

**NOMINATIONS OF RICHARD W. FISHER,
DONALD C. LUBICK, L. PAIGE MARVEL,
AND MICHAEL B. THORNTON**

HEARING

BEFORE THE

**COMMITTEE ON FINANCE
UNITED STATES SENATE**

ONE HUNDRED FIFTH CONGRESS

SECOND SESSION

ON THE

NOMINATIONS OF

RICHARD W. FISHER, NOMINATED TO BE DEPUTY U.S. TRADE REPRESENTATIVE, WITH THE RANK OF AMBASSADOR; DONALD C. LUBICK, NOMINATED TO BE ASSISTANT SECRETARY OF THE TREASURY; L. PAIGE MARVEL, NOMINATED TO BE JUDGE OF THE U.S. TAX COURT; AND MICHAEL B. THORNTON, NOMINATED TO BE JUDGE OF THE U.S. TAX COURT

—————
JANUARY 28, 1998
—————



Printed for the use of the Committee on Finance

—————
U.S. GOVERNMENT PRINTING OFFICE

50-591-CC

WASHINGTON : 1998

For sale by the U.S. Government Printing Office
Superintendent of Documents, Congressional Sales Office, Washington, DC 20402
ISBN 0-16-057932-5

5361-5

COMMITTEE ON FINANCE

WILLIAM V. ROTH, JR., Delaware, *Chairman*

JOHN H. CHAFEE, Rhode Island
CHARLES E. GRASSLEY, Iowa
ORRIN G. HATCH, Utah
ALFONSE M. D'AMATO, New York
FRANK H. MURKOWSKI, Alaska
DON NICKLES, Oklahoma
PHIL GRAMM, Texas
TRENT LOTT, Mississippi
JAMES M. JEFFORDS, Vermont
CONNIE MACK, Florida

DANIEL PATRICK MOYNIHAN, New York
MAX BAUCUS, Montana
JOHN D. ROCKEFELLER IV, West Virginia
JOHN BREAUX, Louisiana
KENT CONRAD, North Dakota
BOB GRAHAM, Florida
CAROL MOSELEY-BRAUN, Illinois
RICHARD H. BRYAN, Nevada
J. ROBERT KERREY, Nebraska

LINDY L. PAULL, *Staff Director and Chief Counsel*
MARK A. PATTERSON, *Minority Staff Director and Chief Counsel*

CONTENTS

OPENING STATEMENTS

	Page
Roth, Hon. William V., Jr., a U.S. Senator from Delaware, chairman, Committee on Finance	1
Graham, Hon. Bob, a U.S. Senator from Florida	3

ADMINISTRATION NOMINEES

Fisher, Richard W., nominated to be Deputy U.S. Trade Representative, with the rank of Ambassador	6
Lubick, Donald C., nominated to be Assistant Secretary of the Treasury	7
Marvel, L. Paige, nominated to be Judge of the U.S. Tax Court	8
Thornton, Michael B., nominated to be Judge of the U.S. Tax Court	9

CONGRESSIONAL WITNESSES

Hutchison, Hon. Kay Bailey, a U.S. Senator from Texas	1
Lugar, Hon. Richard, a U.S. Senator from Indiana	2
Sarbanes, Hon. Paul, a U.S. Senator from Maryland	4

ALPHABETICAL LISTING AND APPENDIX MATERIAL

Breaux, Hon. John: Prepared statement	17
Daschle, Hon. Tom: Prepared statement	17
Fisher, Richard W.: Testimony	6
Prepared statement	19
Biographical	26
Graham, Hon. Bob: Opening statement	3
Hutchison, Hon. Kay Bailey: Testimony	1
Lubick, Donald C.: Testimony	7
Prepared statement	38
Biographical	40
Marvel, L. Paige: Testimony	8
Prepared statement	47
Biographical	49
Lugar, Hon. Richard: Testimony	2
Roth, Hon. William V., Jr.: Opening statement	1
Sarbanes, Hon. Paul: Testimony	4
Thornton, Michael B.: Testimony	9
Prepared statement	62
Biographical	64

NOMINATIONS OF RICHARD W. FISHER, DONALD C. LUBICK, L. PAIGE MARVEL, AND MICHAEL B. THORNTON

WEDNESDAY, JANUARY 28, 1998

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

The hearing was convened, pursuant to notice, at 12:46 p.m., in room SD-215, Dirksen Senate Office Building, Hon. William V. Roth, Jr. (chairman of the committee) presiding.

Also present: Senator Moynihan.

OPENING STATEMENT OF HON. WILLIAM V. ROTH, JR., A U.S. SENATOR FROM DELAWARE, CHAIRMAN, COMMITTEE ON FINANCE

The CHAIRMAN. The committee will please be in order. We do have a number of nominees to consider today. We are going to go ahead, in the interest of expediting their consideration.

I, first, would like to call on—

Senator MOYNIHAN. Mr. Chairman, I wonder if we might have order. Senator Hutchinson is here, and others.

The CHAIRMAN. We, first, want to call forward Ambassador Richard Fisher, who is already serving in his new post as a Deputy USTR. We have some distinguished Senators who want to introduce him. I would call upon Senator Hutchinson, first, if you want to make any comments, and Senator Lugar.

STATEMENT OF HON. KAY BAILEY HUTCHISON, A U.S. SENATOR FROM TEXAS

Senator HUTCHISON. Thank you, Mr. Chairman. I certainly appreciate this opportunity to testify on behalf of Richard Fisher.

I want to, first, say that I think he has found his true calling in life now. [Laughter.]

I am very pleased to support him in this because I do think he is uniquely qualified and suited to be the Deputy U.S. Trade Commissioner, and especially in the areas of the world for which he will be responsible.

He has shown interest and leadership in foreign affairs very early in his career, starting as a young person in the Carter Administration working for the Secretary of the Treasury.

But going forward as a very well-recognized financial investor and expert in global types of investments, becoming an expert, spending time in Japan on his own because he wanted to learn the company better, being involved in certain of the trade issues with China, and most especially Latin America and Mexico. He spent his early years growing up in Mexico, speaks beautiful Spanish, understands the culture.

Mr. Chairman, I happen to believe that the future of America is going to be in strengthening our relationships with Mexico and South America in the area of trade. I think he is the person that can really make that happen. We have talked about that as a priority and I know that he will make that a priority.

As we see other trade relationships around the world moving, I think building our relationships in our own hemisphere makes eminent sense. I think he also believes that and has the unique capability, because he did grow up in Mexico.

And he has been actually recognized by the President of Chile for helping with a Dallas, Texas-Chilean trade relationship. I think he is just going to be well received by the countries with whom he is dealing, but also his area of expertise is right where he is going and I think he will represent the United States very well.

The CHAIRMAN. Thank you, Senator Hutchison.

Senator Lugar?

STATEMENT OF HON. RICHARD LUGAR, A U.S. SENATOR FROM INDIANA

Senator LUGAR. Thank you very much, Mr. Chairman, Senator Moynihan. I join Senator Hutchinson in strong support of Richard Fisher. He has been a friend since our initial meeting. He was a staff member for Secretary Blumenthal. Secretary Blumenthal was asked by President Carter to make one last mission to see the Shah of Iran just before he fell.

I was asked to be a bipartisan situation and was honored to accompany the Secretary and to meet Richard. I was impressed at that point with the brilliance of his analysis, his follow-through in very difficult circumstances.

It was a real thrill to watch him progress in Dallas to make a lot of money. He is an extraordinarily successful person as a practitioner of economics. This is reassuring, and I am certain Senator Moynihan will share that feeling.

To those of academic interest, he is a Harvard man, Stanford, Oxford, in terms of the theory of economics and international trade and has been there, done that, and done it very well, but actually, has followed through with the management of other people's money as well as his own.

In the midst of this he has organized essentially the Foreign Relations Committee of Dallas. It is in that situation that I have visited with him frequently over the years as a guest speaker for that group, or participating in some of their activities.

He has been active in Germany, as well as in Latin America and Asia, as his resume points out, as far back as his time with Secretary Blumenthal, and in the Middle East where I first met him.

He is a generalist, an internationalist person of practical experience, I think an inspired nominee, and it is a privilege to not only

commend him, but likewise his beautiful wife, Nancy, who is the daughter of our former colleague, Jim Collins, a member of the House of Representatives from Texas for many years.

I thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Senator Lugar.
Senator Graham?

OPENING STATEMENT OF HON. BOB GRAHAM, A U.S. SENATOR FROM FLORIDA

Senator GRAHAM. Thank you, Mr. Chairman, Senator Moynihan.

It is a great pleasure to join Senator Hutchinson and Senator Lugar in introducing Richard Fisher for your consideration as the Deputy United States Trade Representative.

Before I begin, I would like to also extend my best wishes to Nancy and to their oldest son, Anders, who has joined them in Washington today.

I am pleased to be able to participate in this introduction. I am proud to say that the Fishers also have family in Florida who have made a distinguished contribution to the betterment of our State. I wholly concur with the comments that have been made by Senator Hutchinson in her introduction as to Richard's qualifications for this demanding task.

He is about to assume one of the most critical positions within the U.S. Government, the Deputy United States Trade Representative for Asia and Latin America. He is accepting this responsibility in the midst of turmoil in several of the Asian national economies, an economic crisis that is not only affecting Asia, but may also have significant spill-over effects in Latin America and, as we have just heard, in the United States.

In addition, Richard can provide the significant experience and leadership that will be demanded of the United States delegation at the upcoming Summit of the Americas. These are challenging times for this Nation. I am confident that Richard Fisher is an exceptionally qualified individual who can meet the international trade challenges that we face in Asia and Latin America.

Throughout his extensive career as an executive assistant to Secretary of the Treasury, a senior manager for Brown Brothers, Harriman & Company, chairman and CEO of the Fisher Capital, and as an adjunct professor at the University of Texas, Richard Fisher has demonstrated a consistent standard of personal excellence. His experience makes him particularly well suited to successfully carry out the duties of this specific office.

Having traveled to China during his days with the Treasury Department, Richard helped to pry open the doors of commercial trade between our two nations. Residing in Japan in the early 1990's, Richard learned both the advantages and drawbacks of the Japanese economic system.

His business experience in Texas, along with his ongoing study of public policy, provides a theoretical and pragmatic understanding of western hemispheric economies.

Richard and I share a strong interest in developing and maintaining trade relations among the United States, Asia, and the Americas. His extensive personal, professional, and academic background in these issues makes Mr. Fisher uniquely qualified to per-

form the duties of the Deputy United States Trade Representative, and I urge an early approval of this superb nomination.

Senator HUTCHINSON. Mr. Chairman?

The CHAIRMAN. Yes.

Senator HUTCHINSON. Before we finish our part of the panel I would be remiss in not mentioning his wonderful wife, Nancy, who is a good friend of mine, and his father-in-law, the late Jim Collins, who was my Congressman and a real leader for our State, as well as his mother-in-law, Dee. They are all very special people and I am very pleased that Nancy is with him today, but also to say that she is my friend, as is her family.

The CHAIRMAN. Thank you for that addition.

Senator MOYNIHAN. Now, what has happened to politics in Texas? [Laughter.]

That is not the way Lyndon Johnson used to talk.

The CHAIRMAN. A good question, but no answer. I might say, we are delighted to have these young children here. I must say, as I have a 2-year-old grandson living with me right now, it makes me feel right at home. [Laughter.]

So I would thank the Senators for being here, and appreciate their taking the time to introduce Richard Fisher.

I would ask the other three to come forward who are going to come up for consideration today. They are Donald Lubick, who of course has been nominated to be Assistant Secretary for Tax Policy at the Treasury Department; and Paige Marvel and Michael Thornton, who have been nominated to be Judges on the U.S. Tax Court.

Senator Sarbanes is here, I believe, for purposes of introducing Paige Marvel.

Senator Sarbanes?

STATEMENT OF HON. PAUL SARBANES, A U.S. SENATOR FROM MARYLAND

Senator SARBANES. Mr. Chairman and Senator Moynihan, members of the committee, I am very pleased to join the committee, just briefly. I appreciate your courtesies—I obviously will have to go—but to present Paige Marvel of Maryland for the U.S. Tax Court.

I think this is a very fine appointment. I think she is eminently qualified to serve on the Tax Court. She is currently a partner in one of Maryland's leading law firms of Venable, Baetjer & Howard. She has been the head of the firm's tax litigation group. She has practiced tax law there for the last 8 years. Prior to joining Venable, Baetjer & Howard she practiced tax law for the previous 15 years in two other well-regarded firms.

She has done a wide range of civil and criminal tax proceedings before both judicial and administrative bodies in State and Federal actions. She is a trained mediator with wide experience in the area of alternative dispute resolutions.

She has been very active in a number of professional organizations and in legal education programs, in local, State and national bar groups. In the early 1980's she chaired the Tax Section of the Maryland State Bar Association. From 1989 to 1992, served as the director of the Tax Section counsel of the American Bar Association.

She is a prolific author of tax practice guides and has participated in tax institutes all across the country. She is really one of the leading tax practitioners in the Nation.

Paige Marvel is a magna cum laude graduate of Notre Dame College and an honors graduate of the University of Maryland School of Law. She was on the Law Revenue. She has been active in our community. I want to just mention that. She serves on the board of visitors of the Maryland Law School, board of trustees of the Loyola-Notre Dame Library.

She has taken an active role in the community and I am very frank to say to the committee, I think she has the breadth of experience and the depth of knowledge which is ideal for placement on the Tax Court. I have known her for a number of years. I think she is an outstanding candidate and I very much hope that the committee will soon approve her nomination and send it to the full Senate.

I appreciate the Chairman and the Ranking Member's courtesies, and I wish Paige the very best.

Ms. MARVEL. Thank you, Senator, very much.

The CHAIRMAN. Thank you, Senator Sarbanes, for those words of support.

At this time I would like to ask if there are any members of your family here that you would like to introduce. I assume if they are here, you would like to introduce them. [Laughter.]

Ambassador Fisher?

Ambassador FISHER. The Senators very kindly introduced my family. But my wife Nancy is seated behind me here, and my oldest son Anders.

The CHAIRMAN. Very good. Welcome. It is nice to have you here.

Mr. Lubick?

Mr. LUBICK. This is my wife Susan here. I am sure Senator Moynihan knows that he has shared helicopter rides with her over Niagara Falls, among other things. My daughter Lisa and her son were here. I heard them, anyway. They will be back.

The CHAIRMAN. Ms. Marvel?

Ms. MARVEL. Mr. Chairman, my husband Robert Dyer, is here in back, and my son Alex Dyer, who is 9 years old, and my daughter Kelly Dyer, who is 6 years old, are back there and anxious to see this hearing proceed.

The CHAIRMAN. Welcome to all of you.

Mr. Thornton?

Mr. THORNTON. Mr. Chairman, I have my wife here, Alexandra Deane Thornton, and our two children who are trying to be good, Michaela and Camille.

The CHAIRMAN. They are being children. Congratulations.

Senator MOYNIHAN. Welcome, all.

The CHAIRMAN. Nice to have you all here.

I would now ask all the nominees to rise so I can swear each of you in.

[Whereupon, the nominees were duly sworn.]

The CHAIRMAN. Please be seated.

We will now ask each of you to make any opening statement that you may care to make. I would ask that they be limited to 5 minutes.

Ambassador Fisher?

STATEMENT OF RICHARD W. FISHER, NOMINATED TO BE DEPUTY U.S. TRADE REPRESENTATIVE, WITH THE RANK OF AMBASSADOR

Ambassador FISHER. Thank you, Mr. Chairman and Senator Moynihan.

I especially appreciate the kind words that were said about me earlier by your colleagues, particularly Senator Hutchison, who has become a very good friend of mine and she has recently complimented me for my diplomatic skills.

As she said, this is my calling. My previous attempt at running for the U.S. Senate she determined, and very adequately, was not my calling. Senator Lugar, who is an old and very good friend, a wonderful human being, and Senator Bob Graham.

I am also grateful to the President for giving me this opportunity, and to Charlene Barshefsky for picking me to be her deputy.

As you know, Senator, I was recess appointed just before Christmas. My wife Nancy, who has a quick wit, quipped that I was now bar mitzvahed, but not confirmed. I am delighted to be here to achieve your blessing to be confirmed.

Obviously, this is a very critical juncture in economic history. The Secretary of the Treasury just a few minutes ago very eloquently talked about the problems in Southeast Asia and Korea. This will be part of my portfolio.

