

**NOMINATIONS TO THE DEPARTMENT
OF COMMERCE, FEDERAL MARITIME
COMMISSION, AND THE METROPOLITAN
WASHINGTON AIRPORTS AUTHORITY**

HEARING

BEFORE THE

**COMMITTEE ON COMMERCE,
SCIENCE, AND TRANSPORTATION
UNITED STATES SENATE**

ONE HUNDRED TENTH CONGRESS

FIRST SESSION

OCTOBER 23, 2007

Printed for the use of the Committee on Commerce, Science, and Transportation



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SENATE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

ONE HUNDRED TENTH CONGRESS

FIRST SESSION

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**NOMINATIONS TO THE DEPARTMENT OF
COMMERCE, FEDERAL MARITIME
COMMISSION, AND THE METROPOLITAN
WASHINGTON AIRPORTS AUTHORITY**

TUESDAY, OCTOBER 23, 2007

U.S. SENATE,
COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION,
Washington, DC.

The Committee met, pursuant to notice, at 2:30 p.m. in room SR-253, Russell Senate Office Building, Hon. Daniel K. Inouye, Chairman of the Committee, presiding.

**OPENING STATEMENT OF HON. DANIEL K. INOUE,
U.S. SENATOR FROM HAWAII**

The CHAIRMAN. Public service is a noble calling and we thank those nominees who are willing to spend their careers in government, as well as those who lend their expertise, garnered from a successful career in the private sector, to public enterprises.

The Inspector General for the Department of Commerce is charged with the oversight of a wide array of programs, including conservation and management of ocean resources, trade promotion, and enforcement and spectrum policy. It is vital that the Inspector General remain above politics. The independence of the Department of Commerce Inspector General and all the Inspectors General must be without doubt. The Congress and this Committee will be depending on this office to both ferret out waste, fraud, and abuse, and to develop policy and programs across all of the Departments' diverse portfolio of programs.

Mr. Zinser, this job will require significant commitment, dedication, and a constant pursuit of the facts. I hope your own career in the Department of Transportation will serve you well and set an example for an office that has been in turmoil for some time.

The Federal Maritime Commission has been tasked with a very important mission of ensuring that U.S. international trade is open to all nations on a fair and equitable basis. As U.S. global trade negotiations continue to expand, we will become even more dependent on maritime commerce for "just-in-time" delivery of consumer goods and components.

The FMC must remain diligent in monitoring the shipping practices of our trading partners, to ensure fairness, and to protect American consumers from collusion and anticompetitive behavior. And so, we welcome the testimony of Messrs. Paul Anderson and Carl Kress, who have been nominated to serve as Commissioners.

Mr. Robert Clarke Brown is a current Member of the Board of Directors of the Metropolitan Washington Airports Authority (MWAA). As such, he is one of primary individuals responsible for the day-to-day operations, finances, and effectiveness of two of the major airports serving this region. Mr. Brown has been reappointed to the MWAA Board, and can share with the Committee and the Board, his experience of the authority as MWAA prepares to meet the challenges that face the Washington region's airports in the coming years.

Today, we will examine these four nominees credentials and views, and we thank you again for your commitment to public service. And should you be confirmed, we look forward to working with each of you.

And may I now recognize the Vice Chairman.

[The prepared statement of Senator Inouye follows:]

PREPARED STATEMENT OF HON. DANIEL K. INOUE, U.S. SENATOR FROM HAWAII

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The Federal Maritime Commission (FMC) has been tasked with the very important mission of ensuring that U.S. international trade is open to all nations on fair and equitable terms.

As U.S. global trade continues to expand, we will become even more dependent on maritime commerce for "just-in-time" delivery of consumer goods and manufacturing components. The FMC must remain diligent in monitoring the shipping practices of our trading partners to ensure fairness and to protect American consumers from collusion and anti-competitive behavior. We welcome the testimony of Mr. Paul Anderson, and Mr. Carl Kress, who have been nominated to serve as Commissioners.

Recently, issues have been brought to my attention concerning the management and operations of the FMC. In addition to post-hearing questions, the Committee intends to hold an oversight hearing on the FMC in the near future. I am hopeful the sitting Commissioners will make themselves available to testify before the Committee at that time.

Mr. Robert Clarke Brown is a current Member of the Board of Directors of the Metropolitan Washington Airports Authority (MWAA). As such, he is one of the primary individuals responsible for the day-to-day operations, finances, and effectiveness of two of the major airports serving this region. Mr. Brown is being reappointed to the MWAA Board and can share with the Committee and the Board his experience at the Authority as MWAA prepares to meet the challenges that face the Washington region's airports in the coming years.

Today we will examine these four nominees' credentials and views. Thank you again for your commitment to public service. Should you be confirmed, I look forward to working with each of you.

**STATEMENT OF HON. TED STEVENS,
U.S. SENATOR FROM ALASKA**

Senator STEVENS. Thank you very much, Mr. Chairman. I'd ask my statement be printed in the record after yours, and state to Mr. Brown that I served on that Board at one time. I know it's a chore, so we welcome you and welcome your decision to serve for a second term.

Thank you, Mr. Chairman.

[The prepared statement of Senator Stevens follows:]

PREPARED STATEMENT OF HON. TED STEVENS, U.S. SENATOR FROM ALASKA

Mr. Chairman, thank you for holding today's hearing. These individuals have been selected to fulfill vital roles within their organizations and I thank them for their willingness to serve.

The Metropolitan Washington Airports Authority has a critical responsibility to the millions of travelers who pass through Washington Dulles International and Ronald Reagan Washington National Airports each year, and it is essential that these two airports be run efficiently. I was once a Member of this Board so I understand the challenges it faces. Mr. Brown, you have already served a number of years on the Board and I appreciate your continued service.

The Inspector General's office is charged with conducting independent and objective investigations within a department and it is crucial that this position be filled by an individual who remains honest and impartial throughout the investigative and auditing process. I look forward to hearing Mr. Zinser's vision for the IG's office at the Department of Commerce.

The maritime industry is vital to U.S. commerce. Protecting ocean borne transportation and the security of our ports is of the utmost importance. I welcome our two nominees for the Federal Maritime Commission and look forward to hearing from them.

The CHAIRMAN. Senator Nelson?

**STATEMENT OF HON. BILL NELSON,
U.S. SENATOR FROM FLORIDA**

Senator BILL NELSON. Mr. Chairman, it's my privilege, also, to be here on behalf of Paul Anderson, who is currently serving as a Commissioner on the Federal Maritime Commission, and he has been reappointed by the President for another term as Commissioner, and designated as the Chairman. And, he has a long experience in the maritime sector, having been with one of the national marine industries. It's Hvide Marine, it's a maritime support and transportation business. It's located in Florida.

And then, he further has been with one of our major importers, JM Family Enterprises, a diversified automobile business headquartered in Florida. He's had experience in government at all levels, local, state, and Federal. And he's been on the Commission now for 4 years, so he has tremendous experience there. His experience goes back to your former colleague, Senator Hawkins, where he was a Special Assistant to her.

And so, because of his community involvement, his extensive public service to the community and to our state, and now in the national arena, having been a Member for 4 years, I'm here to support and speak for his renomination.

The CHAIRMAN. Thank you very much, Senator.

And now, it's my high privilege and honor to present two of our most distinguished Senators from the State of Ohio. The first, the

Honorable Sherrod Brown and the Honorable George Voinovich. Welcome gentlemen.

May I recognize Senator Voinovich first.

**STATEMENT OF HON. GEORGE V. VOINOVICH,
U.S. SENATOR FROM OHIO**

Senator VOINOVICH. I thank you, Mr. Chairman.

I want to thank you for allowing me to speak today on behalf of Robert Clarke Brown who the President has nominated for re-appointment to the Metropolitan Washington Airports Authority.

He has had a diverse career, spanning both the public and private sectors. He's a former investment banker and a U.S. Department of Transportation capital markets advisor. His association with the Airports Authority dates back a decade and, in that time, he has chaired both the Finance Committee and the Strategic Development Committee.

Mr. Chairman, as the now Ranking Member of the Oversight of Government Management, the Federal workforce, and the District of Columbia Subcommittee of the Homeland Security and Governmental Affairs Committee, we have worked in the last 8 years to try to make sure that we have the right people with the right knowledge and skills at the right place at the right time. And we are fortunate that Mr. Brown is continuing his interest in this position.

And I must say, that it's not surprising, because we all know he shares a connection with our fellow colleague, Senator Sherrod Brown, the junior Senator from Ohio. They're brothers.

And even though Senator Brown and I wear different party labels, we work together to do what we think is in the best interest of Ohio and in the best interest of our country. And I'm honored that Sherrod has asked me to participate in this confirmation. I think that Mr. Brown's 10 years of dedicated service to the Airports Authority speak for itself. And I really look forward to this Committee's swift action on his nomination.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you very much, Senator. Senator Brown?

**STATEMENT OF HON. SHERROD BROWN,
U.S. SENATOR FROM OHIO**

Senator BROWN. Thank you, Mr. Chairman, Vice Chairman Stevens, and Senator Nelson. Thank you.

And then special thanks to Senator Voinovich. Senator Voinovich, as you may know, is the first Ohioan in 40 years to have served both as Governor and as Senator. And the other Ohioan that did that some 40 plus years ago, also served as Mayor of Cleveland, Governor of Ohio, and United States Senator in that order, as Senator Voinovich has. And he was Honorable Frank J. Lausche, a Democrat, who was a mentor of sorts, I think, for Senator Voinovich. So I thank him for that.

And Mr. Chairman, I thank you for your consideration. I'm thrilled to be here on behalf of my brother. I actually appeared in front of this Committee when I was in the House of Representatives, a decade ago, at Bob, my brother's first confirmation. And,

it was a day that I showed up a bit ruffled and tired and unshaven. The House had been in session all night, and I came over here at 9:30 in the morning when Senator McCain was chairing the Committee.

And I remember saying at that time, as a House member, that I apologize for the way I look, but that the House of Representatives obviously worked a good deal harder than the Senate. And a decade of public service since then, and the wisdom I've accrued from that decade of service, makes me realize I was wrong and that the Senate actually works significantly harder than the House. So, I appreciate that.

[Laughter.]

Senator BROWN. I want to first introduce my family members who are here. First Bob, obviously. My mother Emily, who lives in Mansfield, Ohio. My brother Charlie, his wife Ann, Bob's wife, Katherine, who is over here. And my niece, Marcia Grace. And Marcia Grace, 10 years ago when I was here, was actually here in a stroller. So she is now a young adult. So, we're all thrilled to have her here.

I think I'm well-situated, briefly Mr. Chairman, I'm well-situated to speak to this nominee's qualifications. I don't know how many classes in high school I took, where the teacher told me how smart my older brother was and how well he had done. It has gotten a little old, frankly, but with the passage of 40 years, I think I can start to get over it.

As—and my mother, who is here, as I said, taught me that boasting, taught Bob and I that boasting is impolite, but nothing prevents me from bragging about my brother. He has been an outstanding public servant. He has done outstanding work, both in the private sector and in volunteer, for all intents and purposes, volunteer jobs like the Airports Authority. He excelled academically in high school, college, law school, graduate school. He has excelled as a professional. He has excelled in both the public sector and the private sector.

Senator Voinovich talked about many of his qualifications. He now is the Treasurer of one America's great universities, Case Western Reserve University in Cleveland. And it's my pleasure to ask this Committee to consider, with fairness, as I know you will, Mr. Chairman—my brother's nomination, Robert Clarke Brown.

Thank you very much.

The CHAIRMAN. Thank you very much, Senator Brown.

It's always moving to have a brother speak highly of his brother. He didn't beat you up, did he?

[Laughter.]

Senator BROWN. Yes, he did, he did. Certain family secrets remain family secrets.

[Laughter.]

The CHAIRMAN. In honor of the introduction, may I call upon, out of order, Mr. Robert Clarke Brown, Member of the Board of Directors-Designate, Metropolitan Washington Airports Authority?

Welcome, Mr. Brown.

**STATEMENT OF HON. ROBERT CLARKE BROWN,
RENOMINATED TO BE A MEMBER, BOARD OF DIRECTORS,
METROPOLITAN WASHINGTON AIRPORTS AUTHORITY (MWAA)**

Mr. BROWN. Thank you, Mr. Chairman.

I'm Robert Clarke Brown of Ohio. I appreciate this opportunity to appear before you, in support of my nomination by the President for reappointment to the Metropolitan Washington Airports Authority, the operator of the two principle airports serving our Nation's capitol.

And Senator Stevens, I very much appreciate your being here as well today, and recognize very much your many years of contributions to our Nation's transportation system, including, as you mentioned, this—this Authority, which as, really I think, one of Congress's great creations and contributions to our regional transportation system.

Mr. Chairman, I—I want to first express my thanks to my brother Sherrod, for being here today on my behalf. I will note for the record, Mr. Chairman, as you probably gathered from his remarks, he is my baby brother. But I also want to say that I don't think there are any big brothers anywhere in America that are prouder of their little brother than I am of Sherrod and all he's accomplished, and all he has done for the people of Ohio and the service he has rendered to our Nation and will render as a United States Senator.

And Senator Voinovich as well, I want to say how much I appreciate his also being here for me today. He has been a public servant in Ohio for decades and, as both—as was mentioned, as Mayor, as Governor, and now as our senior Senator. And, as a Buckeye, I want to thank him for many years of wonderful service to my home state.

You heard from Sherrod, that I am accompanied today by many members of my family. It's a—it is a bit of a family affair. My daughter Marcia, is a—is a fifth grader. She's playing hooky today, but I assure you, Mr. Chairman, she'll be back hitting the books tonight when we get home and preparing for her lessons tomorrow.

I am privileged to have been associated with the Airports Authority in various capacities for more than a decade, a period in our Nation's history which has been both exciting for the Authority's airports and challenging for all of U.S. aviation.

At the beginning of that time, Washington National Airport was the larger and more important of the Authority's two airports. But it now has been far surpassed by Washington Dulles International Airport, and the Airports Authority has moved beyond its original role as solely an airports operator, emerging as an important player in the Washington region's multi-modal transportation system, something I have a little more to say about in a moment.

Dulles Airport was established half a century ago, by a visionary Federal Government, which anticipated the Capitol region's future demand for air transportation and sited an airport which would have ample capacity to grow as that demand materialized. The past decade has seen that vision realized, as Dulles has become both an important domestic carrier, with frequent service by both traditional and low-cost carriers, and a major international gate-

way, serving destinations in Asia, Africa, Europe, and South America.

To support that growth in air service, the Authority undertook, at the turn of the century, a multi-billion dollar expansion of Dulles. Though that expansion was slowed in the years immediately after September 11, 2001, we are now well into it. When completed, Dulles will have an additional air-side and land-side capacity, as well as an underground, automated people mover system, all of which will bring greater, more convenient air service to the Capitol region's ever increasing numbers of air travelers.

Two years ago, the Commonwealth of Virginia was considering a number of proposals to privatize the Dulles Toll Road, a road built and operated by Virginia, but lying in the Authority's right-of-way. The Authority proposed that, *in lieu* of privatization, it take over operation of the toll road and use the excess revenue from the toll road to extend the regional Metrorail system to Dulles Airport. I am sure I speak for all of my colleagues on the Airports Authority Board, Mr. Chairman, when I tell you that I am proud the Governor of Virginia placed his confidence in the Authority by accepting our proposal, and asking us, the Airports Authority, to take over responsibility for building Metrorail to Dulles.

The magnitude of this undertaking is substantial. The Dulles rail project will be in upwards of \$5 billion, one of the largest investments in the Washington metropolitan region's transportation system during the next decade.

Complimenting existing ground access to Dulles with the rail line, is a critically important service improvement for our passengers and for the thousands of people who work at Dulles Airport. Increasingly, the world's leading international airports offer their customers airport access through rail service. And the Authority believes that Dulles, the international airport for the Capitol of the United States of America, should join their ranks.

With the completion of the Dulles rail line, both of the Authority's airports will have convenient rail service, accessible directly from the airport terminals. We know that particularly in the Washington area market, customers want rail service to the airport. The percentage of National Airport's customers who access the airport by rail is the highest of any U.S. airport.

Mr. Chairman, I have a written statement I'd like to submit for the record. That concludes my opening remarks, and I look forward to responding to your questions.

[The prepared statement and biographical information of Mr. Brown follow:]

PREPARED STATEMENT OF HON. ROBERT CLARKE BROWN, RENOMINATED TO BE A MEMBER, BOARD OF DIRECTORS, METROPOLITAN WASHINGTON AIRPORTS AUTHORITY (MWAA)

Mr. Chairman and members of the Committee:

I am Robert Clarke Brown of Ohio. I appreciate this opportunity to appear before you in support of my nomination by the President for re-appointment to the Metropolitan Washington Airports Authority.

I am privileged to have been associated with the Airports Authority in various capacities for more than a decade, a period in our Nation's history which has been both exciting for the Authority's airports and challenging for all of U.S. aviation. At the beginning of that time, Washington National Airport was the larger of the

Authority's two airports; but it now has been far surpassed by Washington Dulles International Airport. And the Airports Authority has moved beyond its original role as solely an airports operator, emerging as an important player in the Washington region's multi-modal transportation system.

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During my tenure at the Airports Authority, I have chaired both the Finance Committee and the Strategic Development Committee. I have been involved vocationally in transportation during most of my professional career, in both the public and private sectors. I believe my experience on the Board and my professional background will enable me to contribute meaningfully to the work of the Authority as it assumes an ever more important role in the Washington region's and the Nation's transportation system.

I respectfully ask for your favorable consideration of my nomination and will be pleased to respond to your questions.

A. BIOGRAPHICAL INFORMATION

1. Name (Include any former names or nicknames used): Robert Clarke Brown.
2. Position to which nominated: Member, Board of Directors, Metropolitan Washington Airports Authority (term expiring Nov. 22, 2011).
3. Date of Nomination: June 21, 2007.
4. Address (List current place of residence and office addresses):
 Residence: Information not released to the public.
 Office: Case Western Reserve University, 10900 Euclid Avenue, Cleveland, OH 44106.
5. Date and Place of Birth: Dec. 17, 1947; Mansfield, OH.
6. Provide the name, position, and place of employment for your spouse (if married) and the names and ages of your children (including stepchildren and children by a previous marriage).

Catherine B. Scallen, Associate Professor, Department of Art History, Case Western Reserve University, Cleveland, OH (spouse); Marcia Grace Brown, 10 (daughter).

7. List all college and graduate degrees. Provide year and school attended.

Princeton University, B.S.E., 1969.
Harvard Law School, J.D., 1974.
Georgetown University Law Center, LL.M., 1975.

8. List all post-undergraduate employment, and highlight all management-level jobs held and any non-managerial jobs that relate to the position for which you are nominated.

Full-time, permanent employment:

United States Navy, 1969–1971.
Fellow, Institute for Public Interest Representation, 1974–1975.
Counsel, House Committee on Interstate and Foreign Commerce, 1975–1976.
Jimmy Carter Presidential Campaign, 1976.
Carter-Mondale Transition Team, 1976–1977.
Special Assistant, U.S. Department of Transportation, 1977–1979.
Senior Counsel, House Committee on Government Operations, 1979.
Attorney, Jones, Day, Reavis & Pogue, 1980–1983.
Assistant Director, Ohio Department of Transportation, 1983–1987.
Senior Vice President, Lehman Brothers, 1987–1994.
Executive Vice President, Envirotest Systems Corp., 1994–1995.
Managing Director, Key Capital Markets, 1996–1999.
Capital Markets Advisor, U.S. Department of Transportation, 1999–2007.
Treasurer, Case Western Reserve University, 2007–present.

Summer jobs:

1971: Department of Housing & Urban Development.
1972: Ohio Attorney General.
1973: Reavis, Pogue, Neal & Rose (law firm).

Jobs which have given me particularly valuable experience for service on the MWAA Board include:

1. my civilian government service—two tours at U.S. DOT and a stint at Ohio DOT, and
2. my investment banking experience, particularly that at Lehman Brothers, where I specialized in transportation finance.

9. Attach a copy of your résumé. A copy is attached.

10. List any advisory, consultative, honorary, or other part-time service or positions with Federal, State, or local governments, other than those listed above, within the last 5 years.

Member, Board of Directors, Metropolitan Washington Airports Authority (since 2000).

Financial Advisor, Ashtabula County, OH (2002–2004).

11. List all positions held as an officer, director, trustee, partner, proprietor, agent, representative, or consultant of any corporation, company, firm, partnership, or other business, enterprise, educational, or other institution within the last 5 years.

Financial Advisor, American University (2002–2003).
Trustee, University Circle Incorporated (2004–present).

12. Please list each membership you have had during the past 10 years or currently hold with any civic, social, charitable, educational, political, professional, fraternal, benevolent or religious organization, private club, or other membership organization. Include dates of membership and any positions you have held with any organization. Please note whether any such club or organization restricts membership on the basis of sex, race, color, religion, national origin, age, or handicap.

Member, St. Paul's Episcopal Church, Cleveland Heights, OH (since 2002) (service on Stewardship Committee).

Member, Fairmount Presbyterian Church, Cleveland Heights, OH (1997-2002) (service as Trustee).

Executive Committee, Municipal Securities Division, The Bond Market Association (1996–1999).

D.C. Bar and Ohio Bar since 1975 (both inactive).

Former member, Princeton Club of New York (resigned approx. 1998).

To the best of my knowledge, no organization or club of which I have been a member restricts membership on the basis of sex, race, color, religion, national origin, age, or handicap.

13. Have you ever been a candidate for and/or held a public office (elected, non-elected, or appointed)? If so, indicate whether any campaign has any outstanding debt, the amount, and whether you are personally liable for that debt.

I have never been a candidate for elected public office.

For full-time, paid, appointed positions I have held, at both the state and Federal levels, please see my response to question A.8.

As noted in my response to question A.10., I have also been appointed to an unpaid, part-time position as a Member of the Board of Directors of the Metropolitan Washington Airports Authority.

14. Itemize all political contributions to any individual, campaign organization, political party, political action committee, or similar entity of \$500 or more for the past 10 years. Also list all offices you have held with, and services rendered to, a state or national political party or election committee during the same period.

Political contributions:

Sherrod Brown for Senate: \$1,950 (total of multiple contributions in 2006).

Sherrod Brown for Senate: \$2,100 (2005).

John Kerry for President: \$2,000 (total of multiple contributions in 2004).

Kerry-Edwards General Election Legal and Accounting Compliance Fund: \$1,000 (2004).

Democratic Congressional Campaign Committee: \$1,000 (2004).

Bill Bradley for President: \$51,000 (1999).

Multiple contributions to KeyCorp PAC totaling more than \$500 (1996–1999).

Offices held / services rendered: No offices held in a state or national political party or election committee; services rendered as a volunteer to various Democratic candidates during the past 10 years.

15. List all scholarships, fellowships, honorary degrees, honorary society memberships, military medals, and any other special recognition for outstanding service or achievements.

Fellow, Institute for Public Interest Representation (post-graduate fellowship).

16. Please list each book, article, column, or publication you have authored, individually or with others. Also list any speeches that you have given on topics relevant to the position for which you have been nominated. Do not attach copies of these publications unless otherwise instructed.

Publications:

“A More Humane Military” (book review of *Pawns*, by Peter Barnes), *The Progressive*, July 1972.

“Where Does It Hurt, General,” *The New Republic*, September 30, 1972.

“Standing Up to the CIA,” *The Progressive*, July 1973.

Various articles, principally news stories, in *Harvard Law Record* (law school weekly newspaper), 1972–1973.

“State Action Analysis of Tax Expenditures,” 11 *Harvard Civil Rights—Civil Liberties Law Review* 97 (1976).

“Don’t Hike Federal Gas Tax,” *The Plain Dealer* (Cleveland), January 14, 1989.

“Playing Catch,” *The Plain Dealer* (Cleveland), June 21, 1989.

“Designing Credits for New Toll Roads,” published in proceedings of International Bridge, Tunnel & Turnpike Association 1990 Workshop, May 1, 1990.

“Recent Developments in the Municipal Bond Market and the Impact on Toll Financing,” published in proceedings of International Bridge, Tunnel & Turnpike Association 1992 Joint Meeting of Administration, Finance and Risk Management Committees, June 8, 1992.

“Faster Turnpike Speed Damaging Move”, *Crain’s Cleveland Business*, September 6, 2004.

“University Circle Workers Are Losers in Bottom-Line Decision-Making,” *The Plain Dealer* (Cleveland), January 7, 2005.

Speeches:

International Air-Rail Organisation, September 2005: Dulles rail project.

Moody’s Investors Services Infrastructure Conference, October 2005: airport capital planning.

DEPFA conference on privatization, October 2006.

During the past two decades, I have on numerous occasions participated in professional conferences in the course of which I have made informal (*i.e.*, no prepared text) presentations or spoken as a member or moderator of a panel on the subject of infrastructure finance.

17. Please identify each instance in which you have testified orally or in writing before Congress in a governmental or nongovernmental capacity and specify the date and subject matter of each testimony.

(a) testimony as a member of a panel of investment bankers on the subject of infrastructure finance before a House committee (date was sometime in the late 1980s; committee was probably House committee on transportation & infrastructure).

(b) first confirmation hearing for appointment to MWA Board, June 29, 1995.

(c) second confirmation hearing for appointment to MWA Board, September 15, 1998.

18. Given the current mission, major programs, and major operational objectives of the department/agency to which you have been nominated, what in your background or employment experience do you believe affirmatively qualifies you for appointment to the position for which you have been nominated, and why do you wish to serve in that position?

With the Authority embarking on the Dulles rail project, this is a particularly critical time in its history. There is no more important transportation project in the Washington region today than Dulles rail. I believe my background in surface transportation and in transportation finance will enable me to make a useful contribution to the Board as it works to complete this project.

19. What do you believe are your responsibilities, if confirmed, to ensure that the department/agency has proper management and accounting controls, and what experience do you have in managing a large organization?

The Board of Directors sets policy. It appoints the Authority’s top management and directs them to manage the operations of the Authority in accordance with that policy. The Board should exercise continuing and diligent oversight to ensure that management is carrying out its responsibilities in accordance with Board policy.

My service as a Member of the Board has given me valuable experience to continue to carry out the responsibilities of a Director.

20. What do you believe to be the top three challenges facing the department/agency, and why?

The three most significant challenges currently facing MWA are:

1. financing and constructing the Dulles rail project;
2. completing the major construction program underway at Washington Dulles International Airport;
3. strengthening international air service at Washington Dulles.

B. POTENTIAL CONFLICTS OF INTEREST

1. Describe all financial arrangements, deferred compensation agreements, and other continuing dealings with business associates, clients, or customers. Please include information related to retirement accounts.

I have no deferred compensation agreements.

I am entitled to receive, upon reaching retirement age, a small pension from Lehman Brothers based on my participation in the firm’s defined benefit pension plan during the 7 years I was employed there.

I am entitled to receive, upon reaching retirement age, a pension from the Federal Government based on my participation in the Federal pension plan during my several tours of civilian service and my time in the U.S. Navy.

I am entitled to receive, upon reaching retirement age, a pension from the State of Ohio based on my participation in the state’s pension plan during my service there.

I own all my other retirement accounts (IRAs, etc.), and none of them involves “continuing dealings” with any former associate, client or customer.

2. Do you have any commitments or agreements, formal or informal, to maintain employment, affiliation, or practice with any business, association or other organization during your appointment? If so, please explain.

Members of the Board of Directors of the Metropolitan Washington Airports Authority serve without compensation. I expect to continue to be employed full-time as Treasurer of Case Western Reserve University during my service as a Member of the Board.

3. 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.

4. 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.

5. Describe any activity during the past 10 years in which you have been 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: None.

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

If I believe I have a conflict, I will recuse myself from any Board deliberations or action related to the matter in question.

C. LEGAL MATTERS

1. Have you ever been disciplined or cited for a breach of ethics by, or been the subject of a complaint to any court, administrative agency, professional association, disciplinary committee, or other professional group? If so, please explain.

No. (Please also refer to response to question C.6.)

2. Have you even been investigated, arrested, charged, or held by any Federal, State, or other law enforcement authority of any Federal, State, county, or municipal entity, other than for a minor traffic offense? If so, please explain. No.

3. Have you or any business of which you are or were an officer ever been involved as a party in an administrative agency proceeding or civil litigation? If so, please explain.

Neither I nor any business of which I have been an officer has been a party in any administrative agency proceeding or civil litigation. Please see response to question C.6. in connection with a proceeding of the National Association of Securities Dealers, a self-regulatory organization.

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, please explain. No.

5. Have you ever been accused, formally or informally, of sexual harassment or discrimination on the basis of sex, race, religion, or any other basis? If so, please explain. No.

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

Key Capital Markets, a former employer, was sanctioned in 1997 as a result of two small political contributions I made prior to the commencement of my employment there.

In 1994 and 1995 I made two small (\$50 and \$100) political contributions to a member of the Cleveland City Council who was a long-time personal friend. At the time I made the contributions, I was living in New York, was not employed in the securities industry, and had not yet had any discussions with Key Capital Markets about employment. Subsequently, in 1996, I became an employee of Key Capital Markets in the Public Finance Department and thus became a Municipal Finance Professional as that term is defined by the Municipal Securities Rulemaking Board.

Rule G-37 of the Municipal Securities Rulemaking Board prohibits a broker-dealer from engaging in securities work for a municipal issuer if any Municipal Finance Professional employed by that broker-dealer has, during the preceding 2 years, made a political contribution to an official of that issuer for whom he could not vote. In 1994 and 1995 I was a resident of New York, and thus I could not vote for the Cleveland Councilman when I made the contributions to him. Because I had made political contributions to a Cleveland official for whom I could not vote and subsequently became employed by Key Capital Markets as a Municipal Finance Professional less than 2 years after the contributions were made, Key Capital Markets was barred until 1997 (two years after the 1995 contribution was made) from doing

underwriting work for the City of Cleveland. Because the firm had played a minor role in a Cleveland underwriting before either the firm or I was aware my conduct had been a violation, the National Association of Securities Dealers assessed a small fine, in the amount of the revenue the firm had generated through its work on the underwriting (approximately \$10,000), against the firm.

I was neither fined nor sanctioned.

D. RELATIONSHIP WITH COMMITTEE

1. Will you ensure that your department/agency complies with deadlines for information set by Congressional committees? I will.

2. Will you ensure that your department/agency does whatever it can to protect Congressional witnesses and whistleblowers from reprisal for their testimony and disclosures? I will.

3. Will you cooperate in providing the Committee with requested witnesses, including technical experts and career employees, with firsthand knowledge of matters of interest to the Committee? I will.

4. 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.

RÉSUMÉ OF ROBERT CLARKE BROWN

Employment

Case Western Reserve University, Vice President and Treasurer, 2007–present.

Manage University's balance sheet

In consultation with investment bankers and financial advisors, oversee long-term debt portfolio, including derivative exposure.

Manage short-term investment portfolio and cash management; arrange University bank relationships.

Brownlea Advisors, Principal, 2000–present.

Created financial advisory firm to serve public agencies and nonprofit organizations.

Advise on the development of major projects and design attendant financings.

Advised Ashtabula County on development and financing of Geneva State Park Lodge.

Advised American University on \$45 million financing.

Prior Employment

U.S. Department of Transportation, Capital Markets Advisor, 1999–2007.

Assisted in establishment of new Federal credit assistance program under which U.S. DOT supports financing of large, nationally significant surface transportation projects.

Working with investment bankers, private project developers, insurers, rating agencies, and private attorneys, represent U.S. DOT in negotiations of transportation project financings employing Federal loans and Federal guarantees authorized by the program.

Structure public-private partnerships which promote private sector development while protecting the public interest.

Key Capital Markets, Inc., Managing Director, Public Finance, 1996–1999.

Led establishment of the Public Finance department within KeyCorp's new investment banking subsidiary.

Recruited and hired bankers to staff six offices nationwide.

Managed 25 professionals plus support staff.

Increased market share in all target markets and tripled department revenues in 3 years.

Executed financings for both government agencies and nonprofit organizations.

Envirotest Systems Corp., Executive Vice President, Marketing and Government Relations, 1994–1995.

Developed competitive strategies for marketing vehicle emissions testing services to state governments.

Created testing plans tailored to fit political and demographic requirements of specific markets.

Lehman Brothers, Senior Vice President, 1987–1994.

Developed finance plans for transportation projects of state and local government agencies.

Presented finance plans to credit rating agencies, bond insurers, investors, and public constituencies.

Executed over \$2 billion in capital markets financings on behalf of senior-managed clients.

Ohio Department of Transportation, Assistant Director, 1983–1987.

Managed ODOT's public transit, aviation, rail and water transportation programs.

Led formation of new ODOT Division of Water Transportation and designed first state program to support Ohio water transportation.

Created first state grant program for transit.

Supervised 70 employees; coordinated related activities of 12 district offices throughout the state.

Led ODOT's work with the Ohio Turnpike in development of a long-range strategic plan for the Turnpike.

Jones, Day, Reavis & Pogue, Attorney, 1980–1983.

Private practice of law in areas of municipal bonds, government regulation, real estate and general corporate (Cleveland office).

U.S. House of Representatives, Senior Counsel, Committee on Government Operations, Subcommittee on Environment, Energy and Natural Resources, 1979.

Led oversight hearings and investigations of Nuclear Regulatory Commission.

Staff author of Committee report on nuclear power plant emergency planning.

U.S. Department of Transportation, Special Assistant to the Assistant Secretary for Policy and International Affairs, 1977–1979.

U.S. House of Representatives, Counsel, Interstate and Foreign Commerce Committee, Subcommittee on Oversight and Investigations, 1975–1976.

Institute for Public Interest Representation, Fellow and staff attorney, 1974–1975.

Conducted advocacy litigation in Federal courts and before Federal agencies.

Taught and supervised third-year law students in clinical legal program.

United States Navy, Lt. (j.g.), 1969–1971.

Engineering aide to Admiral H.G. Rickover.

Oversaw testing and materials programs of government contractors engaged in development, production and operation of nuclear power plants of Navy ships.

Professional Activities

Board of Directors, University Circle Incorporated, Cleveland, Ohio (2004–present).

Board of Directors, Metropolitan Washington Airports Auth. (1996–1997; 2000–present) (appointed to the Board by President Clinton).

Formerly, Chair, Finance and Audit Committees;

Currently, Chair, Strategic Development Committee.

Executive Committee, Municipal Securities Division, The Bond Market Association (1996–1999).

Chairman, Maglev Study Advisory Committee (1996–1997).

(appointed by the U.S. Secretary of Transportation).

Board of Directors, American Public Transit Association (1993–1996).

Committee on Finance, Transportation Research Board.

Member: Ohio Bar, District of Columbia Bar.

Education

Princeton University, B.S.E., 1969; Major: Aeronautical Engineering.

Graduated with High Honors.

Academic honors: Phi Beta Kappa, Sigma Xi (scientific research), Tau Beta Pi (engineering).

