

**NOMINATIONS OF CAROLYN P. CHIECHI
AND DAVID LARO**

HEARING
BEFORE THE
COMMITTEE ON FINANCE
UNITED STATES SENATE
ONE HUNDRED SECOND CONGRESS
SECOND SESSION
ON THE
NOMINATIONS OF
CAROLYN P. CHIECHI AND DAVID LARO TO BE JUDGES
OF THE U.S. TAX COURT

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AUGUST 4, 1992
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**NOMINATIONS OF CAROLYN P. CHIECHI
AND DAVID LARO TO BE JUDGES
OF THE U.S. TAX COURT**

TUESDAY, AUGUST 4, 1992

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

The hearing was convened, pursuant to notice, at 11:05 a.m., in room SD-215, Dirksen Senate Office Building, Hon. Lloyd Bentsen (chairman of the committee) presiding.

Also present: Senators Moynihan, Baucus, Bradley, Mitchell, Pryor, Riegle, Daschle, Packwood, Dole, Roth, and Chafee.

OPENING STATEMENT OF HON. LLOYD BENTSEN, A U.S. SENATOR FROM TEXAS, CHAIRMAN, SENATE FINANCE COMMITTEE

The CHAIRMAN. The hearing will come to order. We will be going into immediate recess because some of the members are tied up in a meeting at the White House and will be delayed somewhat. But we do have some present, which I would like to go ahead and count for a quorum. Are there any comments that you would like to make before you go?

Senator BAUCUS. No.

The CHAIRMAN. All right. We will reverse our procedure a little to get part of this accomplished, anyway. I would like to have the two Tax Court nominees come forward, and that is Ms. Carolyn Chiechi and Mr. David Laro.

Ms. Chiechi and Mr. Laro have been nominated to serve as judges of the U.S. Tax Court. The Tax Court tries and adjudicates cases between the Internal Revenue Service and taxpayers. Nominees, as tax judges, your task will be to decide how the tax laws apply to the individual circumstances when the government and the taxpayers are unable to agree.

Since you have both served in private practice for a number of years, I do not need to tell you that the tax laws have grown more complex. It follows, then, that the difficulty of your task has increased exponentially over the years. Every time we pass a simplification of the tax law, it seems to become more complicated in the process.

Neither of you are strangers to our Nation's tax laws. In your respective communities, you are both held in high regard. Ms. Chiechi, you have practiced tax law here in town for Sutherland, Asbill & Brennan since the early 1970's. Mr. Laro, you have been a solo tax practitioner in Flint, MI for the same length of time.

You have both played leadership roles in professional legal organizations. Between the two of you, you have spoken and written on literally all aspects of tax law. We are delighted to have nominees of your stature come before our Finance Committee, and we are looking forward to seeing you effectively apply your expertise and talents to your new responsibilities at the U.S. Tax Court. Are there comments by other members of the committee?

Senator MOYNIHAN. Mr. Chairman, I would like to welcome our two witnesses and wish them a long and successful arduous career on the bench.

Ms. CHIECHI. Thank you very much.

Mr. LARO. Thank you, Senator.

The CHAIRMAN. Ms. Chiechi, would you proceed, if you have any comments to make?

STATEMENT OF CAROLYN P. CHIECHI, NOMINEE FOR THE POSITION OF JUDGE OF THE U.S. TAX COURT

Ms. CHIECHI. If I may, Mr. Chairman, members of the committee, I very much appreciate your scheduling this hearing today. I am deeply honored to appear before you as a nominee to be a judge on the U.S. Court, and I will do everything that I can in my power, if I am confirmed by the Senate, to carry out my duties to the best of my ability. Thank you very much.

The CHAIRMAN. Mr. Laro.

STATEMENT OF DAVID LARO, NOMINEE FOR THE POSITION OF JUDGE OF THE U.S. TAX COURT

Mr. LARO. Thank you, Senator. I, also, am very honored to be here and to have been nominated by the President, and have this nomination placed in front of this committee. I have practiced tax law, as you have noted, Senator, for over 20 years. I am dedicated to my profession, and I look forward to the possibility of serving in the government on the Tax Court. I will do so with great diligence, great energy, and great honesty.