My portfolio, as defined by Ambassador Barshefsky, will be Asia, China, Japan, Southeast Asia, Korea, also, Mexico, Central and Latin America.

In all these areas, of course, we are undergoing tremendous change. I was last in a Senate chamber accompanying my former boss, Michael Blumenthal, immediately after coming back from the claims asset settlement negotiations in Beijing with Deng Xiaoping.

It is amazing to me to come back, having just barely pried open the doors of trade in 1979, to see the changes that have taken place in trade with China. I need not repeat all of them here.

Everybody is well versed in the situation vis-a-vis China. They are now our fourth largest trading partner, the source of our largest trade deficit. They present us with a wealth of opportunity, and also a plethora of problems.

As Walt Kelly's "Pogo" once said, "China seems to present us with insurmountable opportunities." My job is to somehow make them surmountable and I will pursue that aggressively.

Japan, of course, is in a unique position presently. I was amazed to find as I have gotten sort of read back in with Japan, the more things change the more things stays the same. We have a lot of work to do. Senator, you were just over there.

You realize, with the economic recession that they are suffering in Japan, the need for them to stimulate their economy domestically, but also to open up their markets. I intend to pursue that with vigor, and aggressively.

They no longer have the excuse to say to us, you need to clean up your act at home. We now are approaching a balanced budget.

We have our act together here at home. It is time for them to open up their markets and we will pursue that agenda eagerly.

The Asian situation, I need not repeat. You are well versed with it. I want to just mention one thing, however. That is that it is a critical situation. The Secretary spoke eloquently about it. But there also may well be some silver linings in those dark clouds, and I am particularly thinking of the trade aspects, since this is my duty, of what the IMF will seek, and hopefully we will be able somehow multilaterally to enforce in Indonesia, Korea, Thailand, and elsewhere.

As you know, certain actions have been taken, for example, with the National Car Project in Indonesia. Restructuring the financing of Korea gives us an opportunity to deal with the unique financial agreements and agreements that the chaebols have in Korea which has hurt our steel industry, our auto industry, and other industries. So we have a heavy agenda there.

Last, let me just mention Latin America, which is critical. In addition to Mexico, which is now our second largest trading partner, although it has an economy 1/12th the size of Japan's, and having lived on the Mexican border in Texas, I understand how powerful those trade arrangements are and some of the problems that they present.

But elsewhere in Latin America there is great opportunity. Brazil and Argentina alone have the same per capita, if you adjust for the total population of that area, has the same purchasing power presently as China does as a whole. With \$6,000 a year in per capita income times 200 million people, you have the same purchasing power as 1.2 billion Chinese with \$1,000 per capita income.

We cannot ignore this part of the world. It presents tremendous opportunities for us. Part of my agenda will be, and part of my job, for Ambassador Barshefsky is to pursue the FTAA and make sure that we come up with practicable arrangements for that structure following on the Miami Summit, and also dealing with the bilateral problems we have in that parts of the world.

So, Senator, I am very grateful to be here. Let me just conclude by saying that this is personally very meaningful. My parents emigrated to this country 50 years ago last year. My father had no education. He swept floors in a factory starting at the age of 10.

To come to this country, to be born an American, to have an American education, to build a business, and now to sit before the U.S. Senate seeking your confirmation is a tremendous honor for me and my family, and I appreciate it. Thank you.

The CHAIRMAN. Well, thank you. It is a great American story. We appreciate that.

[The prepared statement of Ambassador Fisher appears in the appendix.]

The CHAIRMAN. Mr. Lubick?

**STATEMENT OF DONALD C. LUBICK, NOMINATED TO BE
ASSISTANT SECRETARY OF THE TREASURY**

Mr. LUBICK. Mr. Chairman, Senator Moynihan, I have a prepared statement which is very brief, and I will condense that, given the hour.

I, first, want to reassure Senator Moynihan that you can take the boy out of Buffalo, but you do not take Buffalo out of the boy.

Senator MOYNIHAN. Mr. Chairman and colleagues, the President's nomination describes Donald Lubick of Maryland.

Mr. LUBICK. Of late. I also would like to express my gratitude, both to the President and the Secretary, for my nomination. This, of course, is my second confirmation hearing before this committee and I would note that I am grateful that both of you voted for me once before, and I hope that my record has not caused you in any way to regret that decision.

In point of fact, I have spent almost all of my government service life, starting in 1961, in this room. The thrill of working with the Senate Finance Committee I regard as one of the high points of my professional opportunities.

We have very important issues, not only the fundamental structure of the tax system in this country, but the one that you had a hearing on this morning, Mr. Chairman, the restructuring of the IRS.

Following those hearings I took a weekend and read the entire transcript of your hearings and I had not, prior to reading it line by line, appreciated some of the appalling situations which you have uncovered.

I believe that this committee has been the instrument to the restructuring of the IRS, which I think Mr. Rossotti so ably presented this morning. I think you all are entitled to a very significant debt of the American people for bringing about this change in tax administration in this country, and I trust possibly even in many other countries that emulate our way of going about things. I am pleased to be a part of that and look forward to working with you on all of these issues.

The CHAIRMAN. Thank you, Secretary Lubick.

[The prepared statement of Mr. Lubick appears in the appendix.]

The CHAIRMAN. Paige Marvel?

STATEMENT OF L. PAIGE MARVEL, NOMINATED TO BE JUDGE OF THE U.S. TAX COURT

Ms. MARVEL. Mr. Chairman, Senator Moynihan, I wish to take this opportunity to thank you very much, and the members of the committee, for scheduling this hearing so promptly. I am grateful. I realized as I sat through the hearing this morning how much you have on the agenda, and the fact that you are taking the time to do this today is much appreciated.

I am also very grateful to the President for being one of the two nominees to the U.S. Tax Court, a court before which I have appeared over the course of approximately 24 years of practice.

During my years as a practitioner I have represented taxpayers at all levels, during audits, during criminal investigations, during administrative appeals before the IRS appeals office, and before the Collection Division. I believe that that experience will translate very well as a judge on the U.S. Tax Court.

As you may be aware, the Tax Court is a court of first relief, as it were. Taxpayers who cannot or choose not to pay, before they litigate a tax dispute, go before the U.S. Tax Court.

You may be aware that, at the present time, the Tax Court has an enormous population of unrepresented taxpayers who appear before the Tax Court. I believe that the background that I bring to the court, if I am fortunate enough to be confirmed, will bode well for taxpayers' experience with our tax system.

I promise you that, if confirmed, I will do my very best to give the taxpayers a quality experience and to be fair and diligent on behalf of all litigants, including the government.

So I look forward to my opportunity to answer questions, and I thank you again for the opportunity.

The CHAIRMAN. Thank you for your comments. We will get to the questions in just a few minutes.

[The prepared statement of Ms. Marvel appears in the appendix.]

The CHAIRMAN. Michael Thornton, please.

STATEMENT OF MICHAEL B. THORNTON, NOMINATED TO BE JUDGE OF THE U.S. TAX COURT

Mr. THORNTON. Mr. Chairman, Senator Moynihan, I would also like to thank you very much for scheduling this hearing. It is a great honor to appear before this committee as one of the nominees to the U.S. Tax Court.

There are a number of people I would like to thank: President Clinton, Secretary Rubin, the nominating committee of which Don Lubick is a member, Senator Daschle, and other members of Congress for their support for my nomination, and also the fine staff of this committee who has been very helpful to me in this process.

I have worked for a number of years in a number of different capacities and tax issues. I have worked as the Ways and Means Committee's tax counsel for a number of years. Currently, I work for the Office of Tax Policy at the Treasury Department. In my previous life in private practice, I represented taxpayers in controversies before the IRS.

I am dedicated to public service. If confirmed for the Tax Court, I would hope to maintain the high reputation of the court for fairness, thoroughness, and speedy justice, and I will strive my best to fulfill my duties to the best of my ability.

I thank you again for considering my nomination.

The CHAIRMAN. Thank you.

[The prepared statement of Mr. Thornton appears in the appendix.]

Senator MOYNIHAN. Mr. Chairman, I have a statement that the Minority Democratic Leader Tom Daschle has asked to be placed in the record at this point in support of Michael Thornton.

The CHAIRMAN. Without objection.

[The prepared statement of Senator Daschle appears in the appendix.]

Mr. LUBICK. Mr. Chairman, I would like to point out that I have some great misgivings about the nomination of Michael Thornton, because he is a principal deputy in the Office of Tax Policy. But I have no question but that he will grace the Tax Court and be an ideal judge, and we are willing to make that sacrifice for the greater good.

The CHAIRMAN. Very good.

Now, we have three standard questions we ask all nominees. First, is there anything you are aware of in your background that might present a conflict of interest with the duties of the office to which you have been nominated? Mr. Thornton?

Mr. THORNTON. No, sir.

The CHAIRMAN. Mr. Fisher?

Ambassador FISHER. No, sir.

The CHAIRMAN. Mr. Lubick?

Mr. LUBICK. No, sir.

The CHAIRMAN. Ms. Marvel?

Ms. MARVEL. No, sir.

The Chairman. Second, do you know of any reason, personal or otherwise, that would in any way prevent you from fully and honorably discharging the responsibilities of the office for which you have been nominated? Mr. Thornton?

Mr. THORNTON. No, sir.

The CHAIRMAN. Mr. Fisher?

Ambassador FISHER. No, sir.

The CHAIRMAN. Mr. Lubick?

Mr. LUBICK. No, sir.

The CHAIRMAN. Ms. Marvel?

Ms. MARVEL. No, sir.

The CHAIRMAN. Third, do you agree without reservation to respond to any reasonable summons to appear and testify before any duly constituted committee of Congress, if you are confirmed?

Mr. THORNTON. Yes, I do.

Ambassador FISHER. Yes, I do.

Mr. LUBICK. Yes, sir.

Ms. MARVEL. Yes.

The CHAIRMAN. Ambassador Fisher, as you noted, I have just returned from a trip in Asia and I did stop in Japan. One of my concerns is that in this economic crisis in Asia, all these countries are going to be looking very much to exports as a means of recovery. Exports, to many countries, probably, but the principal one will of course be the United States.

Senator MOYNIHAN. With a depreciation currency.

The CHAIRMAN. Exactly, with a depreciating currency.

I told my Japanese friends that it was not enough for the United States to be the engine of growth for that part of the world, that Japan had a responsibility, that she must open her markets, that she must become an engine of growth by making that market available of exports from other Asian, as well as global, economies.

I am not satisfied that we are going to get the kind of action that we want. I would be interested in your comment on this matter.

Ambassador FISHER. Well, Senator, it is critical that they do stimulate their economy domestically. Senator Moynihan just mentioned the depreciation of the currency. One startling fact I remind myself of is, my wife and children and I were in Indonesia 7 months ago on business. The per capita purchasing power, as I may have mentioned earlier, of the average Indonesian was \$1,000 per capita. Today, it is less than \$200.

Similarly, the Korean purchasing power, in dollar terms, has declined 48 percent over 7 months. What that tells you, obviously, is it is going to be difficult for us to sell product in those markets.

We all know, and you know from your tour, they are going to try to sell products elsewhere and they are going to target the United States.

Japan cannot expect us to carry the entire load for recovering Asia at the same time that they need to stimulate their economy. We expect, and Charlene Barshefsky in particular, as with our entire cabinet, has made a very forceful statement to that regard.

It is also important that Prime Minister Hashimoto keep up his promises to deregulate their economy, to make it more efficient, more transparent. We have heard a lot discussed about that. He has discussed it with the President. He has made his promises. We will press hard to deliver on those promises. The two must come in combination. It baffles me, after all these years.

Again, as I said earlier, the more things change the more they stay the same in Japan. It is in the interest of Japanese consumers and Japanese entrepreneurs, as well as U.S. exporters, that they free up that economy to operate efficiently. It does not. We plan to forcefully make that point, and that will be part of my portfolio.

By the way, my greatest insight into the operations of Japan, is my oldest son sitting behind me, as an early teenager, was the second non-Japanese to play in the Tokyo senior boys spring baseball league.

If you want to understand Japanese culture, that is a great insight. It is a tough culture. I admire the Japanese. But I do not admire the fact that they are so reluctant to bring about the changes that are necessary, and will press that agenda, Senator.

The CHAIRMAN. I have to tell you, I was fascinated by the fact that the administration told me it was time for Japan to have a Kemp-Roth tax cut. [Laughter.]

Senator Moynihan?

Senator MOYNIHAN. Could I ask, Ambassador Fisher, will you be involved within the subcontinent with Indian affairs, Pakistan, Bangladesh?

Ambassador FISHER. Senator, the way we have divided our duties right now is, Jeff Lang, the other deputy, is responsible for those countries. I have a lot to learn and to master before expanding the portfolio. But presently, no, Senator, I am not responsible for those countries.

Senator MOYNIHAN. I was there in December. There is a level at which you can sense they are taking satisfaction and saying, see, we never deregulated anything and the rupee is stable, whereas the baht has crashed, and that just shows everything they have done wrong in the last 50 years is right. But I will maybe strike that from the record, Mr. Chairman. [Laughter.]

The CHAIRMAN. One further question. What can we do to ensure that our Asian trading partners make progress in liberalizing their markets, despite the developments in the region?

Ambassador FISHER. Well, again, as I mentioned during my brief statement, this financial crisis, in that sense, may have a silver lining. The IMF has certain requirements for its assistance and we are in turn because of that receiving some assistance on some important agenda items that we have pursued over the years. Again, for example, the National Car Project in Indonesia, the financing of the chaebols in Korea, and so on.

Of course, there is the question of enforcement and this is something that we will have to look into to make sure that they do follow through. But, clearly, in terms of their resuming the Asian miracle without running the risk of being abandoned by the international capital markets, they will have to make changes to become more transparent and to liberalize their internal regimes.

Senator, all I can promise you is that that will be foremost on my agenda in my role as Deputy. I know it is foremost on Ambassador Barshefsky's agenda and the administration's agenda to make sure that these changes take place, that assist in the interest of bringing about market capitalism in that part of the world.

The CHAIRMAN. Mr. Lubick, it is my understanding that you described in a speech the Finance Committee IRS oversight hearings last September as IRS bashing and the cases reviewed by the committee as aberrations. Now, I think as you know since our hearings, the IRS has conducted two internal audits of 12 districts which concluded that the IRS has created an environment driven by statistical accomplishment that places taxpayer rights at risk.

Do you still believe the problems uncovered were isolated cases?

Mr. LUBICK. Senator, as I stated in my opening statement, I have read the transcript of the hearings and I believe that the committee has identified a very serious problem which had to be addressed, and I believe the Commissioner has made a very firm start in addressing those problems and in dealing with them seriously.

I noted Senator Breaux's comment that he has noted a change of attitude already, both in taxpayers and in employees of the Service, and I had sensed some of that myself. So I believe 100 percent that what this committee has done has sparked a change in direction at the IRS which is very significant.

The CHAIRMAN. As I noted in my opening remarks, one of my concerns has been that the IRS has a history when there is an investigation of making changes along the lines being suggested by the Congress, but they are not long-lasting.

So I do not want to downplay what is happening, but I have to say one of my real concerns is that whatever we do will continue beyond the current Commissioner and Secretary of Treasury.

But you will be in a very key position as Assistant Secretary. So what I would like to have is your absolute commitment to the reform and improvement of the IRS. Would you agree with that?

Mr. LUBICK. You clearly have that, Senator Roth. I will state that I think the Commissioner's plan of reorganization is going to change the essential structure that was such an obstacle to accountability and I would hope that his work, together with the continued interest and oversight of this committee and its counterpart in the House, will make sure that whatever is started is finished and sticks.

The CHAIRMAN. I would just make the comment that I think it is critically important that we have bipartisan and executive Congressional cooperation. I will have to tell you that I think that the legislation enacted by the House is basically fine as far as it goes, but it needs a lot of action in order to correct the problems we are uncovering.

Senator MOYNIHAN. Mr. Chairman, you will not mind my saying that, as we do go forward building on the House's work, I cannot think of a person who would be of more help to us with more experience and knowledge in this regard than Donald Lubick. He has been serving without a flag for the last 18 months, have you not?

Mr. LUBICK. I have, Senator Moynihan. I have had a lot of experience in the countries of Eastern Europe where I had been working immediately prior to that, and there are many lessons to be learned from that.