Senior thesis on research of combustion processes of metals published by NASA.

Harvard Law School, J.D., 1974.

Editor-in-Chief, *Harvard Civil Rights—Civil Liberties Law Review*.

Georgetown University Law Center, LL.M., 1975.

Field of concentration: administrative law and regulation.

The CHAIRMAN. Your statement will be made part of the record, sir. I have a question. I don't expect an answer at this moment, but will you provide me with a written report?

Mr. BROWN. Yes, sir.

The CHAIRMAN. Recently, a report was rendered, suggesting that over 60 percent of all flights in the United States are delayed, especially along the Northeast Corridor, including Washington. If you do have any views or suggestions or proposals that would alleviate this problem, please share it with us.

Mr. BROWN. Mr. Chairman, I will prepare a written response to that.

[The information previously referred to follows:]

ROBERT CLARKE BROWN
Shaker Heights, OH, October 29, 2007

Hon. DANIEL K. INOUE,
Chairman,

Hon. TED STEVENS,
Vice Chairman,

Senate Commerce, Science, and Transportation Committee,
Washington, DC.

Dear Mr. Chairman and Mr. Vice Chairman:

I appreciated the opportunity to appear before the Committee on October 23 on my re-nomination to the Metropolitan Washington Airports Authority (MWAA).

During the hearing, the Chairman asked that I share my views on the reasons and possible remedies for the significant delays that domestic airline passengers have experienced this year. I am pleased to do so. Please note that the views below are entirely mine, and are not to be taken as views or positions of MWAA.

This year's air travel delays have largely been related to weather and air traffic capacity. However, they have been particularly serious along the East Coast because the FAA's air traffic control system in this region, in the best of weather conditions, is now operating at or very near its capacity. The introduction of severe weather into an already constrained air traffic system exacerbates delays as the system's capacity is further constrained by adverse weather. Thus, delays initially caused by weather eventually result in further delays caused by an air traffic system that is incapable of handling the traffic consequences of poor weather.

Neither government nor the airline industry can control the occurrence of adverse weather. f However, both are capable of reducing the travel delays that airline passengers are increasingly experiencing. And, with domestic airline travel projected to increase two to three times in the next 20 years, it is clear that extraordinary actions are necessary.

For the air traffic control system, major infrastructure advancements must be undertaken. These are now underway, in the form of the NextGen Air Transportation System, which will move today's air traffic system from its radar-based, analog technology to a satellite-based, digital communication system. However, full implementation of NextGen advancements is 15 to 20 years away, and no system of funding its implementation has been identified. In the meantime, efforts must continue to improve the capacity of the current air traffic system through, for instance, more precise navigational arrivals and departures, the redesign or expansion of air space around airports, better weather forecasting techniques, and improved traffic flow modeling and management tools.

Air traffic delays, of course, can be caused by factors other than adverse weather and today's air traffic control system. These other factors also can exacerbate delays

caused by weather and inadequate air traffic system capacity. A significant factor involves airports whose gate capacity, during peak periods, falls short of demand, forcing aircraft to wait until a gate is available. This, of course, means more delay and more frustration for passengers who have already experienced delays en route.

Airports can address their role in air travel delay by ensuring that their gate and ground capacity is sufficient to handle anticipated air traffic demand. Washington Dulles International Airport is doing just this. The airport is in the middle of a \$4 billion capital expansion program. It is building a new fourth runway and has plans, which have completed the requisite environmental review, to add a fifth. MWAA is also constructing at Dulles an underground automated people mover system, additional terminal space, new fuel tanks and lines, baggage system improvements, expanded roadways and other infrastructure enhancements. In the years ahead, Dulles Airport should have adequate capacity to meet projected air traffic demand.

I note that, since the 1960s, Washington National Airport has been subject to a "high density rule" that limits the number of flights that carriers may schedule. While not uniformly embraced, the rule has been an effective tool to prevent delays at the airport, as well as to protect the surrounding community from aircraft noise. The rule became necessary because National lacked the capacity to handle the level of flights sought by airlines. However, amendments to National's high density rule have added flights to the airport over the years which, by increasing passenger load, have begun to strain its facilities (*e.g.*, its parking garages and space for security facilities). Nonetheless, the limitations placed on the number of permitted flights at National have served to moderate flight and passenger delays at the airport.

The FAA has done a credible job of increasing the capacity of the air traffic system over the years, and its NextGen program, when fully matured, will greatly expand the system's capacity. Until then, however, the significant problem of air travel delay will increase, and must be addressed by a combination of enhancements to the current air traffic system and expansion of airports' capacity to efficiently handle incoming and outgoing traffic.

I appreciate the opportunity to present these views. I would be pleased to address any other questions you or other committee members may have.

Sincerely,

ROBERT CLARKE BROWN.

Mr. BROWN. Let me just say briefly, that there are many causes to the—to the delay of, as you say, the majority of flights now being delayed during this past summer, which was very busy in the airline business.

There are many causes of those delays. Airport capacity is one. The air traffic control system is another. And of course, weather is always a problem, especially in the summer time.

With respect to the first, we are, I mentioned, we do have a large building program at Washington Dulles. We think that will go part way to addressing the problem of delay for flights out of Dulles. National is pretty well built out. It is also capacity restrained, constrained, as you know, through the slots and perimeter rule. So, it is—it is not as much of a problem there, although we still have delay issues there, more because of the air traffic control system. But I will respond in more detail in writing.

Thank you.

The CHAIRMAN. As you know, I travel a lot. Last Sunday, this past Sunday, I flew to Alabama and got back yesterday afternoon. And, my bag did not follow me. But it finally caught up with me. You're not responsible for that.

[Laughter.]

The CHAIRMAN. I just wanted you to know that I share the frustration of many of our travelers. So, I look forward to your report, sir.

Mr. BROWN. Thank you, Mr. Chairman.

The CHAIRMAN. Senator Stevens?

Senator STEVENS. Thank you.

Mr. Brown, what is the Board of Directors' relationship to TSA? Is there any communication between them and you with regard to policies at the airport?

Mr. BROWN. Senator Stevens, we—we try to have a close relationship with TSA. There's no question, it is a—it is a partnership, a dynamic partnership. TSA does make policies. I think it's fair to say that the various airports around the country don't always agree with, but we do work continually with TSA, in trying to solve the problems that we are mutually addressing. We certainly have asked TSA to provide additional resources at our airports, to support the security requirements of a large number of passengers going through the security checkpoints.

But I'm sure, in fairness to TSA, they are hearing similar complaints from many other airports around the country. And, I'm sure part of the problem is, they themselves are resource-constrained, and are making decisions about how those resources get allocated. But, we certainly do work as closely with them as we can. It is, frankly, always a little bit of, I think it's fair to say, a little bit lobbying. Each airport is doing that, with the TSA trying to get a little bit larger commitment of resources to their needs, because passengers, at the end of the day, going through our airport, don't really differentiate between TSA and the airport operator, as to who is responsible if they miss their flight, because they were held up trying to get through a security checkpoint.

So, it's very much in our interest. We want the experience of our airport customers, our passengers, to be a positive one, a pleasant one. We do everything we can to try to work with TSA to help make that happen.

Senator STEVENS. Well, the administration of the airports doesn't pay anything toward those security problems, do they?

Mr. BROWN. We do not pay for those. We have space that we rent to TSA. TSA actually does pay us rent for the space that they use at the airport.

Senator STEVENS. I've been told that there are some real problems, in terms of keeping people there at these two airports. You just have two, don't you?

Mr. BROWN. Yes.

Senator STEVENS. And particularly, turnover in screeners and people like that. Does the Board look into problems like that?

Mr. BROWN. I have not—I don't know too much about that, Senator. I'm happy to look into that further and find out from our airport operators if, in fact, their sense of the TSA workforce, is that the turnover's been very heavy. I'm not familiar with that situation at all, but happy to respond in some detail in writing to you after the hearing.

Senator STEVENS. Well, back in my days on the Board, we were told that management operation on a daily basis wasn't our responsibility. Does the Board get into it at all now?

Mr. BROWN. Well, I think—I think on some of those kinds of operational issues, we—we do tend to feel that management really handles them. But I think when it gets to be a problem that very much affects the overall experience of our customers, of our passengers, and I think when there's a legislative inquiry, I think it's appropriate for the Board to explore it further. Yes, Senator.

Senator STEVENS. Do you think Congress should give the Boards of Directors that control airports, such as these two, further powers, with regard to TSA?

Mr. BROWN. Well, you know, that is—I'm sure that's a difficult question that you all wrestle with. We certainly, as an airport operator, would like to feel we had some authority with TSA. As you say, we really don't pay them for the service that they provide. They don't really feel that they are obligated to respond to us. I think they try to be good partners, but I think we would like to have some authority, with respect to the way TSA screeners are deployed, what times of the day, how many lanes are open, and so on and so forth. And I think the Authority would—I'm speaking only for myself, the Board has not discussed this—but I think you would find some support among directors of the Airports Authority to give us additional powers to have some oversight on the way TSA deploys its resources. Yes.

Senator STEVENS. Thank you very much and thanks for your willingness to serve another term. It's not an easy task. I'm sure it's a burden coming in from Ohio to deal with this. So, we thank you for what you're doing. We appreciate it very much.

Mr. BROWN. Thank you very much, Senator. I very much enjoyed my service on this Board. It has been a privilege.

The CHAIRMAN. Mr. Brown, I thank you very much, and congratulations.

Mr. BROWN. Thank you, Mr. Chairman.

The CHAIRMAN. Our next witness is the Inspector General-Designate, United States Department of Commerce, Mr. Todd J. Zinser.

Mr. Zinser, welcome, sir.

**STATEMENT OF TODD J. ZINSER, NOMINATED TO BE
INSPECTOR GENERAL, U.S. DEPARTMENT OF COMMERCE**

Mr. ZINSER. Thank you, Mr. Chairman, Vice Chairman Stevens. I prepared a written statement and would like to have it submitted for the record if I could.

The CHAIRMAN. Without objection, so ordered.

Mr. ZINSER. I'd like to summarize that statement briefly.

I'm honored to appear before you today as the President's nominee to be Inspector General of the Department of Commerce. I have been privileged to testify before this Committee and its Subcommittees as Acting Inspector General of the Department of Transportation, and to have contributed to the important oversight work of this Committee. I would like to thank Secretary Gutiérrez for his expression of confidence and the Committee, for considering my nomination expeditiously.

Mr. Chairman, as you and your staff know, public service is an honor. For the past 24 years, I have been honored to be a career civil servant. I began as an investigator with the Department of Labor in 1983, transferred to the Department of Transportation Office of Inspector General 16 years ago, in 1991, and for the past 7 years, I have served as Deputy Inspector General, including 8 months as Acting Inspector General.

It is my firm belief, that throughout my Federal service, I have demonstrated integrity, objectivity, commitment to good govern-

ment, and leadership, characteristics essential to being an effective Inspector General. The Department of Commerce, like the other major departments of government, requires an objective, independent Inspector General, who will make fair but tough, fact-based calls and report to the Secretary and the Congress fully and forthrightly.

The Inspector General should work constructively with the Department and stakeholders, as a force for positive change and all parties should constantly strive for a relationship built upon mutual respect and trust. However, the Inspector General is under an absolute obligation to report to the Congress about significant problems.

I know that Secretary Gutiérrez shares this view, and I am confident that, if confirmed, the Office of Inspector General staff and I, would have a good and open working relationship with the Secretary and the Congress.

My experience at the Department of Transportation OIG in working with the Secretary and Congress, certainly this very Committee, has been entirely positive. This experience has taught me how to conduct investigations and audits in a credible and constructive way. It has helped me appreciate the importance of providing policymakers with current, relevant, factual, and objective information.

I have learned many other lessons, but would like to stress three in particular. First, that the hallmarks of independence, objectivity, and nonpartisanship strengthen an IG's credibility, especially when the findings of an audit or investigation run counter to what may have been expected. Second, the importance of Congress in providing oversight and making progress and leading reform. And third, that government leaders want to get ahead of problems and expect to hear from their Inspectors General and GAO about risks and vulnerabilities and their best recommendations for solutions.

If confirmed, I am committed to applying these lessons and my experience to the audits and investigations performed by the Office of Inspector General at the Department of Commerce. As you noted, Mr. Chairman, in your oversight hearing for the Department in August, the business of the Department of Commerce is complex and demanding. Its mission includes conserving and managing the oceans, taking care of the census, providing economic opportunities, predicting the weather, and promoting commerce and innovation and good stewardship of the resources that contribute to our economic prosperity.

Secretary Gutiérrez, similarly, emphasized that the roots of the Department are firmly grounded in promoting commerce and economic growth, and exercising stewardship of our oceans and waterways.

I want to assure the Committee that, if confirmed, those issues will have the highest priority for the Office of Inspector General as well.

Mr. Chairman, that concludes my statement. I would be pleased to respond to any questions you or Vice Chairman Stevens may have.

[The prepared statement and biographical information of Mr. Zinser follow:]

PREPARED STATEMENT OF TODD J. ZINSER, NOMINATED TO BE INSPECTOR GENERAL,
U.S. DEPARTMENT OF COMMERCE

Chairman Inouye, Vice Chairman Stevens and Members of the Committee:

I am honored to appear before you today as President Bush's nominee to be Inspector General of the Department of Commerce. I have been privileged to testify before this Committee and its Subcommittees as Acting Inspector General of the Department of Transportation (DOT), and to have contributed to the Committee's vital oversight work while leading the talented staff at the DOT Office of Inspector General (OIG).

The Inspector General position in a large Federal agency such as the Department of Commerce is a very important and challenging one. I would like to thank Secretary Gutiérrez for his expression of confidence and the Committee for considering my nomination expeditiously. I would also like to express my appreciation to Inspector General Calvin Scovel, and former Inspector General Kenneth Mead, for their support over the past 10 years at DOT. I would also like to extend my thanks to the staff at the DOT Office of Inspector General, with whom I have had the privilege of serving for the past 16 years. Finally, but not least, I want to thank my children, Ken, Philipp, and Corinne, for their love and support, especially at this time as I seek the Committee's approval for becoming Inspector General at the Department of Commerce.

For the past 24 years, I have been a career civil servant. I began as an investigator with the Department of Labor in 1983 and transferred to the Department of Transportation, Office of Inspector General, in 1991 where, for the past 7 years, I have served as Deputy Inspector General. From February 2006 to October 2006, I also served as DOT's Acting Inspector General. It is my firm belief that throughout my Federal service I have demonstrated integrity, objectivity, commitment to good government, and leadership—characteristics essential to being an Inspector General.

I am most proud of my 16 years conducting audits and investigations of transportation issues and programs at the Department of Transportation. I believe the OIG staff and I truly made a difference in helping Congress and DOT in their efforts to provide for the economic well-being and competitiveness of the country and ensure a safer, more secure, efficient, and affordable transportation system. If confirmed, I would strive to make the same contributions in support of the important mission of the Department of Commerce.

It is against this backdrop that I would first like to express my view of the Inspector General's role in the Federal Government.

The Inspector General Act was passed in 1978 and provides that the Inspector General will conduct audits and investigations to improve the economy, efficiency, and effectiveness of government programs and to detect and prevent fraud, waste, and mismanagement. My view is that the Department of Commerce, like the other major departments of government, requires an independent, objective Inspector General, who will make fair but tough, fact-based calls and report to the Secretary and the Congress fully and forthrightly. Further, the Inspector General should work with the Secretary, senior departmental managers, and Congress as a force for positive change.

The Secretary, Deputy Secretary, and Inspector General must also have a two-way open line of communication and it should be used on a regular, ongoing basis. I understand full well that the same is true for the relationship between the Inspector General and the Congress. The Inspector General should work constructively with the Department and should constantly strive for a relationship built upon mutual respect and trust. However, the Inspector General also is under an absolute obligation to report to the Congress about significant problems. I know that Secretary Gutiérrez fully shares this view and I am confident that, if confirmed, the Office of Inspector General staff and I would work hard to have a good and open working relationship with the Secretary and the Congress.

My experience at the DOT OIG in working with the Secretary and Congress has been entirely positive. I consider myself fortunate to have worked with DOT and its modal administrations, the House and Senate, Members of both parties, and various transportation constituencies. This experience helped me learn about the implementation and impact of national programs; understand how decisions are made; appreciate the importance of providing policy-makers with current, relevant, factual and objective information; and conduct investigations and audits in a credible and constructive way.

I have learned that the hallmarks of independence, objectivity, and nonpartisanship strengthen an IG's credibility, especially when the findings of an audit or investigation run counter to what may have been expected. I have also learned about the

importance of Congressional oversight in making progress and leading reform. My experience at the DOT OIG has also taught me that government leaders want to get ahead of problems and expect the Inspectors General and GAO to tell them about risks and vulnerabilities and to provide their best recommendations for solutions.

As Deputy Inspector General for the past 7 years, I managed a talented staff of about 430 in directing audits and investigations. Our work since 2000 has resulted in more than 700 reports covering a broad range of audit findings in the transportation modes and approximately 140 testimonies to Congressional committees. The basic standards of objectivity, independence, and high quality were fundamental in all our work, reports, and testimony. Much of this work was undertaken in response to requests from this Committee, and other Senate and House authorization and appropriation committees.

I know first-hand the importance of the Inspector General function and how a large Department and its subordinate agencies operate. The audit and investigative functions of the Inspector General, under the umbrella of independence and objectivity are directed toward identifying and preventing fraud, waste, and inefficiency. If confirmed, I am committed to applying this base of experience to the audits and investigations performed by the Office of Inspector General at the Department of Commerce. I am equally committed, if confirmed, to providing the strong leadership necessary to address the current challenges facing the Office of Inspector General. I will work with this Committee and the Congress to address these challenges head on.

