table the background of someone who has spent their entire life living and working in major cities like New York, New York, Philadelphia, Pennsylvania, Boston, Massachusetts and San Jose, California. Accordingly, I understand the need to continuously invest in the redevelopment, renewal and reinvigoration of our nation's urban areas.

I am committed to assisting Secretary Jackson in his efforts to make the U.S. Department of Housing and Urban Development to be a more effective, efficient and responsive institution, one that will operate with the highest ethical and professional standard, both for its employees and for its program participants.

With the confidence and support of Secretary Jackson, I expect to be involved in all aspects of HUD and its program responsibilities. And indeed, as General Counsel, I would expect to provide guidance on the statutes and regulations that govern the operations of HUD to assure that the programs are administered as Congress intended.

I am deeply grateful to President Bush and Secretary Jackson for giving me this opportunity. I am honored and humbled by their willingness to entrust me with a leadership position on issues that are of great importance to our nation. If confirmed by the Senate, I look forward to working with the outstanding team that they have assembled at HUD, with the members of this Committee and others in fulfilling the duties and responsibilities of the Office of General Counsel of the U.S. Department of Housing and Urban Development.

**CURRICULUM VITAE OF**
**KEITH E. GOTTFRIED**

**PROFESSIONAL BACKGROUND:**

**BORLAND SOFTWARE CORPORATION** **Scotts Valley, CA & Cupertino, CA**
**Senior Vice President - Corporate Affairs and**
**Special Advisor to the CEO** **October 2003 - April 2004**
Served as the senior executive responsible for planning and directing all aspects of company's corporate affairs efforts worldwide. In this role, I was a member of the company's executive leadership team and reported to the CEO and was responsible for enhancing the company's relationships, domestically and overseas, with industry leaders, potential strategic partners, certain focal sales accounts, competitors, domestic and foreign government leaders, lobbyists and trade associations. I was also responsible for exploring new revenue generating initiatives that would leverage the company's existing assets.

**Senior Vice President, General Counsel,**
**Corporate Secretary and Chief Legal Officer** **June 2000 – October 2003**
After representing Borland as its outside counsel and successfully extricating the company from an abandoned transaction with a potential strategic partner and related litigation, I was hired as a member of the executive management team to manage the company's global legal function and to build and manage the company's legal department. As the company's General Counsel and Chief Legal Officer, I reported to the CEO and was responsible for all aspects of the company's worldwide legal function, including, but not limited to, managing the company's worldwide legal affairs (including law-related strategic and policy issues), organizing the hiring, development, promotion and disposition of worldwide legal staff, hiring and management of outside counsel, software licensing, commercial contracts, corporate governance, matters pertaining to the Board of Directors, SEC and Nasdaq Stock Market compliance and reporting requirements, risk management, patent prosecution, strategic partnerships, mergers and acquisitions, equity investments, insurance, trademark prosecution, litigation and compliance with export regulations. I also acted as the company's Chief Compliance Officer and Chief Corporate Governance Officer. I worked closely with all functional areas of the business, including sales, finance, stock administration, public and investor relations, product groups, business development and human resources. I also worked extensively with and/or managed outside legal counsel, investment bankers and external auditors to achieve corporate objectives.

**SKADDEN, ARPS, SLATE, MEAGHER & FLOM LLP** **New York, NY**
**Corporate Associate** **February 1994 - June 2000**
Member of firm's mergers & acquisitions practice group. Practice concentrated in mergers and acquisitions of public and private companies, including members of the Fortune 500 as well as middle-market and emerging companies. Represented U.S. and non-U.S. clients, private and publicly-held, in negotiated transactions, including mergers, stock or asset purchases, as well as contested transactions such as tender offers, proxy fights and other transactions involving changes in corporate control. Also counseled clients with respect to recapitalizations and restructurings, including spin-offs, divestitures and other techniques for enhancing or maximizing stockholder value. Extensive experience with SEC reporting issues, NYSE and Nasdaq compliance, corporate governance issues and advising public company boards in connection with fundamental corporate transactions and contests for corporate control. A schedule of representative transactions is available upon request.

*Industry experience: Computer software and services, semiconductors, telecommunications, consumer products, retail, apparel, diversified manufacturing, energy, healthcare, insurance, financial services, hospitality, transportation, media and entertainment, among others.*

**BLANK ROME LLP** **Philadelphia, PA**
**Corporate Associate** **August 1992 - January 1994**

Joined Blank Rome directly from law school after having served as a summer associate at this firm during the summers of 1990 and 1991. Member of firm's corporate practice group. Practice concentrated in general corporate matters, mergers and acquisitions and securities offerings. Represented issuers and investment banks in connection with initial and follow-on public offerings of equity securities (conducted due diligence and drafted, reviewed and negotiated registration statements, prospectuses, underwriting agreements and related documents). Formed and maintained corporations (drafted and amended organizational documents, by-laws, minutes and written consent actions). Represented private targets and acquirers in mergers and acquisitions (conducted due diligence and drafted, reviewed and negotiated letters of intent, asset and stock purchase agreements, merger agreements, disclosure schedules, employment agreements and related documents). Represented companies in strategic alliance formation (drafted, reviewed and negotiated charter documents, stock purchase agreements, investors' rights agreements, co-sale agreements, employment agreements, voting agreements and related documents).

*Industry experience: Computer software and services, retail, publishing, healthcare, insurance, banking, financial services, hospitality and entertainment, among others.*

**ARTHUR YOUNG & COMPANY**
**(n/k/a ERNST & YOUNG LLP)** **Berwyn, PA & Philadelphia, PA**
**Staff Accountant / Auditor** **June 1987 - June 1989**
Member of firm's audit practice and entrepreneurial services groups. Advised clients on compliance with Generally Accepted Accounting Principles (GAAP) and applicable SEC accounting standards. Prepared audit plans and documented, validated, tested and assessed various internal controls. Made recommendations to improve client internal controls and accounting procedures. Performed compilations, reviews and audits of client accounting records and financial statements. Assisted clients with the preparation of GAAP financial statements and related footnotes. Reviewed client SEC filings. As a member of the firm's casino industry practice group, I compiled numerous analyses of the U.S. casino industry which were periodically circulated by the firm's national office to casino industry executives worldwide.

*Industry experience: Computer software and services, biotechnology, casinos and gaming, lodging, broadcasting, financial services, diversified manufacturing, among others.*

**METROPOLITAN TRANSPORTATION AUTHORITY OF THE STATE OF NEW YORK (MTA)**
**INTERNAL AUDIT DEPARTMENT** **New York, NY**
**Internal Audit Intern** **Summers 1985, 1986**
Assisted in the planning and performance of various financial and operational audits and presented audit findings to management. Developed and implemented software applications to streamline audit process.

**EDUCATION:**

**BOSTON UNIVERSITY GRADUATE SCHOOL OF MANAGEMENT** **Boston, MA**
Masters of Business Administration Degree, high honors **September 1995**
Joint Juris Doctor / M.B.A. Degree Program
*Honors:*
- Elected to Membership in Beta Gamma Sigma National Business School Honor Society (1995)

**BOSTON UNIVERSITY SCHOOL OF LAW** **Boston, MA**
Juris Doctor Degree, cum laude **May 1992**
Joint Juris Doctor / M.B.A. Degree Program
*Honors:*
- Edward F. Hennessey Distinguished Scholar of Law (Top 25 students in third-year class) (1992)
- G. Joseph Tauro Scholar of Law (Top 25% of first-year section) (1990)

**THE UNIVERSITY OF PENNSYLVANIA**

**THE WHARTON SCHOOL** **Philadelphia, PA**
Bachelor of Science Degree in Economics (Concentration in Accounting) **May 1987**

**ADDITIONAL TRAINING AND DEVELOPMENT:**

**BOSTON UNIVERSITY GRADUATE SCHOOL OF MANAGEMENT**
**MANAGEMENT DEVELOPMENT PROGRAM IN JAPAN** **Kobe, Japan**
Completed program in top one percent of program participants **June 1989 – August 1989**

**HARVARD UNIVERSITY** **Cambridge, MA**
Coursework in Computer Software Programming **June 1982 – August 1982**

**STATE BAR ADMISSIONS:**
- State Bar of California (2001)
- State Bar of New York (1995)
- State Bar of Massachusetts (1995)
- State Bar of New Jersey (1992)
- State Bar of Pennsylvania (1992)

**FEDERAL COURT ADMISSIONS:**
- United States Court of Appeals for the Ninth Circuit (2004)
- United States District Court for the Southern District of California (2004)
- United States District Court for the Northern District of California (2002)
- United States District Court for the Eastern District of New York (1995)
- United States District Court for the Southern District of New York (1995)
- United States District Court for the District of New Jersey (1992)
- United States District Court for the Eastern District of Pennsylvania (1992)

**OTHER OCCUPATIONAL LICENSES:**
- Certificate of Public Accountancy from the State of Pennsylvania (1989)

**PROFESSIONAL ASSOCIATIONS:**
- Member, Silicon Valley Association of General Counsel
- Member, American Corporate Counsel Association (ACCA) (and Member, Corporate and Securities Law, Law Department Management and Intellectual Property Committees)
- Member, American Society of Corporate Secretaries (ASCS) (and Member, Corporate Practices Committee)
- Member, American Bar Association & Section on Business Law

**INDUSTRY AFFILIATIONS:**
- Past Member of the Board of Directors of the Business Software Alliance (BSA)
- Past Member of the Government Affairs Council of the Software and Information Industry Association (SIIA)

**PUBLIC COMPANY BOARD MEMBERSHIPS:**
- Member, Board of Directors of Starbase Software Corporation (Nasdaq: SBAS), November 2002 – January 2003

**HONORS AND AWARDS:**
- Silver Award, League of American Communications Professionals Annual Report Competition (2002)
- Elected to Membership in Beta Gamma Sigma National Business School Honor Society (1995)

- Edward F. Hennessey Distinguished Scholar of Law (Top 25 students in third-year class) (1992)
- G. Joseph Tauro Scholar of Law (Top 25% of first-year section) (1990)

**CONGRESSIONAL TESTIMONY:**

- "Implementation of U.S. Bilateral Free Trade Agreements with Chile and Singapore," in Hearings Before the Subcommittee on Trade of the Committee on Ways and Means, U.S. House of Representatives, One Hundred Eighth Congress, June 10, 2003.

**GOVERNMENT AND CIVIC ACTIVITIES:**

- Member, U.S. Department of Commerce Industry Trade Advisory Committee, jointly appointed by U.S. Secretary of Commerce and U.S. Trade Representative.
- Accompanied U.S. Secretary of Commerce on Trade Missions to China (April 2002), Mexico (June 2002), Ghana (November 2002) and South Africa (November 2002).
- Accompanied Assistant U.S. Secretary of Commerce on Trade Missions to China (April 2001), Egypt (May 2003) and Morocco (May 2003).
- Accompanied the Special Counsel to the U.S. Secretary of Commerce on a Trade Mission to Singapore (March 2004).
- Delegate to Asia-Pacific Economic Cooperation (APEC) CEO Summits - Shanghai, China (October 2001), Los Cabos, Mexico (October 2002) and Bangkok, Thailand (October 2003).

**SPEAKING ENGAGEMENTS:**

- "Challenges Facing a Software Company in Doing Business in Mexico," Presented at the Fourth Annual Conference on Mexico, San Jose, California, April 2003.
- "Expanding into Mexico," Presented at the Partnership for Prosperity Conference on Mexico, San Jose, California, June 2003.
- "Challenges Facing a Software Company Expanding into Africa," Presented at the Center for International Trade Development Conference, San Jose, California, November 2003.
- "The Software Industry as a Force for Economic Development," Presented as the Keynote Address at the Asia Tech Summit, New Delhi, India, December 2003.
- "How the U.S. - Singapore Free Trade Agreement Changes the Intellectual Property Rights Regime in Singapore," Presented at a seminar on the U.S. - Singapore Free Trade Agreement, Singapore, December 2003.
- "Protecting Intellectual Property Rights to Enable Tomorrow's Innovation," Presented at the National Center for APEC Business Symposium, Miami, Florida, February 2004.

**PUBLICATIONS:**

- "Is It Time to Move On? 14 Questions To Ask Yourself About Your Career," *ACC Docket,* Vol. 23, No. 4 (April 2005), pp. 79-91

**LISTING INCLUSIONS:**

- Who's Who in America
- Who's Who in American Law

# STATEMENT FOR COMPLETION BY PRESIDENTIAL NOMINEES

**Name:** **Kendrick** **Kim** **n/a**

(Last) (First) (Other)

**Position to which nominated: U.S. Department of Housing and Urban Development– Assistant Secretary for Fair Housing and Equal Opportunity**

**Date of nomination: June 29, 2005**

**Date of birth:** **Place of birth:** Pittsburgh, PA

(Day) (Month) (Year)

**Marital Status:** Single

**Name and ages of children:** none

**Education:**

| Institution | Dates attended | Degrees received | Dates of degrees |
|---|---|---|---|
| University of Pittsburgh – School of Law | 09/78 to 05/81 | JD | May 1981 |
| Bowdoin College (Brunswick, ME) | 09/73 to 05/77 | AB (Sociology) | May 1977 |
| Schenley High School (Pittsburgh, PA) | 09/69 to 06/73 | Diploma | June 1973 |

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

- I have received a number of awards for work performance, service to the community, to my national service sorority, and the National Bar Association.

**Memberships:** List below all memberships and offices held in professional, fraternal, business, sc civic, charitable and other organizations.

| **Organization** | Dates |
|---|---|
| ➤National Bar Association (HQ- Washington, DC) | |
| • Member | 1982-Present |
| ➤Greater Washington Area Chapter, Women Lawyers Division | |
| National Bar Association (Voluntary Bar Association – Washington, DC) | |
| • Board member | 1990-08/2005 |
| • President | 1995-1997 |
| • Member | 1988-Present |

▶ GWAC Foundation (Non-Profit Foundation- Washington, DC)
- Vice President 2003-Present
- Member 1993-Present

▶ Alpha Kappa Alpha Sorority Incorporative (Fraternal Organization – HQ- Chicago, IL)
- Member 1992-Present
- General Counsel – 501 (c) (3) Educational Foundation 1996-1997

▶ S.U.I.T. (Social Investment Club – Washington, DC)
- Partner 1993 – Present

▶ Bunton Memorial CME Church (Washington, DC)
- Member 2000– Present
- Trustee 2000 – Present

▶ Leadership Washington (Washington, DC)
- Member 2002-Present

▶ Charlotte E. Ray – American Inn of Court (Washington, DC)
- Member 1994-2004
-

▶ Washington Council of Lawyers (Washington, DC)
- Board Member 2002-2003

**Employment record:** List below all positions held since college, including the title or description of job, name of employment, location of work, and inclusive dates of employment.

| Employer | Location | Position | Date |
|---|---|---|---|
| U.S. Department of Housing and Urban Development (Office of the Secretary) | Washington, DC | Senior Counselor (Advisor) to the Secretary | 02/04 - Present |
| Covenant House Washington | Washington, DC | General Counsel | 10/02-02/04 |
| District of Columbia Housing Authority | Washington, DC | Regional Administrator<br>Of Counsel<br>General Counsel | 10/98-9/02<br>04/99-9/00<br>11/95-4/99 |
| U.S. Department of Housing and Urban Development (Office of the General Counsel) | Washington, DC | Assistant General Counsel<br>Trial Attorney | 12/90-11/95<br>12/87-12/90 |
| Federal Mine Safety and Health Review Commission | Washington, DC | Attorney-Advisor | 1/84-12/87 |
| Department of Labor Mine Safety & Health Administration (Office of Administrative Law Judges) | Pittsburgh, PA | Law Clerk | 08/82-01/84 |
| Neighborhood Legal Services Association | Pittsburgh, PA | Attorney<br>Law Clerk | 09/81-01/84<br>1980-1981 |
| Mellon Bank, NA | Pittsburgh, PA | Law Clerk<br>Typist | Summer 1979<br>06/77-08/78 |

**Government Experience:**

List any experience in or direct association with Federal, State, or local governments, including any advisory, consultative, honorary or other part time service or positions.

►I have been employed by three federal agencies (U.S. Department of Housing and Urban Development, U.S. Department of Labor (Mine Safety and Health Administration), and the Federal Mine Safety and Health Review Commission). As noted above, I have served as an attorney (or law clerk) to all three federal agencies.

For the **U.S. Department of Labor (DOL)** and the **Federal Mine Safety and Heath Review Commission (FMSHRC)** I provided general legal advice and counsel on health and safety issues related to the Nation's underground coal mines. As an employee for the DOL I worked as a law clerk to an administrative law judge and provided him with general legal research to assist him in determining whether coal miners (claimants) were totally disabled due to pneumoconiosis or whether the death of claimant coal miners were due to pneumoconiosis as described by the Federal Mine Safety and Health Act of 1977. As an attorney with the FMSHRC I provided general legal advice on matters associated with the health and safety of the Nation's underground coal mines, including whether penalties assessed for alleged safety and health violations by coal mine operators were appropriate.

As an attorney for the **U.S. Department of Housing and Urban Development (HUD)**, I have served in several positions. My career at HUD started in the Office of the General Counsel where I worked as a trial attorney responsible for handling complex legal matters for the Department (with or without the assistance of the Department of Justice). A significant case that I handled during that period was a case that was brought against the Department by the homeless advocates. In that case, homeless advocates challenged the Department's authority to sell its single-family foreclosed properties on the open market without first making the properties available to the homeless community under the McKinney Act. The Department was successful in preventing a nationwide Temporary Restraining Order that would have prevented the Department from offering for sale its single-family properties.

After serving the as an attorney for several years, I was promoted to a supervisory attorney position (Assistant General Counsel for Insured Housing and Community Development Litigation). As an Assistant General Counsel, I was responsible for the supervision of a number of trial attorneys in non-routine, nationwide, federal court litigation at both the trial and appellate levels. The matters in litigation were significant matters that challenged HUD programs, policies, and procedures based upon constitutional, statutory, regulatory, or administrative law grounds. During that time, I was also responsible for providing legal advice and counsel to program offices with respect to issues in actual or potential litigation.

Currently, I serve as Senior Counselor to Secretary Alphonso Jackson. In this role I provide advice and counsel to the Secretary on major HUD policies and programs, including Fair Housing and Equal Opportunity. I am also responsible for outreach efforts to constituent groups and elected officials and am involved with developing Departmental positions for dealing with constituent groups and the general public. I have been assigned to serve as the personal

representative of the Secretary (for external and internal purposes) on several HUD task forces, including HUD's internal committees on the Government Sponsored Enterprises (GSEs) Housing Goals Rule, which was effective on January 1, 2005, the Department's Real Estate Settlement Procedures Act (RESPA) Reform Process.

►On the state level, I spent six and one half years working for the **District of Columbia Housing Authority (DCHA).** During my tenure, I served as the General Counsel and as one of three Regional Administrators. In 1995, the DCHA was taken over by the District of Columbia's court system (Superior Court) and placed under a court appointed Receiver. I joined the DCHA in 1995 as its first General Counsel. I reported directly to the Receiver and provided advice and guidance on a broad range of issues, including the Americans with Disabilities Act, the Fair Housing Act, Section 504 of the Rehabilitation Act of 1973, federal public housing laws, procurement and a variety of federal and local personnel laws. Also served as the Agency's Ethics Officer and the liaison to the Attorney General's office, and the United States Attorney's Office for the District of Columbia.

As a Regional Administrator, I was responsible for the administration and management of one-third of DCHA's public housing stock, which included 3,000 public housing units, 15,000 residents and approximately 150 employees. I was also responsible for the preparation, review, and management of a $15 million annual budget. I managed all aspects of the operation; including all human resources, financial, legal procurement, contracting, inventory control, capital improvements, and housing management and maintenance issues. In addition, served on a number of internal committees that were responsible for developing and implementing initiatives regarding performance management, maintenance, and changes required by federal and local statutes and regulations.

**Published Writings:**

List the titles, publishers and dates of books, articles, reports or other published materials you have written.

- **None**

**Political Affiliations and Activities:**

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

- **Member of the Republican Party since 1976**
- **Made telephone calls and home visits for President Bush during 2004 campaign**
- **Made telephone calls during Summer of 2004 for Vincent C. Gray (Democratic candidate for District of Columbia City Council –Ward 7)**

**Political Contributions:**

Itemize all political contributions of $500 or more to any individual, campaign organization, political party, political action committee or similar entity during the last eight years and identify specific amounts, dates, and names of recipients.

**$2,000.00 – Summer 2004 to Bush Cheney Campaign**

**Qualifications:** State fully your qualifications to serve in the position to which you have been named.

▶ Résumé (See Attachment 1)

As Assistant Secretary for Fair Housing and Equal Opportunity, I would be responsible for administering and enforcing major federal legislation that ensures that no person shall be subjected to discrimination because of race, color, religion, sex, handicap, familial status, or national origin in the sale, rental, or advertising of dwellings. In addition to my schooling, my work and personal history have fully prepared me for the task ahead. I would bring a wealth of legal, managerial, program knowledge, and practical experience to this position.

The skills and insights that I gained during my career will serve me well in navigating the federal fair housing laws, helping to bring a sense of confidence to the work performed by staff members, and to help raise the public's awareness of the various Fair Housing Acts, including the Americans With Disabilities Act (ADA) and the Housing for Older Persons Act of 1995 (HOPA).

During my first management position at the U.S. Department of Housing and Urban Development, I learned how to be a firm but fair manager. As the General Counsel of the District of Columbia Housing Authority (DCHA or Housing Authority), I learned to multi-task and to learn on the job. These are skills that would be essential to the Assistant Secretary position here.

As noted above, I was the Housing Authority's first General Counsel; I was responsible for creating an Office of the General Counsel that would be staffed with attorneys and support personnel who would be capable of prosecuting and defending actions of the Housing Authority and/or the Receiver. In addition, I was responsible for the legal defense of the Housing Authority in all areas, including, human resources, procurement, audits, and real estate transactions, such as HOPE VI projects. Further, because the Housing Authority was separated from the City government, its employees were also separated from their Union Contract. As a result, I was responsible for negotiating a new union contract for the new Housing Authority employees. I was also responsible for public safety issues that stemmed from the Housing Authority's police department that was created through local legislation during my tenure. Finally, I was involved with the selection of the Housing Authority's 504/ADA coordinator and with providing the legal review for DCHA's Section 504 plan for its public housing and Section 8 programs.

Since I had helped to defend HUD against several major civil rights cases involving public housing authorities across the Nation, I was well versed in the HUD's public housing rules and the federal fair housing laws. However, because a Receiver and the local court controlled the Housing Authority and a "Control Board" was managing the City, I had a lot to learn and do and I did it.

The attorneys of the Housing Authority, because of the Housing Authority's status as an instrumentality of the District of Columbia Government that can "sue and be sued", report directly to me as General Counsel. Under my direction, the Housing Authority's Office of the General Counsel grew from one attorney to nine attorneys, four paralegals, two legal secretaries, and a librarian. I was then responsible for the supervision of the attorneys in local and federal courts and at administrative matters involving the actions or inactions of the Housing Authority.

There were visible and tangible results from my work as General Counsel, under the leadership of the Receiver, with counsel and advice from the Office of the General Counsel, which I headed, the Housing Authority was able to return to a standard performing housing authority and the receivership order was lifted, all within five years of the original order.

With my other positions I was growing, with the General Counsel's position, I grew. I have grown into the type of leader that would help HUD's Office of Fair Housing and Equal Opportunity.

My current position as Senior Counselor to the Secretary, I have had the opportunity to work closely with all branches of government and with senior officials at the Department. Because I have worked closely with the Secretary and other members of his senior staff, including the former Assistant Secretary. I have a reputation for being a serious and hard worker who works well alone or in groups and someone who has the ability to encourage others to produce results without being a dictator or violating any work place rules. Therefore, if confirmed, I would be able to have a smooth transition into the Fair Housing office and be able to get immediately to work on the Secretary's and the President's priorities.

**Future employment relationships:**

1. Indicate whether you will sever all connections with your present employer, business

- No, my current employer is the U.S. Department of Housing and Urban Development the agency that I have been nominated to serve.

2. As far as can be foreseen, state whether you have any plans after completing government service to resume employment, affiliation or practice with your previous employer, business firm, association or organization.

- No.

3. Has anybody made you a commitment to a job after you leave government?

- No.

4. Do you expect to serve the full term for which you have been appointed?

- Yes.

**Potential conflicts of interest:**

1. Describe any financial arrangements or deferred compensation agreements or other continuing dealings with business associates, clients or customers who will be affected by policies which you will influence in the position to which you have been nominated.

- None.

2. List any investments, obligations, liabilities, or other relationships which might involve potential conflicts of interest with the position to which you have been nominated.

- I currently own 60 shares of Novastar Financial, Inc a real estate investment trust.
- As a partner in an investment club (S.U.I.T. – Sisters Uniting in Investing Today for Tomorrow) with nine other friends, I own one-tenth of 75 shares of Novastar Financial, Inc., a real estate investment trust.
- I am currently the Vice President of a non-profit foundation, GWAC Foundation, which is incorporated in the District of Columbia in 1993. The Foundation received its 501(c)(3) tax-exempt status from the Internal Revenue Service in 1995. The work of the Foundation is performed entirely by volunteers with no paid staff.

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

- None.

4. List any lobbying activity during the past ten years in which you have engaged in for the purpose of directly or indirectly influencing the passage, defeat or modification of any legislation at the national level of government or affecting the administration and execution of national law or public policy.

- None.

5. Explain how you will resolve any conflict of interest that may be disclosed by your responses to the items above.

- If Confirmed, I would agree to take the following actions within 90 days:
  - Divest my personal holdings in Novastar Financial Inc., 90 days of my confirmation. Until divestiture is complete, I would agree not to participate in any particular matter that would have a direct and predictable affect on Novastar Financial Inc.
  - Withdraw from participation, including withdrawing my proportionate share of my financial interest, in a private investment club, if the nine other S.U.I.T. members fail to vote to divest their interest in Novastar Financial.
  - Resign my position as Vice President of the GWAC Foundation, on-profit organization.

**Civil, criminal and investigatory actions:**

1. Give the full details of any civil or criminal proceeding in which you were a defendant or any inquiry or investigation by a Federal, State, or local agency in which you were the subject of the inquiry or investigation.

- During 1998, in the Superior Court of the District of Columbia (DCHA), a disgruntled Section 8 landlord filed a civil action against the District of Columbia Housing Authority and a number of its employees, including me. Notwithstanding the fact that I was DCHA's General Counsel at the time the matter was filed and alleged actions of which he complained were attributable to my legal position, the plaintiff filed the action against me in my personal capacity.
- The plaintiff's action was captioned *Saunders v. U.S. Department of Housing and Urban Development, et al.,* 1:98-cv-02835-RCL
- On November 30, 1998, the case was transferred to U.S. District Court for the District of Columbia.
- On January 25, 1998, the DCHA on my behalf and on behalf of the other DCHA defendants filed a motion to dismiss the case.

- On April 28, 1999, Judge Royce C. Lamberth dismissed the complaint against me and the other DCHA defendants.

- See Attachment 2 - Certified Copy of the Civil Docket Report for the *Saunders* case.

2. Give the full details of any proceeding, inquiry or investigation by any professional association including any bar association in which you were the subject of the proceeding, inquiry or investigation.

- None.

1011 Quincy Street, N.E.
Washington, DC 20017
202.529.0588 Residence
202.438.8611 Cell
kimkendrick418@aol.com

# Kim Kendrick

**Experience**

February 2004– Present
**Senior Counselor to the Secretary**
Secretary Alphonso Jackson
U.S. Department of Housing and Urban Development
452 7th Street, S.W., Washington, DC 20410

Serves as advisor to and representative for Secretary Jackson on substantive Departmental issues. Provides advice and counsel to the Secretary on major HUD programs and policies, e.g., Government Sponsored Enterprises, Real Estate and Settlement Procedures Act, and Homeless Programs. I also serve as the Secretary's "trouble shooter" on issues that arise that need immediate and intense attention. In addition, I represent the interests of the Secretary and the Department on critical issues affecting State and local governments. Responsible for keeping Secretary informed on major litigation that could have a significant impact on the Department's operations or policies. Serves as a member of the Secretary's executive staff wherein I am involved on a daily basis in helping to develop Departmental policies and strategies, especially strategies for dealing with constituent groups, private sector organizations, and governmental officials who are affected by or may have an interest in the Department's programs and positions. This position requires that I report directly to the Secretary.

October 2002 – February 2004
**General Counsel**
Supervisor: Vincent C. Gray, Executive Director
Covenant House Washington
2001 Mississippi Ave., S.E., Washington, DC 20020

Was responsible for the general legal work for Covenant House Washington (CHW), an international non-profit organization, which is committed to protecting and safeguarding homeless, runaway, and at-risk youth. Also served as co-project manager for the pre and post-construction issues associated with a 27,000 sq. ft. community service center that opened in January 2003. As such, was responsible on a daily basis for ensuring that contractor progressed on all deliverables, such as, building access, air flow design correction, exterior site development, including landscaping and grading, and all punch list items that contractor and architect agreed to correct. Was also responsible for drafting requests for proposals for the myriad of services that were required for CHW to operate, e.g., food service, custodial services, and security services. Reviewed documents related to ground lease, furniture rental, and elevator monitoring. Reviewed and provided comments on local legislation that could have an impact on the youth that CHW serve or CHW's operation.

October 1998–September 2002
**Regional Administrator**
Supervisor: Michael Kelly, Executive Director, 202.535.1500
District of Columbia Housing Authority, Washington, D.C.

Was responsible for the administration and management of one-third of the Housing Authority's public housing inventory (Potomac Region), which includes 13 multi-family public housing developments, comprised of approximately 3,000 units of public housing. Was also responsible for approximately 10,000 residents and over 150 employees. Managed all aspects of the operation, including all human resources, financial, legal, procurement, contracting, inventory, capital improvements, and housing management and maintenance issues within the Region. Was responsible for the preparation, review, and management of an approximately $15 million annual budget. Served on a number of Housing Authority committees that were responsible for developing and implementing initiatives regarding performance management, maintenance management, and changes required by federal and local statutes and regulations.

April 1999–September 2000
**Of Counsel**
District of Columbia Housing Authority, Washington, D.C.

Provided legal and policy advice and counsel, on an as-needed basis, to the Receiver of the Housing Authority. Provided advice on variety of issues, including, general litigation, contracts and procurement, human resources, labor negotiations, and federal and local legislation.

November 1995–April 1999
**General Counsel**
District of Columbia Housing Authority, Washington, D.C.

Reported directly to the Receiver of the Housing Authority, David Gilmore. Provided advice and guidance to the Receiver and internal clients on a broad range of issues, including, Pearson v. Kelly (case that caused the Agency to be placed into "Receivership"), public housing laws, Section 8 programs, including HOPE VI Program, legislation, real estate transactions, contracts and procurement, internal and external audits and investigations, public safety matters related to the Housing Authority's police department, employee discipline, labor negotiations, and workforce reorganizations. Also designed and staffed the Housing Authority's Office of the General Counsel and its Office of Risk Management. Was responsible for the supervision of the Assistant General Counsels in local and federal court and administrative matters involving challenges to the actions or inaction of the Housing Authority. Served as the Agency's Ethics Officer and its liaison to the Office of the Corporation Counsel and the United States Attorney's Office for the District of Columbia. Under the leadership of the Receiver, with counsel and advice from the General Counsel, the Housing Authority was removed from the U.S. Department of Housing and Urban Development's "troubled list" during 1998.

April 1991–November 1995
December 1990-April 1991 (Acting)
**Assistant General Counsel for Insured Housing & Community Development Litigation**
U.S. Department of Housing and Urban Development, Washington, D.C.

Responsible for the supervision of trial attorneys in non-routine, nationwide federal court litigation in both trial and appellate courts, involving challenges to HUD programs, policies, and procedures based on constitutional, statutory, regulatory, or administrative law grounds. Also responsible for providing advice and counsel to agency program offices with respect to issues in actual or potential litigation regarding, among other issues, the Federal Housing Administration (FHA) single family and multifamily mortgage insurance programs, and the Community Development Block Grant Program.

December 1987-December 1990
**Trial Attorney**
U.S. Department of Housing and Urban Development, Washington, D.C.

Was responsible for the coordination and preparation of the Department's position in defensive litigation involving HUD programs. Duties included researching and writing, preparation of responsive pleadings and dispositive motions, propounding and responding to discovery requests, negotiating settlement agreements, and preparing and arguing appeals. Was also responsible for individually and jointly (with the U.S. Department of Justice) representing the Department and the Secretary at depositions and hearings on motions.

**Education**

University of Pittsburgh School of Law, Pittsburgh, PA
- **Juris Doctor**

Bowdoin College, Brunswick, ME
- **Bachelor of Arts in Sociology**

**Bar Memberships**

- Commonwealth of Pennsylvania
- District of Columbia
- Supreme Court of United States of America

**Professional/ Service Memberships**

- GWAC Foundation, Inc. (Vice President)
- Bunton Memorial C.M.E. Church (Trustee)
- National Bar Association

CLOSED, JURY, TYPE-E

**U.S. District Court**
**District of Columbia (Washington, DC)**
**CIVIL DOCKET FOR CASE #: 1:98-cv-02835-RCL**
**Internal Use Only**

SAUNDERS v. HUD, et al
Assigned to: Judge Royce C. Lamberth
Demand: $9999000
Cause: 28:1441 Petition for Removal

Date Filed: 11/23/1998
Jury Demand: Both
Nature of Suit: 220 Real Property: Foreclosure
Jurisdiction: U.S. Government Defendant

**Plaintiff**

**NATHAN A. SAUNDERS** represented by **NATHAN A. SAUNDERS**
Apartment 8
615 Alabama Avenue, SE
Washington, DC 20032
(202) 661-5568
Fax: AREA CODE (202)
PRO SE

V.

**Defendant**

**DEPARTMENT OF HOUSING & URBAN DEVELOPMENT**

**Defendant**

**ANDREW M. CUOMO**
*Secretary of Housing & Urban Development*

**Defendant**

United States District Court
For the District of Columbia
A TRUE COPY
NANCY MAYER WHITTINGTON, Clerk
By: Deputy Clerk
7/7/05

DISTRICT OF COLUMBIA represented by **Christine Clare Gallagher**
OFFICE OF CORPORATION COUNSEL, D.C.
441 Fourth Street, NW
6th Floor South
Washington, DC 20001-4600
(202) 727-6295
Fax: 202-727-0431
*LEAD ATTORNEY*
*ATTORNEY TO BE NOTICED*

**Defendant**

**DAVID GILMORE**
*Receiver, D.C. Housing Authority*
represented by **Eilene Brown**
DISTRICT OF COLUMBIA HOUSING AUTHORITY
1133 North Capitol Street, NE
Suite 210
Washington, DC 20002
(202) 535-2835
*LEAD ATTORNEY*
*ATTORNEY TO BE NOTICED*

**Defendant**

**KIM KENDRIX**
represented by **Eilene Brown**
(See above for address)
*LEAD ATTORNEY*
*ATTORNEY TO BE NOTICED*

**Defendant**

**AWO SARPONG**
represented by **Eilene Brown**
(See above for address)
*LEAD ATTORNEY*
*ATTORNEY TO BE NOTICED*

**Defendant**

**MITZI SMITH**
represented by **Eilene Brown**
(See above for address)
*LEAD ATTORNEY*

| | | |
|---|---|---|
| 01/12/1999 | 9 | ORDER directing plaintiff to respond to motion to dismiss within 14 days by Judge Royce C. Lamberth : (N) (lin) (Entered: 01/14/1999) |
| 01/25/1999 | 10 | MOTION filed by defendant DAVID GILMORE, defendant KIM KENDRIX, defendant AWO SARPONG, defendant MITZI SMITH to dismiss complaint [1-1] , or in the alternative for summary judgment (st) (Entered: 01/26/1999) |
| 02/17/1999 | 11 | ORDER directing plaintiff to respond to motion to dismiss within 14 days by Judge Royce C. Lamberth : (N) (lin) (Entered: 02/24/1999) |
| 04/28/1999 | 12 | ORDER by Judge Royce C. Lamberth : granting motion to dismiss complaint [1-1] [10-1] by defendants Kendrick, Sarpong, Smith, and Gilmore; denying motion to consolidate cases [8-1] by ANDREW M. CUOMO, HUD, granting motion to dismiss complaint [1-1] [8-2] by ANDREW M. CUOMO, HUD; directing defendant D.C. to file any motion to dismiss or for judgment on the pleadings within 10 days. (N) (mon) (Entered: 04/28/1999) |
| 04/30/1999 | 13 | MOTION filed by defendant DC to dismiss complaint [1-1] (st) (Entered: 05/03/1999) |
| 05/03/1999 | 14 | ORDER directing plaintiff to respond to motion to dimsiss within 14 days by Judge Royce C. Lamberth : (N) (lin) (Entered: 05/10/1999) |
| 05/25/1999 | 15 | ORDER by Judge Royce C. Lamberth : granting motion to dismiss complaint [1-1] [13-1] by DC (N) (lin) (Entered: 05/26/1999) |
| 05/26/1999 | | JS6 closing event (lin) (Entered: 05/26/1999) |

## STATEMENT FOR COMPLETION BY PRESIDENTIAL NOMINEES

**Name:** **Nelson** (Last) **Keith** (First) **Asbury** (Other)

**Position to which nominated:** **Assistant Secretary (Administration), U.S. Department of Housing and Urban Development**

**Date of nomination:** **July 12, 2005**

**Date of birth:** **26** (Day) **01** (Month) **70** (Year) **Place of birth:** **Wiesbaden, Germany**

**Marital Status:** Married **Full name of spouse:** **Julia Ann Gomez Nelson**

**Name and ages of children:**

Not Applicable

**Education:**

| Institution | Dates attended | Degrees received | Dates of degrees |
|---|---|---|---|
| University of California-Los Angeles | 1997-99 | MBA | 1999 |
| University of California-Berkeley | 1995-97 | Masters of Journalism | 1997 |
| University of Texas-Austin | 1988-92 | Bachelor of Journalism | 1992 |

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

Kaufman Fellow (UCLA Anderson School of Management Scholarship, 1998); Communications Fellow (UT-Austin School of Communications honors program); Golfwriters' Association of America scholarship; National Merit Scholar.