I look forward, and the whole Treasury Department looks forward to working with you, Mr. Chairman.

Senator MOYNIHAN. The measures that have been presented this morning have been presented in the context of your being Assistant Secretary for Tax Policy and the right President on the scene.

Mr. LUBICK. Right.

The CHAIRMAN. Thank you, Donald.

Next, Ms. Marvel. As you pointed out, you have spent many years, 15 years, representing clients in all stages of the tax collection process. You have heard the problems that were highlighted by our recent hearings. Do you have any suggestions as to what changes, if any, should be made in the collection process?

Ms. MARVEL. Mr. Chairman, in actuality, it has been almost 24 years that I have been practicing.

The CHAIRMAN. You started at age two? [Laughter.]

Ms. MARVEL. Thank you, kind sir. But in point of fact, yes, Mr. Chairman, I do. If there is one area of the Internal Revenue Service that I believe contributes to the lack of satisfaction on the part of taxpayers, it is the Collection Division.

Now, part of that is because of the nature of what they do, but part of it is the way in which certain collection officers behave. There has been historically a tendency on the part of some—not all—of the revenue officers who contact taxpayers to start that dialogue with an enormous chip on the institutional shoulder. That creates from the very beginning a level of acrimony and a level of perception of persecution that is really not what the system should convey or intends to convey.

One of the things that I believe the Commissioner and the Service needs to work harder at is to have the revenue officers who deal directly with taxpayers help them. There should never be a threat.

And there is always a threat in many instances where revenue officers contact small businesses who are struggling, for example, with a cash flow problem and who have gotten behind on their employment taxes. The threats create a distorted conversation, and that needs to stop.

But for the Service to deal with what is a terrible problem with interest and penalties, if there is greater flexibility to deal with the receivables of the government in a business-like fashion, all of those things would help the Collection Division to do its job the way I believe Congress intends it to do. But it will be a very interesting challenge.

The CHAIRMAN. I find your comments very interesting and I would suggest that some members of the staff may like to consult with you.

Ms. MARVEL. I would be very happy to help in any way I can.

The CHAIRMAN. Thank you.

Senator MOYNIHAN. Mr. Chairman, not to prolong, although I must say you may know you are doing us the service, not inconsiderable, of allowing us to miss our party caucuses. [Laughter.]

Ms. MARVEL. I am terribly sorry about that.

The CHAIRMAN. He said that, I did not.

Senator MOYNIHAN. I do think there is a pattern of small businesses running into difficulty putting off payroll taxes and then finding themselves in real criminal kind of problems when they were just having cash flow problems.

The CHAIRMAN. Like the 10 cents ending up costing \$500.

Senator MOYNIHAN. Yes. Yes.

The CHAIRMAN. I propound the same question to you, Mr. Thornton.

Mr. THORNTON. Mr. Chairman, I fully agree with the remarks Ms. Marvel has made. I would also just remark that in the past few months just contemplating my move to the court I have attended a number of sessions of the court and I have been impressed of the degree to which the trial court judges at the Tax Court attempt to serve the role of judicial oversight and smooth out some of these problems.

I think it is unfortunate that it has to go to that stage of litigation, but I do think that ultimately there is a valve for the taxpayer to find some relief and I would certainly hope to be able to be part of that process to help address problems that taxpayers ultimately bring to court.

The CHAIRMAN. Very good. We will consult with you, too, Mr. Thornton.

Let me just ask one further question of you, Mr. Lubick. As you know, much of the complexity in the new capital gains rule is because of the 18-month holding period required which was in neither the House nor Senator version of the Taxpayer Relief Act of 1997. According to a recent estimate by the Joint Committee on Taxation, repealing the 18-month holding period would essentially be revenue neutral over 5 years.

Do you think that we should make this change to simplify the rule for millions of individuals with capital gains?

Mr. LUBICK. I think the capital gains area is an area that seems to engender much complexity. At this stage, I would like to commend you, Mr. Chairman, and you, Senator Moynihan, for your cooperation last fall in joining us in signing a letter that pledged to correct some of those complications in a technical corrections act.

It was very vital. We were in a very serious pinch at that time as to how to prepare tax returns, the way the law was intended to be or the way the law was written. You stepped up in a very timely fashion, I think, to help assure the progress of this year's filing system.

On the basic question, I am troubled by the number of holding periods which contribute to complexity. We have 0 to 12, 12 to 18, 18 to 5. That being said, the 18-month holding period was a function of a bargain in the legislation that was passed and I think there is some question as to how frequently we want to undo things year after year.

But I certainly would like to work with you on that issue, and anything that we can do to bring about simplification is of first order on our priorities, and I think one of the areas where it is most needed is the one you have alluded to.

The CHAIRMAN. Well, we look forward to working with you. I think it is essential to simplify that area of the Code.

Do you have any more questions?

Senator MOYNIHAN. No, sir.

The CHAIRMAN. Well, thank you very much. We appreciate your being here. We will try to move forward with the confirmation as rapidly as possible.

Senator MOYNIHAN. It is looking good.

The CHAIRMAN. The committee is in recess.

[Whereupon, at 1:34 p.m., the hearing was concluded.]

APPENDIX

ADDITIONAL MATERIAL SUBMITTED FOR THE RECORD

PREPARED STATEMENT OF HON. JOHN BREAUX

Mr. Chairman: I want to briefly congratulate and strongly endorse Richard Fisher for the position of Deputy U.S. Trade Representative.

I understand that he will cover Asia, the Western Hemisphere, and intellectual property issues. His responsibilities seem to include the whole range of hot issues: melting Southeast Asian economies, a Communist/market oriented China, a bubble breaking Japan, a volatile Mexico, an emerging CBI region, and an ambitious Free Trade Area of the Americas process.

As a cochair of a CSIS Congressional Study Group on MERCOSUR (Argentina, Brazil, Paraguay, and Uruguay), an original cosponsor of the Chairman's CBI Parity textile and apparel bill, and having just returned from a trip to Mexico and Central America, I especially look forward to working with him on Latin American and Caribbean trade issues.

Additionally, I'm told that Erin Ennis will be his executive assistant. She was an excellent employee in my office for several years and I know she will continue as an excellent assistant to him as well.

Mr. Chairman, I've known this nominee for a long time and I am certain he will represent this country well. I wish him good luck on this challenging and important assignment.

PREPARED STATEMENT OF HON. TOM DASCHLE

Mr. Chairman and members of the committee, thank you for this opportunity to express my support for the nomination of Michael B. Thornton to the U.S. Tax Court. I know Mike Thornton to possess both vast tax policy experience and good judgment, qualities that equip him to serve with distinction on the U.S. Tax Court.

I have known Mike for nearly a decade, having first been exposed to his work as Tax Counsel to the House Ways and Means Committee. Since that time, my staff and I have worked with Mike on a number of tax issues and have come to rely on his expertise and counsel in this area. I could not be more pleased to support his nomination.

Most recently, Mike has served as Deputy Tax Legislative Counsel at the Department of the Treasury, where he has provided legal and policy analysis to the Assistant Secretary for Tax Policy. Prior to serving in this position, Mike was Tax Counsel to the Committee on Ways and Means, and an attorney in private practice representing clients in disputes with the Internal Revenue Service and in litigation before the U.S. Tax Court and the U.S. Court of Federal Claims.

Mike's diverse work experience has imbued him with a deep understanding of the formulation, implementation and interpretation of tax law and has provided him with precisely the balance of perspective from which the Tax Court would benefit. This perspective, in addition to the rigorous and thorough manner in which he approaches his work, will enable Mike to resolve disputes in a thoughtful, well-reasoned and fair manner.

Mr. Chairman, Michael Thornton is an individual of exceptional ability, character and integrity. I enthusiastically recommend him for consideration by the Committee and urge you to approve his nomination.

Thank you.

PREPARED STATEMENT OF HON. ORRIN G. HATCH

Mr. Chairman, I welcome the President's nomination of Mr. Fisher to be Deputy USTR. A glance at his impressive background suggests that the appointment of an individual with his specific credentials could not be more timely.

I refer to Mr. Fisher's background in investment banking and finance. And, I applaud these credentials not simply in light of the nettlesome financial services and multilateral investment agreements facing our negotiators, but also because of the continuing international currency crises.

Our trade negotiators need more wisdom on the relationship of currency exchange rates and currency manipulation to merchandise trade. I, for one, believe that Mexico's peso devaluation was the only course of action available to that country in light of the weight of its government debt. At the time, I had confidence in the Mexican Government. I knew they would allow the Mexican currency to find its own market level, and I knew that the short-term loss of US export opportunities would arouse much US opposition to NAFTA. Perhaps it was a grasp of the obvious, since all of those things happened.

The Asian crisis is much more complex, and the fundamental issues are different from Mexico. The Asian debt is largely private, not public; and some countries face insolvency, not illiquidity, as in Mexico. Restructuring Asian debt will almost certainly require more participation from private financial institutions, and, I regret to add, losses for some of those institutions. Here, the link between currency resurrection and trade could not be more obvious. It is also a little more frightening since, theoretically, the US and other industrialized countries will face cheaper imports. Confidence in the global trading system will diminish as US and other manufacturers find their domestic production prices less competitive. If the cheap import effect is predatory, eliminating US domestic competition, even the short-term benefits enjoyed by consumers could reverse themselves.

It is for these reasons that I have supported the Treasury Department's initiatives in joining the IMF to create stability during the rebuilding process.

Mr. Fisher's knowledge and experience are needed in this rebuilding process. The President acted wisely in choosing him, and I am pleased to support the nomination.

**Confirmation Testimony of Richard W. Fisher
before the Senate Finance Committee
Wednesday, January 28, 1998**

Thank you, Mr. Chairman and Members of the Committee. And thank you Senator Hutchison for your kind and thoughtful introduction. It takes a big person to set aside old rivalries and extend a helping hand to a former competitor. I am especially grateful that you have so graciously supported my appointment.

Senator Bob Graham, I appreciate so much your endorsement. Senator Graham and I have spent a lot of time together in "Deep South Texas," the very frontier of NAFTA. I tried to teach him to speak Spanish like a true Tejano, but I couldn't quite get him to abandon the Caribbean Spanish of Florida. Other than that small deficiency, I consider Bob to be a perfect model of a public servant and a great Senator. I am honored to have him seated beside me.

And it is especially flattering to have Senator Lugar introduce me. We have known each other and worked together some 20 years. We first met on a trip to Iran, where we spend a fateful night in the American Embassy in Tehran not long before it was taken over by terrorists. Under those frightful circumstances, you get a pretty good measure of a man. There is simply no better man or better kind of public servant than Dick Lugar. Senator, thank you for your kind words.

Mr. Chairman, it is a great honor for me to be here. Last year marked the 50th anniversary of my parents' immigration to the United States. My father lived on the streets as a child in his native Australia. He never made it past elementary school; he went to work sweeping floors in a factory as a ten-year-old. His son received an American education, built a profitable business, and lived the American dream. That son now sits before you to be confirmed as an Ambassador. This appointment to serve as Deputy United States Trade Representative is my chance to pay back my country for the countless blessings it has bestowed upon me and my family.

China

The last time I sat in a Senate hearing room was as a young assistant to Secretary of the Treasury Michael Blumenthal, almost twenty years ago. We had just returned from Beijing, where we had negotiated with Deng Xiaoping and the Government of the People's Republic of China a settlement of counterclaims stemming from actions taken by our respective governments after the Communist revolution there. Then, there was no trade with China. Our action to settle our differences in Beijing in early 1979 helped pry open the doors to commercial trade between our nations.

At the time, with the exception of Japan, American trade policy did not focus much on the Asian-Pacific area. Apart from Japan, we were trading less than \$46 billion with Asia. Little of that was with China. China was neither on the map as a marketplace nor as a competitor. Today, trade with the Chinese generates some 220,000 American jobs. In 1997, we imported an

estimated \$64 billion in goods and services from China and exported some \$16 billion to China. China is now our fourth largest trading partner, the country with which we run the largest bilateral trade deficit, and the site of some of our most vexing trade policy problems.

When I was here before, the China trade agenda was a spare one. Today, two-way trade between our nations and China's integration into the WTO and other multilateral forums, offers a wealth of potential and a plethora of problems. As Walt Kelly's cartoon character, Pogo, once put it, we are constantly facing what seem to be "insurmountable opportunities" in dealing with China on trade. My job will be to somehow make them surmountable.

In the nineteen years since the Carter-Deng settlement of counterclaims, Beijing has been carefully protecting its domestic markets while pursuing an aggressive export-led strategy. Beginning with the market access understanding reached with the Bush administration and actively implemented by President Clinton, substantial progress has been made towards reducing barriers to imports of American goods. Further progress in addressing long-term systemic problems is being made within the context of China's efforts at accession to the WTO. Yet we still have very far to go before we reach what might be considered commercially viable access to the Chinese markets. Ambassador Barshefsky has charged me with pursuing an activist agenda on this front and I will do so. I look forward to working closely with you and your staff to craft policies that will open the Chinese market, bilaterally and through the WTO accession process, to the products and services of American labor and ingenuity.

Japan

Whereas our trade with China has radically changed, Japan in many ways represents a case of "the more things change, the more they stay the same." When I was in the Treasury in the 1970's, Japan had embarked on a dramatic upward economic trajectory. Academics were beginning to write of the presumed superiority of Japanese management methods and the certain inevitability of Japan becoming the number one economy in the world. By 1990, when my wife and children and I went to Tokyo to study first hand the Japanese "miracle," Tokyo could apparently do no wrong: inflation was low, unemployment was non-existent, the budget was virtually balanced, and the stock market and banking system were brimming over with cheap, ready capital. Japan was fast becoming the model for governments and bureaucrats elsewhere in Asia who believed they could allocate capital and goods more efficiently than the market could.

Now, Japan is in the throes of a prolonged recession and is no longer the subject of fawning books by management consultants and MIT professors. Nor is Tokyo any more the economic exemplar for other governments in the region. And the old excuses Tokyo often used to divert our attention away from trade issues-- that we had no credibility as long as we ran huge budget deficits and failed to "put our domestic house in order"-- no longer apply. Despite this remarkable turn of events, our trade problems with Japan persist. To be sure, our exports to Japan have increased five-fold these past twenty years. In the past five years alone, the Clinton Administration has negotiated thirty-three agreements with Tokyo to open further the Japanese

BEST AVAILABLE COPY

market. But we must still fight tooth and nail for access to the Japanese market for automotive products, agricultural goods, financial services, and for a fair and efficient distribution system.

Against the background of the current "Asian flu" that has placed the Japanese credit system and economy under added stress, one would think that the case for Prime Minister Hashimoto's promises to meaningfully deregulate and open key sectors of the Japanese economy would have been strengthened. But changes have been slow in coming.

Senators, I am not a Japan-basher. Japan is a great nation. She is one of our most important military and strategic allies. There are many, many things that I admire about Japan and Japanese culture. However, I do not admire the reluctance by Tokyo's bureaucrats and politicians to deregulate and open Japanese markets-- actions that would obviously benefit Japanese consumers and savers, liberate Japanese entrepreneurs, and help American exporters. This is an unacceptable situation. Now is a critical time for the Japanese government to be proactive in removing market barriers, visible and invisible. I expect to vigorously press the case for doing so.

The Asian Economic Crisis

During the Carter Administration, we rarely ventured forth on trade missions beyond Japan, with the occasional exception of South Korea. By 1997, Asia ex-China and Japan was purchasing almost one-fifth of all U.S. exports. The dynamics of these markets, however, have suddenly changed with the onset of the financial crisis in Korea, Thailand, Indonesia, and Malaysia. The events of the past few months have already led to the cancellation of significant orders from American exporters, and may well lead to more. Dramatic devaluations of the Korean won and the currencies of Southeast Asia will make the exports of these countries cheaper, while dampening local demand for imports from America, exacerbating trade imbalances with the region. Just seven months ago, when I was in Indonesia on private business, the per capita income of Indonesia in dollar terms was \$1000. Today, after the dramatic devaluation that has taken place in the rupiah, per capita income is close to \$200. The purchasing power of Korea, our fifth largest export market, has declined 48% in dollars over the same timeframe. The diminution of purchasing power in the region has been breathtaking.

To the degree there is overlap between exports of certain Southeast Asian countries and China, pressure will be exerted on China to play tit-for-tat with her exports, especially if growth in domestic demand in China weakens. If China were to attempt to follow suit with the kind of actions it took in 1994, when Beijing devalued the yuan and provided for tax rebates for exporters, the consequences could be grim.