Mr. Chairman, the work of the Inspectors General covers a broad front and in recent years the Inspector General community has been required by Congress to issue annual reports on the top challenges facing their respective departments. Those reports are intended to focus attention on the most pressing issues and serve to aid both Congress and the Administration in serving the American people.

This seems particularly important for the Department of Commerce. As you noted, Mr. Chairman, in your oversight hearing for the Department in August of this year, the business of the Department of Commerce is complex and demanding. Its mission includes conserving and managing the oceans, ensuring the accuracy of standards of measurement, taking care of the census, providing economic opportunities, predicting the weather, promoting commerce and innovation and good stewardship of the resources that contribute to our economic prosperity. Secretary Gutiérrez similarly emphasized that the roots of the Department are firmly grounded in promoting commerce and economic growth, and exercising stewardship over our oceans and waterways. I want to assure the Committee that, if confirmed, these issues will have the highest priority for the Office of Inspector General as well.

Mr. Chairman, this concludes my statement. I will be pleased to respond to any questions you or the other members of the Committee may have.

A. BIOGRAPHICAL INFORMATION

1. Name (Include any former names or nicknames used): Todd J. Zinser.
2. Position to which nominated: Inspector General, U.S. Department of Commerce.
3. Date of Nomination: September 7, 2007.
4. Address:
 - Residence: Information not released to the public.
 - Office: U.S. Department of Transportation, West Wing, 7th Floor, 1200 New Jersey Avenue, SE, Washington, DC 20590.
5. Date and Place of Birth: September 6, 1957; Cincinnati, OH.
6. Provide the name, position, and place of employment for your spouse (if married) and the names and ages of your children (including stepchildren and children by a previous marriage).
 - Spouse: None (Divorced); Children: Kenneth Zinser, 18; Philipp Zinser, 14; Corinne Zinser, 12.
7. List all college and graduate degrees. Provide year and school attended.
 - Miami University, Oxford, OH, Master of Arts, Political Science, 1980.
 - Northern Kentucky University, Bachelor of Arts, Political Science, 1979.
8. List all post-undergraduate employment, and highlight all management-level jobs held and any non-managerial jobs that relate to the position for which you are nominated.

U.S. Department of Transportation.

Deputy Inspector General, 2001–present.
 Acting Inspector General, February–October 2006.
 Assistant Inspector General for Investigations, 1996–2001.
 Deputy Assistant Inspector General, 1994–1996.
 Special Agent-in-Charge, New York, NY, 1991–1994.

U.S. Department of Labor, Office of Labor-Management Standards.

Deputy Regional Administrator, New York, NY, 1989–1991.
 District Director, New Haven, CT, 1987–1989.
 Labor Investigator, Cincinnati, OH, 1983–1987 (non-management).

Campbell County Kentucky Fiscal Court.

Director of Administration, 1983.
 Executive Assistant, 1982–1983.

*Austin Community College, Austin, TX, Instructor (Part-Time), 1981.**Texas House of Representatives, Research Assistant, 1981.**White House Intern, 1980.*

9. Attach a copy of your résumé. A copy is attached.
 10. List any advisory, consultative, honorary, or other part-time service or positions with Federal, State, or local governments, other than those listed above, within the last 5 years: None.
 11. List all positions held as an officer, director, trustee, partner, proprietor, agent, representative, or consultant of any corporation, company, firm, partnership, or other business, enterprise, educational, or other institution within the last 5 years: None.
 12. Please list each membership you have had during the past 10 years or currently hold with any civic, social, charitable, educational, political, professional, fraternal, benevolent or religious organization, private club, or other membership organization. Include dates of membership and any positions you have held with any organization. Please note whether any such club or organization restricts membership on the basis of sex, race, color, religion, national origin, age, or handicap.

Senior Executive Association, 2002–present.
 Robinson Ice Hockey Club, Fairfax, VA, President, 2006.
 Boy Scouts of America, Troop 1347, Burke VA, 2002–Present.
 Terra Centre Elementary PTA, Treasurer, 1999–2000.

13. Have you ever been a candidate for and/or held a public office (elected, non-elected, or appointed)? If so, indicate whether any campaign has any outstanding debt, the amount, and whether you are personally liable for that debt. No.

14. Itemize all political contributions to any individual, campaign organization, political party, political action committee, or similar entity of \$500 or more for the past 10 years. Also list all offices you have held with, and services rendered to, a state or national political party or election committee during the same period: None.

15. List all scholarships, fellowships, honorary degrees, honorary society memberships, military medals, and any other special recognition for outstanding service or achievements.

Secretary's Gold Medal—Katrina Task Force.
 Secretary's 9/11 Medal.

16. Please list each book, article, column, or publication you have authored, individually or with others. Also list any speeches that you have given on topics relevant to the position for which you have been nominated. Do not attach copies of these publications unless otherwise instructed.

“Tool Time,” *Journal of Public Inquiry*, Fall/Winter 1998.

17. Please identify each instance in which you have testified orally or in writing before Congress in a governmental or nongovernmental capacity and specify the date and subject matter of each testimony.

| Date | Subject | Cmte/Subemte |
|-----------|--|--|
| 9–20–2006 | Observations on FAA's Oversight of Aviation Safety | House Cmte on T&I Subcmte on Aviation |

| Date | Subject | Cmte/Subcmte |
|-----------|---|---|
| 7-13-2006 | Lower Manhattan Reconstruction: Lessons Learned from Large Transportation Projects | House Cmte on Homeland Security Subcmte on Management, Integration, and Oversight |
| 6-21-2006 | Observations on Current and Future Efforts to Modernize the National Air-space System | House Cmte on T&I Subcmte on Aviation |
| 5-4-2006 | Household Goods Moving Fraud | Senate Cmte on Commerce, Science, and Transportation Subcmte on Transportation and Merchant Marine |
| 3-28-2006 | Perspectives on FAA's FY 2007 Budget Request and the Aviation Trust Fund | Senate Cmte on Commerce, Science, and Transportation Subcmte on Aviation |
| 3-16-2006 | Pipeline Safety: Progress and Remaining Challenges | House Cmte on Trans. and Infra. Subcmte on Highways, Transit, and Pipelines |
| 5-11-2005 | Background Checks for Holders of Commercial Drivers Licenses with Hazardous Materials Endorsement | House Cmte on Trans. and Infra. Subcmte on Highways, Transit and Pipelines |
| 3-30-1995 | FAA Training Programs | House Cmte on Appropriations Subcmte on Transportation |

18. Given the current mission, major programs, and major operational objectives of the department/agency to which you have been nominated, what in your background or employment experience do you believe affirmatively qualifies you for appointment to the position for which you have been nominated, and why do you wish to serve in that position?

My experience as Deputy Inspector General at the Department of Transportation for the past 6 years, including 8 months as Acting Inspector General, and my other executive and managerial experience with the DOT OIG and the Department of Labor gained during my 24 years of Federal service, affirmatively qualifies me for this appointment.

I wish to serve as Inspector General at the U.S. Department of Commerce because of the importance of the Inspector General in preventing and detecting fraud, waste and abuse and promoting economy and efficiency in Departmental programs and operations. I believe my appointment could benefit the Department and the Office of Inspector General at this critical time for the OIG. The important mission and programs of the Department of Commerce require an Inspector General focused on integrity, stewardship and getting the most for the taxpayers' dollars.

19. What do you believe are your responsibilities, if confirmed, to ensure that the department/agency has proper management and accounting controls, and what experience do you have in managing a large organization?

The operations of the Office of Inspector General should be held to a higher standard within a Department since the OIG must, in turn, audit and investigate the operations of the Department. If an OIG does not have proper management and accounting controls for its own operation, it diminishes the OIG's standing to make recommendations with respect to the operations of other agencies of the Department. As Deputy Inspector General at DOT, I directly supervise the operations of the OIG, with total budgetary resources of approximately \$70 million and a staffing level of approximately 430 located throughout the United States, including 12 Senior Executives.

20. What do you believe to be the top three challenges facing the department/agency, and why?

Promptly resolve ongoing investigations by the Congress and the Office of Special Counsel concerning the operations of the OIG.

Address organizational and workforce issues resulting from those investigations.

Plan and implement oversight of the Department of Commerce, concentrating on those programs and operations of most importance to the Administration and the Congress.

B. POTENTIAL CONFLICTS OF INTEREST

1. Describe all financial arrangements, deferred compensation agreements, and other continuing dealings with business associates, clients, or customers. Please include information related to retirement accounts.

I have no financial arrangements, deferred compensation agreements or other continuing dealings with business associates, clients, or customers. Retirement accounts

consist of retirement coverage under the Civil Service Retirement System and annuity and IRA accounts disclosed on my Public Financial Disclosure Report, SF278.

2. Do you have any commitments or agreements, formal or informal, to maintain employment, affiliation, or practice with any business, association or other organization during your appointment? If so, please explain: None.

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

My three children and I hold stock in a company with a wholly-owned subsidiary in the broadcasting industry. Ethics Counsel for the Department of Commerce has determined that I do not have to divest these holdings, but if a matter arises in the Inspector General's Office that could affect the financial interests of this wholly owned subsidiary (or the parent company), it would be necessary that I recuse myself from participating in the matter. In the event my participation in a matter from which I am disqualified is important to the government, I will seek advice from an ethics official on means to resolve any conflict of interest, such as by divestiture or by obtaining a conflict of interest waiver.

4. 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.

5. Describe any activity during the past 10 years in which you have been 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: None.

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

I will seek and closely follow the advice of the Department's Ethics Council in accordance with my Ethics Agreement with the Department of Commerce, which is documented by memorandum dated August 2, 2007, to Barbara S. Fredericks, Assistant General Counsel for Administration.

C. LEGAL MATTERS

1. Have you ever been disciplined or cited for a breach of ethics by, or been the subject of a complaint to any court, administrative agency, professional association, disciplinary committee, or other professional group? If so, please explain.

I have never been disciplined or cited for a breach of ethics. However, within weeks of my becoming Acting Inspector General at DOT in February 2006, I self-reported to the President's Council on Integrity and Efficiency (PCIE), an anonymous complaint that I received. The letter asserted that with the departure of the former DOT IG, I would be "unchecked" in my "misconduct and mismanagement." The six allegations contained in the letter all related to my management during the tenure of the former IG but provided no explanation why these allegations were not raised with the former IG during the 6 years I served as his Deputy. After review by the PCIE Integrity Committee, the PCIE determined that the complaint did not establish specific wrongdoing and referred the complaint back to me and the Department.

The PCIE also received an anonymous complaint in September 2006, alleging that I was "covering up" an internal investigation into a stolen DOT OIG laptop computer. In response, the Acting Deputy Inspector General wrote to the PCIE and informed them that he had been assigned by me, weeks before the date of the complaint, to conduct the investigation and that I was not involved in managing the investigation. The PCIE also closed its file on this allegation.

2. Have you ever been investigated, arrested, charged, or held by any Federal, State, or other law enforcement authority of any Federal, State, county, or municipal entity, other than for a minor traffic offense? If so, please explain: No.

3. Have you or any business of which you are or were an officer ever been involved as a party in an administrative agency proceeding or civil litigation? If so, please explain: 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, please explain: No.

5. Have you ever been accused, formally or informally, of sexual harassment or discrimination on the basis of sex, race, religion, or any other basis? If so, please explain: No.

6. Please advise the Committee of any additional information, favorable or unfavorable, which you feel should be disclosed in connection with your nomination: None.

D. RELATIONSHIP WITH COMMITTEE

1. Will you ensure that your department/agency complies with deadlines for information set by Congressional committees? Yes.
2. Will you ensure that your department/agency does whatever it can to protect Congressional witnesses and whistleblowers from reprisal for their testimony and disclosures? Yes.
3. Will you cooperate in providing the Committee with requested witnesses, including technical experts and career employees, with firsthand knowledge of matters of interest to the Committee? Yes.
4. 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.

RÉSUMÉ OF TODD J. ZINSER

Professional Experience

U.S. Department of Transportation, Office of Inspector General, Washington, D.C. Deputy Inspector General, Career Senior Executive Service (August 2001 to Present)

Duties: Lead the Office of Inspector General oversight of all Departmental programs and operations. Manage the daily operations of the OIG—Fiscal Year 06 budgetary resources of \$70 million and authorized staffing level of 430. Supervise 12 members of the Senior Executive Service responsible for audits, investigations, legal and economic analysis. Served as Acting Inspector General from February 11, 2006 to October 26, 2006.

Examples of Fiscal Year 06 accomplishments include:

- Presented testimony before Congress 11 times (personally testified 6 times);
- Issued audit reports which contained over 200 recommendations which identified more than \$890 million in questioned costs and funds for better use; and recovery of approximately \$71 million; and
- Conducted investigations resulting in 169 indictments; 177 convictions; fines, restitution and recoveries of approximately \$48 million, and 210 administrative actions and debarments.

U.S. Department of Transportation, Office of Inspector General

- Assistant Inspector General for Investigations—SES—(January 1996 to August 2001).
- Deputy Assistant Inspector General for Investigations (October 1994 to January 1996).
- Special Agent-in-Charge, New York, NY (October 1991 to September 1994).

U.S. Department of Labor, Office of Labor Management Standards

- Deputy Regional Administrator, New York, NY (May 1989 to October 1991).
- District Director, New Haven, CT (October 1987 to May 1989).
- Labor Investigator, Cincinnati, OH (December 1983 to October 1987).

Education

Miami University, Oxford, Ohio, Masters of Art, Political Science, 1980.

Northern Kentucky University, Bachelor of Arts, Political Science, 1979.

Honors and Awards

Secretary's Gold Medal—Katrina Task Force (2006); Secretary's 9/11 Medal.

References

Available upon request.

The CHAIRMAN. I thank you very much, sir. Your previous two Department Inspectors General resigned in the midst of controversy. What do you intend to do to restore confidence in your Department, and also on this Committee?

Mr. ZINSER. Thank you, Senator. I am more familiar with the circumstances involving the immediately preceding Inspector General at the Department of Commerce. I am also aware that there are a number of Inspectors General that are facing scrutiny in the government. I think it's unfortunate. I think my plan is to first resolve

whatever outstanding investigations are ongoing at the Department of Commerce.

I would also address the workforce issues that have been created by those investigations. I would also like to prepare an effective oversight plan for the office and begin again working with the Congress and the Department to oversee the important programs that the Department is responsible for. In my experience, sir, I think we have to let the work of the office rebuild its reputation and contribute to the oversight that is necessary for the Department of Commerce.

The CHAIRMAN. How would you rate the morale in your Department?

Mr. ZINSER. I don't have any firsthand knowledge at this point, sir, but my understanding is that morale is low.

The CHAIRMAN. I thank you very much for your candor.

Mr. Vice Chairman?

Senator STEVENS. Thank you very much.

You have indicated in your written statement that you want to increase communication between your office and Congress. You just mentioned that here. What do you have in mind?

Mr. ZINSER. Sir, I can only respond based on the experience that I have had at my current employment at the Department of Transportation Office of Inspector General.

Senator STEVENS. You are not intending to send up lobbyists or something for the IG's Office are you?

Mr. ZINSER. No sir, I want to have an open communication with the staff of the committees of jurisdiction, make sure that we are aware of the issues that they view as important, and determine whether or not there is any work that the Department of Commerce Office of Inspector General could do to contribute to that. That is what I would have in mind by opening communications more, in terms of building an oversight agenda for our office.

Senator STEVENS. The Chairman asked about the morale of the Department. Now, do you think morale is something the Inspector General should be concerned with?

Mr. ZINSER. Sir, I took the question to mean the morale of the Office of Inspector General at the Department of Commerce. I do think that would be an important issue to address straight away, sir.

Senator STEVENS. I misunderstood. I thought the Chairman was speaking about the whole Department.

The CHAIRMAN. No, just—

Senator STEVENS. Just your own office.

Mr. ZINSER. Yes, sir.

Senator STEVENS. What's your opinion about the morale of the whole Department?

Mr. ZINSER. Well, again sir, I don't have any firsthand experience, but from those who I've spoken to about the Department of Commerce, I've heard nothing but good things about the people that work there and they are very good to work with. In my meetings with Secretary Gutiérrez and former Deputy Secretary Sampson, I did get a good feeling that they understand the role of the Inspector General, they appreciate it, and that they are looking forward to having a confirmed Inspector General.

Senator STEVENS. And you have been the acting Inspector General at one time, right?

Mr. ZINSER. Yes, sir, with the Department of Transportation.

Senator STEVENS. Oh, you have not been acting in this Department?

Mr. ZINSER. No, sir.

Senator STEVENS. Well, thank you, thank you very much for your service. I think this has got to be one of the toughest jobs, to be within the Department, yet be the critic of it. So, I wish you well.

Mr. ZINSER. Thank you, sir.

The CHAIRMAN. And I wish you well, sir. Thank you.

Mr. ZINSER. Thank you, Mr. Chairman.

The CHAIRMAN. Our next witness is the Commissioner-Designate of the Federal Maritime Commission, Mr. Carl B. Kress.

Mr. Kress, welcome, sir.

STATEMENT OF CARL B. KRESS, NOMINATED TO BE COMMISSIONER, FEDERAL MARITIME COMMISSION

Mr. KRESS. Thank you, Mr. Chairman, Mr. Vice Chairman, Members of the Committee. Thank you for this opportunity to appear before you today. I have submitted a statement as well, and would like to summarize those remarks here.

