Brian Sun is the president of the National Asian-Pacific American Bar Association.

Richard Monet is president of the Native American Bar Association.

And Wilfredo Caraballo is president of the Hispanic National Bar Association.

We welcome all of you here. I want to mention that, as the youngest member of a large family, I was often the last one to be heard at a large table. I think we want to thank you all very much for your patience here. We have had a series of interruptions which were unavoidable in the course of today's hearings. Generally, we do not have the type of interruptions that we have had today, with the floor activity. So you have been very patient. We are very grateful. This is very important. I know I speak for all of my colleagues when I say that we will be looking forward to examining in very careful detail your commentary.

So I want to personally express my great appreciation for your patience and for your willingness to be a part of this whole process.

We will start off with Ms. Robinson.

PANEL CONSISTING OF BARBARA PAUL ROBINSON, THE ASSOCIATION OF THE BAR OF THE CITY OF NEW YORK, NEW YORK, NY; PAULETTE BROWN, NATIONAL BAR ASSOCIATION, ON BEHALF OF THE COALITION OF THE BAR ASSOCIATIONS OF COLOR, WASHINGTON, DC; BRIAN SUN, PRESIDENT, NATIONAL ASIAN-PACIFIC AMERICAN BAR ASSOCIATION; RICHARD MONET, PRESIDENT, NATIVE AMERICAN BAR ASSOCIATION; AND WILFREDO CARABALLO, PRESIDENT, HISPANIC NATIONAL BAR ASSOCIATION

STATEMENT OF BARBARA PAUL ROBINSON

Ms. ROBINSON. Thank you, Senator. I was going to thank you for your patience in hearing us at this late hour and to tell you again thank you for the opportunity to testify before this distinguished Senate Committee on the Judiciary in the context of the nomination of Judge Breyer to the Supreme Court.

As you said, my name is Barbara Paul Robinson, and I am here as president of The Association of the Bar of the City of New York. We are one of the oldest bar associations in the country, and we are about to celebrate our 125th anniversary.

We now include over 20,000 members, and we were established to promote reform and approve the administration of justice, particularly in the courts. We try very hard to work in the public interest.

Our executive committee, through a subcommittee chaired by Stephen Rosenfeld, who is here with me today, has reviewed Judge Breyer's nomination, as it has reviewed earlier candidates for appointment to the Supreme Court. After an extensive review, the association has concluded that Judge Breyer is indeed qualified to be a Justice of the U.S. Supreme Court, because he possesses to a substantial degree all of the following qualifications that are set forth in our guidelines when we consider nominees to the U.S. Supreme Court.

AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

They are: exceptional legal ability; extensive experience and knowledge in law; outstanding intellectual and analytical talents; maturity of judgment; unquestionable integrity and independence; a temperament reflecting a willingness to search for a fair resolution of each case before the Court; a sympathetic understanding of the Court's role under the Constitution in the protection of the personal rights of individuals; an appreciation of the historic role of the Supreme Court as the final arbiter of the meaning of the U.S. Constitution, including especially sensitivity to the respective powers and reciprocal responsibilities of the Congress and executive.

Because these guidelines limit approval to those of high distinction, the guidelines do not provide for gradations in ratings. Qualified and unqualified are the only ratings we employ.

In reaching this conclusion, our subcommittee read extensive materials, including all of Judge Breyer's more than 500 opinions which he has written as a judge of the U.S. Court of Appeals for the First Circuit, many of his articles, lectures and books, and numerous news articles and commentaries appearing with respect to the nomination. In particular, the subcommittee focused on cases in the areas of antitrust, which you have addressed extensively today, but also civil rights and civil liberties, criminal law and sentencing guidelines, and administrative law, particularly in the economic and environmental regulatory field.

The subcommittee also conducted numerous telephone interviews with former colleagues and law clerks of Judge Breyer, and attorneys who had appeared before him. They received and considered comments from our membership—which, as I said, is over 20,000—and because of the graciousness of Judge Breyer, several members of the subcommittee interviewed him in person.