In the case of Japan, it is important also to remember that intra-Asian trade represents over 40% of Japan's export sales and a significant share of Japanese investment and credit risk. The slowdown in growth in Korea and in Southeast Asia could further retard Japan's economic recovery, making it imperative that Tokyo take steps to stimulate domestic growth. This point is

worth stressing: Japan must take deliberate, pro-active initiatives to bolster economic growth and demand for imports from other Asian exporters. The U.S. cannot be expected to be the sole purchaser of Asian exports as these countries struggle to recover from the current crisis. The U.S. cannot be the sole engine of economic recovery in Asia.

Looked at from a positive perspective, there is a silver lining in the clouds darkening Asia's economic horizons: this crisis provides us with an opportunity to achieve long desired liberalization in the Asian economies. For example, the agreement signed by President Suharto with the International Monetary Fund on January 15 calls for far-reaching restructuring of the Indonesian economy, including the abandonment of government-sponsored and commercially-unsound ventures such as the National Car Project. Similarly, the Fund's demands for dismantling the preferential financial relationships that have fueled the expansion of Korea's chaebols without regard to commercial viability, will advance the agenda of market capitalism and open competition in which American exports and investments thrive. President Clinton, Secretary Rubin, and Ambassador Barshefsky strongly believe that the commitments these countries have agreed to take will result in freer markets and stronger rules-based agreements and institutions for achieving more open global trade in goods and services. This will be far preferable to turning protectionist and embarking on a beggar-thy-neighbor path.

APEC is also emerging as an increasingly important vehicle for trade liberalization in the region and this year I will be working hard to finalize agreements to open world markets and reduce barriers in nine important sectors -- all of considerable commercial interest to U.S. industry and workers.

Mexico and Latin America

The changes to our south, where I will also have responsibility within USTR, have been equally dramatic. Twenty years ago our foreign policy interests in Latin America focussed almost exclusively on human rights. Today, with democracy flourishing in Latin America, our attention has shifted to Latin America's burgeoning markets. Then, we had less than \$20 billion in two-way trade with Mexico. Today, post-NAFTA, more than \$150 billion in goods and services cross our common border, and Mexico has become our second largest export market, surpassing Japan, even though the Mexican economy is but one-twelfth the size of Japan's.

Similarly, trading opportunities with Brazil and Argentina, the giants of the Southern Cone, have blossomed. The mathematics of Brazil and Argentina are compelling: there are over 200 million people in these two countries, with an average per capita income of \$6000. China, by comparison, has 1.2 billion people with a per capita income of less than \$1000. Thus Brazil and Argentina alone represent the same level of current purchasing power as China. We should not underestimate the importance of this market area. I intend to pursue an active agenda to gain additional market access for American goods and services in the Southern Cone, and elsewhere in Latin America.

A priority task within the Western Hemisphere will be the development of practicable ways to implement the vision of a Free Trade Area of the Americas. To further negotiation of the FTAA, Ambassador Barshefsky will be meeting with her counterparts from the other 33 countries of the Hemisphere in Costa Rica in March. The President will meet in April with the heads of state and governments of the Hemisphere in Santiago, Chile. The FTAA is certain to be a key item on the Santiago agenda. Most all the Latin leaders I have come to know through my activities on the boards of the Inter-American Dialogue and the Institute of the Americas regard the current situation in Asia as an historic opportunity for the Americas. By showcasing the tremendous progress they have made in opening up their economies and making them more transparent and efficient, they expect to attract greater capital flows and investment in the future. There is thus within Latin America a golden opportunity to build upon this progress and make clear that the entire hemisphere is committed to free and open markets, and the Santiago Summit is a perfect forum for doing so.

Maintaining a focus on free and open Latin markets is especially important at this moment in time. The Latin economies are not immune to the "Asian flu." Most Latin American economies depend on natural resources exports for economic growth. Almost 40% of Chile's exports, for example, are accounted for by copper, 30% of which is sold in Asia. Brazil is a huge exporter of pulp and paper. Venezuela depends heavily on oil exports, as does Mexico, whose government derives over 30% of its income from those exports. The slump in Asia will lead to a reduction in demand for Latin raw materials, and with it, a down draft in prices for those materials, such that the incomes of our Latin neighbors will decline, reducing their purchasing power for American manufactured exports and services. We will have to be careful to respond with enlightened policy and remain vigilant in protecting our interests. Economic weakness in the region must not be used as a device for closing off markets or raising barriers to American products.

It is important, of course, to remember that trade is a two-way street. My other home state Senator, Phil Gramm, wisely reminds us that the flip side of trade is that it expands consumer choice in America, lowers prices for consumer goods, and thereby raises the living standards of our countrymen and women. We all have an interest, producers and consumers, in fighting off protectionist pressures abroad and at home. We all have an interest in turning a global economic slowdown into an opportunity for enhanced deregulation and opening of markets.

Conclusion

Mr. Chairman, I make no pretense of being especially brilliant or possessed of unique abilities in executing the Trade Deputy's duties, even if I am a Texan. But I do promise you this: I will take on this portfolio with vigor and total commitment. I will bring to bear every ounce of my experience in commerce, financial markets, academia, and public policy in performing my duties at USTR. I pledge to do everything I can to keep us on a path of executing trade policy that benefits American firms, workers, shareholders, and consumers.

Let me close with a word about the dedication of the Trade Representative's office to its work. The staff at USTR knows better than anyone that mutually beneficial trade policy leads to goodwill between nations, that unfair trade practices lead to mistrust, and that mistrust can have far-reaching consequences. The USTR staff is dedicated to developing, implementing, and enforcing fair and mutually beneficial trade policies. This is the cream of the crop of government servants. I doubt there is any group anywhere in this city that represents better value for the money you pay them. I am very proud to have been asked to serve on their team.

Mr. Chairman, when I was recess appointed by the President on December 16, my wife Nancy quipped that I had been "bar mitzvahed, but not confirmed." I am eager, Mr. Chairman, to answer any question you or the distinguished members on this Committee may have of me in order to secure your blessing to be confirmed by the Senate.

Thank you.

The White House,

OCT - 9 1997 19

To the

Senate of the United States.

I nominate

Richard W. Fisher, of Texas, to be

Deputy United States Trade Representative, with the rank of

Ambassador, vice Charlene Barshefsky.

William J. Clinton

DRAFT

DRAFT

THE WHITE HOUSE**Office of the Press Secretary****For Immediate Release****December 16, 1997****PRESIDENT CLINTON NAMES RICHARD W. FISHER AS DEPUTY U.S. TRADE REPRESENTATIVE (WASHINGTON) WITH THE RANK OF AMBASSADOR AT THE UNITED STATES TRADE REPRESENTATIVE**

The President today announced the recess appointment of Richard W. Fisher to be Deputy United States Trade Representative (Washington) with the rank of Ambassador. Mr. Fisher was nominated on October 9, 1997. Currently his nomination is pending before the Senate.

Richard W. Fisher, of Dallas, Texas, is a managing partner with Fisher Capital Management and Fisher Ewing Partners. He is Principal Investor and Chairman of FS3 and is also an Adjunct Professor at the University of Texas at Austin, LBJ School. He held several positions during the Carter Administration, including Executive Assistant to the Secretary of Treasury, assistant to President Carter at the Tokyo Economic Summit in 1979, advisor to the Bonn Economic Summit in 1978, and a member of the team that negotiated the historic Claims and Asset Settlement between the U.S. and the People's Republic of China. Currently, Mr. Fisher is Chairman of the Dallas Committee on Foreign Relations, Director of the United States Russia Investment Fund and a member of the Council on Foreign Relations. In 1994, Mr. Fisher was the Democratic nominee for the United States Senate from his home state of Texas. He graduated with honors from Harvard University in Economics in 1971 and received an M.B.A. from Stanford University in 1975.

The Deputy United States Trade Representative (Washington) is responsible for conducting trade negotiations and assisting the United States Trade Representative in developing and implementing international trade policy. In his new post, Mr. Fisher will negotiate with the nine industry sectors for market opening and tariff reductions which were identified by ministers and leaders in Vancouver at the APEC meeting. This must be completed by June 1998.

A. BIOGRAPHICAL INFORMATION

1. Name: Richard Welton Fisher. (aka Dick Fisher)
2. Position to which nominated: Deputy U.S. Trade Representative, with Rank of Ambassador.
3. Date of nomination: October 10, 1997
4. Address:
Home: 3644 Beverly Drive
Dallas, TX 75205

Office: 4600 Texas Commerce Tower
2200 Ross Avenue
Dallas, TX 75201
5. Date and place of birth: March 18, 1949 Los Angeles, CA.
6. Marital status: Married 24 years to Nancy Collins Fisher.
7. Names and ages of children: Andersen Collins Fisher, 21
Alison Elisabeth Fisher, 17
James Leslie Miles Fisher, 14
Catherine Texana Fisher, 11
8. Education: Admiral Farragut Academy (Naval Academy Prep. School)
Pine Beach, NJ
1963-67

U.S. Naval Academy
Annapolis, MD
1967-69
Engineering Major

Harvard University
Cambridge, MA
1969-71
B.A., Economics

Oxford University
Oxford, England
1972-73
Latin American Studies

Stanford University
Stanford, CA
1973-75
M.B.A., Finance

9. Employment record:
- Fisher Capital Management
Managing Partner
Dallas, TX
4/1/87 to present
 - Fisher Ewing Partners
Managing Partner
Dallas, TX
10/1/93 to present
 - FS3, Inc.
Chairman and CEO
3/16/95 to present
 - Fisher Information Systems, Inc.
Chairman and CEO
12/21/92 to 3/16/95
 - Brown Brothers Harriman & Co.
Various positions culminating in Senior
Manager, 1980-1987
 - U.S. Treasury Department
Executive Assistant to the Secretary
10/78-9/79
 - U.S. Treasury Department
Policy Planning Coordinator
5/77-10/78

Brown Brothers Harriman & Co.
Assistant to Robert Roosa, 1975-77

10. Government experience: None other than U.S. Treasury above
11. Business relationships:
- Managing Partner, Fisher Capital Management, 1987 to present
 - Managing Partner, Fisher Ewing Partners, 1993 to present
 - General Partner, Fisher Family Fund, L P , 1995 to present
 - Chairman and CEO, FS3, Inc., 1995 to present
 - Chairman and CEO, Fisher Information Systems, Inc., 1992 to 1995
 - Senior Manager, Brown Brothers Harriman & Co., 1980-1987
 - Executive Assistant to Secretary of the Treasury and Coordinator of Policy Planning, U.S. Treasury Department, 1977-1979
 - Deputy Manager, Brown Brothers Harriman & Co., 1975-1977
 - Director, University of Texas Investment Management Co. (UTIMCO), 1996 to present
 - Trustee, John Tower Center, Southern Methodist University, 1992 to present
 - Member, Board of Overseers of Harvard University's Committee to Visit the John F. Kennedy School of Government, 1992 to present
 - Member, Board of Overseers of Harvard University's Committee to Visit the Center for International Affairs, 1987 to present
 - Member, Committee on University Resources, Harvard University, 1992 to present
 - Member, Academic Affairs Standing Committee for the Board of Trustees, Southern Methodist University, 1991-1992
 - Member, Advisory Board of School for Advanced International Studies, The Johns Hopkins University, 1984-1990
 - Trustee, American Institute for Contemporary German Studies, The Johns Hopkins University, 1984-1997

Chairman, Stanford University Business School Trust, 1982-1984; Trustee, 1979-1985

Director, The U.S. Russia Investment Fund, 1995 to present (Clinton appointee)

Director, Russian-American Enterprise Fund, 1993-95 (Clinton appointee)

Director, American Council on Germany, 1985-1994; 1995 to present

Member, Board of Directors, Inter-American Dialogue, 1985 to present

Chairman, Goodwill Industries of Dallas, Inc., 1994; Director, 1989 to 1995;
Executive Committee, 1992-1995; Finance Committee, 1989-1993; Foundation
Committee, 1990; Pension Fund Committee, 1989

Chairman, Institute of the Americas (San Diego), 1986-1991; Member 1986-1993

Member, Philosophical Society of Texas, 1991 to present

Trustee, Southwestern Medical Foundation. 1991 to present

Member, Board of Directors, Dallas Museum of Art, 1984-1990; Vice President, 1987-
1988; Executive Committee, 1984-1990; Development Committee, 1984-1986; Chairman,
Membership Committee, 1985-1986; Chairman, Corporate Council, 1986-1988; Task
Force on Compensation, 1986-1987; Public Affairs Committee, 1988-1989

Chairman, International Committee, Dallas Chamber of Commerce, 1984; Executive
Committee, 1984-85; Member 1983-1985

Founding Chairman, Dallas Committee on Foreign Affairs, 1985 to present

Member, Council on Foreign Relations, 1982 to present; Term Member, 1976-1981; Term
Membership Committee, 1978-1981; Member, Board Committee on Washington and
National Programs, 1997 to present

Director, Boys and Girls Club of Greater Dallas, Inc., 1982-1987

Trustee, Children of T. Montgomery Jones and Mary Jones, 1990

12. Memberships:

Director, University of Texas Investment Management Co. (UTIMCO), 1996 to present

Trustee, John Tower Center, Southern Methodist University, 1992 to present

Member, Board of Overseers of Harvard University's Committee to Visit the John F.

Kennedy School of Government, 1992 to present

Member, Board of Overseers of Harvard University's Committee to Visit the Center for International Affairs, 1987 to present

Member, Committee on University Resources, Harvard University, 1992 to present

Member, Academic Affairs Standing Committee for the Board of Trustees, Southern Methodist University, 1991-1992

Member, Advisory Board of School for Advanced International Studies, The Johns Hopkins University, 1984-1990

Trustee, American Institute for Contemporary German Studies, The Johns Hopkins University, 1984-1997

Chairman, Stanford University Business School Trust, 1982-1984; Trustee, 1979-1985

Director, The U.S. Russia Investment Fund, 1995 to present (Clinton appointee)

Director, Russian-American Enterprise Fund, 1993-95 (Clinton appointee)

Director, American Council on Germany, 1985-1994; 1995 to present

Member, Board of Directors, Inter-American Dialogue, 1985 to present

Chairman, Goodwill Industries of Dallas, Inc., 1994; Director, 1989 to 1995; Executive Committee, 1992-1995; Finance Committee, 1989-1993; Foundation Committee, 1990; Pension Fund Committee, 1989

Chairman, Institute of the Americas (San Diego), 1986-1991; Member 1986-1993

Member, Philosophical Society of Texas, 1991 to present

Trustee, Southwestern Medical Foundation, 1991 to present

Member, Board of Directors, Dallas Museum of Art, 1984-1990; Vice President, 1987-1988; Executive Committee, 1984-1990; Development Committee, 1984-1986; Chairman, Membership Committee, 1985-1986, Chairman, Corporate Council, 1986-1988; Task Force on Compensation, 1986-1987; Public Affairs Committee, 1988-1989

Chairman, International Committee, Dallas Chamber of Commerce, 1984; Executive Committee, 1984-85; Member 1983-1985

Founding Chairman, Dallas Committee on Foreign Affairs, 1985 to present

Member, Council on Foreign Relations, 1982 to present; Term Member, 1976-1981; Term Membership Committee, 1978-1981; Member, Board Committee on Washington and National Programs, 1997 to present

Director, Boys and Girls Club of Greater Dallas, Inc., 1982-1987

Resident Member, Dallas Country Club, 1981-1993; Family Member 1994 to present

Member, Dallas Petroleum Club, 1990 to present

13. Political affiliations and activities:

- a. List all public offices for which you have been a candidate:

Democratic Candidate for U.S. Senate, Special Election 1993
Democratic Party Nominee for U.S. Senate, 1994

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

None

- c. Itemize all political contributions to any individual, campaign organization, political party, political action committee, or similar entity of \$50 or more for the last 10 years.