The CHAIRMAN. Without objection, so ordered.

Mr. KRESS. Thank you. I'm honored to have been nominated by the President to serve as Commissioner on the Federal Maritime Commission and to be considered by this Committee.

Before I get started with my comments, I would like to take a moment to express particular thanks to my parents, retired U.S. Army Corps of Engineers Colonel Carl Franklin, and Mrs. Roswitha Kress who, unfortunately, were not able to make it today, but I think due to the wonders of the World Wide Web, may be watching from California and Germany respectively at this time.

I, also would like to thank for her support my wonderful fiancée, Molly Gower, who is here, as well as her family who I would like to introduce: her parents, Mr. and Mrs. John and Mary Gower, and Cathy Muha, her sister, and Richard Muha, her nephew, who is a star lacrosse player at Richard Montgomery High School in Rockville, I wanted to get that on the record.

And, of course, many thanks to all of my friends and colleagues who have been with me over the years, many of whom are here today, as well.

Ensuring both the efficiency and security of our Nation's trade flows is a complex and challenging task in this post-9/11 environment, and I seek the opportunity to contribute to that vital goal as a Commissioner.

The Federal Maritime Commission's role as the independent body responsible for regulating ocean-borne transportation in the foreign commerce of the United States, places the Agency in a key position in America's commerce.

The Commission fosters a fair, efficient and secure maritime transportation system through its policies and regulations, protects U.S. maritime commerce from unfair trade practices, works with shippers to ensure compliance with U.S. shipping laws, and assists in dispute resolution.

I believe that my tenure at the U.S. Trade and Development Agency, my experience on the personal staff of a Commissioner at the U.S. International Trade Commission and my background as an attorney in private practice, together provide a strong foundation for successfully advancing the Federal Maritime Commission's mission.

If confirmed, I will execute my duties with fairness and objectivity. This will include a careful review of the facts and applicable laws and regulations for all matters coming before the Commission.

Additionally, it will be my ongoing responsibility to reach out to, and work with, the Commission's many important stakeholders, including shippers, marine terminal operators, ocean transportation intermediaries, private citizens and U.S. exporters and importers.

To best serve these important constituencies, I look forward to collaborating with each of them, and to establishing strong relationships with you and the members of your staff in the service of our joint goals of ensuring the safety, security, and efficiency of our Nation's maritime commerce.

Again, Mr. Chairman, and distinguished Members of the Committee, I appreciate the opportunity to appear before you today. Thank you for your, and your staff's, consideration of my nomination. I would be pleased to answer any questions that you have.

[The prepared statement and biographical information of Mr. Kress follow:]

PREPARED STATEMENT OF CARL B. KRESS, NOMINATED TO BE COMMISSIONER,
FEDERAL MARITIME COMMISSION

Mr. Chairman, and Members of the Committee, thank you for the opportunity to appear before you today.

I am honored to have been nominated by the President to serve as a Commissioner on the Federal Maritime Commission, and to be considered by this Committee.

I would like to take a moment to express particular thanks to my parents, retired Army Col. Carl Franklin and Roswitha Kress, for their guidance and support over the years. They were unfortunately not able to fly out from California today but are certainly here in spirit. I would also like to thank for her support my wonderful fiancée, Molly Gower, who is here today, as is her family, and my many friends and colleagues who have been with me over the years.

Ensuring both the efficiency and security of our Nation's trade flows is a complex and challenging task in this post-9/11 environment, and I seek the opportunity to contribute to that vital goal as a Commissioner.

Trade is a cornerstone of our Nation's economy, and maritime commerce makes up the lion's share. According to the American Association of Port Authorities, 99 percent of U.S. trade by weight and 61 percent by value is carried by ocean-going vessels, and in 2006 more than 8 million U.S. jobs were related to port activities.

The Federal Maritime Commission's role as the independent body responsible for regulating ocean borne transportation in the foreign commerce of the United States places the agency in a key position in America's commerce. The Commission fosters a fair, efficient and secure maritime transportation system through its policies and regulations, protects U.S. maritime commerce from unfair foreign trade practices, works with shippers to ensure compliance with U.S. shipping laws, and assists in dispute resolution. If confirmed, I look forward to applying my experience in international trade law and practice, and my years as a leader in Federal service, to ensuring the Commission's continued success in executing its important roles.

I believe that my tenure at the U.S. Trade and Development Agency (USTDA), my experience on the personal staff of a Commissioner at the U.S. International Trade Commission (USITC), and my background as an attorney in private practice together provide a strong foundation for successfully advancing the Federal Maritime Commission's mission.

I have worked for the past 8 years for the Federal Government on trade-related issues, at the USITC and USTDA. My 6 years at the U.S. Trade and Development

Agency have been focused on the agency's mission of connecting U.S. exports of goods and services with economic development projects around the globe. As a Regional Director I am responsible for supporting economic development projects and pursuing a more level playing field for U.S. exporters in the Middle East and North Africa. Previously, as the agency's Chief of Staff, I took part in all aspects of leading and managing the agency.

As Counsel to a Commissioner at the USITC, an independent regulatory agency like the Federal Maritime Commission, my responsibilities covered all aspects of the Commissioner's work, including application of laws and regulations to cases before the USITC. In private practice with a large international law firm I was responsible for legal and regulatory matters that would be applicable in reviewing disputes that come before the Commission.

If confirmed, I will execute my duties with fairness and objectivity. This will include a careful review of the facts and applicable laws and regulations for all matters coming before the Commission. Additionally, it will be my ongoing responsibility to reach out to and work with the Commission's many important stakeholders, including shippers, marine terminal operators, ocean transportation intermediaries, private citizens, and U.S. exporters and importers. To best serve these important constituencies, I look forward to collaborating with each of them, and to establishing a strong relationship with you and the members of your staff, in the service of our joint goals of ensuring the safety, security, and efficiency of our Nation's maritime commerce.

Again, Mr. Chairman and distinguished members of the Committee, I appreciate the opportunity to appear before you today, and thank you for your and your staff's consideration of my nomination. I would be pleased to answer any questions that you have.

A. BIOGRAPHICAL INFORMATION

1. Name (including any former names or nicknames used): Carl Bernard Kress.
2. Position to which nominated: Commissioner, Federal Maritime Commission.
3. Date of Nomination: August 2, 2007.
4. Address (List current place of residence and office addresses):
Residence: Information not released to the public.
Office: U.S. Trade & Development Agency, 1000 Wilson Blvd., Suite 1600, Arlington, VA 22209.
5. Date and Place of Birth: February 4, 1964; Ft. Belvoir, Virginia.
6. Provide the name, position, and place of employment for your spouse (if married) and the names and ages of your children (including stepchildren and children by a previous marriage): Not married; no children.
7. List all college and graduate degrees. Provide year and school attended:
LL.M, University of Hamburg, Germany, 1996.
J.D., UCLA, 1995.
B.A., U.C. Berkeley, 1987.
8. List all post-undergraduate employment, and highlight all management-level jobs held and any non-managerial jobs that relate to the position for which you are nominated.

Regional Director for the Middle East, North Africa & South Asia, U.S. Trade & Development Agency.

Chief of Staff and Senior Advisor to the Director, U.S. Trade & Development Agency.

Counsel to the Commissioner, U.S. International Trade Commission.

Associate, McDermott Will & Emery.

Law Clerk, Feddersen Laule Scherzberg & Ohle Hansen Ewerwahn.

Summer Associate, McDermott Will & Emery.

Research Assistant, UCLA Law Professor George Brown.

Research Assistant, UCLA Law Professor Arthur Rosett.

Research Assistant, UCLA Law Professor Susan French.

Legislative Correspondent, U.S. Senator John Seymour.

Precinct Director, San Francisco County Republican Central Committee 1.

Legislative Assistant, Mayer Brown & Platt.

Legislative Assistant, U.S., Mayer Brown & Pratt.

Legislative Assistant, U.S. Representative, Charles "Chip" Passion, Jr.

9. Attach a copy of your résumé. A copy is attached.

10. List any advisory, consultative, honorary, or other part-time service or positions with Federal, State, or local governments, other than those listed above, within the last 5 years: None.

11. List all positions held as an officer, director, trustee, partner, proprietor, agent, representative, or consultant of any corporation, company, firm, partnership, or other business, enterprise, educational, or other institution within the last 5 years.

Member of the Board, Washington Foreign Law Society.

12. Please list each membership you have had during the past 10 years or currently hold with any civic, social, charitable, educational, political, professional, fraternal, benevolent, or religious organization, private club or other membership organization. Include dates of membership and any positions you have held with any organizations. Please note whether any such organizations restricts membership on the basis of sex, race, color, religion, national origin, age, or handicap.

American Society of International Law. Member since 1997.

Bar of the District of Columbia. Member since 1997.

California State Bar. Member since 1996. Currently an inactive member.

Washington Foreign Law Society. Member since 2004. Member of the Board of Directors since June 2007.

St. Mark's Episcopal Church, Washington, D.C. Member since 2002.

Appalachian Mountain Club. Member from 2003–2005.

Phi Beta Kappa. Member since 1987.

Friends of the National Zoo. Member 2002, 2006–2007.

Washington Area Music Association. Member since 1999. Member of Education Committee in 2001.

The Mankind Project. Member since 1997. The Mankind Project is a men's 501(c) educational organization. *www.mkp.org*.

The Goethe Institute. Member since 1999.

WAMU Radio. 2005–2006.

Washington International Trade Association. Member 2000–2003.

13. Have you ever been a candidate for and/or held a public office (elected, non-elected, or appointed)? If so, indicate whether any campaign has any outstanding debt, the amount, and whether you are personally liable for that debt. No.

14. Itemize all political contributes to any individual, campaign, organization, political party, political action committee, or similar entity of \$500 or more for the past 10 years. Also list all offices you have held with, and services rendered to, a state or national political party or election committee during the same period.

Contributions:

Connie Morella For Congress Committee, \$500.

Bush-Cheney 2004 (Primary) Inc., \$500.

Bush-Cheney 2004 (Primary) Inc., \$500.

Bush-Cheney 2004 Compliance Committee Inc., \$500.

Participated in 72 Hour Task Force Legal Team for Republican National Committee, Nov. 2004.

15. List all scholarships, fellowships, honorary degrees, honorary society memberships, military medals, and any other special recognition for outstanding service or achievements.

Phi Beta Kappa.

16. Please list each book, article, column, or publication you have authored, individually or with others. Also list any speeches that you have given on topics relevant to the position for which you have been nominated. Do not attach copies of these publications unless otherwise instructed.

The U.S. Government and Post-Conflict Economic Reconstruction, 11 UC DAVIS J. INT'L L. & POL'Y 75 (2004).

The 1996 Telekommunikationsgesetz and the Telecommunications Act of 1996: Toward More Competitive Markets in Telecommunications in Germany and the United States, 49 FED. COM. L.J. 551 (1997).

Comment, *Beyond Nahrstedt: Reviewing Restrictions Governing Life in a Property Owners Association*, 42 UCLA L. REV. 837 (1995).

17. Please identify each instance in which you have testified orally or in writing before Congress in a governmental or nongovernmental capacity and specify the date and subject matter of each testimony: None.

18. Given the current mission, major programs, and major operational objectives of the department/agency to which you have been nominated, what in your background or employment experience do you believe affirmatively qualifies you for appointment to the position for which you have been nominated, and why do you wish to serve in that position?

My tenure as a senior manager at the U.S. Trade and Development Agency (USTDA), my experience on the personal staff of a Commissioner at the U.S. International Trade Commission (USITC), and my background as an attorney in private practice together provide a strong foundation for successfully advancing the Federal Maritime Commission's mission of serving our Nation's maritime transportation needs. I have worked for the past 8 years for the Federal Government on trade-related issues, at the USITC and USTDA. In particular, during the past 6 years at USTDA my responsibilities have included the development and implementation of many transportation projects. My time as Chief of Staff of USTDA has also given me valuable experience in all aspects of leading and managing a Federal agency, such as personnel, administrative, information technology, budget, policy, and program matters. As Counsel to a Commissioner at the USITC, an independent regulatory agency like the Federal Maritime Commission, my responsibilities covered all aspects of the Commissioner's work, including application of laws and regulations to cases before the USITC. My time as an attorney with a large law firm also provided experience in evaluating legal and regulatory matters that would be applicable in reviewing disputes that come before the Commission.

I seek this position because it would be an opportunity to build upon my prior experience in government service in trade, commerce, and law, and to apply that experience and my management skills to the challenges facing America's maritime transport system. Ensuring both the security and efficiency of our Nation's trade flows is a complex and challenging task in this post-9/11 environment, and I seek the opportunity to contribute my skills and experience to that vital goal. I grew up in a military family that emphasized the value of government service. I have taken that upbringing to heart by embarking on a career of civilian government service, and joining the Commission would be a significant opportunity to continue that tradition.

19. What do you believe are your responsibilities, if confirmed, to ensure that the department/agency has proper management and accounting controls, and what experience do you have in managing a large organization?

As a Commissioner I would share with my colleagues on the Federal Maritime Commission full responsibility to lead and manage the Commission in a manner consistent with the highest standards of professionalism and effectiveness. Effective and efficient management of an organization's resources is fundamental—indeed crucial—to the accomplishment of its mission. Therefore, it is a critical responsibility of those charged with its leadership to devote whatever time and attention is required to achieve sound management. I would feel comfortable accepting that responsibility based on my considerable experience at two Federal agencies of similar size to the FMC. In particular, as the Chief of Staff of the USTDA and a member of its executive committee, I managed the budget formulation process, including the Congressional and OMB submissions; provided counsel to the Director on human resource planning, staffing, and organization; and through the executive committee provided recommendations to the Director on a host of management issues, such as contracting and finance. Consequently, if confirmed, I will work with my fellow Commissioners to effectively marshal the human, financial, information and other administrative resources available to achieve the goals, objectives, and programs of the Commission.

20. What do you believe to be the top three challenges facing the department/agency, and why?

If confirmed, I would focus in particular on three key management priorities that represent top challenges for any Federal agency: (1) the recruitment, development, leadership, and retention of human resources; (2) continued modernization of information technology systems; and (3) the need for accurate information, in this case regarding foreign trade and regulatory practices. Concurrent with taking on my responsibilities with respect to the Commission's programmatic activities, I would immediately focus my attention on thoroughly understanding what particular issues

face the Commission in these areas and working to ensure excellence in Commission performance in all three.

- i. Attracting, training, leading, and retaining qualified and dedicated employees are central to the Federal Maritime Commission's operations, as a skilled and dedicated workforce is the lifeblood of any organization. Like all Federal agencies, the Commission must compete with the private sector for the best available talent. It is thus essential that the Commission be organized, managed, and led in such manner as to attract and retain such talent, as well as provide its employees with the tools with which to accomplish their responsibilities as effectively as possible. This is particularly critical today, as the Federal Government as a whole faces the retirement of large numbers of key personnel.
- ii. The modernization of IT systems has been and continues to be a key need of any agency, consistent with government-wide IT and Internet priorities and requirements. A review of the Federal Maritime Commission's recent Annual Reports and other documents shows a strong and consistent campaign to modernize the Commission's IT systems, in order to both increase online access for external clients and improve internal operations. Continuing this process of ensuring that the Commission's systems are user-friendly, practical, widely-accessible, and secure must be an ongoing high priority.
- iii. The Federal Maritime Commission's Mission includes "Protect[ing] U.S. maritime commerce from unfair foreign trade practices and market-distorting activities." Critical to achieving that goal is to gather accurate and comprehensive information regarding foreign practices and legal and regulatory structures, and to evaluate effectively that information. This is essential in order to craft appropriate action and make recommendations for ensuring the continued competitiveness of the U.S. maritime transportation system. My experience at both the USITC and USTDA showed the importance of having accurate information regarding foreign activities, so that the agencies could respond properly in pursuing a level playing field for our Nation's international commercial activities.

B. POTENTIAL CONFLICTS OF INTEREST

1. Describe all financial arrangements, deferred compensation agreements, and other continuing dealings with business associates, clients or customers. Please include information related to retirement accounts.

My 401(k) retirement account from my time with the law firm McDermott Will & Emery continues to be managed under the firm's plan. Neither I nor the firm has made any contributions to my account since I left the firm in January 1999.

2. Do you have any commitments or agreements, formal or informal, to maintain employment, or practice with any business, association or other organization during your appointment? If so, please explain. No.

3. 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.

4. 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.

5. Describe any activity during the past 10 years in which you have been 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: None.

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

Should any matter arise in which there appears to be a potential conflict, I would consult with the Commission's Designated Ethics Officer and, if necessary, develop an appropriate means of resolving such conflict.

C. LEGAL MATTERS.

1. Have you ever been disciplined or cited for a breach of ethics by, or been the subject of a complaint to any court, administrative agency, professional association, disciplinary committee, or other professional group? If so, please explain. No.

2. Have you ever been investigated, arrested, charged, or held by any Federal, State, or other law enforcement authority of any Federal, State, County, or Municipal entity, other than for a minor traffic offense? If so, please explain. No.

3. Have you or any business of which you are or were an officer ever been involved as a party in an administrative agency proceeding or civil litigation? If so, please explain. 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, please explain. No.

5. Have you ever been accused, formally or informally, of sexual harassment or discrimination on the basis of sex, race, religion, or any other basis? If so, please explain. No.

6. Please advise the Committee of any additional information, favorable or unfavorable, which you feel should be disclosed in connection with your nomination: None.

D. RELATIONSHIP WITH COMMITTEE

1. Will you ensure that your department/agency complies with deadlines for information set by Congressional committees? Yes.