**Memberships:** List below all memberships and offices held in professional, fraternal, business, scholarly, civic, charitable and other organizations.

| Organization | Office held (if any) | Dates |
|---|---|---|
| American Film Institute | Volunteer and Donor | 1984-90, 2004-present |

**Employment record:** List below all positions held since college, including the title or description of job, name of employment, location of work, and inclusive dates of employment.

| | | | |
|---|---|---|---|
| U.S. Department of Labor | Associate Deputy Secretary for Management | Washington DC | 2004-present |
| U.S. Department of Labor | Special Assistant to Assistant Secretary for Administration and Management | Washington DC | 2001-04 |
| Score!Prep | SAT Tutor (part-time) | Oakland CA | 2001 |
| Work.com LLC | Business Development Director | Redwood City CA | 2000-01 |
| Dow Jones & Co. | Manager, Business Development | Monmouth Junction, NJ | 1999-2000 |
| L.A. Times | Web site analyst/intern (part-time; course credit) | Los Angeles, CA | 1998-99 |
| Cable News Network | Summer Intern (full-time) | Atlanta, GA | 1998 |
| UCLA Anderson School | Management Communications TA (part-time) | Los Angeles, CA | 1998-99 |
| UC Berkeley School of Public Health | Book Editor (part-time) | Berkeley, CA | 1997 |
| Silicon Graphics | Marketing Assistant (part-time) | Mountain View, CA | 1996-97 |
| Kinko's Copiers | Associate (part-time) | Berkeley, CA | 1995 |
| Office of the Governor of Texas | Constituent Liaison | Austin, TX | 1995 |
| Tyler Morning Telegraph | Sports Journalist | Tyler, TX | 1992-95 |

**Government experience:** List any experience in or direct association with Federal, State, or local governments, including any advisory, consultative, honorary or other part time service or positions.

Full-time employee, U.S. Department of Labor, December 2001-present
Full-time employee, Office of the Governor of Texas, March 1995-August 1995
UCLA and UC Berkeley (part-time work during graduate school)

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

Hundreds of newspaper articles as sports writer, 1990-95

**Political Affiliations and activities:** List memberships and offices held in and services rendered to all political parties or election committees during the last 10 years.

Volunteer, Bush/Cheney for President 2000, San Francisco
Phone banking, precinct walking on Election Day, 2000

Volunteer, Bush/Cheney for President 2004, Arlington VA
Phone banking, data entry, envelope stuffing, 2004

Member, 72 Hour Task Force, Republican National Committee, Tampa FL
Managed neighborhood "walker" and "driver" volunteers, October-November 2004

**Political Contributions:** Itemize all political contributions of $500 or more to any individual, campaign organization, political party, political action committee or similar entity during the last eight years and identify specific amounts, dates, and names of recipients.

**George W. Bush for President, $2,000, September 7, 2004**

**Qualifications:** State fully your qualifications to serve in the position to which you have been named. (attach sheet)

**Future employment relationships:**

1. Indicate whether you will sever all connections with your present employer, business firm, association or organization if you are confirmed by the Senate.

Not applicable

2. As far as can be foreseen, state whether you have any plans after completing government service to resume employment, affiliation or practice with your previous employer, business firm, association or organization.

No.

3. Has anybody made you a commitment to a job after you leave government?

No.

4. Do you expect to serve the full term for which you have been appointed?

Yes.

**Potential conflicts of interest:**

1. Describe any financial arrangements or deferred compensation agreements or other continuing dealings with business associates, clients or customers who will be affected by policies which you will influence in the position to which you have been nominated.

None.

2. List any investments, obligations, liabilities, or other relationships which might involve potential conflicts of interest with the position to which you have been nominated.

None.

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

None.

4. List any lobbying activity during the past ten years in which you have engaged in for the purpose of directly or indirectly influencing the passage, defeat or modification of any legislation at the national level of government or affecting the administration and execution of national law or public policy.

None.

5. Explain how you will resolve any conflict of interest that may be disclosed by your responses to the items above.

Not applicable.

**Civil, criminal and investigatory actions:**

1. Give the full derails of any civil or criminal proceeding in which you were a defendant or any inquiry or investigation by a Federal, State, or local agency in which you were the subject of the inquiry or investigation.

Not applicable.

2. Give the full details of any proceeding, inquiry or investigation by any professional association including any bar association in which you were the subject of the proceeding, inquiry or investigation.

Not applicable.

I am qualified to serve as Assistant Secretary for Administration at HUD because I believe passionately in accountability and strong management controls to allow government officials to make the best decisions for citizens and taxpayers. I come from a long line of entrepreneurs and self-starters in my family, from my maternal grandfather who worked his way through college and fought at D-Day before rising to a career in petroleum engineering - to my aunt, who founded an independent bookstore 29 years ago in a county with one of the lowest literacy rates in the U.S. and now attracts authors such as John Grisham and President Clinton for book signings.

My experience at the Department of Labor over the last four years has prepared me for this opportunity at HUD. I joined Labor as a special assistant to the Assistant Secretary for Administration and Management, and after 2 ½ years working under Patrick Pizzella I was tapped by Deputy Secretary Steven J. Law to serve as his Associate Deputy Secretary for Management. Both are strong managers with a long history of working for the government.

During the last four years at Labor I was deeply involved in various aspects of operations for the 17,000-employee, $50 billion Department – including personnel, information technology, security, budget formulation, finance, and procurement. In these roles, I helped Labor become the first agency ever to receive a perfect five-green status score from the Office of Management and Budget on the President's Management Agenda scorecard. I received six months of intensive line-management experience while working as acting Deputy Chief Information Officer in 2003. In this capacity, I oversaw Labor's $400 million technology budget and supervised a staff of 57 federal employees and roughly 120 contractors. I changed the office's budget accountability process, giving each director authority over his or her own budget. I also initiated COTR training to ensure that each IT contract was adequately managed. I took a firm but fair approach to rating employees' performance.

At the Department of Labor, I have displayed a creative approach to resolve problems. Upon learning of the concerns about an oncoming drain of senior managers at Labor, I developed a plan to recruit MBA graduates to the Department, a program which was launched as a Secretarial initiative in 2002. For each class of 15 MBA Fellows, applications are coming in at a rate of 200-300. The program now has 59 Fellows either currently in the program or "graduates" of the program who have gone on to join Labor as full-time career professionals. I also led a project to identify and manage the Department's hundreds of disparate web sites, many of which were inaccurate, out-of-date and disorganized. Today these sites bear a common "look and feel" so that visitors will not be confused moving from one site to the next, and webmasters must obtain approval by the Deputy Secretary before launching a new web site.

My approach in working with my peers at the Department of Labor is collegial. I have high expectations of myself and of those around me. My supervisory philosophy is to be clear and be fair, and to take a common-sense approach to achieving results.

Prior to joining Federal Government, I worked as a business development director for a dot-com media startup called Work.com, a business-news web site spun off from Dow Jones & Co. I negotiated partnerships and found creative ways to drive users to the site.

My earliest professional experience was as a sportswriter for daily newspapers in Texas. I enjoyed the challenge of writing on deadline and the unpredictable nature of the games and players, and that experience has prepared me to handle stressful situations with a level head.

**KEITH NELSON**
4545 Connecticut Ave. NW, Apt. 825, Washington D.C. 20008
(202) 249-9165, nelson_keith@hotmail.com

## EXPERIENCE

**U.S. DEPARTMENT OF LABOR (DOL), WASHINGTON DC** **2001-present**

*Special Assistant to the Assistant Secretary for Administration and Management and Chief Information Officer*

- **Acting Deputy Chief Information Officer**, March 2003-August 2003
  - Governed DOL's Information Technology budget of $400m.
  - Managed annual budget of $45m, staff of 57 federal employees, 120 contractors for DOL technology infrastructure and help desk. Oversight of large, complex Department-wide projects including e-mail system consolidation, integrated payroll/personnel system, e-procurement system, public key infrastructure, directory services, and e-grants system.
  - Managed Department's Cybersecurity, Enterprise Architecture, IT Capital Planning, Paperwork Reduction, GPEA, E-Government efforts.
  - Saved $300k over three months by cutting unnecessary contract staff.
  - Drafted Department's 2003 E-Government Strategic Plan.
- **Acting Web Sites Director**, August 2002-March 2003
  - Compiled first inventory of DOL Web sites and associated resources, developed plan to consolidate sites according to subject material.
  - Coordinated re-organization of Web site governance structure from policy office to public affairs, assisting in redirecting funding and personnel according to organizational strengths. Individually drafted and presented a 10-step plan to the Secretary, including a new Secretary's Order.
  - Created and filled Web Sites Director position, the first individual responsible for all DOL internet and intranet sites.
- **Coordinated DOL's management of www.GovBenefits.gov**
  - Within 100 days, created interactive questionnaire allowing citizens to intelligently sort through 400+ federal benefits programs appropriate to their situation.
  - First of President Bush's 24 cross-governmental E-Government initiatives to launch publicly.
  - Winner of Government Executive magazine's Grace Hopper Award, E-Gov Pioneer Award, and Secure Ebiz Award for Citizen Service. Also selected as a USA Today "Hot Site" and subject of feature articles in NY Times, Philadelphia Inquirer, and Washington Post.
- Initiated **MBA Outreach**, the first program from a federal agency program to recruit MBA graduates, which became a Secretarial initiative to lead DOL's Strategic Management of Human Capital.

**DOW JONES & CO.** **1999-2001**

**Work.com (joint venture between Dow Jones and Excite@Home), Redwood City, CA**

*Business Development Senior Manager*

- Negotiated 50% of startup company's total partnerships during eight-month span.
- Managed partner implementation and marketing strategies in concert with senior management, engineering, operations, marketing, and P.R. division heads.
- Dissolved 24 partnerships in 15 days to save parent companies more than $800k.

**Dow Jones Interactive Publishing, Princeton, NJ**

*Business Development Manager*

- Developed strategy for B2B e-commerce area of dowjones.com business portal.
- Negotiated deals with e-commerce companies to exceed dowjones.com revenue goals of $2m.
- Licensed Dow Jones Business News content feeds to third-party Web sites.
- Developed and implemented strategy to sell online investors' education courses.

**SILICON GRAPHICS, INC. (SGI), MOUNTAIN VIEW, CA** **1995-97**

*Executive Marketing Associate, Global Business Development Group* *(20-25 hr/wk)*

- Formulated marketing strategy to incorporate sponsorship of Internet workshops at the World Economic Forum, Fortune Global Forum and Fortune 500 Forum.
- Facilitated launch of the company's first marketing strategy focused on a general business audience by developing brochure that was acknowledged as "the best ever produced at SGI."

**OFFICE OF THE GOVERNOR, AUSTIN, TX** 1995
*Constituent Liaison, Administration of George W. Bush*
- Aided constituents in their interactions with state agencies.
- Consulted with the Governor and his staff to draft policy language.

**SPORTS JOURNALIST, TEXAS** 1990-95
*Dallas Morning News, Tyler Morning Telegraph*
- Wrote average of 2-3 stories per day under tight deadline pressures.

## GRADUATE SCHOOL INTERNSHIPS

**Los Angeles Times, Los Angeles, CA** 1998-99
*New Media Intern, Los Angeles Times Online*
- Developed online auction strategy for the Los Angeles Times Web site.

**Cable News Network (CNN), Atlanta, GA** 1998
*Business Development Analyst, CNN Interactive*
- Evaluated, pursued and negotiated e-commerce partnerships with Internet companies.
- Designed interior for "CNN Plus," a new 24-hour Spanish news network.

## EDUCATION

**THE ANDERSON SCHOOL AT UCLA** 1999
*M.B.A. – Strategy & Finance, Entrepreneurial Studies*
Honors/Activities: Kaufman Fellow, New Venture Initiatives TA, Management Communications TA.

**UC BERKELEY** 1997
*M.J. – Television/Magazine Journalism*
Honors/Activities: Won Television Academy of Arts & Sciences award
Worked with documentary program director Jon Else, magazine program director Clay Felker.

**THE UNIVERSITY OF TEXAS AT AUSTIN** 1992
*B.J. - Journalism*
Honors/Activities: National Golfwriters' Association Scholarship.

## ADDITIONAL

Born in Wiesbaden, W. Germany; Lived in Dhahran, Saudi Arabia, 1975-77.
Interests include film, business, journalism, marathon running, reading, museums, politics, and music.
Worked as SAT tutor for Score! and Kaplan Test Prep.

## STATEMENT FOR COMPLETION BY PRESIDENTIAL NOMINEES

**Name: Williams, Darlene F.**

**Position to which nominated: Assistant Secretary for Policy Development and Research**

**Date of nomination: 25-July, 2005**

**Date of birth: 11- June, 1950** **Place of birth:** Denver, Colorado

**Marital Status:** Single

**Name and ages of children:** none

**Education:**

| Institution | Dates attended | Degrees received | Dates of degrees |
|---|---|---|---|
| Howard University | September 1968 -- June 1972 | B. A. | June 3, 1972 |
| Stanford University | June 1972 -- June 1973 | M. A. | June 17, 1973 |
| Stanford University | June 1973 -- June 1981 | Ph. D. | June 14, 1981 |
| University of Chicago | June 1988 -- June 1990 | M.B.A | June 8, 1990 |

**Honors and awards:** List below all scholarships, fellowships, honorary degrees, military medals, honorary society memberships and any other special recognition for outstanding service or achievement.

Kappa Delta Pi – Honor Society - 1972
Awarded Ford Foundation Doctoral Fellowship – 1972
Martin Luther King Jr. Distinguished Teachers' Scholar – California Teachers' Association – 1977
Awarded Walter G. Steele Fellow Scholarship – University of Chicago – 1988

**Memberships:** List below all memberships and offices held in professional, fraternal, business, scholarly, civic, charitable and other organizations.

| Organization | Dates |
|---|---|
| Leadership Miami | 1995-1996 |
| Switchboard of Miami, Inc. elected member of Board of Directors | 1995-1996 |
| National Black MBA Association, Inc. – member at large | 1990-1996 |
| National Association of Female Executives (NAFE) - member at large | 1995-1996 |
| American Marketing Association – National and Dallas Chapter | 1996-2000 |
| Society of Competitive Intelligence Professionals – member at large | 1993-1996 |
| Appointed to Texas Women's University (TWU) Business Advisory Board | 1999-2000 |
| Member of Art of Business (in association with the Dallas Business Committee for the Arts) | 2000 - 01 |
| MENTTIUM 100 – TXU Mentoring Program | 2000-2001 |
| Windows in the Glass Ceiling/TXU high potential midlevel female executives | 2000-2001 |
| TACA, a non-profit arts funding organization for N. Texas – Board of Directors | 2000-2003 |
| Mary McLeod Bethune Haven – Board of Directors (Dallas, Texas) | 2000-2003 |

**Employment record:** List below all positions held since college, including the title or description of job, name of employment, location of work, and inclusive dates of employment.

| Title | Description of Job | Employer | Location | Dates |
|---|---|---|---|---|
| Counselor | Provided academic counseling, 9-12th graders. Along with colleagues, ensured successful graduation of students and their positive transition primarily to colleges but often to other career choices. Gunn H. S. is recognized as one of the highest performing schools in Palo Alto and California. Student load each year was approx. 150 students. Worked concurrently while a full-time student at Stanford University completing doctoral degree. | Henry M. Gunn High | Palo Alto, Calif | 1973-1977 |
| Supervisor to Asst. Mgr. | Began as a first-line supervisor in Centralized Repair Service Attendant Bureau. Was given increasing responsibilities and promotions in the Informations Systems Operations and the Procurement Systems Division. In 1988, with an approved leave of absence, was accepted and attended the University of Chicago's Business School in Chicago, Illinois. Returned upon graduation for three months before accepting offer with Eastman Kodak. | Pacific Bell | Sunnyvale, CA | 1977- 1990 |
| Segment Mgr. | Developed and implemented marketing research targeted at increasing the corporations market share in the data processing and storage market. Developed strategic forecasts to assess market trends. Initiated competitive and industry analysis for the annual strategic quantification planning process. Served as consultant to senior management on strategic issues including new product developments, technology substitutions, competitors, suppliers and customer needs. Assisted in management of world wide Imaging market research budget, $1.5 million and product line research budget of $435,000. | Eastman Kodak | Rochester, NY | 1990-1994 |
| Sr. Manager | At Ryder Systems, as a manager in the Marketing Planning and Research Organization, was responsible for managing a budget of approximately $1 million while directing the design and implementation of Consumer and Commercial market intiatives. The objective was to provide competitive information to increase Ryder's market share in the lucrative consumer and commercial truck rental market. | Ryder Systems, Inc. | Miami, Fla. | 1994- 1996 |
| Market Research Manager to Corporate Policy Mgr. | Joined TXU prior to the advent of energy deregulation in Texas. As such, implemented the first TXU marketing research organization designed to measure and identify opportunities for improving the satisfaction, 'favorability' and loyalty of residential, small business and large commercial and industrial customers with | TXU Corporation (formerly known as Texas Utilities) | Dallas, TX | 1996- 2003 |

TXU and its products and service offerings. During my tenure was promoted to Manager Customer Relationships. Additionally served As a TXU Loaned Lobbyist for the 77th Texas Legislative Session. My last position was as a Corporate Policy Manager working with internal client, Corporate Accounting, was responsible for the development of TXU's 2003 Texas Legislative "Tax" Campaign. This was an important initiative due to Texas' projected budget shortfall in 2003 and the increased tax implications for TXU. Additionally, provided policy support to TXU's Financial & Regulatory Disclosure Reporting "Working Group" which was co-chaired by the president of TXU-Energy Trading and the Chief Risk Officer.

U. S. Department of Housing and Urban Development 2003-Present
Washington, D. C.

*General Deputy Assistant Secretary - Office of Administration (2-1-2005 to Present)*
*Acting Chief Information Officer - Office of OCIO (12-20-2004 to 01-31-2005)*
*General Deputy Assistant Secretary - Office of Policy Development and Research (6-2-2003 to 2-1-2005)*

As the General Deputy Assistant Secretary, served as the General Manager during interim periods before Senate confirmation for the positions of Assistant Secretary for the Office of Policy Development and Research (PD&R) and the Office of Administration. As the acting Chief Information Officer was responsible for the overall management of the Office of Chief Information. Additionally, ensured during the contract negotiations with Lockheed Martin and EDS that the technical elements of their contract submissions satisfied HUD's information technology requirements. Additionally, served as the acting Chief Information Officer on the leadership team comprised of the Chief Financial Officer, Chief Procurement Officer and the Assistant Secretary for Administration. Under the leadership of the Secretary and Deputy Secretary, the team successfully settled the disputes surrounding the $10 million HUD Information Technology Services (HITS) contract.

**Government experience:** List any experience in or direct association with Federal, State, or local governments, including any advisory, consultative, honorary or other part time service or positions.

U. S. Department of Housing and Urban Development 2003-Present
Washington, D. C.

*General Deputy Assistant Secretary - Office of Administration (2-1-2005 to Present)*
*Acting Chief Information Officer - Office of OCIO (12-20-2004 to 01-31-2005)*
*General Deputy Assistant Secretary - Office of Policy Development and Research (6-2-2003 to 2-1-2005)*

As the General Deputy Assistant Secretary, served as the General Manager during interim periods before Senate confirmation for the positions of Assistant Secretary for the Office of Policy Development and Research (PD&R) and the Office of Administration. As the acting Chief Information Officer was responsible for the overall management of the Office of Chief Information. Additionally, ensured during the contract negotiations with Lockheed Martin and EDS that the technical elements of their contract submissions satisfied HUD's information technology requirements. Additionally, served as the acting Chief Information Officer on the leadership team comprised of the Chief Financial Officer, Chief Procurement Officer and the Assistant Secretary for Administration. Under the leadership of the Secretary and Deputy Secretary, the team successfully settled the disputes surrounding the $10 million HUD Information Technology Services (HITS) contract.

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

Publication: Published Dissertation; effective date of registration, 01/06/1982. Title: "Black English and the Stanford Binet Test of Intelligence."

**Political Affiliations and activities:** List memberships and offices held in and services rendered to all political parties or election committees during the last 10 years.

Political Affiliation: Republican. Offices held: None. Services rendered: During the most recent 5 years, my involvement with political parties or election committees has been limited due to the ethical requirements of the corporate and government positions I have held. In 1999, I became a registered lobbyist for TXU Corporation. As such, I interfaced with Republican and Democratic Texas state and city officials under the direction of TXU's Government Affairs and Regulatory organizations. These responsibilities culminated in my selection as a Corporate Policy Manager. In June 2003, I accepted a SES career- appointment as the General Deputy Assistant Secretary for the Office of Policy Development and Research (PD&R) for the U. S. Department of Housing and Urban Development. Under the Hatch Act, as a SES career-employee it is unethical behavior for me to actively participate in or lead any political party or election committees.

**Political Contributions:** Itemize all political contributions of $500 or more to any individual, campaign organization, political party, political action committee or similar entity during the last eight years and identify specific amounts, dates, and names of recipients.

During the last eight years all annual political contributions to the Republican Party or individuals have been under $200.

**Qualifications:** State fully your qualifications to serve in the position to which you have been named.

- Served as HUD's General Deputy Assistant Secretary for the Office of Policy Development and Research from June 2003 to January 31, 2005. This Office is principally responsible for maintaining current information on housing needs, market conditions and existing programs, as well as, conducting research on priority housing and community development issues.
- Consistant demonstration of management leadership and flexibility. For example, since January 2005, I have held two additional senior level positions within HUD: as acting Chief Information Officer assisted in the successful signing of the $10 million HITS contract with Lockheed Martin and EDS. In February 2005, as the General Deputy Assistant Secretary for the Office of Administration successfully implemented $19.4 million reduction during first month on the job. Additionally, while leading the Office of Administration, I supported the successful implementation of the Grants Information Management System as part of the President's Management Agenda (PMA) E-Gov initiative and represented HUD as its Chief Human Capital Officer.
- Maintain constant interaction with U. S. Department of Housing and Urban Development's Principal staff in order to carry out and assist in the achievement of critical Secretarial and Departmental priorities and goals.
- Extensive experience managing time sensitive projects in a complex, high-profile environment. On behalf of the Department, successfully coordinated and managed the consideration of recaptured UDAG funds for use

by Historically Black Colleges and Universities and the National Association for Equal Opportunity (NAFEO) via a $2 million grant to Hampton University to build a NAFEO headquarters building in Washington, D.C.

- Possess a broad range of knowledge on research and domestic policy management.
- Broad experience in strategic planning, corporate and policy management in a corporate setting as well as at the federal, state and local level.

**Future employment relationships:**

1. Indicate whether you will sever all connections with your present employer, business firm, association or organization if you are confirmed by the Senate.

No, I will not sever all connections with my present employer. I am currently employed at the U. S. Department of Housing and Urban Development and if confirmed by the Senate will assume a new title, position and increased responsibilities.

2. As far as can be foreseen, state whether you have any plans after completing government service to resume employment, affiliation or practice with your previous employer, business firm, association or organization.

Current Federal career Senior Executive Service (SES) employees who receive a Presidential appointment without a break in service from their career SES appointment are entitled to reinstatement to the SES under 5 U.S.C. 3392(c).

3. Has anybody made you a commitment to a job after you leave government?

No.

4. Do you expect to serve the full term for which you have been appointed?

Yes.

**Potential conflicts of interest:**

1. Describe any financial arrangements or deferred compensation agreements or other continuing dealings with business associates, clients or customers who will be affected by policies which you will influence in the position to which you have been nominated.

As a former employee of TXU formerly known as Texas Utilities in Dallas, Texas, I continue to participate in TXU's defined benefit pension plan.

2. List any investments, obligations, liabilities, or other relationships which might involve potential conflicts of interest with the position to which you have been nominated.

As a former employee of TXU formerly known as Texas Utilities, I continue to participate in TXU's defined benefit pension plan.

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

None.

4. List any lobbying activity during the past ten years in which you have engaged in for the purpose of directly or indirectly influencing the passage, defeat or modification of any legislation at the national level of government or affecting the administration and execution of national law or public policy.

I have not been involved in lobbying activities at the national level of government or affecting the administration and execution of national law or public policy. As a lobbyist for TXU Corporation, formerly known as Texas Utilities, I was engaged in influencing the passage, defeat or modification of "Energy" legislation at the State and Local level. I was employed at TXU from June 1996 thru March 2003.

5. Explain how you will resolve any conflict of interest that may be disclosed by your responses to the items above.

Pursuant to an ethics agreement with HUD's Office of General Counsel, I have agreed to recuse myself, persuant to 18 U. S. C. § 208, from participating in any particular matter that will have a direct and predictable effect on the ability or willingness of the TXU pension plan to provide me my penion benefit through its defined benefit pension plan.

**Civil, criminal and investigatory actions:**

1. Give the full details of any civil or criminal proceeding in which you were a defendant or any inquiry or investigation by a Federal, State, or local agency in which you were the subject of the inquiry or investigation.

   Not applicable.

2. Give the full details of any proceeding, inquiry or investigation by any professional association including any bar association in which you were the subject of the proceeding, inquiry or investigation.

   Not applicable.

**STATEMENT FOR COMPLETION BY PRESIDENTIAL NOMINEES**

| | | | |
|---|---|---|---|
| **Name:** | Lavin<br>**(Last)** | Franklin<br>**(First)** | Leo<br>**(Other)** |

**Position to which nominated:** Undersecretary for International Trade, U.S. Department of Commerce

**Date of nomination:** July 29, 2005

**Date of birth:** 26 October 1957 **(Day) (Month) (Year)**

**Place of birth:** Canton, Ohio

**Marital Status:** married

**Full name of spouse:** Ann Wortley Lavin

**Name and ages of children:**

Abigail, 21
Nathaniel, 16
Elizabeth, 13

**Education:**

| Institution | Dates attended | Degrees Received | Dates of degrees |
|---|---|---|---|
| Wharton Graduate School of Business, University of Pennsylvania | 1994-96 | MBA finance | 1996 |
| School of Advanced International Studies, the Johns Hopkins University, | 1981-1991 | MS international economics and international relations | 1991 |
| Georgetown University, Graduate School | 1980-85 | MA Chinese language and history | 1985 |
| National Taiwan Normal University (Chinese) | 1980 | no degree | N/a |
| School of Foreign Service, Georgetown University | 1975 – 1979 | B.Sc.F.S. international politics | 1980 |

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

U.S. Navy: National Service Medal, Marksman ribbon (rifle), Distinguished Unit Citation

**Memberships:**

**List below all memberships and offices held in professional, fraternal, business, scholarly, civic, charitable and other organizations.**

| Organization | Office held (if any) | Dates |
|---|---|---|
| none | | |

**Employment record:**

**List below all positions held since college, including the title or description of job, name of employment, location of work, and inclusive dates of employment.**

| | |
|---|---|
| 01-present | U.S. Ambassador to the Republic of Singapore, Department of State, Singapore |
| 2000-2001 | Managing Director, InternetMediaHouse Asia, Hong Kong |
| 1999-2000 | Principal, Bank of America, Singapore |
| 1996-1999 | Vice President, Citibank, Hong Kong |
| 1994-1996 | Managing Director, Asia Pacific Policy Center, Washington D.C. |
| 1991-1993 | Deputy Assistant Secretary for Asia/Pacific, U.S. Department of Commerce, Washington ,D.C. |
| 1989-1991 | Managing Director, Johnson Smick International (previously named Smick Medley International), Washington D.C. |
| 1987-1989 | Deputy Assistant to the President and Director, Office of Political Affairs, The White House, Washington, D.C. |
| 1986-1987 | Deputy Executive Secretary, National Security Council, Washington, D.C. |
| 1984-1985 | Associate Director, Office of Public Liaison, The White House, Washington, D.C. |
| 1983-84 | Assistant to the Assistant Administrator for Africa, U.S. Agency for International Development, Washington, D.C. |
| 1982-1983 | Executive Director, President's Commission on Executive Exchange, Washington, D.C |
| 1981-1982 | Director, Private and Voluntary Organizations, Bureau for Asia, U.S. Agency for International Development, Washington, D.C. |
| 31 | Staff Assistant, Office of Presidential Personnel, The White House, Washington, D.C. |

**Government experience:**

**List any experience in or direct association with Federal, State, or local governments, including any advisory, consultative, honorary or other part time service or positions.**

In addition to those listed above:

| | |
|---|---|
| 1987-Present | United States Naval Reserves |
| 1980 | Consular Assistant, American Institute in Taiwan |
| Summer 1974 | Congressional Page |

**Published writings:**

**List the titles, publishers and dates of books, articles, reports or other published materials you have written.**

"The Age of Small Victories," The American Spectator Online, January 10, 2001

"After NAFTA: Free Trade and Asia," Heritage Lecture, October 6, 1992

"Asphyxiation or Oxygen? The Sanctions Dilemma," Foreign Policy, Fall 1996

"Better US - Indian Relations in Sight," The Christian Science Monitor, November 1, 1989

"Bircher Democrats," The American Spectator Online, February 20, 2001

"Big Thunder, Little Rain," The New York Times, November 12, 1993

"Boosting Export Figures, Not Exports," The Wall Street Journal, June 6, 1996

"Building on NAFTA," Australian Financial Review, November 24, 1993

"Bush's Asian Farewell Gifts," The Asian Wall Street Journal, January 11, 1993

"Can the Brits Go It Alone? Without Hong Kong to Prop Them Up, Don't Be So Sure," The Washington Post, June 30, 1996

"Challenging Beijing Is Not the Way Forward for Hong Kong ," International Herald Tribune, March 10, 1997

"Charm and Anti-Charm," The American Spectator Online, February 6, 2001

"Clinton and Trade," The National Interest, Summer 1993

"Clintonism Without Clinton," The American Spectator Online, January 4, 2001

"Coming to APEC: Freer Trade," Journal of Commerce, November 4, 1994

"Confucius and the John Birch Society," The American Spectator Online, February 13, 2001

"God Speed, President-Elect Bush," The American Spectator Online, December 8, 2000

"Half a Loaf is Better than None," Address at The Heritage Foundation, June 5, 2000

"Heal Bush," The American Spectator Online, December 18, 2000

"How to Lose Friends and not Influence People," Australian Financial Review, July 1, 1993

"If Kinnock Conceded as Much to Bosses," The Wall Street Journal, February 9, 1984

"In Clinton's Footsteps," The American Spectator Online, December 29, 2001

"Incrementalism, Part two," The American Spectator Online, January 16, 2001

"Isolationism and US Foreign Policy," Brown Journal of World Affairs,

Winter/Spring 1996

"Isolationism in US Foreign Policy," Common Sense, Spring 1996

"Let Them Eat Spam," The Weekly Standard, May 29, 2000

"Manager's Journal," The Asian Wall Street Journal, June 16, 1994

"The May 1990 Elections in Romania" NRI/NDI team report

"More Than a 'Great Communicator,'" The Wall Street Journal, June 9, 2004

"Negotiating with the Chinese or How Not to Kowtow," Foreign Affairs, July/August 1994

"Open Skies in Asia: Will the U.S. Catch This Flight?" The Asian Wall Street Journal, July 6, 1995

"Pacific Purposes Need To Be Clearly Defined," Australian Financial Review, June 6, 1996

"Perfect Storm," CFO Asia, July/August 2000

"Positive Reasons for Negative Campaigning," The American Spectator Online, February 27, 2001

"Ripping Off Jeans Hurts China," The Asian Wall Street Journal, March 1, 1996

"Risky Vietnam no Easy Killing," Australian Financial Review, February 22, 1994

"See Spots Run," The Wall Street Journal, August 6, 2004

"Should Policymakers Listen to the Public?" Georgetown Journal of International Affairs, Winter/Spring 2000

"So You Want to Cover the Campaign?" The Weekly Standard, October 25, 1999

"Snooty Fault-Finding," The American Spectator Online, March 14, 2001

"The Sound of One Hand Clapping," Chicago Tribune, March 10, 1994

"The Third Generation" Ben Hart, ed., 1987

"Threat of Sanctions puts Clinton on War Footing," Australian Financial Review, February 16, 1994

"Treading Carefully in Vietnam," The Journal of Commerce, March 4, 1994

"The Truth About Linda Chavez," The American Spectator Online, January 8, 2001

"United States - Republic of Korea Relations After the Cold War,"

Korean Institute for International Economic Policy, Dec 1993

"US-Australian Trade Policies in the 1990s", Institute for Pacific

Affairs Feb 1993

"US Trade Policy Under Clinton," The Sydney Papers, Autumn 1993

"Washington And Canberra: Focusing On Ties And Trends," Australian Financial Review, July 19, 1995

"Watch Out, Republicans, for the Personality Trap," The Los Angeles Times, December 18, 1995

"Watching the Dragon," National Review, October 14, 1996

"The West's New Protectionism," The Asian Wall Street Journal, April 14, 1994

"When Competing in China, Know the Rules," The Asian Wall Street Journal, June 20, 1994

| | |
|---|---|
| 11 September 2004 | **We are not out of harm's way yet;** Straits Times |
| 06 August 2004 | **Culture & Thought -- Media: See Spots Run --- Old Television Campaign Ad on the Web;** The Asian Wall Street Journal |
| 08 June 2004 | **Leadership lessons from president Reagan;** Straits Times/Wall Street Journal |
| 24 October 2001 | **Taking up the mantle of the 'long twilight struggle;** Business Times Singapore |

**Political Affiliations and activities:**

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

| | |
|---|---|
| 1999 | Pioneer fundraiser, Presidential campaign of Governor George W. Bush. |
| 1997-99 | Board Member and Vice President, Republicans Abroad Hong Kong |
| 1996 | volunteer, Republican National Convention. |
| 1996 | candidate for Republican delegate, Phil Gramm for President |
| 1995 | National Finance Committee, Phil Gramm for President |

**Political Contributions:**

**Itemize all political contributions of $500 or more to any individual, campaign organization, political party, political action committee or similar entity during the last eight years and identify specific amounts, dates, and names of recipients.**

| | |
|---|---|
| **8/19/2000** | Rick Lazio (Lazio 2000) - $500 |
| **6/17/1999** | Bush for President - $1,000 |

**Qualifications:**

**State fully your qualifications to serve in the position to which you have been named.**

I have spent much of my professional life helping U.S. businesses in the international marketplace, be it at the Commerce Department, in banking, or in my current position. In these positions, I have led trade missions, helped resolve commercial disputes, and helped U.S. businesses enter new markets. I value undertaking outreach to businesses in the U.S., particularly small businesses and I make a special effort to work closely with Congress on a non-partisan basis.

**Future employment relationships:**

**1. Indicate whether you will sever all connections with your present employer, business firm, association or organization if you are confirmed by the Senate.**

**2. As far as can be foreseen, state whether you have any plans after completing government service to resume employment, affiliation or practice with your previous employer, business firm, association or organization**

No plans.

**3. Has anybody made you a commitment to a job after you leave government?**

No.

**4. Do you expect to serve the full term for which you have been appointed?**

Yes.

**Potential conflicts of interest:**

**1. Describe any financial arrangements or deferred compensation agreements or other continuing dealings with business associates, clients or customers who will be affected by policies which you will influence in the position to which you have been nominated.**

None.

**2. List any investments, obligations, liabilities, or other relationships which might involve potential conflicts of interest with the position to which you have been nominated.**
None.

**3. Describe any business relationship, dealing or financial transaction (other than tax paying) which you have had during the last 10 years with the Federal Government, whether for yourself, on behalf of a client, or acting as an agent, that might in any way constitute or result in a possible conflict of interest with the position to which you have been nominated.**
None.

**4. List any lobbying activity during the past ten years in which you have engaged in for the purpose of directly or indirectly influencing the passage, defeat or modification of any legislation at the national level of government or affecting the administration and execution of national law or public policy.**

None.

**5. Explain how you will resolve any conflict of interest that may be disclosed by your responses to the items above.**

Not applicable.

**Civil, criminal and investigatory actions:**

**1. Give the full details of any civil or criminal proceeding in which you were a defendant or were the subject of the inquiry or investigation by a Federal, State, or local agency in which you were the subject of the inquiry or investigation.**

None.