<u>Contribution To:</u>	<u>Date</u>	<u>Amount</u>
Albert Gore for President	10/7/87	\$1,000
Gephardt For President	10/13/87	250
Dukakis For President	6/23/88	1,000
Democratic National Committee	7/28/88	850
Dallas County Democratic PAC	9/2/88	1,000
Kress for Congress Primary	6/15/89	1,000
Dallas Democratic Forum	7/28/89	150
Martin Frost Campaign Committee	7/31/89	1,000
Steve Bartlett Congressional Comm.	10/12/89	1,000
Lawton Chiles For Governor	8/21/90	100
Friends of Eddie Bernice Johnson	12/7/90	100
Steve Bartlett Mayoral (Dallas) Campaign	2/15/91	5,000
Glenn Box City Council Campaign	2/16/91	250
Martin Frost Campaign Committee	3/21/91	1,000

Lloyd Bentsen Election Committee	4/8/91	1,000
Friends of Dick Lugar	1/7/92	1,000
Progressive Policy Institute	2/28/92	10,000
Helen Giddings Campaign	8/18/92	250
Wyche Fowler For Senate	11/17/92	1,000
Dallas Democratic Forum	8/17/93	200
Elizabeth Spates Campaign	10/8/93	250
Dallas Democratic Party	11/8/93	500
Dallas Democratic Forum	11/30/94	50
A Lot of People Supporting Tom Daschle U.S. Senate (Primary)	8/8/95	1,000
A Lot of People Supporting Tom Daschle U.S. Senate (General)	8/8/95	1,000
Chris Bell for City Council (Houston)	8/8/95	2,500
John Creuzot Campaign	8/28/95	350
Leo Alvarado, Jr. Campaign	12/15/95	1,000
The Oregon Democratic Party	1/18/96	2,000
Rusty Maley Campaign	1/31/96	250
Friends of Bob Graham	2/13/96	500
TX Senate Democratic Campaign Comm.	3/4/96	1,000
Texas Democrats United	3/20/96	5,000
Tim Johnson for Senate Campaign'96	3/29/96	1,000
South Dakota Coordinated Campaign	3/29/96	2,000
Texas Democratic Party	4/17/96	1,000
Sandlin for Congress	5/3/96	1,000
Parmer for U.S. Congress	5/14/96	1,000
The Kerry Committee	6/25/96	500
Rick Weiland for Congress	8/23/96	1,000
Martin Frost Campaign	10/17/96	200
John Poulard For Congress	10/17/96	200
Eddie Bernice Johnson For Congress	10/17/96	200
Texas Democratic Party	12/31/96	1,700
Chris Bell (Houston) Campaign	1/9/97	1,000
Friends for Harry Reid (Primary)	2/19/97	1,000
Friends for Harry Reid (General)	2/19/97	1,000

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

John Tower Fellow, Southern Methodist University, 1995-96
 Order of Bernardo O'Higgins, *gran oficial*, for service to Chilean democracy, 1993
 U.S.-Japan Leadership Fellow, 1990
 Stanford University Associates' Outstanding Achievement Award, 1985

Armed Forces of the United States, National Defense Service Medal, 1969

15. Published writings:

Following are the published articles in our files:

We Fishers Never Looked Back, *Dallas Morning News*, June 13, 1997

Comment re 1997 Plenary Report, Inter-American Dialogue, page 30

Why I Won't Run Against Phil Gramm For Senate Seat, *Dallas Morning News*,
November 19, 1995

Government Must Keep Reducing Deficit, *Dallas Morning News*, April 6, 1995

No More Pas de Deux With Madame Crésion, *Watt Street Journal*, April 17, 1992

U.S. Must Continue As A Beacon of Liberty, *Dallas Times Herald*, November 5, 1990

Japan's Consuming Desire, *Dallas Morning News*, July 15, 1990

America Has Made The World Safe for Democracy. Now What?, Federal Reserve Bank
of Dallas, Proceedings of the 1990 Conference on the Southwest Economy

Let's Prepare For German Unity, *Dallas Morning News*, February 4, 1990

Rhetoric Won't Win Drug War, *Dallas Morning News*, October 15, 1989

U.S. Economy Has A Unique Capacity For Adjustment, Recovery, *Dallas Times Herald*,
June 6, 1989

Argentina's Challenge Is Formidable, *Dallas Morning News*, May 12, 1989

A Hard Choice For Chileans, *New York Times*, September 12, 1988

Realistic Look At Brazil Isn't Pretty, *Dallas Morning News*, March 5, 1988

Economic Problems' Cures Won't Be Simple, *Dallas Times Herald*, October 22, 1987

America Has Lost Its Way, *New York Times*, July 4, 1987

Why W. Germans Won't Budge, *Dallas Morning News*, November 8, 1986

Failed Summit May Hurt Thatcher, *Dallas Times Herald*, October 31, 1986

Mr. Reagan, Be Careful In Reykjavik, *Dallas Times Herald*, October 3, 1986

Tragedy Of Protectionism, *Dallas Morning News*, September 22, 1985

Summits Much The Same, *Dallas Morning News*, May 4, 1985

Southwest U.S. To Have Bigger Foreign Policy Voice In Future, *Dallas Morning News*,
March 29, 1985

Growing Thrust Of Sun Belt Shifting Foreign Policy Power, *Dallas Morning News*,
June 17, 1983

16. Speeches: List all formal speeches you have delivered during the past five years which are on topics relevant to the position for which you have been nominated. Provide the Committee with two copies of each formal speech.

None

17. Qualifications:

From my undergraduate years onward, I have been a student of applied economics. After Stanford Business School, I was fortunate to be taken under the wing of

Robert V. Roosa, one of the greatest minds of his time in international monetary and trade matters, interning for him at Brown Brothers Harriman. Subsequent to Mr. Roosa, I served two years as Executive Assistant to the Secretary of the Treasury (W. Michael Blumenthal) and Coordinator for Policy Planning for the Under Secretary for International Affairs (Anthony Solomon), during which time I prepared both men and assisted them in policy deliberations within the Administration and with their foreign counterparts. I participated in the negotiation of the Claims and Asset Settlement with the Peoples Republic of China in Beijing, attended the G-7 Summit in Tokyo (and assisted in the preparation of policy for visits to Washington by the Japanese Prime Minister and other members of the Japanese cabinet), and accompanied the Secretary on his travels to Korea, Mexico and Latin America, as well as to the Middle East, Europe and the Soviet Union and Eastern Europe. I am familiar with diplomacy, both within an administration in the inter-agency process, and abroad with foreign powers.

Since leaving Treasury in 1979, I have chaired the Institute of the Americas board and been active in the Inter-American Dialogue, where I serve on the Executive Committee. I have lived and studied in Japan. As an investment manager, I have stayed abreast of developments in the markets for goods and capital in both the Far East and in the Americas.

I have also experienced what it is like to run (in my case unsuccessfully) for the U.S. Senate and understand the pressures on elected officials and their staffs.

One other qualification which I consider to be important: I am a patriot. My parents were fortunate to be taken into America and made citizens 50 years ago. I was raised to love my country and to serve it. I will do so with enthusiasm and total dedication.

B. FUTURE EMPLOYMENT RELATIONS

1. Will you sever all connections with your present employers, business firms, associations, or organizations if you are confirmed by the Senate? If not, provide details.

Yes, except I will remain a member of the Visiting Committee of Harvard's Kennedy School and Center for International Affairs, the Council on Foreign Relations, and the Dallas Committee on Foreign Relations.

I will also enter into severance arrangements with Fisher Ewing Partners and Fisher Capital Management as described under F.7. below.

2. Do you have any plans, commitments, or agreements to pursue outside employment, with or without compensation, during your service with the government? If so, provide details.

No

3. Has any person or entity made a commitment or agreement to employ your services in any capacity after you leave government service? If so, provide details.

No

4. If you are confirmed by the Senate, do you expect to serve out your full term or until the next Presidential election, whichever is applicable? If not, explain.

Yes

C. POTENTIAL CONFLICTS OF INTEREST

1. Indicate any investments, obligations, liabilities, or other relationships which could involve potential conflicts of interest in the position to which you have been nominated.

Except for investments, related and other matters described herein, none.

2. Describe any business relationship, dealing or financial transaction which you have had during the last 10 years, whether for yourself, on behalf of a client, or acting as an agent, that could in any way constitute or result in a possible conflict of interest in the position to which you have been nominated.

None; all investments which might present conflicts of interest will be divested of by the time I am confirmed by the Senate, or otherwise a waiver has been obtained from U.S.T.R.

My interest in Fisher Ewing Matz, L.L.C. involves a transaction pending in New Zealand. If the transaction goes forward and is consummated, I would recuse myself from all New Zealand related matters.

3. Describe any activity during the past 10 years in which you have engaged for the purpose of directly or indirectly influencing the passage, defeat, or modification of any legislation or affecting the administration and execution of law or public policy. Activities performed as an employee of the Federal government need not be listed.

None

4. Explain how you will resolve any potential conflict of interest, including any that may be disclosed by your responses to the above items. (Provide the Committee with two copies of any trust or other agreements.)

The waivers and recusal as described above.

5. Two copies of written opinions should be provided directly to the Committee by the designated agency ethics officer of the agency to which you have been nominated and by the Office of Government Ethics concerning potential conflicts of interest or any legal impediments to your serving in this position.

U.S.T.R. will provide.

6. The following information is to be provided only by nominees to the positions of United States Trade Representative and Deputy United States Trade Representative.

Have you ever represented, advised, or otherwise aided a foreign government or a foreign political organization with respect to any international trade matter? If so, provide the name of the foreign entity, a description of the work performed (including any work you supervised), the time frame of the work (e.g., March to December 1995), and the number of hours spent on the presentation.

No

D. LEGAL AND OTHER MATTERS

1. Have you ever been the subject of a complaint or been investigated, disciplined, or otherwise cited for a breach of ethics for unprofessional conduct before any court, administrative agency, professional association, disciplinary committee, or other professional group? If so, provide details.

No

2. Have you ever been investigated, arrested, charged, or held by any Federal, State, or other law enforcement authority for a violation of any Federal, State, county or municipal law, regulation, or ordinance, other than a minor traffic offense? If so, provide details.

No

3. Have you ever been involved as a party in interest in any administrative agency proceeding or civil litigation? If so, provide details.

Yes. In 1986, we were Plaintiffs in Richard W. and Nancy Fisher vs. Johnny D. Roberts for recovery of damages arising from an auto accident. Concluded by default judgment September 4, 1990 in the County Court at Law #5, Dallas County, Texas.

In addition, Value Partners, Ltd. is occasionally involved in litigation as a plaintiff protecting its investments, (e.g. presently we are plaintiffs as part of a group of

bondholders in Merisel, Inc. against another investment group seeking to buy that company).

4. Have you ever been convicted (including pleas of guilty or nolo contendere) of any criminal violation other than a minor traffic offense? If so, provide details.

No

5. Please advise the Committee of any additional information, favorable or unfavorable, which you feel should be considered in connection with your nomination.

None

E. TESTIFYING BEFORE CONGRESS

1. If you are confirmed by the Senate, are you willing to appear and testify before any duly constituted committee of the Congress on such occasions as you may be reasonably requested to do so?

Yes

2. If you are confirmed by the Senate, are you willing to provide such information as is requested by such committees?

Yes

PREPARED STATEMENT OF DONALD C. LUBICK

Mr. Chairman, Senator Moynihan, Members of the Senate Finance Committee:

I am deeply honored to appear before this committee for the second time in my life as the president's nominee to serve as Assistant Secretary of the Treasury for Tax Policy. I am grateful to President Clinton and Secretary Rubin for this opportunity. Few persons ever are so fortunate as to be nominated for this position—I believe I am the only one to be doubly blessed.

Actually, this is the third time for me to represent the Treasury in close dealings with the Senate Finance Committee. From 1961 through 1964, I headed the Treasury's legal staff under Assistant Secretary Stanley Surrey and had the chance to associate closely with Senators John Williams, Thruston Morton, Harry Byrd, Robert Kerr, Russell Long and many others. In my tenure from 1977 through the beginning of 1981, I enjoyed a close relationship with you, Mr. Chairman, Senator Moynihan, Senator Chafee and Senator Baucus, as well as Senators Long, Dole, Packwood, Danforth and many other of your illustrious predecessors. The collegial atmosphere of this Committee has always provided a unique experience for the Treasury's emissary and one that has always provided an exhilaration that cannot be duplicated.

Regardless of differences of opinion between the administrations I have represented and Members of the Committee, the experience of being part of the best governmental process the world has offered has always been awesome for a small city lawyer from upstate New York.

This is a time when we shall engage in great debate on how we raise the revenue for the conduct of our government. The decisions debated by this committee are momentous ones. We all want to raise that revenue as fairly and simply as possible and to contribute to the efficiency of the world's greatest economy. It is a real privilege to be here before you today and I look forward to answering your questions.

The White House,

OCT - 9 1997 19

To the

Senate of the United States.

I nominate

Donald C. Lubick, of Maryland, to

be an Assistant Secretary of the Treasury, vice Leslie B.

Samuels. resigned.

William J. Clinton

THE WHITE HOUSE

Office of the Press Secretary

For Immediate Release October 10, 1997

PRESIDENT CLINTON NAMES DONALD C. LUBICK AS ASSISTANT SECRETARY FOR TAX POLICY

Today, President Clinton announced the nomination of Donald C. Lubick to be Assistant Secretary for Tax Policy at the Department of the Treasury. Lubick brings to the position an extensive background in Federal tax policy, having held the same position during the Carter Administration.

Mr. Lubick, of Maryland, was named Acting Assistant Secretary for Tax Policy in June 1996. From 1994 to 1996, he was the Department's director of the Tax Advisory Program for Central and Eastern European countries and the former Soviet Union. Since 1992, as a member of a panel of experts in the Fiscal Affairs Department of the International Monetary Fund and a senior Fellow with Harvard Law School's International Tax Program, Lubick has participated in tax reform missions to Russia, Czechoslovakia and the Dominican Republic, among other countries.

From 1981- 1994, Lubick was a partner with the law firm of Hodgson, Russ, Andrews, Woods & Goodyear, where he also worked from 1950 - 1961 and 1964 - 1977. In both interims, Lubick served at the Department of the Treasury. From 1961 to 1964, he was the Department's Tax Legislative Counsel. Then he was Assistant Secretary for Tax Policy from 1978 to 1981. Prior to his 1978 appointment, he served as Deputy Assistant Secretary and Acting Assistant Secretary for Tax Policy.

Mr. Lubick is a graduate of both Harvard University Law School and the University of Buffalo. He is a member of the American Law Institute, a past member of the Advisory Group to the Commissioner of Internal Revenue, and formerly chaired the American Bar Association's Committee on Domestic Relations Tax Problems.

-30-30-30-

A. BIOGRAPHICAL INFORMATION

1. Name:

Donald C. Lubick

2. Position to which nominated:

Assistant Secretary of the Treasury (Tax Policy)

3. Date of nomination:

October 9, 1997

4. Address:

Residence: 7111 Lenhart Drive
Chevy Chase, MD 20815

Office: Main Treasury
1500 Pennsylvania Avenue, NW
Washington, DC 20220

5. Date and place of birth:

April 29, 1926, Buffalo, NY

6. Marital status:

Married -- Susan F. Cohen

7. Names and ages of children:

Jonathan E. Lubick 36
Caroline Lubick Goldzweig 34
Lisa Lubick Daniel 33

8. Education:

Lafayette High School, Buffalo, NY, 1938-1942
B.A., University of Buffalo, 1945, 1942-1945
J.D., Harvard University, 1949, 1947-1949

9. Employment record:

1945-46, U.S. Army Air Force-military service
1949-50 Harvard University, Teaching Fellow in Law, Cambridge, MA
1949 (summer), 1950-1961, 1964-1977, 1981-1994, associate, then partner, Hodgson, Russ, Andrews, Woods & Goodyear, lawyers, Buffalo, NY and Washington, DC
1950-1961, University of Buffalo, Buffalo, NY, Lecturer in Law
1961-1964, U.S. Treasury Department, Tax Legislative Counsel
1977-1981, U.S. Treasury Department, Deputy Assistant Secretary (Tax Policy), then Assistant Secretary (Tax Policy)
1994-present, U.S. Treasury Department, Director of U.S. Treasury Tax Advisory Program for Countries of Central and Eastern Europe and the Former Soviet Union, and beginning June 1, 1996, Acting Assistant Secretary (Tax Policy)

10. Government experience:

Chairman, Tax Revision Committee, City of Buffalo, NY
Member, Advisory Committee on Reform of the Election Laws, New York Legislature
Member, Advisory Group to Commissioner of Internal Revenue

11. Business relationships:

Partner, Hodgson, Russ, Andrews, Woods & Goodyear, Buffalo, NY
Director and Secretary, C.J. Tower & Sons, Inc., Buffalo, NY
Director and Secretary or Assistant Secretary of numerous small corporate clients

12. Memberships:

Erie County Bar Association, Buffalo, NY, Chairman, Taxation Committee
New York State Bar Association, Chairman, Committee on Tax Policy, Tax Section
American Bar Association, Chairman, Committee on Domestic Relations

13. Political affiliations and activities:

- a. List all public offices for which you have been a candidate.