2. Will you ensure that your department/agency does whatever it can to protect Congressional witnesses and whistleblowers from reprisal for their testimony and disclosures? Yes.

3. Will you cooperate in providing the Committee with requested witnesses, including technical experts and career employees, with firsthand knowledge of matters of interest to the Committee? Yes.

4. 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.

RÉSUMÉ OF CARL B. KRESS

Professional Experience

U.S. Trade and Development Agency, Arlington, VA.

Regional Director for the Middle East, North Africa, and South Asia, 2004–present.

Responsible for developing and implementing all program activities in the MENASA region, which includes most of the Arab world and spans from Morocco to Bangladesh. Supervise staff and contractors in the United States, India and Thailand in identifying and pursuing projects that support host country economic development and U.S. trade opportunities. Responsible for obligating \$8–\$10 million in program funds each year for economic development activities, including technical assistance, feasibility studies, conferences, and reverse trade missions. Projects are selected with particular attention to sectors where foreign project sponsors seek partnerships with U.S. providers of goods and services, such as in information and communications technology (ICT), transportation, and energy. Representative project examples include:

- U.S.-India Aviation Cooperation Program. In collaboration with the Federal Aviation Administration, the Indian Ministry of Civil Aviation, and U.S. private sector representatives, spearheaded formation of program dedicated to coordinating U.S. public and private sector solutions to Indian aviation sector development needs.
- Transportation Solutions for South Asia Trade. Organized conference focused on trade-related transportation infrastructure project opportunities in South Asia.
- Jordanian National Freight Information and Transportation Hub Project. Supported pilot project using U.S. technology to manage the documentation required for transporting cargo into and out of Jordan's land border crossings and the Port of Aqaba, which has resulted in significant efficiency gains for truckers and shippers.
- Making Connections in the Middle East & North Africa Conference. Organized conference that highlighted ICT project opportunities for U.S. suppliers and provided a forum for high-level policy dialogue among U.S. and MENA senior ICT officials.

Chief of Staff and Senior Advisor to the Director, 2001–2004.

Senior Bush Administration appointee in position encompassing all aspects of leading a foreign assistance agency with a yearly budget of \$50–\$60 million and a staff of 50 employees.

- Member of executive management committee. Actively involved with all administrative, program, and policy decision-making in the agency, including:
 - review and approval of all agency program activities world-wide;

- management of budget formulation process, including Congressional and Office of Management and Budget submissions;
 - providing counsel to the Director on human resource planning, staffing, and organization; and
 - providing recommendations through the executive committee to the Director on all management issues, including contracting, finance, IT, and outreach.
- Served in place of the Director as agency principal on Secretary of Commerce-led trade missions and at other events world-wide.
 - Served as agency's White House liaison.
 - Represented USTDA in meetings with U.S. and foreign business leaders, foreign and domestic senior government officials, and with Congressional staff.

U.S. International Trade Commission, Washington, D.C.
Counsel, Office of Commissioner Thelma J. Askey, 1999–2001.

Advisor to the Commissioner on legal, policy and factual issues relating to anti-dumping and countervailing duty investigations, safeguard actions, and intellectual property rights protection cases. Advised the Commissioner in preparation for votes, hearings, and policy decisions.

McDermott, Will & Emery, Washington, D.C.
Associate, Federal Regulatory Practice Group, 1996–1999.

Member of international trade practice group focused on the following areas: GATT/WTO; customs; antidumping and countervailing duty; and administrative law. Significant responsibilities included:

- Resolved customs issues, including tariff classification and country of origin matters.
- Prepared Antiboycott Law and Foreign Corrupt Practices Act manuals for multinational corporation and delivered presentations to corporate executives.

Office of U.S. Senator John Seymour, Legislative Aide, Washington, D.C., 1991–1992.

Issue Areas: International Trade, Transportation, and Inter-Governmental Affairs.

San Francisco County Republican Central Comm., Precinct Director, San Francisco, CA 1990.

Directed Get-Out-The-Vote program in San Francisco County.

Mayer Brown & Platt, Legislative Assistant, Washington, D.C., 1989–1990.

Issues Areas: Tax and International Trade.

Congressman Charles “Chip” Pashayan, Jr., Legislative Assistant, Washington, D.C., 1988–1989.

Issue Areas: Social Security, Science and Technology, Transportation, and Healthcare.

Education

University of Hamburg, Germany, Faculty of Law—*LL.M.*, 1996.

Received master's degree in program for foreign attorneys. Particular focus on telecommunications and comparative contracts law. Degree and thesis awarded *Magna Cum Laude*.

UCLA School of Law—*J.D.*, 1995.

UCLA Law Review, Articles Editor.

UCLA Pacific Basin Law Journal, Assistant Editor.

UC Berkeley—*B.A.*, History and Religious Studies, 1987.

Phi Beta Kappa.

High Distinction in General Scholarship.

Religious Studies Department Highest Honors.

Professional Memberships

Bars of the District of Columbia and California (inactive).

American Society of International Law.
Washington Foreign Law Society—Member of the Board.

The CHAIRMAN. I thank you very much. And I'll call on the other nominee, Alan Paul Anderson.

**STATEMENT OF HON. A. PAUL ANDERSON, RENOMINATED TO
BE COMMISSIONER AND CHAIRMAN-DESIGNATE, FEDERAL
MARITIME COMMISSION**

Mr. ANDERSON. Thank you, Mr. Chairman, Senator Stevens. My name is Paul Anderson of Florida. Thank you for scheduling this hearing today, it is truly an honor and a privilege to appear before you and the distinguished members of the Commerce, Science, and Transportation Committee.

I'd like to express my sincere gratitude and appreciation to my senior Senator, Senator Bill Nelson, for his very gracious, kind introduction to the Committee.

At this time, I'd like to introduce some of my family members that are here, Mr. Chairman. With me today is my mother and father, Captain Perry Anderson, United States Marine Corps, Retired, a distinguished veteran and his loving wife, Ann.

Mom and Dad, thank you for all of your support, love and encouragement.

My wonderful wife, Sarah, and our newest member of the Anderson clan, Jordan, who has taken to—learned early to take instructions well, he's been a wonderful baby today.

I also want to recognize Commissioner Hal Creel, as a former staff member of this Committee, who is here today, as well as Commissioner Rebecca Dye, two of my colleagues on the Commission, and also, former Commissioner Ming Shu, who traveled here from California, as well as many of the staff and longtime personal friends that are here in the audience today. I really appreciate your support.

As the independent regulatory agency responsible for overseeing ocean-borne transportation and the U.S. foreign commerce, the Federal Maritime Commission works to ensure a fair and competitive environment in which carriers, shippers, and other stakeholders can operate with the minimum of government intervention, while being protected from unfair foreign shipping practices.

Working within its statutory framework, the Commission has developed a regulatory system that allows for necessary oversight with minimal disruption to the efficient flow of U.S. foreign commerce.

As this Committee knows firsthand, maritime shipping is a dynamic and changing industry. During the past 5 years, the number of 20-foot containers coming into the United States has increased dramatically, from eleven and one-half million TEUs, to almost 20 million TEUs in 2006. This rapid increase in trade volume has highlighted the need to address improvements to our Nation's transport infrastructure.

In addition, since September 11, 2001, we have recognized the importance of securing the ocean transportation system, while maintaining the free flow of trade.

While the FMC is not on the front line of ensuring the security of our ocean-borne commerce, we are committed to helping front-line security agencies ensure the safe and efficient movement of cargo to and from the United States.

In this regard, the Commission's oversight of ocean common carriers, marine terminal operators and its licensing and bonding of ocean transportation intermediaries is a vital link in the effort to protect our Nation's seaports.

During my career, I have worked in several regulated industries, including 9 years in the maritime sector with an international, diversified transportation company, which operated Jones Act tankers, offshore supply vessels, tug and barges.

This experience, combined with leadership and education, economic development and community service, has prepared me for my current role as FMC Commissioner, and has given me an understanding of the issues faced in the private sector, and the maritime transportation business. I've had the opportunity to learn firsthand, to work in a port, to work for a maritime company, the importance of our maritime transportation system to our Nation's economy.

If confirmed by the Senate, I will continue to work to fairly and objectively fulfill the Federal Maritime Commission's statutory responsibilities, while making every effort to listen to the Commission's stakeholders, in order to reach balanced, and well-informed decisions.

Thank you, Mr. Chairman, Senator Stevens, Members on the Committee, and your staff, for your time and consideration today. I appreciate the opportunity to appear before you today. If confirmed, I look forward to working with you and your staff as the Commission fulfills its responsibilities.

I'll be happy to answer any questions. Thank you.

[The prepared statement and biographical information of Mr. Anderson follow:]

PREPARED STATEMENT OF HON. A. PAUL ANDERSON, RENOMINATED TO BE
COMMISSIONER AND CHAIRMAN-DESIGNATE, FEDERAL MARITIME COMMISSION

Mr. Chairman,

Thank you for scheduling this hearing today. It is an honor and a privilege to appear before you and the distinguished Members of the Commerce, Science, and Transportation Committee. I would like to express my sincere gratitude to my Senator, Bill Nelson, for his introduction to the Committee.

At this time I would like to introduce my family:

My mother and father, Capt. Perry Anderson, Retired United States Marine Corps and distinguished veteran and his loving wife Ann. Mom and Dad thank you for all of your support, love and encouragement. My wonderful wife Sarah and our newest member of the Anderson clan, Jordan. I also want to recognize Commissioner Hal Creel who used to work on this Committee, former Commissioner Ming Hsu and many of the staff from the agency. Thank you all for your support.

As the independent regulatory agency responsible for overseeing ocean borne transportation in U.S. foreign commerce, the Federal Maritime Commission works to ensure a fair and competitive environment in which carriers, shippers, and other stakeholders can operate with a minimum of government intervention, while being protected from unfair foreign shipping practices. Working within its statutory framework, the Commission has developed a regulatory system that allows for necessary oversight with minimal disruption to the efficient flow of U.S. foreign commerce.

As this Committee knows first-hand, maritime shipping is a dynamic and changing industry. During the past 5 years, the number of 20-foot containers coming into

United States ports has increased dramatically, from 11 and one-half million TEUs in 2001, to almost 20 million TEUs in 2006. This rapid increase in trade volume has highlighted the need to address improvements to our Nation's transport infrastructure. In addition, since September 11, 2001, we have recognized the importance of securing our ocean transportation system, while maintaining the free flow of trade.

While the FMC is not on the front line of ensuring the security of our ocean borne commerce, we are committed to helping front-line security agencies ensure the safe and efficient movement of cargo to and from the United States. In this regard, the Commission's oversight of ocean common carriers, marine terminal operators, and its licensing and bonding of ocean transportation intermediaries ("OTIs"), is a vital link in the effort to protect our Nation's seaports.

During my career I have worked in several regulated industries, including 9 years in the maritime sector with an international, diversified transportation company. This experience, combined with leadership in education, economic development, and community service, has prepared me for my current role as FMC Commissioner, and has given me an understanding of the issues facing the private sector in the maritime transportation business. I have had the opportunity to learn first-hand the importance of our maritime transportation system to our Nation's economy.

If confirmed by the Senate, I will continue to work to fairly and objectively fulfill the Federal Maritime Commission's statutory responsibilities, while making every effort to listen to Commission stakeholders in order to reach balanced and well-informed decisions.

Thank you, Mr. Chairman and distinguished Senators on the Committee and your staff, for your time and consideration. I appreciate the opportunity to appear before you today. If confirmed, I look forward to working with you and your staff as the Commission fulfills its statutory responsibilities. I will be happy to answer any questions that you may have for me at this time.

A. BIOGRAPHICAL INFORMATION

1. Name (Include any former names or nicknames used): Alan Paul Anderson.
2. Position to which nominated: Federal Maritime Commissioner.
3. Date of Nomination: August 2, 2007.
4. Address (List current place of residence and office addresses):
Residence: Information not released to the public.
5. Date and Place of Birth: September 16, 1959; Beaufort, South Carolina.
6. Provide the name, position, and place of employment for your spouse (if married) and the names and ages of your children (including stepchildren and children by a previous marriage).
Sarah Marlene Anderson, Head Coach, St. Thomas Aquinas High School; Chase Kulp, 20; Jordan Paul Anderson, 1 day old.
7. List all college and graduate degrees. Provide year and school attended.
Harvard University's John F. Kennedy School of Government, 1997, Program for Senior Managers in Government.
University of Florida, Bachelor of Science, 1982 attended 1979–1982.
Menlo College, Menlo Park, CA attended 1978.
8. List all post-undergraduate employment, and highlight all management-level jobs held and any non-managerial jobs that relate to the position for which you are nominated.
Commissioner, Federal Maritime Commission.
Vice President, Public Affairs and Government Relations, JM Family Enterprises, Inc. 1994–2003.
Director, Public Affairs, Hvide Marine, Inc. 1987–1994.
Field Director, Bob Martinez for Governor, 9/86–12/86.
Special Assistant, United States Senator Paula Hawkins, 1983–1984, 1984–1986.
Press Secretary, U.S. Congressman Connie Mack Campaign, 1984.
Van Poole for U.S. Senate Campaign, 1982.
9. Attach a copy of your résumé. A copy is attached.

10. List any advisory, consultative, honorary, or other part-time service of positions with Federal, State, or local governments, other than those listed above, within the last 5 years.

United States Senator Connie Mack Academy Advisory Board, 1989–2000.
Broward Community College Board of Trustees, 1999–2003.
Broward County Port Director Search Committee, 2003.

11. List all positions held as an officer, director, trustee, proprietor, agent, representative, or consultant of any corporation, company, firm, partnership, or other business, enterprise, educational, or other institution with the last 5 years.

Chairman, Board of Trustees, Broward Community College.
Chairman, Board of Directors, Broward Alliance.
Vice President, JM Family Enterprises, Inc.
Southeast Toyota Distributors LLC.
World Omni Financial Corporation, Inc.
JM&A, Inc.
Fidelity Insurance, Inc.
Board of Directors, Giant Holdings, Inc.
Board of Directors, Landmark Bank, 2000–2003.
Broward Education Foundation, 2002–2003.
Orange Bowl Committee, member, 2000–present.
Tower Club, member, 1994–present.
Broward Navy Days, Founder, member, Board of Directors, 1991–2003.
Museum of Discovery & Science, member, Board of Directors, 1996–2003.
Junior Achievement of South Florida, member, Board of Directors, 1998–2003.
Coral Ridge Country Club, 2000–present.
U.S. Senator Connie Mack's Academy Advisory Board, 1989–2000.
Public Affairs Council, member, Board of Directors, 1998–2003.
Florida Chamber of Commerce, member, Board of Governors, 1998–2003.
Florida Tax Watch, member, Board of Directors, 2000–2003.
Deliver the Dream, Founding Board member, 2000–2004.
Board of Directors, Public Affairs Council, 1995–2003.

12. Please list each membership you have had during the past 10 years or currently hold with any civic, social, charitable, educational, political, professional, fraternal, benevolent or religious organization, private club, or other membership organization. Include dates of membership and any positions you have held with any organization. Please note whether any such club or organization restricts membership on the basis of sex, race, color, religion, national origin, age, or handicap.

Memberships:

Broward Community College Board of Trustees, 1999–2003.
Chair, Board of Trustees 1999–2000, Vice Chair, 2000–2001.
Broward Alliance, member, Board of Directors, 1997–2003.
Chair, Board of Directors, 2002–2003, Vice Chair, 2001–2002, Secretary, 2000–2001, Treasurer, 1999–2000.
Broward Education Foundation, Board of Directors, 2002–2003.
Orange Bowl Committee, member, 2000–present.
United States Propeller Club, Washington, D.C., 2003–present.
Potomac Yacht Club, 2005–present.
U.S. Naval Institute, 2000–2006.
Smithsonian Institute, 1994–present.
Tower Club, member, 1994–present.
Broward Navy Days, Founder and member, Board of Directors, 1991–2003, member 2003–present.
Deliver the Dream, Founding Board member, 2000–2004.
Museum of Discovery & Science, member, Board of Directors, 1996–2003.
Junior Achievement of South Florida, member, Board of Directors, 1998–2003.

Coral Ridge Country Club, 2000–present.
 U.S. Senator Connie Mack’s Academy Advisory Board, 1989–2000.
 Public Affairs Council, member, Board of Directors, 1998–2003.
 Florida Chamber of Commerce, Board of Governors, 1998–present.
 Florida Tax Watch, member, Board of Directors, 2000–2003.
 George W. Bush for President Finance Committee, 2000.
 Jeb Bush for Governor Finance Committee, 1994, 1998, 2002.
 Floridian’s for School Choice, member, Board of Directors, 1999–2003.
 S.W.I.M. Fort Lauderdale, member, Board of Directors, 2000–2003.
 Fort Lauderdale Chamber of Commerce, member, Board of Trustees, 1995–2000.
 American Waterways Operators, Chair, Public Affairs Committee, 1992–1994.
 Port Everglades Association, member, 1987–1994.

13. Have you ever been a candidate for and/or held public office (elected, non-elected, or appointed)? If so, indicate whether any campaign has any outstanding debt, the amount and whether you are personally liable for that debt.

I have never been a candidate for public office.

14. Itemize all political contributions to any individual, campaign, organization, political party, political action committee, or similar entity of \$500 or more for the past 10 years. Also, list all offices you have held with, and service rendered to, a state or national party or election committee during the same period.