**2. Give the full details of any proceeding, inquiry or investigation by any professional association including any bar association in which you were the subject of the proceeding, inquiry or investigation.**

None.

| **Confidential Financial Statement** | |
|---|---|
| **Net Worth** | |
| Provide a complete, current financial net worth statement which itemizes in detail all assets (including bank accounts, real estate, securities, trusts, investments, and other financial holdings) all liabilities (including debts, mortgages, loans, and other financial obligations) of yourself, your spouse, and other immediate members of your household. | |

## STATEMENT FOR COMPLETION BY PRESIDENTIAL EMPLOYEES

1. **Name:**

   Hernandez, Israel

2. **Position to which nominated:**

   Assistant Secretary for Trade Promotion and Director General of the United States & Foreign Commercial Service

3. **Date of nomination:**

   26 May 2005

4. **Date of Birth:**

   8 January 1970

5. **Place of Birth**

   Eagle Pass, Maverick County, Texas

6. **Marital Status:**

   Single

7. **Full name of Spouse:**

   Not Applicable

8. **Names and ages of children:**

   Not Applicable

9. **Education:**

| Institution | Dates Attended | Degree Received | Date Degree |
|---|---|---|---|
| • University of Texas, Austin | 1988 – 1992 | B.A. in Philosophy and Political Science | 1992 |
| • George Bush School of Govt. Texas A&M University | 1997 – 1999 | M.P.A. in Government and Public Service | 1999 |

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

Not Applicable

11. **Memberships:** List below all memberships and offices held in professional, fraternal, business, scholarly, civic, charitable and other organizations

Delta Sigma Phi Fraternity, Eta Chapter, University of Texas at Austin, 1989-1992

12. **Employment record:** List below all positions held since college, including the title or description of job, name of employment, location of work, and dates of inclusive employment.

| | |
|---|---|
| 05/2005 to Present | Department of Commerce, International Trade Administration<br>Senior Advisor to the Secretary and Under Secretary |
| 01/2001 to 05/2005 | White House, Executive Office of the President<br>Deputy Assistant to the President and Assistant to the Senior Advisor |
| 05/1999 to 01/2001 | Bush – Cheney 2000 Presidential Campaign, Strategy Office, Austin, Texas<br>Director of Voter Contact |
| 01/1995 to 08/1997 | Office of the Governor, State of Texas, Austin, Texas<br>Personal Aide to Governor George W. Bush |
| 08/1993 to 01/1995 | George W. Bush for Governor Campaign, Dallas, Texas<br>Personal Aide to Gubernatorial Candidate George W. Bush |

13. **Government experience:** List any experience in or direct association with Federal, State, or local governments, including and advisory, consultative, honorary or other part-time service or positions

| | |
|---|---|
| 01/2001 to 05/2005 | Executive Office of the President, White House<br>Deputy Assistant to the President and Assistant to the Senior Advisor |
| 01/1995 to 08/1997 | Office of the Governor, State of Texas, Austin, Texas<br>Personal Aide to Governor George W. Bush |

14. **Published writings:** List the titles, publishers, and dates of books, articles, reports, or other published materials you have written.

Not Applicable

15. **Political affiliations and activities:** List memberships and offices held in and services rendered to all political parties or election committees during the last 10 years.

| | |
|---|---|
| 05/1999 to 01/2001 | Bush – Cheney 2000 Presidential Campaign, Strategy Office, Austin, Texas<br>Director of Voter Contact |
| 08/1993 to 01/1995 | George W. Bush for Governor Campaign, Dallas, Texas<br>Personal Aide to Gubernatorial Candidate George W. Bush |

**Itemize all political contributions of $500 or more to any individual, campaign organization, political party, political action committee or similar entity during the last eight years and identify specific amounts, dates, and names of recipients.**

I have not donated more than $500 to any individual, campaign organization, political party, or political action committee.

17. **Qualifications:** State fully your qualifications to serve in the position to which you have been named.

My 10-plus years of managing national programs, developing and adhering to complex budgets, setting short and long term strategic operational objectives, building coalitions, and developing, motivating and mentoring staff have more than qualified me for this position. In addition, the contacts I have made in federal, state, and local agencies will enable me to advance the goals of the U.S. Commercial Service by nurturing and leveraging partnerships. Further, my skills in developing successful, strategic marketing and outreach programs will heighten the awareness and value of U.S. Commercial Service programs to American companies.

As a manager, I believe in assembling and motivating a strong management team to help run the organization. In turn, the management team delegates responsibility to regional managers, commercial officers, and trade specialists to deliver the highest quality service to our clients. Trust in the judgment of our field staff is essential to satisfy client needs in an organization that has more than 260 offices worldwide. My management style is highly collaborative and will work well in a diverse organization that has unionized Foreign Service officers and Foreign Service nationals representing more than 80 different nationalities.

18. **Future Employment Relationships:**

1. Indicate whether you will sever all connections with your present employer, business firm, association or organization if you are confirmed by the Senate.

   Not applicable – I am presently employed by the Department of Commerce

2. As far as can be foreseen, state whether you have any plans after completing government service to resume employment, affiliation or practice with your previous employer, business firm, association or organization.

   No

3. Has anybody made you a commitment to a job after you leave government?

   No

4. Do you expect to serve the full term for which you have been appointed?

   Yes

**19. Potential Conflicts of Interest:**

1. Describe any financial arrangements or deferred compensation agreements or other continuing dealings with business associates, clients, or customers who will be affected by policies, which you will influence in the position, to which you have been nominated.

   Not Applicable

2. List any investments, obligations, liabilities, or other relationships which might involve potential conflicts of interest with the position to which you have been nominated.

   Not Applicable

3. Describe any business relationship, dealing or financial transaction (other than tax paying) which you have had during the last 10 with the Federal Government, whether for yourself, on behalf of a client, or acting as an agent, that might in any way constitute or result in a possible conflict of interest with the position to which you have been nominated.

   Not Applicable

4. List any lobbying activity during the past ten years in which you have engaged for the purpose of directly or indirectly influencing the passage, defeat, or modification of any legislation at the national level of government or affecting the administration and execution of national law or public policy.

   Not Applicable

5. Explain how you will resolve any potential conflict of interest that may be disclosed by your responses to the items above

   I will consult with ethics officials at the Department of Commerce and, if appropriate, divest myself of conflicting interests, recuse myself, or obtain a conflict of interest waiver under 18 U.S.C.§ 208(b) if the interest is not substantial.

**20. Civil, Criminal and Investigatory Actions:**

1. Give the full details of any civil or criminal proceeding in which you were a defendant or any inquiry of investigation by a Federal, State, or local agency in which you were the subject of the inquiry or investigation.

   Not Applicable

2. Give the full details of any proceedings, inquiry or investigation by any professional association including any bar associations in which you were the subject of the proceeding, inquiry or investigation.

   Not Applicable

**STATEMENT FOR COMPLETION BY PRESIDENTIAL NOMINEES**

**Name:** Jackson (Last) Darryl (First) W. (Other)

**Position to which nominated:** Assistant Secretary for Export Enforcement, U.S. Department of Commerce

**Date of nomination:**

**Date of birth:** 1/2/53 (Day) (Month) (Year) **Place of birth:** Philadelphia, PA

**Marital Status:** Married **Full name of spouse:** Amy Berman Jackson

**Name and ages of children:** David Gordon Jackson – 14
Matthew Barnett Jackson – 13

**Education:**

| Institution | Dates attended | Degrees Received | Dates of degrees |
|---|---|---|---|
| Howard University School of Law | 1974-1977 | J.D. | 1977 |
| Lincoln University of Pennsylvania | 1970-1974 | B.A. | 1974 |
| The American University in Cairo | 1972-1973 | Junior year abroad | |

**Honors and Awards:** **List below all scholarships, fellowships, honorary degrees, military medals, honorary society memberships and any other special recognitions for outstanding service or achievement.**
Special Achievement Award – U.S. Attorney's Office for the District of Columbia

**Memberships:**

**List below all memberships and offices held in professional, fraternal, business, scholarly, civic, charitable and other organizations.**

| Organization | Office held (if any) | Dates |
|---|---|---|
| The District of Columbia Bar (mandatory) | Secretary | 1990 – 91 |
| The District of Columbia Bar (mandatory) | Board of Governors | 1991 – 97 |
| The Bar Association of the District of Columbia | Chair-Criminal Law Committee | 1994 – 97 |
| The American Bar Association | Criminal Justice Section Vice-Chair–White Collar Crime Committee | 1994 – 97 |
| The American Bar Association | Litigation Section Vice-Chair-Complex Crimes Committee | 1989 – 1995 |
| The American Bar Association | Litigation Section Division Director | 1995 – 97 |
| American Inns of Court | President Charles Fahy American Inn of Court | 1996 – 98 |
| Criminal Rules Advisory Committee of the Judicial Conference of the United States | Member | 1994 - 2000 |
| The D.C. Coalition Against Drugs and Violence | Co-Chair | 1995-1998 |
| U. S. District Court for the District of Columbia Committee on Grievances | Chair and Member | 2000 – present |
| U. S. District Court for the District of Columbia Committee on Non-Appropriated Funds | Member | 1992- present |
| The Federalist Society | Member | 1990 – present |
| The American Law Institute | Member | 1997-present |
| The Republican National Committee | Member | 2002-present |
| The Republican National Lawyers Assn. | Member | 1989 – present |

**Employment record:**

**List below all positions held since college, including the title or description of job, name of employment, location of work, and inclusive dates of employment.**

1992-present – Partner – Arnold & Porter LLP
555 12th Street, N.W.
Washington, D.C. 20004

1980 – 1992 – Assistant United States Attorney – Office of the United States Attorney for the District of Columbia – 555 Fourth St., N.W., Washington, D.C.

1989-1990 – Visiting Professor of Law – The George Washington University National Law Center, Washington, D.C.

1985-present – Distinguished Lecturer in Law/Lecturer in Law – The Catholic University of America, The Columbus School of Law, Washington, D.C.

1977- 1980 – Assistant Defender – Defender Association of Philadelphia – 121 N. Broad St., Philadelphia, PA

**Government experience:**

**List any experience in or direct association with Federal, State, or local governments, including any advisory, consultative, honorary or other part time service or positions.**

1980 – 1992 – Assistant United States Attorney – Office of the United States Attorney for the District of Columbia – 555 Fourth St., N.W., Washington, D.C.

**Published writings:**

**List the titles, publishers and dates of books, articles, reports or other published materials you have written.**

"Bending Toward Justice: The Posthumous Pardon of Lieutenant Henry Ossian Flipper," 74 Indiana Law Journal 1251 (1999)(with Jeffrey H. Smith, Edward H. Sisson and Helene T. Krasnoff)
"Integrity in Litigation." The Practical Lawyer, April 1995, Vol. 41, No. 3
"New Regulation Explains Contacts Allowed Between Government and Enforcement Targets," The Washington Legal Foundation Legal Opinion Letter, Vol. 5, No. 3 (Feb. 3, 1995)
"Toward Civility in Deposition Practice," The Woman Advocate '94 (Prentice-Hall Law & Business 1994)
"Defendants in Criminal Cases as Witnesses at Trial," American Journal of Trial Advocacy, Summer 1990, Vol. 14, No.1

Letters to the Editor:
"Children Are Dying – We Must Do More," The Washington Post, May 14, 2005
"The Second Inaugural: An American Tableau," The New York Times, January 22, 2005
"Terrorists Too Have Objectives," The Washington Post, September 23, 2004
"Ideas for Silencing Foul-Mouthed Boors," The Wall Street Journal, September 14, 2004
"A Grim Milestone: 1,000 U.S. Dead," The New York Times, September 9, 2004
"Hiding the Truth of War," Newsweek, May 17, 2004
"Guided by a Deep Faith," Newsweek, May 10, 2004
"That's Entertainment? Springtime for F-Word," The Wall Street Journal, April 28, 2004
"D.C.'s Failed Schools," The Washington Post, April 4, 2004
"Drug Addicts Are Not Expendable," The Washington Post, November 27, 1982

**Political Affiliations and activities:**

**List memberships and offices held in and services rendered to all political parties or election committees during the last 10 years.**
Republican National Committee – member
Republican National Lawyers Association – member

**Political Contributions:**

**Itemize all political contributions of $500 or more to any individual, campaign organization, political party, political action committee or similar entity during the last eight years and identify specific amounts, dates, and names of recipients.**
Bush-Cheney '04 - $1,000 2004
Sen. Arlen Specter - $1,000 2004
Sen. Rick Santorum - $500 2004

**Qualifications:**

**State fully your qualifications to serve in the position to which you have been named.**
I have extensive experience as a federal prosecutor and a defense attorney, as a civil litigator, and also in management. I have also complemented my law practice with teaching. The combination of skills and experience that I have gained over the course of my legal career, which spans more than 25 years, would serve me well in performing the duties of Assistant Secretary for Export Enforcement at the U. S. Department of Commerce.

I served as a federal prosecutor in the Office of the United States Attorney for the District of Columbia for more than a decade. As a line Assistant United States Attorney, I prosecuted a wide variety of cases. I then was promoted to a series of supervisory positions, including Chief of the Narcotics Section, Acting Chief and Deputy Chief of the Special Prosecutions Section, and Lead Attorney for the Organized Crime Drug Enforcement Task Force. I ultimately became the third-ranking official in that office, serving as Executive Assistant United States Attorney for Operations. In that position, I was responsible for overseeing legal operations and implementing prosecutorial policy in the largest U.S. Attorney's Office in the United States.

As a partner at Arnold & Porter, LLP, one of Washington, D. C's largest law firms, I have gained more than a decade of experience as a civil litigator and as a white-collar criminal defense attorney, representing major corporate clients. I have also performed significant pro bono work, including obtaining the first posthumous presidential pardon in our nation's history for Lt. Henry O. Flipper, who was the first African-American graduate of West Point.

I have served as a Visiting Professor of Law at the George Washington University National Law Center and as a Distinguished Lecturer in Law at The Catholic University of America's Columbus School of Law. I have taught such courses as Federal Criminal Law, Advanced Criminal Procedure and trial advocacy. I have also taught trial advocacy at the Harvard Law School Trial Advocacy Workshop.

I began my legal career as an Assistant Defender at the Defender Association of Philadelphia, where I spent several years trying cases as a defense attorney representing the indigent.

My law enforcement background, my experience as a corporate attorney, my management experience, and the expertise I have gained from teaching law, will enable me to fulfill the duties of Assistant Secretary.

**Future employment relationships:**

**1. Indicate whether you will sever all connections with your present employer, business firm, association or organization if you are confirmed by the Senate.**

Yes.

**2. As far as can be foreseen, state whether you have any plans after completing government service to resume employment, affiliation or practice with your previous employer, business firm, association or organization**

No.

**3. Has anybody made you a commitment to a job after you leave government?**

No.

**4. Do you expect to serve the full term for which you have been appointed?**

Yes.

**Potential conflicts of interest:**

**1. Describe any financial arrangements or deferred compensation agreements or other continuing dealings with business associates, clients or customers who will be affected by policies which you will influence in the position to which you have been nominated.**

There will be none. Pursuant to the ethics agreement that I have executed, upon my resignation from my law firm, Arnold & Porter LLP, I will receive a lump sum payment of my capital account. I will also receive my 2005 share of partnership earnings, pro rated to reflect the portion of the year that I worked, which will be paid at the firm's regular distribution schedule, ending in April 2006. Consistent with Government ethics rules, until all partnership earnings are received, I will not participate in any matter that would affect my former firm's ability or willingness to make such payments, unless I first obtain a waiver under 18 U.S.C. § 208(b)(1). In addition, for one year after I resign, I will not participate in any matters in which my former firm is a party or represents a party, unless permitted by ethics regulations.

**2. List any investments, obligations, liabilities, or other relationships which might involve potential conflicts of interest with the position to which you have been nominated.**

There will be none. Pursuant to the ethics agreement that I have executed, I will resolve any such potential conflicts within 90 days of my confirmation.

**3. Describe any business relationship, dealing or financial transaction (other than tax paying) which you have had during the last 10 years with the Federal Government, whether for yourself, on behalf of a client, or acting as an agent, that might in any way constitute or result in a possible conflict of interest with the position to which you have been nominated.**
None.

**4. List any lobbying activity during the past ten years in which you have engaged in for the purpose of directly or indirectly influencing the passage, defeat or modification of any legislation at the national level of government or affecting the administration and execution of national law or public policy.**

None.

**5. Explain how you will resolve any conflict of interest that may be disclosed by your responses to the items above.**

There will be none. Any such potential conflicts are resolved pursuant to the ethics agreement that I have executed.

**Civil, criminal and investigatory actions:**

**1. Give the full details of any civil or criminal proceeding in which you were a defendant or were the subject of the inquiry or investigation by a Federal, State, or local agency in which you were the subject of the inquiry or investigation.**

None.

**2. Give the full details of any proceeding, inquiry or investigation by any professional association including any bar association in which you were the subject of the proceeding, inquiry or investigation.**

None.

## STATEMENT FOR COMPLETION BY PRESIDENTIAL NOMINEES

**Name:** McCormick (Last) David (First) Harold (Other)

**Position to which nominated:** Under Secretary of Commerce for Export Administration

**Date of nomination:** June 28, 2005

**Date of birth:** 17 (Day) 08 (Month) 1965 (Year) **Place of birth:** Washington, PA

**Marital Status:** Married **Full name of spouse:** Amy Frances Richardson

**Name and ages of children:** Elizabeth Cora McCormick, age 4 ½
Tess Anne McCormick, age 2 ½
Ava Garner McCormick, age 6 months

**Education:**

| Institution | Dates attended | Degrees Received | Dates of degrees |
|---|---|---|---|
| Princeton University | 9/1992 to 9/1996 | M.P.A and Ph.D. | 9/1996 |
| United States Military Academy | 9/1983 to 5/1987 | B.S. Mechanical Engineering | 5/1987 |
| Bloomsburg Senior High School | 9/1979 to 5/1983 | Diploma | 5/1983 |

**Honors and Awards:** **List below all scholarships, fellowships, honorary degrees, military medals, honorary society memberships and any other special recognitions for outstanding service of achievement**

Henry Crown Fellow, Aspen Institute, 2003

Young Leader, French-American Foundation, 1999

Earhart Fellowship for academic excellence, H.B. Earhart Foundation, 1996

Bronze Star Medal for meritorious service, Operation Desert Storm, 1991

Honor Graduate and Merrill Leadership Award, US Army Ranger School, 1988

Eastern Collegiate Athletic Association Award for academic and athletic excellence, 1987

**Memberships:** **List below all scholarly, civic, charitable and other organizations for which you are a member**

| Organization | Office held(if any) | Dates |
|---|---|---|
| Allegheny Conference on Community Development | Board Member | 7/2004-Present |
| Pittsburgh Technology Council | Board Member | 7/2004-Present |
| Pittsburgh Parks Conservancy | Board Member | 12/2001-Present |
| Manchester Bidwell Corporation | Board Member | 7/2000-Present |
| Pittsburgh World Affairs Council | Board Member | 1/2001-Present |

**Employment record:**

**List below name of employment, location of work, and inclusive dates of employment**

Ariba, Inc., President and Director, 210 Sixth Avenue, Pittsburgh, PA 15222, 7/2004-Present

FreeMarkets, Inc., 210 Sixth Avenue, Pittsburgh, PA 15222

| | |
|---|---|
| CEO | 2/2003-6/2004 |
| President | 10/2002-1/2003 |
| EVP, Worldwide Operations | 1/2001-9/2002 |
| SVP, Core Business Markets | 11/1999-12/2000 |

McKinsey & Company, Consultant, 301 Grant Street, Pittsburgh, PA 15219, 9/1996-10/1999

Princeton University, Student/Preceptor, Robertson Hall, Prospect Avenue, Princeton, NJ, 8/1992-8/1996

International Peace Academy, Research Assistant/Intern, 777 United Nations Plaza, New York, New York, 10017, 6/1993-8/1993

United States Army, Captain, 5/1987-2/1992

**Government experience:**

**List any experience in or direct association with Federal, State, or local governments, including any advisory, consultative, honorary or other part time service or positions.**

None.

**Published writings:**

**List the titles, publishers and dates of books, articles, reports or other published materials you have written.**

"Let's Roll Against Saddam Hussein" (Op-Ed), *Los Angeles Times*, February 28, 2002

"Trouble in the Ranks" (Op-Ed), with John Hillen, *The San Diego Union-Tribune*, July 23, 2000

"Hospital, Heal Thyself" with Paul Mango and Michael Figliuolo, *The McKinsey Quarterly*, vol. 1, 2000

"Illusions of Airpower" (Op-Ed), *The Pittsburgh Post-Gazette*, July 14, 1999

"The Draft Isn't the Answer" (Op-Ed), *The New York Times*, February 10, 1999

*The Downsized Warrior: America's Army in Transition*, New York University Press, 1998

"From Peacekeeping to Peacebuilding: Restructuring Military and Police Institutions in El in *Keeping the Peace: Multidimensional UN Operations*, Michael Doyle, Ian Johnstone, Robert Orr, eds., Cambridge University Press, 1997

"Relationships Between the State and the Armed Forces", a published essay based on a Ditchley Foundation Conference held at Ditchley Park, Oxfordshire, England (report No. 96/8), June 1996

"A Downsized, Down and Out Army" (Op-Ed), *Christian Science Monitor*, March 26, 1996

"A Perilous Precedent: The U.S. Military and the War on Drugs", *Journal of Public and International Affairs*, vol. 5, Spring 1994, pp. 36-63

"A Soldiers Sacrifice" (Letter to the Editor), *Press Enterprise*, February 23, 1991

**Political Affiliations and activities:**

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

None.

**Political Contributions:**

**Itemize all political contributions of $500 or more to any individual, campaign organization, political party, political action committee or similar entity during the last eight years and identify specific amounts, dates, and names of recipients.**

| | | |
|---|---|---|
| 6/21/2001 | Arlen Specter for Senate | $ 500.00 |
| 8/9/2001 | Republican Federal Committee of PA | $ 500.00 |
| 3/19/2002 | Arlen Specter for Senate | $ 500.00 |
| 8/30/2002 to 12/31/2002 | FreeMarkets Political Action Committee | $ 600.00 |
| 1/1/2003 to 12/21/2003 | FreeMarkets Political Action Committee | $ 1,800.00 |
| 5/15/2003 | Arlen Specter for Senate | $ 1,000.00 |
| 10/10/2003 | Volpac | $ 5,000.00 |
| 10/24/2003 | Kit Bond for Senate | $ 2,000.00 |
| 10/24/2003 | Lisa Murkowski for Senate | $ 2,000.00 |
| 10/27/2003 | Arlen Specter for Senate | $ 1,000.00 |
| 12/4/2003 | Bush/Cheney 2004 | $ 1,000.00 |
| 10/31/2003 | Ben Nighthorse Campbell for Senate | $ 2,000.00 |
| 1/1/2004 to 3/16/2004 | FreeMarkets Political Action Committee | $ 450.00 |
| 2/18/2004 | Republican National Committee of Allegheny County | $ 1,000.00 |
| 3/4/2004 | Tim Murphy for Congress | $ 1,000.00 |
| 6/28/2004 | Roy Blunt for Congress | $ 1,000.00 |
| 1/25/2005 | Santorum 2006 | $ 2,000.00 |
| 5/25/2005 | Murphy for Congress | $ 500.00 |
| 6/1/2005 | Santorum 2006 | $ 500.00 |

**Qualifications:**

**State fully your qualifications to serve in the position to which you have been named.**

I believe that I am well qualified to serve as the Under Secretary of Commerce for Export Administration. My professional experience in both the private and public sectors as well as my educational training have focused on issues at the intersection of business and national security, which are highly relevant to the position for I have been nominated.

In the private sector, I have served as a consultant to Global 2000 companies across a range of industries helping to develop and execute their strategies for growth and improved performance. Later in my career as an entrepreneur and public company CEO, I helped build and lead a profitable 1000+ person technology organization with 25 offices around the world. During this time, I have worked closely with senior executives across industries and around the world, and have witnessed first hand the challenges they face in leading their companies through times of accelerating change, protecting highly valued intellectual property and maintaining global competitiveness.

In the public sector, I served as an active duty Army officer from 1987-1992. During this period, I was a junior officer in the 82nd Airborne Division where I had the opportunity to lead combat paratroopers at a time when the Army was fundamentally rethinking the threat and its mission in the wake of the Cold War. My unit was one of the first to deploy to Saudi Arabia and then Iraq following Saddam Hussein's invasion of Kuwait in 1990, and my experience there reinforced for

me the importance of U.S. forces maintaining a substantial lead in military capabilities and technologies far exceeding those of all existing or potential enemies. I followed my military service with more formal training on economics, foreign affairs and national security policy by completing a Ph.D. in international affairs in 1996. Since that time, I have written numerous articles and spoken publicly on a range of national security, economic policy, and business-related issues.

As a consequence of these experiences, I fully appreciate the important components of the position for which I have been nominated. These include, of course, the substantive work involved in balancing the interests of the business community in promoting exports with the Government's imperative of protecting our national security by controlling trade of sensitive technology. I believe my training and experiences will assist me in effectively leading the Bureau of Industry and Security, improving interagency coordination, actively consulting with members of Congress and their staffs, working closely with the business community, and engaging officials from other countries in reaching agreement on multilateral approaches to export controls.

**Future employment relationships:**

**1. Indicate whether you will sever all connections with your present employer, business firm, association or organization if you are confirmed by the Senate.**

Yes.

**2. As far as can be foreseen, state whether you have any plans after completing government service to resume employment, affiliation or practice with your previous employer, business firm, association or organization**

No.

**3. Has anybody made you a commitment to a job after you leave government?**

No.

**4. Do you expect to serve the full term for which you have been appointed?**

Yes.

**Potential conflicts of interest:**

**1. Describe any financial arrangements or deferred compensation agreements or other continuing dealings with business associates, clients or customers who will be affected by policies which you will influence in the position to which you have been nominated.**

Pursuant to a previously negotiated severance agreement, I will receive a severance payment based on a pre-established formula immediately following my resignation. In addition, because I will be maintaining my stock holdings in Ariba, Inc, I will disqualify myself from matters effecting the Company during my tenure at the Bureau of Industry and Security.

**2. List any investments, obligations, liabilities, or other relationships which might involve potential conflicts of interest with the position to which you have been nominated.**

None of which I am aware.

**3. Describe any business relationship, dealing or financial transaction (other than tax paying) which you have had during the last 10 years with the Federal Government, whether for yourself, on behalf of a client, or acting as an agent, that might in any way constitute or result in a possible conflict of interest with the position to which you have been nominated.**

None.

**4. List any lobbying activity during the past ten years in which you have engaged in for the purpose of directly or indirectly influencing the passage, defeat or modification of any legislation at the national level of government or affecting the administration and execution of national law or public policy.**

None.

**5. Explain how you will resolve any conflict of interest that may be disclosed by your responses to the items above.**

I do not believe the above responses suggest any conflict of interest. However, should any circumstance arise that would involve even an appearance with a conflict of interest, I would consult with the Commerce Department's Legal Counsel.

**Civil, criminal and investigatory actions:**

**1. Give the full details of any civil or criminal proceeding in which you were a defendant or were the subject of the inquiry or investigation.**

Mr. McCormick was named as a defendant in Memo, et al. v. Ariba, Inc., et al., Case No. 677-N (Del. Ch. Ct.), a putative class action filed by Plaintiffs Michael Memo and David Booth on September 1, 2004. Mr. McCormick was named solely in his capacity as a director of FreeMarkets. Also named as defendants were Ariba and the former directors of FreeMarkets, including Glen T. Meakem, Thomas J. Meredith, Thomas J. Gill, Raymond J. Lane, Jared Cohon, and Karl Newkirk. The Complaint alleges that the defendants breached their fiduciary duties by failing to disclose material information relevant to the fairness of the consideration received by FreeMarkets' shareholders in connection with its merger with Ariba. The Complaint was filed in the Court of Chancery of the State of Delaware, New Castle County, 500 North King Street, Suite 1551, Wilmington, DE 19801. On February 7, 2005, Defendants filed a motion to dismiss the Complaint in its entirety. The motion to dismiss is pending before the Court at this time.

**2. Give the full details of any proceeding, inquiry or investigation by any professional association including any bar association in which you were the subject of the proceeding, inquiry or investigation.**

None.

**Schedule E**

Pending Legal Actions

Mr. McCormick was named as a defendant in Memo, et al. v. Ariba, Inc., et al., Case No. 677-N (Del. Ch. Ct.), a putative class action filed by Plaintiffs Michael Memo and David Booth on September 1, 2004. Mr. McCormick was named solely in his capacity as a director of FreeMarkets. Also named as defendants were Ariba and the former directors of FreeMarkets, including Glen T. Meakem, Thomas J. Meredith, Thomas J. Gill, Raymond J. Lane, Jared Cohon, and Karl Newkirk. The Complaint alleges that the defendants breached their fiduciary duties by failing to disclose material information relevant to the fairness of the consideration received by FreeMarkets' shareholders in connection with its merger with Ariba. The Complaint was filed in the Court of Chancery of the State of Delaware, New Castle County, 500 North King Street, Suite 1551, Wilmington, DE 19801. On February 7, 2005, Defendants filed a motion to dismiss the Complaint in its entirety. The motion to dismiss is pending before the Court at this time.

**RESPONSE TO WRITTEN QUESTIONS OF SENATOR SANTORUM FROM KIM KENDRICK**

**Q.1.** On April 5 of this year, I sent a letter to Secretary Jackson urging him "to consider refraining from issuing the final LEP guidance until concerns about its unfunded costs, its potential for unintended consequences at the local level and its legal liabilities for affordable housing providers are sufficiently addressed." I am told that HUD officials have advised affordable housing operators that the final guidance will call for translating "vital documents" and providing oral interpretation services to persons with limited English proficiency free of charge to that person and at the project's expense. Has HUD performed any cost studies to determine how much these services will cost the industry?

**A.1.** Executive Order (EO) 13166, signed on August 11, 2000, requires all Federal agencies to ensure that programs receiving Federal financial assistance provide meaningful access to LEP persons. The Order charges the Department of Justice (DOJ) with responsibility for providing LEP Guidance to other Federal agencies and for ensuring consistency among each agency-specific guidance. On June 12, 2002, DOJ issued LEP guidance that directed all Federal agencies to use the DOJ guidance as the model. Based on DOJ's instruction, HUD published proposed guidance for its recipients on December 19, 2003. HUD made extensive changes based on the comments it received and will soon publish the final guidance.

HUD is sensitive to the cost concerns of affordable housing providers. Following DOJ's guidance, our guidance requires that HUD recipients conduct a four-factor analysis to determine whether there is a need to provide language services to beneficiaries relative to costs and recipients' resources. After applying the four-factor analysis, a recipient may determine that an effective LEP plan for its particular program or activity includes the translation of vital written materials into the needed language to ensure equal treatment and equal access of LEP persons to the recipient's programs and activities.

**Q.2.** Again, referring to my letter to Secretary Jackson, I urged HUD to consider as one possible solution, "The Department itself should provide translation and oral interpretation services directly to the LEP population in order to achieve cost effectiveness, uniformity in the quality and delivery of service, and to minimize the burden on affordable housing providers." I am aware that the Office of Multifamily Housing intends to provide translations of the four HUD model leases and the Resident Rights and Responsibilities brochure in a limited number of languages.

**Q.2.a.** Could you specify which documents should be considered "vital"? Has HUD considered translating these important documents at the Department's expense?

**A.2.a.** DOJ guidance explained,

> Whether or not a document (or the information it solicits) is "vital" may depend upon the importance of the program, information, encounter, or service involved, and the consequence to the LEP person if the information in question is not provided accurately or in a timely manner.

HUD's guidance applies this same principle. HUD does not determine which of the recipients' documents are "vital." The recipients make this determination.

**Q.2.b.** Do you believe having HUD specify and translate "vital documents" is a more cost-effective solution that would achieve uniformity in the quality and delivery of service?

**A.2.b.** It is not practical for HUD to translate recipients' vital documents because vital "may depend upon the importance of the program, information, encounter, or service involved, and the consequence to the LEP person if the information in question is not provided accurately or in a timely manner." Only the recipient can determine this.

**Q.3.** As you know, in HUD's multifamily housing programs, all members of the household who are 18 years of age and older must sign the lease. Another recommendation I urged Secretary Jackson to consider is revising the definition of who is LEP so that it does not include any member of a household where at least one of the signatories to the lease in that household is proficient in English. Is this a revision that HUD could accept? Please explain.

**A.3.** Your concern has been raised by the multifamily housing industry groups. HUD is giving consideration to this issue. It will be an issue I will deal with before the issuance of the final guidance.

**Q.4.** There is a document on the HUD FHEO website to which I would like to call your attention. "Know Your Rights Are You Limited English Proficient" *(http://www.hud.gov/offices/fheo/promotingfh/leprights.pdf),* lists the following among the examples of what may be discrimination based on national origin, "You call the landlord to report an emergency, but they cannot help you because they only speak English and they cannot understand your language." Please explain the rationale behind HUD using this example as advice for tenants.

**A.4.** This concern has also been brought to HUD's attention. The subject document will be revised to be consistent with HUD's final guidance when it is issued.

**Q.5.** Last, I have been told that FHEO is already proceeding with investigations of LEP-related complaints, even though the final guidance to HUD's funding recipients has not been released.

**Q.5.a.** How are affordable housing operators supposed to know what their LEP obligations are before the final guidance is issued?

**A.5.a.** EO 13166 sets forth the compliance standards that federally assisted program and activities must follow. It states that,

> . . . the compliance standards that recipients must follow to ensure that the programs and activities they normally provide in English are accessible to LEP persons and thus do not discriminate on the basis of national origin in violation of Title VI of the Civil Rights Act of 1964, as amended, . . .

HUD uses the Title VI compliance standards for national origin when conducting reviews for LEP. HUD's guidance is consistent with DOJ Policy Guidance entitled, "Enforcement of Title VI of the Civil Rights Act of 1964—National Origin Discrimination Against Persons with Limited English Proficiency," dated August 16, 2000.

**Q.5.b.** Under your tenure as Assistant Secretary of FHEO, will fair housing policies be finalized and publicly distributed (in the *Federal Register* for instance) before your office investigates and takes actions against affordable housing operators and/or public housing agencies?

**A.5.b.** No additional fair housing policies are necessary. HUD uses the Title VI compliance standards for national origin as the basis for its compliance reviews of its federally assisted recipients.

**REPONSE TO WRITTEN QUESTIONS OF SENATOR REED FROM KIM KENDRICK**

**Q.1.** There has been a significant drop in the number of fair housing complaints where a reasonable cause determination has been issued in the past few years. What will you do to increase the effectiveness of enforcement? What will you do to increase the number of systemic investigations of violations of the Fair Housing Act by your staff?

**A.1.** I, too, am concerned about the drop in charges in recent years. I am pleased to report that the numbers are trending up again, but I am still not satisfied. HUD is the Federal agency with the primary responsibility for enforcing the Fair Housing Act. People who file complaints with us expect prompt and just resolutions of their cases. HUD has made great strides in reducing the time it takes to investigate cases. The Department is currently analyzing its operations to ensure that we maintain quality in the process. Moreover, the Office of Fair Housing and Equal Opportunity and the Office of General Counsel are exploring ways they can work closer in the planning and conduct of investigations so we can complete cases faster, with more effective outcomes. I will work to increase training opportunities for HUD investigators, drawing on significant expertise at HUD and other organizations. The training we will provide at the National Fair Housing Training Academy will make a significant contribution to that effort.

HUD is completing revisions to HUD's Title VIII (Fair Housing Act) handbook, which provides improved instruction and updated information on the conduct of a fair housing investigation. The handbook provides guidance on every stage of a fair housing complaint from intake through investigation all the way to adjudication. This will increase the effectiveness of HUD's investigative activities.

While HUD's fair housing enforcement function provides critical redress for individuals who face discrimination, we will not eliminate discriminatory barriers in the housing market through the enforcement of individual cases alone. This past year, HUD created the Office of Systemic Investigations to initiate large-scale cases on behalf of the public interest. The consolidation of this responsibility in one unit will allow HUD to better address novel and complex cases in lending and against large developers. I will ensure HUD also continues to work closely with the Department of Justice on joint investigations and in the referral of pattern-and-practice cases.

**Q.2.** In your opinion does the Office of Fair Housing and Equal Opportunity currently have enough funding to support fair housing

enforcement? Does it have enough staff? What programs or projects to support fair housing enforcement would you like to see initiated in FHEO if you are confirmed? Will you ensure that FHEO will have enough travel funds to provide for on-site investigations in every case?

**A.2.** With the funds available, HUD and its State and local partners currently investigate more than 9,000 housing discrimination complaints each year, while also conducting compliance reviews and investigations of HUD-funded recipients. Of course, this does not represent the full extent of housing discrimination in America. HUD's national housing discrimination studies, conducted in 2000, show that racial minorities experience some form of different treatment on average, in over 20 percent of the time they seek housing. HUD's disability study, issued this year, showed that hearing-impaired persons using a TTY face some form of different treatment than half of the time they make a call to inquire about housing. People in wheelchairs, visiting apartment buildings in person, are treated differently one-third of the time.

It is true that HUD does not have the resources to pursue every entity that engages in discrimination. Still, HUD can educate both consumers and housing providers about their rights and obligations under the law through our high-profile cases. In particular, I would like to bring more Secretary-initiated cases, more cases on behalf of people with disabilities, and more cases that combat predatory lending. The newly created Office of Systemic Investigations provides a mechanism for us to do so.

I believe on-site investigations are critical to the successful and appropriate resolution of a case. As Assistant Secretary, I will work to make sufficient travel funds available for fair housing investigations.

**Q.3.** FHEO established a fair housing training academy and it is mandatory that substantially equivalent State and local agencies attend, often to the exclusion of other available fair housing education. However, many FHAP agencies report that the courses lack substance and the teachers are not the best in the field. Evaluations have been completed by all attendees. Will you review these evaluations personally to determine if the Fair Housing Academy is meeting its goals and expectations?

**A.3.** The National Fair Housing Training Academy just completed its first year of operation successfully providing training to over 600 attendees. In the coming year, the Academy will include some advanced courses that will meet the training needs of our more experienced investigators. Like any new project, I am sure the Training Academy will have to make adjustments and improvements as it moves forward. It will need to modify and expand the curriculum to best meet the needs of fair housing investigators. To that end, the feedback that we receive from attendees is invaluable. We look forward to receiving their suggestions and using them to guide this project.

**Q.4.** The current Office of Fair Housing and Equal Opportunity has very few written resources that provide education and outreach about the Fair Housing Act and other civil rights laws that the Office enforces. What are your plans to provide written educational

materials for industry, advocates, and enforcers? In particular, given that Secretary Jackson announced in early August, in conjunction with the issuance of HUD's Disability Discrimination Study, that HUD intends to "educate both consumers and landlords about the rights of disabled individuals," what are your plans to develop materials and programs to conduct this education?