The CHAIRMAN. Well, the recent trend, of course, in tax case litigation is that the cases now becoming before the court are very large cases, indeed. In some instances, the value in question is many millions of dollars.

Having been a solo practitioner, you have not had the opportunity to handle any such large cases, as I understand it, in the private sector. Do you think that is going to give you a problem?

Mr. LARO. No, I do not, Senator. I have practiced for many years and have handled cases involving small amounts, and cases involving large amounts as well. But you are quite right, that the issues today in front of the Tax Court are far more complex, some of which are coming out of the interpretation of the Tax Reform Act of 1986, and involving intricate tax issues. Actually, to be quite candid, that is the challenge. And I look forward to that. That is the intellectual part of the job. I am quite anxious to want to get into those issues.

The CHAIRMAN. I am advised we have some 44,000 cases pending before the Tax Court. Now, I know they have made some headway in reducing that inventory, but do either of you have any further

thoughts or suggestions at this point as to how they can be further expedited and reduce that case load?

Ms. CHIECHI. Well, if I may speak to that first, Senator. I think each judge on the court has to be willing to roll up his or her sleeves and dig in.

But, also, more than that, I think it is important, especially given some of the recent rules that the court has passed—Rule 124 involving voluntary binding arbitration—that the judges become involved earlier on in the more complicated, more difficult cases to try and work with the parties with a view to perhaps settling these cases, or using alternative dispute resolution methods, rather than having the court necessarily decide them all.

Mr. LARO. I agree with my colleague. In 1985, there were approximately 85,000 cases in back log before the Tax Court. Today, that figure is closer to 45,000 and is continuing to diminish, because of the hard work and the diligence of the members of the court, but also because of the nature of the work.

Many of the tax shelter cases, which just produced a voluminous number of litigants, are being resolved and disposed of. And, as you noted, Senator Bentsen, now the issues are the more complicated ones in which there will probably be fewer cases, but just as, perhaps, important.

The CHAIRMAN. Let me get a question to you that would get to your philosophical viewpoint on the interpretation of the law. Do either of you believe in interpreting the tax law literally as it is written, even though you might find it creates a loophole, or do you think that you should address that loophole and try to interpret it to close it?

Ms. CHIECHI. I believe in interpreting the tax law, pursuant to the language that you and the Congress have used in writing the statute. If the language of the statute is not clear, I would look to the legislative history to find the congressional intent. If the language is clear, and if some may think that it creates a loophole, it would be, in my judgment, the job of Congress and not of the judiciary to close that loophole.

The CHAIRMAN. Mr. Laro?

Mr. LARO. I concur. I think the definition of a loophole would need to be examined. And if, in fact, the statute was in the way in which Congress had passed it, then I would follow the intent of Congress. And if, in fact, there were something that we do call a loophole in the law, then I think it would be up to congressional action to close it.

The CHAIRMAN. Senator Moynihan, do you have any questions?

Senator MOYNIHAN. I did want to ask Mr. Laro. Did I hear you correctly in saying that the diminution of the backlog—about in half—was, in some measure, a result of tax shelter cases being resolved?

Mr. LARO. Senator Moynihan, I had the pleasure last evening of being in the company of Judge Colvin, who is here today, and a member of the court. And, as he explained it to me, and as I understand it, many of the cases which comprise the 80,000 to 85,000 numbers of the middle 1980's were consisting of tax shelter cases.

For instance, there could be an instance where a tax shelter might be a limited partnership in which there might be 100 or

more individuals involved. And those 100 may have the same issue and ultimately may present the same case in front of the court, but it is part of that bulk number of 85,000.

Senator MOYNIHAN. Well, dare I think that some of this easing off is a result of the 1986 legislation which we certainly intended to put an end to tax shelters as much as we could?

Mr. LARO. I think, again, you are quite right.

Senator MOYNIHAN. Say that again. [Laughter.]

Mr. LARO. You are right, Senator. In the mid-1970's, the laws were such that one could do a tax shelter and gain some tax benefit from it. Then, by virtue of the changes that this Congress made in 1986, those provisions were eliminated, reduced, or modified. And, as a result, there are far, far fewer people engaging in those kinds of activities today, and, thus, less litigation.

Senator MOYNIHAN. Did I see Ms. Chiechi agreeing? You seem to be nodding.