The executive committee also took account of the recent reports in the press which questioned whether Judge Breyer should have focused and recused himself in cases involving Superfund environmental liability under Federal law because of his investments in Lloyd's of London syndicates and his possible personal liability for underwriting losses. They considered carefully the Superfund cases in which Judge Breyer has participated since 1987, none of which involved insurance coverage issues, as well as the available evidence concerning Judge Breyer's awareness of the extent and nature of possible Superfund exposure by the syndicates in which he was a member, and his ability to evaluate the potential impact, if any, of his decisions in Superfund cases on his own financial interests.

Based on the applicable statutory standard for disqualification of Federal judges—28 U.S.C. section 455—and the evidence available prior to these hearings and during them, the executive committee found no reason to depart from its conclusions as to Judge Breyer's judgment, integrity, and independence by virtue of the fact that he did not recuse himself in the Superfund cases.

I might add in closing that because these questions of recusal and judges' investments do pose challenging issues and do arise not only in these hearings, but in other cases, our Association, following on some of the comments raised by Senator Simon, intends to study this area, and we hope to perform a public service by making some helpful recommendations for the future.

Thank you very much. I would be delighted to answer any questions.

The CHAIRMAN. Thank you very much.

Ms. Brown.

[The prepared statement of Ms. Robinson follows:]

PREPARED STATEMENT OF BARBARA PAUL ROBINSON

THE ASSOCIATION OF THE BAR OF THE CITY OF NEW YORK FINDS JUDGE STEPHEN G. BREYER QUALIFIED TO BE A JUSTICE OF THE SUPREME COURT

The Association of the Bar of the City of New York has concluded that Judge Stephen G. Breyer is qualified to be a Justice of the United States Supreme Court, because he possesses, to a substantial degree, all of the following qualifications enumerated in the Guidelines established by the Executive Committee for considering nominees to the United States Supreme Court:

- exceptional legal ability;
- extensive experience and knowledge in law;
- outstanding intellectual and analytical talents;
- maturity of judgment;
- unquestionable integrity and independence;
- a temperament reflecting a willingness to search for a fair resolution of each case before the Court;
- a sympathetic understanding of the Court's role under the Constitution in the protection of the personal rights of individuals;
- an appreciation for the historic role of the Supreme Court as the final arbiter of the meaning of the United States Constitution, including a sensitivity to the respective powers and reciprocal responsibilities of the Congress and Executive.

Because the Executive Committee Guidelines limit approval to those of high distinction, the Guidelines do not provide for gradations of ratings; qualified and unqualified are the only ratings employed.

In reaching this conclusion, a subcommittee of the Executive Committee read extensive materials, including all of Judge Breyer's more than 500 written opinions as a judge of the United States Court of Appeals for the First Circuit, many of his articles, lectures and books, and numerous news articles and commentaries appearing with respect to the nomination. The subcommittee also conducted a number of telephone interviews of former colleagues and law clerks of Judge Breyer and attorneys who had appeared before him, received and considered comments from the membership of the Association, and interviewed Judge Breyer in person.

The Executive Committee also took account of recent reports in the press which questioned whether Judge Breyer should have recused himself in cases involving "Superfund" environmental liability under federal law, as a consequence of his investments in Lloyd's of London syndicates and his possible personal liability for underwriting losses. The Executive Committee considered carefully the "Superfund" cases in which Judge Breyer has participated since 1987, none of which involved insurance coverage issues, as well as the available evidence concerning Judge Breyer's awareness of the extent and nature of possible "Superfund" exposure by the syndicates of which he was a member, and his ability to evaluate the potential impact, if any, of his decisions in "Superfund" cases on his own financial interests.

Based on the applicable statutory standard for disqualification of federal judges (28 U.S.C. §455) and the evidence currently available prior to the Senate confirmation process, the Executive Committee found no reason to depart from its conclusions as to Judge Breyer's judgment, integrity and independence by virtue of the fact that he did not recuse himself in the "Superfund" cases.

The Association acted on the nomination under a policy that directs the Executive Committee to evaluate all candidates for appointment to the Supreme Court.

STATEMENT OF PAULETTE BROWN

Ms. BROWN. Thank you, Senator Kennedy.

We, too, appreciate the opportunity, as Ms. Robinson expressed, for your patience in staying here this late on a Friday.

Before I start, I would also like to make note of the fact and extend my appreciation on behalf of the National Bar Association for the remarks which were made earlier this morning which are re-