**A.4.** HUD has produced some excellent resource material, available in multiple languages, to inform people of their fair housing rights and what they can do if they believe they have experienced housing discrimination. At conferences, conventions, and fairs, the Department regularly distributes brochures, posters, and forms people can use to report discrimination.

Moreover, the Department provides thousands of pages of resource material on fair housing at *http://www.hud.gov/fairhousing*. Persons searching on Google need only type in "HUD" and "fair housing," and HUD's fair housing home page is the first site retrieved. HUD has made numerous improvements to that page to make it more user-friendly. From any public library, you can visit that site and learn how to file a complaint with HUD; read the charges HUD has recently issued; and learn about your rights as a person with a disability under the Fair Housing Act and other civil rights laws. There is also information on the responsibilities of a housing provider and the additionally responsibilities of providers of federally assisted housing.

HUD also funded the creation of the written and web-based resource materials produced by Fair Housing Accessibility FIRST at *http://www.fairhousingfirst.org/*. This program promotes greater compliance with the Fair Housing Act's accessibility compliance among private developers. You can also find and read every fair housing research publication.

When HUD published its most recent study, "Discrimination Against Persons with Disabilities: Barriers at Every Step," in August, the Department made that report available at *http://www.hud.gov/offices/fheo/library/dss-download.pdf,* along with a Guidebook for Practitioners at *http://www.hud.gov/offices/fheo/library/dss-guidebook.pdf*. The Department produced the guidebook as a resource for disability and fair housing advocates so they can address discrimination in their communities. The National Fair Housing Training Academy will also use the guidebook as training for fair housing practitioners. The findings also underscore the importance of continued funding of the much-praised FIRST program.

In addition, HUD and the Department of Justice have issued a joint statement on reasonable accommodations under the Fair Housing Act, which answers some of the most frequently asked questions regarding reasonable accommodations.

Beyond this, HUD provides education and outreach grants to fair housing organizations, often placing an emphasis on a particular education need (that is, outreach to people with disabilities or to Hispanics and Latinos). The National Fair Housing Training Academy will begin cataloging these materials to make them available to all fair housing groups.

**Q.5.** We have heard complaints that different fair housing HUB and program offices take different positions on interpretations of

the Fair Housing Act, Section 504 of the 1973 Rehabilitation Act and Title VI of the 1964 Civil Rights Act. What will your office do to address possible inconsistencies among your offices?

**A.5.** It is important that HUD offices have a consistent interpretation of the Fair Housing Act. The training underway on the new Title VIII handbook should go a long way to address this. Under my leadership, HUB directors will continue to have weekly phone calls to discuss problems and concerns with cases. I will also have quarterly meetings with HUB directors to address policy and interpretation of the Fair Housing Act and our requirements. Furthermore, I will provide regular guidance on precedent setting issues to ensure uniform interpretation on novel issues.

**Q.6.** How is HUD planning to make sure in the wake of Katrina that those dislocated voucher holders of Section 8 housing choice/tenant-based vouchers or 811 mainstream vouchers are matched with and placed in accessible housing that meets their needs? And if they are in communities without such rental stock, what contingencies can HUD take to ensure they do not wind up homeless?

**A.6.** After the tragedy suffered by so many in the Gulf region, it is important that we not only provide people with a place to call home, but also ensure that they can access that home. To achieve this, many groups, including State and local housing providers and the housing industry must work together. As an initial step, I propose that HUD require all its recipients to survey the availability of their accessible units and give priority for those units to evacuees who require those accessibility features. HUD should also issue guidance to all HUD recipients reminding them of their duty to comply with the requirements of Section 504.

HUD will coordinate with FEMA to ensure that there is access into its manufactured housing, as needed, to identify the location of mobile home parks with accessible manufactured housing or other accessible units, and to issue letters with appropriate design standards. I understand that the Manufactured Housing Consensus Committee, a Federal Advisory Committee, is exploring providing guidance to all trailer home manufacturers encouraging them to produce manufactured housing units that are accessible.

On a longer-term basis, HUD should remind local governments that are housing evacuees with disabilities in nursing homes that consistent with *Olmstead,* this should not be considered permanent housing for those persons.

**RESPONSE TO WRITTEN QUESTIONS OF SENATOR CRAPO FROM KIM KENDRICK**

**Q.1.** I am pleased that HUD has decided to hold public forums to discuss proposed reforms to RESPA. This is a welcomed change from previous attempts to reform RESPA that appeared to have taken place without any regard to stakeholder opinions. However, it is my understanding that these meetings have not been recorded and no public record of what transpired in the meetings exists. Can you explain HUD's reasoning for not recording these meetings and if officials plan to record future meetings?

**A.1.** The RESPA Reform Roundtables that HUD held this summer with representatives of industry, including small business entities,

and consumers, although publicly announced for purposes of information and transparency of HUD processes, were established as informal meetings. One of HUD's objectives in conducting the Roundtables was to initiate a meaningful and productive discussion of issues surrounding the home settlement process and how these issues might be addressed through possible changes to HUD's RESPA regulations or other means, and HUD's view was that this objective could be best achieved through an informal meeting setting. HUD's concern was that the recording of these meetings would lend a formality to the meetings, which HUD thought would be counterproductive. HUD was also concerned that the recording of the meetings would have presented a chilling effect on the participants and their willingness to voice proposals or comments about possible RESPA reform, or how they voiced these proposals, which would definitely be counterproductive to the objective of the Roundtables. To ensure, however, transparency on this process, HUD allowed members of the media to view the Roundtables and report to the public on the views, proposals, and comments expressed, and who said them but not with every statement being recorded. By all accounts, HUD believes its RESPA Reform Roundtables were well-received and a success.

HUD learned much from the discussion at the roundtables and we are in the process of considering the information, views, and proposals presented. No actions have yet been decided, and we have not ruled out the possibility of additional meetings, perhaps issue-specific meetings.

**Q.2.** Also, since you attended the series of roundtables on RESPA reform, do you think there is consensus among the industry on RESPA reform efforts, particularly on packaging and the GFE?

**A.2.** I believe there is consensus on areas of RESPA for which change would be welcomed by the industry, and the GFE is one such area. Consensus on specific changes, however, whether changes to the GFE or packaging, would depend, upon the specific proposal for change presented by HUD. With respect to both packaging and the GFE, HUD received several suggestions at the Roundtables. Another positive outcome of the Roundtables, in addition to the information received by participants from HUD, was the willingness of the participants to be open to suggestions for changes and the commitment to consider proposals for change, whether offered by HUD, the industry, consumers, or other interested parties.

## RESPONSE TO WRITTEN QUESTIONS OF SENATOR REED FROM DARLENE WILLIAMS

**Q.1.** In recent years, HUD has had difficulty in releasing reports in a timely way. For example, the HUD publication, "A Picture of Subsidized Households," has not been updated with data past 1998. The current "Worst Case Housing Needs Report," based on 2003 data, is apparently completed but has yet to appear, and the last "Worst Case Housing Needs Report," based on 1999 data, with "an update for 2001," did not appear until January 2004. How, as Assistant Secretary for Policy Development and Research, would you work to improve this record?

**A.1.** PD&R releases over 60 publications per year. Also, 800 publications are available on PD&R's website, *www.huduser.org,* and more than 4.5 million documents are downloaded every year from the site. The two specific publications you refer to are among PD&R's *in-house* publications. I recognize that they are very important to Congress and other PD&R users.

Work on the next "Picture of Subsidized Households" publication is almost complete. If confirmed as Assistant Secretary, I would make it a priority to make this publication available as soon as possible.

The Worst Case Needs for Housing Assistance Reports were first issued at the direction of the Senate Appropriations Committee in 1991 and are based on national data from the American Housing Survey (AHS), which is funded by PD&R's Research and Technology account. A Worst Case Needs for Housing Assistance—A Report to Congress, based on the 2003 AHS data, which first became available in June 2004 for analysis, is ready for Department-wide clearance but Hurricane Katrina has delayed the review process. The Departmental clearance process typically takes 3 months. If confirmed, I will work to ensure that Congress receives this Worst Case Needs for Housing Assistance Report before the end of the 2005 calendar year.

The Office of Policy Development and Research has a strong record of issuing objective, methodologically sound research publications that are relied upon by policymakers, academic institutions, housing advocates, and the construction, real estate, and finance industries. If confirmed as Assistant Secretary, I will work to build on this record of achievement and ensure that PD&R remains a nationally recognized source of sound and objective housing and economic information.

Finally, Congressional assistance and support for PD&R, including funding for its Research and Technology account, is critical for the successful completion of its duties. Sound and objective data is the foundation for informed policy decisionmaking. If confirmed as Assistant Secretary, I will do my utmost to bring about the timely issuance of sound and objective research.

**Q.2.** HUD possesses a significant quantity of data on the housing and housing needs of low-income people in the path of Katrina. Much of the most up-to-date data has not been made available publicly, such as on the "Picture of Subsidized Households" website. Will you make it a priority to make those data available to the public so that they can understand the impact the storm has had in their area and can use these data in aiding the recovery of the Gulf region?

**A.2.** As you mention, PD&R maintains a great deal of information on assisted housing and low-income housing needs. PD&R regularly updates its files on assisted housing programs, and already has contributed to HUD's Katrina-related effort: (1) by providing maps on locations of HUD properties and participants to the Secretary; and (2) by making available, on very short notice, information on participants in multifamily assisted programs in the areas impacted by the hurricane, so that PHAs across the country could

confirm that families applying for assistance were, in fact, impacted by Katrina.

PD&R staff are beginning to work now on a geographic information system (GIS) application that will provide more extensive tabulations, maps, and modeling of housing outcomes in the States impacted by Katrina. As Assistant Secretary, I would lend my best efforts to ensure that data that would be useful to the public in responding to this disaster would be available to the public.

**Q.3.** In a recent GAO report, HUD was found to lack transparency in presenting the Fair Market Rent data. It was very difficult to replicate the results or determine how individual FMRs were determined. Since that report, HUD has made considerable progress in showing where the fiscal year 2006 Fair Market Rents released June 2, 2005, came from. Twelve weeks later (and 6 weeks late), HUD released 70 FR 50138 that proposed changes to the 50th Percentile Fair Market Rents but did not provide sufficient information to replicate or understand how an individual community scored on the various criteria. The notice was released on August 25, 2005, with only a month of comment time. Are you committed to making the work of PD&R where it relates to the administrative work of HUD transparent and useful to the end users, the tenants, and PHAs that must live with these results?

**A.3.** Senator Reed, I can assure you that, if confirmed, I am committed to continuing PD&R's efforts to make data related to PD&R's administrative work as transparent and useful as possible to those affected by the decisions made based on the data. PD&R's Fair Market Rent (FMR) documentation websites are a primary example of how, when staff and resources are available, the public can be made better informed about how data are used to make decisions affecting their lives. PD&R has made available sufficiently extensive data that allows localities to replicate virtually all FMR determinations.

There are times, however, when statutory constraints related to the privacy of the American people, and the accuracy of the data used for HUD's administrative decisions, may come into conflict with the goals of transparency of methods and usefulness of data. For example, the FMR Documentation websites cannot, *under the Privacy Act of 1974, 5 U.S.C. §552a,* use the same special tabulations of the 2000 Census used by PD&R to benchmark the FMRs. The FMR Documentation websites demonstrate how the 2000 Census base rents are calculated, but that demonstration does not always *exactly* match PD&R's results due to rounding in the data on the website.

The 50th percentile FMR determination presents another such case. Two of the data elements used to make the 50th percentile FMR determinations cannot be released to the public because of Privacy Act considerations. Like the data used to benchmark FMRs to the 2000 Census, the underlying data on the concentration of affordable housing units from the 2000 Census is a special tabulation of rental housing units available for use only to Sworn Census Officials (PD&R has several on staff). A rounded version of this special tabulation is provided that does not allow the public to produce the same results as PD&R because the rounding of data at small geog-

raphy levels (tracts) introduces differences that are compounded when many rounded data elements are summed. The data on concentration of voucher tenants is derived from individual tenant records in HUD's administrative data systems. While HUD and PD&R can report the results of analysis of these data, HUD and PD&R are prohibited by law from releasing the source data to the public.

The August 25, 2005 Notice clearly stated that HUD could not release the data used to make the 50th percentile FMR determinations. The Privacy Act barrier to disclosure was part of the justification for applying stricter scrutiny of the data under HUD's Information Quality Guidelines.

**RESPONSE TO WRITTEN QUESTIONS OF SENATOR SARBANES FROM FRANKLIN LAVIN**

**Q.1.** What specific issues would you place at the top of the agenda of the Trade Promotion Coordinating Committee?

**A.1.** The TPCC is a critical tool for making export opportunities more available to U.S. businesses. My priorities, if confirmed, will be to implement the 2005 National Export Strategy, coordinate an interagency component to the President's Asia Pacific Partnership for Clean Development, and use the TPCC to broaden the base of U.S. companies that export.

- The 2005 Strategy focused on making sure that U.S. small businesses are aware of and possess the tools they need to take advantage of recent market openings such as CAFTA. In addition, the TPCC is focusing on seven other key markets (Japan, South Korea, China, India, Russia, EU, and Brazil) where United States Government trade promotion resources can have the biggest impact.
- The Department is helping to coordinate an interagency component to the President's Asia Pacific Partnership for Clean Development. This partnership focuses on practical measures that can be taken by countries in the Asia-Pacific region to create new investment opportunities, build local capacity, and remove barriers to the introduction of clean, more efficient technologies. U.S. companies are leaders in many of these technologies, and the TPCC agencies will engage these companies to help them participate in projects that are part of this partnership.
- I would like the TPCC agencies to develop private sector partnerships that encourage more U.S. companies to export. The latest Census figures show that of the 1.5 million U.S. manufacturing and wholesales firms only 225,000 of them export. One study showed that as many as a third of nonexporting firms would export if they had the right information and assistance. The Department is currently piloting a number of innovative partnerships with the private sector (for example, Fed Ex and PNC Bank). One of my goals will be to develop these and other partnerships into a larger strategy to get more U.S. companies exporting.

**Q.2.** The U.S. trade deficit with China is rapidly increasing and will likely exceed $200 billion by year-end. What specific steps do

you propose to help United States exporters penetrate Chinese markets and deal with the imbalance?

**A.2.** If confirmed, I intend to pursue a three-pronged approach to helping United States business export to China.

First, we need to take every step we can to improve market access for United States companies in China. We will continue to press China to adhere to its WTO commitments. We will use the annual JCCT process, the Trade Review Mechanism of the WTO, and bilateral senior-level meetings in this effort.

Second, we need to reach out to companies in the United States to make sure they understand the opportunities of the China market. We will step up our trade promotion efforts to assist United States companies in locating qualified buyers in China. This will include a series of focused trade events during 2006, continued improvements to our China Business Information Center (CBIC), and full implementation of the American Trading Centers (ATC) initiative which will particularly help small and medium United States companies enter the market in a broader range of Chinese cities.

Third, we need to vigorously enforce our laws against unfair trade practices. If confirmed, I can assure you that we will use every tool at our disposal to rigorously enforce the rights of U.S. business under our trade laws. Indeed, the Bush Administration has put in place more antidumping duty orders on products from China (29) than were put in place during the prior 8 years (25). In addition, the Commerce Department is currently enforcing 57 antidumping duty orders on goods from China, more than twice the number of orders being enforced with respect to the next largest country (Japan, 26).

I have spent 15 years helping United States businesses compete in Asia and while China is a challenging market for United States business, it can also be very rewarding. Despite these challenges, U.S. businesses have had some success. United States goods exports to China have more than tripled during the past 10 years, increasing from $9.3 billion in 1994 to $34.7 billion in 2004. Much of this growth has taken place following China's accession to the WTO in 2001. The average annual growth rate between 2002 and 2004 was 28.5 percent; almost double the average increase from 1994 to 2001 (15.2 percent).

**Q.3.** The currency imbalance between the United States and China encourages U.S. companies to move manufacturing to China and ship finished goods back to the United States for sale. Almost 60 percent of China's exports are now produced by companies funded by foreign capital.

In a 1994 *Foreign Affairs* article, you seemed to advocate ameliorating Chinese trade barriers through inbound United States investment—which could lead Chinese companies to purchase American technology and American goods such as machine tools—rather than through an export-based strategy aimed at the Chinese consumer market. Is that still your view?

**A.3.** I believe there are three important elements to our China strategy: First, we must continue to push for improved market access for U.S. companies, using bilateral negotiations and the WTO process to continually improve our companies' ability to compete.

Second, we must expand export promotion for United States products and companies, helping match suppliers with buyers, and familiarize new-to-market companies with the challenges of China. Third, we need to ensure the rigorous enforcement of our trade laws so that no Chinese exporter can use unfair means to compete in the United States. This multiprong approach, if consistently pursued, should yield positive results for American exporters.

As to the question of United States-China investment, I believe that as bilateral economic engagement continues to grow, so will prospects for bilateral investment. It should be noted that Chinese investment in the United States can bring benefits for United States companies and workers, for example, job creation. Of course, such transactions should be subject to CFIUS review where appropriate.

**Q.4.** Would you favor the United States taking actions such as initiating a WTO case or the imposition of tariffs to encourage the Chinese to allow the value of the remnimbi to reach a realistic level?

**A.4.** The Administration has been clear in its position that China should move toward a market-based flexible exchange rate and there has been some progress on that front. The Treasury Department has the lead for the Administration on that issue and I would refer you to that agency for further details.

**Q.5.** If confirmed, you will be involved in the current round of WTO negotiations. What importance would you assign to U.S. antidumping and countervailing duty laws in the overall strategy of the Office of International Trade Administration?

**A.5.** Preserving the effectiveness of the antidumping and countervailing duty laws is crucial to the overall strategy of the International Trade Administration in the current round of WTO negotiations. I believe that strong antidumping and countervailing duty laws are critical for maintaining support for trade liberalization. We must ensure that our workers and businesses are protected against unfair trade, while gaining the great benefits of larger global markets.

Working with the USTR, the International Trade Administration has been very active in the negotiations on the issues of antidumping and countervailing duty trade remedy measures—tabling many papers to promote our objectives in these negotiations. I will continue to work hard to ensure that the United States' concerns, including those identified by Congress in the Trade Promotion Authority, are addressed as part of the WTO Rules negotiations and that antidumping and countervailing duties remain effective remedies against unfair trade.

## RESPONSE TO WRITTEN QUESTIONS OF SENATOR SHELBY FROM FRANKLIN LAVIN

**Q.1.** Mr. Lavin, unlike its predecessors, the National Export Strategy for 2005 is silent on the matter of tied aid.

Obviously, you cannot be expected to comment on reports with which you have not been involved. For the record, though, could you provide the Committee your view on the extent to which foreign tied aid practices remain a problem.

**A.1.** While tied aid remains an issue, it has become less of a problem. Tied aid now averages between $3 and $4 billion, down from an average of $10 billion in the early 1990's. We will continue to match any violation of OECD rules.

Because of the success in negotiating disciplines on tied aid in the OECD, most tied aid now occurs in social sectors like education, basic medical care, rail, water, and waste water. While tied aid is less injurious when used to fund projects in noncommercial sectors, it is not the most effective use of development dollars.

