The CHAIRMAN. Thank you very much, Professor.

Before we move on, I have received a formal request from Mr. Lloyd N. Cutler, special counsel to the President, to ask that a letter directed to me be placed in the record, responding to what he characterizes as a personal attack by Mr. Nader on him. I will place it in the record and make it available to the press and the public if they wish it.

[The letter follows:]

THE WHITE HOUSE,
Washington, July 15, 1994.

Hon. JOSEPH R. BIDEN,
Chairman, Committee on the Judiciary, Washington, DC.

DEAR MR. CHAIRMAN: Because Ralph Nader's testimony against the nomination of Judge Breyer makes a personal attack on me, I respectfully ask permission to file this reply for the record.

Mr. Nader has made it a practice to advance his public policy views by demonizing some person or entity on the other side of the issue. Unfortunately for me, I have long been one of his favorite targets.

Mr. Nader asserts that the President's selection of Judge Breyer was tainted because of my position as a special government employee (SGE) serving as Special Counsel to the President. Specifically, he contends that this status permits me to evade "a number of conflict-of-interest and disclosure statutes."

Before I undertook my current position, ethics officials in the White House and the Office of Government Ethics thoroughly reviewed and cleared the proposed arrangement. Consistent with the law and standards of conduct, I have disqualified myself from any matters in which the firm is a party or represents a party, as well as matters that would affect the financial interests of the firm. Moreover, contrary to Mr. Nader's assertion, I have voluntarily taken a number of steps that go beyond the requirements of the law, precisely because of my commitment to openness and integrity in Government.

For example, to ensure that my financial and client information is open to public security, I have filed a public disclosure form which has been published in full in the *Legal Times*, although only a more limited confidential form is required. Additionally, while I have chosen to serve without government compensation, I have also arranged to have my salary from the law firm reduced to reflect the time I am devoting to government service. I have made this arrangement even though the law applicable to volunteers and special government employees would permit me to receive my full salary from my law firm. Moreover, because I am no longer a member of the firm, but rather a salaried Senior Counsel who will be paid only for the time I work at the firm, I can take no "draw" from the law firm at the end of the year, as Mr. Nader conjectures. I have also agreed to be bound, while in public service, by the representational bar of 18 U.S.C. §205 as it applies to regular government employees, even though special government employees have more limited restrictions. And not only will I adhere to the post-employment restrictions of the criminal law, but I also have announced my intention to comply with President Clinton's Five Year Ethics Pledge for Senior Appointees, which is not otherwise applied to special government employees.

Finally, the decision to nominate Judge Breyer was obviously the President's alone. On Supreme Court nominations, the President solicits and receives advice from many people, including his own staff, members of the Senate and private citizens and groups speaking for every kind of public and private interest. My own advice was given in the spirit of public service and without any thought of personal or financial advantage.

Sincerely,

LLOYD N. CUTLER,
Special Counsel to the President.

The CHAIRMAN. I would yield to Senator Hatch.

Senator HATCH. I have no questions for this panel, Mr. Chairman.

The CHAIRMAN. Senator DeConcini.

Senator DECONCINI. Thank you, Mr. Chairman.

Let me ask the panel, because it concerns me, of the testimony I read of Mr. Nader and Mr. Estes. I did not read the other ones,

AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO