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PUTTING AMERICANS BACK TO WORK: THE STATE OF THE SMALL BUSINESS ECONOMY

HEARING

BEFORE THE

COMMITTEE ON SMALL BUSINESS
UNITED STATES
HOUSE OF REPRESENTATIVES

ONE HUNDRED TWELFTH CONGRESS

FIRST SESSION

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CONTENTS

Opening Statements:
Graves, Hon. Sam 1
Velázquez, Hon. Nydia M. 2

WITNESSES

Frank, Ms. Terry, Owner, Nature's Marketplace, Oak Ridge, TN 21
Kolditz, Ms. Dixie, Owner, Open-Box Creations, Cathlament, WA 35
Phelan, Mr. William, President and Co-Founder, PayNet, Inc., Skokie, IL 4
Feinberg, Mr. Bill, President, Allied Kitchen and Bath, Ft. Lauderdale, FL. On behalf of the U.S. Chamber of Commerce 26

APPENDIX

Prepared Statements:
Frank, Ms. Terry, Owner, Nature's Marketplace, Oak Ridge, TN 23
Kolditz, Ms. Dixie, Owner, Open-Box Creations, Cathlament, WA 38
Phelan, Mr. William, President and Co-Founder, PayNet, Inc., Skokie, IL 7
Feinberg, Mr. Bill, President, Allied Kitchen and Bath, Ft. Lauderdale, FL. On behalf of the U.S. Chamber of Commerce 29
Statements for the Record:
Associated Builders and Contractors, Inc. 60

PUTTING AMERICANS BACK TO WORK: THE STATE OF THE SMALL BUSINESS ECONOMY

WEDNESDAY, FEBRUARY 16, 2011

HOUSE OF REPRESENTATIVES,
COMMITTEE ON SMALL BUSINESS,
Washington, DC.

The Committee met, pursuant to call, at 1:03 p.m., in Room 2360, Rayburn House Office Building. Hon. Sam Graves [chairman of the Committee] presiding.

Present: Representatives Graves, Coffman, Ellmers, Herrera Beutler, Fleischmann, Landry, Tipton, Walsh, West, Velázquez, Clarke, Cicilline, and Richmond.

Chairman GRAVES. I will call this hearing to order.

We obviously have a series of votes that just started and it is going to take a little bit of time to get through those. What I thought we would do is myself and the ranking member will give our opening statements and we will recess for the period of time that we have our votes and then we will come back and take the testimony from the witnesses. But I want to thank everybody for being here today, particularly the witnesses. Obviously, you have come from a long way and I appreciate that very much. And today we are going to be listening to testimony on specific tax, regulatory and health care policies that inhibit job creation and economic growth.

Running small businesses in a prosperous economic time is hard enough, but during an economic downturn entrepreneurs face even more challenges. When meeting Friday's payroll becomes the most pressing concern, it is unlikely that small business owners can dedicate the necessary time and resources to expanding their businesses and creating jobs. Even though there have been recent signs that our economy is starting to improve, our recovery from this recession remains erratic at best. As we have said many times before, small businesses need certainty to plan for not only the next day but also for the next month and the next year.

The National Small Business Association recently released its 2010 Year-End Economic Report in which small business owners ranked the top issues that they believe Congress and the administration should address. Traditional issues like lowering the tax burden, reigning in health care costs and reducing the regulatory burden still reign supreme, outpaced only by the demand that Congress and the administration take the steps to reduce the national deficit.

Let us take a moment to talk about one of small business owners' longtime concerns, the sheer magnitude and complexity of the tax code. Entrepreneurs, many of whom have limited resources, are forced to spend their time attempting to comply with the tax obligations instead of growing their businesses. According to the IRS itself, today's tax code has ballooned to 3.8 million words. That is nearly three times larger than it was in 2001. Small business owners have long been concerned about the costs involved in providing quality health care coverage for their employees, and for the last 10 years job-based health insurance costs have substantially outpaced inflation and wage increases. The Kaiser Family Foundation reports that the average cost of a family premium for employer-sponsored health insurance increased 114 percent between 2000 and 2010. Only 68 percent of businesses with fewer than 200 employees were able to afford or offer these health care benefits in 2010, and the outlook is even worse for the smallest firms that employ three to nine people. Only 59 percent of those firms were able to afford benefits.

And since the new health care law passed last year, I have heard from countless small business owners in my district and right here in this Committee room that not only will this new law fail to provide them with health care benefits for their employees, but it will cost them or could put them out of business.

As we try to encourage a lasting economic recovery, we must also address the problems that small businesses face due to harmful federal regulation. According to the SBA's Office of Advocacy, the annual cost of federal regulation in the United States increased to more than $1.7 trillion in 2008. And the Office of Advocacy also reports that small businesses face an annual regulatory cost of over $10,000 per employee, which is 36 percent higher than the cost facing larger firms. As more federal regulations are created daily, it has become next to impossible for small business owners to keep track of the associated costs and paperwork. Recognizing our economy and rekindling the American spirit of entrepreneurship must be the central focus of the 2012 Congress. Small business owners who create the majority of new jobs need a government that will work with them and not against them to put our nation back on the path to prosperity.

My colleagues on the House Small Business Committee and I are listening to the concerns out there and are ready to get to work to put an end to the devastating uncertainty that has plagued entrepreneurs for far too long. So again I appreciate everybody being here. I look forward to your testimony. I will now turn to the ranking member for her opening statement.

Ms. VELÁZQUEZ. Thank you, Chairman Graves.

Since the financial crisis, this Committee has been closely following the health of the small business sector. This has included holding hearings here and throughout the country, as well as addressing the problems we found through legislation. Now the economy has begun to grow again and the recovery is on the way. However, it is clear that there is a long way to go and we are still struggling on many fronts. This hearing will help us understand how much the small business economy has changed and what, if anything, we should do here in Congress to address it.

This recovery started in mid-2009, and according to the Federal Reserve appears to now be strengthening. GDP has grown for six consecutive quarters and exceeds the 2007 end of year pick. Today, the U.S. economy is larger than ever, and consumer spending was growing at an annual rate of 4.4 percent for the last quarter of 2010. As a result, many small businesses are more optimistic than they have been in a long time. This newfound confidence is seen in the most recent NFIB Optimism Index, which is at its highest point since December 2007.

Surveys by NSBA and Gallop also show that small business confidence was increasing. Small firms are also finding easier credit conditions as confirmed by both the Federal Reserve and the Thomson-Reuters PayNet Small Business Lending Index, which we will hear about today. This is a very positive development since small businesses have been all but locked out of the capital markets for a long time. This positive news is tempered by the challenges we see in the labor market. With losses of more than eight million jobs in 2008 and 2009, the four consecutive months of positive job creation we have seen are simply not enough. The unemployment rate has declined significantly but we are still not seeing the level of employment gains we need to achieve a full recovery.

According to research, small firms have shed jobs at a more rapid pace than larger firms. In addition, they have chosen not to add employees even though they need it citing the uncertainty they face about sales revenues and cash flows as the top reasons for not doing so. This issue, job creation, is the most important facing Congress today and small businesses are instrumental to the solution. Responsible for generating 64 percent of net new jobs over the last 15 years, small firms have typically driven employment gains after recessionary periods. We saw this in the early 1990s and again in 2001. It is important that while we seek to encourage entrepreneurship of all types, we focus on businesses that tend to dramatically increase job creation. These are high growth firms, typically undertaking a market opportunity rather than out of necessity. Such firms need plentiful capital, the ability to access a highly skilled workforce, and a business environment conducive to risk taking. They can grow in size rapidly and in doing so can add tens or even hundreds of employees in the course of months.

With that said, small businesses of all sizes and stripes remain absolutely critical to our economic health. During today's proceedings I am looking forward to hearing both anecdotal accounts as well as empirical evidence about the state of the economy and its impact on small firms. By doing so this Committee can identify the bright spots, as well as where entrepreneurs are facing the greatest challenges. As a result, we will be better informed as we try to tailor policy solutions regarding these problems.

In advance of the testimony I also want to thank all the witnesses who travel here today for both their participation and insight into this important topic. And with that I yield back. Thank you, Mr. Chairman.

Chairman GRAVES. We will go ahead and recess for whatever amount of time it takes to go through the votes and we will be back right after that. Again, I apologize for the inconvenience. We do not

always know when votes are going to be so the Committee is in recess for however long it takes.

[Recess.]

Chairman GRAVES. We will call this hearing back to order. And I would like to explain the light system. When you give your testimony you have got five minutes and the light will be green. When you are down to one minute left it will go yellow and then red when time is up. If you go over a little bit I am not going to break anybody's arm but we want to try to keep it to five minutes.

And now I will turn to the ranking member to introduce our first witness.

STATEMENTS OF WILLIAM PHELAN, PRESIDENT, PAYNET; TERRY FRANK, OWNER, NATURE'S MARKETPLACE; WILLIAM FEINBERG, PRESIDENT, ALLIED KITCHEN AND BATH; DIXIE KOLDITZ, OWNER, OPEN-BOX CREATIONS

Ms. VELÁZQUEZ. Thank you, Mr. Chairman.

Our first witness is Mr. William Phelan. He is president and cofounder of PayNet, a provider of risk management tools and market insight to the commercial credit industry. As president, Mr. Phelan has grown PayNet into a firm with the largest collection of commercial loans and leases encompassing more than 17 million contracts worth $100 billion in loan value. Under his direction, Mr. Phelan overseas the sales, marketing, analytics, and information technology functions of the business. Welcome.

STATEMENT OF WILLIAM PHELAN

Mr. PHELAN. Thank you. Good afternoon, Mr. Chairman, members of the Committee. Thank you for that introduction.

PayNet is based in Skokie, Illinois. I appreciate the opportunity to speak today on behalf of PayNet, which provides the information that the Congresswoman alluded to. My role today is to help you with insights into the state of the small business economy with quantifiable data, trends, and analysis.

As you alluded to, PayNet has the largest database of small business loans in the country at this point. Access to this small business credit information increases access to capital for small businesses. It spurs economic growth, jobs, and it significantly reduces the cost of doing business.

I think the perplexing aspect of the small business economy is not its importance to the U.S. economy. The perplexing aspect is how little we know about small business. Limited information hinders the ability of bodies such as this Committee to create policies that can help small businesses. I applaud your efforts to better understand the small business economy. In doing so, to create policies that promote small business.

The Thomson-Reuters PayNet Small Business Lending Index measures new borrowing activity on millions of U.S. small companies and it serves as a leading economic indicator. The index declined from a peak of 131 in January 2007 to 66 by May of 2009. This is a fall of approximately 50 percent. This index allows us to calculate the demand for credit by factoring in credit approval rates. When we do that, we can see that the credit approval rates, in other words the demand for credit from small businesses, actu-

ally fell during that same timeframe. It fell from an index of 176 down to 103 by May of 2009. There certainly are cases of small businesses being cut off by their bank, but from just a pure demand standpoint it appears like the credit applications have declined during that timeframe based on the data that PayNet has.

For the broader small business economy, it is clear that lower applications are this indication of falling demand for credit. At the same time, the banking system's reserves were expanding by a factor of 1,800 percent. Even though businesses are beginning to borrow more and are finding it easier to pay their bills, small business owners are not yet ready to declare victory over the recession. The index as of December 2010 confirms the recovery in small businesses is gaining and it is starting to get on solid financial footing.

The construction industry increased more than any other sector last month as those companies began to borrow more money. The transportation, health care, and farms all expanded borrowings during that same timeframe. Surprisingly, the professional services companies that we track showed borrowings were flat over that timeframe.

The sobering facts about the economy remain before us. We have high unemployment. We have improving but still very low consumer confidence. We have modest income growth. Another sobering fact. The index is still six percent below its 2005 levels when it began. So we are still below at this point the level that the index was at in 2005. And that was six years ago.

Most small businesses are dependent upon domestic demand and they often lack the resources to deal with trade barriers and tariffs, and they are shut out of the booming growth in emerging economies. This 20 percent uptick that we reported last month in the index may prove to be illusory as well. In speaking anecdotally with a major seller of equipment, we found that much of the buying was to replace old worn out equipment, rather than to invest in growth.

Additionally, many of these companies took advantage of the year-end tax credit to realize that benefit for their organizations. When you consider the effects of the recession, the small business owner's survival is a testimony to the resilience and their grit. Their demand for their products and services in many cases cratered. The regulations increased. Uncertainty abounded and payment terms extended to beyond 60 days. Yet the small business owner managed to not only stay afloat but to reach solid financial footing. Loan delinquencies are down to 2.45 percent. These are levels not seen since 2006. Loan delinquencies have decreased 43 percent over the last year for small business loans, and that is the largest year over year decrease on record.

I think transition is the best way to describe the small business economy. Rising regulatory costs, high taxes, technological change, an increased competition are small businesses to seek more efficient and sustainable ways to do business. We are seeing a definitive recovery start to emerge in small businesses. However, market conditions, such as these regulatory costs, health insurance regulations, fewer markets for products. These present challenges to growth and even survival still for small businesses. The recession has forced many small businesses to get leaner and smarter. They

have introduced technology to cut costs, to increase productivity, but unfortunately, that is resulted in fewer jobs. The trick will be to help these unemployed workers acquire skills for the jobs of the future.

Unknown future costs for regulations, health care and taxes heightened the uncertainty for the small businesses. Cash hoarding is the best indicator of the uncertainty that small businesses are feeling right now. Businesses are building cash to levels not seen since 1963. They are doing that rather than spending, borrowing, and hiring employees. Removing that uncertainty where it exists will go far towards encouraging businesses to spend, borrow, or hire, which in the long run will assist to create jobs and further economic growth.

Thank you, Mr. Chairman , and members of the Committee for the opportunity to address you today. I offer to present further analysis and data for your use if you so wish.

[The statement of Mr. Phelan follows:]

Testimony of

PayNet, Inc.
presented by William Phelan

Before the
United States House of Representatives
House Committee on Small Business

Hearing on
Putting America Back to Work:
The State of the Small Business Economy

February 16, 2011

Testimony of William Phelan, President and Co-Founder
PayNet, Inc.

Before the Committee on Small Business
United States House of Representatives
February 16, 2011

Introduction and Purpose

Members of the Committee, my name is William Phelan, President and Co-Founder of PayNet, Inc. based in a suburb of Chicago, Skokie, Illinois. I appreciate the opportunity to speak today on behalf of PayNet, Inc. which provides small business credit information to banks, commercial finance and corporate credit lenders throughout the nation. My role today is to provide you with insight into the state of the small business economy with quantifiable data, trends and analysis. PayNet will provide the perspective and impact of credit and capital availability to the small business economy based on data derived from the PayNet's database.

Background

PayNet, Inc. maintains the largest repository of historical lease and loan payment information based on the U.S. small-business community; collecting real-time small business loan and lease information from more than 250 leading U.S. lenders. PayNet's data provides a unique window into the world of small business lending/credit trends compiled from our "real-time" proprietary database consisting over 17.8 million term debt contracts worth nearly $800 Billion in loan value.