**Q.2.** The issue of intellectual property rights, particularly involving China, has been a significant problem for decades, costing American manufacturers billions of dollars in lost revenue, and there is little indication the problem will go away anytime soon. The National Export Strategy report for 2005 devotes considerable space to this recurring problem.

Apart from continuing to raise the issue in bilateral discussions with Chinese counterparts, can you provide the Committee some indication of what measures you are considering to help affect significant change in this nefarious practice by Chinese industry?

**A.2.** The International Trade Administration (ITA) currently has four initiatives underway on the IPR problem:

- Policy Efforts: Through the commitments secured at the Joint Commission on Commerce and Trade (JCCT), and in other fora, we are working to ensure that China has in place and enforces the policies needed to ensure adequate protection of intellectual property. This includes seeing a substantial increase in the number of criminal prosecutions of violators of foreign IP rights in China, ensuring that Chinese Government agencies and enterprises use only legal software; strengthening efforts to rid trade fairs of fake goods; ensuring timely accession by China to the WIPO global Internet treaties; and enhancing bilateral cooperation between United States and Chinese law enforcement agencies on combating IP infringing activities.
- Capacity Building: In cooperation with other United States agencies and the United States business community, ITA has conducted numerous training programs for Chinese officials and business executives over the past several years. For example, we have conducted IPR enforcement seminars and training focused on criminal and customs enforcement. These efforts are aimed at ensuring that China has the trained personnel necessary to ensure protection for IPR. We will continue to expand these efforts.
- Outreach to U.S. Industry: We are working on a variety of programs to ensure United States companies are aware of the need to protect their IP in China and to give them the information on how to accomplish this goal. For example, in 2004, ITA's China Office organized over a dozen seminars across the United States addressing how small and medium enterprises can protect their IP. We are working with interagency colleagues to implement an even more ambitious IP outreach program for 2005.
- Metrics: We are working with other United States Government agencies and United States industry to ensure that we have the metrics necessary to track future trends in China's IP situation.

The ability to benchmark China's performance in IP protection and enforcement will continue to be a priority for us.

All of these activities are undertaken in coordination with the Department of Commerce's broader IP initiatives, which include the creation of a new position at DOC—a Coordinator of International Intellectual Property Enforcement, the stationing of additional United States Government IP experts in China and the launching of the Patent and Trademark Office's IP Academy to train foreign officials, including Chinese, in IP law and regulations.

If confirmed as Under Secretary for the International Trade Administration, I would like to explore the following:

- Initiate a United States Government-Industry "Best Practices Initiative" for manufacturers looking to protect their intellectual property in China throughout its distribution chain. Help U.S. business make it as difficult as possible for IP crimes to occur.
- Reinvigorate policy discussion in China to increase market access for United States products in China, with a focus on expanding legal distribution channels for United States products currently unavailable in China's market. The easier the legal distribution channels become, the less attractive the illegal channels.
- Cooperate with Chinese indigenous industry coalitions to raise awareness of the importance of protection of Chinese intellectual property. As the Chinese increasingly develop their own intellectual property, this should foster an indigenous constituency sympathetic to our message.

**RESPONSE TO WRITTEN QUESTIONS OF SENATOR DOLE FROM FRANKLIN LAVIN**

**Q.1.** Mr. Lavin, if confirmed by the Senate, in your role overseeing the Committee on the Implementation of Textile Agreements (CITA) what is your view of the future of the Chinese textile safeguards?

**A.1.** The Administration is committed to finding a solution to the problems we are confronting in the textile sector, particularly with respect to imports from China. There is broad support in our textile and apparel industries for a comprehensive approach to textile trade with China that would provide greater certainty in the marketplace. We are currently engaged in negotiations with China aimed at reaching a broad textile agreement. United States negotiators met with Chinese officials again on this issue on September 26–28. Assuming we have successful negotiations with the Chinese, it is our intent to have an agreement that extends through 2008. I can assure you that we will continue to exercise our rights, as circumstances warrant, to invoke the textile provision of China's Accession Agreement to the World Trade Organization.

**Q.2.** Mr. Lavin, in your time as United States Ambassador to Singapore, that country was identified as a major center for the transshipment of textiles. What actions did you and your staff take to reduce this illegal trade?

**A.2.** Singapore is the world's largest transshipment center. For a ship to get from anywhere in the Indian Ocean or South Asia to anywhere in the Pacific, including the United States west coast, it typically has to go through the port of Singapore.

Singapore's role as a major transshipment center raises the possibility of illegal transshipments through that port. The U.S. Government has spent much time, effort, and money over the last several years establishing stricter controls over transshipments through Singapore and working with the Singaporean Government to increase their knowledge and prosecution of such illegal shipments.

The United States-Singapore FTA requires an unprecedented level of cooperation between the United States and Singaporean Customs services, with a particular emphasis on preventing illegal textile transshipments and rules-of-origin fraud. One textile fraud expert at DHS ICE headquarters told us that the United States-Singapore FTA is the strongest of any FTA for Customs cooperation and antitransshipment procedures for textiles.

The FTA provides for criminal, civil, and administrative penalties to deter circumvention and imposes additional obligations related to information sharing and investigations. For instance, the FTA requires textile producers to retain production and shipping documents for 5 years (the same as in the United States) rather than only 2 years, as under previous regulations. This makes it easier for United States and Singapore Customs to carry out investigations of alleged transshipment and other illegal activities.

As a result of the FTA, all Singapore textile manufacturers, subcontractors, and exporters must register with Singapore Customs and reregister every 2 years, the first part of a process of enhanced transparency and enforcement. Singapore also now provides to United States Customs and Border Protection (CBP) monthly reports of survey results, including factory profiles, capacity, types of goods produced, and any anomalies they spot. The goal is to ensure that Singapore-based firms are actually capable of producing what they claim to be producing. Singapore Customs has increased its number of personnel to handle this new enforcement workload.

The Administration takes seriously its responsibilities to prevent fraudulent textile shipments. When we have approached Singapore with actual cases of textile fraud, they have responded effectively. While it predates the FTA (and my tenure as Ambassador), in one case in 1999, we found a Singapore-based company engaged in several million United States dollars worth of fraudulent labeling and approached the Singapore Government for assistance. They closed the company down.

In early 2004, my Embassy hosted a CBP textile production verification team, known as a "Jump Team." Its job was to verify production capabilities of more than a dozen Singapore companies of interest. The Jump Team's final report did not reveal illegal export activity per se, but did report that several companies had not implemented document retention required for exports to the United States. The team identified these companies to Singapore Customs as entities to be scrutinized to ensure compliance.

As the world's largest transshipment port, we can be sure Singapore will remain a potential venue for illegal transshipment activities, and it will remain a challenge for Singapore authorities to know for certain what is inside the 21 million containers that pass through each year. But in my 4 years as Ambassador, we have pressed hard for Singapore to tighten its trade controls and en-

forcement and we have seen an impressive growth in Singapore's cooperation with us across a wide range of trade control activities, including preventing illegal textiles transshipments. If confirmed, illegal transshipment of textiles will continue to be a priority.

**Q.3.** According to the National Council of Textile Organizations, NCTO, "China is a textbook case of how a foreign government has used a network of illegal subsidies and government interventions in order to destroy foreign competition, both in the United States as well in many other countries." Mr. Lavin, in your extensive dealings with China, have you been aware of China using subsidies or government intervention to damage a foreign competitor? If so could you provide the Committee examples and proposed remedies?

**A.3.** China is very aggressive in the marketplace and its practices can be detrimental to United States companies. The U.S. Government needs to be at least as equally aggressive in market access and remedies as well as in export promotion. Using the Joint Commission on Commerce and Trade (JCCT) gives us a multiprong approach and will improve market-operating conditions. Improving the operating environment in China for United States business is a long-term effort and, if confirmed, I am committed to using every tool in our toolbox, including strict enforcement of antidumping laws.

**Q.4.** The United States has put forward a proposal in the Doha Round negotiations to clarify that member countries are permitted to distribute antidumping and countervailing duties, as the United States currently does under the Continued Dumping and Subsidy Offset Act. Specifically, this proposal states that members may distribute the duties collected when respondent companies continue to dump or receive subsidies any way that WTO member countries see fit.

Do you support efforts to allow countries to distribute antidumping and countervailing duties to the harmed industries in the Doha negotiations? Please explain the reasoning behind your answer.

**A.4.** As you know, the United States' enactment of the Continued Dumping and Subsidy Offset Act (commonly known as the Byrd Amendment) was challenged before the World Trade Organization (WTO) by 14 countries that claimed the law violated the antidumping and countervailing duty agreements. Although the United States staunchly defended its right to distribute collected antidumping and countervailing duties, arguing that the relevant WTO agreements were silent on this issue, the WTO Appellate Body found that the law was WTO inconsistent in that the disbursements were a "specific action" against dumping and subsidies that are not permitted under the WTO antidumping and countervailing duty agreements. Because our laws were not brought into compliance by the deadline of December 27, 2003, several of the complaining WTO Member countries, including Canada, the EU, Japan, and Mexico, have been authorized to impose sanctions against goods from the United States. All 4 of those countries are now imposing duties on selected U.S. products in retaliation for our failure to come into compliance with the WTO decision.

Congress has instructed Commerce to engage on this issue in the context of the WTO Rules negotiations and I understand that Commerce have raised the issue. If confirmed, I will ensure that the Department continues our engagement on this issue as the Doha Round progresses. We need to find a resolution to this issue that respects Congressional direction and satisfies WTO rules or U.S. companies and U.S. consumers will continue to be exposed to retaliation.

**RESPONSE TO WRITTEN QUESTIONS OF SENATOR SHELBY FROM DARRYL JACKSON**

**Q.1.** Mr. Jackson, some of us in Congress are concerned about the transfer of militarily sensitive technology to foreign nationals residing in the United States whose countries of origin have active programs in these areas, for example, Iran and China.

A 2004 report by the Department of Commerce Inspector General was highly critical of the Bureau of Industry and Security's handling of the deemed export issue, including in the issuance of licenses and in the monitoring of compliance with those licenses.

Can you comment for the Committee on whether the issue of deemed exports is receiving the attention it deserves by BIS? Is there room for improvement there?

**A.1.** I consider the deemed export regulations to be a necessary part of the U.S. Government's efforts to prevent the harmful diversion of controlled dual-use technology to foreign nationals. If confirmed, I will work to ensure that enforcement of these regulations is robust.

I am also sensitive to the important role that foreign scientists and other non-Americans play in America's companies, universities, and research institutes. Accordingly, if confirmed I will work with industry, the academic community, and other Government agencies to increase awareness and understanding of the deemed export requirements to prevent and deter violations of the deemed export rule.

The Office of Inspector General report that you refer to recommended that BIS implement programs to verify compliance with special conditions in deemed export licenses. I understand that BIS is finalizing development of protocols for conducting such compliance reviews of selected deemed export licenses, similar to the procedures currently in place to conduct foreign end-use verifications. President Bush's fiscal year 2006 budget request, as passed by the Senate and the House, provides BIS with resources to implement this new compliance verification program, and would enable selected deemed export compliance reviews in sensitive sectors beginning in fiscal year 2006.

**Q.2.** Mr. Jackson, the United States proposal to provide India with nuclear technology under the Next Steps in Strategic Partnership program could have serious implications for this country's nonproliferation policy. Providing even commercial nuclear technology to a country that is not a signatory of the Nonproliferation Treaty and that has tested nuclear weapons could be seen as undermining the credibility of U.S. policy in a very crucial area. And, I should

remind the Committee that the Administration imposed sanctions on two Indian scientists for selling nuclear technology to Iran.

What specific Red Flag Guidance will be provided to exporters of items that formerly required licenses for exports of goods to India under the new Export Administration Regulation amendments of August 30? Can you state that no personnel employed at any Indian Space Research Organization facility or site that has been removed from the Entities List as a result of the Strategic Partnership policy has any relationship with any Indian Defense Research and Development Organization office, facility, or site responsible for India's ballistic missile program?

Have there been any denials to India since last September when Commerce first amended the EAR under the NSSP? If so, what kinds of exports have been denied?

**A.2.** I support the policy of President Bush in working toward a strategic and economic partnership with India, in recognition of the steps India has taken to meet its obligations as a nation with advanced nuclear technology.

Our relationship with India has progressed via a series of reciprocal steps, in which Indian actions have made possible United States steps. As a result, I understand that India has strengthened its internal and external controls on sensitive technologies, thereby allowing the United States to ease certain dual-use export controls with regard to India. One of the key steps India took was passing legislation to enhance its export control system and strengthen its enforcement capabilities.

Additionally, under Phase I of the NSSP, the United States and India reached an agreement on procedures for conducting end-use checks on sensitive United States-origin dual-use items exported to India. It is my understanding that BIS's Export Control Officer has been actively and successfully conducting such checks.

If confirmed, I will make enforcement of the U.S. export control laws with respect to India a top priority, and I will work to prevent the diversion of sensitive items to proscribed nuclear weapons and missile activities. I look forward to working closely with you, your staff, and the Committee on this very important issue.

## RESPONSE TO WRITTEN QUESTIONS OF SENATOR SHELBY FROM DAVID McCORMICK

**Q.1.** Mr. McCormick, some of us in Congress are concerned about the transfer of militarily sensitive technology to foreign nationals residing in the United States whose countries of origin have active programs in these areas, for example, Iran and China.

A 2004 report by the Department of Commerce Inspector General was highly critical of the Bureau of Industry and Security's handling of the deemed export issue, including in the issuance of licenses and in the monitoring of compliance with those licenses.

Can you comment for the Committee on whether the issue of deemed exports is receiving the attention it deserves by BIS? Is there room for improvement there?

**A.1.** Deemed export controls are an important part of the overall mission of the Bureau of Industry and Security (BIS) and, if confirmed, I will make this area one of my top priorities.

I understand that BIS has undertaken a major deemed export outreach program over the past year to ensure that those covered by deemed export controls, particularly in the academic and research communities, are aware of the current requirements. I also have learned that BIS is currently reviewing extensive public comments on changes that the Department of Commerce Inspector General recommended be made to the deemed export controls. If confirmed, I will be closely involved in making decisions on any potential changes to the deemed export controls and otherwise working to make this important program continues to meet our national and economic security needs.

**Q.2.** Mr. McCormick, the United States proposal to provide India with nuclear technology under the Next Steps in Strategic Partnership program could have serious implications for this country's nonproliferation policy. Providing even commercial nuclear technology to a country that is not a signatory of the Nonproliferation Treaty and that has tested nuclear weapons could be seen as undermining the credibility of U.S. policy in a very crucial area. And, I should remind the Committee that the Administration imposed sanctions on two Indian scientists for selling nuclear technology to Iran.

What specific Red Flag Guidance will be provided to exporters of items that formerly required licenses for exports of goods to India under the new Export Administration Regulation amendments of August 30? Can you state that no personnel employed at any Indian Space Research Organization facility or site that has been removed from the Entities List as a result of the Strategic Partnership policy has any relationship with any Indian Defense Research and Development Organization office, facility, or site responsible for India's ballistic missile program?

Have there been any denials to India since last September when Commerce first amended the EAR under the NSSP? If so, what kinds of exports have been denied?

**A.2.** I fully support President Bush's policy toward India and, if confirmed as Under Secretary, look forward to implementing it fully, with full attention to its national security aspects.

Concerning the Red Flag Guidance you mentioned, it is my understanding that U.S. exporters are advised of their obligation to know their customers when exporting to an end-user formerly listed on the Department of Commerce Entity List. BIS strongly urges exporters to use Supplement No. 3 to Part 732 of the Export Administration Regulation (EAR), "BIS's 'Know Your Customer' Guidance and Red Flags," when exporting or reexporting to any entity in India. BIS officials have told me that exporters are specifically advised that exporting to an entity formerly listed on the Entity List constitutes a "Red Flag" to be resolved prior to export.

Concerning your question regarding Indian Space Research Organization facility personnel, the answer to this question requires access to classified information and, as a nominee, I am not authorized to review classified information. It is my understanding, however, that the Indian Space Research Organization facilities, which were recently removed from the Entity List, are involved in India's civilian satellite program and not with its space launch vehicle pro-

gram. If confirmed, I would be happy to follow up on this question in greater detail.

Finally, with respect to denied export license applications, BIS officials inform me there have been denials to India since the October 2004 revisions to the EAR made in conjunction with the United States-India Next Steps in Strategic Partnership (NSSP). As a nominee, I do not have access to information on what kinds of exports have been denied. I have asked BIS officials to provide this information to you in a separate transmittal.

**Q.3.** Mr. McCormick, a recent article in *The Wall Street Journal* stated that the FBI has estimated that there are as many as 3,000 Chinese "front companies" in the United States actively seeking to illegally acquire militarily sensitive dual-use technologies. Those efforts are in addition to the large number of licenses legitimately provided to United States companies exporting dual-use items to China.

Similarly, a June article in the *Washington Times* reported that a Chinese front company won a contract from a system manufacturer involved with the Navy's Aegis battle management radar system and proceeded to steal details of that highly sensitive technology, which may have contributed to China's development of its own Aegis-type radar system.

There are very serious national security considerations involved in the position for which you have been nominated. Can you assure the Committee of your commitment to ensure that national security will not be jeopardized in deference to commercial interests and that the gravity of the issue of dual-use export controls will receive the attention it deserves?

**A.3.** I am committed to vigorously pursuing BIS's national security mission. Having proudly served in the U.S. Army, I am keenly aware of the importance of a dual-use export control system that keeps sensitive goods and technologies out of the hands of our adversaries and potential adversaries. If confirmed, I will work to ensure that the dual-use licensing process, from regulation to enforcement to outreach, prevents exports that would undermine U.S. security. By paying close attention to the security requirements of dual-use trade, we can also support legitimate trade in dual-use items.

I would note that, with respect to China, BIS has aggressively pursued enforcement cases involving unauthorized exports, particularly those which involve goods which could support Weapons of Mass Destruction programs or are intended for unauthorized military use. If confirmed, I will accord the highest priority to the effort to prevent illegal diversions of dual-use goods and technologies to China. I look forward to working closely with you, your staff, and the Committee, to fulfill our common commitment to protecting our Nation's security.

**Q.4.** Have there been any denials to India since last September when Commerce first amended the EAR under the NSSP? Is so, what kinds of exports have been denied?

**A.4.** The Bureau of Industry and Security (BIS) denied 64 license applications for exports to India during the period of September 2004 to September 2005. The United States does not approve li-

cense applications for exports intended for use in programs of concern, such as India's ballistic missile, space launch vehicle, nuclear weapons, and unsafeguarded nuclear power program. The majority of the items that were denied for export to India were low-level items not elsewhere specified on the Commerce Control List (CCL) intended for these programs of concern or items that posed a risk of diversion to such programs.

In addition, BIS denied other items that were controlled on the CCL, including: Oscilloscopes, vibration test equipment, general electronic testing equipment, telecommunications equipment, information security hardware and software, dosimeters, isostatic presses, ceramic materials, and technology for steam generators.