None

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

None

- c. Itemize all political contributions to any individual, campaign organization, political party, political action committee, or similar entity of \$50 or more for the past 10 years.

Democratic National Committee - 1996 - \$100

14. Honors and Awards:

Scholarships, University of Buffalo, NY, State Regents
Member Phi Beta Kappa
Treasury Exceptional Service Award, 1964, Alexander Hamilton Award, 1980

15. Published writings:

(with Ward Hussey), Basic World Tax Code and Commentary, Tax Analysts, 1992, revised edition, 1996

University of Buffalo Law Review, 1954, Designing Profit Sharing Plan for a Small Company

Taxes, 1964, Personal Holding Companies, Yesterday, Today and Tomorrow

Harvard Law Review, 1953, Review of Cases on Civil Procedure by Kaplan and Field

Harvard Law Review, 1983 tribute to Stanley Surrey on his death

Tax Notes, 1982, Safe Harbor Leasing (with Harvey Galper)

Taxes, 1993, Use of Legislative History in Interpreting the Code (with Bradford Ferguson and Frederic Hickman)

16. Speeches:

No formal speeches; numerous extemporaneous informal speeches

17. Qualifications:

I believe my extensive experience as a tax policy official at the U.S. Treasury Department, both currently and in the past, coupled with my experience in teaching tax law and as a longtime private practitioner, qualify me to perform the analytical work required for the position. At the same time that experience has sensitized me to all the considerations taken into account in the formulation of tax policy, both legal and economic. I believe I have an understanding of the problems faced by private taxpayers, as well as legislators and the Treasury, in confronting tax policy problems. My work in eastern Europe in assisting the development of tax administration has educated me in the problems of fair and honest tax administration.

B. FUTURE EMPLOYMENT RELATIONSHIPS

1. Will you sever all connections with your present employers, business firms, associations, or organizations if you are confirmed by the Senate? If not, provide details.

Presently employed by U.S. Government.

2. Do you have any plans, commitments, or agreements to pursue outside employment, with or without compensation, during your service with the government? If so, provide details.

None, other than continuing as personal trustee without compensation as described in F 5.

3. Has any person or entity made a commitment or agreement to employ your services in any capacity after you leave government service? If so, provide details.

No

4. If you are confirmed by the Senate, do you expect to serve out your full term or until the next Presidential election, whichever is applicable? If not, explain.

Yes

C. POTENTIAL CONFLICTS OF INTEREST

1. Indicate any investments, obligations, liabilities, or other relationships which could involve potential conflicts of interest in the position to which you have been nominated.

I have recused myself in decisionmaking involving the Department's position on current proposals to repeal Sec. 1706 of the Tax Reform Act of 1986 (dealing with exclusion of technical service workers from the provisions of Sec. 530 of the Tax Reform Act of 1978) and will continue to do so. In private practice I represented CTG, Inc., a New York Stock Exchange listed company, in advising it and members of the trade association to which it belonged on strategy and arguments and in preparing materials for use in persuading Congress and the Executive Branch to oppose earlier similar proposals for repeal.

2. Describe any business relationship, dealing or financial transaction which you have had during the last 10 years, whether for yourself, on behalf of a client, or acting as an agent, that could in any way constitute or result in a possible conflict of interest in the position to which you have been nominated.

None

3. Describe any activity during the past 10 years in which you have engaged for the purpose of directly or indirectly influencing the passage, defeat, or modification of any legislation or affecting the administration and execution of law or public policy. Activities performed as an employee of the Federal government need not be listed.

I represented CTG, Inc. in advising it and members of the trade association to which it belonged on strategy and arguments and in preparing materials for use in persuading Congress and the Executive Branch to oppose proposals to repeal Sec. 1706 of the Tax Reform Act of 1986.

I represented Par Pharmaceutical Inc. and the trade association to which it belonged in arguing before the Internal Revenue Service that the development of generic drugs was eligible for the research and experimentation credit.

I represented Kaiser Permanente Inc. generally on employee benefit legislation (pensions and health care) pending in Congress and the positions it should take with respect thereto. I also represented it before the U.S. Treasury with respect

to interpretation of Sec. 441(i) of the Code on the requirement that the corporation owned by its physicians had to account on the accrual method.

I represented the Catholic Diocese of Buffalo on legislative proposals with respect to requirements for in service payment of pension benefits to active employees whose age exceeded 70½.

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

If, in the future, I become aware that a potential for a conflict of interest might arise in connection with the performance of my official duties, I will promptly consult with Treasury ethics counsel.

5. Two copies of written opinions should be provided directly to the Committee by the designated agency ethics officer of the agency to which you have been nominated and by the Office of Government Ethics concerning potential conflicts of interest or any legal impediments to your serving in this position.

6. The following information is to be provided only by nominees to the positions of United States Trade Representative and Deputy United States Trade Representative:

Have you ever represented, advised, or otherwise aided a foreign government or a foreign political organization with respect to any international trade matter? If so, provide the name of the foreign entity, a description of the work performed (including any work you supervised), the time frame of the work (e.g., March to December 1995), and the number of hours spent on the representation.

D. LEGAL AND OTHER MATTERS

1. Have you ever been the subject of a complaint or been investigated, disciplined, or otherwise cited for a breach of ethics for unprofessional conduct before any court, administrative agency, professional association, disciplinary committee, or other professional group? If so, provide details.

No

2. Have you ever been investigated, arrested, charged, or held by any Federal, State, or other law enforcement authority for a violation of any Federal, State, county or municipal law, regulation, or ordinance, other than a minor traffic offense? If so, provide details.

No

3. Have you ever been involved as a party in interest in any administrative agency proceeding or civil litigation? If so, provide details.

No, other than litigation involving the law firm of which I was a partner.

4. Have you ever been convicted (including pleas of guilty or *nolo contendere*) of any criminal violation other than a minor traffic offense? If so, provide details.

No

5. Please advise the Committee of any additional information, favorable or unfavorable, which you feel should be considered in connection with your nomination.

None

E. TESTIFYING BEFORE CONGRESS

1. If you are confirmed by the Senate, are you willing to appear and testify before any duly constituted committee of the Congress on such occasions as you may be reasonably requested to do so?

Yes

2. If you are confirmed by the Senate, are you willing to provide such information as is requested by such committees?

Yes

PREPARED STATEMENT OF L. PAIGE MARVEL

My name is L. Paige Marvel. I appear before you today in my capacity as a nominee to be a judge on the United States Tax Court.

I wish to thank you, Mr. Chairman, and the members of this Committee, for scheduling a hearing so promptly on this nomination. I am pleased and proud to have been nominated by the President to be a judge on the United States Tax Court, a court in which I have appeared on many occasions over 24 years of practice. I am also grateful for the time and attention spent by the committee of the Administration's highest tax officials which participated in the selection process.

I have practiced for 24 years in the tax litigation arena. During this time period, I have represented individual taxpayers, estates, corporations and other business entities in a variety of tax disputes including audits, criminal investigations, administrative appeals before the IRS Appeals Office, collection disputes, and litigation. I have appeared before the United States Tax Court on many occasions. I have also represented clients before the United States district courts, the United States Court of Federal Claims, the United States Courts of Appeals, and a variety of state courts.

My years as a tax practitioner and litigator have provided me with a broad-based understanding of the way in which our tax system works at its most important level—the taxpayer level. I have developed a very healthy respect for the many good and professional people within our government who seek to apply our tax laws in a fair and even-handed manner. But, I also have realized how important it is for taxpayers to have a mechanism to contest the government's determination of a taxpayer's liability. I have seen how the perception of fairness in a taxpayer's mind depends upon the opportunity to challenge the government's position in a courtroom. I enthusiastically endorse the continuing efforts on the part of this Congress and the Internal Revenue Service to insure that taxpayer's rights are acknowledged and respected throughout our tax system.

I look forward to my participation in the administration of our tax laws if I am confirmed as a Tax Court judge. I can assure the Committee that I will work diligently to determine the facts of each case consistent with the evidence introduced at trial and to apply the applicable law as enacted by Congress to those facts. I can assure the Committee that I will fulfill my duties as a judge with a recognition that both the taxpayer and the government are entitled to be treated with fairness, courtesy and respect. I look forward to continuing the fine tradition of service exemplified by the Tax Court judges who have come before me, particularly Judges Irene Scott and Edna Parker who passed away recently and who will be remembered by me and many others for their wisdom, dedication, and judicial demeanor.

Thank you for the opportunity to appear before you today.

The White House,

OCT 24 1997

19

To the

Senate of the United States.

I nominate

L. Paige Marvel, of Maryland, to be

a Judge of the United States Tax Court for a term of fifteen years after she takes office, vice Lawrence A. Wright, retired.

William J. Clinton

THE WHITE HOUSE

Office of the Press Secretary
(Buenos Aires, Argentina)

Immediate Release

October 16, 1997

For

PRESIDENT CLINTON NAMES L. PAIGE MARVEL AS JUDGE TO THE UNITED STATES TAX COURT

The President today announced his intent to nominate L. Paige Marvel as Judge to the United States Tax Court.

Ms. Marvel, of Baltimore, Maryland, is currently a partner and head of tax litigation practice at Venable, Baetjer and Howard, LLP, in Baltimore. She has been in private practice for over 20 years, and has published and lectured extensively. Ms. Marvel also has been an active participant in several different bar associations, including playing a leadership role in the Section on Taxation of the American Bar Association.

Ms. Marvel is a graduate of the University of Maryland School of Law and the College of Notre Dame in Maryland.

BEST AVAILABLE COPY

SENATE FINANCE COMMITTEE
STATEMENT OF INFORMATION REQUESTED OF
L. PAIGE MARVEL
212-56-2188

A. BIOGRAPHICAL INFORMATION

1. Name (Include any former names used.): Lynda Paige Marvel
2. Position to which nominated: Judge, United States Tax Court
3. Date of nomination: October 24, 1997
4. Address: (List current residence, office, and mailing addresses.)

Residence: 7109 Sheffield Road
Baltimore, MD 21212

Office: Venable, Baetjer and Howard, LLP
1800 Mercantile Bank and Trust Building
2 Hopkins Plaza
Baltimore, MD 21201

Mailing: Same as residence

5. Date and place of birth: December 6, 1949; Easton, MD
6. Marital status: (Include maiden name of wife or husband's name.)
Married; Robert H. Dyer, Jr.
7. Names and ages of children:
Alex Warner Dyer, age 9, DOB: September 26, 1988
Kelly Elizabeth Dyer, age 6, DOB: March 30, 1991
8. Education: (List secondary and higher education institutions, dates attended, degree received, and date degree granted.)

High school:
Saints Peter and Paul High School, 1963-1967, diploma

College:
College of Notre Dame of Maryland, 1967-1971, B.A. degree magna
cum laude

Graduate school:
University of Maryland School of Law, 1971-1974, J.D. with honors

9. Employment record: (List all jobs held since college, including the title or description of job, name of employer, location of work, and dates of employment.)

Partner
Venable, Baetjer and Howard, LLP
1800 Mercantile Bank and Trust Building
2 Hopkins Plaza
Baltimore, MD 21201
September 1988 - present

Attorney and Shareholder
Melnicove, Kaufman, Weiner, Smouse & Garbis, P.A. (defunct)
Baltimore, Maryland
1986-1988

Attorney and Shareholder
Garbis, Marvel & Junghans, P.A. (defunct)
(formerly Garbis & Schwait, P.A.)
Baltimore, Maryland
1974-1986

Law Clerk
Garbis & Schwait, P.A.
Baltimore, Maryland
1972-1974 approx.

Law Clerk
Ellin & Baker
Baltimore, Maryland
September 1971 - 1972 approx.

10. Government experience: (List any advisory, consultative, honorary, or other part-time service or positions with Federal, State, or local governments, other than those listed above.)

- 1) **Member, Advisory Committee, U.S. District Court for the District of Maryland, 1990-1993.**
- 2) **Member, Advisory Committee, U.S. Claims Court, 1989-1991**
- 3) **Member, Commissioner's Review Panel on IRS Integrity, 1989-1991**
- 4) **Appointed as Commissioner to the Commission to Revise Annotated Code of Maryland for purpose of revising tax provisions of the Code, 1981-1987; Chairman, Procedure Subcommittee.**

- 5) **Advisory Commission to the State Department of Economic and Community Development, Member, 1978-81**
11. **Business relationships: (List all positions held as an officer, director, trustee, partner, proprietor, agent, representative, or consultant of any corporation, company, firm, partnership, other business enterprise, or educational or other institution.)**
- 1) **Shareholder and officer, Holly Cove, Inc.; EIN 52-1487269; 1976-present. Holly Cove, Inc. is an S corporation which was formed by 3 couples (of which my husband and I are one) to own and operate a mobile home park in Preston, Maryland.**
 - 2) **Partner, Margaret's Landing Partnership; EIN 52-1572510; 1976-present. This partnership was formed by the same people referred to in a. above to subdivide and sell unimproved real estate on the Eastern Shore of Maryland.**
 - 3) **Member, Board of Trustees, Loyola/Notre Dame Library, Inc.; since February 1996. This corporation operates the Loyola/Notre Dame Library.**
 - 4) **Regent, American College of Tax Counsel; since 1995. This is a non-profit organization.**
 - 5) **Member, Board of Trustees, American Tax Policy Institute; since February 1997. This is a non-profit organization.**
 - 6) **Advisor, American Law Institute, Restatement of Law, the Law Governing Lawyers, 1988-1997.**
 - 7) **Co-Editor, Procedure Department, *The Journal of Taxation*, 1990-present**
 - 8) **Editor, "Criminal Investigations & Prosecutions" Department, *The Tax Times* (Prentice Hall); Member, Board of Advisors, to 1989**
 - 9) **I presently represent a variety of clients in federal and state tax matters and other litigation. With respect to some of them, I have filed a power of attorney with the Internal Revenue Service (Form 2848) and/or the State of Maryland authorizing the representation.**
12. **Memberships: (List all memberships and offices held in professional, fraternal, scholarly, civic, business, charitable, and other organizations.)**
- 1) **American College of Tax Counsel, Regent, 1995-present**
 - 2) **American Tax Policy Institute, Trustee, 1997**
 - 3) **American Bar Association, Section of Taxation:**
 - **Vice Chair, Committee Operations, 1993-95**
 - **Council Director, 1989-92**
 - **Committee Chair, Court Procedure Committee**
 - 4) **American Bar Foundation, Fellow, 1989-present**
 - 5) **Maryland Bar Foundation, Fellow, 1991-present**

- 6) American Law Institute, Member, 1996-present
- 7) Board of Visitors, University of Maryland School of Law, Member, to present
- 8) Federal Bar Association, Tax Section Council, Member, 1984-90
- 9) Maryland State Bar Association:
 - Member, 1974-present
 - Member, Board of Governors, 1988-90, 1996-98
 - Chair, Tax Section, 1982-83
 - Member, Tax Section Council, 1978-80
- 10) Bar Association of Baltimore City, Member, Executive Council, 1977-78, 1992-93
- 11) Barrister, J. Edgar Murdock Inn of Court, American Inns of Court, 1988-93
- 12) U.S. District Court for the District of Maryland Advisory Committee, Member, 1990-93
- 13) U.S. Claims Court Advisory Committee, Member, 1989-91
- 14) National Association of Criminal Defense Lawyers, Member, 1987-present
- 15) Maryland Association of Criminal Defense Lawyers, Member, 1987-present
- 16) Commissioner's Review Panel on IRS Integrity, Member, 1989-91
- 17) Commission to Revise the Annotated Code of Maryland (tax provisions), Commissioner, 1981-87; Chairman, Procedure Subcommittee
- 18) Trial Courts Judicial Nominating Commission for the 8th Judicial Circuit, Member, 1981-83
- 19) Baltimore Association of Tax Counsel:
 - Member, 1975-82
 - Treasurer, 1979-80
- 20) Women's Banking Advisory Commission to Suburban Trust Bank, Member, 1980-81
- 21) Women's Law Center:
 - Member, 1974-90 approx.
 - Vice President, Litigation, 1976-78
 - Member, Board of Directors, 1978-81
- 22) Keswick Improvement Association, Member, 1977-82
- 23) Stoneleigh Improvement Association, Member, 1982-present
- 24) Caroline Country Club, Member, approx. 1987 - September 1997
- 25) Sierra Club, Member, 1991 approx.
- 26) Chesapeake Bay Foundation, Member, ?-present
- 26) Baltimore Zoological Society, Member, approx. 1990-present
- 28) National Aquarium in Baltimore, Charter Member, to present
- 29) Maryland Public Television, Member, approx. 1988-present
- 30) Baltimore Museum of Art, Member, to present
- 31) Baltimore Opera Company, Member, to present

- 32) Colonial Williamsburg Foundation, Member, to present
- 33) World Wildlife Fund, Member, to present
- 34) Habitat for Humanity International, Member, to present
- 35) Maryland Science Center, Member, to present

13. Political affiliations and activities:

- a. List all public offices for which you have been a candidate.