Access to small business credit information increases access to capital, spurring economic growth, jobs and significantly reduces the cost of doing business. PayNet collects and tracks this data on small business loans from hundreds of U.S. and Canadian lenders each month, turning it into actionable intelligence.

Small business credit data has been notoriously hard to obtain. Prior to services like PayNet, lenders relied on credit reference calls or trade data reports to make long-term lending decisions. Credit reference calls require competitors to share sensitive customer information via discussion between credit staff. These calls are costly and non-standard. A trade data report tells a lender how an applicant has paid utility bills, information technology services, or overnight express bills. Both methods for making small business credit data available resulted in a high cost of doing business, limited access to credit and added risk for the lender.

PayNet has compiled one of the largest proprietary databases of information on business loans primarily on small privately-held business. Our research shows that decisions made using loan data outperform credit reference calls and trade data reports similar to how car insurance underwriters look to prior accidents to underwrite new car insurance policies.

Key statistics about the PayNet Database are as follows:

- Average number of months of history per lender is 86.
- Database contains nearly $800 billion in financial obligations.
- Average transaction size per contract is $44,200.
- Average term per contract is 3.6 years.
- Average monthly payment per contract is $1,028.

Small businesses in America are a primary driver of economic growth and have become the centerpiece of the economic recovery. According to the U.S. Small Business Administration's Office of Advocacy's most recent estimate, there were 29.6 million businesses in 2008. Small businesses accounted for half of all U.S. private-sector employment and produced 64 percent of net job growth between 1993 and 2008. An additional study shows that 40 percent of the companies that issued at least 15 patents over a five-year period were small businesses.[i] These small firms produced significantly more patents per employee than the larger firms in the sample. This and other studies show that small businesses are more likely to develop emerging technologies than their larger counterparts.

The perplexing aspect of the small business economy is not its importance as the engine of U.S. growth, innovation and competitive edge; but how little we know about this important economic engine. Limited knowledge hinders the ability of bodies such as this Committee to create policies that help small businesses. I applaud the efforts of this Committee to better understand the small business economy and in doing so create policies that promote small businesses.

Small Business Credit and its Importance to the Economy

To understand small business access to credit, we must first understand the types and sources of financial products used by small businesses. Research on types and sources of financial products is derived from reports published by the Small Business Administration Office of Advocacy, or other government agencies. Financial products are best summarized in the May Oversight Report by the Congressional Oversight Panel.[ii] Financial products include: liquid asset accounts, credit lines, loans, capital leases, and financial management services. Liquid asset accounts constitute checking and savings accounts; credit lines are loans, capital leases include lines of credit, mortgages used for business purposes, motor vehicle loans, equipment loans, capital leases, and other loans; and financial management services involve transaction services, credit card and debit card processing services and other similar services.

Suppliers of financial services include depository institutions, which consist of banks, thrifts and credit unions, and non-depository institutions, which include finance companies and factors, leasing companies, and insurance and mortgage companies. Small businesses also use additional non-depository sources, including credit cards, family, individuals, business firms, government sources, and venture capital firms. The exact volume of small business financing that comes from each of these sources is impossible to determine. For example, a loan from an angel investor, friend, or family

member will not appear on a bank's call report, nor will drawing down on personal savings in order to finance small business activity. Similarly, trade credit is a significant source of small business financing. Trade credit can take many forms, depending on the business or industry, but is business-to-business and typically involves a 30 to 60 day delay between the date services or goods are provided and the payment date.

One important source of capital from which small businesses are shut-out is access to the public bond markets. The vast majority of smaller businesses which do not have access to public bond markets must rely instead on the sources cited above for their credit. The use of home equity lines of credit has been severely curtailed; the fall in housing prices has drastically reduced the amount of equity extracted from homes, and it is no longer a significant source of financing for small businesses. Banks, small and large, are therefore currently the most important source for small business credit; according to the Federal Reserve, small businesses receive over 90 percent of their funding from banks.

Small businesses borrow from both large and small banks, and while large and small banks each represent approximately 50 percent of the dollar value of loans to small businesses, this equivalence obscures the involvement each sort of bank has with small business lending. For example, relative to their assets, community banks have an outsized share of small business lending. According to the Federal Deposit Insurance Corporation (FDIC), community banks account for 38 percent of small business and farm loans, despite representing only 11 percent of bank industry assets. Medium and larger banks, however, still have over 50 percent of the market, even if it is a smaller share relative to their assets. Large banks' share of the market grew substantially over the course of the last decade. Small businesses borrow from depository institutions through a variety of mechanisms. The first is a conventional loan, through which a bank provides capital to a small business in exchange for regular interest payments and collateral. A small business can also seek a loan from a bank with the assistance of the SBA. For FY2010, Congress authorized the SBA to guarantee up to $17.5 billion for the 7(a) loan program which represents a very small share of total loans to small businesses.[iii]

Thomson Reuters/PayNet Small Business Lending Index (SBLI)

The SBLI, utilizing small business loan origination data from major lenders, measures the volume of loans to Small Businesses normalized to a base year - 2005. Seasonally adjusted, the index is presented as an absolute as well as by a percent change versus the prior year. It is published monthly. Because small businesses generally respond to changes in economic conditions more rapidly than larger businesses do, the Thomson Reuters/PayNet Small Business Lending Index serves as a leading indicator of the economy.

A recurring question is to what extent banks have reduced the availability of credit to small businesses, and in doing so, amplified the recession. The Thomson Reuters/PayNet Small Business Lending Index (SBLI) measures new borrowing activity on millions of U.S. small businesses. The Index declined from a peak of 131 in January 2007 to 66 in May 2009 which is a fall of approximately 50%. The Index allows us to calculate demand for credit by factoring in credit approval rates. Factoring in credit approval rates indicates applications for credit fell from a comparable index level of 176 before

the recession to 103 by May 2009. Cases of small businesses cut-off by their bank certainly existed during the recession.

For the broader small business economy, it is clear that lower applications are an indication of falling demand for credit, rather than banks desire to withhold credit. At this same time banking system supply of capital grew 1,800% through the expansion of excess reserves.[v] The figure below shows falling demand for credit among small business, even while excess bank reserves expanded dramatically during the recession.

Figure 1: Comparison of Lending Demand vs. Bank Reserves

A recent study from PayNet shows banks were the primary source of credit to small businesses during the recession. While loans to small businesses overall were down 24% from 2007 to 2008, the lending from banks declined the least providing the largest source of credit to small businesses during the recession. Further findings from this study indicate credit constraints resulted from the inability of finance companies and corporations to access capital markets or warehouse lines during the recession.

Annual Lending Volume

	2008/2007
Banks	-11%
Corporate Credit	-28%
Independent Finance Cos.	-44%
Total	-24%

source: PayNet, Inc.

Figure 2: PayNet Annual Lending Volume

Current State of the Small Business Economy

Even though businesses are beginning to borrow more and are finding it easier to pay their bills, small business owners are not ready to declare victory yet. The latest Thomson Reuters/PayNet Small Business Lending Index (SBLI), as of December 2010, confirms the recovery in small business is growing and remains on solid financial footing.

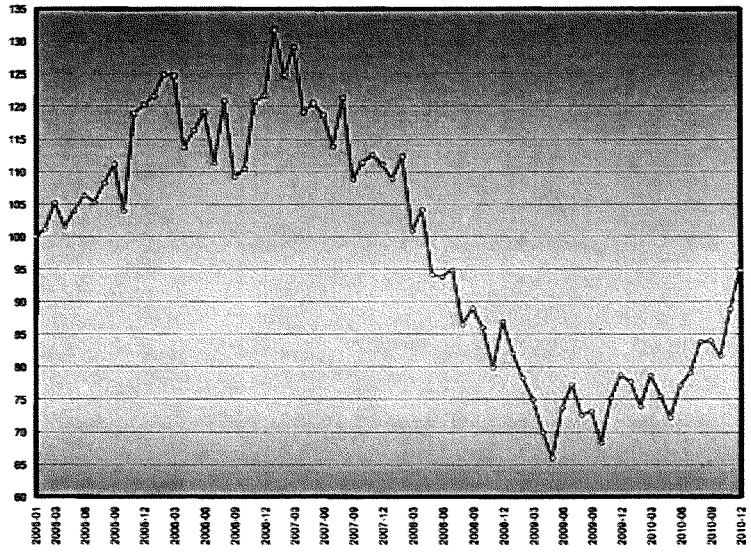


Figure 3: Thomson Reuters/PayNet Small Business Lending Index

Leaving the Bunker

The data indicate small businesses are in the early stages of an economic recovery. Small business owners are finally opening the bunker door and starting to look outside. Based on the 20% increase in the SBLI during December 2010 compared to December 2009, we can infer business owners are beginning to like what they see. Evidence of the elusive green shoots is emerging as owners see profitable investment opportunities again.

Analysis of the SBLI yields the following observations:

- The Construction industry increased more than any other sector as small borrower originations jumped. However this increase is compared to a very low level as borrowings in 4Q10 were still less than half of what they were 5 years ago.

- Transportation, health care and farms all expanded borrowings about the same, but truck borrowings were still significantly below their peak in 2005.

- Surprisingly, professional service companies' borrowings to purchase computer and office equipment were essentially flat in 4Q10 compared to the year before, and well below levels recorded 5 years ago.

Small business lending demand is increasing but mostly because of those small firms who are, more or less, participating in the global economy such as firms with activity that is related to export (e.g., commodities, transportation) and upstream suppliers to large corporations (e.g., specialized machining). Small business lending demand by the majority of firms who are primarily dependent on domestic, local or regional economic activity is reported as being weak to stagnant.

Not Ready to Declare Victory

Sobering facts on the state of the economy still persist - high unemployment, improving but still low consumer confidence, modest income growth, and lower housing wealth. Another sobering fact – the Index is 5% *below* the level it stood 6 years ago in January 2005. Most small businesses are dependent on domestic demand and often lack the resources to deal with trade barriers and tariffs and are shut-out of booming growth in emerging economies. The 20% uptick may prove illusory as a major capital equipment manufacturer revealed that strong December buying was directed at replacing old, worn-out equipment, rather than growth investment. In addition, year-end buying to fill capital budgets likely drove some of the December increase and is unlikely to continue at the same pace.

Small Business Owner - The American Hero

When you consider the economic carnage from the recession, small business owners' survival is a testimony to their resilience and grit. Demand cratered, regulations increased, uncertainty abounded, and payment terms extended to 60 days. Yet the small business owner managed to not only stay afloat, but to reach solid financial footing. During the economic crisis, defaults by American small businesses peaked at 6.5%.[v] To put this into perspective, defaults of speculative grade corporate bonds peaked near 12.97%.[vi] Small businesses have cut costs and debt levels and they are re-tooling to be leaner. Asset quality has improved as loan delinquency is now down below pre-recession levels. Default risk on small business loans has fallen to levels lower than 2008 and 2009.

Trends in Small Business Delinquency Exhibit Continued Financial Health

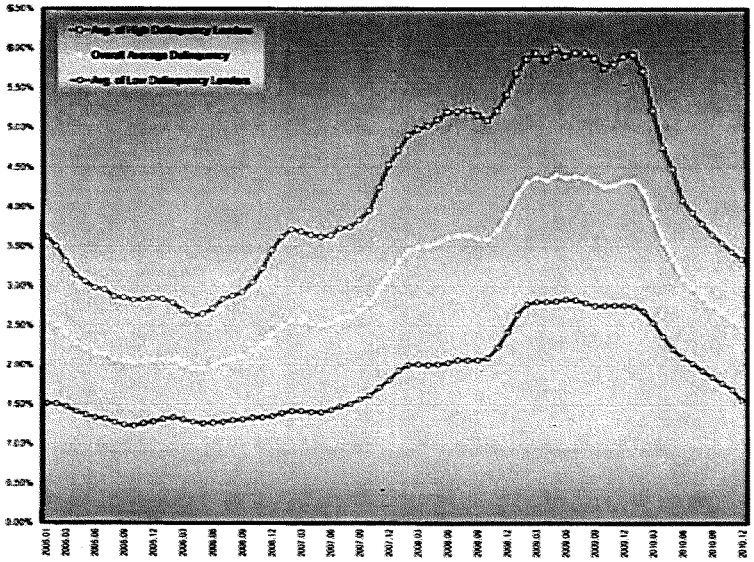


Figure 4: Small Business 30 Day Delinquency

- **30 day delinquency continued to decrease in December, down to 2.45% - levels last seen in late 2006.**
- **Loan delinquency was down 43% in December 2010 compared to December 2009, the largest year-over-year decrease on record.**
- **The 1.55% delinquency among banks was even better than the average, nearing the low point seen in 2005.**

Small Business 30 Day Delinquency by Federal Reserve District

This past recession has been easier on certain small business industries as indicated by their historical default performance. Construction firms, which represent the second largest industry by number of companies, have been one of the hardest hit segments of the small business economy. We have seen 1 out of 10 construction companies go out of business or default on their loans in 2009 alone. Transportation and warehousing companies are in the same category with about 1 in 10 also going out of business. The current lack of demands for construction and transportation services has intensified competition for the few remaining orders.

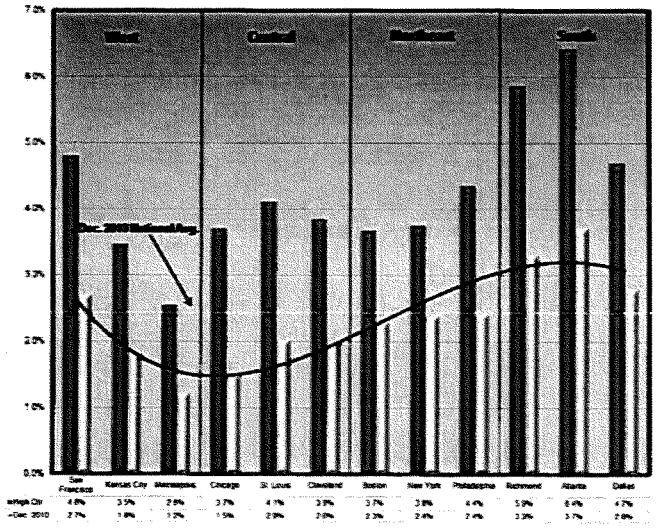


Figure 5: Small Business 30 Day Delinquency by Federal Reserve District

Small business recovery is impacted by the geographic region of the country in which the business operates. Although small businesses as a group have shown 50% improvement in 30 day delinquency since the recession on a national basis, the recovery has been better in Western and Central Federal Reserve Districts than in others. The Chicago and St. Louis Fed Districts are now more than 50% below their peak loan delinquencies, and Kansas City and Cleveland are almost 50% below. The South has the highest delinquency, with Atlanta and Richmond at 3.7% and 3.3% respectively, followed then by Dallas at 2.8% and San Francisco at 2.7%. These four Districts also had the four highest peak delinquency levels, ranging from 4.7% to 6.4% and improvement in these hardest hit areas has come at a slower rate.

All Districts report reduced delinquency for nine months or more, with peak delinquency levels reached earliest in New York, Atlanta and San Francisco, which peaked in 2008 or early 2009; compared to Richmond, St. Louis, Dallas and Boston which were the last to peak, in late 2009 or early 2010.

From March 2010 to October 2010, each of the 12 Districts showed improvement in each successive month. In November, however, Richmond showed a slight increase, and in December Philadelphia, Boston and New York all saw slight increases. Conceivably weather could have been a factor, or it is also possible that so much improvement has already been seen in those Districts, that not much more improvement, at least in terms of commercial loan delinquency, is possible.

2011 Small Business Outlook

Transition best describes the small business economy. Rising regulatory costs, higher taxes, technological change and increased competition are forcing small businesses to seek more efficient and sustainable ways to do business. More efficient and sustainable ways to do business require know-how and tools like software.

Industry	AbsolutePD® Forecasted Default Rates
	2011
Construction	4.1%
Retail	4.0%
Transportation	3.8%
General	2.9%
Health Care	2.9%
Agriculture	2.0%
All Industries	3.2%

Figure 6: Small Business Risk Outlook

For example, construction companies are adopting Building Information Modeling (BIM) technology and lean construction techniques to be more cost efficient and sustainable. Efficiency and sustainability lower risks resulting in a falling forecast for loan defaults across all industries.

Small businesses are in a definitive recovery. However, market conditions, such as regulatory costs, health insurance regulations, and fewer markets for products present challenges to growth and survival. The recession has forced small businesses to get leaner and smarter. Introducing technology cuts costs and increases productivity but also reduces jobs. The trick will be to help unemployed workers acquire skills for the jobs of the future.

Conclusion

If availability of capital is not the principal problem then what is holding back small business job creation and economic growth? Uncertainty impacts all business decisions. Although no study exists to support this claim, uncertainty probably hinders small businesses more than larger businesses, since they have fewer resources to handle unforeseen issues. Certainty, of course, is desired because it improves the chances for business success. Unknown future costs for regulations, health care and taxes heighten uncertainty for small businesses, with cash hoarding as the best indicator of the uncertainty felt by businesses. Businesses are building cash, to levels not seen since 1963,[vii] rather than spend, borrow, or hire employees.

The question of credit availability becomes somewhat irrelevant, given the excess cash reserves on-hand, since businesses will be expected to first draw on their cash reserves before borrowing, adding to the weak loan demand. Removing uncertainty, wherever it exists, will go far towards encouraging businesses to spend, borrow or hire which, in the long run, will assist to create jobs and further economic growth.

[i] Testimony of Dr. Winslow Sargeant, Chief Counsel for Advocacy, U.S. Small Business Administration.
[ii] *May Oversight Report: The Small Business Credit Crunch and the Impact of the TARP,* Congressional Oversight Panel, May 13, 2010.
[iii] www.sba.gov
[iv] The Federal Reserve Bank, Aggregate Reserves of Depository Institutions and the Monetary Base, through March 2010.
[v] *Economic Recovery and the Changing Landscape for U.S. Small Businesses,* The RMA Journal, November 2010.
[vi] Moody's Investors Services, Corporate Default and Recovery Rates, 1920-2009.
[vii] *US Firms Build Up Record Cash Piles,* The Wall Street Journal, June 10, 2010.

Chairman GRAVES. Thank you, Mr. Phelan. Next I will turn to or yield to the gentleman from Tennessee for the introduction of his witnesses.

Mr. FLEISCHMANN. Our next witness today is Ms. Terry Frank. Ms. Frank is the owner of Nature's Marketplace in Oakridge, Tennessee. Ms. Frank is a graduate of Middle Tennessee State University and is also a current board member of the Anderson County Economic Development Association. Ms. Frank took a bold step and opened her own small business in 1993. Ever since that time she has faced the problem millions of hardworking Americans face every year. Oppressive taxation and regulations that threaten the livelihood of small business owners.

Ms. Frank's perspective on small business issues is more than welcome, and we thank you for taking time out of your busy schedule to come be with us today. Ms. Frank.

STATEMENT OF TERRY FRANK

Ms. FRANK. Thank you. Chairman Graves, Representative Velázquez, Representative Fleischmann, members of the Committee, thank you for the opportunity to testify.

Nearly 20 years ago my husband and I sought the American dream of owning our own business. With very little capital we opened a produce market and eventually expanded into a busy market with gifts and an eatery where we prepared sandwiches and soups and baked deserts.

We love our small business and the blessings of home ownership it has afforded us, not to mention that we were able to raise our three sons alongside us, much to the amusement and fondness of many customers. My oldest son is now attending College at the University of the South at Sewanee on Presidential Scholarship. Our second son has been accepted to Yale, and our youngest son is a fifth grader at St. Mary's School in Oakridge.

Our customers and our employees have taken part in the shaping of these fine young men. One of my favorite quotes is from Patrick Henry, "I have but one lamp by which my feet are guided, and that is the lamp of experience." My experience of owning our own business has been one of great commitment, numerous sacrifices, and the foregoing of many pleasures for the opposability of feature reward. Many of those experiences have been rewarding; others frustrating. I often wonder if it is not easier to just work for someone else than it is to navigate the tax code.

Engaging in commerce should allow for the simple reporting of profit or income. It should be so simple that any producer should be able to be a good citizen and comply with the law. But as it stands, even with a college degree, I have been utterly lost on many occasions. The tax code is a maze of fiddles. A game for those who seek to find the loopholes for the sophisticated to work various formulas in order to pay less to Uncle Sam.

Until four years ago I performed all of our taxes myself with a tax program until I finally relented and started paying a CPA. Time is money and money is time, and the U.S. Government robs the small business community and its own coffers of potential revenue by eating up hours of time in bookkeeping, reporting, and compliance. Keeping up with the tax changes that Congress is con-

sidering can be a full-time job itself. The 1099 requirement that you discussed in this Committee here last week would only add to that nightmare.

The tax code should be so simple that it actually serves as an incentive to bringing more people into the ranks of small business. Instead, it stands as an intimidating obstacle. My husband and I depend on a network of other small businesses to produce our goods. Every element of our business network shares a sense that we are viewed as, well by government as cows to be milked. We sense that we viewed as exploiters of people. I speak not just for myself. I discussed my testimony with many friends. Our profits, if we have any, are not windfalls. They are produced by our hard work. Our risk taking and ingenuity. Profits are not something nasty to be punished and taken and given to someone else.

The small business community and the great middle class of which it is part currently are carrying more than their fair share of the tax load. Congress should not remove dollars from the economy and reinject them in a so-called stimulus game of picking the winners. Small businesses should be allowed to keep more of what we earn. When we do, we give our economy and the federal tax coffers a better return on our investment and we can provide more jobs to others.

I will close by calling for a simple solution to growing the small business community. Truly reform the tax code. Do not micromanage us and let us keep more of our hard earned profits. But specifically, I call for a far better tax code. The Fair Tax HR–25 taxes consumption instead of earned income so it does not punish initiative. A flat tax sounds simpler but the fine print could wind up hurting small business if we cannot deduct our operating costs. Federal policy itself promotes distrust and resentment. It puts we, the people, against government and neighbor against neighbor as a prevailing sense of unfairness festers and then divides us.

We need a stable dollar and tax and monetary policy that does not intentionally hurt small business. Monetary policy of the Federal Reserve purposely manipulates the dollar's value and interest rates. Such policy has served to dry up lines of credit and loans to small businesses of my friends and even to me personally. Small businesses cannot thrive and provide general prosperity so long as it is oppressed by federal policies designed to serve the interest of Wall Street financiers. We need cheap and affordable energy in the operation of our businesses and most importantly, we need the stability that comes with an end to micromanagement of small business. There can be no growth when business owners like me are constantly fearing what lies around the corner.

Thank you for hearing my views today.

[The statement of Terry Frank follows:]

Written Testimony of
Mrs. Terry Frank
Owner, Nature's Marketplace
Before the Small Business Committee
U.S. House of Representatives
February 16, 2011

Chairman Graves and Representative Velazquez, Congressman Fleischmann, members of the Committee, thank you for the opportunity to testify on the state of small business today and specifically taxation of small business.

My name is Terry Frank. Nearly 20 years ago, my husband and I sought the American dream of owning our own business and specifically sought the freedom of small business ownership to raise our children alongside us as we worked. With very little capital, we opened a produce market in 1993 that eventually grew over the years into what it is today, a busy market with gifts and eatery where we prepare sandwiches and soups and bake cakes and other desserts.

We love our small business and the blessings of home ownership it has afforded us, not to mention that we were able to raise my three boys within the walls of our retail space. Our oldest son was awarded a Presidential Scholarship and is now at college at the University of the South at Sewanee, our second son has been accepted to Yale and will head there in the fall, and our youngest son is a 5th grader at St. Mary's School in Oak Ridge, Tn.

While our business is your traditional mom and pop business, even at our small scale we've been able to see the pros and the cons of government intervention, regulation and taxation. We also know many of our customers on a first name basis and have heard their concerns and stories of their own small business travails and successes.

We have seen help that can come in the way of our health inspector, who advised us how to proceed, what equipment we should get to operate a safe and healthy kitchen. He taught us how to clean and store food properly. He encouraged us to grow. He understood his role as not an inhibitor or obstacle to commerce, but a facilitator. In that respect, by helping us grow he has helped the economy grow and in the process, a natural growth in government revenues.

But we've also witnessed how government can discourage commerce.

The tax policies as they currently stand are too complex to navigate on my own. As someone with a college degree (I even initially set out to be an accountant before I realized I was too hyper to sit that long), I should be able to navigate the process easily. I am not.

With the help of a tax program, I personally performed our taxes until tax year 2006 when I finally went to an accountant. When I finally did go, I found I had been paying more than I should have by improper reporting on my Schedule C. The time spent on compliance and paperwork and accounting and reporting could be better spent at my business, not to mention I don't really want to pay for such service. I have not only felt frustration and anger when dealing with my taxes, I have on occasion cried over my failure to understand. Fear of improperly reporting has often left me to err on the side of not taking deductions as I want to comply with our rule of law and I openly fear punishment. Even my accountant notes the constant changing of the tax code and the challenge of keeping up.

The frustration over my role in financing an ever-growing government reaches its height on days when I face an extra heavy workload. There are times when I have to get to work at 2 am to meet the requests of my customers. At those times, I am happy to have the business. But I also think about how many in government disregard my commitment to my business. Many see my profits as a windfall and an exploitation of people for which I should be punished.

I often question why my hard work or my husband's hard work should be targeted to finance the upkeep of people government wants to befriend. Why can't I choose who to help? My husband and I have made the decision on many occasions to turn down opportunities for growth or expansion because of unwillingness to deal with the headache of more government oversight, intervention, and taxation. To us, it has not been worth the risk. It is easier to stay small.

This committee is dedicated to small business, and for you I am thankful. If I were in your position today and was able to do something to help small businesses in this nation, I would try to accomplish several goals. Boiled down, my message is to stop micro-managing business, get out of the way, let us keep more of our money and you'll see that we can invest it with a better return than Congress can.

But specifically, there are several problems that need addressing that affect not only my business, but the many businesses that I do business with in the operation of my daily retail operation.

Economic Uncertainty

Economic uncertainty inhibits growth and risk. My husband and I have personally worked longer hours instead of hiring another employee because of our fear of the economic future. Most of our uncertainty is about what government is going to do next to hurt business prospects. Indicators look to more government programs, meaning more money out of our operating capital. Social Security looks to a looming insolvency, government spending and debt continue to increase, inflation is a fear, so we have sought to pay off any and all debt and initiate very little new spending in this current environment.

Fuel & Energy Costs.

While taxes on energy seem to only affect the specific industries, they are actually detrimental to small business. Cheap, affordable energy is the core of many businesses and, despite ad campaigns to the contrary, I can only limit my use of energy at my business to a certain point. I have to keep my restaurant cool in the summer and warm in the winter, and I use specific amounts of energy in the production of my goods. Many of my food distributors have suffered under increased fuel costs. Some at this very moment struggle for survival as their profits are shrunk to cover the basic costs of staying in business. General profits to finance our bills have been sucked up into the operating costs of survival.

Simplify the Tax Code:

The code and all its rules and regulations are a waste of time and resources for small business. I am not an economist, I predominantly bake and do customer service, but from my small corner of the world I would prefer a Fair Tax (HR 25) if enacted in conjunction with the repeal of the 16th amendment. The tax code is nothing but a game for those with the willingness or the knowledge to work the angles and the loopholes.

Change the View that Small Business is a Cow to Be Milked

There seems to be no shortage of advocates for the welfare system and government subsidies and rules and regulations. Even tax policies favor the insiders at the very top. The middle-class, primarily comprised of employees, managers, and owners in the small business sector, has far fewer advocates. In fact, I believe government policies are facilitating the destruction or contraction of the middle class in this country, a middle class that has served as the backbone of this nation and an envy of the world.

Stabilize the Dollar and Limit the Fed

We need a stable dollar and a U.S. economic policy—that is a tax and monetary policy-- that does not intentionally hurt small business. Monetary policy of the Federal Reserve purposely manipulates the dollar's value and interest rates. Such monetary policy has served to dry up lines of credit and loans to small businesses of friends and even to me personally. Small businesses in this country cannot thrive and provide general prosperity so long as it is oppressed by federal policies designed to serve the interests of Wall Street financiers. Small business cannot continue to carry too big of a burden for the recipients of government largesse. The power of the Fed should be limited.

Chairman GRAVES. Thank you very much, Ms. Frank. I will next turn to the Gentleman from Florida, Mr. West, for the introduction of his witness.

Mr. WEST. Thank you, Mr. Chairman and Madam Ranking Member.

Our next witness is Mr. William Feinberg, president of Allied Kitchen and Bath in Fort Lauderdale, Florida. He founded his company along with his brother Joe in 1984. Bill is currently a member of several industry trade associations, including the National Kitchen and Bath Association, and he serves on the Board of Directors of the Fort Lauderdale Chamber of Commerce. Mr. Feinberg is testifying on behalf of the United States Chamber of Commerce today, the world's largest business federation representing the interests of more than three million nationwide businesses, as well as state and local chambers and industry associations.

Welcome, Mr. Feinberg. You have five minutes to present your testimony.

STATEMENT OF WILLIAM FEINBERG

Mr. FEINBERG. Thank you. Chairman Graves, Ranking Member Velázquez, and distinguished members of the Committee, thank you for asking me to testify before you today on the state of the small business in our nation with a specific focus on the issue of health care. My name is Bill Feinberg and I am president of Allied Kitchen and Bath, which is located in Fort Lauderdale, Florida. I am here to speak to you today on behalf of the U.S. Chamber of Commerce.