Tom Gallagher for Senate Campaign, \$1,000.
 Tom Gallagher for Chief Financial Officer Campaign, \$500.
 Jeb Bush for Governor: 1994—\$500; 1998—\$1,000; 2002—\$1,000.
 George Bush for President, \$2,000.
 Straight Talk Express PAC, 2006—\$1,000.
 Bush Cheney 2004, \$250.
 Charlie Crist for Governor, \$500.
 Tom Gallagher for Governor, \$500.

I was an Alternate Delegate to the 1996 Republican National Convention representing Broward County, Florida. I served as Finance Co-Chair of the Jeb Bush for Governor Finance Committee on his 1994, 1998 and 2002 campaigns. I served on U.S. Senator Connie Mack’s Finance Committee in 1998 and 1994. Additionally, I served on Tom Gallagher for Insurance Commissioner Finance Committee in 2000 and Tom Gallagher for Chief Financial Officer in Florida in 2002. In my capacity as Vice President of Government Relations I have participated in the RNC Eagle’s and Team 100 program, the National Republican Congressional Committee, the Democratic Congressional Campaign Committee, the Democratic Senatorial Campaign Committee, the Republican Senatorial Campaign Committee, the Republican Governor’s Association, the Southern Legislative Conference, the National Conference of State Legislators and the American Legislative Exchange Council. I served as Treasurer of the JM Family Associates Political Action Committee from 1994–2002.

15. List all scholarships, fellowships, honorary degrees, honorary society memberships, military medals, and any other special recognition for outstanding service or achievements.

United States Coast Guard Distinguished Civilian Award, 2000.
 Paul Anderson Appreciation Day, Broward County Commission, December 10, 2002.
 Broward Navy Days Freedom Award, 1997.
 Public Affairs Institute, First Fellow, 2002.
 Outstanding Young Men of America, 1987.

Recognized as one of South Florida’s most powerful and important business and civic leaders as featured in the “Power Issue” of *South Florida CEO*, April 2003.

South Florida CEO magazine’s June 2002 featured Business Executive; University of Florida College of Journalism’s *Communitator* Magazine Spring 2006 featured Alumni.

16. Please list each book, article, column, or publication you have authored, individually or with others. Also list any speeches that you have given on topics rel-

evant to the position for which you have been nominated. Do not attach copies of these publications unless otherwise instructed: None.

17. Please identify each instance in which you have testified orally or in writing before Congress in a governmental or nongovernmental capacity and specify dates and the subject matter of each testimony: None.

18. Given the current mission, major programs, and major operation objectives of the department/agency to which you have been nominated, what in your background or employment experience do you believe affirmatively qualifies you for appointment to the position for which you have been nominated, and why do you wish to serve in that position?

I am currently serving as Commissioner of the Federal Maritime Commission since 2003. Previously, I served for 10 years in the senior management of JM Family Enterprises, a multi-billion dollar corporation and one of the largest privately held corporations in America. I believe the combination of my education and career has qualified me to serve on the Federal Maritime Commission. My 9 years in the maritime industry, where I worked for a diversified international maritime transportation company with tanker, offshore supply vessel, tug and barge and tugboat operations, combined with my involvement with major maritime trade associations has given me the necessary experience to serve in the capacity as Commissioner. Additionally, my extensive leadership in the community has given me a strong belief in public service and giving back to community and country.

19. What do you believe are your responsibilities, if confirmed, to ensure that the department/agency has proper management and accounting controls, and what experience do you have in managing a large organization?

I will faithfully execute the responsibilities of a Commissioner and the goals set forth by the Agency and the laws enacted by Congress for the Commission. Having served in the capacity as an officer of over two dozen private and public corporations, educational institutions, associations and other organizations has fully prepared me to successfully manage the agency. I was elected Chairman of the Board of Trustees of one of America's largest community colleges with over 50,000 students and a \$120 million annual budget. I also was elected and served as Chairman of the Board of Directors of The Broward Alliance, a public-private agency and one of the leading economic development agencies in the state of Florida. I also served in the executive management of JM Family Enterprises, LLC; ranked by Forbes as the 13th largest privately held company in the United States. During this time I directly managed a multi-million dollar annual budget for almost 10 years. Additionally, I have had extensive experience with developing and managing budgets and will use my professional and leadership experience in managing the agency.

20. What do you believe to be the top three challenges facing the department/agency and why?

Managing the agency's responses to changes taking place in global maritime transportation; the tremendous growth of international trade and the stress on the agency's ability to fulfill its mission under the press of increased business and regulation; dealing with the changes taking place between the United States' trading partners and their changing regulations.

B. POTENTIAL CONFLICTS OF INTEREST

1. Describe all financial arrangements, deferred compensation agreements, and other continuing dealings with business associates, clients, or customers. Please include information related to retirement accounts.

I have a retirement annuity earned for service at JM Family Enterprises, LLC. This annuity will commence at age 65 in the amount of [redacted] per month.

2. Do you have any commitments or agreements, formal or informal, to maintain employment, affiliation, or practice with any business, association or other organization during your appointment? None

3. 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

4. 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: Not that I am aware of.

5. Describe any activity during the past 10 years in which you have been 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.

Yes. In my position as Vice President of Public Affairs for JM Family Enterprises my responsibility was to advocate on behalf of the company at the local, state and Federal Government positions consistent with the goals of the corporation. I participated in the advocacy of issue related campaigns in the ballot initiative process in Florida and the Florida legislative process. These include pro tort reform legislation that has been introduced in the Florida legislature over the past decade. I was a proponent of anti-tax increases in tax reform legislation during the 2002 Florida legislative session and a 2002 ballot initiative; I was a leading advocate and leader for increase in state funding for Take Stock in Children, a mentoring program for at risk youths over the past decade in the Florida Legislature; I was an advocate for increase in state funding for the Florida Community College system; I participated in advocacy for workforce development and economic development in the Florida legislature; and I played a leadership role in the expansion for the Fort Lauderdale-Hollywood International Airport.

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

While I am not aware of any conflicts, if one were to arise I would seek advice of agency counsel and if advised would reclude myself or take appropriate actions to resolve the conflict.

C. LEGAL MATTERS

1. Have you ever been disciplined or cited for a breach of ethics by, or been the subject of a complaint to any court, administrative agency, professional association, disciplinary committee, or other professional group? No.

2. Have you ever been investigated, arrested, charged, or held by any Federal, State, or other law enforcement authority of any Federal, State, county, or municipal entity, other than for a minor traffic offense? No.

3. Have you or any business of which you are or were an officer ever been involved as a party in an administrative agency proceeding or civil litigation? None that I am aware of.

4. Have you ever been convicted (including pleas of guilty or *nolo contendere*) of any violation other than a minor traffic offense? No.

5. Have you ever been accused, formally or informally, of sexual harassment or discrimination on the basis of sex, race, religion, or any other basis? No.

6. Please advise the Committee of any additional information, favorable or unfavorable, which you feel should be disclosed in connection with your nomination: Did not answer.

D. RELATIONSHIP WITH THE COMMITTEE

1. Will you ensure that your department/agency complies with deadlines for information set by Congressional committees? Yes.

2. Will you ensure that your department/agency does whatever it can to protect Congressional witnesses and whistleblowers from reprisal for their testimony? Yes.

3. Will you cooperate in providing the Committee with requested witnesses, including technical experts and career employees with firsthand knowledge of matters of interest to the Committee? Yes.

4. 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.

RÉSUMÉ OF A. PAUL ANDERSON

Professional Experience

August 2003–Present—Federal Maritime Commission—Washington, D.C.
Commissioner

Nominated by President George W. Bush on April 10, 2003 and unanimously confirmed by the U.S. Senate on May 22, 2004 to serve a 5-year term as Commissioner of the Federal Maritime Commission. Responsibilities include voting on issues impacting the trillion dollar international maritime industry; public speaking and representing the Agency before industry groups, associations and corporations; and working with industry and government leaders. The Commission, an independent Federal regulatory agency, is responsible for implementing the Ocean Shipping Reform Act of 1998 and for setting maritime policy on the regulation of the international trades of the United States. Additional responsibilities include: management of Agency operations, budget and operations; business planning and visioning; making decisions and determinations in the disposition of docketed cases; rulemaking; and ensuring the efficient, equitable,

and expeditious resolution of all other matters arising under statutes administered by the Commission.

Sept. 1994–April 2003—JM Family Enterprises, Inc.—Deerfield Beach, FL
Vice President Public Affairs

Responsibilities included advocacy, on behalf of the company and CEO, for positions consistent with the goals of the corporation before local, state, Federal and international governments. Developed and managed a state and national government relations program including a corps of state and Federal lobbyists, while also serving as an advisor to the Chairman and CEO on strategic policy issues impacting the company's operations. Reported directly to the Chairman and CEO of this \$7.7 billion diversified automobile company ranked by *Forbes* magazine as the 15th largest privately held corporation in the United States. Among the company's core businesses are financial services, automobile distribution, automobile lease finance, insurance, chemical manufacturing, automobile retail sales and parts distribution. A primary responsibility was the management of a diverse range of legislative efforts in multiple state legislatures and in Congress in support of the company's strategic goals resulting in millions of dollars of operational and financial efficiencies. In support of these efforts, I managed lobbyist, law firms and consultants in multiple states and Washington, D.C. Tasked by the CEO to develop strategic relationships with national and Florida corporate, government and community leaders while implementing a national branding of the company with these leaders. Additional duties required shared responsibility for a national community relations program and philanthropy. Served on business, professional and nonprofit Boards of Directors in support of the company's goals and objectives.

Jan. 1987–Sept 1994—Hvide Marine, Inc.—Fort Lauderdale, FL
Director. Public Affairs

Responsible for all government, regulatory, political and public affairs for this international diversified international marine transportation company which operates tankers, offshore supply vessels, tug and barge and tugboats in the international and domestic maritime markets. The company now operates as Seabulk, Inc. Position required Congressional testimony and regulatory agencies, business and financial presentations, coordination of business development projects. During tenure also held positions of National Manager of Marketing and Assistant to the President. Additional responsibilities included corporate business and strategic planning, community relations, preparation for board meetings, crisis management team and trained facilitator. Developed, managed and implemented a national branding, marketing and sales campaign for this start-up subsidiary, American Tank Testing, Inc., which successfully concluded with the sale of the company to a fortune 200 company. Required developing and managing national sales force, corporate and convention sales strategy, and implementation of government procurement program.

Sept. 1986–Jan. 1987—Bob Martinez for Governor—Miami, FL
Field Director—South Florida

May 1986–Sept 1986—Tom Gallagher for Governor—Miami, FL
Campaign Travel Aide/Assistant Press Secretary

Nov. 1984–June 1986—United States Senator Paula Hawkins—Miami, FL
District Representative/Special Assistant

June 1984–Nov. 1984—United States Congressman Connie Mack—Fort Myers, FL
Press Secretary/Assistant Campaign Manager

Dec. 1982–June 1984—United States Senator Paula Hawkins—Washington, D.C.
Special Assistant

Education

1982—University of Florida, College of Journalism and Communications—Gainesville, FL

Bachelor of Science, Public Relations, Minor in Marketing

1997—Harvard University's John F. Kennedy School of Government—Cambridge, MA

Senior Managers in Government Program

The Senior Managers in Government program provides senior executives in the Federal Government, and private sector with the cutting-edge skills needed for

their continued success. Renowned Kennedy School faculty members help participants enhance the core leadership skills needed to direct organizations with governmental and public sector concerns. The course focuses on several complex management issues faced by senior managers including managing risk, managing change, negotiation, leadership and policy analysis.

2001—Public Affairs Institute—Washington, D.C.

Program for Senior Public Affairs Executives

This is a three-year program for senior executives from the public and private sector in the study of public affairs, crisis management, issues management and Federal and state legislative program management. Program's first distinguished fellow.

Recognition and Awards

Public Affairs Institute, First Fellow, 2002.

Paul Anderson Appreciation Day, Broward County Commission, December 10, 2002.

United States Coast Guard Distinguished Civilian Award, 2000.

Broward Navy Days Freedom Award, 1997.

Outstanding Young Men of America, 1987.

Recognized as one of South Florida's most important business and civic leaders as featured in the "Power Issue" of *South Florida CEO*, April 2003.

South Florida CEO magazine's June 2002 featured Business Executive.

University of Florida College of Journalism's *Communicator* Magazine Spring 2006 featured Alumni.

Leadership Experience

- 1999–2003 *Broward Community College (BCC), Chairman, Board of Trustees.* This is a gubernatorial appointment and senate confirmed position by Governor Jeb Bush in 1999. Upon my appointment I was elected and served as Chairman from 1999–2001, and Vice Chairman from 2001–2002, of the fifth largest community college in the United States with five campuses, 50,000 students and a \$100 million plus annual budget. During my tenure I was responsible for the policy oversight of the College's reaffirmation of accreditation, the hiring process of a new President, a collective bargaining agreement with faculty union, and growth of the BCC Foundation.
- 1999–2001 *Broward Alliance, Inc., Chairman, Board of Directors.* This multi-million dollar corporation is Broward County's (a county of 1.6 million citizens) private-public partnership for economic development. Among the accomplishments under my leadership were leading a search for a new CEO, a renewed commitment for public funding from county government, and the growth of private investment by corporate partners. Among other successes were the implementation of a minority business development program, expanded international trade development program and a partnership for a regional marketing plan for South Florida's economic development. I also held the positions of Secretary, Treasurer and Vice Chairman from 1996–1999.
- 1998–2003 *Public Affairs Council, Board of Directors.* The Public Affairs Council is the leading association for public affairs professionals. Its mission is to advance the field of public affairs and to provide tools and resources that enable public affairs executives and managers to achieve their business and professional goals. I also served on the Council's accreditation committee.
- 2000–2002 *Florida Community College Trustees Association, Vice Chairman, Secretary/Treasurer.* During my tenure I served as a leading advocate of Florida Community College Trustees and Florida's community college system before the state legislature and administration. My efforts resulted in legislation increasing funding and matching dollars for Florida's 28 community colleges.
- 2000–2003 *Giant Holdings, Inc., Landmark Bank, NA, Board of Directors.* Giant Holdings is a holding company for Landmark Bank NA, a community bank in Broward County, Giant Bank, an Internet component of Landmark; and Web United, Inc., a web hosting and technology company.
- 2000–2003 *Take Stock in Children, Operating Committee.* At the request of Governor Jeb Bush and the Chairman of Take Stock. I served on the Operating Committee of this nationally recognized statewide mentoring and scholarship organization. My primary responsibility was managing legislative efforts which secured state appropriations totaling over \$15 million dollars for this organization serving Florida's at-risk community.

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| 2000–2004 | <i>Deliver the Dream, Founding Member, Board of Directors.</i> At the request of JM Family's CEO I served as a founding member of the Board of Directors and on the Finance and Board Development Committees of this nonprofit organization serving families in crisis. |
| 1991–2003 | <i>Broward Navy Days, Founding Member, Board of Directors.</i> Co-founded this 501(c)3 naval support organization which has grown to the 2nd largest fleet week in the United States celebration honoring U.S. naval services in the United States. |
| 1999–2003 | <i>Jeb Bush Classic, Co-Chairman.</i> Successfully developed this golf tournament into a five-city, statewide event that has raised over \$5 million for MS (muscular sclerosis). |
| 2000–2004 | <i>Orange Bowl Committee, Member.</i> The Orange Bowl Committee is a not-for-profit, 317-member, all-volunteer organization supporting and producing activities and events which enhance the image, economy, and culture of South Florida. Among the OBC core events are the Orange Bowl Festival, FedEx Orange Bowl and World-Class Halftime Show, the MetroPCS Orange Bowl Basketball Classic, the Orange Bowl PATCH Beach Bash presented by the City of Hollywood, the Miller Light Orange Bowl Tailgate Party, Boston Market Orange Bowl Youth Football Championships and the Orange Bowl Cheer & Dance Championships. |
| 1997–2003 | <i>Florida Chamber of Commerce, Board of Governors.</i> |
| 2000–2003 | <i>Florida Tax Watch, Board of Directors.</i> |
| 1996–2003 | <i>Museum for Discovery & Science, Board of Directors.</i> |
| 2001–2003 | <i>Broward Education Foundation, Board of Directors.</i> |
| 1995–2000 | <i>Fort Lauderdale Chamber of Commerce, Board of Trustees.</i> |
| 1998–2003 | <i>Junior Achievement of South Florida, Board of Directors.</i> |
| 1990–1994 | <i>American Waterways Operators Board of Directors; Chairman, Public Affairs Committee.</i> |
| 1988–1994 | <i>Port Everglades Association, Board of Directors.</i> |

Government Experience

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| 1990–1994 | Broward County Consumer Affairs Board |
| 1989–2000 | United States Senator Connie Mack Academy Advisory Board |

The CHAIRMAN. I thank you very much, Mr. Anderson.

Before we proceed, I'd like to recognize and congratulate Molly Gower. You brought your whole family, I would assume, your potential in-laws are in your favor.

[Laughter.]

Mr. KRESS. I certainly hope so. The signals are good so far.

The CHAIRMAN. And we are most honored to have in our midst, a war hero. Welcome, sir, we salute you.

If I may ask, Mr. Kress, you have had good experience in the U.S. Trade and Development Agency, how can you use that experience in the maritime world?

Mr. KRESS. Thank you.

The focus of the U.S. Trade and Development Agency is on supporting economic development projects overseas, and supporting U.S. exports of goods, services and technologies. And part of that is transportation projects, so I have worked on a number of transportation projects, including in the maritime area. I've had the opportunity to visit ports, see equipment in action and so on, so I'm familiar with a lot of the port development issues that are being faced in developing countries and middle-income countries that we work with. These issues are actually very similar to those that we're dealing with here, in terms of congestion, security, environment and so on.