Ms. CHIECHI. I was nodding. Yes. I was agreeing, Senator.

Senator MOYNIHAN. Yes. Well, we do not hear anything like that often. It is rather reassuring. That is what we set out to do, and you are suggesting that we did it.

Mr. LARO. Absolutely.

Senator MOYNIHAN. Mr. Chairman, I rest that case.

The CHAIRMAN. I think we had better move on.

Senator MOYNIHAN. Thank you.

The CHAIRMAN. The Majority Leader for any comments.

Senator MITCHELL. No questions, Mr. Chairman.

The CHAIRMAN. None.

Senator Pryor.

Senator PRYOR. None, Mr. Chairman.

The CHAIRMAN. Senator Riegle.

OPENING STATEMENT OF HON. DONALD W. RIEGLE, JR., A U.S. SENATOR FROM MICHIGAN

Senator RIEGLE. Mr. Chairman, I know David Laro quite well. And, if I may, I want to just make a comment or two on the personal side for him.

The CHAIRMAN. By all means.

Senator RIEGLE. I will do it right from here, rather than down at the table. I have known David Laro now for over a quarter of a century. He comes from my home town of Flint, although his residence is elsewhere at the present time. I can say that he has a solid reputation as a competent and knowledgeable attorney.

He has got a very fine legal education, as you can see from his resume, and he has practiced tax law for nearly 25 years. I think he has an understanding of complex tax issues, and you have seen that by both articles that he has written, and speeches that he has delivered on the subject.

In addition, he has served as President and CEO of a truck supply company in Michigan, so he has seen the effect of tax laws on the business side. He served in a number of important other capacities. He is a former police commissioner for Flint Township, which provides a certain perspective.

He also has been very heavily involved in the education system. He served as chairman of the State Tenure Commission in Michi-

gan; was a member of the State Board of Education; and has been a regent of the University of Michigan. So, these are a composite of serious efforts to try to deal with important public issues in that area, as well.

When you look at his professional background and the foundation that provides for service on the U.S. Tax Court, and what I can attest to as his temperament, and his balance, and his commitment to impartial justice, this is a very solid nomination, and one that I certainly support. I think you saw, in terms of his working just now with Senator Moynihan, that he is a man of reason. So, I appreciate the opportunity to say those things about him.

Mr. LARO. Thank you, Senator.

The CHAIRMAN. Well, that is an impressive recommendation. We are pleased to have it. Senator Daschle.

Senator DASCHLE. No questions.

The CHAIRMAN. Well, I am impressed with the answers and the qualifications. We are pleased to have folks of your stature being nominated.

Mr. LARO. Thank you, Senator.

The CHAIRMAN. We will now stand in recess until we get the additional members of the committee here.

Mr. LARO. Senator.

The CHAIRMAN. Yes.

Mr. LARO. May I impose, just for the opportunity to do two things?

The CHAIRMAN. Yes, of course.

Mr. LARO. Thank you. First, allow me to thank Senator Riegle, whom I have known for 25 years, as the Senator said, and for whom I have just enormously high regard for our friendship, and I thank you for your support. But, also, I just want to introduce my wife, Nancy, if I may.

The CHAIRMAN. Yes, of course.

Mr. LARO. Thank you. We have been married for 25 years. She is a certified public accountant. We have two children, Rachel and Marlene, both of whom are adults and are in Moscow at this moment, otherwise they would be here. So, thank you very much.

The CHAIRMAN. Thank you. Delighted. Ms. Chiechi, any comments?

Ms. CHIECHI. With your indulgence. May I introduce my mother, Dominica Chiechi, and my aunt, Connie De Filippis, who are here with me today. And my sister, Maria Chiechi, who is a physician, and who unfortunately is working too hard to leave her job, but she is here in spirit. Thank you.

The CHAIRMAN. Yes, of course. Would they stand so we can see them? Thank you. Thank you. We are pleased to have you. I understand that the other members are on the way, but we will stand in recess temporarily. Thank you.

Ms. CHIECHI. Thank you.

Mr. LARO. Thank you.

[Whereupon, at 11:20 a.m. the hearing was recessed.]

AFTER RECESS

The CHAIRMAN. The committee will come to order. I defer to Senator Packwood for any comments he would like to make.