In 1984, my brother Joe and I founded Allied Kitchen and Bath in Fort Lauderdale, Florida. Our two other brothers, David and Rob, also joined and worked for the company, making it truly a family business. We take great pride in having earned an outstanding reputation in our community. In early 2007, my brother and I pursued our dream to expand our company. We obtained financing which enabled us to tear down our old facility and build a new two-story, first-class, 15,000 square foot showroom. We literally invested not only our life savings but also our reputation. At times we wondered whether we could survive.

We are continually optimistic about the future but this is not to say that things are easy or that we are achieving the level of financial stability and security which we had anticipated prior to this economic downturn. We know that achieving our goal of exceptional customer service and satisfaction is only possible through our staff members. In fact, many of our staff have been with our firm for more than 15 years now. At this time, I have 35 full-time employees, as well as a few part-time employees and others that we use on a subcontract basis. At the peak of my business we employed about 45 people.

With the severe economic downturn, especially in the building sector in Florida, we tried our best not to lay off anyone. Myself and brother as co-owners personally sacrificed everything. We cut our inventory, we tightened our belts in every way, trying to meet cash flow needs while waiting for business to pick up and consumer confidence to return. Ultimately, we were forced to lay off people. To be blunt, it has been a struggle, and at times we have been

hanging on just by a thread. I believe things are slowly getting better, but even as the economy seems to inch toward recovery, businesses like mine have to worry about new laws, new regulations, new challenges created for us by Congress.

Allied is a very good business on a sound financial footing but we are not flush with cash. As far as health care and health insurance goes, we continue to believe, as we always have, that offering health insurance to our employees is a valuable benefit. It is also critical to obtaining new employees and retaining the existing ones that we have. Right now Allied offers a Blue Cross Blue Shield PPO plan to all of our employees. We pay 50 percent of the premium. Every year we pay more and more money but we get less coverage. Last year we got a 20 percent premium increase. This year it would have been worse. We were able to keep our increase to 20 percent by raising the plan deductible from $500 to $1,500 per person. I would like to keep offering health insurance to my employees, and I would like Allied to continue to grow and be able to create jobs and prosper. However, with the new health care law it is making it much harder for us. I know that some of our premium increases are due to the new rules in the health care law. We have less leeway in how we can control costs by changing plan design and it makes it harder to afford insurance.

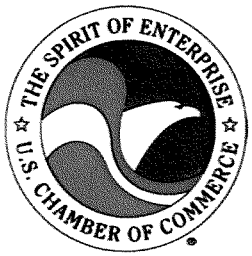
I am hopeful that in the next few years Allied will grow again and be in a position to have 50 employees at a minimum but I know that in 2014 the new employer mandate starts. The mandates says an employer with 50 or more employees must offer government-approved health insurance or pay steep fines. Is this the message Congress meant to send to businesses like mine? Would not incentives, rather than penalties, have been a better way forward? Unfortunately, there is no way I will be able to hire a 50th employee once this mandate kicks in, at least as I understand it. Hey, I am just a kitchen guy. Apparently, if I have 50 or more employees and I do offer health insurance I will face steep fines because of the complicated formula in the new law that lets the employees opt out of our health insurance plan, receive a government subsidy, and fine the company $3,000 each time this happens. How can this make any sense? It simply does not. The uncertainty caused by just the employer mandate alone can hardly be emphasized enough. I hope Congress will repair this provision as soon as possible regardless of the plans to repeal the full health care law.

I was hoping that health care reform would mean more competition, lower costs, better quality care. I do not see how the health care law will achieve any of that though. Plenty of common sense ideas that would help small businesses like mine were just left out. The law did not include the meaningful medical liability reform. It does not give Allied the opportunity to buy health insurance from companies outside Florida and it does not allow Allied to freely band together with other small businesses to get better rates on insurance or form reinsurance pools. It does not even fix the problem of cost shifting where low payments by Medicare or Medicaid providers translates to a higher insurance cost for small businesses. I hope this Congress will take a serious look at the policy changes and help lower health care costs for businesses like Allied so it can keep offering the benefits our employees so value.

In conclusion, we are hopeful that we have weathered the worse of this economic storm. We are cautiously optimistic about the future. That being said, this uncertainty being generated in Washington, D.C. by a dizzying array of unanswered questions about health care, taxes, energy, and regulations impacts our decisions and hampers our ability to effectively plan for the future. We need answers. We need clarity. Perhaps most importantly we need these issues to be resolved in a manner that encourages entrepreneurism, investment, and job creation. I am a business owner and the livelihood of my employees and their families depends on the decisions I make. I say this similarly. The decisions that you make as members of Congress have a direct impact on my business and my employees. I hope that you would ask that you continually be mindful of this reality as you consider the weighty issues facing our nation. Please, invest in small business and help us. Work with us, not against us. And we will create the jobs necessary to put Americans back to work.

Thank you for this opportunity to testify, and I will look forward to your questions.

[The statement of William Feinberg follows:]



Statement
of the
U.S. Chamber
of Commerce

ON: **"Putting Americans Back to Work: The State of the Small Business Economy"**

TO: **THE HOUSE COMMITTEE ON SMALL BUSINESS**

DATE: **February 16, 2011**

The Chamber's mission is to advance human progress through an economic, political and social system based on individual freedom, incentive, initiative, opportunity and responsibility.

The U.S. Chamber of Commerce is the world's largest business federation, representing the interests of more than three million businesses and organizations of every size, sector, and region.

More than 96 percent of the Chamber's members are small businesses with 100 or fewer employees, 70 percent of which have 10 or fewer employees. Yet, virtually all of the nation's largest companies are also active members. We are particularly cognizant of the problems of smaller businesses, as well as issues facing the business community at large.

Besides representing a cross-section of the American business community in terms of number of employees, the Chamber represents a wide management spectrum by type of business and location. Each major classification of American business—manufacturing, retailing, services, construction, wholesaling, and finance—is represented. Also, the Chamber has substantial membership in all 50 states.

The Chamber's international reach is substantial as well. In addition to the U.S. Chamber of Commerce's 115 American Chambers of Commerce abroad, an increasing number of members are engaged in the export and import of both goods and services and have ongoing investment activities. The Chamber favors strengthened international competitiveness and opposes artificial U.S. and foreign barriers to international business.

Positions on national issues are developed by a cross-section of Chamber members serving on committees, subcommittees, and task forces. More than 1,000 business people participate in this process.

Statement on
"Putting Americans Back to Work: The State of the Small Business Economy"
Submitted to
THE HOUSE COMMITTEE ON SMALL BUSINESS
on behalf of the
U.S. CHAMBER OF COMMERCE
By
Bill Feinberg
President
Allied Kitchen and Bath, Inc.
Fort Lauderdale, Florida
February 16, 2011

Chairman Graves, Ranking Member Velázquez and distinguished members of the Committee, thank you for asking me to testify before you today on the state of the small business in our nation with a specific focus on the issue of health care. I commend your efforts in having this important hearing to further understand the impact the new health care law, taxes and regulations have on the ability of small businesses to compete, grow and create jobs.

I am Bill Fienberg, President of Allied Kitchen and Bath, Inc. which is located in Ft. Lauderdale, Florida. I am here to speak with you today on behalf of the U.S. Chamber of Commerce. The U.S. Chamber of Commerce is the world's largest business federation, representing the interests of more than three million businesses and organizations of every size, sector, and region. We are particularly cognizant of the problems of smaller businesses, as well as issues facing the business community at large. More than 96 percent of the Chamber's members are small businesses with 100 or fewer employees, 70 percent of which have 10 or fewer employees. Additionally, virtually all of the nation's largest companies are active members.

Company Background

In 1984, my brother, Joe Feinberg, and I founded Allied Home Improvement Inc. in Ft. Lauderdale, Florida. Our two other brothers, David and Rob, also work for the company, making it truly a family-business. As a licensed residential general contracting firm, Allied Home Improvement quickly became one of southern Florida's premier remodelers by doing custom work with highly personalized service. In 1985, we renamed the business Allied Kitchen & Bath to reflect our area of expertise. Insisting that customer service and satisfaction be our top priority, we take great pride in having earned a 5-Star rating on Angie's List and are pleased to be AAA rated members of the Better Business Bureau.

While our business remains at its original location in the Ft. Lauderdale area, we have grown from working out of three duplex homes to now operating under one roof. In September 2008, we opened a new 15,000 square feet luxury showroom on the original location site.

In early 2007, my brother and I pursued our dream to expand our company. We obtained financing which enabled us to tear down our old facility and build a new two-story, first class, 15,000 square foot showroom. Had we known that we would soon enter one of the most severe financial crises in the history of this country, we likely would never have embarked on our expansion. We literally invested not only our life savings, but also our reputation. At times we wondered whether we could survive, but the challenges brought out the best of our entrepreneurial spirits. Far beyond mere survival, today our business and reputation in the community has reached its highest level yet. We are cautiously optimistic about the future, but this is not to say that things are easy or that we are achieving the level of financial stability and security which we had anticipated prior to the economic downturn.

While we did take on debt to open this wonderful new facility, it has proven critical to our survival in these tough economic times. As you know, the definition of 'success' is relative today. For example, we recently witnessed one of our biggest competitors in the area close their doors after 43 years, and even one of the nation's largest chain competitors, Home Expo, went under. While our mission at Allied Kitchen & Bath is to provide the finest kitchen, bath and home remodeling services to our clients, as well as the best place to work for our employees, our new showroom empowers us to do more business on the retail side.

Southern Florida is our home and we believe it is important to give back to our community. Our new showroom allows us to do that. We have hosted numerous charitable events with the event costs being fully covered by Allied Kitchen and Bath. Our area charities have benefitted by receiving 100% of the donations.

My community involvement has extended to the following activities and organizations:

- Board of Directors, Habitat for Humanity, Broward County , 2011
- Board of Directors, Fort Lauderdale Chamber of Commerce, 2009-Present
- President, Oakland Park / Wilton Manors Council of the Ft. Lauderdale Chamber of Commerce, 2009-Present
- President, Wilton Manors Chamber of Commerce, 2007-2009
- President of the Board of Trustees for the Southern Chapter of the Leukemia and Lymphoma Society, 2003-2007

In addition, we have been honored with the following awards:

- Honoree for Broward Children's Center, February 2011
- Ft. Lauderdale Chamber of Commerce Hero of the Month, October 2010
- Winner, Best Kitchen Design, Florida Design Magazine Awards, 2010
- Finalist for Top Entrepreneur South Florida, Hall of Fame Awards, Business Leader Media, 2009
- Chapter Member of the Month , Ft Lauderdale Chamber of Commerce, March 2010
- Winner, Business Person of the Year, Wilton Manors Chamber of Commerce, 2008
- 2006 Recipient of the Leukemia and Lymphoma Society's prestigious deVilliers International Achievement Award, for outstanding leadership and service and being a founder of the Southern Florida Chapter, raising over $1 million.
- Habitat for Humanity Broward Chapter named a home in honor of Allied Kitchen and Bath to display their gratitude for our support. Ribbon Cutting Ceremony, Davie, FL.

Leading by example extends beyond the philanthropic world to our actual business. Not a day goes by without myself and/or my brothers interacting with our clients on the showroom floor; we are not too busy to handle a $10 sale for a cabinet knob, consult on a $100,000 remodeling project or simply serve a client a cup of coffee. We are a family-owned business and we have strived to create a work environment where our team of employees feel like a part of our family. We know that achieving our goal of exceptional customer service and satisfaction is only possible through our outstanding staff members.

In fact, many of our staff have been with us for more than 15 years. At this time, we have 35 full-time employees as well as a few part-time employees and others that we use as subcontractors on a regular basis. At the peak of our business, we employed 45. With the severe economic downturn, especially in the building sector in Florida, and considering many banks' aversion to lend to businesses or homeowners who want to improve their homes, we gave struggled. We tried our best to not layoff anyone. My brother and I have personally sacrificed. Also, we cut inventory and really tightened our belts, trying to meet cash flow needs while waiting for business to pick up and consumer confidence to return, but ultimately we were forced to layoff a few employees. To be blunt, it has been difficult and at times we have been hanging on to the side of the proverbial cliff by our fingernails. I believe things are slowly getting better, but even as the economy seems to inch toward recovery, businesses like mine have to worry about new laws, new regulations, and new challenges created for us by Congress.

Health Care

Allied is a good business on a sound financial footing, but it is still a small business and we are not flush with cash. In addition to taking care of our employees, serving our customers with quality and staying competitive, my brother and I are trying to grow our business which will bring more financial stability and allow us to employ more people or recall those we were forced to lay off. We believe that health insurance is a crucial benefit to our employees and that our ability to provide employees with health coverage is vital to obtaining new employees and retaining existing ones.

I want to keep offering health insurance to my employees, and I want Allied to continue to be able to grow and create jobs and prosper. However, the new health care law is making this harder. I know that some of our premium increases are due to new rules in the health care law – we have less leeway in how we can control costs by changing plan design, and it makes it harder to afford insurance. I am hopeful that in the next few years, Allied will grow again, and be in a position to have 50 employees at a minimum. But I know that in 2014 the new employer mandate starts – the mandate says an employer with 50 or more employees must offer government-approved health insurance or pay steep fines. Is this the message Congress meant to send to businesses like mine that want to grow and create jobs? Wouldn't incentives, rather than penalties, have been a better way to send the message that government and business can work together?

Unfortunately, there is no way I will be able to hire a 50th employee once that mandate kicks in, at least as I understand it – which is barely so, I admit; after all it is a pretty complicated calculation and I just remodel kitchens and baths. Apparently, if I have 50 or more employees and

do offer health insurance, I will still face steep fines because of a complicated formula in the new law that lets employees opt out of our health insurance plan, receive a government subsidy, and fine the company 3,000 dollars each time someone opts out. How can this make sense? It certainly does not to me or other small business owners that I come into contact with regularly. The uncertainty caused just by the employer mandate alone can hardly be emphasized enough. It causes us to seriously hesitate before taking any risks needed to grow our business. I hope Congress will repeal this provision as soon as possible, regardless of plans to repeal the full health care law.

I understand that Congress wanted to help a lot of people get insurance who didn't have any; and that was a pretty expensive goal. Congress decided to offset some of the bill's nearly trillion dollar cost by raising taxes on small business – taxing the medical devices and prescription drugs we buy, taxing investments, raising Medicare taxes, and worst of all, taxing small businesses' health insurance plans. Big businesses will be exempt from this tax, because they buy a different kind of insurance – which means the entire tax will fall on small businesses. And let us not forget the new "Cadillac" tax that will kick in down the road – that one is designed to get bigger and bigger and hit many millions of small businesses. I hope Congress will consider repealing some of these taxes.

I was hoping that health reform would mean more competition, lower costs, and better quality care. I don't see how the new health care law will achieve any of that though. Plenty of common sense ideas that would help small businesses were just left out. The law did not include meaningful medical liability reform. It doesn't give Allied the opportunity to buy health insurance from companies outside of Florida. It doesn't allow Allied to freely band together with other small businesses to get better rates on insurance or to form reinsurance pools. It doesn't even fix the problem of cost-shifting, where low payments by Medicare and Medicaid to providers translate to higher insurance costs for small business. In fact, the new law goes in the opposite direction, lowering reimbursements. I hope this Congress will take a serious look at policy changes that could help lower health care costs for businesses like Allied, so that we can keep offering the benefits our employees value so much.