So, specifically, the projects that I've worked on in that area will put me in good standing for examining the issues here. Also as a general matter, in terms of looking at trade, understanding the

needs of U.S. manufacturers, and how the trade flows are going in and out, I think this experience gives me a strong background for executing my responsibilities, if confirmed, as a Commissioner.

The CHAIRMAN. I ask that question because there are some who suggested that you were not a sailor, but you do have experience in the maritime world.

Mr. KRESS. Yes.

The CHAIRMAN. I thank you very much.

And if I may ask Mr. Anderson, you're scheduled to become Chairman of the Commission or you have been nominated for that position. We are now looking at the European Commission's impending antitrust immunity guidelines for the liner shipping industry. What impact will that have on U.S. antitrust regulation? And what vision do you have for the FMC moving forward on that?

Mr. ANDERSON. Thank you, Mr. Chairman. As you referenced, the European community has been involved for several years with deregulating the liner antitrust immunity in the European community. That is scheduled to take place in October of 2008, when that will become final. The—they are still engaged in the EU in promulgating the final regulations that will replace their set of antitrust immunity regulations that they are repealing.

I think that it's very important for the United States, as a leader in international trade in the world, to examine, after time, the results of their very bold move to remove this long-standing antitrust immunity, that both the EU and the United States have had in place in our foreign-borne commerce. And I think that it would be prudent for us to let them go through with their process, as a grand experiment of deregulating the industry.

It's very difficult to predict what may or may not happen in the industry, and that's the reason I'm suggesting that we may be very well served by examining and looking at what they experience over the next several years in their process, before we make any changes to our regulations.

But as you know, we enforce the laws enacted by this body and the U.S. House, and if instructed to make changes in our regulatory rules, we will do so.

The CHAIRMAN. I thank you very much, Mr. Anderson.

Senator Stevens?

Senator STEVENS. What do each of you perceive to be your role as members of the Commission, with regard to the safety of our ports?

Mr. KRESS. The Commission works cooperatively with Customs and Border Protection and Naval Intelligence and the Coast Guard and other agencies that are directly working on security matters. The Commission is in a position to support the integrity of the supply chain, through licensing various actors in the supply chain, and so has an opportunity to make sure that we understand who is working and moving goods in and out of the United States, and can share that information with other agencies to make sure that there is a secure and safe process.

The Commission works particularly closely with Customs and Border Protection, there is an MOU with the Customs Service for information sharing, and otherwise works cooperatively with the

other agencies to make sure that procedures that the ports and the shippers are following are as secure as possible.

Senator STEVENS. I thank the Chairman for bringing both up at the same time. I think it's better to have you each answer the same question, if you would?

Mr. ANDERSON. Yes, sir. Thank you. That's a very appropriate question, and I am just going to expand on some of the areas that Mr. Kress answered.

The Commission, while we're not sitting as a front-line security agency, we do have a role in the security of our intermodal supply chain in the marine transportation sector. We license and bond all of the people that are handling cargo for the large shippers in the world, both international and domestic. And as such, we have area representatives that are in our field offices around the country, that are working to examine whether or not these companies that are filing for a license at the Commission, if they do have the necessary experience. We're checking out their offices to make sure they are who they say they are.

And that particular area, I think that's an area that the Commission can continue to expand upon, and an area that, you know, we should be very engaged with the people that are handling the paperwork for the cargo that's coming in and out of our country. We do the best that we can with a very limited staff and field offices. And, I think it's a very important role.

We have, as Mr. Kress mentioned, a Memorandum of Understanding. We do joint investigations with Customs, Naval Intelligence, and the Coast Guard. And I have spoken with your staff about some opportunities where we might be able to increase our areas of cooperation with those agencies to do more in the area of security.

Senator STEVENS. That sounds good.

We have visited periodically ports of the United States, such as Los Angeles, Seattle, and New York. Do you plan to visit some of these monster ports of ours?

Mr. ANDERSON. I'll take first crack at that. I am a big believer in going out and kicking the tires and actually getting in the ports. I've been to numerous ports around the country. I've been to LA/Long Beach, just right after my first confirmation and being sworn in. I've been out there multiple times. I am from the Southern California area, originally. Those two ports make up 40 percent of all the containers coming into and out of the country.

Additionally, as I mentioned, I worked in the largest container port in Florida, which is Port Everglades in Fort Lauderdale. I have visited numerous ports. It's very important for us to see the actual workings of the Port Authorities, not only their security side, but the transportation infrastructure that facilitates the movements of cargo and intermodal transportation. I've done that as well with MARAD representatives. We visited, not only marine terminals, but rail terminals, and also met with truckers and all of the interested parties that move the goods in and out of our ports. Because those are all critical in the entire supply chain of our country.

Senator STEVENS. Mr. Kress?

Mr. KRESS. Yes. I would agree wholeheartedly with Mr. Anderson there. And particularly, looking at my past experience with the U.S. Trade and Development Agency, of going out and actually seeing the projects and project proposals in action or where they are likely to happen, including who the actors are, is very different from hearing presentations in the office and receiving e-mails and so on.

So, I would see going out and visiting those ports to be a critical opportunity to meet with all the right people, meet the different interested parties, see the infrastructure, and so on, to be able to make better decisions on all the matters that come before the Commission.

Senator STEVENS. Well thank you. Having visited those areas, I came to the conclusion that while we're developing the kind of knowledge we need to run the ports, we really have not done much about the transportation infrastructure that interlocks with those ports. For instance, coming out of the Los Angeles Port, there is just one railroad with one track.

You're right, 40 plus percent of the goods for the whole country come through that port, but there's only one railroad and one track. And no one's ever paid much attention to it, but it does seem to me that someone ought to get on top of that and try to figure out how to change that. But the technology-base for the ports is all on the water. The mainland side of these ports have just been neglected. I don't know if that comes under the jurisdiction of the FMC, but I put it on the table for you to consider. I do think the technology-base, handling the goods once they're on shore, is as important as that, dealing with unloading the cargo and loading the cargo onto those islands.

But, I do thank you for your willingness to serve. We look forward to seeing you from time to time here and we should have, I think, a periodic report from your Commission. And I wish you well.

Thank you, Mr. Chairman.

The CHAIRMAN. I thank you, Mr. Kress and Mr. Anderson, for your willingness to serve. And, may I announce that the record will be kept open for 10 more days, if you do have any changes you'd like to make in your statements or your responses, feel free to do so. And we will be submitting further questions, if we may, and we look forward to your responses.

Thank you very much, and the hearing is adjourned.

[Whereupon, at 3:30 p.m., the hearing was adjourned.]

A P P E N D I X

RESPONSE TO WRITTEN QUESTION SUBMITTED BY HON. DANIEL K. INOUE TO
CARL B. KRESS

Question. In your testimony you mention your experience with port related matters as an employee of the U.S. Trade and Development Agency. What specific experience do you have with the shipping industry?

Answer. Throughout my 6 years at the U.S. Trade and Development Agency (USTDA), first as Chief of Staff and Senior Advisor to the Director and later as Regional Director for the Middle East, North Africa, and South Asia (MENASA), I have worked on a wide variety of matters designed to address shipping industry needs, primarily in the areas of security, safety, and supply chain efficiency. If I am confirmed, I plan to draw upon this experience as I work with the shipping industry to ensure a fair, secure, safe, and efficient maritime system.

As I indicated in my testimony, USTDA's mission is to support economic development overseas through the application of U.S. goods, services, and technologies, thereby spurring economic growth overseas and bolstering U.S. exports and supporting U.S. jobs. USTDA projects are designed to create mutually beneficial partnerships, where foreign project sponsors, such as shipping and transportation entities and customs and port authorities, seek to work with U.S. companies and U.S. Government technical agencies like the Maritime Administration, the National Oceanographic and Atmospheric Administration, and the Department of Homeland Security (DHS). All such activities have at their core the goal of facilitating infrastructure improvements overseas, with a particular focus on projects whose sponsors are especially interested in U.S. solutions for project implementation. USTDA accomplishes its mission through funding various types of activities, such as project-specific feasibility studies and technical assistance, and conferences and Orientation Visits (reverse trade missions) that provide opportunities for foreign project sponsors to gain exposure to U.S. technical expertise and technology.

As Chief of Staff and Senior Advisor to the Director from 2001–2004, I was responsible for ensuring the execution of the Director's policies. This involved participating in the development of all projects and initiatives, taking part in their planning and final approval, and working with program staff to facilitate their successful implementation. Subsequently, as Regional Director for MENASA, I was directly responsible for developing and implementing all activities within that region.

Following 9/11, the Director called for a sharpened focus on transportation sector security and safety. To ensure effectiveness in implementing this policy, we immediately began working with the U.S. Coast Guard, the Customs Service, and the U.S. private sector in targeting opportunities to support requests from our trading partners for information about U.S. security requirements, and about potential U.S. solutions for meeting their security, safety and supply chain efficiency needs. Because of the magnitude of U.S. trade with Asia, we increased shipping sector activities in that region. I worked directly with all regional teams in developing and implementing projects under this agency priority initiative.

For example, we supported the Secure Trade in the APEC Region (STAR) Initiative that was launched following 9/11, by sponsoring a conference in Thailand to help APEC country companies and policymakers develop new approaches to trade security and safety. Conference session topics included maritime and supply chain security, which focused on methods of expediting the movement of goods and people while adding new security layers. Senior representatives of the International Maritime Organization, World Customs Organization, U.S. Customs Service and Coast Guard, the Global Alliance for Trade Efficiency, and senior government officials and company representatives from all APEC countries took part.

Further supporting STAR objectives, we established the Secure Trade in the APEC Region—Bangkok/Laem Chabang Efficient and Secure Trade Project, which supported a pilot for a secure supply chain between the Ports of Laem Chabang, Thailand and Seattle, Washington. This pilot showed the feasibility of establishing

a secure, end-to-end supply chain using existing technology and processes between those two ports.

We also funded technical assistance to develop STAR-related seafarers' identification systems in the Philippines and Indonesia, which we considered to be particularly important projects because these two countries are the world's top suppliers of seafarers to ocean-going carriers. Our assistance supported the countries' efforts to implement improved national Seafarers Identity Document Systems that would comply with International Labor Organization requirements.

As a further targeted effort to improve shipping safety and security, we provided ISPS Code training to customs, port, and shipping officials in APEC countries to support human capacity building and spur appropriate infrastructure improvements necessary under their ISPS Code obligations. ISPS Code compliance was likewise a prominent topic at USTDA's Transportation Security Forum Conference in Cairo, Egypt in 2004, which was put on in cooperation with DHS and was supported by the International Federation of Freight Forwarders Associations and the World Customs Organization. The event brought together public and private sector representatives from Africa, the Middle East, and South Asia to review U.S. and international trade security initiatives, identify ongoing trade and transport security projects in the participating countries, and highlight technologies and procedures aimed at facilitating more secure and efficient movement of goods.

We also developed and implemented two Orientation Visits that exposed foreign shipping and port officials to U.S. equipment, facilities, and procedures in Louisiana, Texas, and California. The first brought a Chinese delegation to the United States to view inland river operations in the Mississippi Delta and the Los Angeles and Long Beach Port complexes. U.S. participants included American Commercial Lines, LLC, Gulfship Maritime, Inc., and Transoceanic Shipping Company, Inc. The second visit brought delegates from Brazil, Columbia, and Ecuador to Louisiana and California to explore U.S. solutions for their modernization and expansion plans. U.S. participants in this activity included Gulfship Maritime, Inc. and Intermarine Inc., as well as the Ports of Houston, Long Beach, Los Angeles, New Orleans, and South Louisiana.

In 2004, I became the Regional Director for the MENASA Region and took direct responsibility for developing programs that address shipping industry interests in my countries. For example, immediately upon taking over the region, I began planning the USTDA Transportation Solutions for South Asia Trade conference in Mumbai, India, which highlighted best practices for intermodal transportation, with presentations by U.S. service and technology providers. Participants included senior officials from the U.S. Department of Transportation as well as shipping, port, and transportation representatives from all South Asian countries.

I was also responsible for Orientation Visits bringing government officials and shipping industry representatives in 2005 from Morocco, Algeria, and Pakistan to New Jersey, Florida, Virginia, and Texas to learn about U.S. technologies and procedures for oil spill response and recovery. That same year we also held further ISPS Code training with the U.S. Coast Guard, in Tunisia for representatives from Algeria, Egypt, Jordan, Lebanon, Morocco, Oman, Tunisia, the United Arab Emirates, and Yemen.

Recently, I worked with U.S. technical experts in developing and providing port security technical assistance regarding ISPS Code, Customs-Trade Partnership Against Terrorism, and Container Security Initiative compliance for the Moroccan Tangier-Med project, which encompasses a new deep-sea harbor and new container and cargo terminals. The concessionaire for the first container terminal is Maersk-Akwa, a joint venture with 90 percent ownership by the Maersk Group.

In sum, throughout my 6 years at USTDA I have been actively involved in a wide variety of activities designed to address shipping industry needs, particularly with respect to increased security, safety, and supply chain efficiency. This experience has given me a clear understanding of the complexity of these issues and the importance of coordinated efforts among the many stakeholders, including carriers, shippers, customs and security officials, ports, consumers, and exporters. Melding effectively the economic, security, environmental, and safety needs inherent to the shipping industry is a challenging task, and, if confirmed, I look forward to working successfully with the shipping industry to facilitate fair, safe, and secure maritime transportation.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. BARBARA BOXER TO
CARL B. KRESS

Question 1. Traditionally the Federal Maritime Commission's mandate has been fairly narrow—to consider only if transportation costs increase or transportation services decrease with any water-borne and port commerce proposal. But in the case of the Port of LA/Long Beach, it is no longer possible for the port to continue to grow without substantial environmental mitigation. I believe, as do many in California, that the Commission must now take into account a broader range of considerations when looking at port plans.

Answer. Section 6(g) of the Shipping Act requires the Commission to evaluate agreements among marine terminal operators or ocean common carriers to determine whether they would be likely, by a reduction in competition, to produce an unreasonable reduction in transportation service or an unreasonable increase in transportation cost. As you point out, the port and shipping agreements that the Commission reviews encompass a range of important issues, not simply their impact on costs and service availability. I believe that the Commission's analysis of such agreements should take these broader issues, such as an agreement's potential impact on the environment, into account as a part of the Commission's analysis. Accordingly, I believe the appropriate question under section 6(g) is whether a reduction in service or increase in costs is reasonable, considering all of the relevant circumstances.

Question 2. Do you feel the Federal Maritime Commission should consider new factors such as existing or potential environmental, safety and security risks when conducting an anti-trust analysis of a port plan to address emissions?

Answer. Yes. I believe that the Commission can and should consider such factors in deciding whether an agreement to reduce emissions is reasonable under section 6(g) of the Shipping Act. I believe that in order to determine whether an agreement is substantially anti-competitive under the Shipping Act, the Commission should take a broad approach that considers potential impacts on the environment, safety, and security, in addition to potential consequences for transportation service availability and cost.

Question 3. Has the Federal Maritime Commission considered these factors in the past?

Answer. The Commission previously evaluated an agreement by West Coast Marine Terminal Operators to implement PierPASS, a program that charges a fee to port users during peak hours to encourage more visits during off-peak hours, which I understand was aimed specifically at reducing congestion at the Ports and has been considered a success. Accordingly, given this explicit purpose, it is my understanding that the Commission considered the potential benefits under these factors in its determination that the increase in transportation costs due to the peak-hour fee was reasonable.

Question 4. Do you agree the air quality situation in at the ports in California, particularly at the Ports of LA/Long Beach has reached a critical level in regards to public health?

Answer. Yes. I experienced the air quality in Los Angeles first-hand when I lived there for 3 years while attending law school, and have read reports describing the poor air quality in the region and how it poses a grave health risk to Southern California residents. I believe that improving air quality in the ports, and in the region as a whole, must be a key priority.

Question 5. It is my understanding that recently, some of the shipping lines and the retail companies that ship through our ports filed objections to the efforts being undertaken in the state to develop a plan to control emissions on the basis of potential cost increases. What actions, if any, has the FMC taken at this time on those objections?

Answer. No formal petitions or complaints have been filed with the Commission regarding the proposed Clean Trucks Program being considered by the Ports of Long Beach and Los Angeles. However, the Commission has received two letters—a joint letter from the Pacific Merchant Shipping Association and the National Industrial Transportation League, and a letter from the Intermodal Motor Carriers Conference—asserting that the program would violate certain provisions of the Shipping Act. Press reports indicate that the Commission has been closely following developments at the ports on these matters, and I see that the Commission held a closed meeting on November 28, 2007 to discuss the proposed Clean Trucks Program. It is my understanding that the two letters did not object to any plans by the State of California to reduce emissions, such as rules being considered by the California Air Resources Board to set emissions levels for all drayage trucks throughout California.

Question 6. What role do you see for the FMC playing in the development and implementation of ports plan to reduce emissions at the Ports of LA/Long Beach?

Answer. The Ports of Los Angeles and Long Beach have an agreement filed with the Commission that allows them to discuss ways to reduce port-related emissions under their Clean Air Action Plan. Under the Shipping Act, the Commission has an obligation to monitor activities under this agreement to ensure compliance with the Act. Additionally, because they are marine terminal operators, both ports are also required to comply with certain provisions of the Shipping Act even if they are acting separately. Therefore, the Commission has a role to play in determining whether actions by these ports, and any other marine terminal operators, are consistent with Shipping Act requirements. If confirmed, I look forward to working with all of the parties as they together strive to craft innovative approaches that address Southern California's needs with respect to emissions and congestion reduction.



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