None.

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

None.

- c. Itemize all political contributions to any individual campaign, organization, political party, political action committee, or similar entity of \$50 or more for the past 10 years.

<u>Date</u>	<u>Organization</u>	<u>Amount</u>
03/05/97	Friends of Bill Dolan	\$200.00
11/06/96	Committee to Elect Sitting Judges	\$100.00
10/03/94	Citizens for Sarbanes	\$500.00
10/14/92	Clinton/Gore Compliance Fund	\$1,000.00
10/27/92	Cardin for Congress	\$250.00
09/16/91	Sitting Judges for Baltimore County	\$60.00
11/11/87	Kenneth Thompson, Treasurer for Sitting Judges Fundraiser	\$40.00
10/26/87	Friends of Kurt Schmoke	\$100.00
05/29/87	Kenneth Thompson, Treasurer for Sitting Judges Fundraiser	\$100.00

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

- 1) Who's Who in America, 1997, 1998
- 2) Who's Who in American Law, 1994-1995, 1996-1997
- 3) Best Lawyers in America, 1991-1992, 1993-1994, 1995-1996, 1997-98
- 4) ABA Section of Taxation, Distinguished Service Award, May 1995
- 5) ABA Section of Taxation, Certificate of Recognition, May 1987
- 6) MSBA, Distinguished Service Award, 1982-1983

- 7) One of *Baltimore Magazine's* "81 People to Watch in 81," January 1981
 - 8) Outstanding Young Woman of America" Nominee, 1980
 - 9) "Baltimore's Best" award of recognition, 1980
 - 10) Maryland Senatorial Scholarship, 1967-1971
 - 11) Scholarship from College of Notre Dame of Maryland
 - 12) Member, Phi Alpha Theta
 - 13) Member, Delta Epsilon Sigma
 - 14) Member, Order of Coif
 - 15) Member, Moot Court Board
 - 16) Who's Who in American Colleges and Universities, 1970, 1971
15. Published writings: (List the titles, publishers, and dates of all books, articles, reports, or other published materials you have written.)
- 1) Co-author, "Procedure: Tax-Property," *Maryland Taxes*, MICPEL, 1991
 - 2) Author, "Procedure: Tax-General," *Maryland Taxes*, MICPEL, 1989, 1991, 1993
 - 3) Author, "Tax Aspects of Divorce and Separation," *Maryland Divorce and Separation Law*, MICPEL, 1979, 1982, 1985, 1987, 1992, 1996
 - 4) Author, "Admissions and Amusement Tax," *Maryland Taxes*, MICPEL, 1982
 - 5) Contributor, "What Every Lawyer Needs to Know (An Internal Revenue Audit)," *ABA Journal* 64, 66 (August 1996)
 - 6) Author, "Refund Claims and Forum Selection After Lundy," *84 Journal of Taxation* 303 (May 1996)
 - 7) Author, "A Checklist for Litigating the Civil Fraud Penalty Case," *4 The Practical Litigator* 71, July 1993
 - 8) Author, "The Fiduciary in Tax Trouble," *Proceedings of the University of South Carolina Law Center Fortieth Tax Institute*, 1988
 - 9) Author, "The Proposed Amendments to Circular 230 - The Search for an Appropriate Disciplinary Standard for Tax Practitioners," *FBA Section of Taxation Report*, Summer 1987
 - 11) Author, "Opinion 85-352: ABA Restates Standard Applicable to Attorneys Advising Clients Ensuing Positions on Tax Returns," *FBA Section of Taxation Report*, Summer 1986
 - 12) Author, "Choosing the Best Tax Forum: The Factors to be Considered," *The Practical Accountant*, July 1986
 - 13) Author, "Forum Selection in Federal Tax Litigation," *8 Litigation* 39, Summer 1982

- 14) Author, "Estate and Gift Tax Reporting Rules Much More Complex Due to TRA 1976," *Estate Planning*, January 1978
- 15) Author, "Supreme Court's Decision In Fisher Requires Greater Alertness In Handling Tax Fraud Cases," *The Practical Accountant*, July/August 1976

16. Speeches: (List all formal speeches you have delivered during the past five years which are on topics relevant to the position for which you have been nominated. Provide the Committee with two copies of each formal speech.)

I have given presentations at the educational seminars listed below. However, I did not prepare formal speeches. Rather, I prepared educational outlines for inclusion in the program materials and I spoke from informal notes.

- 1) 58th Annual NCACPA Accounting-Taxation Symposium, October 1997: "Tips And Techniques For Surviving An IRS Audit"
- 2) ALI/ABA Program: Handling A Tax Controversy, October 1997: "The TEFRA Partnership Audit And Litigation Procedures After The Taxpayer Relief Act Of 1997"
- 3) Notre Dame Tax And Estate Planning Institute, September 1997: "What Every Fiduciary Should Now To Stay Out Of Tax Trouble"
- 4) ABA 1997 Annual Meeting, August 3, 1997: Demonstration, "The Anatomy Of A Tax Court Case"
- 5) 49th Annual Virginia Conference On Federal Taxation, June 1997: "Ethical Issues In Dealing With The Internal Revenue Service"
- 6) J. Nelson Young 16th Annual Tax Institute, May 1-2, 1997: "Representation Before The IRS Appeals Office"
- 7) U Of Miami Law School's First Annual Federal Income Tax Institute, April 24-25, 1997: "Tax Audits And Appeals – Refund And Deficiency Litigation – What's New For Closely Held And Family Businesses"
- 8) William & Mary Tax Conference, December 22, 1996: "Recent Developments Affecting Worker Classification Disputes With The Internal Revenue Service"
- 9) MICPEL Sixteenth Annual Advanced Tax Institute, November 11, 1996: "Current Developments In IRS Practice And Procedure"
- 10) Northwest Tax Institute, October 28, 1996: "Responding To IRS Requests For Information In The Current Compliance Environment, Taxpayer Bill Of Rights 2, And Other Recent Developments"
- 11) ALI/ABA Program: Handling A Tax Controversy, October 17-18, 1996: "Partnership And S Corporation Audit And Litigation Procedures After TEFRA"
- 12) ALI/ABA Program: Handling A Tax Controversy, October 17-18, 1996: "The Tax Court Trial – Organization, Witnesses, Evidentiary Issues, And Other Trial Matters"

- 13) **MACPA Chesapeake Tax Conference, September 20, 1996: "Responding To IRS Requests For Information In The Current Compliance Environment, Taxpayer Bill Of Rights 2, And Other Recent Developments"**
- 14) **Southern Federal Tax Institute, September 18, 1996: "Big Sister Is Watching You (And Congress Is Watching Big Sister): Professionalism Issues In Responding To IRS Requests For Information"**
- 15) **ABA Tax Section Annual Meeting, August 2, 1996: "What A Fiduciary Should Know To Stay Out Of Tax Trouble"**
- 16) **ABA Tax Section May Meeting, May 11, 1996: "Critical Issues Re The ALI's Restatement Of Law"**
- 17) **MICPEL Advanced Estate Planning Institute, April 25, 1996: "Handling An Estate Tax Controversy With The Internal Revenue Service"**
- 18) **Hampton Roads Tax Forum, February 21, 1996: "Civil Tax Penalties And Their Effect On Tax Practice"**
- 19) **MICPEL Course: Handling Taxpayer Disputes: "Dealing With An IRS Collection Dispute – What Every Practitioner Should Know"**
- 20) **ALI-ABA Course: How To Handle A Tax Controversy, December 1995: "Representation Before The IRS Appeals Office"**
- 21) **ALI-ABA Course: How To Handle A Tax Controversy, December 1995: "Partnership And S Corporation Audit And Litigation Procedures After TEFRA"**
- 22) **1995 NCACPA Accounting And Taxation Symposium: "Dealing With An IRS Collection Dispute – What Every Practitioner Should Know"**
- 23) **1995 MACPA Chesapeake Tax Conference, September 29, 1995: "Current Developments And Issues In Tax Practice And Procedure"**
- 24) **1995 Annual Meeting Of The ABA Section Of Taxation: "Litigating The Civil Fraud Penalty Case In The United States Tax Court"**
- 25) **47th Annual VA Conference On Federal Taxation, June 1-3, 1995: "Representation Before The IRS Appeals Office"**
- 26) **NYU Conference On Closely Held Businesses, May 15-16, 1995: "Handling A Worker Classification Dispute With The Internal Revenue Service - The Quest For A Standard"**
- 27) **MACPA Anne Arundel County Chapter, December 1994: "Civil Tax Penalties And Their Effect On Practice"**
- 28) **ALI/ABA Course: How To Handle A Tax Controversy, November 1994: "Tax Court Procedures In Large Cases"**
- 29) **ALI/ABA Course: How To Handle A Tax Controversy, November 1994: "Interest Redetermination Proceedings In The United States Tax Court"**
- 30) **ALI/ABA Course: How To Handle A Tax Controversy, November 1994: "Partnership And S Corporation Audit And Litigation Procedures After TEFRA"**

- 31) 29th Annual Southern Federal Tax Institute, September 21, 1994: "Handling A Worker Classification Dispute With The IRS"
- 32) 46th Annual VA Conference On Federal Taxation, June 2-4, 1994: "The 'New' Offer In Compromise Procedures"
- 33) Estate Tax Planning Institute, April 19, 1994: "What A Fiduciary Should Know To Stay Out Of Tax Trouble"
- 34) MICPEL Domestic Relations Long Course, "Tax Aspects Of Separation and Divorce," Annual
- 35) MICPEL 1994 Family Law Institute: "Stock Redemptions Pursuant To Divorce"
- 36) 28th Southern Federal Tax Institute, September 27 - October 1, 1993: "Representation Before The IRS Appeals Division"
- 37) MACPA 1993 Chesapeake Tax Conference, October 1, 1993: "Current Developments In Federal Tax Practice"
- 38) ALI/ABA Course: How To Handle A Tax Controversy, October 1993: "Partnership And S Corporation Audit And Litigation Procedures After TEFRA"
- 39) ALI/ABA Course: How To Handle A Tax Controversy, October 1993: "Tax Court Procedures In Large Cases"
- 40) ALI/ABA Course: How To Handle A Tax Controversy, October 1993: "Interest Redetermination Proceedings In The United States Tax Court"
- 41) Georgetown University CLE: "The Trial of a Perfect Tax Court Case: Exclusion Of Witnesses Under Tax Court Rule 145: Procedures, Pitfalls And Problems"
- 42) Georgia Federal Tax Conference, June 9, 1993: "Current Federal Tax Audit And Litigation Issues"
- 43) MACPA Industries Group, May 19, 1993: "Employee Or Independent Contractor - The Quest For A Standard"
- 44) MACPA Industries Group, May 19, 1993: "New Examination Tools In The IRS Audit And Litigation Arsenal"
- 45) MICPEL 1993 Family Law Institute: "Joint Income Tax Returns, Innocent Spouse Rules And Estimated Taxes"
- 46) ABA Section Of Taxation Midyear Meeting, January 1993: "Litigating The Civil Fraud Penalty Case In The United States Tax Court"
- 47) MICPEL Employment Law Update, December 11, 1992: "Damage Awards And Settlements - To Tax Or Not To Tax, That Is The Question! ... And A Few More"
- 48) 38TH William & Mary Tax Conference, December 4-5, 1992: "Examining The Arsenal - Recent Developments In Tax Practice And Procedure That Tax Practitioners Need To Know"
- 49) ALI/ABA Course: How To Handle A Tax Controversy, November 1992: "Partnership And S Corporation Audit And Litigation Procedures After TEFRA"

- 50) ALI/ABA Course: How To Handle A Tax Controversy, November 1992: "Tax Court Procedures In Large Cases"
 - 51) ALI/ABA Course: How To Handle A Tax Controversy, November 1992: "Interest Redetermination Proceedings In The United States Tax Court"
 - 52) IRS National Office - Tax Practitioner Technical Roundtable, October 24, 1992: "Civil Tax Penalty Reform And Its Effect On Practice"
 - 53) SMU Advanced Federal Tax Litigation Conference, October 8-9, 1992: "Handling A Tax Controversy With The IRS"
 - 54) MACPA 1992 Chesapeake Tax Conference, September 22, 1992: "Recent Developments In Federal And State Tax Practice And Procedure"
17. Qualifications: (State what, in your opinion, qualifies you to serve in the position to which you have been nominated.)

I have represented taxpayers before the Internal Revenue Service, the Maryland Comptroller of the Treasury, and federal and state courts in all types of civil and criminal tax disputes. I cut my professional teeth as a tax litigator in the United States Tax Court. I have tried cases in the United States Tax Court, and I have settled an even greater number of cases before trial. I am very familiar with the rules of procedure and evidence which apply to litigation in the United States Tax Court. I am also well grounded in federal tax law. I believe that I will bring substantial experience as a tax litigator and a sensitivity to the issues and problems which arise in tax litigation to the Tax Court Bench.

B. FUTURE EMPLOYMENT RELATIONSHIPS

1. Will you sever all connections with your present employers, business firms, associations, or organizations if you are confirmed by the Senate? If not, provide details.

Yes, with the following exceptions:

- 1) The ownership interests of my husband and myself in Holly Cove, Inc. and Margaret's Landing Partnership pose no actual or apparent conflict of interest. Consequently, I expect to retain these interests unless required to dispose of them under applicable law or under the applicable rules governing the conduct of Tax Court Judges.
- 2) Although I intend to resign as counsel of record for all of my existing clients and to resign a number of the other positions which I hold, I would like to complete the service of my current term in the following positions if I am permitted to do so:

- a. **Trustee, Loyola/Notre Dame Library, Inc.**
- b. **Governor, Maryland State Bar Association Board of Governors (term expires June 1998)**

If my nomination is confirmed, I will consult with the Chief Judge and such others as may be needed to make an informed decision.

2. Do you have any plans, commitments, or agreements to pursue outside employment, with or without compensation, during your service with the government? If so, provide details.

No.

3. Has any person or entity made a commitment or agreement to employ your services in any capacity after you leave government service? If so, provide details.

No.

4. If you are confirmed by the Senate, do you expect to serve out your full term or until the next Presidential election, whichever is applicable? If not, explain.

Yes.

C. POTENTIAL CONFLICTS OF INTEREST

1. Indicate any investments, obligations, liabilities, or other relationships which could involve potential conflicts of interest in the position to which you have been nominated.

The investments listed in Part VII of my Financial Disclosure Report could conceivably involve a potential conflict of interest if a corporation or other entity in which my husband and/or I own an interest were to become a party in a case pending before the United States Tax Court. However, I intend to monitor both my investments and my cases carefully to identify any conflicts of interest and to recuse myself in appropriate cases, if any. I also intend to dispose of a number of my stock investments in order to minimize the potential for conflicts if I am confirmed.

2. Describe any business relationship, dealing, or financial transaction which you have had during the last 10 years, whether for yourself, on behalf of a client, or acting as an agent, that could in any way constitute or result in a possible conflict of interest in the position to which you have been nominated.

I have actively represented clients in tax matters during the last 10 years (and since 1974). Obviously, if any case in which I were involved previously came before the United States Tax Court, I would recuse myself. If any of my former clients were involved in a case before me, I would recuse myself if I was required to do so or I felt it was appropriate to do so after disclosure.