Conclusion

We are hopeful to have weathered the worst of the economic storm and are cautiously optimistic about the future. That being said, the uncertainty being generated by Washington, through a dizzying array of unanswered questions about health care, taxes, energy and regulations impacts our decisions and hampers our ability to effectively plan for the future. We need answers, we need clarity, and perhaps most importantly, we need for these issues to be resolved in a manner that encourages entrepreneurism, investment and job creation. I am a business owner and the livelihood of my employees and their families depends on the decisions I make. I say this because, the decisions you make as Members of Congress have a direct impact on my business and my employees. I would ask that you be continually mindful of this reality as you consider the weighty issues facing our nation. Thank you for this opportunity to testify, and I look forward to your questions.

Chairman GRAVES. Thank you. And I will now yield to the Gentlelady from Washington, Ms. Herrera Beutler.

Ms. HERRERA BEUTLER. Thank you, Mr. Chairman.

And it is my honor today to introduce to you all Dixie Kolditz. She and her husband, who is in the back corner with their little one asleep, co-own two businesses, Open-Box Creations, a wholesale home décor company, and also an agency that provides care for developmentally disabled adults. Dixie is here today to talk specifically about Open-Box Creations, which is located in the small town of Cathlamet, which is in the middle of my district in southwest Washington, the region I represent.

I was meeting with employers across my district a few weeks ago and had the pleasure of reconnecting with Dixie and her husband on that trip. And to me she represents all that is great about America and the American dream, and she is going to tell you about that. She was raised in South Africa, came to the United States to attend college, and it was there that she majored in public relations and journalism, and also met her husband and future business partner, Ross. She came to the U.S. in '95 and became an American citizen in 2004, and is now the mother of seven children and the owner of two businesses that employ more than 150 people. Only in America. Now Dixie is facing a set of challenges that make it extremely difficult to continue as a small business owner, and rather than have me recount those challenges to you I am going to turn it over to an expert witness who knows firsthand the difficulties that small businesses are facing today.

STATEMENT OF DIXIE KOLDITZ

Ms. KOLDITZ. Thank you, Mr. Chairman and members of the Committee.

I am going to talk about regulations. And we deal with this when we bring in our containers, which is our shipments that come in from Thailand. Our products are handmade, the flowers and the vases. And what happens is when the containers come in they get delayed by Customs. And that becomes really hard because it adds more fees to what we are bringing in. And so what we found—so I am going to just read some of the stuff that we have that has been happening. I will relate this with the container that we just recently received.

Most of our containers when they come in we fill out an ISF form, which is an Import Security Filing form. And this form, it just tells everything that is on the container. And what happens is now Customs requires that we file this form before the container leaves the country of origin. Now this becomes really hard because the shipping company cannot give us the information two to three days before the container leaves. And we understand that Homeland Security is very important. However, before the economy took a downturn, our containers were not scanned as often as they are right now. And we have agreed that the Customs' scans and inspections were indeed random. Now all our shipments are scanned or inspected at our expense every single time. It feels like a government moneymaking scheme. The fees are higher than our labor cost to load and unload. It seems that because they are not footing the bill they do not care how long it takes and they can even use

whatever facility that is convenient to them, even if it means taking containers that have been trucked to Portland, Oregon, our home shipping port from San Francisco, back to San Francisco and then back to Portland to be scanned. This just adds more fees. Why do we then have to pay for their inefficiencies. There has to be ways that they can be accountable to us or share the expenses. Maybe then they will work faster, efficiently, and cost effectively.

When we receive the shipment, normally I pay about $350 when they scan my product every single time; $150 of it for the delays and $150 of it that goes to Customs for them scanning it. Now my bill was about $822, which is a little bit double, almost triple what I have paid before. With the ISF form, if we do not fill—the new rule that they just enacted is that if we do not fill this we will be penalized about $5,000 which is a lot of money for most of us. And like I said, we cannot control how we can get the information from the shipping companies. So when they add these things it just adds more and more things that we have to deal with. Also, when we bring in our containers, most of our product, like I said, they are handmade. It is something that is not produced in the U.S. We now have to pay duties and this is done through the general—it is called the GSP, which is the Generalized System Preference. Now, with the GSP, this is something that the government started a couple of years, in 1976, to help developing countries so that they can be able to sell their products to the U.S. Now with this system, now all of our products we now have to pay duties when we never used to pay duties. I had to pay over $800 on our products and I have got several containers that are coming in. And when they do this it just adds more and more fees. I am not complaining about the fees, it is just the fact that we are getting fees from all different directions, and the more fees you add, the more I cannot make profit. And if I can make a profit I can employ more people, which is really, really hard. And I know that the generalized system is being worked on so that it can be renewed, but if it is not renewed it is now a new tax. It might not be called a tax but I think it is.

One of the other things is, if you put less regulations, what that does is that it gives a company like mine, a small business, to be able to work with a big company. We now have an opportunity that we get to work with Costco, which one of my friends called Costly. It is like David working with Goliath. Now, if you add more regulation, I cannot have that opportunity. What we now have is that I can sell my products through Costco instead of them. You know how everybody says that the big company kicks out the mom and pop shops? Now they are bringing us in which helps us so that we can hire more people and they also can employ more people. So this is a system where we are now working together. We are having a mutually beneficial system.

So I say do not regulate us. Do not overregulate us. Give us some rules. We expect some rules, and we are fine with having a few rules here and there so that we can all work together. But the more you get into giving us so many rules, you are taking away our opportunities to give. And I also think that we have also been vilified. We are being told that we want to make profits all the time. Profits, there is nothing wrong about having profits. That is

part of the American dream, is that we can reach, we can achieve anything, and at the same time create jobs.

So I say less regulation. Give us the opportunity so that we can partner with you and create more jobs. I am thankful for this opportunity and I hope that I was able to give you some information that could be useful. Thank you.

[The statement of Dixie Kolditz follows:]

Written Testimony of

Baatseba Dixie Kolditz

Small Business Owner

Before the Small Business Committee
U.S. House of Representatives

February 16, 2011

My name is Dixie Kolditz. From Cathlamet WA. I was born and raised in a black township in Johannesburg South Africa and came to the United States in 1995 as a student at Brigham Young University where I majored in Journalism and minored in Public Relations. I also met my husband, Ross Kolditz, at BYU and we have 7 children. I proudly became a United States citizen in 2004.

My husband and I own two businesses. Brighton, Enterprises Inc, which is a "Supported Living " agency providing residential care for developmentally disabled adults, and Open-Box Creations LLC, which is our wholesale home décor company.

Between the 2 companies, we are proud to employ 150 people. Our employees are mainly in Southwest Washington State. We also have some in Michigan, Illinois, Oregon, and California.

Like many other business owners and entrepreneurs we have had some struggles and successes. Times are harder; customers are not buying as much. They are guarding their wallets and not spending as freely as they used to; which is to be expected in these uncertain times.

Increase in scanning and inspection costs

We have had to be creative and make our money stretch more than it used to. This becomes harder when there are expected and unexpected regulations and hidden government taxes and fees. For example, when I ship a container of our products from Thailand, there are fees that I expect to pay. Ocean freight, customs and duties, import broker fees and trucking fees.

We keep our fingers crossed that the various government agencies will not delay our shipment, causing deadline delays to customer's stores. Each time a shipment gets "scanned", or inspected, the costs associated with inspecting, moving the shipment to the inspection location, and unloading/re-loading it is passed on to us. We are also charged daily fees for storing the containers while it waits to be unloaded an inspected.

In the shipment that I just received last week, my unexpected government costs were $1705.17. We have to pay it, no questions asked. $822 of this amount was from the Department of Agriculture. The added inspection was due to our "Wood" vases. They unloaded the container, and opened a few boxes looking for "Raw Wood". These are the same finished wood vases that we have been selling for the past 4 years.

We understand that homeland security is crucial, however, before the economy took a downturn, we were not scanned as often. And we would have agreed that the customs scans and inspections were indeed random. Now, all our shipments are scanned/inspected at our expense, every single time. It feels like a government money-making scheme.

The fees are higher than our labor costs to load and un-load. It seems that because they are not footing the bill, they do not care how long it takes and they can use any facility that is convenient to them. Even if it means taking a container that had been trucked to Portland Oregon, our home shipping port, from San Francisco, back to San Francisco to be scanned, then trucked back to Portland.

Why do we, then have to pay for their inefficiencies. There has to be a way that they can be accountable to us or share the expenses. Maybe then, they will work faster, efficiently and cost effectively.

Recent Import Security Filing Program

There are many rules and regulations that we have to follow when importing goods into the United States. Last year The Department of Homeland Security and US Customs regulated the 10 + 2 Import Security Filing program (ISF forms). Where any ocean freight coming to the US has to have extra forms filed by the importer *before* the container is loaded in the country of origin. The information that the form asks for is not determined until you load the container and register it with the shipping company. Shipping companies will not give the information until 3-4 days before sailing. Thus making the filing of any ISF forms extremely difficult.

The shipping companies already have to file shipping documents with the United Sates. Making the ISF forms merely a redundancy.

The ISF regulation also comes with a steep $5000 penalty to anyone who does not supply this duplicate information before the ship is loaded. We spend many hours working on this regulation with every shipment.

What is also concerning is how some of the information that we work so hard to acquire because of regulation is not even read or put to consideration. For example when I called to inquire about my container. The person on the line explained how my shipment was going to be delayed because of scanning by the Department of Agriculture. They asked me if my product was made of wood. I was puzzled because not only does it clearly state that I have wood vases on all the bill of lading and

shipping documents, but I have also supplied the required "genus and species" of the wood.

My industry colleagues have confirmed that they have to deal with the same problems. Many have given the response of "that's how it is."

Renewal of Generalized System Preference (GSP)

We now also have to pay duties on our products that used to be duty-free. This is because Congress and the President have not yet authorized the renewal of the Generalized System Preference (GSP). This is a program that the government started to assist developing countries through enhanced access to the U.S. market. GSP was initiated in 1976 and offers duty-free treatment for 4800 products from 131 designated countries and territories throughout the world.

This has been renewed by every congress since its inception and sometimes there have been delays with the renewal. I hope this does not take as long as 10 or 15 months to renew.

This is going to be hard on small businesses. As an importer, I know this is already an added burden. I had to pay 17% for duties on products that were previously duty free. We will now need to raise our prices to match the increase. Basic principles of supply and demand mean that demand for our products will decrease.

I know that there is a possibility of the duties being refunded if the GSP is renewed but until then, this is like a new tax.

Having our products duty free, not only helps the developing countries, but it also helps us here at home. It lowers our bottom line. This makes it possible for us to pass the savings to our customers, to grow our businesses, and to hire more people.

It might not seem like a lot of money, but it is all the little additions here and there like customs scans, de-vaning, and duties add up quickly, and soon we all cannot afford to run our businesses.

Many Americans are already having a hard time making ends meet. And the new duties are going to add to increase the cost of goods at the many different stores.

In times of financial crisis, don't just add reactionary regulations. Sometimes it is good to take a moment and think things though. Small businesses do not have the budgets and manpower of big business. When you add a new regulation, do not just think of it in terms of the big business; consider the small businessman and woman who have limited resources. Think of us, and how we can meet the new rules. We are also a part of the job creators.

With Less Regulation

With less regulation, small businesses like mine sometimes get the opportunity to work with big business, creating jobs. We recently started selling our products in

different Costco Wholesale stores around the country through their "road show" program. This is a program where Costco invites a vendor to sell his or her products in various stores. This is a mutually beneficial opportunity because we get to put our products in front of hundreds of their customers and they get to offer more variety and excitement in the stores. This is a great opportunity to grow for any small business. This also means that this year we will hire 15-20 new employees to help sell our product. If we continue to do well, we will continue to help in the economic recovery process.

Over time, though, if more regulations are added our business dealings with companies like Costco will be gone, which means less employment. Today we will enjoy the freedoms to take advantage of such mutually beneficial business opportunities.

In closing, we want to create jobs and improve our economy. It also does not help when we are vilified as greedy and not doing our "fair share". No one gives us handouts. We put in our hours and we work hard. We have no lobbyists. We use our talents and creativity to solve problems every day and to be efficient. We risk our entire livelihoods. We are proud to be providers for ourselves and others.

Let us be your partners to make a difference.

I am thankful for this opportunity and hope that the information that I have provided will be helpful. Thank you for your efforts in making our country a better place for businesses to flourish and for people to achieve their American dream.

Please contact me anytime if I can be of further assistance.

Respectfully,

Dixie Kolditz

dkolditz@me.com

360-609-4061

Chairman GRAVES. Thank you very much. Now we will move to questions, which I have a question for Mr. Phelan. You mentioned the credit market is thawing a little bit. I am just curious where you are seeing the majority of that—small banks, larger banks, lending institutions? And I would also be particularly interested in where you are seeing that directed—lines of credit or is it more on new business startups, that sort of thing?

Mr. PHELAN. So the question is are we seeing the credit approval rates increase in different types of institutions, whether it is a bank or independent finance business, a large bank or a small bank.

Chairman GRAVES. Where are you seeing it most, large banks or small?

Mr. PHELAN. Yeah. Yeah. And I think we—to be honest with you on the data side, we have not drilled into the data to that kind of degree of specificity to be able to tell you that. We can tell you that most of the data that we collect, on the credit approval side, is from the larger institutions. And so I think it is representative more of the larger institutions that where we are seeing just the credit approval rates increase from a very low point in May of 2009 to not quite to pre-recessionary levels but it has certainly gotten much closer to where it was before the recession.

Chairman GRAVES. Are you seeing that more—we were hearing a lot about lines of credit being, you know, either banks were requiring more equity for the same line of credit or they are just reducing their line of credit for the same equity that they had put up. Are you seeing that loosening up just a little bit?

Mr. PHELAN. Again, I apologize. We have not studied in that kind of depth. We could do that for you if that is something you are interested in. We do know overall though that the credit applications are increasing. The credit approval rates are increasing. But I do not have—I was not prepared with that kind of depth of detail. I could provide that to you at some further point.

Chairman GRAVES. If you could I would appreciate it.

Mr. PHELAN. Sure. I could do that.

Chairman GRAVES. I know we have a lot of questions out there so I will go ahead and turn to the ranking member.

Ms. VELÁZQUEZ. Thank you, Mr. Chairman.

Mr. Phelan, you noted that the Small Business Lending Index has increased 20 percent between December 2009 and December 2010. What do you attribute that to?

Mr. PHELAN. Well, the approval rates have increased so we know that there is more credit being granted and we can see that in the data, so that's one aspect of it. We really see three drivers as the reason for the change year over year. One is we think the economy is getting a little bit better. It is not certainly completely healed but we do see elements of the economy improving. Secondly, at some point some of this property plant and equipment just wears out and you have to replace it so there is replacement investment going on. Then thirdly, I think companies were taking advantage of some of the year-end tax credits that were available. So it's really a combination of those three where there is some investment growth occurring, there is replacement investment just to replace worn out equipment and worn out assets, and then there is cer-

tainly some taking advantage of year-end type opportunities in the tax structure.