**OPENING STATEMENT OF HON. BOB PACKWOOD, A U.S.
SENATOR FROM OREGON**

Senator PACKWOOD. Mr. Chairman, thank you. I had hoped to introduce Ms. Chiechi more properly, and you know where we have been. So, just let me introduce her now. I know she has already been here and introduced her family. She has been nominated to be a judge on the U.S. Tax Court. She is very well qualified for this position, and I hope we act on her nomination quickly.

She grew up in New Jersey, moved to D.C., and attended college and law school at Georgetown. She was first in her undergraduate school at Georgetown, and ninth in her law school class. She has succeeded in everything she has done since then.

She is an accomplished and well-respected tax lawyer with over 20 years of private law experience in most areas of the tax law. She is the quintessential lawyer's tax lawyer.

Clearly, she will bring to the Tax Court a valuable perspective on our tax laws, and I wholeheartedly support her nomination to the Tax Court, and hope the committee reports her out immediately.

Ms. CHIECHI. Thank you very much, Senator.

The CHAIRMAN. Are there further comments?

[No response.]

[Whereupon, at 11:25 a.m., the hearing was concluded.]

SENATE FINANCE COMMITTEE QUESTIONNAIRE

BIOGRAPHICAL OF CAROLYN P. CHIECHI

1. Name: Carolyn P. Chiechi (last name was changed from Schapp to Chiechi in July 1956 after remarriage of my mother to Michele A. Chiechi, M.D., my adoptive father).
2. Address: Home Address: 8700 Honeybee Lane, Bethesda, MD 20817; Business & Mailing Address: 1275 Pennsylvania Avenue, N.W., Washington, DC 20004-2404.
3. Date and Place of Birth: December 6, 1943, Newark, New Jersey.
4. Marital Status: Single.
5. Names and Ages of Children: None.
6. Education: Georgetown University, September 1969-June 1971, LL.M. in Taxation-June 1971; Georgetown University, September 1966-June 1969, J.D.-June 1969; Georgetown University, September 1961-June 1969, B.S., *magna cum laude*-June 1965.
7. Employment Record: October 1971 to present, Partner/Attorney, Sutherland, Asbill & Brennan, 1275 Pennsylvania Avenue, N.W., Washington, DC 20004-2404 (202) 383-0129; August 1969 to August 1971, Attorney-Advisor to Judge Leo H. Irvin, U.S. Tax Court, 400 Second Street, N.W., Washington, DC 20217 (202) 376-2754.

SENATE FINANCE COMMITTEE RESPONSE TO OUTLINE OF INFORMATION

BIOGRAPHICAL OF DAVID LARO

1. David Laro
2. 395 Huntington Drive, Ann Arbor, MI 48104
3. March 3, 1942; Flint, Michigan
4. Married to the former Nancy Lynn Wolf
5. Rachel Lynn Laro, 23; Marlene Ellen Laro, 21
6. University of Michigan, 1960-64 (B.A., 1964); University of Illinois College of Law, 1964-67 (J.D., 1967); and New York University Law School, 1969-70 (LL.M. in Taxation, 1970).

7. Title, employer, location and dates of employment

- Attorney, Hollman & Rubenstein, Flint, MI, 1967-69
- Attorney, Winegarden, Shedd, Flint, MI, 1970-75
- Attorney, David Laro, P.C., Flint MI, 1975-92
- Attorney, Colin, McKinney, Ann Arbor, MI, 1988
- Pres. CEO, Durakon Industries, Inc., Lapeer, MI, 1989-91
- 8. Police Commissioner, Flint Township; Chairman, State Tenure Commission; Member, State Board of Education; Regent, University of Michigan.
- 9. American Bar Association; Michigan Bar Association; Genesee County Bar Association. Economic Dinner Club, Ann Arbor; Holocaust Foundation, Ann Arbor Advisory Board.
- 10. Fundraiser, Bush/Quayle 1988 and 1992; Fundraiser, Bill Schuette for Congress 1990; Fundraiser, Reagan/Bush 1980 and 1984; Contributor to President Bush (\$2000.00) in 1992; Judge Wilder, Sen. Schwarz; Governor Engler; Washtenaw County Republican Party.
- 11. Winner, Moot Court Competition, Illinois College of Law.