3. Describe any activity during the past 10 years in which you have engaged for the purpose of directly or indirectly influencing the passage, defeat, or modification of any legislation or affecting the administration and execution of law or public policy. Activities performed as an employee of the Federal government need not be listed.

None.

4. Explain how you will resolve any potential conflict of interest, including any that may be disclosed by your responses to the above items. (Provide the Committee with two copies of any trust or other agreements.)

I would review the matter carefully and consult with the Chief Judge and/or with other appropriate persons, including counsel if necessary, to determine my obligations. In appropriate cases, I would recuse myself.

5. Two copies of written opinions should be provided directly to the Committee by the designated agency ethics officer of the agency to which you have been nominated and by the Office of Government Ethics concerning potential conflicts of interest or any legal impediments to your serving in this position.
6. The following information is to be provided only by nominees to the positions of United States Trade Representative and Deputy United States Trade Representative. [Balance of question omitted.]

D. LEGAL AND OTHER MATTERS

1. Have you ever been the subject of a complaint or been investigated, disciplined, or otherwise cited for a breach of ethics for unprofessional conduct before any court, administrative agency, professional association, disciplinary committee, or other professional group? If so, provide details.

No.

2. Have you ever been investigated, arrested, charged, or held by any Federal, State, or other law enforcement authority for a violation of any Federal, State, county, or municipal law, regulations, or ordinance, other than a minor traffic offense? If so, provide details.

No.

3. Have you ever been involved as a party in interest in any administrative agency proceeding or civil litigation? If so, provide details.

Yes, as follows:

- 1) Dyer v. Commissioner, (Docket 15921-88) (U.S. Tax Court). The Internal Revenue Service proposed adjustments with respect to the federal income tax return of my husband and myself for the calendar year 1985. The case was settled. A decision was entered in the case reflecting that no deficiency or overpayment was due.
- 2) Dyer v. Commissioner, (Docket 8438-87) (U.S. Tax Court). The Internal Revenue Service proposed adjustments with respect to the federal income tax return of my husband and myself for the calendar year 1984. The case was settled. A decision was entered in the case reflecting that no deficiency or overpayment was due.
- 3) Dyer v. Commissioner, (Docket No. 37893-84"S") (United States Tax Court). The Internal Revenue Service proposed adjustments with respect to my husband and myself for the calendar year 1982. The case was settled. A decision was entered in the case reflecting that we owed a deficiency of \$324.54.
- 4) Marvel v. Berkeley, (D. Ct. Md.). This case was filed by our insurance company, USAA, as a result of an automobile accident in which my car was struck from behind by the defendant. The case was subsequently settled.

4. Have you ever been convicted (including pleas of guilty or *nolo contendere*) of any criminal violation other than a minor traffic offense? If so, provide details.

No.

5. Please advise the Committee of any additional information, favorable or unfavorable, which you feel should be considered in connection with your nomination.

E. TESTIFYING BEFORE CONGRESS

1. If you are confirmed by the Senate, are you willing to appear and testify before any duly constituted committee of the Congress on such occasions as you may be reasonably requested to do so?

Yes.

2. If you are confirmed by the Senate, are you willing to provide such information as is requested by such committees?

Yes.

PREPARED STATEMENT OF MICHAEL B. THORNTON

Mr. Chairman, Senator Moynihan, and distinguished members of the Committee, it is a great privilege for me to appear before you today as a nominee to the United States Tax Court. I thank you for scheduling this hearing.

I wish to thank President Clinton, Secretary Rubin, and the members of the nominating committee for the great honor of this nomination. In addition, I would like to thank the excellent staff of this committee, who have been most helpful in this process, and Mr. Charles S. Cassazza, long-time Clerk of the Tax Court, for his worthy counsel in helping me prepare for a transition to the Court. Finally, for their support and devotion, I wish to thank my family, especially my wife, Alexandra Deane Thornton, and our children, Michaela and Camille, who are here with me today.

In my professional career, I have worked on a broad range of tax matters, both in and out of the government. As Tax Counsel to the Committee on Ways and Means for over six years, I assisted in the process by which the Congress develops tax policy and writes the tax laws. More recently, as Deputy Tax Legislative Counsel (Tax Legislation) at the Treasury Department, I have worked on legal and policy issues within the Office of Tax Policy. My prior private law practice focused largely on representing taxpayers in controversies with the Internal Revenue Service.

In the course of this varied experience, I have come to appreciate the competing policy interests that inform and shape the tax laws, the need to interpret the tax laws consistently with Congressional intent, and the need to maintain public confidence that the tax system is fair and fairly administered. I am mindful that it is the Congress, and not the courts, that is charged with writing the law.

The Tax Court has long enjoyed a high reputation as a forum where taxpayers can have their tax controversies resolved fairly, expeditiously, and inexpensively. If confirmed, I will strive to do my part to uphold that reputation and to discharge my duties honestly and to the best of my ability.

I thank the Committee for considering my nomination and would be pleased to answer any questions.

The White House,

OCT - 8 1997

19

To the

Senate of the United States.

I nominate

Michael B. Thornton, of Virginia,

to be a Judge of the United States Tax Court for a term of

fifteen yeras after he takes office, vice Lapsley Walker

Hambley, Jr., retired.

William L. Clinton



October 8, 1997

PRESIDENT CLINTON NAMES MICHAEL B. THORNTON TO U.S. TAX COURT

Message Creation Date was at 8-OCT-1997 13:24:00

THE WHITE HOUSE

Office of the Press Secretary
(Newark, New Jersey)

For Immediate Release October 8, 1997

PRESIDENT CLINTON NAMES MICHAEL B. THORNTON TO U.S. TAX COURT

Today, President Clinton announced his intent to nominate Michael B. Thornton to the United States Tax Court.

Mr. Thornton, a native of Hattiesburg, Mississippi, is currently the Treasury Department's Deputy Tax Legislative Counsel. Previously, he served for six years as Tax Counsel, then Chief Minority Tax Counsel, on the U.S. House of Representatives Committee on Ways and Means. Prior to that, he was an associate with the law firm of Miller & Chevalier, of Washington, D.C., with a broad-based tax practice.

Mr. Thornton earned a B.S. summa cum laude and an M.S. in Accounting from the University of Southern Mississippi, an M.A. in English Literature from the University of Tennessee, and a J.D. from Duke University School of Law.

-30-30-30-

A. BIOGRAPHICAL INFORMATION

1. **Name: (Include any former names used.)**
Michael Bert Thornton

2. **Position to which nominated:**
Judge, United States Tax Court

3. **Date of nomination:**
October 8, 1997

4. **Address: (List current residence, office, and mailing addresses.)**

Residence: 520 South Abingdon Street
Arlington, VA 22204

Office: Room 1322B
U.S. Treasury Department
1500 Pennsylvania Avenue, N.W.
Washington, D.C. 20220

Mailing: Same as residence

5. **Date and place of birth:**
February 9, 1954
Hattiesburg, Mississippi

6. Marital status: (Include maiden name of wife or husband's name.)

Married to the former Alexandra Deane

7. Names and ages of children:

Michaela Elaine Thornton (2 and a half years old)
Camille Cecilia Deane Thornton (8 months old)

8. Education: (List secondary and higher education institutions, dates attended, degree received, and date degree granted.)

Blair High School
Hattiesburg, Mississippi
1969-1972
Diploma, 1972

University of Southern Mississippi
Hattiesburg, Mississippi
1972-1977
B.S. in Accounting, summa cum laude, 1976
M.S. in Accounting, 1977

University of Tennessee
Knoxville, Tennessee
1977-1978
M.A. in English Literature, 1979

Duke University School of Law
Durham, North Carolina
1979-1982
J.D., with distinction, 1982

9. Employment record: (List all jobs held since college, including the title or description of job, name of employer, location of work, and dates of employment.)

Deputy Tax Legislative Counsel (Tax Legislation)
U.S. Department of the Treasury, Washington, D.C.
May 1995 - present

Attorney-Adviser
Office of Tax Policy
U.S. Department of the Treasury, Washington, D.C.

February-April, 1995

Chief Minority Tax Counsel
Committee on Ways and Means
U.S. House of Representatives, Washington, D.C.
January 1995

Tax Counsel
Committee on Ways and Means
U.S. House of Representatives, Washington, D.C.
June 1988 - December 1994

Associate Attorney
Miller & Chevalier, Chartered, Washington, D.C.
January 1985 - May 1988

Law Clerk
The Honorable Charles Clark, Chief Judge
U.S. Court of Appeals for the Fifth Circuit, Jackson, Mississippi
July 1983 - July 1984

Associate Attorney
Sutherland, Asbill & Brennan, Washington, D.C.
June 1982 - December 1982

Summer Associate
Sutherland, Asbill & Brennan, Washington, D.C.
May 1981 - August 1981

Law Clerk
Butler, Snow, O'Mara, Stevens & Cannada, Jackson Mississippi
May 1980 - August 1980

Law School Library Assistant
Duke Law School, Durham, North Carolina
September 1980-May 1982

Staff Auditor
Touche Ross & Company, Nashville, Tennessee
January - August 1979

Graduate Teaching Assistant
University of Tennessee, Knoxville, Tennessee
September 1977 - May 1978

Graduate Teaching Assistant
University of Southern Mississippi, Hattiesburg, Mississippi
September 1976 - August 1977

Assistant Internal Auditor
University of Southern Mississippi, Hattiesburg, Mississippi
March - August 1977

10. Government experience: (List any advisory, consultative, honorary, or other part-time service or positions with Federal, State or local governments, other than those listed above.)

Continuous government service since June 1988 on Committee on Ways and Means, and in U.S. Treasury Department, and judicial clerkship 1983-1984, as detailed above.

11. Business relationships: (List all positions held as an officer, director, trustee, partner, proprietor, agent, representative, or consultant of any corporation, company, firm, partnership, other business enterprise, or educational or other institution.)

None

12. Memberships: (List all memberships and offices held in professional, fraternal, scholarly, civic, business, charitable, and other organizations.)

District of Columbia Bar
The Nature Conservancy
National Wildlife Federation

13. Political affiliations and activities:

- a. List all public offices for which you have been a candidate.

None

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

None

- c. Itemize all political contributions to any individual, campaign organization, political party, political action committee, or similar entity of \$50 or more for the past 10 years.

8/4/96	Jack Reed Committee (U.S. Senate)	\$50
6/26/94	Jack Reed Committee (U.S. House)	\$50
3/93	Jack Reed Committee (U.S. House)	\$50

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

Secretary's Annual Award, 1997, U.S. Department of the Treasury
(group award for work on higher education tax incentives)

Mississippi Society of CPA's Gold Medal for highest marks on Fall 1977 CPA Examination

Duke Law School:
Merit Scholarship
Order of the Coif

University of Southern Mississippi:
Phi Kappa Phi Silver Bowl (highest academic standing in graduating class)
Hall of Fame
Outstanding Senior in Accounting Award
Mississippi Society of CPA's Scholarship Award
Faculty Award
Honors Program and Scholarship

15. Published writings: (List the titles, publishers, and dates of all books, articles, reports, or other published materials you have written.)

"Intimations of Federal Removal Jurisdiction in Labor Cases," 1981
Duke Law Journal 743

16. Speeches: (List all formal speeches you have delivered during the past five years which are on topics relevant to the position for which you have been nominated. Provide the Committee with two copies of each formal speech.)

"Legislative Outlook," May 9, 1997
Court Procedure and Administrative Practice Committees
American Bar Association
Washington, D.C.

"Seeking Regulatory or Statutory Relief" (panel discussion), October 26, 1995
D.C. Bar Taxation Section
10th Annual Fall Tax Institute
Washington, D.C.

"Reflections on the 1993 Tax Legislation," December 3, 1993
Taxation Committee
Cincinnati Bar Association
Cincinnati, Ohio

"The Omnibus Budget Reconciliation Act of 1993," October 1, 1993
Prentice Hall Law & Business and
Fordham University School of Law
Conference on Planning after the
Revenue Reconciliation Act of 1993
New York, New York

"Legislative Outlook," May 15, 1992
Capital Recovery and Leasing Committee
Tax Section, American Bar Association
Washington, D.C.

All speeches were from notes rather than from a prepared text, and thus no written copies are available.

17. Qualifications: (State what, in your opinion, qualifies you to serve in the position to which you have been nominated.)

My professional career over the last 15 years has provided me extensive and varied experience in the formulation, implementation and practice of tax law. In my present capacity as Deputy Tax Legislative Counsel (Tax Legislation) at the Treasury Department, I have been actively involved in legal and policy analysis on matters of domestic tax policy and in administration of the tax laws. During the six and a half years that I served as tax counsel to the Committee on Ways and Means, I was personally involved in the development of all tax legislation during that period and gained first-hand knowledge of the legislative policies and processes that inform the tax laws. My prior legal practice included extensive work on tax controversies, both administrative appeals before the Internal Revenue Service and litigation before the U.S. Tax Court and the U.S. Court of Federal Claims. I am

committed to public service and to maintaining high standards of personal integrity. If confirmed as a judge on the U.S. Tax Court, I will seek to uphold its reputation for fairness, thoroughness, and justice.

B. FUTURE EMPLOYMENT RELATIONSHIPS

1. Will you sever all connections with your present employers, business firms, associations, or organizations if you are confirmed by the Senate? If not, provide details.

Yes

2. Do you have any plans, commitments, or agreements to pursue outside employment, with or without compensation, during your service with the government? If so, provide details.

No

3. Has any person or entity made a commitment or agreement to employ your services in any capacity after you leave government service? If so, provide details.

No

4. If you are confirmed by the Senate, do you expect to serve out your full term or until the next Presidential election, whichever is applicable? If not, explain.

Yes

C. POTENTIAL CONFLICTS OF INTEREST

1. Indicate any investments, obligations, liabilities, or other relationships which could involve potential conflicts of interest in the position to which you have been nominated.

None

2. Describe any business relationship, dealing or financial transaction which you have had during the last 10 years, whether for yourself, on behalf of a client, or acting as an agent, that could in any way constitute or result in a possible conflict of interest in the position to which you have been nominated.

None

3. Describe any activity during the past 10 years in which you have engaged for the

purpose of directly or indirectly influencing the passage, defeat, or modification of any legislation or affecting the administration and execution of law or public policy. Activities performed as an employee of the Federal government need not be listed.

I have engaged in no such activities apart from the routine performance of my duties as tax counsel to the Committee on Ways and Means from 1988 to 1995 and in my current capacity in the Office of Tax Policy in the Treasury Department.

4. Explain how you will resolve any potential conflict of interest, including any that may be disclosed by your responses to the above items. (Provide the Committee with two copies of any trust or other agreements.)

I will recuse myself from any matters that might raise a potential conflict of interest. My investments and their administration pose no conflict of interest.

5. Two copies of written opinions should be provided directly to the Committee by the designated agency ethics officer of the agency to which you have been nominated and by the Office of Government Ethics concerning potential conflicts of interest or any legal impediments to your serving in this position.

Not applicable.

6. The following information is to be provided only by nominees to the positions of United States Trade Representative and Deputy United States Trade Representative:

Have you ever represented, advised, or otherwise aided a foreign government or a foreign political organization with respect to any international trade matter? If so, provide the name of the foreign entity, a description of the work performed (including any work you supervised), the time frame of the work (e.g., March to December 1995), and the number of hours spent on the representation.

Not applicable.

D. LEGAL AND OTHER MATTERS

1. Have you ever been the subject of a complaint or been investigated, disciplined, or otherwise cited for a breach of ethics for unprofessional conduct before any court, administrative agency, professional association, disciplinary committee, or other professional group? If so, provide details.

No

2. Have you ever been investigated, arrested, charged, or held by any Federal, State, or other law enforcement authority for a violation of any Federal, State, county or municipal law, regulation, or ordinance, other than a minor traffic offense? If so, provide details.

No

3. Have you ever been involved as a party in interest in any administrative agency proceeding or civil litigation? If so, provide details.

No

4. Have you ever been convicted (including pleas of guilty or *nolo contendere*) of any criminal violation other than a minor traffic offense? If so, provide details.

No

5. Please advise the Committee of any additional information, favorable or unfavorable, which you feel should be considered in connection with your nomination.

None

E. TESTIFYING BEFORE CONGRESS

1. If you are confirmed by the Senate, are you willing to appear and testify before any duly constituted committee of the Congress on such occasions as you may be reasonably requested to do so?

Yes

2. If you are confirmed by the Senate, are you willing to provide such information as is requested by such committees?

Yes