Ms. VELÁZQUEZ. What about the federal stimulus? Did it play any positive role?

Mr. PHELAN. We have no way to track exactly what credit is being attributed to the stimulus and as you can imagine that would be a very complicated project. I can tell you though that the construction companies, we've seen certainly some improvement in their borrowing patterns and that was probably the largest jump that we saw last month in December was among construction companies.

Ms. VELÁZQUEZ. The housing tax credit was included, $7,500, and then increased to $8,000, will that have any impact on the construction side for first-time buyers?

Mr. PHELAN. I really can't answer that question with that kind of specificity, but I can tell you in the data that we have seen construction companies start to borrow more money and become more active.

Ms. VELÁZQUEZ. Much of the turmoil in the economy can be tied to the decline in real estate prices and real estate represents the single largest source of collateral for small-business lending loans. Do you believe that the declines in real estate prices are continuing to hamper business lending?

Mr. PHELAN. Again I have anecdotal information on that. I don't have data-driven information at my fingertips, but I think that certainly any kind of collateral that is being used to secure a loan would certainly impact the degree to which the financing available. There is no question about it. But I do not have empirical data to tell us whether it's gone down 20 percent or 10 percent or whatever the number is.

Ms. VELÁZQUEZ. Mr. Feinberg, we have spent a lot of time talking about health care reform and insurance companies used to be able to cap benefits meaning that once that cap was reached, individuals will be forced to pay their medical bills themselves. As someone who employs over 100 employees——

Mr. FEINBERG. No, no, no, 35.

Ms. VELÁZQUEZ. Thirty-five. And you provide health insurance?

Mr. FEINBERG. Yes.

Ms. VELÁZQUEZ. Should insurance companies be able to cut off benefits if an employee of yours gets extremely ill and goes over their cap even though you are paying for their health insurance?

Mr. FEINBERG. I can't say whether or not the insurance company should do that and I think as a small-business owner I'm——

Ms. VELÁZQUEZ. No, my question is do you think it is fair that you the employer pays health insurance for your employees and if it is fair that once that employee reaches the cap imposed by the insurance company that the benefits will be cut off where you are the one paying the insurance?

Mr. FEINBERG. I don't think that is fair and I think that it's important that as an employer that we are offered incentives.

Ms. VELÁZQUEZ. So we agree.

Mr. FEINBERG. I don't know that we agree, but I know that I'm not an expert.

Ms. VELÁZQUEZ. That it is not fair.

Mr. FEINBERG. I am not an expert on health care and I think it is up to you the lawmakers to decide. And I'm not saying that the bill needs to be repealed completely either. There are good parts of the bill and there are also bad parts. As a business owner my job is to grow my business. That is what I am looking to do, create jobs and grow my business. I cannot possibly grow my business if I have all these mandates put on me.

Ms. VELÁZQUEZ. My question if I were fair or not once a person gets sick and reaches the cap of those benefits that the insurance company even though you are paying those benefits, that they will cut it off. Ms. Kolditz, in this Committee we have worked in a bipartisan way to deal with the issue of regulatory burden on small businesses and we do know the burden that it imposes on small businesses and many entrepreneurs simply do not have access to the complying resources that their larger competitors do.

Ms. KOLDITZ. Yes.

Ms. VELÁZQUEZ. There is a national network of small-business development centers across the country and I know you're from Florida.

Ms. KOLDITZ. Washington State.

Ms. VELÁZQUEZ. Washington State, and I'm sure that in Washington State there are small-business development centers. Have you had any contact with those small-business development centers that provide technical assistance?

Ms. KOLDITZ. No, not yet.

Ms. VELÁZQUEZ. That is a network created by the Small Business Administration and it would be great for you to check on those services that they provide so that they could help you sometimes deal with the issue of regulatory compliance.

Ms. KOLDITZ. Right.

Ms. VELÁZQUEZ. Thank you, Mr. Chairman.

Chairman GRAVES. Mr. West, questions?

Mr. WEST. Thank you, Mr. Chairman. On a positive note I'd like to ask the panel have there been instances where the Federal Government has been a good partner in helping you to expand your businesses outside of accessing capital? Anyone? Ferris Buehler? Anyone?

Ms. FRANK. I will just say that I don't really want help from Government. I think that is the point. I know Ms. Velázquez addressed Dixie saying have you gone to the outreach center or the community—that is my story. I do not want any help. I want to contribute, I want to be a good citizen, I want to raise my family. That is not what Government should be about. There are a very few things I think Government should be about, national security, our roads, prisons, a very few limited things and I think Government has grown so much that that should not be the mindset of every business or elected official that ask your Government for help. I do not want help.

Mr. FEINBERG. I think I also agree with Ms. Frank. I am a businessman. That is what I do best. I know how to work with my company and create jobs for the people around me. The more restrictions that are out on my company the less that I am able to operate. We already have so many regulations and laws that restrict

us. The mandates are just adding more to this. I know that as a business person I can create jobs.

Mr. WEST. Can you give examples of some of these regulations or mandates that you are addressing?

Mr. FEINBERG. With health care alone if I reach 50 employees that will stop me in my tracks from growing my business. There is no way that I can possibly hire more employees knowing that I will either face steep fines or have to pay these high rates or have to pay insurance for 50 employees. My job as a business person is to grow my company and the more that I see the Government get involved and regulate me the less I am able to do. The saying one size does not fit all is so true. It does not. I know how to do kitchens and bath remodeling. Let me do what I do best. I know how to create jobs in my community. I was on my way when the economy was strong. Now with the economy coming back, I think it could be done. I think that we are on a positive note right now where the economy is coming back and I do believe it is going to come back strong. But again allow me to do it the way that I think that I can grow my business.

Ms. KOLDITZ. Actually I agree with that. One of the things that we deal with like I said is customs. One of the things is they just bill us. I cannot go to anybody and say why do I have this bill. I am just stuck with the bill. And when I speak with some of my colleagues and I ask them, even before I came here I called a couple of them to just find out how do you deal with this, they do not. That is just how it is is what everybody said which is really, really horrible, that you just give me a bill and just say pay $800 and I do not care, I just want you to pay for it and I have to pay for it because I want my product and I want to be able to run my business. And to respond to Ms. Velázquez, we started this business without any assistance. We have been doing this for a while. And I think the fact that we are employing 150 employees means that we got to do this on our own two feet. We have been doing this for a while and most of us have started businesses and we are doing it. We are your partners. We are the ones that you should be saying what can we do? Right now you're just putting bills and putting things in front of us. Take them away. I was saying to somebody it is like having kids. You have one child and you watch them like a hawk. By the time you have the seventh they can eat a stone that is iron. It is fine. Do the same thing. Just watch us and let us go and just see what you can do. You are still there to protect us. You are still there to guide us. But give us a little bit of space. Right now it feels like there is just too much love.

Mr. WEST. Thank you, Mr. Chairman. I yield back.

Chairman GRAVES. Mr. Cicilline.

Mr. CICILLINE. Thank you, Mr. Chairman and thank you to the witnesses. I think we are all very interested in what we can do to make small business grow and to create more jobs. So I am interested in specifics because I understand the sort of feeling that you may have or some other businesses have of being overregulated and overburdened, but to be helpful in terms of how to address that, we sort of need to understand what the specifics are. I want to ask first Mr. Feinberg you talked about health insurance. You

are not currently required by the new legislation to provide health insurance but you do.

Mr. FEINBERG. That is correct.

Mr. CICILLINE. I presume you do that because you have decided that it is valuable to have employees who are healthy and well and can be more productive.

Mr. FEINBERG. My employees are my partners. In other words, that is what grows my business.

Mr. CICILLINE. And probably the most important asset in your business.

Mr. FEINBERG. Absolutely. Without a doubt.

Mr. CICILLINE. Do you think it is a good idea to actually be sure that we have a system in place that provides affordable health care to small businesses?

Mr. FEINBERG. I cannot say whether or not. As a business owner I look at what is going to grow my business and knowing that I have to provide insurance, that limits me. It does not give me the flexibility as a business owner that I think is required to grow my business.

Mr. CICILLINE. Though you have elected to provide health insurance without being required to?

Mr. FEINBERG. But I provided—I pay 50 percent of my employees, but they can also opt out.

Mr. CICILLINE. Has someone discussed with you the availability of the tax credit that you will be entitled to if you go beyond 50 employees? Are you familiar with that?

Mr. FEINBERG. No, I'm not familiar with it. And like I said, I am just a businessman.

Mr. CICILLINE. The reason I asked that is because I think that it's important that we also, that the SBA or whoever the relevant Federal agencies are, share that information with small businesses because the tax credit is designed to help small business and make the providing of health care affordable. So I think that is an important responsibility that we have to be sure small businesses get that information. Ms. Kolditz, thank you for being here. You are in the import business?

Ms. KOLDITZ. Yes, I am.

Mr. CICILLINE. The products that you are shipping here are made in?

Ms. KOLDITZ. They are made in Thailand.

Mr. CICILLINE. Of course when I was hearing your testimony about the difficulties of getting those containers here, the first thing I thought of is one of my passions. How do we find out how we can make whatever you are importing here in America made by American workers in American businesses. Is that something you have explored?

Ms. KOLDITZ. Yes, we have.

Mr. CICILLINE. Buying those products here from American companies that are employing Americans?

Ms. KOLDITZ. The thing is our product, the material does not grow here naturally. It grows in Thailand in abundance and we have been looking at things that we can try to find here. Most of the things that you try to buy here are more expensive and that is one of the problems. And one of the things that raises the costs

is the fact that there is a rule that you have to pay your employees a certain amount of money. You are already regulated with how much you have to pay people so it makes it harder on what you can do. I get most of our florists locally to try to create something out of what we already have. Like what we are selling to Costco are predone arrangements. I have them done here in the U.S. so I get the raw material out of another company and I employ people here in the U.S. so that they can create what I now have. So not only are we now providing employment for people overseas, we are also providing people here with work.

Mr. CICILLINE. I would ask any of the witnesses, that if you do not have particulars that you can suggest today, I would love for you to share them with the Committee, if you could identify specifically what sorts of regulations or burdens that you have encountered that you think we ought to look at. I think in a bipartisan way this Committee has been very serious about reducing regulation and making it easier for small businesses to grow, and any specifics that you might be able to provide to me or to members of the Committee of things we should be looking at, I know I would appreciate very much and I really appreciate your being here to share testimony today.

Chairman GRAVES. Mr. Fleischmann.

Mr. FLEISCHMANN. Thank you. Thank you, Mr. Chairman. Ms. Frank, thank you for your testimony and witnesses thank you for your testimony. Outstanding. Ms. Frank, you mentioned in your testimony a preference for a fair tax or a flat tax. Could you please tell us how a national sales tax or a flat tax would possibly be more preferable than the current tax companies as a small-business owner?

Ms. FRANK. I like a fair tax of course in conjunction with the repeal of the Sixteenth Amendment. I did not finish the other part of the Patrick Henry quote which is "History is how I judge the future." In history I have seen one tax eliminated in favor of a new tax and then lo and behold a few years later with the crisis we get both of them back. So that is kind of my disclaimer on the fair tax. I like the idea of a fair tax because I have done my taxes and it is a nightmare. It becomes a game of what you know and even what your accountant knows. Sometimes your accountant is wrong, sometimes your account does not have all the information, sometimes as the last year I went he told me "Things are changing daily. We need to wait a couple of weeks." I think now there are even some deadlines that have been forward. You could not instantly file because of changes that were taking place. But the best part about the fair tax is it taxes consumption instead of production, consumption instead of initiative and I really like that. I have a good friend who lives in California, Wayne Jett. He is an economist. He calls it the trillion-dollar sure thing because it immediately eliminates $300-plus-billion in compliance costs. It immediately eliminates I think $300 or $345 billion in unpaid or uncollectable taxes. It does away with the bureaucracy. It does so many things that free people up. It also removes taxes on payroll, you name it across the board. I think you already have in place retailers like me who are already collecting sales tax. And I need to address the poverty issue as well. For folks who are below that

poverty level, they would actually get a rebate that is equivalent to money that would be spent there. I could go on and on and on, Congressman Fleischmann, about the benefits of the fair tax, but what I like is that it does not punish and you only have to pay as much tax as you want to buy and I see it as a benefit in that regard.

Mr. FLEISCHMANN. Thank you, Ms. Frank. Mr. Chairman, I yield back.

Chairman GRAVES. Ms. Clarke.

Ms. CLARKE. Thank you very much, Chairman Graves and to Ranking Member Velázquez, and thank you to each of you witnesses here today. As you know, our nation's small businesses will dictate how robust our economic recovery will be and that is something we all agree upon. The SBA is reporting an increase in lending through their 7(a) Loan Program with the bulk of those loans being equal to $1 million or more. Also the Thomson Reuters PayNet Small Business Lending Index recently released a report indicating that fewer companies are falling behind on their existing loan payments. This could provide incentive for lenders to free up capital they might otherwise hold onto to protect against defaults. While this is promising news, job creation as a lagging indicator during an economic recovery does not fully reflect the improving health of our economy. I do not believe as some do that all taxes are regulations are inherently bad. Regulations are usually implemented as a response to or to prevent malfeasance by bad actors. However, when well-intended regulatory policy creates unnecessary bureaucracy and tax policy related to those Government inefficiencies and adversely affect the ability of small businesses to invest and grow, I support the review and if necessary the revision or elimination of these policies. So I want to just ask the entire panel, quite a bit has been made of the term regulatory uncertainty especially with regard to why the economy has not rebounded more rapidly. My question is, as opposed to being used as a blanket term, what exactly does regulatory uncertainty mean to you and your small business and we'll just start with you, sir. Mr. Feinberg.

Mr. FEINBERG. Thank you. With so many regulations, I guess it just impacts the decisions that I make and the ability to plan for my future. With so many restrictions put on me there is no flexibility and with so many regulations I cannot grow my business as I need to. I have Government telling me how to do it.

Ms. CLARKE. Have you been able to identify specifically where those obstacles are? I am sure you face them one on top of the other according to your description. I am just wondering if you could be a bit more specific. I know it may feel overwhelming to you, but it is that specificity that we need that actually gets us where we need to be.

Mr. FEINBERG. Sure. I have so many local regulations put on me. As a general contracting firm, I cannot tell you how difficult it is every day dealing with the permitting process and regulations in our cities, in our counties, in our state, the laws that are mandated with the new Lead Act. There are so many regulations in particular that just keep me from doing what I do best.

Ms. CLARKE. You are saying it is sort of a compounded situation because there are of course your local regulations which I am sure

based on wherever your jurisdiction is are meant to effect concerns there. And then there is the state that has its own regulatory processes and then there is the Federal. So you are saying it is the compounding of all of this that makes it difficult for you and that creates this environment of regulatory uncertainty?

Mr. FEINBERG. It is total uncertainty. There is no clarity in any of the regulations.

Ms. CLARKE. Let me go on to our next panelist and see what that means to you.

Ms. KOLDITZ. I agree with regulations. I think there has to be some sort of regulation in some stuff. I will give an example. We have an arrangement that we just put in a box and you just have to open it and put it in a vase and that is it. And we had a customer who bought that arrangement, did not take it out the rubber band and put it in their vase. And because it was sitting that way they had to return it and there was something wrong with it. We went home and we were sitting and we were thinking now we have to come up with something to make it easy. So it is now the rule in our little company that we have to have a card that tells the person you have to cut the rubber band before you put it inside there. You would think this is very basic and I think that is how the Government works, is if somebody makes a mistake, it does not matter what it is, we are just going to put a rule for everybody because we now have to do this. And so that is why I was saying with Costco as one of the people that we are now working with, for the small business this is a great opportunity but we know there are going to be regulations and the more regulations you—for the big guys they have more things. They have lawyers, they have everything and they are going to look and say there might be something maybe we do not want to have the small guys inside our stores anymore. So those are the uncertainties that we are talking about, is the fact that there are so many little things that keep adding up, adding up, adding up that you are taking away opportunity which means you are taking away the jobs that we are supposed to create. So I say before we do a regulation or before you do a regulation, think about it in terms of the big guys and the little guys and write it in such a way that it can be simple. We do not all have to have a rubber band on that thing because we know we can cut it off.

Ms. FRANK. I do not believe so much in regulation, period. I think we need general rules of the road, that we cannot all drive at 60 miles per hour in different directions, we have to have stop signs, yield signs and I think that is the mentality that Congress should have, just general rules of the road instead of, for instance, hiring more IRS agents and Department of the Treasury workers, we need more DOJ workers to ferret out corruption, to deal with people who are operating outside of the law in our system. As far as regulation, there are probably a ton of laws that I violate myself not even knowing and when I talk to other friends, we are a small-business network, we are all of the mindset that a lot of the regulations are intended to pick a target. If you happen to be the wrong guy or you are speaking the wrong message, then those regulations can be used against you and so a lot of people operate outside them. And I think the regulations should be so easy to understand

and figure out that it is natural to follow the law. They just keep piling up and maybe what I am regulated for is not the same as Dixie or Mr. Feinberg, but all together it serves as a downward force on the economy.

Ms. CLARKE. Thank you, Ms. Frank.

Ms. FRANK. Thank you.

Ms. CLARKE. My time is back and I yield back. Thank you, Mr. Chair.

Chairman GRAVES. Mr. Walsh.

Mr. WALSH. Thank you, Mr. Chairman. Thank you, Mr. Chairman and thank you, Ranking Member Velázquez. Amen to the four of you. Thank you so much for being here. Amen. You all and the folks you represent are the heart and soul of this country. What you do will keep this country going. Like so many of my freshman colleagues, there was not a day that went by during my campaign last year where I did not hear from hundreds of small businessmen and women who had just had it, who were scared, who were frustrated, who were uncertain. So I think most of us here in Washington have no clue as to what you go through. My Democratic colleagues keep asking for specific regulations and fees. That might be a good idea. That might teach us something. I would encourage you all if you got examples of specific regulations and fees, throw them at us. This body needs to be educated. We need to understand what small businessmen and women are going through. Let me just fire a quick question at each of you. Ms. Kolditz, let me start with you. Try to keep your answer short. You said you did not want to complain about all the fees and regulations. I would say complain away. As much as you can complain the better. We will hear you. A simple question. The fees and regulations that you deal with, do they make you hire more and do they keep you from hiring employees?

Ms. KOLDITZ. They're making me rethink about hiring employees because the money that I would have had to hire the employee I now have to use to pay for all these fees.

Mr. WALSH. Mr. Feinberg, you mentioned that you're not an expert on health care. We are not either. It is a huge issue. When you look at the uncertainty you face with this piece of health care legislation that truthfully most people who voted for it did not really understand what was in it, how do you plan a week, a month, a year or two down the road?

Mr. FEINBERG. It is very difficult. At times like I said I am hanging on by my fingernails and it is so difficult because the fees—the health care costs that I pay now, it is outrageous.

Mr. WALSH. Do you know offhand what this legislation will cost you a year from now or two?

Mr. FEINBERG. I think it will cost me a lot more than I am paying now.

Mr. WALSH. Ms. Frank, you said a phrase that if I had a nickel for every time I heard this on the campaign trail I would be a wealthy man, "Get out of my way." I heard that continually from people. Crystallize what that means for you and again be brief. You want your Government out of the way. Why?

Ms. FRANK. I think we do a better job or creating jobs and creating wealth for the nation, and I think what happens is a lot of

politicians look to the rules, the regulations, the taxes, to try to social engineer us to guide us in whatever path or direction they want us to go in and I guess that would be kind of boiling it down there.

Mr. WALSH. Let you do your thing?

Ms. FRANK. Yes.

Mr. WALSH. Mr. Phelan, you mentioned in your remarks that you see small-business owners finally opening the bunker door and starting to look outside. What concerns you is that will cause them to go back in and close the bunker door in this next year or two?

Mr. PHELAN. I think it has been touched on here. I think that uncertainty is a businessman's worst nightmare because they cannot plan and they have a lower probability of success and there is just a lower chance of success. If you do not understand what the future holds for you or if you have less confidence in the future, you are unlikely to go out on a limb. You are not going to borrow money, you are not going to take on a new project. So you are right, the image is they're finally going outside and seeing the green shoots that were talked about over a year and half ago or something and I think that is comforting to everybody that we are seeing that kind of growth start to occur or emerge, but it could certainly go the other way. There is no question about it and it gets to uncertainty in my mind that if you just don't have confidence about the future you are unlikely to go out on a limb as a small-business owner. You hear the panel. Everybody operates on razor-thin margins these days. There are a lot of challenges in making a buck basically and so why would you take on some additional cost or some additional project that has some risk to it if you did not have a lot of confidence in it?

Mr. WALSH. Keep doing what you are doing. Educate us. If you have got specific regulations and fees, let us know about them, but amen. You guys are right on and it is up to us to get out of the way so you can do your thing. Thank you, Mr. Chairman. I yield back.

Chairman GRAVES. Mr. Richmond.

Mr. RICHMOND. Thank you, Chairman Graves and thank you to the panel for coming today. Just a general question. I guess I am hearing that we are on the up side of the economic downturn or recession or so we have it. How did you all cope during those times? Were you hard during those times? We can start with you, Mr. Feinberg.

Mr. FEINBERG. Absolutely. I do not think I have taken a check in 6 months. I am living off of life savings. I have utilized every source that I can to keep my business going. Myself and my three brothers, we are constantly just where do we get the next check to pay our employees because that is first, our employees. They are our lifeline and we have to keep them happy and it is very, very difficult because banks are not lending money. I have tried. Trust me.

Mr. RICHMOND. Okay. Ms. Kolditz.

Ms. KOLDITZ. We definitely have been hard hit. One of the things with an entrepreneurial small business is you learn to change and adapt and that is why the final thing is that we can try different things and that is what we have. We have tried different things to

make sure that we can survive and that is why we have this opportunity that we have with our business with Costco and that what has helped us kind of stay afloat.

Mr. RICHMOND. Ms. Frank.

Ms. FRANK. Yes, definitely, and I would say employee costs, my husband and I actually work more—we work more with what we have instead of normally bringing in some additional help. So I would say just the nature—I say small-business people are like cockroaches, we find ways for the most part if we can to survive and we do whatever it takes.

Mr. RICHMOND. Mr. Phelan, I guess my question to you and there has been a consistent message. I am a son of a small-business owner so I know the struggles and to me you are not a small-business owner unless you have had that struggle making payroll at the end of the week and then you understand. My question, Mr. Phelan, is what do you give credit or where do you give the credit for us getting out of the economic downturn? Would it be the stimulus? Would it be the Jobs Act? Was Government involved in getting us out of the recession that we were in?

Mr. PHELAN. What we can see in the data is that small business reacted in a very I guess resilient way to this terrible recession that we had and they reacted without a lot of assistance. We can see that in the data that the default rates, these are measures of risk, the delinquency rates on their loans, have come way down so that they have managed to get their financial houses in order. They have done that by cutting expenses and cutting costs. We have seen in the index that was mentioned here that it was down 50 percent from the height of the recession or from the peak before to the height of the recession and so sales have fallen dramatically for all these small businesses. So what they have done is they have used their own ability to pull themselves up by their bootstraps and be able to react to what conditions they faced.

Mr. RICHMOND. I understand that they are survivors.

Mr. PHELAN. Right.

Mr. RICHMOND. But now the economy is starting to turn.

Mr. PHELAN. Right.

Mr. RICHMOND. And all the indicators are that the economy is moving in the right direction. I guess my question is did Government have any role in moving the economy now in the right direction in your opinion?

Mr. PHELAN. There was an awful lot of money put into the economy from the Government. There is no question about it. I do not have direct evidence linking any of that money to turning around—having the index turn around or having delinquencies improve or what-not. I know there was a direct stimulus directly for small businesses and so it is very hard for me to say definitively that there is a direct correlation there. I am an information person and I rely on information to make these kinds of decisions.

Mr. RICHMOND. I guess that, and my colleagues and everyone has been asking the question about specific regulations and I guess that I'm from an area where we are prone to hurricanes, and Mr. Feinberg I know you are, so when you talk about regulations I would assume that you are not talking about building codes and

things of that nature in terms of Government should get out of the way.

Mr. FEINBERG. That is just some of them. That is some of the regulations, too, but even the Federal ones recently in the building codes and the lead mandate as far as us having to check before we do a job where our hands are tied. The information that we can use to run our business properly is everywhere we look there is another law or regulation that is put in place.

Mr. RICHMOND. Mr. Chairman, I see my time is up. I will yield back. Thank you. And thank you all for coming.

Chairman GRAVES. Ms. Ellmers.

Mrs. ELLMERS. Thank you, Mr. Chairman, and thank you Ms. Ranking Member Velázquez. To Mr. Feinberg, Ms. Kolditz and Ms. Frank, we were just discussing the issue of coming out of—and feeling as if according to the numbers that we are coming out of the recession. Those are very technical numbers, but in your opinion, a yes or no answer, do you feel that you or we are out of the recession?

Mr. FEINBERG. Not as of yet. I think we are coming out.

Mrs. ELLMERS. Ms. Kolditz.

Ms. KOLDITZ. I think we are not out yet, no.

Mrs. ELLMERS. Ms. Frank.

Ms. FRANK. No, especially with gas prices increasing.

Mrs. ELLMERS. My next question is for Mr. Feinberg specifically. Earlier we were discussing how you felt if it was fair that an insurance company would put a cap or if you had an employee that had reached the cap, how did you feel about that and whether that was fair. Have you ever had that happen? In the best of your knowledge, have you ever had an employee reach a health care cap level and be destitute because of that?

Mr. FEINBERG. Not to my knowledge.

Mrs. ELLMERS. Thank you. That's what I thought. In your opinion and this is to all the members, do you feel that a Government-run health care system would be better or a free-market private health care system is the way for us to go in this country? I'll go right down the line, Mr. Feinberg, starting with you.

Mr. FEINBERG. I cannot say for sure whether it would be better. I think though it should be left up to us as individuals.

Mrs. ELLMERS. As a business owner how do you feel?

Mr. FEINBERG. Individually.

Mrs. ELLMERS. Ms. Kolditz.

Ms. KOLDITZ. I think individually and actually my mother-in-law she actually had a cap and she went above the cap.

Mrs. ELLMERS. She did?

Ms. KOLDITZ. She did.

Mrs. ELLMERS. How did that——

Ms. KOLDITZ. And you know what? She managed to get out of it on her own without the Government's assistance. So I think you have to leave it to the free market and leave it to people. She actually started a company, so you can do that. Just have the people do what they can.

Mrs. ELLMERS. Ms. Frank.

Ms. FRANK. Free market.

Mrs. ELLMERS. Mr. Phelan.

Mr. PHELAN. Free market.

Mrs. ELLMERS. Now, Mr. Phelan, I do not know that your business is a family-owned business, but I do believe that the other panelists are so this is a question for you. My understanding, the inheritance tax, this is yet another cumbersome tax or regulation on you. Are you in favor? Will this hurt you for your businesses as you pass your businesses onto your families having the inheritance tax starting with Mr. Feinberg?

Mr. FEINBERG. I'm not familiar.

Ms. KOLDITZ. Actually I'm not familiar either.

Ms. FRANK. I don't know the rules about inheritance taxes either, but I mean, I'm assuming if I leave a business of any value, the real estate and I guess just the value of that business of course is the day-to-day operation and if my children had to pay a tax on that then, no, they couldn't come up with that kind of money if that's what I'm understanding it would be.

Mrs. ELLMERS. Mr. Phelan, I don't know if that affects you.

Mr. PHELAN. It probably does not, yes.

Mrs. ELLMERS. I have only got less than a minute or I have a little over a minute. In relation to our President during the State of the Union, basically stated that in 2 years he would roll back on the Bush tax cuts for anyone who makes $250,000 or more. Now I do not know what kind of income your businesses create, but will that provision hurt you, does that hurt you today in the relation to the possibility of hiring new employees starting with Mr. Feinberg?

Mr. FEINBERG. I do not think I am familiar with that.

Ms. KOLDITZ. I think it will affect us. Personally it will affect us, yes.

Mrs. ELLMERS. Thank you.

Ms. FRANK. I do not know.

Mrs. ELLMERS. Okay.

Mr. PHELAN. Yes, it would.

Mrs. ELLMERS. Thank you very much for your testimony. Ms. Frank, Mr. Feinberg, if he ever decides to not be in Congress, would you consider running for Congress? I think you could teach us, all of you actually could. We need more small-business owners in Congress. Thank you. I yield back my time.

Chairman GRAVES. Ms. Herrera Beutler.

Ms. HERRERA BEUTLER. Thank you all for being here. It is interesting to hear some of the comments from both sides and there is this quest for specifics. I cannot help but think every time I am in the District I get specifics whether its locally, state or Federal. Federal, it is everything from EPA rules and it affects everything from hospitals to small guys to building a new parking lot in your back yard, whether you can do that, whether you get the right permit or the wrong permit and you get fined. What you were saying, Ms. Kolditz, was customs so that you will get a container, it will be shipped to Portland so that they can scan it or because they did not scan it when it came in, they will then ship it back to San Francisco and then back to Portland and then they hand you the bill. That seemed pretty specific I assume.

Ms. KOLDITZ. That is very specific, yes.

Ms. HERRERA BEUTLER. Yes, that was something that you shared that it is nonsensical. Do it at one point. Right? You would say Customs folks who work for the Government, you work for us, you want to protect our homeland, you are an American. We want people safe and healthy. What I seem to have heard from you was that the run-around is the problem. It is not that you cannot provide the specifics. It is almost as if people are not listening.

Ms. KOLDITZ. Yes. I think we are just thrown with a bill. We have trucks. I have heard that we have the scans. Why don't they use those instead of—you see the problem is you look at it and I'm thinking if Customs had to pay the bill, they might be a little bit more responsible because if they say I should unload my container, I am efficient. We get more people. We them in and out. And I think if Customs had to have the bill that they would do a lot better than what they are doing right now.

Ms. HERRERA BEUTLER. That's an idea for us, an area of regulation, to make sure that there is some skin in the game with these regulators.

Ms. KOLDITZ. Yes.

Ms. HERRERA BEUTLER. A timeframe or some sort of requirement that they are engaged so that there is some skin in the game there.

Ms. KOLDITZ. Yes.

Ms. HERRERA BEUTLER. One of the other things I heard was—the Government trying to helpful to you all, one of the comments I heard was whether it is either find the small-business center and they will help you with the technical problems which I kind of had to scratch my head a little bit. Or don't you know that the bill that was passed last year is for your own good. You are going to like it. You just need to get someone to help you with it. Is that the way you would like to operate or would you prefer that you kept a little bit more of your own money and then you went ahead to provide a plan for your employees that met your employees' needs?

Mr. FEINBERG. For myself, my whole goal was partnering with my employees. Let me decide as a business owner the best way to do that. My employees get behind—we work together to figure out the best way what is going to work for us? How can we be profitable as a company? The last thing I need is more regulations.

Ms. HERRERA BEUTLER. I guess one thing as some of these other massive pieces of legislation that we went through last year whether it is the health care bill or whether it is things that are going to affect small-business credit and lending, those 350-plus working groups who are coming out with new regulations. The EPA last year came out with over 928 new rules last year alone. The Administration in the fall said that they have over 4,000 new rules in the works. We know that you all are on the front lines and when you are successful we are successful. I do not say we the Congress. I say we as a country. I know of Democratic business owners and Independent business owners, people who are apolitical, people who are Republican, and that is the one thing I get from them is we are not trying to pick partisan lines, just help us help you. So I would just ask as we move forward I appreciate you taking the time away from your businesses to be here today. Please keep in contact with us. Please continue to share e-mails. That's what this whole Committee is about is hearing and listening to you all be-

cause we are in a place to bring some balance to some of those regulations and we would like to do that. So thank you.

Chairman GRAVES. Mr. Coffman.

Mr. COFFMAN. Thank you Mr. Chairman, and thank you so much for coming here today. As a former small-business owner I know how tough it can be owning a small business. My question goes back to January 2009 when I was elected to Congress. I know starting in December of 2008, or earlier, that the economy was in a freefall and I think there was consensus among many economists that the Government needed to do something. I think supply-siders felt that it was lowering the tax rates to put more money into the economy for the private sector and then there were those on the demand side who felt that it was through Government spending that we would stimulate the economy. I just want to know from your perspectives, if you felt that the demand side, which is the side that the Congress of the United States took and of course the President supported, was the right direction; and in your view? If not where do you think the economy would be right now relative to your businesses if we had instead of, the first traunch of stimulus, if that had gone to the private sector, injected into the private sector versus Government spending, where do you think your small business would be today, where do you think this economy would be today? Let's start left to right.

Mr. FEINBERG. Thank you. I think that I would have been much better off had the money gone to the public. I know for a fact that there is not that much that has been done to stimulate my business. It has been done by myself and my employees. We are the ones coming up with the answer and the solutions to help us because there is really no help for us out there as a small-business person.

Mr. COFFMAN. Thank you.

Ms. KOLDITZ. We also said the same thing. It was more like if you had given us the money maybe something could have happened. But I think it would have probably been better if the money was not even handed out to anybody. I think you would have let us fail. If you have us fail, we would have come up probably with a better system that would have made it so that we are better to—on our way to recovery. So I think sometimes it is better to probably take a stand back and just let things happen, let people fail. It is okay to fail. When you fail you sometimes find better ways of doing things.

Mr. COFFMAN. Thank you.

Ms. FRANK. I disagree with what the Government—how they responded and I would have actually been for an immediate tax cut. I like numbers, I like results and statistics and statistics show that even John F. Kennedy, a Democrat, cut taxes and it worked. Ronald Reagan cut taxes and it worked and so that is immediately what I would have called for. I think you can trace all of the problems with the economic downturn back to the Government in the first place whether it was Fannie and Freddie, whether it was taxation and regulation of the oil industry and we cannot drill here and create jobs here. Whatever it is, we can trace most of the time the problems back to Government in the first place. So I do not

think the economy would—I actually think the economy would be better off if you wouldn't have done what has been done.

Mr. PHELAN. I think working with the Tax Code could have been very effective. It's so hard. Right now we're still talking about shovel-ready projects and it is hard to measure that. It is hard to understand if that is really working or not and I think that is part of the problem. Do we if it's been effective or not? And you are setting policy and you want to set the right policy and you want it to work. Certainly if you had put money back in a lot of business owners' pockets they could have reinvested that money to expand their business and that may have led to more job creation, it certainly may have led to more investment of capital, equipment and expansion. We are going to run deficits no matter what. Under either scenario deficits were going to occur. Right? So if is just a question of choose your poison. I think putting the money back into the pockets of folks like this and allowing them to decide where to invest it could have been a very effective route.

Mr. COFFMAN. Let me ask you all one quick question just to go back and get a very short answer. All the incentives and mandates are on businesses in terms of offering health care. Do you think it would be better if we shifted and provided the incentives onto individuals and shift that model away from employers in terms of offering health care so we would have tax incentives which are not available right now to individuals? Why don't we go right to left this time?

Mr. PHELAN. I think incentives work for individuals. Economic incentives certainly work. I have not studied the issue at that kind of granularity to really provide you a policy position on it. But certainly providing an individual incentive I think is important and that has been proven in so many different ways over time with different subpopulations and plans.

Ms. FRANK. I totally forgot your question. Would incentives be a better way of providing—or getting people to insure themselves?

Mr. COFFMAN. Tax incentives as opposed to employer mandates.

Ms. FRANK. Absolutely. Yes, absolutely I would agree with that. My own employees because I am in the food business, I do not have long-term employees so I encourage mine to move along to get further education. I see my place as a stopover for them. I would like for them to own their own business. And I pay almost double what the average rates are for that type of pay and the mindset I try to teach my employees is you can do it yourself. My husband and I did not have our own health insurance for many, many years. We were young. Young people don't tend to get sick. We were taking the gamble. We saw insurance as a way of protecting our assets. Once we developed assets then we went to a high-deductible health insurance plan that will basically keep us from being wiped out but we don't look at it as paying our day-to-day doctor bill.

Ms. KOLDITZ. I actually agree with shifting the responsibility to the individuals than to the business because then we can then as business owners work on creating more jobs instead of now trying to figure out how to make the health care bill and carrying that burden.

Mr. FEINBERG. I also think tax parity is very good and I think that everyone should really be treated the same no matter where

we buy health care. I think it should be up to us as individuals how we want to buy and treat our health care plan.

Chairman GRAVES. Mr. Tipton.

Mr. TIPTON. Thank you, Mr. Chairman. I appreciate you calling this hearing and I want to applaud each one of you fellow small-business person in this country. I am hearing some great stories and they echo words that my parents raised me with and I am hearing expressed in your stories and it is American know-how and Yankee ingenuity to be able to get that job done. As a small-business person and now as a member of Congress, I just went out and toured our district. We traveled better than 1,700 miles over the course of about 5 days. In every meeting be it with potato growers in the San Luis Valley to small-business shop owners going throughout our district, city Governments, county Governments, every corner that we stopped at within no more than 10 minutes Government regulations came into play and how it was impacting the ability to be able to deliver a service, to be able to get that job done. If you are a small-business person as you are much like I am, and this is the question I would like to ask, we did not codify the Tax Code and we only extended it for 2 years. Did that impact business decisions that you made last year? And with the short-term extension, is that impacting or will that impact do you suspect business decisions that you will make in the future? Mr. Phelan, if you would start.

Mr. PHELAN. Sure. Certainly. Yes, it did. In my because, we put together an annual and 3-year plan so we plan out over the next 12 months and the next 36 months and we get very specific about our expenses. We didn't understand what the expenses were going to be in totality. Now we understand at least for the next 2 years and that helps us to plan again. It helps us to get organized and helps us to put our projects into place. So having more clarity, and I think that's one of the uncertainties that was out there at year end, was what's going to happen with the Tax Code? And having that clarity I think gives us all just a little bit—one ounce more of confidence about the future, helps run our businesses a little bit more smarter.

Ms. FRANK. I'm probably the Department of Treasury's dream small-business owner because I never consider or plan for what my tax liability is going to be. I just know how to work and I guess from the Government's perspective I materially participate, and I'm usually about the business of getting my job done, getting what my customers need and paying my own bills. So a lot of times I come to the end of the year or I come to April and I realize I should have planned for this, I should have seen this coming and I didn't know. So I hope that answers your question. I just do a terrible job of planning and I think that is one of the criticisms I have is it should be so simple and there shouldn't be all these changes so we kind of have an operating knowledge of how to go forward and be successful.

Ms. KOLDITZ. I think for us it is still—kind of still that uncertainty. What it did is it just offered a short-term relief because now what this means is that in 2 years I have to deal with the same situation all over again. So I can only plan—for now it's kind of like we can grow a little bit but there is still that looming uncertainty

and I think when you are trying to run a business you want a plan, you want to figure out where you are going to go so I would rather have this more resolved than and done with, to just say this is what you are going to pay and stick with it. It's kind of like I always want to know what's the final thing. I don't want to hear all this other stuff. I just want to know exactly what I'm going to pay and what this has done is just give us more uncertainty.

Mr. FEINBERG. I would have to agree. I just think the complexity of the system and the uncertainty of not knowing what our future brings and not knowing what next year is going to be just makes it much more difficult for us to run my business and knowing that I can't make decisions because it's not clear what really hampers us.

Mr. TIPTON. Thank you. Mr. Feinberg I wanted to compliment you because I think so many people in this country failed to recognize what you verbalized. You said you missed a paycheck but in prior testimony you are still providing health care insurance. You're putting your people before yourself. As a small-business person maybe you feel a lot like I do, you just happen to be the person privileged to lock and unlock the door in the morning and sign the back of that paycheck. So your work is incredibly admirable, but we've heard comments and they say statistics are bearing out that we are no longer in a recession. What is your sense right now? Are your communities, are your businesses still in a recession?

Mr. FEINBERG. We are definitely still in a recession. I've just seen last month one of my largest competitors that had been in business for 43 years, someone I respected highly, a great competitor for me, just went out of business. The real estate market in our area is still in decline. I do believe that we are still in a recession. I am optimistic that we are coming out of it. And I know for a fact had my employees not helped me and jumped on our bandwagon to work together, sacrificed their time, their efforts and pooling together, there is no way that my company would have survived these past couple of years. Like I said, I took on the most debt I've ever taken on in my life just at the time when the economy took a tank and my employees—I applaud my employees because without them there is no way I would have made this.

Mr. TIPTON. I want to be respectful of our time and that was thanks probably to a boss that was willing to miss a paycheck so thank you for being here. Mr. Chairman, thank you for my time.

Chairman GRAVES. I want to thank all of our witnesses for coming. I apologize for the vote that was in the middle of the hearing and if it inconvenienced you any. Your testimony today kind of set the stage for some of the debates we're going to be having coming up and I look forward as a Committee to try and remove some of the burdens that you all face. So thank you very much for coming in. I'd ask for unanimous consent that all members have five legislative days to submit statements or materials for the record. There are no objections. So ordered. This hearing is adjourned.

[Whereupon, at 4:17 p.m., the Committee was adjourned.]

February 16, 2011

The Honorable Sam Graves
Chairman
House Committee on Small Business
2361 Rayburn House Office Building
Washington, DC 20515

The Honorable Nydia M. Velázquez
Ranking Member
House Committee on Small Business
2361 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Graves and Ranking Member Velázquez:

On behalf of Associated Builders and Contractors (ABC), a national association with 75 chapters representing more than 23,000 merit shop construction and construction-related firms with nearly two million employees, I am writing in regard to the full committee hearing titled, "Putting Americans Back to Work: The State of the Small Business Economy."

The economic hardships facing our nation have acutely impacted ABC members and their employees. With the construction industry unemployment rate at 22.5 percent, and a loss of nearly 1.9 million construction jobs since December 2007, creating jobs and invigorating the economy is a priority for ABC members.

One sector of the economy that continues to struggle is the small business community. Small businesses are the backbone of the U.S. economy, and within the construction industry, they provide valuable jobs and play an integral role in building communities. However, costly regulations often impede their ability to compete and expand. Research from a 2010 study by the U.S. Small Business Administration's Office of Advocacy found that, on average, small businesses annually pay $10,585 per employee to comply with federal regulations. Furthermore, the outcomes of numerous federal regulations proposed during the last two years are currently unclear. This has created an environment of uncertainty in our industry that makes it difficult for firms to adequately plan for the future. Reducing the regulatory burdens placed on small businesses will enable them to expand, hire new employees, and invest in equipment or facilities.

In addition, many ABC members have viable, low risk projects and/or contracts that simply need funding in order for work to commence. These members also rely on community banks for capital. However, community banks are facing the toughest regulatory environment in decades. Federal banking agencies are overregulating the community banking sector and thus, jeopardizing lending for qualified small businesses that have received loans in the past. During this time of economic recovery, it is critical that construction firms have access to much-needed funds.

It is clear that Americans are facing unprecedented economic challenges and immediate action is needed in order to create jobs. ABC believes the following issues must be addressed:

- Under the nation's current tax system, rates are too high and laws are too complex, thus inhibiting the growth of small businesses. ABC supports minimizing the tax burden on American citizens – and the construction industry in particular – to help increase the rate of capital formation, economic growth and job creation.

- Any effort to stimulate the construction industry must use taxpayer dollars efficiently, and must award projects based solely on merit. Long-term economic success includes the participation of the entire construction

workforce, regardless of union affiliation, on federal and/or federally funded construction projects. Federal agencies should be prohibited from requiring project labor agreements (PLAs) on these projects.

- Davis-Bacon Act requirements on stimulus funds must be lifted. Many small and minority owned businesses are not equipped to navigate the maze of paperwork required to work on Davis-Bacon projects which means they simply will not bid on these projects.

- A comprehensive energy plan will benefit all Americans through less expensive, more stable energy supplies. The potential dividend for the construction industry is considerable. The nation's energy infrastructure is insufficient and crumbling; new construction and upgrades to plants and transmission infrastructure are desperately needed. ABC is committed to ensuring these new projects are built with open competition and without government mandated PLAs.

ABC members large and small are eager to take the lead in stimulating growth and spurring job creation. We look forward to working with you as you develop initiatives to put Americans back to work.

Sincerely,

Corinne M. Stevens
Senior Director, Legislative Affairs