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NOMINATIONS OF BRENT JAMES McINTOSH, BRIAN CALLANAN, BRIAN McGUIRE, AND TRAVIS GREAVES

HEARING

BEFORE THE

COMMITTEE ON FINANCE
UNITED STATES SENATE

ONE HUNDRED SIXTEENTH CONGRESS

FIRST SESSION

ON THE

NOMINATIONS OF

BRENT JAMES McINTOSH, TO BE UNDER SECRETARY FOR INTERNATIONAL AFFAIRS, DEPARTMENT OF THE TREASURY; BRIAN CALLANAN, TO BE GENERAL COUNSEL, DEPARTMENT OF THE TREASURY; BRIAN McGUIRE, TO BE ASSISTANT SECRETARY FOR LEGISLATIVE AFFAIRS, DEPARTMENT OF THE TREASURY; AND TRAVIS GREAVES, TO BE A JUDGE OF THE UNITED STATES TAX COURT

JULY 24, 2019



Printed for the use of the Committee on Finance

U.S. GOVERNMENT PUBLISHING OFFICE

44–390—PDF WASHINGTON : 2021

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WEDNESDAY, JULY 24, 2019

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

The hearing was convened, pursuant to notice, at 10:15 a.m., in room SD–215, Dirksen Senate Office Building, Hon. Chuck Grassley (chairman of the committee) presiding.

Present: Senators Crapo, Roberts, Thune, Portman, Scott, Cassidy, Young, Wyden, Cantwell, Carper, Cardin, Brown, Casey, Whitehouse, Hassan, and Cortez Masto.

Also present: Republican staff: John Schoenecker, Senior Investigative Counsel; Delisa Ragsdale, Chief Investigative Counsel; Mark Warren, Chief Tax Counsel; Jeffrey Wrase, Deputy Staff Director and Chief Economist; and Nicholas Wyatt, Tax, Infrastructure, and Nominations Policy Advisor. Democratic staff: Chris Arneson, Tax Policy Advisor; Michael Evans, Deputy Staff Director and Chief Counsel; Sally Laing, Senior International Trade Counsel; Ian Nicholson, Investigator; Greta Peisch, Senior International Trade Counsel; and Tiffany Smith, Chief Tax Counsel.

The CHAIRMAN. Today, the Finance Committee will hear from four nominees, three from the Treasury Department and one for the U.S. Tax Court.

Before I give my opening statement, I am going to call on Senator Blackburn to give her statement. But if you have a 10-minute statement, I am going to interrupt you and let Senator McConnell give his statement, because he is busy. But he is not here, so would you proceed, please?

STATEMENT OF HON. MARSHA BLACKBURN,
A U.S. SENATOR FROM TENNESSEE

Senator BLACKBURN. Thank you, Mr. Chairman; I will proceed with pleasure. And I can assure you, it is not a 10-minute statement.

It is really such a pleasure for me to present to the committee my fellow Tennessean, Travis Austin Greaves. He is President Trump's nominee for the U.S. Tax Court.

Travis was born in Texas, but he got to Tennessee as fast as he could. He and his family moved to Knoxville, TN when he was 11. And he received his B.A. from the University of Tennessee, and that is where he met his wife Holly. And she is a native of Cookeville, TN. He and Holly are the proud parents of two children, and they are expecting their third child, a little boy, in November. And I told Holly I am pushing for a November 21st delivery date, even though that would be past her delivery date, but is when my daughter was born.

Travis attended South Texas College of Law, where he received his law degree. He earned his LL.M. with distinction from Georgetown. He went on to serve as an attorney advisor to the U.S. Tax Court.

After his time at the Tax Court, he practiced law here in Washington, DC, where he specialized in tax controversy and litigation. He eventually co-founded a law firm that advised individuals and businesses on Federal and State tax disputes.

Travis is now serving our country as a Deputy Assistant Attorney General in the Justice Department's Tax Division. In this role, he oversees all Federal tax appellate matters for the U.S., including all appeals from the Tax Court. Travis also teaches and mentors students as an adjunct professor on tax law at Georgetown University's Law Center.

Mr. Chairman, I am so honored to present him today and am absolutely thrilled to see him nominated for this position. In talking with Travis and those who have known him for years, it is clear that he has the competency and the temperament to excel as a judge on the Tax Court.

His past experiences have taught him to treat each litigant fairly and to impartially approach and to respect the rule of law. And I would expect nothing less from my fellow Tennessean. You may know that Tennessee is nicknamed "The Volunteer State." And that is a nickname that we Tennesseans accept with pride. And it is not just for UT sports, it is because people, Tennesseans like Travis, answer the call to serve our communities, our State, and our country.

I hope that you will move Travis through the committee expeditiously and get him confirmed promptly. And we are going to look forward to seeing him seated on the Court.

Thank you, Mr. Chairman. I yield back.

The CHAIRMAN. Thank you very much. And we usually do not ask questions of our colleagues, so you can leave if you want to. [Laughter.]

I am going to open up with my statement, and I am going to interrupt my own statement when Senator McConnell gets here.

This morning we will first hear—Senator McConnell has arrived, and we will, if he is ready, take his statement.

Senator McConnell, I recognize you.

STATEMENT OF HON. MITCH McCONNELL,
A U.S. SENATOR FROM KENTUCKY

Senator MCCONNELL. Well, thank you very much, Mr. Chairman. I am going to ask that my remarks about Brian McGuire appear in the record, but I do want to make a few observations.

The CHAIRMAN. They will be taken into the record.

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

Senator MCCONNELL. I have been fortunate over the years to have a number of outstanding young men and women work on my team. I am hard-pressed to think of anybody more outstanding than Brian McGuire.

I met him in 2007. He was somewhere in the Bush administration and was recommended to me as a speech writer. And I have had a few speech writers over the years, none better than Brian McGuire. And he was there during challenging times in the Republican leader's office that included the Iraq War, the financial meltdown—a whole lot of other tense and high-profile moments—and never lost his cool. He always had good advice. And so, when an opening came up to be Chief of Staff in my personal office, I put him in a totally different role from the one he had been in prior to that.

He was not from Kentucky. He had heard of Louisville, but within a short period of time, he knew every county. He made sure he knew all the things that were important to our State that we were dealing with in my personal office. And I must say, I was deeply saddened when he decided to go into the private sector.

I could not be more grateful for the decade we worked together on behalf of the Nation and Kentucky. I am really proud of him. I think he will make a fabulous addition to the Treasury Department, and I wanted to come by and say that to all of you, that this is a top-flight nominee. I think the President was wise to select him. I am enthusiastically in his corner, and I hope you will be as well.

So thank you, Mr. Chairman, for the opportunity to be here today.

The CHAIRMAN. Thank you, Leader, and we will let you go now. We do not generally have questions of members.

Senator Portman, you wanted to introduce somebody. I have not given my opening statement, but I think it would be appropriate if you go ahead at this point.

OPENING STATEMENT OF HON. ROB PORTMAN,
A U.S. SENATOR FROM OHIO

Senator PORTMAN. Great. Thank you, Mr. Chairman, very much. I appreciate you letting me introduce two distinguished individuals before the committee today. They are on the left part of the panel there: Brent McIntosh and Brian Callanan. I appreciate their willingness to step forward and to serve in these two important public service roles. They have dedicated much of their lives to public

service, and I hope that the committee will support their nominations.

Brent McIntosh has been nominated to be Under Secretary of the Treasury for International Affairs, filling the role vacated by David Malpass. As you know, he was sent over to the World Bank recently. Currently he serves as General Counsel at Treasury and is well qualified for it. He graduated from Michigan Law—University of Michigan undergraduate, which we will not hold against him—and then earned his law degree from Yale.

He clerked for both Judge Dennis Jacobs on the Second Circuit Court of Appeals and Judge Laurence Silberman on the DC Circuit Court of Appeals. Smart guy.

Afterwards, he continued to establish himself as a dedicated public servant. I got the pleasure to work with him in the Bush administration and got to know him, actually, when he served as Deputy Assistant Attorney General during my time as U.S. Trade Rep. And then, when I moved over to become OMB Director, Brent moved over to the White House, where I saw him a lot and worked with him. He was Associate Counsel to the President, and then Deputy Staff Secretary and Deputy Assistant to the President.

After serving at Sullivan and Cromwell, Brent once again stepped back into public service when he was nominated to serve at Treasury as General Counsel. He has been there for the last 2 years, and a number of us have worked with him in that capacity as well.

I commended Brent at his last nomination a couple of summers ago on his honesty, intelligence, and integrity that I saw when I worked with him in the Bush administration. I can safely say he has lived up to that reputation during his time as Treasury General Counsel, Mr. Chairman, and I am pleased to see him continue now in this new role.

The other gentleman is Brian Callanan. He has darkened the doors of this committee many times, because he worked for me as my counsel. He worked a lot on tax reform back in the day, and also worked on a bipartisan basis on some difficult issues as we dealt with the budget issues. The President has nominated Brian to be the General Counsel to fill Brent's role. He currently serves as the Deputy General Counsel. He attended Claremont McKenna College and got a J.D. at Harvard. In 2008 he clerked for Judge Raymond Randolph on the DC Circuit Court of Appeals and worked as an associate at Gibson Dunn. And again, in 2011, I had the pleasure of having him on my team as my General Counsel before he returned to private practice.

He then returned to my team in 2015, where he became Staff Director and General Counsel of the Permanent Subcommittee on Investigations, which I chair. During his time in both my office and at PSI, Brian showed a strong commitment to oversight and a thorough grasp of some of the most important and complex policy issues that we worked on, including again the budget discussions from the supercommittee, the tax issues.

He briefly worked as a partner in the law firm of Cooper and Kirk before returning to public service again, this time at Treasury. So it has been a pleasure to work with Brian over the last 2 years on a variety of issues in his new role at Treasury, and I know he

will approach the role of General Counsel with the same level of expertise, integrity, and respect for Congress that he exemplified during his time working for me.

So these nominees are exceptional public servants, Mr. Chairman, and great people. They have the experience and the qualifications to do these jobs, and do them well. If confirmed, I know they are going to serve our country with honor, and I am proud to support their nominations before the committee.

OPENING STATEMENT OF HON. CHUCK GRASSLEY, A U.S. SENATOR FROM IOWA, CHAIRMAN, COMMITTEE ON FINANCE

The CHAIRMAN. Thank you, Senator Portman.

The portfolio for Treasury Under Secretary for International Affairs is broad, including working with many multinational organizations such as the World Bank and the IMF. Given that this position is related to international affairs, I would like to take a moment to stress again that the Treasury and the administration should use all available tools under U.S. law to encourage other countries to stop efforts to implement unilateral digital service taxes like the ones in France and under consideration in the UK. Instead, our trading partners should be focusing on the multilateral efforts underway by the Organisation for Economic Cooperation and Development.

I was pleased to see Secretary Mnuchin's reported comments after the G7 finance ministers' meeting last week indicating a two-track process with respect to these issues—meaning the continuation of section 301 investigations of the French Digital Services Tax, while also negotiating with the OECD Inclusive Framework members on a consensus solution to the tax challenges of the digital economy.

Through multiple letters and other communications, Senator Wyden and I together have expressed our bipartisan interest in Treasury continuing its active participation in the OECD negotiations and using all tools available to prevent unilateral measures. I look forward to any comments our Treasury witnesses would like to provide on that matter.

Next is Brian Callanan, who is nominated to Mr. McIntosh's current position as Treasury General Counsel. Since the tax act of 2017, the Treasury Department has done a very good job of developing regulations and other guidance to implement that law. The office of General Counsel has been an indispensable part of that process, while also fulfilling all other legal responsibilities at Treasury.

Next we will hear from Brian McGuire, nominated to be Assistant Secretary for Legislative Affairs. I have talked many times about how important it is that members of this committee are able to get their questions answered and responses to their inquiries. I am heartened that Mr. McGuire has worked so many years in Leader McConnell's office, so I expect he has learned how important it is to this Senator for the executive branch to cooperate and work with those of us here in the legislature on our constitutional responsibilities on oversight.

Finally, we will hear from Travis Greaves, nominated to a term of 15 years on the U.S. Tax Court. The Tax Court is where tax-

payers can turn to settle a disputed liability with the government, and without having to pay the disputed tax before their case is heard. If Mr. Greaves is confirmed, along with two other nominees who have already been reported from this committee in this Congress, 18 of the 19 positions on the Tax Court will be filled.

So I thank all of you for your willingness to serve the people of this country, and for your public service generally.

[The prepared statement of Chairman Grassley appears in the appendix.]

The CHAIRMAN. And now it is Senator Wyden's turn.

OPENING STATEMENT OF HON. RON WYDEN, A U.S. SENATOR FROM OREGON

Senator WYDEN. Thank you very much, Mr. Chairman.

We are talking about four important nominations this morning. Mr. Brent McIntosh is nominated to be Treasury Under Secretary for International Affairs. Mr. Brian Callanan is nominated to be Treasury General Counsel. Mr. Brian McGuire is nominated to be Deputy Under Secretary of the Treasury for Legislative Affairs. And Mr. Travis Greaves is nominated to be a judge in the United States Tax Court.

I am going to start my comments with the Treasury nominees. There has been a pattern among some of the Trump nominees who have come before the committee—an unfortunate pattern. In this room, these nominees swear up and down that they are going to serve with independence on behalf of all Americans. But after they are confirmed, somehow you just seem to see blind loyalty to Donald Trump taking precedence over following the law.

The nominees before the committee today are experienced. There is no debate about that. But with the Trump administration defying virtually all congressional oversight, the right resumes are just not enough. The Finance Committee ought to be able to have confidence that nominees will resist pressure to make politically expedient decisions that help Donald Trump personally at the expense of typical American families.

In that vein, I am going to turn to a couple of specific items, starting with the Treasury Department's handling of the Ways and Means Committee's request for Donald Trump's tax returns under section 6103 of the tax code. From where I sit, the Treasury Department has tossed aside the law and decades of precedent to protect the President from congressional scrutiny.

In May, I began investigating whether there was political interference in the decision to withhold the tax returns. I asked the Treasury a series of questions about the involvement of political appointees, and the initial response was misleading and inaccurate—and sometimes both. I went back and then said, "I have got to have concrete answers." After working with the Treasury to get them, the set of facts the Department agreed upon shows the unprecedented nature of its actions.

The type of inquiry I am talking about has never, over years and years, been political. Now, the Trump Treasury Department is politicizing it, and in effect using a process for Donald Trump that breaks with decades of precedent.

The Treasury Secretary has never before been involved in responding to a request for tax returns under section 6103. Secretary Mnuchin is in fact the first.

Second, the Treasury Department has never before formally consulted the Office of Legal Counsel on whether to comply with a specific request in this area, 6103. The OLC's opinion to me reads like it was written by Rudy Giuliani to justify the decision the Treasury had already made. The analysis put forward by the Justice Department has already been laughed out of court by judges who have noted that the Congress has broad investigative authority.

And third, the Treasury Department has never before formally considered whether there is a legitimate legislative purpose behind a 6103 request. Not even for the chairman's investigation into ACORN.

Taken together, it is just impossible to conclude that any of what the Treasury Department did was on the level. That is why I have deep concerns about the nomination of Brent McIntosh and Brian Callanan, who played central roles in the Department's response.

They were also right in the middle of the Trump administration's decision to allow more foreign money and dark money groups like the NRA to buy their desired outcomes in American elections. I think that was a horrible decision, and the damage was compounded when the Treasury Department then made a frivolous argument to attempt to thwart congressional review of the rule.

I just do not think you can ignore those facts. Mr. McIntosh and Mr. Callanan are currently the top lawyers at the Treasury Department. It appears that Treasury's leadership is more interested in protecting Donald Trump and party interests than guaranteeing the Department follows the law. So in my judgment, that is not the kind of conduct that gets you a promotion.

Let me switch gears now for a moment to the Tax Court. Travis Greaves has been nominated to serve a 15-year term and would help ensure that taxpayers get a fair shake in resolving tax disputes. The nominee does have 2 years of experience at the Justice Department's Tax Division, as well as time in the private sector.

I am struck, however, by the fact that Mr. Greaves's nomination to the committee is not accompanied by a recommendation letter from the Bar Association, particularly the Tax Section of the Bar Association. This is the first time in many years such a letter was not included with the required paperwork of a Tax Court judge.

Now we will examine what this is all about. It could be that Mr. Greaves's experience is more limited than other nominees to the Tax Court, but that is the point of a hearing: to examine those kinds of issues and to hear from the nominee why he believes he is qualified for this important role.

Mr. Chairman, thank you, and I know we look forward to hearing from our witnesses and our questions.

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

The CHAIRMAN. I still have two or three things to do before we start with Mr. McIntosh.

First of all, I would like to recognize the following judges who are in the audience, I am told. They are here from the Tax Court. We have Tamara Ashford, Ronald Buch, Albert Lauber, Joseph Nega,

Cary Douglas Pugh, Patrick Urda, special trial judge Diana Leyden, and Alina Marshall, counsel to the Chief Judge, who I understand clerked for Judge Greaves from 2010 to 2011. Finally, 38 professionals who have worked with Mr. Greaves wrote the committee to highlight his experience and recommend his appointment to the Tax Court. So I would ask unanimous consent that their letter be printed in the record.

[The letter appears in the appendix beginning on page 45.]

The CHAIRMAN. Also, in the case of Mr. McIntosh, I want to mention a letter received from 91 of your colleagues who have worked with you at various places like the White House, the Department of the Treasury, Department of Justice, the letter of strong recommendation for your confirmation, and I quote, in part: "We believe that Brent has the judgment, acumen, the integrity, and temperament necessary to serve our Nation with distinction in the role of Under Secretary," end of quote. And the letter is signed by 91 people, including former Under Secretary Tim Adams, former counsel to the President Fred Fielding, former Secretary of Interior Dirk Kempthorn, former chairman of the Council of Economic Advisors Kevin Hassett, among other notable public servants. And so that will be put in the record, without objection.

[The letter appears in the appendix beginning on page 47.]

The CHAIRMAN. And then, since Senator Wyden has brought up a letter that we receive about qualifications, I want to make sure that the record fully reflects his background. While it is true that the ABA Tax Section did not issue a letter rating this nominee, the Tax Section did not rate him as not qualified, which they could have done.

My staff was informed by representatives of the ABA Tax Section that no inference should be drawn from the absence of the letter. Mr. Greaves currently serves a Deputy Assistant Attorney General, Tax Division, Department of Justice. In the past, he has worked at the firm of Caplin and Drysdale, as an attorney advisor at the Tax Court, and as an adjunct professor at Georgetown University Law School.

I mention these roles to show that Mr. Greaves has academic and private-sector experience in addition to his current role at the Tax Court.

Senator WYDEN. Mr. Chairman, if I could just briefly?

The CHAIRMAN. Go ahead, please. Yes, you may.

Senator WYDEN. The chairman is absolutely right, and that is why I look forward to hearing from Mr. Greaves so he can talk us through why he is qualified. Thank you.

The CHAIRMAN. Okay; now we finally get to the purpose of this meeting, and that is to hear from our nominees.

We are going to start with you, Mr. McIntosh. And for all of you, so I do not repeat it again, I will just call on you, but you can give any opening statement, and you can introduce or refer to family members and friends who are here to support you, or for any reason that they are here.

So, proceed.

STATEMENT OF HON. BRENT JAMES McINTOSH, NOMINATED TO BE UNDER SECRETARY FOR INTERNATIONAL AFFAIRS, DEPARTMENT OF THE TREASURY, WASHINGTON, DC

Mr. MCINTOSH. Chairman Grassley, Ranking Member Wyden, members of the committee, thank you for the opportunity to appear here today before you. I am honored to be the President's nominee to be Under Secretary of the Treasury for International Affairs, and I am grateful to the Secretary for the confidence in recommending me for this position.

I also want to sincerely thank my friend Senator Portman for that generous introduction. Working with you, Senator, both in the White House and more recently, has been a privilege and a pleasure.

Before proceeding, I would like to take a moment to acknowledge my family. Here with me today is my beloved wife of 18 years, Laura, who graces my life, as well as my parents Carl and Shirley McIntosh, who have always brought a quiet ethic of community service to all that they do. Both of my parents grew up on farms in the thumb of Michigan, as we discussed, Mr. Chairman, and they have driven in from that great State for today's hearing.

My wonderful children, Mia, Rhys, and Ethan, could not be here today as they are enjoying summer camps in New England, and I am not heartless enough to tear them away from that.

As Treasury's General Counsel for the past 2 years, I have appreciated the opportunity to work with many of you and your staffs. Since being nominated to be Under Secretary, I have met with several of you, and I am grateful for the courtesies you afforded me in those meetings.

I take seriously the priorities that committee members outlined during our visits, and those meetings only reinforced to me the importance of a close working relationship with the Congress. Over the past 2 years, I have endeavored to foster that relationship, and I look forward to working with you and your staffs to strengthen and deepen it, should I be confirmed as Under Secretary.

When I appeared here 2 years ago, I observed that the challenges Treasury confronts are daunting in both breadth and complexity. My service as General Counsel has driven home just how true that is. It has been a privilege to confront these challenges, standing arm-in-arm with the immensely talented and dedicated career attorneys and staff of Treasury's Legal Division. Their work and insight benefit our Department and our Nation every day.

I have seen firsthand that many of Treasury's most pressing challenges manifest themselves in our economic and financial relationships with foreign countries and with various international institutions. These issues run the gamut: ensuring our Nation's voice is clearly heard in coordinating international financial regulation; negotiating economic agreements with foreign countries; advancing U.S. interests in multilateral bodies such as the World Bank and the IMF; and providing valuable technical assistance to developing countries.

Treasury's International Affairs Division has a special responsibility to effectively implement last year's bipartisan legislation modernizing the CFIUS investment security regime, a task that has profound implications for both our economy and our national

security. Serving as General Counsel has afforded me the opportunity to work toward solving these challenges alongside former Under Secretary David Malpass and his team, especially the hard-working experts who make up IA's career staff.

It is an honor to be nominated to lead IA's continued efforts on behalf of the American people. The international issues in Treasury's remit may at times seem esoteric or far-flung, but as David Malpass said during his confirmation hearing, and as I have consistently seen during my government service, those issues have significant, real-world impacts on the citizens of every State in the Union. That reality demands unwavering focus on the effects that international matters have on individual Americans, and it must be a guiding principle for those who are charged with advancing our Nation's interests abroad.

I pledge that, if confirmed, it will guide my every action.

Thank you again for the opportunity to appear today, and I look forward to your questions.

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

The CHAIRMAN. Mr. Callanan?

STATEMENT OF BRIAN CALLANAN, NOMINATED TO BE GENERAL COUNSEL, DEPARTMENT OF THE TREASURY, WASHINGTON, DC

Mr. CALLANAN. Chairman Grassley, Ranking Member Wyden, members of the committee, thank you for the opportunity to appear before you today. I am honored to be the President's nominee to serve as General Counsel for the Treasury Department, and I am grateful to Secretary Mnuchin for his confidence.

I am pleased to be joined today by my extraordinary wife Amanda, who wisely warned me that our 10-month-old son Charlie may not have the deportment required for a Senate hearing. So he is at home eating Cheerios instead.

I am also joined by my mother, who was a public school teacher for many years and my first teacher. I only regret that my late father, whom we lost to cancer in May, cannot be here today. My dad was a career civil servant. He devoted his entire professional life to public service—starting out as a juvenile probation officer in the court system of our home State of New Jersey and concluding his career working for the U.S. Agency for International Development to improve the civil and criminal justice systems of other nations across four continents. Both of my parents encouraged my early interest in public service.

It is a particular honor to come as a nominee before this committee, where I had the opportunity to sit, on occasion, on the other side of the dais when I was working for Senator Portman. I learned a lot from his steady example of integrity and civility, and I am very grateful for his generous words today.

My time as a lawyer in the U.S. Senate was a formative experience for me. It taught me a great deal about the legislative process, the significant role of congressional oversight, and the importance of mutual trust and respect between the executive branch and Congress. Should I be confirmed, I will strive to ensure that Treasury continues to be responsive to congressional needs and inquiries.

Government lawyers are, in a special way, stewards of the institutions that we serve. Every agency of our government—even one with a seal that reads 1789, as Treasury's does—is ultimately a creature of legislative enactment. As I see it, the role of the Treasury General Counsel is to ensure that the Department acts in fidelity to law and fulfills the statutory responsibilities entrusted to us, ever mindful that the laws we implement will long outlast us.

Treasury's responsibilities are vast and varied. From implementing our tax code to administering our Nation's finances, from protecting the integrity of our Nation's financial system to deploying America's financial might to combat global threats, the Treasury Department is engaged every day in work that is vital to the security and prosperity of our Nation. And that work generates no shortage of complex, difficult legal questions.

Fortunately, the Department is home to some of the finest, most dedicated lawyers anywhere in the country—the Treasury Legal Division. Under one roof, we have a legal team with deep and wide expertise in areas of law as diverse as tax, economic sanctions, financial regulation, international development, trade, public finance, and much more.

It has been a distinct privilege to work shoulder to shoulder with these serious and skilled lawyers throughout my service as Deputy General Counsel and as Acting General Counsel during a critical transition period. If confirmed, I would be honored to lead this remarkable group of public servants and to continue to work closely with them on the important issues in which Treasury is engaged. If confirmed, I commit to perform my responsibilities with integrity and humility—and always with a devotion to the Constitution and laws under which all of us serve.

I look forward to your questions.

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

The CHAIRMAN. Mr. McGuire?

STATEMENT OF BRIAN McGUIRE, NOMINATED TO BE ASSISTANT SECRETARY FOR LEGISLATIVE AFFAIRS, DEPARTMENT OF THE TREASURY, WASHINGTON, DC

Mr. MCGUIRE. Chairman Grassley, Ranking Member Wyden, distinguished members of the committee, I am honored to appear before you this morning and grateful to the President and to Treasury Secretary Mnuchin for recommending me for the position of Assistant Secretary for Legislative Affairs.

I am conscious as I sit here of the great responsibility and privilege that being nominated for this position represents, and I am humbled to stand in the company of those who have served in this role before me.

I am grateful to be joined this morning by my parents, David and Veronica McGuire, who made the trip from Albany, NY to be here. Without their generous support and example of service, I would not be sitting here this morning.

My father moved to Capitol Hill after graduating from college in 1958, but almost immediately returned home at the urging of his older brother to, quote, "get a real job." He went on to spend nearly 4 decades as a public, middle, and high school principal in Albany,

NY. I often reflect that I am living vicariously the life he dreamed of when he moved here 61 summers ago.

My mother, meanwhile, spent nearly 3 decades working full time as a secretary at Albany's only VA hospital. True partners, together they raised four children on a tight budget, making many sacrifices along the way for each of us. They will be married 55 years next month.

I am also grateful to be joined by my sister, Annemarie, who also made the trip from Albany; the oldest of my three children, Stella, who is playing hooky from music camp to get a civics lesson this morning; and by my wife Ashley, an author and native Coloradan whose encouragement and many sacrifices have made it possible for me to consider a return to public service.

I would like to take a moment to thank the Senators and staff who have given of their time to meet with me in preparation for today's hearing and to share with me their priorities and concerns. If I am fortunate enough to be confirmed, I pledge to continue the dialogue we have begun and to be as available and responsive to members and staff from both parties and both chambers as I can possibly be.

As a former Senate staffer, I believe I am uniquely alert to the perspective, the demands, and the deadlines of Senators and their staffs, and I commit to you this morning that, if confirmed, my door and my mind will always be open. It is my sincere intention, if confirmed, to spend far more time listening than talking and to be an accessible and dependable source of prompt and honest feedback.

In reflecting on the decade I spent working in both the Senate Republican leadership office and in the personal office of Leader McConnell, I cannot help but acknowledge the debt I owe to him. I cherish the memory of my years in both offices and am grateful for the mentorship and the opportunities that Leader McConnell gave to this native New Yorker in the midst of so many other pressing responsibilities. And I am grateful for his comments this morning.

Treasury is a special place with a storied past and a vital role in ensuring the growth and stability of an increasingly complex domestic economy; in reinforcing our Nation's central role in the international financial system; and, crucially, in developing and aggressively implementing complex policies and strategies to combat terrorist financing and financial crimes both here and around the globe.

I have long admired the work of the Department and the many remarkable career and non-career professionals who have carried out this complicated work and who have brought their creativity to bear on the various crises and challenges of our day.

As a graduate student in Manhattan in 2001, I watched as Treasury grappled with the post-9/11 order; and as a Senate staffer in 2008, I watched from a slightly closer vantage point as Treasury wrestled with a terrible financial crisis that few saw coming.

If confirmed, I cannot promise to bring the same intellectual gifts as many of these heroic public servants, but I pledge to bring the same seriousness and sense of purpose to my job that so many others have brought to the Department before me.

Thank you again for your consideration. I look forward to your questions.

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

The CHAIRMAN. Now, Mr. Greaves?

STATEMENT OF TRAVIS GREAVES, NOMINATED TO BE A JUDGE OF THE UNITED STATES TAX COURT, WASHINGTON, DC

Mr. GREAVES. Thank you, Mr. Chairman, Ranking Member Wyden, and distinguished members of the committee. And thank you, Senator Blackburn, for your kind introduction and for your tireless work for all Tennesseans.

It is a great privilege to be here today, and I appreciate all the care that the committee members and staff have put towards my nomination and for preparing for today's hearing.

I am honored and grateful to have been nominated by President Trump to be a judge on the U.S. Tax Court, the place where I began my career as a tax attorney. I learned early on the important role the Tax Court plays in our society, serving as the primary prepayment forum for taxpayers challenging IRS determinations.

Most taxpayers appearing in the Tax Court are pro se and have little if any legal background. During my time at the Court, I witnessed firsthand how daunting appearing in court can be for pro se litigants. If I am confirmed, I assure the committee that I will make every effort to balance the need to help these taxpayers understand the Court's rules and procedures, while remaining independent and impartial.

Over my career, I have worked on almost every side of a tax controversy matter, and I have had the good fortune to learn from many great tax practitioners. As an attorney adviser at the Tax Court, judges, including some here today, taught me the importance of keeping an open mind in each case and of adjudicating cases in a fair and timely manner.

If confirmed, these are lessons that I will take with me to the bench. In private practice, I worked at firms ranging in size from 1,500 attorneys to 2 attorneys, and I represented all types of clients. No matter the firm or client, I learned something every day from my colleagues. I would like to thank the attorneys at Reed Smith, Caplin and Drysdale, and my former law partner Josh Wu for constantly challenging me to be a better attorney.

I now serve in government as Deputy Assistant Attorney General in the Department of Justice's Tax Division. In this role, I work with dedicated lawyers and professionals in our Appellate Section and Office of Review, as well as with Division and Departmental leadership. It has been a true honor and privilege to work with such an amazing group of public servants, including the Tax Division's Principal Deputy Assistant Attorney General Richard Zuckerman, my counsels Julie Avetta, Jacob Christiansen, and Nate Pollock, who are all here today.

On a personal note, the Lord has blessed me with amazing family and friends. First, I would like to thank my wife Holly, who is here with us and brought our third child, a baby boy who is due in November. Our daughter Catherine, who is one, chose a nap over dad's hearing, and our son Fisher was initially intrigued by

the offer but declined once he realized that it would interfere with his recess time. As a husband and father, you all have taught me patience, humility, and compassion.

I also want to introduce my mother, Jan Fisher Greaves, who is the best judge I have ever known. She was the first female judge in Ector County, TX and the only judge when it came to resolving disputes between me and my siblings. Though I am constantly amazed at her legal acumen, it is her love for her family that impresses me the most.

I also welcome my sisters Amber and Shelby, both joining me from Texas; my brother Jackson; and my in-laws Larry and Alice Sweeton, joining me from Tennessee. To all of my family, thank you for all your support.

Finally, I have some of the best friends in the world, some of whom are in attendance today. From DC to Texas, you all mean so much to me, and I would not be here today without you.

Thank you again to the committee for holding today's hearing, and I look forward to answering your questions.

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

The CHAIRMAN. There are four questions we ask everybody before individuals get into the subject matter. Is there anything that you are aware of in your background that would present a conflict of interest with the duties of office to which you have been nominated? Mr. McIntosh?

Mr. MCINTOSH. No.

The CHAIRMAN. Mr. Callanan?

Mr. CALLANAN. No, Senator.

The CHAIRMAN. Mr. McGuire?

Mr. MCGUIRE. No, Senator.

The CHAIRMAN. Mr. Greaves?

Mr. GREAVES. No, Mr. Chairman.

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

Mr. MCINTOSH. No, Mr. Chairman.

The CHAIRMAN. Mr. Callanan?

Mr. CALLANAN. No, Mr. Chairman.

The CHAIRMAN. Mr. McGuire?

Mr. MCGUIRE. No, Mr. Chairman.

The CHAIRMAN. Mr. Greaves?

Mr. GREAVES. No, Mr. Chairman.

The CHAIRMAN. Okay. The next question: do you agree without reservation to respond to any reasonable summons to appear and testify before any duly constituted committee of Congress if you are confirmed? So, Mr. McIntosh?

Mr. MCINTOSH. Yes, Mr. Chairman.

The CHAIRMAN. Mr. Callanan?

Mr. CALLANAN. Yes, Mr. Chairman.

The CHAIRMAN. Mr. McGuire?

Mr. MCGUIRE. Yes, Mr. Chairman.

The CHAIRMAN. Let me ask my staff: does that apply to the judge too? Mr. Greaves?

Mr. GREAVES. Yes, Mr. Chairman.

The CHAIRMAN. Okay. And finally, do you commit to providing prompt responses in writing to any questions addressed to you by any Senator of this committee? Mr. McIntosh?

Mr. MCINTOSH. Yes, Mr. Chairman.

The CHAIRMAN. Mr. Callanan?

Mr. CALLANAN. Yes, Mr. Chairman.

The CHAIRMAN. Mr. McGuire?

Mr. MCGUIRE. Yes, Mr. Chairman.

The CHAIRMAN. And does that apply to—it applies to the tax judge as well.

Mr. GREAVES. Yes, Mr. Chairman.

The CHAIRMAN. Thank you. Now let me remind you that everybody says "yes" to this question, but we do not often get the answers that are promised. So I always facetiously say, maybe you should have said "maybe." But I think it would be better if you keep to what you said: that you will respond—and hopefully the first time, not after we have to write five or six letters to get an answer to us.

So I am going to start—should I go vote? Okay, I will call on Senator Wyden, and I will go vote. Senator Portman will be taking over. And then I will vote and immediately come back.

Senator WYDEN. Is it all right if I start, Mr. Chairman?

The CHAIRMAN. Yes.

Senator WYDEN. Great. I am going to start with you, Mr. McIntosh, if I could. The President said that as part of ongoing trade negotiations with China, he would agree to allow Huawei to buy U.S. products, despite the Department of Commerce's determination that Huawei is involved in activities, and I quote, "contrary to the national security or foreign policy interests of the United States," unquote.

As I said before, Huawei and other companies have been placed on this Bureau of Industry and Security Entity List because their structure, financing, and controlling powers are a danger to America's long-term security. In addition to serving on this committee, I am on the Intelligence Committee. Continuing to trade with these companies as part of the trade deal sacrifices the safety of American families for a quick buck and political points.

Do you think it is appropriate to put national security on the table when negotiating trade agreements?

Mr. MCINTOSH. Senator, thank you for that question. The touchstone of our work on Huawei is national security. National security is the foremost and only value we consider with regard to national security.

The presence of Huawei on Commerce's Entity List is a result of the national security threat that Huawei poses. Now the contours of our policy regarding Huawei, I believe, are being shaped by the Commerce Department's consideration of possible licenses to certain American companies based on the actual contours of the national security threat that Huawei poses.

And so the extent, for example, an American company provides generic parts to Huawei that could be sourced from the United States or South Korea or any number of other places, I understand that that may not touch the national security threat in the same

way that, for example, having Huawei routers here at the Senate or in the Treasury Department would.

And so I can assure you, based on my conversations with those who are handling this matter, that national security is the guiding principle here that we are shaping the policy around.

Senator WYDEN. You have said that it is, but the President's statement says he would allow Huawei to buy U.S. products, despite the Department of Commerce saying that this is a company involved in activities detrimental to our national security; those two are in conflict. I know you are kind of parsing some words to try to reconcile them, but I do not think it works.

Let me turn now for my second question to Mr. McIntosh and Mr. Callanan, and I have colleagues here—Senator Casey, Senator Whitehouse—who are experts on this matter as well, which is the dark money rule, the IRS dark money rule.

On July 16th of last year, the IRS issued a new rule saying that dark money groups no longer needed to tell the IRS who their major donors are. On the same day, the Federal Government arrested Russian agent Maria Butina for using the NRA dark money organization to illegally influence the political process. And right-wing organizations have been pushing this for years, and we know that State tax administration officials who are experts on this and supporters of campaign finance transparency opposed the change.

Now, Senator Casey earlier this year learned that the IRS deviated from its standard process and did not even check with its Criminal Investigations division before issuing the rule. We also know that Montana and New Jersey—and we have colleagues on this committee from those States—are challenging the Treasury Department's decision to circumvent notice and comment requirements in Federal court.

So my question for Mr. McIntosh and Mr. Callanan is, why did the Treasury Department decide that officials in Montana and New Jersey should not get a chance to comment, should not be afforded an opportunity for notice and comment? And why would the Department not give tax-exempt experts, law enforcement, and campaign officials an opportunity for notice and comment?

These are people who are knowledgeable in the field. This is a big change that is a big win for secret government and dark money, and they did not even get a chance to comment—I mean, just the opportunity to be heard. Now, how is that in the public interest, Mr. McIntosh and Mr. Callanan?

Mr. MCINTOSH. Senator, thanks for that question. I had a good discussion of this topic with Senator Whitehouse in my meeting with him. The standard that the IRS uses to determine collection of information is whether it is necessary to the efficient administration of the Internal Revenue laws. So, for example, the Federal election laws are not a subject of their collection process.

The IRS has also—this is a longstanding IRS proposal to require 501(c)4s and (c)6s to maintain the information, but not to submit it immediately to the IRS without a request. And that request has been one that has been pending from the IRS for some time. And the Commissioner made a determination that, having that information available but not immediately collected was sufficient for the Internal Revenue laws.

Senator WYDEN. Look, this makes it easier for dark money groups to be able to do their business in secret, and there is no parsing or legalese that can in any way undermine that judgment. I think you are going to hear from my colleagues about it.

This, at a minimum—at a minimum—is something where there should have been an opportunity for people who thought differently than you all to have a chance for notice and an opportunity to be heard. And I want to thank my colleagues, both Senator Casey and Senator Whitehouse, for their good work on this. Thank you, Mr. Chairman.

Senator PORTMAN [presiding]. We have about 8 minutes left on this vote, and I think what is going to happen is, Senator Grassley is going to come back so we can continue the conversation, and then there are two more votes after that. So we will have to take a break probably after that return. But in the meantime, hopefully we will have a chance quickly to get through some of our questions.

Let me ask you a little about the digital services tax, because this is one that you have already had to deal with as General Counsel, and I want to hear from Brian on it as well. But you are going to be much more steeped in this.

I notice that USTR recently decided to pursue a 301 investigation regarding the digital services tax, which I think is a good idea, and I generally commend it. Can you talk a little about why USTR and Treasury have such a strong interest in this, what the fairness aspects are, and what the likely resolution is?

Mr. MCINTOSH. Senator, thank you for that question, and I appreciated the chairman's comments on this as well. The interest and concern that the Senate has shown on this topic have not gone unnoticed at the Treasury.

The advent of these unilateral digital service taxes in countries like France, which is at the forefront of this movement, is deeply troubling to us. We all recognize that the digitization of commerce has led to challenges to the traditional system of taxation and allocation of taxing rights among countries.

But the idea that the solution to that is to impose a unilateral digital services tax by individual countries that is—when you look at the formulation and effect that we would expect to have as deeply discriminatory against the U.S. companies, and in particular large United States tech companies, indeed, it is impossible to look at that tax without believing that it is targeted directly at them.

That to us is deeply troubling. And so we are, as the chairman referenced, pursuing a two-track strategy here. One is that all available actions, all available authorities that we and the U.S. Trade Representative have, are on the table, including the 301 investigation of France's attacks.

So we are willing to pursue those sorts of punitive measures. Separately, we are working with the OECD, and there was some encouraging movement I think at the G7 ministerial last week, to ensure that we, on a global basis, come to a consensus-based solution for taxation of digital services.

And we would be hopeful that that sort of solution, although it takes time to get lots of countries on board, would obviate the need and the urge of these countries to move forward with unilateral

taxes, as I think we have seen, for example, Australia step back in favor of the multilateral effort.

Senator PORTMAN. Well, I think it is very important that you are well-versed on this as you go into this position, and I think that is going to give us a big advantage. Because I think you are right: putting it in a multilateral context, including the G20 context, probably makes sense for us, OECD as well. You know, it is difficult to get a consensus among all the parties, but the United States, I think, needs to be willing to promote that multilateral approach. And that will be, as you said, something that otherwise will target our tech companies where we have a comparative advantage.

I have also heard—and Brian, you can comment on this—that it may not be just tech companies, that there is talk about targeting consumer goods companies as well. That tends to, again, prejudice our interests and our exports and our investments.

Any thoughts on that, Mr. Callanan, and your interests on this issue?

Mr. CALLANAN. Sure, Senator; sure. From a legal perspective, I think the effort that we have undertaken on an interagency basis is to ensure that policymakers, the Secretary, and others understand and have access to the full range of legal tools that Congress has given us to deal with efforts targeting any sector of the U.S. economy on a unilateral basis for discriminatory tax treatment.

I think, as my colleague described, the Secretary has been encouraged by some discussions last week, but we remain focused on ensuring that we have all the legal tools we need to prevent targeting of U.S. businesses unilaterally by foreign tax authorities. And we have explained, I think, to Chairman Grassley and Senator Wyden that we are reviewing all of those options on an interagency basis, and it is a high priority.

Senator PORTMAN. Again, these are complicated issues in the global economy—increasingly complicated and digitized, as Mr. McIntosh said—and I am delighted that both of you are going to be so engaged and involved, because you do understand it, and it is complicated. China as well creates huge challenges right now, even outside of the ongoing negotiations with regard to the trade disputes on some of these tough issues on a non-market economy basis that really do not fit neatly into our existing trade laws.

So I am glad both of you are well-versed in that and are capable of jumping right into it.

To my colleagues, we now have just a couple of minutes for the vote. I am going to go to Senator Casey, who is next, and then again I think Senator Grassley is going to come back and will continue this, and then we will take a break for the next two votes.

Senator Casey?

Senator CASEY. Thank you, Mr. Chairman. I want to thank the panel for being here, for your willingness to put yourself forward for public service. I know that is true of several of you for more than one occasion.

I wanted to start with Mr. McGuire, in particular regarding a letter which I think staff raised with you in preparation for the hearing. This is a letter dated April the 1st of this year from Sen-

ator Wyden and from me. This was directed to the Treasury Secretary.

This is an issue of responsiveness or, more accurately, lack of responsiveness. I do not know if you want to have the letter in front of you before answering a question. We can provide that to you.

Mr. MCGUIRE. Yes.

Senator CASEY. Yes, and I will have the letter passed down to you. Here is the first sentence of the letter. It says "Dear Secretary Mnuchin, we write to request clarification on recent and past sworn testimony to the Finance Committee." And then it goes on to describe statements that he made regarding the impact of the 2017 tax bill. We refer to two dates and two instances of testimony.

One was February 14, 2018, on the fiscal year 2019 budget. And then almost, right around a year later, March 14, 2019, regarding the fiscal year 2020 budget. So we asked for a response, because I believe—and I think an objective observer would believe as well—that there is a conflict for sure between his testimony at those two dates, testimony under oath, and I believe there is a misrepresentation.

So my question to you is based upon a couple of concerns. One is the potential misrepresentation under oath. Two, a failure by him to correct the record. And then third, the response which was provided on April the 18th by the Deputy Assistant Secretary of the Office of Legislative Affairs.

Now that you are seeking this post, I would ask you to commit and assure us—not only assure me and assure Senator Wyden—that Secretary Mnuchin will correct the record as it relates to either his responses to Senator Wyden or to me. And I think that is a reasonable request, when two members of the committee of jurisdiction ask for a direct response regarding testimony under oath, and not testimony about a trivial matter. So I would ask for your assurance to work with us to get that response directly from the Secretary.

Mr. MCGUIRE. Senator, you have my assurance that I will take this concern back to the building. There are a couple of offices within Treasury that we work with on questions like this, and I will take your concerns back and our staff will be in touch with yours on the topic.

Senator CASEY. Would you agree with me that the response so far has been inadequate?

Mr. MCGUIRE. I would have to study the issue more closely, but I am not the expert on this. The Office of Tax Analysis and the Office of Economic Analysis would be better-suited to answering that question.

Senator CASEY. Well I hope, apart from the substance, I would hope you would agree that when two members of the United States Senate committee of jurisdiction send a letter to the Secretary, that the Secretary in fact responds. I hope that would be your policy going forward.

Mr. Chairman, I know you asked a number of questions at the outset about responsiveness, and I will catch up with you regarding the exact nature of this, but I hope you will work with us on the responsiveness of the Treasury Secretary to a letter sent to him in

April by both Senator Wyden and me. So I am just asking for that consideration.

Second, I know we are almost out of time. I can submit some questions for the record. This is for Mr. Callanan. This is regarding the so-called dark money revenue procedure 2018–38. Two weeks ago on the 9th of July, roughly 2 weeks ago, my staff asked you to provide information as to whether Treasury's Financial Crimes Enforcement Network, so-called FinCEN, was consulted prior to this change in disclosure to the IRS of large donors to dark money organizations and other nonprofits.

We have not received a response. I should say, we had not until today we received a response. But I would ask you this: we just got the response today. We are studying that. I do not think it is adequate. That is my initial impression. But was FinCEN consulted prior to making this change in disclosure requirements for large donors to dark money groups?

Mr. CALLANAN. Senator, thanks for that question. I think the letter you are referring to dealt with IRS CI, and I know the IRS responded on that yesterday, that the lawyers for the criminal tax function and the Office of Chief Counsel were consulted. They did review Revenue Procedure 2018–38. And the conclusion was reached from a tax administration perspective that no component of IRS needed the information affected by that revenue procedure to be reported on the annual return for tax administration purposes.

With respect to FinCEN, I can tell you that it is my understanding that FinCEN does not make use of 6103 information in general, and that the legal path for FinCEN to access and use that information is exceedingly narrow.

Senator CASEY. So FinCEN was not consulted?

Mr. CALLANAN. I actually do not know whether FinCEN was part of the agency-clearing process, but we can certainly look into that.

Senator CASEY. Thanks very much.

The CHAIRMAN. I am going to delay my questioning so I can go to Senator Cortez Masto. But, Senator Hassan, have you voted yet?

Senator HASSAN. I just voted.

The CHAIRMAN. Okay. Go ahead, and then you can go vote.

Senator CORTEZ MASTO. Thank you, Mr. Chairman; I appreciate that. Let me reiterate, Mr. McGuire, the concerns I think we have heard with a lack of response from the administration. So I just want to make sure that, on the record, I have similar concerns and appreciate your commitment and all of your comments to responding to the requests from the committee, making sure that they are appropriate, professional, and timely responses. So thank you.

I think you already did that at the very beginning. Let me just say "congratulations" to all of you on your nominations. Congratulations to all the family that is here. It is okay to smile. We are not that bad. [Laughter.]

But let me ask a couple of things. Mr. McIntosh, the office you are nominated for leads Treasury's engagement on trade negotiations, as we have heard, and heads up Treasury's role in bilateral discussions with China.

To your knowledge, is the administration discussing Chinese Internet censorship and the challenges it poses for U.S. businesses operating in China, as part of its current talks?

Mr. MCINTOSH. Senator, thank you for that question. I am afraid I do not know the answer to that. Treasury's role is to lead negotiations with regard to financial services, including—except as to insurance and as to currency. The question you raised is not one that is within our——

Senator CORTEZ MASTO. Jurisdiction to be involved with?

Mr. MCINTOSH. Our jurisdiction's bailiwick, if you will.

Senator CORTEZ MASTO. Okay; thank you.

Let me ask Mr. Callanan, and this may be for both of you—and jumping back to the Treasury Department's issue of the revenue procedure on 2018–38, I am curious. Can you tell me, prior to issuing that, as the Treasury Department prepared this analysis and research and moving forward, can you identify for us, was the Department lobbied at all by anybody on the outside for that change?

Mr. CALLANAN. Senator, I am aware of a public letter or two that was received——

Senator CORTEZ MASTO. A public letter that was received from the outside in response to the change?

Mr. CALLANAN. I believe there was a public letter that I am aware of. Maybe I should begin by just being clear. The role of the Office of General Counsel is one that is a review of guidance documents for consistency with statutory authority. This revenue procedure you have described was a tax administration decision that is committed to the Commissioner.

But with respect—I do know from the public record that there was a public letter from a number of 501(c) organizations on this issue, which I believe has been provided in response to at least one letter from a member of this committee.

In addition, I do know that there were inquiries on this issue from other members of Congress, including Senator Johnson.

Senator CORTEZ MASTO. Okay. Thank you, very much.

And, Mr. Greaves, I do not want you to be left out. Let me ask you this. There was discussion with respect to the ABA and the lack of a response from the ABA. Do you care to address that?

Mr. GREAVES. I cannot comment on why the ABA did not send a letter. But I can tell you, I have more than a decade of tax controversy experience as an attorney advisor at the U.S. Tax Court, as a private practitioner, as an adjunct faculty member at Georgetown University Law Center, and now as the Deputy Assistant Attorney General at the Department of Justice in charge of all appeals from the United States Tax Court. And through these experiences, working at the Court and in private practice, I became very familiar with the rules and procedures of the Court.

I also learned the types of cases that are filed at the Court. And I gained really an understanding for the level of patience and respect that judges must show litigants before the Court.

Senator CORTEZ MASTO. And I am assuming the judges who are in the audience, all the judges you have worked with over the years, have come here in support of you?

Mr. GREAVES. Some I have worked with, and some have been friends in the tax community, and I have a great, great, great deal of respect for them.

Senator CORTEZ MASTO. Wonderful. Thank you. Thank you; congratulations.

The CHAIRMAN. I have not had my first round, so I will do that, and then of people who are here, it would be this order: Mr. Whitehouse, and then Cassidy, and then Hassan.

Mr. McIntosh and Mr. Callanan, Treasury and IRS have released a significant amount of guidance over the past 18 months to help the taxpayers comply with the Tax Cut and Jobs Act. In some instances, agencies have released guidance that some have argued has been unfavorable to the taxpayers, while others have argued that certain guidance has been too favorable to taxpayers.

I would like to give you both an opportunity to describe your current role in reviewing the draft guidance prepared by IRS and Treasury's Office of Tax Policy and the process that you followed in analyzing the agency's rulemaking. Specifically, I would like you to comment on how the statute's legislative history and other factors, including stakeholder input, entered into the equation for analyzing the authority to issue regulatory and other guidance. Either one can start.

Mr. MCINTOSH. Mr. Chairman, thanks for that question. I should begin by saying that the task of drafting the regulatory guidance resulting from the tax reform bill has been a Herculean effort undertaken by the IRS Chief Counsel's office and the Office of Tax Policy at Treasury, which are constituted from some of the best tax lawyers anywhere in the country.

Our role in the Office of General Counsel is to assure ourselves that we believe there is statutory authority to undertake the guidance that they put out. And when we think about that question, our goal is to carry out congressional intent as it is manifested in the text and structure of the statute.

So when the policy folks at the IRS and at the Office of Tax Policy look at the question of what guidance is necessary, they hear from stakeholders—whether it is taxpayers—they hear from members on the Hill. We undertake our own analysis as to where guidance is necessary.

And then, once the policy offices determine that the guidance is necessary, we then look at the text of the statute, which is the best evidence of congressional intent, and the structure of the statute, because the tax code is sufficiently complex that it never makes sense in the tax code to read a provision in isolation. You always need to understand where it interacts with other parts of the tax code.

We look at the explanations that members have given as to what the purpose of the provision was, and we look at the grants of authority that the IRS has and that Treasury has to promulgate guidance—because there are often explicit grants of authority—to assure ourselves that what we are doing is both sufficient to facilitate the efficient administration of the tax code, and consistent with our statutory authorities.

The CHAIRMAN. Mr. Callanan?

Mr. CALLANAN. Mr. Chairman, I am not sure I can improve on my colleague's description. I would just add to that that the notice and comment process is very valuable. You know, we have issued 28 NPRMs; 11 of those have gone to final.

The comment process allows us to get the best input on legal and policy questions presented. And I think one virtue of the approach that Treasury has taken is we do not—we go through this with an open mind. And we are always open to finding ways to refine and improve from proposed to final rule. And an important part of that process is hearing from members of this committee. We receive many comment letters from members of this committee, including some of the architects of TCJA—also a very valuable part of both the policy and legal process.

The CHAIRMAN. Mr. Greaves, as a Tax Court judge you will preside over many cases that involve unsophisticated taxpayers with few resources to deploy while making their case. What lessons do you take from your prior professional experience to ensure that you treat these taxpayers with respect and understanding, while stopping short of awarding them an advantage?

Mr. GREAVES. Mr. Chairman, I believe that all parties, taxpayers and the government, should be treated with courtesy and respect in the courtroom, and that judges should act promptly in addressing issues that are brought before the Court.

Now, in my experience working at the Tax Court and in private practice representing pro bono clients, I know that most of these folks have never stepped foot in a courtroom and lack any legal education.

So I would make sure that they know—if confirmed, I would make sure that they know that they have opportunities for pro bono counsel. The Tax Court has done an excellent job working with low-income taxpayer clinics. And I would also inform them of the Court's rules of practice and procedures, many of which are designed with pro se litigants in mind.

And I would assure them that I would keep an open mind, that I would be attentive to each party's arguments, and that I would diligently work to apply the laws enacted by Congress to the facts established in the case.

The CHAIRMAN. Senator Whitehouse?

Senator WHITEHOUSE. Thank you, Mr. Chairman. The chairman and I have legislation in the Judiciary Committee to try to put a little bit of sunlight into the problem of U.S. shell corporations. It enjoys the super-tedious nomenclature of "beneficial ownership," but I recall from our conversations and assume both Mr. Callanan and Mr. McIntosh still agree that these shell corporations provide shelters for tax evasion. Correct?

Mr. MCINTOSH. Senator, we do believe that, in many instances, that is the case.

Senator WHITEHOUSE. For money laundering?

Mr. CALLANAN. I think the Secretary has made clear that he agrees we need additional financial transparency into shell companies for precisely some of those concerns.

Senator WHITEHOUSE. For hiding assets, including proceeds of criminal activity?

Mr. CALLANAN. I think those are among the illicit finance concerns that are driving our interest in reform here.

Senator WHITEHOUSE. And for kleptocrats who loot their countries and then hide the proceeds of their looting overseas, correct?

Mr. MCINTOSH. That is another of the reasons why we support reform in this space.

Senator WHITEHOUSE. And I think you all understand that this involves America's national reputation if you are, as I believe we are, a city on a hill. It is hard, also, to be a big sleazy Cayman Islands in which the worst people in the world can hide their looted assets. Correct?

Mr. MCINTOSH. That is correct, Senator.

Senator WHITEHOUSE. One of the things that shell corporations can get up to is to be involved in political influence efforts. Facebook, Mr. Zuckerberg, testified recently in the Judiciary Committee that his vaunted new and improved regime for figuring out who was buying political ads on Facebook would stop at the first nominal buyer.

So if that were the case, is it not true that a foreign actor could be behind that U.S. shell corporation and be the true beneficial owner and the true party in interest with respect to that political influence buying?

Mr. MCINTOSH. Senator, I am not familiar with Mr. Zuckerberg's testimony, but that sounds——

Senator WHITEHOUSE. The logic of it is pretty apparent, is it not?

Mr. MCINTOSH. It does seem correct to me, Senator.

Senator WHITEHOUSE. And if an avenue allows anonymity to somebody seeking to buy political influence, is there any way that you can protect that avenue from being used by foreign influencers?

Mr. MCINTOSH. Senator, certainly the transparency work that we have been working on collaboratively, we think, is a way of stopping that problem.

Senator WHITEHOUSE. And my point here is that, if you allow a regime of political influence for anonymous actors, there is by definition no way to know that foreign actors are not taking advantage of that anonymous channel. Correct?

Mr. MCINTOSH. Senator, I would hesitate to say there is no way, given our very robust law enforcement and intelligence services. But certainly it makes it more difficult.

Senator WHITEHOUSE. Well, let us just say that there is certainly no way to know from looking at the channels.

Mr. MCINTOSH. I believe that is correct.

Senator WHITEHOUSE. So you would need to have, say, intelligence in the foreign country that revealed to the intelligence community a scheme to buy influence. But, at a minimum, it is true that allowing channels for anonymous political spending into America's political system creates a problem and a challenge both for law enforcement and for protecting our system from foreign influence.

Mr. MCINTOSH. Senator, I am not an expert in the election laws, but that certainly seems a reasonable conjecture to me.

Senator WHITEHOUSE. It is almost indisputable, is it not?

Mr. MCINTOSH. Yes.

Senator WHITEHOUSE. Mr. Callanan?

Mr. CALLANAN. I am—I too am not an expert in Federal election law. I know with respect to cross-border transactions that of course FinCEN is a repository of reports about suspicious transactions, including cross-border transactions. But I really could not comment on the Federal election law aspect of this. It is not within Treasury's remit.

Senator WHITEHOUSE. But you do not disagree with the principle that once you allow anonymous means of influence—which frankly does not have to be election law—once you allow for anonymous political influence, you cannot keep out foreign anonymous political influence. You do know it is foreign by virtue of it being anonymous. Is that not a logical sequitur?

Mr. CALLANAN. Having not studied the issue, I am sort of limited in being able to opine on it. But there is a logic to what you have described. All that I am pointing out is, I am also aware that there is, in addition to affirmative reporting by organizations, there is of course financial intelligence work that is done by agencies such as FinCEN to track transactions.

But I do not question the logic of the point you have made.

Senator WHITEHOUSE. Yes. And the point I would conclude with, Mr. Chairman, is—and this is an equal opportunity criticism, because the Obama administration was equally weak and helpless on this point. But the fact that we are maintaining, under the IRS in the U.S. Government, means through which entities can become anonymous channels for political influence, with no provision for keeping foreign influence out of it by virtue of—I guess we love the anonymity for the sake of big special interests when they are domestic, but it is really wrong, and it is really dangerous, and we have to clean it up. And that is the point that I wanted to make.

Thank you, Mr. Chairman. I am sorry I went over.

The CHAIRMAN. I agree with you.

Senator Hassan?

Senator HASSAN. Well, thank you, Mr. Chairman. And I want to thank you and Ranking Member Wyden for holding this hearing. To all four of our nominees, congratulations on your nominations, and thank you and your families for your willingness to serve. To the families here, thank you for sharing your loved ones with the people of this country in the work that they do.

Mr. McIntosh and Mr. Callanan, I want to follow up on a line of questioning you have heard from some of my colleagues. I would like to ask you about the Treasury Department's decision to roll back disclosure requirements for donations to nonprofit lobbying groups.

I want you to understand the context that I am coming at this from. Big pharma fueled the opioid crisis in New Hampshire and across this country by funding nonprofits that then spread fraudulent misinformation about addiction. Now, because of Treasury's decision, many of these nonprofits no longer have to disclose who their donors are to the IRS.

In effect, the Treasury has hamstrung law enforcement's ability to follow the money and hold pharma accountable for fraud. However, despite these serious concerns, Treasury issued this decision without any public notice or comment period.

So let me start by asking you, Mr. McIntosh, is it correct that, as Treasury General Counsel, you signed off on issuing this decision without any public notice or comment period?

Mr. MCINTOSH. Senator, that was a determination made at the Internal Revenue Service. I was aware that it was going to be issued, but it ultimately was not my decision as to whether to do it, pursuant to the Commissioner's authority to relieve reporting requirements by form or regulation.

Senator HASSAN. So I am finding it a little bit hard to believe that you were not consulted or asked to sign off, but I take it from your answer that you think the Treasury acted within its authority in issuing this decision without public notice?

Mr. MCINTOSH. Senator, that is a subject that is currently in litigation, so I am hesitant——

Senator HASSAN. Right.

Mr. MCINTOSH [continuing]. To go beyond the bridge. But there is a long tradition of the Commissioner of the Internal Revenue Service relieving reporting requirements without notice and comment, and indeed the regulation in question explicitly gave him that right. And there is a long tradition in the Obama and Clinton administrations of doing the same.

So this is a longstanding authority of the Commissioner.

Senator HASSAN. And I understand that, but to your point about it being in litigation, there are two States represented by colleagues of mine on this committee who are suing the Treasury for violating the law by failing to provide public notice of this decision. And I understand Treasury is contesting that. But I just want it on the record that two States are suing because of this decision.

Mr. MCINTOSH. That is correct.

Senator HASSAN. Now, Mr. Callanan, as Deputy General Counsel at Treasury, did you sign off on issuing this decision without any public notice?

Mr. CALLANAN. Senator, thank you for the question. The analysis on this regulatory action, like all tax regulatory actions, is done in the first instance by our Office of Tax Policy and by the Office of IRS Chief Counsel.

I reviewed the analysis that they did on both the substantive and procedural issues associated with this guidance document—again, as I do with respect to dozens of IRS tax actions. And I was comfortable with the substantive and procedural legal considerations that it was within the statutory authority.

I think the concerns you are describing, Senator, are questions of policy and tax administration, which are committed by law to the Commissioner and really are not a question for the Office of General Counsel.

Senator HASSAN. I thank you for the answer. I will note that when this decision was made and the change was made, it was both Treasury and the IRS that put out a press release that said this was significant reform.

So I also just want to bring you both to focus on the fact that there is a reason that Congress requires public notice. It is so that rules cannot be changed behind closed doors to favor special interests.

If you all had followed the law, or even if you do not think it was legally required, had exercised caution and perhaps a little bit of restraint here, you would have heard concerns about holding big pharma accountable in tracking down dark money donations, and perhaps you all might have made a different decision. That is the whole purpose of public comment.

And now I am faced, like so many others all across this country, with the fact that it is now going to be much harder, when these kinds of interest groups are funded, to catch the bad actors and hold them accountable.

I want to move on to one other issue. Mr. McIntosh, as head of the Office of International Affairs, you would be responsible for Treasury's efforts to strengthen U.S. economic ties with other countries to investment and trade agreements. That includes advancing our economic dialogue with China.

I have heard from many New Hampshire businesses about the important economic issues we need to resolve with China, including intellectual property protection, competition from state-owned enterprises, and forced technology transfer. At the same time, many small businesses in my State are hurting from the administration's tariffs on Chinese goods and the uncertainty about the White House's strategy on China.

As the Treasury Under Secretary for International Affairs, what would be your strategy for working with China to resolve economic issues while providing certainty to small businesses? What immediate steps would you take to implement this strategy?

Mr. MCINTOSH. Thank you, Senator. It is a terribly important question. I should note that my role as Under Secretary, were I to be confirmed, is limited to certain aspects of those trade negotiations, which are primarily led by the United States Trade Representative.

I think that the key aspect of our negotiations with China, as the Secretary and others have said, is that there are a series of market-distorting practices you have described: non-market practices, forced technology transfer, forced joint ventures, the lack of respect for intellectual property rights. And ensuring that those aspects of any trade negotiation are captured in an agreement in a way that is transparent and enforceable, would be the substantive priority.

Procedurally, we would want to be pushing forward aggressively, as the Secretary and Ambassador Lighthizer are doing, on securing the agreement. It has to be the primary priority we face.

And also I would note that a key aspect of this effort is ensuring that our foreign partners understand our concerns and are willing to stand up in multilateral forums and in their bilateral negotiations with the Chinese and highlight the same concerns that we have.

Because I can tell you that, quietly in the background, they share these concerns. We need to present a unified front against the practices in question.

Senator HASSAN. Well, I thank you for that answer. I raised some of these same issues with our Trade Representative when he was here a few weeks ago. I just want to reiterate how important it is that the administration take into account the impact of trade

uncertainty on small businesses. And, if confirmed, I hope you will remain focused on promoting economic dialogue with China, but in particular making sure that there is some level of predictability and certainty for our small business community during what is a turbulent time.

Mr. MCINTOSH. Thank you, Senator.

Senator HASSAN. Thank you.

The CHAIRMAN. This is how we are going to end this meeting. I am going to go vote. Senator Cassidy is the last person to ask questions, and he will close the meeting down. But I want to thank all of you for your attendance and participation today. I thank the panel for their willingness to serve in their respective roles. And, as is usual practice, I ask that any members who wish to submit questions for the record to please do so by close of business Friday, July 26th. And you folks who are nominees should try to answer those questions as quickly as you can so we can take action on your nominations. So I thank you all for participating, and I thank Senator Cassidy for the willingness to close down the meeting so I can go vote.

Senator CASSIDY [presiding]. I thank you all, gentlemen. This is Irish Day. As one Irish guy to a bunch of other Irish guys, congratulations on escaping the Island. [Laughter.]

Mr. MCINTOSH. Senator, candor requires me to disclose that I am Scottish. [Laughter.]

Senator CASSIDY. Well, there is hope for you. [Laughter.]

So, listen, Mr. McIntosh, I am very concerned about trade-based money laundering. I have been speaking to folks from England or Britain who are similarly concerned. And if you will, cartels are moving tens of billions of dollars out of our country through Latin America, sometimes to West Africa, then to Lebanon, to subvert democratic institutions, to fund Boko Haram, to support Hezbollah and their activities, et cetera.

There is evidence that the Iranians are using trade-based money laundering to circumvent the sanctions that we have placed upon them as a source of capital. I could go on, but now, any thoughts about what can be done to address this?

Mr. MCINTOSH. Senator, thanks for that question. It is a very important issue and one that we at Treasury are focused on.

My colleagues in the Terrorism and Financial Intelligence Under Secretariat are focused in particular on using sanctions to shut down many of these avenues that you discuss.

It is not—trade-based money laundering in particular has not been a topic that has been in my bailiwick as General Counsel, but I would expect that, if I were confirmed as Under Secretary, it would be an important part of my early engagement with our foreign partners to ensure that they see the threat and are willing to work with us on sanctions and other financial intelligence tools.

Senator CASSIDY. So let me, just in the interests of time, let me say that I am not sure that it is our foreign partners. I speak to foreign partners. They are into it. I have spoken to the Guatemalans, the Mexicans, the Argentines, the Brits—they all recognize this as an issue.

But you know, to channel Pogo, we have met the enemy, and he is us. It seems as if—and I am told, whenever I say this, and I can-

not believe it is true, but I am always assured that it is true—that there is so limited communication between Treasury and CBP that when there is a trade deal that occurs, a legitimate trade deal or an illegitimate trade deal, there is no coordination between the manifest and the invoice.

Now whenever I say that, I am thinking, "This cannot be true." But whenever I say it, people say, "Yes, it is true." So, okay, I am shipping a container of rice and getting dollars back. But it might be a double invoice, a triple invoice, a misinvoice, it may not be rice. It may be sawdust. So there is no value in it. But the absence of a connection means that it is the way that $60 billion to $100 billion are allegedly moved out through trade-based money laundering.

Now I do not know if anyone else—obviously this is a tax issue, but it is a tax issue that has to be brought before the Tax Court, I suppose, and probably more of a criminal case, but I do not know if any of the others have thoughts, but this is what I have been focused on.

And I mention this, but also in the Senate, it is transjurisdictional. It is Banking, Homeland Security, it is Treasury, it is Judiciary, it is Finance, and maybe one or two others.

So just to toss that to you, to say that this will be something that is related to the beneficial ownership that Senator Whitehouse raised, but not limited to that. And we do think that it is a way to advance our foreign policy objective of stabilizing Central American governments.

One more point, just for reference. If there is a shipment of goods going from the U.S. to Guatemala, the invoice goes through Panama, and the invoice is marked down by 50 percent, then Guatemala misses out on that duty it would have received and therefore has less money to invest in infrastructure, therefore less attraction for foreign direct development, therefore fewer jobs, therefore more people joining a caravan coming to McAllen, TX.

So you see the kind of——

Mr. MCINTOSH. I do, Senator. And that is a topic on which I would be eager to work with you and your staff and other members of the committee to address. It is, as I said, not one that has confronted us in the Office of General Counsel during my time here, but it is a terribly important issue, and it is one on which we do need to get our house in order.

Senator CASSIDY. But this would be part of your jurisdiction, if you are confirmed?

Mr. MCINTOSH. Part of it would fall within the Terrorism and Financial Intelligence Under Secretary that is ably led by my colleague Sigal Mandelker. But I expect, as well, that when we are negotiating with foreign countries over these and raising our concerns, whether it is bilaterally or in multilateral forums, that would fall within my responsibilities, and I would be eager to work with you on it.

Senator CASSIDY. That sounds good. I think we have a mutual friend. He has already doxed you. And so we will be able to track you down and make sure we have your cooperation. [Laughter.]

We are through. The hearing is now adjourned.

[Whereupon, at 12:18 p.m., the hearing was concluded.]

APPENDIX

ADDITIONAL MATERIAL SUBMITTED FOR THE RECORD

PREPARED STATEMENT OF BRIAN CALLANAN, NOMINATED TO BE GENERAL COUNSEL, DEPARTMENT OF THE TREASURY

Chairman Grassley, Ranking Member Wyden, members of the committee, thank you for the opportunity to appear before you today. I am honored to be the President's nominee to serve as General Counsel for the Treasury Department, and I am grateful to Secretary Mnuchin for his confidence.

I am pleased to be joined today by my extraordinary wife Amanda, who wisely warned me that our 10-month-old son Charlie may not have the deportment required for a Senate hearing. I'm also joined by my mother, who was a public school teacher for many years and my first teacher. I only regret that my late father, whom we lost to cancer in May, is not here today. My dad was a career civil servant. He devoted his entire professional life to public service—starting out as a juvenile probation officer in the New Jersey court system, and concluding his career working for the U.S. Agency for International Development to improve the civil and criminal justice systems of other nations across four continents. Both of my parents encouraged my own early interest in public service.

It is a particular honor to come as a nominee before this committee, where I had the opportunity to sit on the other side of the dais when I worked for Senator Portman. I learned a lot from his steady example of integrity and civility. My time as a lawyer in the U.S. Senate was a formative experience for me. It taught me a great deal about the legislative process, the significant role of congressional oversight, and the importance of mutual trust and respect between the executive branch and Congress. Should I be confirmed, I will strive to ensure that Treasury continues to be responsive to congressional needs and inquiries.

Government lawyers are, in a special way, stewards of the institutions that we serve. Every agency of our government—even one with a seal that reads 1789, as Treasury's does—is ultimately a creature of legislative enactment. As I see it, the role of the Treasury General Counsel is to ensure that the Department acts in fidelity to law and fulfills the statutory responsibilities entrusted to us—ever mindful that the laws we implement will long outlast us.

Treasury's responsibilities are vast and varied. From implementing our tax code to administering our Nation's finances, from protecting the integrity of our financial system to deploying American's financial might to combat global threats, the Treasury Department is engaged every day in work that is vital to the prosperity and security of our Nation. And that work generates no shortage of complex, difficult legal questions.

Fortunately, the Department is home to some of the finest, most dedicated lawyers anywhere in the country—the Treasury Legal Division. Under one roof, we have a legal team with deep and wide expertise in areas of law as diverse as tax, economic sanctions, financial regulation, international development, trade, public finance, and much more.

It has been a distinct privilege to work shoulder to shoulder with these serious and skilled lawyers throughout my service as Deputy General Counsel and as Acting General Counsel during a critical transition period. If confirmed, I would be honored to lead this remarkable group of public servants and to continue to work closely with them on the important issues in which Treasury is engaged. If confirmed,

I commit to perform my responsibilities with integrity and humility—and always with a devotion to the Constitution and laws under which all of us serve.

I look forward to your questions.

SENATE FINANCE COMMITTEE

STATEMENT OF INFORMATION REQUESTED OF NOMINEE

A. BIOGRAPHICAL INFORMATION

1. Name (include any former names used): Brian Richard Callanan.
2. Position to which nominated: General Counsel, Department of the Treasury.
3. Date of nomination: May 23, 2019.
4. Address (list current residence, office, and mailing addresses):
5. Date and place of birth: January 18, 1981; Willingboro, NJ.
6. Marital status (include maiden name of wife or husband's name):
7. Names and ages of children:
8. Education (list all secondary and higher education institutions, dates attended, degree received, and date degree granted):

   Harvard Law School (2005–2008), J.D., May 2008.

   Claremont McKenna College (1999–2003), B.A., May 2003.

   Palmyra Public High School (1995–1999), high school diploma, June 1999.
9. Employment record (list all jobs held since college, including the title or description of job, name of employer, location of work, and dates of employment for each job):

   Deputy General Counsel, U.S. Department of the Treasury, Washington, DC (March 2017–present); Acting General Counsel (March 2017–August 2017).

   Litigation partner, Cooper and Kirk PLLC, Washington, DC (January–March 2017).

   Staff Director And General Counsel, U.S. Senate Permanent Subcommittee on Investigations, Washington, DC (March 2015–January 2017).

   Litigation associate, King and Spalding LLP, Washington, DC (2013–2015).

   General Counsel, Office of Senator Rob Portman, Washington, DC (2011–2013).

   Litigation associate, Gibson, Dunn, and Crutcher LLP, Washington, DC (2009–2011).

   Law clerk, Hon. A. Raymond Randolph, U.S. Court of Appeals for the DC Circuit, Washington, DC (2008–2009).

   Summer associate, Cooper and Kirk PLLC, Washington, DC (Summer 2008).

   Summer associate, Gibson, Dunn, and Crutcher LLP, Washington, DC (Summer 2007).

   Summer associate, Cooper and Kirk PLLC, Washington, DC (Summer 2006).

   Speech writer and legislative assistant, Senator Olympia Snowe, Washington, DC (2003–2005) (with separation in service September 2004–November 2004).

   Press Secretary, New Jersey Republican State Committee, Trenton, NJ (September 2004–November 2004).

   Legislative correspondent, Representative Jim Saxton, Washington, DC (2003).
10. Government experience (list any current and former advisory, consultative, honorary, or other part-time service or positions with Federal, State, or local governments held since college, including dates, other than those listed above):

Administrative Conference of the United States, Government member (2017–present).

Informal advisor to Romney-Ryan Readiness Project (2012).

11. Business relationships (list all current and former positions held as an officer, director, trustee, partner (*e.g.,* limited partners, non-voting, etc.), proprietor, agent, representative, or consultant of any corporation, company, firm, partnership, other business enterprise, or educational or other institution):

Partner, Cooper and Kirk PLLC.

12. Memberships (list all current and former memberships, as well as any current and former offices held in professional, fraternal, scholarly, business, charitable, and other organizations dating back to college, including dates for these memberships and offices):

To the best of my recollection, I am or have been a member of the following organizations:

American Bar Association, Section on Administrative Law and Regulation, member (approx. 2012–2016); Legislative Branch Liaison for the Section on Administrative Law and Regulation (2012–2013); co-chair of the Rulemaking Committee (approx. 2014–2015).

Federalist Society, member (approx. 2008–present); Administrative Law and Regulation Practice Group, Executive Committee member (2013–2017).

St. Peters Church on Capitol Hill, Washington, DC (approx. 2015–present).

Cathedral of St. Matthew, Washington, DC (approx. 2010–2015).

University Club of Washington, DC (approx. 2007–2009).

Harvard Journal of Law and Public Policy (approx. 2005–2008); articles editor (2007–2008).

Harvard Federalist Society (2005–2008).

Winston Churchill Society of Claremont McKenna College (approx. 2001–2003).

Bar admissions: State of New York Bar (admitted 2009); State of New Jersey Bar (admitted 2009); District of Columbia Bar (admitted 2010); U.S. Court of Appeals for the DC Circuit (admitted 2010); U.S. Court of Appeals for the Third Circuit (admitted approx. 2014); U.S. District Court for the District of Columbia (admitted approx. 2013); Supreme Court of New Jersey (admitted 2009); Court of Appeals of New York (admitted 2009); DC Court of Appeals (admitted 2010).

13. Political affiliation and activities:

a. List all public offices for which you have been a candidate dating back to the age of 18.

None.

b. List all memberships and offices held in and services rendered to all political parties or election committees, currently and during the last 10 years prior to the date of your nomination.

None.

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

Based on a search of my records and public records, I have made the following such contributions:

Recipient	Date	Amount
Elise Stefanik for Congress	12/30/13	$250
Tom Cotton for Senate	10/29/13	$500
Tom Cotton for Congress	9/19/12	$250
Tom Cotton for Congress	9/20/11	$250

Recipient	Date	Amount
Adam Laxalt for Attorney General (NV)	7/16/14	$250

In addition, I believe I made a small contribution to Governor Tim Pawlenty's presidential campaign in 2012 and to Senator Marco Rubio's presidential campaign in 2016, but I have been unable to locate any record of those contributions.

14. Honors and awards (list all scholarships, fellowships, honorary degrees, honorary society memberships, military medals, and any other special recognitions for outstanding service or achievement received since the age of 18):

McKenna Scholar, Claremont McKenna College (1999–2003).

McKenna International Fellowship, to participate in summer service project in Uganda, East Africa (2002).

Harrison Fellowship, Claremont McKenna College (2002–2003).

First in class in major—government, Claremont McKenna College (2003).

Phi Beta Kappa, Claremont McKenna College (2003).

Harvard Cravath International Fellowship (2008).

Lincoln Fellowship, Claremont Institute (2009).

High school valedictorian (1999).

15. Published writings (list the titles, publishers, dates, and hyperlinks (as applicable) of all books, articles, reports, blog posts, or other published materials you have written):

To the best of my recollection, the following is a complete list of my published writings:

Written interview with *Politico Playbook,* "Birthday of the Week," January 18, 2018, *https://www.politco.com/story/2018/01/18/playbook-birthday-brian-callanan-345497.*

"Justice League International," *The Claremont Review of Books,* Summer 2016 (review of "The Court and The World," by Justice Stephen Breyer) (title supplied by editor), *https://www.claremont.org/crb/article/justice-league-international/.*

"The Regulatory Budget Revisited," *The Administrative Law Review,* Fall 2015 (with J. Rosen), *https://www.americanbar.org/content/dam/aba/events/administrative_law/2017/10/009_regulatory.pdf.*

Executive Branch Review Blog, "D.C. Circuit Tackles Constitutionality of Regulatory Disclosure Mandates" (approx. April 2014). (This blog post, which I wrote for the Federalist Society, no longer appears to be online.)

"A Legal Poison Pill for the Affordable Care Act," *The Wall Street Journal,* January 13, 2014 (title supplied by headline-writer), *https://www.wsj.com/articles/a-legal-poison-pill-for-obamacare-1389660359.*

"When Nudge Comes to Shove," *The Claremont Review of Books,* Summer 2013 (review of "Simpler" by Cass Sunstein), *https://www.claremont.org/crb/article/when-nudge-comes-to-shove/.*

I also co-authored several staff reports (or portions thereof) issued by the Permanent Subcommittee on Investigations:

PSI Joint Staff Report, *Backpage.com*'s Knowing Facilitation of Sex Trafficking (2017).

PSI Joint Staff Report, Combatting the Opioid Epidemic: A Review of Anti-Abuse Efforts in Medicare and Private Health Insurance Systems (2016).

PSI Joint Staff Report, Protecting Unaccompanied Alien Children From Trafficking and Other Abuses: The Role of the Office of Refugee Resettlement (2016).

PSI Majority Staff Report, Failure of the Affordable Car Act Health Insurance CO-OPs (2016).

PSI Joint Staff Report, Review of U.S. State Department Grants (2016).

PSI Joint Staff Report, Recommendation to Enforce a Subpoena Issued to the CEO of *Backpage.com,* LLC (2015).

PSI Joint Staff Report, Impact of the U.S. Tax Code on the Market for Corporate Control (2015).

Links to each of these reports can be found on page 19–20 of this document: *https://www.hsgac.senate.gov/imo/media/doc/LINKS%20TO%20PSI%20HRG S-RPTS%20(106-114)%20Updated%202016-12-20.pdf.*

In addition, I wrote a few items for which I have no records. From 2010–2011, I co-wrote a series of client alerts for Gibson, Dunn, and Crutcher titled "Supreme Court Round-up," which summarized pending and recently decided Supreme Court cases. The firm does not appear to maintain an archive of these alerts for that time period. I also wrote two articles as a college student: one article about a college chaplain for a campus paper, *The Claremont Independent,* that does not appear to maintain an archive before 2012, and one article concerning patriotism for a quarterly campus magazine, *The Claremont Review of Politics,* that is out of print and has no archive.

16. Speeches (list all formal speeches and presentations (*e.g.,* PowerPoint) you have delivered during the past 5 years which are on topics relevant to the position for which you have been nominated, including dates):

I have not delivered a formal speech or presentation in the past 5 years.

I have participated in several panel discussions that may be considered relevant to the position for which I have been nominated—listed below for the committee's reference:

- American Bar Association, The Use and Abuse of Agency Guidance (panel discussion), July 18, 2014. I served as moderator.
- American Bar Association, Effective Congressional Oversight (panel discussion), March 15, 2016. As one of four panelists, I participated in a Q&A-style discussion.
- The Federalist Society and Claremont Institute, The Jurisprudence of Justice Thomas (panel discussion), October 24, 2016. I served as moderator.
- Center for the Study of the Administrative State, Constitutional Problems in Financial Regulation (panel discussion); December 9, 2016. I served as moderator.
- *New York University Journal of Law and Liberty,* The Administrative State Meets the Tech Economy (panel discussion), February 28, 2019. As one of five panelists, I participated in Q&A and summarized Treasury's 2018 report on financial technology.

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

I believe my prior service in the executive, legislative, and judicial branches and my private-sector experience in complex litigation and administrative law matters have prepared me for the responsibilities I would undertake, if confirmed, as General Counsel of the Department of the Treasury. As Deputy General Counsel since March 2017 and Acting General Counsel during a critical 5-month transition period, I have had the privilege of helping lead a highly skilled team of lawyers in the Treasury Legal Division dedicated to carrying out the Department's statutory mission. That experience has deepened my understanding of the important programmatic and policy responsibilities that Congress has entrusted to Treasury. In addition, my more than 4 years as a lawyer in the U.S. Senate gave me a valuable understanding of the legislative process, a fluency in several areas of public policy, and an appreciation for the congressional oversight function. Much of my work in private practice centered on litigation concerning governmental actions and policies, and that experience has also proven valuable in my role as an in-house agency lawyer. Finally, I have had the opportunity to manage large teams of professionals on a variety of matters.

B. FUTURE EMPLOYMENT RELATIONSHIPS

1. Will you sever all connections (including participation in future benefit arrangements) with your present employers, business firms, associations, or organizations if you are confirmed by the Senate? If not, provide details.

Yes, with the exception of the Department of the Treasury and the Administrative Conference of the United States.

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

No.

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

No.

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

Yes.

C. POTENTIAL CONFLICTS OF INTEREST

1. Indicate any current and former investments, obligations, liabilities, or other personal relationships, including spousal or family employment, which could involve potential conflicts of interest in the position to which you have been nominated.

Any potential conflicts of interest have been identified and resolved in accordance with the terms and conditions of my ethics agreement with the Department of the Treasury, which is documented by letter to Brian Sonfieid, Designated Agency Ethics Official and Assistant General Counsel for General Law and Ethics. Should any potential conflict of interest arise in the future, I will seek guidance from a Treasury ethics official.

2. Describe any business relationship, dealing, or financial transaction which you have had during the last 10 years (prior to the date of your nomination), 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.

Any potential conflicts of interest have been identified and resolved in accordance with the terms and conditions of my ethics agreement with the Department of the Treasury, which is documented by letter to Brian Sonfield, Designated Agency Ethics Official and Assistant General Counsel for General Law and Ethics. Should any potential conflict of interest arise in the future, I will seek guidance from a Treasury ethics official.

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

From 2014–2015, as a lawyer at King and Spalding, I provided legal services and public policy advice to Howard and Jean Somers, the parents of an Iraq War veteran who took his own life after suffering from post-traumatic stress disorder and traumatic brain injury. For this pro bono matter, I served as the lead associate on a team that assisted our clients with translating their personal experience into legislative advocacy concerning reform of the Veterans Administration health-care system. I also joined the clients for a meeting with then-Representative Kyrsten Sinema.

In 2010, as a lawyer at Gibson Dunn, I provided legal services to the Coalition for Derivatives End-Users concerning the regulatory implementation of title 7 of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010, including participating in meetings with career officials from the Securities and Exchange Commission, the Commodity Futures Trading Commission, and the Federal Reserve Board.

In addition, throughout my time in private practice, I drafted or assisted in drafting legal briefs and legal memoranda for firm clients in the context of litigation or administrative agency actions concerning various Federal laws, including the Dodd-Frank Act; the Sherman Act; the Food, Drug, and Cosmetic Act; the National Traffic and Motor Vehicle Safety Act; the Rail Safety Improvement

Act; the National Labor Relations Act; the Federal Power Act; the Interstate Wire Act; and the Defense Production Act.

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

Any potential conflicts of interest have been identified and resolved in accordance with the terms and conditions of my ethics agreement with the Department of the Treasury, which is documented by letter to Brian Sonfield, Designated Agency Ethics Official and Assistant General Counsel for General Law and Ethics. Should any potential conflict of interest arise in the future, I will seek guidance from a Treasury ethics official.

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

Copies have been provided.

D. LEGAL AND OTHER MATTERS

1. Have you ever been the subject of a complaint or been investigated, disciplined, or otherwise cited for a breach of ethics for unprofessional conduct before any court, administrative agency (*e.g.,* an Inspector General's office), professional association, disciplinary committee, or other ethics enforcement entity at any time? Have you ever been interviewed regarding your own conduct as part of any such inquiry or investigation? If so, provide details, regardless of the outcome.

No.

2. Have you ever been investigated, arrested, charged, or held by any Federal, State, or other law enforcement authority for a violation of any Federal, State, county, or municipal law, regulation, or ordinance, other than a minor traffic offense? Have you ever been interviewed regarding your own conduct as part of any such inquiry or investigation? If so, provide details.

In January 2009, I received a speeding ticket in Virginia for driving 82 mph on a 70 mph interstate highway, which is classified as reckless driving in Virginia. The citation was reduced to a lesser charge, and I paid the required fine.

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

No.

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

No.

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

None.

E. TESTIFYING BEFORE CONGRESS

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

Yes.

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

Yes.

QUESTIONS SUBMITTED FOR THE RECORD TO BRIAN CALLANAN

QUESTION SUBMITTED BY HON. BENJAMIN L. CARDIN

Question. Section 179D of the internal revenue code provides a deduction for the cost of providing energy efficient commercial building investments that meet specific energy standards. This deduction results in lower building costs for developers, lower energy costs for building occupants, and a reduced impact on the environment.

In the case of government-owned buildings, the tax deduction is allowed to be allocated to the person primarily responsible for designing the property—commonly the architect, engineer or contractor—in lieu of the government owner of the property, recognizing that the government generally does not have a tax liability (IRC 179D(d)(4)). The allocation of the 179D tax deduction is achieved by a letter from the responsible government official to the designer.

The allocation letter serves a purpose similar to third party reporting requirements—to inform the IRS as to whether the designer qualifies for the deduction. It was meant to be administrative in nature. Congress's decision to allow allocation of the tax deduction to the designer reflects the policy goal of encouraging the construction of energy efficient government buildings.

I am troubled by a growing number of complaints I am hearing about small business owners being required to make payments to State and local government entities in order to receive this allocation letter. This practice weakens oversight by the government that ensures that the correct designer receives the intended benefit for providing energy efficient services to the government. Even more concerning, in some cases, these small business owners are being told that if a payment is not made, the government entity may rescind the allocation letter that has already been issued and on which the small business owner has relied upon to file their taxes. Small business owners shouldn't have to pay a toll to a government entity to receive an allocation letter for a tax deduction for which they qualify and for which they provided the services under section 179D. This goes against the longstanding understanding of the administration of section 179D and congressional intent.

I ask for you to make it a priority that within 90 days of being confirmed that Treasury and the IRS will put forward public guidance to make clear that it is inappropriate for government entities to request, seek or accept payments for providing an allocation letter under 26 U.S.C. 179D(d)(4).

Answer. Thank you for describing your concerns regarding how the allocation of the deduction under section 179D(d) has been used to negotiate for a return benefit to a government entity. Although I have not had the opportunity to work on this issue, the deduction under section 179D should be used to fulfill its intended purpose of encouraging investment in energy efficient commercial property and the procedures in our existing guidance, Notice 2008–40 and Notice 2006–52, should be followed to ensure that this intended purpose is properly extended to government-owned buildings. If confirmed, I will work with Treasury and IRS staff to evaluate our authority under section 179D to address the serious concerns you have described.

In addition, I have raised this issue with our Assistant Secretary for Tax Policy, and he would be pleased to discuss it with you or your staff if that would be helpful.

QUESTIONS SUBMITTED BY HON. ROBERT MENENDEZ

Question. As you know, the Trump tax bill gutted the State and local tax deduction that 1.8 million New Jerseyans relied on to avoid being double taxed. New Jersey and other States created State and local tax incentives for making charitable donations to select non-profits. These non-profits were created to fill the gaps created by the Trump tax bill by funding our public schools and universities, rebuilding our roads and bridges, assisting survivors of domestic abuse, and helping middle-class families.

State and local programs that award tax credits in exchange for donations to public and private-sector entities have existed for decades without interference from the Treasury/IRS. For years, programs that supported conservative causes were marketed by CPAs in certain States as a way to reduce a taxpayer's Federal tax liability by avoiding the Alternative Minimum Tax (AMT). One accountant even boasted "The reason this [State tax credit charitable] program is worthy of mention for tax

planning purposes is . . . shifting itemized deductions away from State income tax and to charitable deductions will lower their Federal income tax bill."[1] The IRS and Treasury only began targeting States like New Jersey after implementing their own State tax incentives.

Could you describe why the Trump administration took no action and permitted these State programs that supported conservative causes to operate and taxpayers to avoid the Federal AMT?

Answer. As a native New Jerseyan with a large extended family in New Jersey, I share your interest in treating all taxpayers across all States fairly.

The preamble to the final regulations, issued in June 2019, explains why the Treasury Department and the IRS did not previously issue formal guidance regarding the interaction between section 170 and State tax credit programs: "The limitation under section 164(b)(6) [adopted by Congress in the Tax Cuts and Jobs Act] is the impetus for the Treasury Department's and the IRS's consideration of the tax treatment of contributions made in exchange for State and local tax credits. Prior to enactment of that limitation, the proper treatment of such contributions was of limited significance from a Federal revenue perspective and tax administration perspective and was therefore never addressed in formal guidance."[2] The final regulations prevent the use of any State program, no matter the State and no matter the purpose, to circumvent limitations on Federal tax deductions.

Question. The IRS's finalized guidance released in June wrongly ended the ability for States to establish tax incentives for making charitable donations in New Jersey and other States. To add insult to injury, the Treasury Department added an exemption in the regulations to keep existing State tax credit programs that support conservative causes virtually unchanged.

Do you agree that the tax code needs to be implemented fairly without partisan bias?

Answer. Yes.

Question. If so, if confirmed to the position of the General Counsel at Treasury, do you commit to reversing course of this Department's previous bias and apply the tax code equally across the country?

Answer. I do not believe partisan bias has any place in the interpretation of our tax laws, and I do not believe partisan bias has played any role in the promulgation of any tax regulations or other guidance issued in connection with the Tax Cuts and Jobs Act. If confirmed, I can commit to do all that is within my authority to ensure that no interpretation of the Internal Revenue Code is influenced by partisan bias.

Title 26 of the U.S. Code generally entrusts regulatory authority to the Secretary of the Treasury. The Secretary has delegated tax regulatory policy responsibilities to the Assistant Secretary for Tax Policy under a longstanding Treasury Department order. The General Counsel is responsible for reviewing proposed regulations for questions of law, but the General Counsel does not possess tax regulatory policy authority under title 26. Consequently, if confirmed, it would not be within my authority to rescind or revise a final regulation promulgated under title 26.

Question. Thirty-two members of the House Ways and Means Committee—Republicans and Democrats—sent a letter to the Treasury Department last Congress asking it withdraw IRS Notice 2007–55, which was issued over a decade ago and continues to deter foreign investment in the United States. The notice relates to the Foreign Investment in Real Property Tax Act, or FIRPTA. In short, the notice treats certain distributions from REITs as the sale of REIT assets rather than the sale of REIT stock. The result is that the distributions are subject to tax rates as high as 54 percent. The practical effect is to raise the tax burden on investors in U.S. commercial real estate and infrastructure to levels that are punitive and prohibitive. Cal-Berkeley professor and economist Ken Rosen recently estimated that FIRPTA costs the United States between $65–125 billion in lost investment and between 147,000–284,000 in lost jobs.[3] Repealing IRS Notice 2007–55 is a simple and imme-

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[1] Strike, Brian, "Charitable Donation and State Tax Credit," 2016, *https://www.scottkays.com/article/2016/09/20/charitable-donation-state-tax-credit.*

[2] Department of the Treasury, Final Regulations: Contributions in Exchange for State and Local Tax Credits, 84 Fed. Reg. 27513 (June 13, 2019), *https://www.govinfo.gov/content/pkg/FR-2019-06-13/pdf/2019-12418.pdf.*

[3] Rosen, Kenneth T., "Unlocking Foreign Investment in U.S. Commercial Real Estate" (2017).

diate thing that the administration could do to boost private investment in U.S. real estate and infrastructure.

Please review this matter and provide a written response as to whether you will repeal section two of the Notice and restore prior law, as dozens of members of Congress have encouraged.

Answer. This question concerns a policy issue, which is best suited to be addressed by the outstanding staff of the Treasury Department's Office of Tax Policy (OTP) and the Internal Revenue Service (IRS). It is my understanding that Treasury and the IRS recently issued proposed regulations to address certain ambiguities in the FIRPTA legislation. If confirmed, I look forward to working with my colleagues in OTP and IRS Chief Counsel's office to achieve the shared goal of encouraging foreign investment in U.S. infrastructure while protecting the U.S. tax base.

Question. The rum excise tax cover-over, which allows excise taxes on rum produced in Puerto Rico and U.S. Virgin Islands be refunded back to these islands, is an essential source of revenue that supports home-grown industry and self-reliance. The cover-over program is subject to biennial extension, and in Congress, we are considering how to encourage the program to continue driving economic development in these territories.

In your position at Treasury, would you support lifting the caps on cover-overs to Puerto Rico and the U.S. Virgin Islands and making the temporary extension permanent?

Answer. This is not an issue that I have studied or worked on in my current role as Deputy General Counsel. However, if confirmed, I will work with the Office of Tax Policy and the Alcohol and Tobacco Tax and Trade Bureau to better understand the issue and try to address your concerns.

QUESTIONS SUBMITTED BY HON. CATHERINE CORTEZ MASTO

Question. On July 16, 2018, the Treasury Department issued Rev. Proc. 2018–38, which eliminated the requirement for tax-exempt "dark money" organizations to report the identities of major donors. This rule change will significantly hamper the ability of the IRS, law enforcement, and intelligence organizations to police the laundering of funds through our political system. The Office of General Counsel provides legal and policy advice to the Treasury Secretary, and Sec. Mnuchin decided he would no longer collect donor information for certain nonprofit organizations that may engage in political activities. The Treasury Secretary relied on General Counsel's legal analyses to justify these actions.

Please provide me with exactly and specifically what role you had in that decision and the drafting of the legal justification.

Answer. The tax law experts of the IRS Office of Chief Counsel and the Treasury Department's Office of Tax Policy (OTP) have primary responsibility for legal analysis and review of tax rules and guidance. The Office of General Counsel relies heavily on their analysis and expertise in the review of tax matters. With respect to Rev. Proc. 2018–38, I recall being briefed informally by OTP concerning the statutory and regulatory authority underlying the IRS Commissioner's grant of limited information reporting relief under section 6033 of the Internal Revenue Code. I recall discussing the same subject with the IRS Office of Chief Counsel. I also reviewed a draft of Rev. Proc. 2018–38 for legal issues—as I have reviewed many dozens of tax regulatory actions and guidance documents for legal issues during my service at Treasury.

The Treasury Office of General Counsel is responsible for questions of legal authority, not analysis of tax administration needs and policies. The issuance of Rev. Proc. 2018–38 was based on the IRS's determination that the collection of personally identifiable donor information on Form 990 is "not necessary for the efficient administration of the internal revenue laws," Rev. Proc. 2018–38 (quoting 26 CFR § 1.6033–2(g)(6)), and the reasons for that determination are outlined in the revenue procedure.

Question. Who lobbied or engaged the Department for Rev. Proc. 2018–38? Please provide me and this committee a list of organizations and interest groups that the Department met with, either publicly or privately, before the decision was released?

Answer. I am aware that the Treasury Department and IRS received correspondence on this issue from members of Congress and a coalition of individuals and or-

ganizations in May and June of 2018. I have asked the Treasury Office of Legislative Affairs to promptly provide your office with copies of those letters. I did not attend any meetings with outside parties concerning this issue.

QUESTIONS SUBMITTED BY HON. RON WYDEN

Question. The 2017 Republican tax law partially paid for massive tax cuts for corporations, the wealthy, and pass-through businesses by limiting the deduction for State and local taxes to $10,000.

This was a rifle-shot at constituents in high cost-of-living States like Oregon, Washington, New York, New Jersey, and others.

While I wasn't a fan of the SALT cap, I am even more concerned about recent Treasury regulations that reach far beyond what was contained in the 2017 Republican tax law. These regulations effectively extend the $10,000 SALT cap to include State tax credit programs.

These regulations reversed the long-standing IRS position that taxpayers are entitled to a full charitable deduction, even if they receive State tax credits in return for their contribution.

Could you please tell me where in the 2017 tax law it instructs the Treasury Department to limit charitable deductions for donations for State tax credit programs?

Answer. The Tax Cuts and Jobs Act did not amend section 170 of the Internal Revenue Code. The proposed and final regulations to which your question refers are based on the application of longstanding Federal income tax principles under section 170. Specifically, under section 170, any benefit received or expected to be received by a donor in return for making a donation to a charitable organization reduces the amount of any Federal charitable contribution deduction for such donation.

Question. On September 5, 2018 Secretary Mnuchin announced these regulations wouldn't apply to businesses that make donations to private school voucher programs, with the strong backing of Republican Senators.

Could you tell me where in the 2017 tax law it said that school voucher programs should get a special deal?

Answer. The Tax Cuts and Jobs Act does not make distinctions among State tax credit programs. Likewise, Treasury and IRS regulations and guidance on this issue apply equally to all such programs.

Question. It appears that Treasury as a general matter is picking and choosing when it wants to use broad authority in regulations issued under the 2017 tax law.

Could you please provide guidance on how you determine the expansiveness of your regulatory authority in interpreting the 2017 tax law?

Answer. The scope of Treasury's regulatory authority under the Tax Cuts and Jobs Act (TCJA) is a matter of statutory interpretation. As a result, the answer to this question is highly context-dependent. It requires interpreting the terms of the particular grant of rulemaking authority being invoked and, as importantly, the language of the substantive Internal Revenue Code provision or provisions being implemented. Under title 26, Congress has provided general and specific grants of rulemaking authority. Section 7805 confers authority to "prescribe all needful rules and regulations for enforcement of [title 26]," including "all rules and regulations as may be necessary by reason of any alteration of law in relation to internal revenue." Treasury has relied on these general grants of authority to implement some provisions of TCJA. In addition, Congress often includes specific grants of authority to implement particular provisions of the code; TCJA contains at least 72 such specific grants of authority. Some of those specific grants provide explicit indication of the nature of regulatory authority Congress expected Treasury to exercise, such as directives to adopt anti-abuse rules, to provide special rules for applying the purposes of a general rule to specified situations, or to implement new information reporting requirements.

The attorneys of the Treasury Department's Office of Tax Policy (OTP) and the IRS Office of Chief Counsel have primary responsibility for legal analysis of tax regulatory actions; the Office of General Counsel relies on their analysis and expertise in the review of all tax regulatory actions. Our general approach to statutory interpretation is described in the response to the question below.

Treasury's Office of Tax Policy and Office of General Counsel would be pleased to provide your staff with a briefing or additional information on any particular interpretation adopted in TCJA implementing regulations. If confirmed, I am committed to working with your staff to answer any questions that may arise concerning Treasury's interpretation of the Internal Revenue Code.

Question. What principles of statutory interpretation are you applying in developing regulations under that law?

Answer. The approach of the Treasury Office of General Counsel is to follow the Supreme Court's guidance governing agency interpretations of Federal statutes. The best evidence of congressional intent is the text of the statute. We also consider statutory context and structure, as well as how similar statutory language has been interpreted by Treasury in the past. The provisions of the Internal Revenue Code are often deeply interconnected, so we take particular care to analyze how Congress intended a new provision to work with existing code provisions. When the text does not resolve a question of interpretation, courts have indicated that a review of legislative history may help elucidate the meaning of a statutory provision.

In some cases, even after applying all of the traditional tools of statutory construction, a statutory provision may remain ambiguous. In such cases, in the context of TCJA, Treasury's goal is generally to adopt the construction that best effectuates congressional intent, as Treasury's senior policymakers understand it.

Question. I oppose any attempts to make it easier for illegal and foreign money to influence our political process. That's why I have been fighting the Treasury Department's rule change that stopped requiring dark money groups to disclose the identities of their major donors to the IRS.

Last year, shortly after IRS issued its dark money rule, Senator Tester and I introduced a resolution to overturn the rule under the Congressional Review Act (CRA). It should have been a straightforward process—the Treasury Department even filed the paperwork with the Senate stating that this was a rule subject to the CRA.

But when Treasury found out that Senator Tester and I were planning to overturn the rule, they sent us a letter asking for a "do-over." They simultaneously claimed that they were eligible for the legal benefits of the Congressional Review Act, but also that we weren't allowed to challenge the rule under that same CRA provision.

It was clear in my mind that Treasury was waging a frivolous legal battle in an attempt to obstruct congressional action. Treasury managed to tie up our CRA process for 5 weeks. Some months later, the GAO eventually weighed in with its own, independent legal opinion finding Treasury's "do-over" argument meritless.

My concern is that the Treasury Department was clearly trying to impede Congress's right to vote on the dark money rule.

My question is this: is it ever appropriate for the Treasury Department to play legal games to obstruct the Senate's right to legislate?

Answer. No, it is not appropriate.

Although the IRS may have views on whether a revenue procedure or other published guidance constitute a "rule" within the meaning of the Congressional Review Act (CRA), those views are not binding on Congress. The IRS's October 9, 2018 letter to the Government Accountability Office (GAO) provides an explanation of its CRA analysis with respect to Rev. Proc. 2018–38 and of its longstanding approach to CRA analysis more broadly. In its November 30, 2018 Opinion, the GAO concluded that, irrespective of whether Rev. Proc. 2018–38 is a "rule" within the meaning of the CRA, the IRS's submission of the guidance pursuant to its longstanding approach allowed Congress to "fully exercise its review and oversight authorities under CRA." It is my understanding that the IRS Office of Chief Counsel has recently enhanced its review of IRS guidance prior to submission under the CRA process.

QUESTIONS SUBMITTED BY HON. MICHAEL F. BENNET

Question. As I have said to your predecessor, the Treasury serves as a powerful stabilizing force for our country. Part of that stability is preserved by insulating Treasury from politics, which is central to the role of the General Counsel.

Do you agree that Treasury's work to combat illicit financial activity, impose sanctions, and conduct national security reviews through the CFIUS process should be free from political interference?

Answer. Yes, I also share your view that the Treasury Department should be a source of stability for our economy and our Nation.

Question. Do you believe the same is also true for tax administration and enforcement at the IRS?

Answer. Yes.

Question. In your previous role at Treasury, did anyone at the White House or the administration request that you or someone in your office intervene in a personal tax matter that was within the purview of IRS's tax administration or enforcement responsibilities?

Answer. No, not that I recall.

Question. Were you made aware of any instance in which an individual at the White House or the administration request that you or someone in your office intervene in a personal matter related to the work of Treasury's Office of Terrorism and Financial Intelligence, including the Office of Foreign Assets Control (OFAC) or Financial Crimes Enforcement Network (FinCEN)?

Answer. No, not that I recall.

Question. If appointed General Counsel, can you commit to doing everything within your power to protect the IRS from political interference generally, whether from the President, his family, or his associates?

Answer. I will work to protect all Treasury functions, including those of the IRS, from improper political interference.

QUESTIONS SUBMITTED BY HON. ROBERT P. CASEY, JR.

Question. As you know, Rev. Proc 2018–38 was issued on July 16, 2018. When did you conduct your legal review of Rev. Proc 2018–38?

Answer. The attorneys of the IRS Office of Chief Counsel and the Treasury Department's Office of Tax Policy have primary responsibility for legal analysis and review of tax rules and guidance. The Office of General Counsel relies heavily on their analysis and expertise in the review of tax matters. I believe I reviewed Rev. Proc. 2018–38 in June or July 2018 for legal issues, as I have reviewed dozens of tax rules and guidance projects. The Treasury Office of General Counsel is responsible for questions of legal authority, not analysis of tax administration needs and policies. The issuance of Rev. Proc. 2018–38 was based on the IRS's determination that the collection of personally identifiable donor information on Form 990 is "not necessary for the efficient administration of the internal revenue laws," Rev. Proc. 2018–38 (quoting 26 CFR § 1.6033–2(g)(6)), and the reasons for that determination are outlined in the revenue procedure.

Question. Were you involved in the drafting of the response I received from the IRS on July 23, 2019 regarding Rev. Proc. 2018–38?

Answer. I reviewed but did not draft the response letter.

Question. If so, what sections did you draft, review, or provide advice on?

Answer. I reviewed the entire response letter. I discussed your July 11, 2019 letter with the IRS Office of Chief Counsel to emphasize the importance of providing a clear, prompt response to all of your questions, based on the concerns conveyed directly to me by a member of your staff on July 9th regarding the inadequacy of a past response to your inquiry on Rev. Proc. 2018–38. If your concerns have not been fully addressed, I am sure the IRS Office of Legislative Affairs can work with your staff on your inquiry.

QUESTION SUBMITTED BY HON. PAT ROBERTS

Question. According to figures published by the Treasury in June, the Department presently holds roughly $25 billion in matured unclaimed savings bonds on its books. These bonds have matured, yet their owner or heir has not claimed the

funds. In many cases, the rightful individual has not claimed the bond or its proceeds because the paper document is missing or otherwise unavailable.

Treasury has stated that the Department is making all necessary efforts to ensure that those who invested in U.S. savings bonds receive the return on their investment. For Treasury to fulfill its obligation to those with right to a U.S. savings bond, the Department should publish all necessary information for claimants who do not hold the physical bond. Treasury's contention has been that it is cost prohibitive to recover the information necessary so that individuals could claim a bond.

Many States, including Kansas, have escheatment statutes allowing their agencies to undertake appropriate measures to reunite individuals with their unclaimed property. Certain States have gone further, offering to engage in a pilot program to recover and publish necessary information so that the Treasury does not incur the cost.

Would you recommend Treasury engage in a pilot program? If not, could you please explain the policy and legal arguments for not honoring State escheatment laws?

Answer. I have recused myself from this issue because my past employer represents several States in pending litigation concerning unredeemed savings bonds. As a result, regrettably, I am unable to respond to these questions. However, I will ensure that you receive a response to your questions from the appropriate Treasury officials.

PREPARED STATEMENT OF HON. CHUCK GRASSLEY,
A U.S. SENATOR FROM IOWA

Today the Finance Committee will hear from four nominees, three nominees to the Treasury Department, and a nominee to the U.S. Tax Court.

Before I give my full statement, I want to recognize the Majority Leader, who is with us this morning to introduce one of the nominees. Thank you, Leader McConnell.

This morning we first will hear from Brent McIntosh, who is nominated to be Treasury Under Secretary for International Affairs. This position has a broad portfolio that includes working with many multinational organizations such as the World Bank and the IMF.

Given this position is related to international affairs, let me take a moment to stress again that Treasury and the administration should use all available tools under U.S. law to encourage other countries to stop efforts to implement unilateral digital services taxes, like the ones in France and under consideration in the UK. Instead, our trading partners should focus on the multilateral efforts underway at the Organisation for Economic Co-operation and Development.

I was pleased to see Treasury Secretary Mnuchin's reported comments after the G7 finance ministers' meeting last week indicating a two-track process with respect to these issues—continuing the section 301 investigation of the French digital services tax while also negotiating with the OECD Inclusive Framework members on a consensus solution to the tax challenges of the digital economy.

Through multiple letters and other communications, Senator Wyden and I together have expressed our bipartisan interest in Treasury continuing its active participation in the OECD negotiations and using all tools available to prevent unilateral measures.

I look forward to any comments our Treasury witnesses would like to provide on this matter.

Our next nominee will be Brian Callanan, who is nominated to Mr. McIntosh's current position as Treasury General Counsel. Since the Tax Cuts and Jobs Act was enacted at the end of 2017, the Treasury Department has done a remarkable job of developing the regulations and other guidance to implement the bill. The Office of Treasury General Counsel has been an indispensable part of that process, while also fulfilling all its other legal responsibilities at Treasury and its bureaus.

Next we will hear from Brian McGuire, nominated to be Treasury Assistant Secretary for Legislative Affairs. I've talked many times about how important it is that members of this committee are able to get their questions answered and responses to their letters. I'm heartened that Mr. McGuire has worked so many years for

Leader McConnell, so I expect he's learned how important it is for the executive branch to cooperate and work with those of us here in the legislature.

Finally, we will hear from Travis Greaves, nominated to a term of 15 years on the U.S. Tax Court. The Tax Court is where taxpayers can turn to settle a disputed liability with the IRS, and without having to pay the disputed tax before their case is heard. If Mr. Greaves is confirmed, along with two other nominees who have already been reported from the committee in this Congress, 18 of the 19 positions on the Tax Court will be filled.

Thank you all for your willingness to serve and for your testimony here today.

May 24, 2019

The Honorable Charles E. Grassley
Chairman
U.S. Senate
Committee on Finance
219 Dirksen Senate Office Building
Washington, DC 20510

The Honorable Ron Wyden
Ranking Member
United States Senate
Committee on Finance
219 Dirksen Senate Office Building
Washington, DC 20510

Re: Nomination of Travis Greaves to be a Judge on the United States Tax Court

Dear Chairman Grassley and Ranking Member Wyden:

We write in strong, bipartisan support of the appointment of Travis Greaves to be a judge on the United States Tax Court. We are a group of tax practitioners from across the country who are deeply familiar with the U.S. Tax Court and also with Travis Greaves. We have worked with him in various capacities: private practice, government, and professional organizations. No matter the role, he has demonstrated strong leadership, fairness, and integrity.

The Tax Court is a forum to expeditiously resolve disputes between taxpayers and the Internal Revenue Service while ensuring uniform interpretation of the Internal Revenue Code. A judge on the Court must have deep substantive tax knowledge, an understanding of tax procedure, a strong work ethic, and integrity. Travis Greaves has all of these characteristics. He respects the history and role of the Court and its relationship with the Internal Revenue Service and the public.

The Tax Court hears a wide variety of cases, and Mr. Greaves' experience in private practice, the Federal Government, State government, and in professional organizations makes him a strong addition to the Court. Mr. Greaves has represented some of the largest taxpayers in complex tax disputes involving numerous substantive areas of the tax law. He worked at the Tax Court as an Attorney Advisor to a judge and understands the intricacies of the Court from when a case arrives to decision. In his current role he leads some of the Nation's most elite tax attorneys in the Appellate Section of the Department of Justice Tax Division. In this role he manages some of the most complex cases and works with various interested parties to achieve fair and just results.

Mr. Greaves is a thoughtful, fair-minded, and intelligent attorney who acts with integrity and holds the tax system and the Tax Court in the highest regard. We would point out that he has given significant amounts of his personal time to the enhancement of the tax profession and professional development of future tax leaders. From spending time teaching and mentoring law students as an adjunct professor at Georgetown University Law Center, to advocating for young professionals at the American Bar Association, to serving unrepresented taxpayers pro bono, Mr. Greaves has shown a clear desire to further tax administration. We all know how excited Mr. Greaves is to be considered for the Court and believe that he would serve with distinction.

Based on our personal knowledge and experience, Mr. Greaves is a highly respected tax professional who would be an exceptional addition to the Court. We re-

spectfully request that the Senate promptly consider and confirm the appointment of Travis Greaves to the United States Tax Court.

Respectfully submitted,

By the following individuals in their individual capacities (current affiliations are solely noted for purposes of identifying their relevant background).

Jeremy Abrams
Reed Smith LLP
Washington, DC

Giovanni Alberotanza
Rosenberg Martin Greenberg, LLP
Baltimore, MD

Katie Amin
Groom Law Group
Washington, DC

Arielle M. Borsos
Caplin and Drysdale
Washington, DC

Bob Bowne
BDO
McLean, VA

Andrew Brewster
Deloitte
McLean, VA

Mark Coscia
Cognizant
New York, NY

Drew Cummings
Washington, DC

Jacob Dean
CCJ
Wooster, OH

Jason Freeman
Freeman Law
Frisco, TX

Glen E. Frost
Frost and Associates, LLC
Annapolis, MD

Jeffrey M. Glassman
Meadows Collier
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Jeffrey Helm
EY
Ciudad de México

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Austin Holt
Cooley LLP
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Zuckerman Spaeder LLP
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Victor A. Jaramillo
Caplin and Drysdale
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Nehemiah Jefferson
The Jefferson Firm, LLC
Tampa, FL

Steven P. Johnson
Washington, DC

Ryan J. Kelly
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Washington, DC

Alexander Kugelman
Kugelman Law, P.C.
San Francisco, CA

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Law Office of Elizabeth McGee
San Francisco, CA

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Houston, TX

Michael S. McGovern
The Gober Group
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Latham and Watkins LLP
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James E. McNair
Reed Smith LLP
McLean, VA

Mark C. Milton
MCM Law LLC
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Jeffrey A. Neiman
Marcus Neiman and Rashbaum
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Ross R. Sharkey
Caplin and Drysdale
Washington, DC

Molly Sobhani
Klausner and Company, P.C.
Arlington, VA

Daniel G. Strickland
Washington, DC

Shamik Trivedi
Grant Thornton LLP
Washington, DC

T. Joshua Wu
Clark Hill PLC
San Antonio, TX

July 24, 2019

The Honorable Charles Grassley
Chairman
U.S. Senate
Committee on Finance
Washington, DC 20510

The Honorable Ron Wyden
Ranking Member
U.S. Senate
Committee on Finance
Washington, DC 20510

Re: Nomination of Brent J. McIntosh to be Under Secretary of the Treasury for International Affairs

Dear Chairman Grassley and Ranking Member Wyden:

We write in strong support of the nomination of Brent J. McIntosh to be Under Secretary for International Affairs at the Department of the Treasury. Each of us served with Brent in government—at the White House, at the Department of the Treasury, at the Department of Justice, or in other capacities. We believe Brent to be a superb choice to lead International Affairs at Treasury.

Brent's current service as Treasury's General Counsel, his prior public service, and his work in the private sector demonstrate that he is particularly well-suited to serve as Under Secretary for International Affairs. Brent has extensive experience in many subject matters central to Treasury's international work and possesses deep insight into how those matters affect our nation's position in the world. Brent has spent much of his career—both at Treasury and during his prior service at the White House and the Justice Department—grappling with some of the toughest foreign policy and national security challenges our nation confronts, and we believe that his steady hand and strategic vision will serve the Department and the nation well. In particular, we believe that Brent has the judgment, acumen, integrity, and temperament necessary to serve our nation with distinction in the role of Under Secretary.

Brent's nomination comes at a time when our nation faces increasing challenges across the globe, whether from strategic competitors such as Russia and China, or from regionalactors—such as Iran and North Korea—that are interested in playing a more aggressive role in the world. Indeed, at a time when U.S. leadership in the international economic and financial domain is needed more than ever, we believe that, if confirmed, Brent will bring energy, expertise, and vision to Treasury's role in shaping key international economic and financial relationships, norms, and initiatives. We also believe that, if confirmed, Brent will be able to use the skills and experiences he has gained serving in key roles throughout our government to skillfully pursue our national interest, while discharging the duties of the office to which he has been nominated with honor and dedication. Given this, and mindful of the critical role the Senate plays in the nomination process, we urge the members of the Committee on Finance, and the Senate, to consider swiftly—and approve—Brent's nomination to be Under Secretary for International Affairs for the Department of the Treasury.

Sincerely,

Tim Adams, former Under Secretary of the Treasury for International Affairs, U.S. Department of the Treasury

J. Michael Allen, former Special Assistant to the President and Senior Director for Counter Proliferation Strategy, National Security Council, The White House

Stewart Baker, former Assistant Secretary for Policy, U.S. Department of Homeland Security

John F. Bash, former Special Assistant to the President and Associate Counsel, Office of the Counsel to the President, The White House

Zina Bash, former Special Assistant to the President for Regulatory Reform, Domestic Policy Council, The White House

Joshua Bolten, former Chief of Staff to the President, The White House

Rachel L. Brand, former Assistant Attorney General, Office of Legal Policy, U.S. Department of Justice

Megan Brown, former Counsel to the Attorney General, U.S. Department of Justice

Reginald J. Brown, former Special Assistant to the President and Associate Counsel, Office of the Counsel to the President, The White House

Dan Bryant, former Assistant Attorney General, Office of Legal Policy, U.S. Department of Justice

William A. Burck, former Deputy Assistant to the President and Deputy Counsel, Office of the Counsel to the President, The White House

Jonathan W. Burks, former Chief of Staff, Office of the Speaker, U.S. House of Representatives

Elbridge Colby, former Deputy Assistant Secretary of Defense for Strategy and Force Development, U.S. Department of Defense

Shannen W. Coffin, former Counsel to the Vice President, The White House

Scott A. Coffina, former Associate Counsel to the President, Office of the Counsel to the President, The White House

Bryan N. Corbett, former Special Assistant to the President, National Economic Council, The White House

Grant M. Dixton, former Special Assistant to the President and Associate Counsel, Office of the Counsel to the President, The White House

Michael Drummond, former Special Assistant to the President, Office of the Staff Secretary, The White House

Paul R. Eckert, former Special Assistant to the President and Associate Counsel, Office of the Counsel to the President, The White House

John P. Elwood, former Deputy Assistant Attorney General, Office of Legal Counsel, U.S. Department of Justice

Mark Epley, former General Counsel, Office of the Speaker, U.S. House of Representatives

Fred F. Fielding, former Counsel to the President, The White House

Leslie Fahrenkopf Foley, former Special Assistant to the President and Associate Counsel, Office of the Counsel to the President, The White House

Tony Fratto, former Assistant Secretary of the Treasury for Public Affairs, U.S. Department of the Treasury

Gregory G. Garre, former Solicitor General, U.S. Department of Justice

Brett Gerry, former Chief of Staff, Office of the Attorney General, U.S. Department of Justice

Blake L. Gottesman, former Deputy Chief of Staff to the President, The White House

Joseph Hagin, former Deputy Chief of Staff to the President, The White House

Amy Dunathan Hammer, former Associate Counsel to the President, Office of the Counsel to the President, The White House

Jeffrey M. Harris, former Associate Administrator, Office of Information and Regulatory Affairs, The White House

Sarah Harris, former Deputy Assistant Attorney General, Office of Legal Counsel, U.S. Department of Justice

Kevin A. Hassett, former Chairman, Council of Economic Advisers, The White House

Francis Q. Hoang, former Associate Counsel to the President, Office of the Counsel to the President, The White House

Robert F. Hoyt, former General Counsel, U.S. Department of the Treasury

Thomas G. Hungar, former General Counsel, U.S. House of Representatives

Jamil N. Jaffer, former Associate Counsel to the President, Office of the Counsel to the President, The White House

Myriah Jordan, former Special Assistant to the President for Policy, Office of the Chief of Staff, The White House

Daniel P. Kearney, Jr., former Special Assistant to the Legal Adviser to the Secretary of State, U.S. Department of State

Peter D. Keisler, former Assistant Attorney General, Civil Division, U.S. Department of Justice

Marc L. Kesselman, former General Counsel, U.S. Department of Agriculture

Dirk Kempthorne, former Secretary of the Interior

Richard Klingler, former Senior Associate Counsel to the President and Legal Adviser, National Security Council, The White House

V. Phillip Lago, former Executive Secretary, National Security Council, The White House

Michael E. Leiter, former Director, National Counterterrorism Center

Al Lambert, former Associate Counsel to the President, Office of the Counsel to the President, The White House

Paul Lettow, former Senior Director for Strategic Planning, National Security Council, The White House

Clay Lowery, former Assistant Secretary of Treasury for International Affairs, U.S. Department of the Treasury

Jeanie Mamo, former Deputy Assistant to the President and Director of Media Affairs, Office of Communications, The White House

Roman Martinez, former Director for Iraq, National Security Council, The White House

Ashley Marquis, former Deputy Director, National Economic Council, The White House

Anita B. McBride, former Assistant to the President and Chief of Staff to the First Lady, The White House

Donald F. McGahn II, former Counsel to the President, The White House

Steve McMillin, former Deputy Director, Office of Management and Budget, The White House

Edward E. McNally, former United States Attorney for the Southern District of Illinois, U.S. Department of Justice

Dan Meyer, former Assistant to the President for Legislative Affairs, The White House

Harriet Miers, former Counsel to the President, The White House

William E. Moschella, former Assistant Attorney General, Office of Legislative Affairs, U.S. Department of Justice

Michael B. Mukasey, former Attorney General of the United States

Stephen A. Myrow, former Chief of Staff to the Deputy Secretary of the Treasury, U.S. Department of the Treasury

Graham O'Donoghue, former Associate Counsel to the President, Office of the Counsel to the President, The White House

John C. O'Quinn, former Deputy Assistant Attorney General, Civil Division, U.S. Department of Justice

Matthew G. Olsen, former Director, National Counterterrorism Center

Elizabeth Papez, former Deputy Assistant Attorney General, Office of Legal Counsel, U.S. Department of Justice

Neil Patel, former Assistant to the Vice President for Economic and Domestic Policy, The White House

Jake Phillips, former Senior Counsel to the Deputy Attorney General, U.S. Department of Justice

Bobby J. Pittman Jr., former Deputy Assistant Secretary for International Finance and Debt, Office of International Affairs, U.S. Department of the Treasury

Michael S. Piwowar, former Commissioner and Acting Chairman, U.S. Securities and Exchange Commission

Benjamin A. Powell, former General Counsel, Office of the Director of National Intelligence

John I. Pray, Jr., former Executive Secretary, National Security Council, The White House

Daniel M. Price, former Assistant to the President and Deputy National Security Advisor for International Economic Affairs, The White House

Kristi Remington, former Deputy Assistant Attorney General, Office of Legal Policy, U.S. Department of Justice

Karl Rove, former Senior Advisor and Deputy Chief of Staff to the President, The White House

Kyle Sampson, former Chief of Staff, Office of the Attorney General, U.S. Department of Justice

Schuyler J. Schouten, former Special Assistant to the President, Senior Associate Counsel to the President, and Deputy Legal Advisor, National Security Council, The White House

Rebecca Seidel, former Deputy Assistant Attorney General, Office of Legislative Affairs, U.S. Department of Justice

Kristen Silverberg, former United States Ambassador to the European Union, U.S. Department of State

Luke Sobota, former Attorney-Adviser, Office of Legal Counsel, U.S. Department of Justice

Charles D. Stimson, former Deputy Assistant Secretary of Defense for Detainee Affairs, U.S. Department of Defense

Jordan Stoick, former Senior Advisor, Office of Legislative Affairs, U.S. Department of the Treasury

Chad C. Sweet, former Chief of Staff, Office of the Secretary of Homeland Security, U.S. Department of Homeland Security

Jeffrey A. Taylor, former United States Attorney for the District of Columbia, U.S. Department of Justice

Ronald J. Tenpas, former Assistant Attorney General, Environment and Natural Resources Division, U.S. Department of Justice

Marc A. Thiessen, former Assistant to the President for Speechwriting, The White House

Tevi Troy, Ph.D., former Deputy Secretary, U.S. Department of Health and Human Services

Ted Ullyot, former Chief of Staff to the Attorney General, Office of the Attorney General, U.S. Department of Justice

Kenneth L. Wainstein, former Assistant to the President for Homeland Security and Counterterrorism, The White House

Matthew C. Waxman, former Deputy Assistant Secretary of Defense for Detainee Affairs, U.S. Department of Defense

Jared Weinstein, former Special Assistant to the President and Personal Aide, The White House

Clete Willems, former Deputy Assistant to the President for International Economics and Deputy Director, National Economic Council, The White House

Alden Wood, former Deputy Chief of Staff, Office of the Secretary of the Treasury, U.S. Department of the Treasury

Julie Myers Wood, former Assistant Secretary for Immigration and Customs Enforcement, U.S. Department of Homeland Security

Raul F. Yanes, former Staff Secretary to the President, The White House

Juan C. Zarate, former Deputy National Security Advisor and Deputy Assistant to the President for Counterterrorism, National Security Council, The White House

PREPARED STATEMENT OF TRAVIS GREAVES, NOMINATED TO BE A JUDGE OF THE UNITED STATES TAX COURT

Thank you, Mr. Chairman, Ranking Member Wyden, and distinguished members of the committee.

I am honored and grateful to have been nominated by President Trump to be a judge on the U.S. Tax Court, the place where I began my career as a tax attorney. I learned early on the important role the Tax Court plays in our society, serving as the primary judicial forum for taxpayers challenging IRS determinations before paying the disputed tax. Most taxpayers appearing in the Tax Court are pro se and have little if any legal background. During my time at the court, I saw firsthand how daunting appearing in court can be for pro se litigants. If I am confirmed, I will make every effort to balance the need to help these taxpayers understand the Court's rules and procedures with my duty to remain independent and impartial.

Over my career I have worked on almost every side of a tax controversy matter, and I have had the good fortune to learn from many great practitioners. As an attorney adviser at the Tax Court, judges, including some here today, taught me the importance of keeping an open mind in each case and of adjudicating cases in a fair and timely manner. If confirmed, these are lessons that I will take with me to the bench. In private practice, I worked at firms ranging in size from 1,500 attorneys to 2 attorneys, and I represented all types of clients. No matter the firm or client, I learned something every day from my colleagues. I'd like to thank the attorneys at Reed Smith, Caplin and Drysdale, and my former law partner Josh Wu for constantly challenging me to be a better attorney.

I now serve in government as Deputy Assistant Attorney General in the Department of Justice's Tax Division. In this role, I work with dedicated career lawyers and professionals in our Appellate Section and Office of Review, as well as with division and departmental leadership. It has been a true honor and privilege to work with such an amazing group of public servants.

On a personal note, the Lord has blessed me with amazing family and friends, to whom I owe a great deal of gratitude. First, I'd like to thank my wife Holly and our children; you have taught me patience, humility and compassion. My mother, Jan Fisher Greaves, is the best judge I have ever known. She was the first female judge in Ector County, TX and the only judge when it came to resolving disputes between me and my siblings. To my father Randy, my sisters Amber and Shelby, brother Jackson, brother-in-law Clayton, and all my extended family, thank you for all your support over the years.

I look forward to answering the committee's questions.

SENATE FINANCE COMMITTEE

STATEMENT OF INFORMATION REQUESTED OF NOMINEE

A. BIOGRAPHICAL INFORMATION

1. Name (include any former names used): Travis Austin Greaves, Travis Austin Marshall.
2. Position to which nominated: Judge, United States Tax Court.
3. Date of nomination: August 28, 2018.
4. Address (list current residence, office, and mailing addresses):
5. Date and place of birth: May 13, 1983, Odessa, Texas.
6. Marital status (include maiden name of wife or husband's name):
7. Name and ages of children:
8. Education (list all secondary and higher education institutions, dates attended, degree received, and date degree granted):

   1997–2001, Maryville High School; high school diploma, May 2001.

2001–2005, University of Tennessee; B.A. in communication studies, May 2005.

2005–2008, South Texas College of Law; J.D., May 2008.

2008–2009, Georgetown University Law Center; LL.M. in taxation, May 2009.

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

Fourteenth Court of Appeals for the State of Texas, Houston, Texas; judicial intern (2007).

Ebanks, Smith, and Carlson, Houston, Texas; summer associate (Summer 2007).

Fletcher and Springer, Dallas, Texas; summer associate (Summer 2007).

Tax Foundation, Washington, DC; law clerk (2008–2009).

United States Court of Appeals for the Third Circuit, Wilmington, Delaware; judicial intern (Summer 2009).

United States Tax Court, Washington, DC; attorney advisor (2009–2011).

Georgetown University Law Center, Washington, DC; adjunct professor (2010–2015).

Reed Smith, Falls Church, Virginia; attorney (2011–2013).

Office of the Louisiana Governor, Baton Rouge, Louisiana; tax policy advisor (2013).

Caplin and Drysdale, Washington, DC; attorney (2013–2016).

Greaves Wu, Washington, DC; attorney (2017).

Department of Justice, Washington, DC; Deputy Assistant Attorney General (2017–present).

10. Government experience (list any current and former advisory, consultative, honorary, or other part-time service or positions with Federal, State, or local governments held since college, including dates, other than those listed above):

Office of Congressman John Duncan, Washington, DC; intern (2002).

Secretary of the United States Senate, Washington, DC; intern (2003).

11. Business relationships (list all current and former positions held as an officer, director, trustee, partner (*e.g.,* limited partner, non-voting, etc.), proprietor, agent, representative, or consultant of any corporation, company, firm, partnership, other business enterprise, or educational or other institution):

Greaves Wu LLP, Washington, DC; partner (2017).

GH Partnership, Washington, DC; limited partner (2016–2018).

Rodeo Kings, LLC, Washington, DC; sole proprietor (2015–2017).

Mojo Music Management, Knoxville, TN; sole proprietor (2004–2005).

12. Memberships (list all current and former memberships, as well as any current and former offices held in professional, fraternal, scholarly, civic, business, charitable, and other organizations dating back to college, including dates for these memberships and offices):

American Bar Association Tax Section, vice chair, membership outreach and diversity (2014–2017); Young Lawyers Division liaison (2012–2016); member (2010–2018).

District of Columbia Bar, member (2010–present).

Federal Bar Association Tax Section, steering committee (2015–2017); vice chair, Annual Tax Conference (2017); member (2015–present).

Federalist Society, member (2014–present).

J. Edgar Murdock Inns of Court, member (2011–present).

National Association of Enrolled Agents, member (2016–2017).

Phi Gamma Delta, liaison to national office (2003–2004); member (2001–present).

Republican National Lawyers Association, member (2017}.

South Texas College of Law National Security Law Society, president (2007–2006).

University of Tennessee. Alumni Association, Washington, DC chapter, treasurer (2012–2013); member (2008–present).

State Bar of Texas, member (2008–present).

University of Tennessee Student Government Association, member (2004–2005).

University of Tennessee College of Communications Honor Society, treasurer (2004–2005); member (2004–2005).

Virginia State Bar, member (2012–present).

Young Life, leader (2002–2004).

13. Political affiliations and activities:

a. List all public offices for which you have been a candidate dating back to the age of 18.

None.

b. List all memberships and offices held in and services rendered to all political parties or election committees, currently and during the last 10 years prior to the date of your nomination.

Volunteered to assist with phone bank and door-to-door campaigning for Jill Homan for RNC Committeewomen (2012).

Volunteered to assist with campaign phone bank for Romney for President (2012).

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

DC Republican Committee, $175, March 9, 2016.

Romney for President, $500, October 11, 2011.

14. Honors and awards (list all scholarships, fellowships, honorary degrees, honorary society memberships, military medals, and any other special recognitions for outstanding service or achievement received since the age of 18):

University of Tennessee: Phi Gamma Delta Lincoln Fund Scholarship (approx. 2004); Omicron Delta Kappa National Leadership Society (approx. 2004); Phi Sigma Theta National Honor Society (approx. 2004).

South Texas College of Law: Graduated *cum laude* (2008); dean's list (2007–2008); Phi Delta Phi Honor Society (2006–2008); Walker Memorial Mock Trial Competition Finalist (2006).

Georgetown University Law Center: Graduated with distinction (2009); dean's list (2009).

15. Published writings (list the titles, publishers, dates, and hyperlinks (as applicable) of all books, articles, reports, blog posts, or other published material you have written):

"IRS Establishes Small Business/Self-Employed Fast Track Settlement Program," Greaves and Wu LLP Blog, March 20, 2017, *http://www.jwlawdc.com/fast-track-settlement-program/*.

"GOP Releases Proposal to Repeal Portions of Affordable Care Act," Greaves and Wu LLP Blog, March 6, 2017, *http://www.jwlawdc.com/gop-proposal-repeal-affordable-care-act/*.

"'Border Adjustment Tax' Explained," Greaves and Wu LLP Blog, February 14, 2011, *http://www.jwlawdc.com/border-adjustment-tax/*.

"OMB Memo Clarifies Trump Administration's Executive Order on Reducing Regulations," Greaves and WU LLP Blog, February 9, 2017, *http://www.jwlawdc.com/ombtrumpexecutiveorder/*.

"As the IRS Prepares to Fight Identity Theft in Filing Season Some Refunds May Be Delayed," Greaves Wu LLP Blog, February 3, 2017, *http://www.jwlawdc.com/irsidentitytheft/*.

"Swiss Bank Allegedly Violated DOJ Non-Prosecution Agreement; Potential Stiff Penalties," Greaves and Wu LLP Blog, February 1, 2017, *http://www.jwlawdc.com/swiss-bank-allegedly-violated-doj-non-prosecution-agreement/*.

"IRS Releases Partnership Audit Regs," Greaves and Wu LLP Blog, January 19, 2017, *http://www.jwlawdc.com/proposedpartnershipregs/*.

"Tax Claims," Court of Federal Claims: Jurisdiction, Practice, and Procedure, *Bloomberg BNA,* December 2016.

"The IRS Is Coming: What Your Partnership Should Do Now to Prepare," National Society of Accountants, *Main Street Practitioner* magazine, November 15, 2016, *http://mainstreetpractitioner.org/feature/the-irs-is-coming-how-to-prepare-for-the-new-irs-partnership-audit-rules/*.

"Tax Section and YLD Join Forces on Day After Tax Day Program," *American Bar Association Tax Quarterly,* July 16, 2015, *https://www.americanbar.org/content/dama/aba/publishing/aba_tax_times/15sum/news-greaves-spotlight-on-young-lawyers-day-after-tax-day-nq-summer-2015.authcheckdam.pdf.*

"Quietly Finding a Home in the Voluntary Disclosure World," with T. Joshua Wu, *Tax Notes,* Volume 148, Number 2, July 13, 2015.

"Jurisdictional Uncertainty in Trust Fund Recovery Penalty Cases," with Charles M. Ruchelman, *Tax Notes,* p. 963, December 16, 2013.

"The Rescission Decision," Tax Talk, Section of Taxation, Maryland State Bar Association, spring 2013.

"Is the Limited Scope Marketed Opinion Preparing for a Comeback?", Tax Talk, Section of Taxation, Maryland State Bar Association, fall 2012.

"Prostitutes, Pet Food, Body Oil, and Other Bizarre Claimed Tax Deductions," Tax Foundation Blogpost, September 15, 2009, *https://taxfoundation.org/prostitutes-pet-food-body-oil-other-bizarre-claimed-tax-deductions/*.

"Sotomayor Record Indicates Penchant for Protectionist State Tax Policies," *State Tax Notes,* July 20, 2009, *https://taxfoundation.org/press-release/sotomayor-record-indicates-penchant-protectionist-state-tax-policies/*.

"Justice Souter's Tax Opinions Show Steady Erosion of Respect for Commerce Clause," *Tax Notes,* June 6, 2009, *https://taxfoundation.org/justice-souters-tax-opinions-show-steady-erosion-respect-commerce-clause/*.

"From the House That Ruth Built to the House the IRS Built," *Tax Foundation Fiscal Facts,* No. 167, April 6, 2009, *https://taxfoundation.org/house-ruth-built-house-irs-built/*.

"States Use Gentle Hand in Taxing Timberland," *Tax Foundation Fiscal Facts,* No. 14, March 25, 2009, *https://taxfoundation.org/states-use-gentle-hand-taxing-timberland/*.

"Charging Taxpayers for Tax Collection Is a Tax: *Weisblat v. City of San Diego,*" *Tax Foundation Fiscal Facts,* No. 160, February 6, 2009, *https://taxfoundation.org/charging-taxpayers-tax-collection-tax-Weisblat-v-city-san-diego/*.

"Permitting Class Refund Actions Is Key to Effective Challenges of Illegal Taxes: *Ardon v. City of Los Angeles,*" *Tax Foundation Fiscal Facts,* No. 156, November 24, 2008, *https://taxfoundation.org/permitting-class-refund-actions-key-effective-challeges-illegal-taxes-ardon-v-city-los-angeles/*.

16. Speeches (list all formal speeches and presentations (*e.g.,* PowerPoint) you have delivered during the past 5 years which are on topics relevant to the position for which you have been nominated, including dates. Provide the committee with one digital copy of each formal speech and presentation).

I have not given any formal speeches; however, I have often participated in bar association panels or continuing education seminars. I do not use prepared remarks, but the discussions are often accompanied by outlines or slide presentations. Attached are digital copies of the slides or outlines, if any, that accompanied the discussions identified below, regardless of authorship.

Current Developments, American Bar Association Tax Section (May 11, 2018).

Fundamentals of Tax Litigation: Choice of forum, American Bar Association Tax Section (April 13, 2018).

Current Developments, American Bar Association Tax Section (September 15, 2017).

New Partnership Audit Rules, 83rd Annual API Federal Tax Forum (April 24, 2017); Petroleum Accountants Society of Houston (February 16, 2017); Virginia Society of CPAs (January 26, 2017); CPA Academy (multiple dates 2016–2011).

Ethics for Tax Lawyers; American Bar Association Tax Section (April 7, 2017).

Taxing the Sharing and Freelance Economies, CPA Academy (March 30, 2017).

Worker Classification Litigation in the U.S. Tax Court, Maryland State Bar Association Tax Controversy Study Group (March 16, 2017).

Tax Penalties, Federal Bar Association (March 3, 2017).

Meeting in the Middle: Offers in Compromise, American Society of Tax Problem Solvers (February 23, 2017); Georgia, Association of Accounting and Tax Professionals (November 11, 2016).

Death and Taxes: Estate Planning Fundamentals for Accountants, CPA Academy (multiples dates 2016–2017).

Challenging the Tax Man, Part I, CPA Academy (multiple dates 2016–2017).

Challenging the Tax Man, Part II, CPA Academy (multiple dates 2016–2017).

Nuts and Bolts of a Non-Profit Audit, Virginia Society of CPAs (January 31, 2017).

From Bad to Worse: When Audit Goes Criminal, National Association of Enrolled Agents (January 27, 2017); Independent Association of Accountants of New York (September 14, 2016); Pennsylvania Society of Tax and Accounting Professionals (July 29, 2016); CPA Academy (July 6, 2016); San Antonio CPA Society (June 8, 2016); Austin CPA Society (June 7, 2016); CPA Academy (multiple dates 2016–2017).

Nowhere to Hide: Offshore Tax Filing Requirements, CPA Academy (January 24, 2017).

Insure Yourself: How the New Captive Insurance Rules Impact Your Clients, CPA Academy (January 13, 2017).

U.S. Tax Court 101, Clear Law Institute (December 15, 2016); American Bar Association Tax Section (April 16, 2015).

Challenging IRS Property Valuations, North Carolina Association of CPAs (December 8, 2016).

Distressed Taxpayers; From Voluntary Disclosure to Bankruptcy, North Carolina Association of CPAs (December 8, 2016).

Wading Through Murky Waters: How to Successfully Represent Your Client in IRS Collection Matters, Mississippi Society of CPAs (December 1, 2016); American Society of Tax Problem Solvers (November 17, 2016).

Business Tax Planning Fundamentals for CPAs, Clear Law Institute (November 30, 2016).

Sensitive Business Audits, Online Compliance Panel (November 22, 2016); Compliance Online (October 22, 2016).

Tax Penalties and Tax Procedures, North Carolina Association of CPAs (November 16, 2016); Georgia Association of Accounting and Tax Professionals (November 11, 2016); California Society of CPAs (November 8, 2016).

Challenges at the IRS, North Carolina Association of CPAs (November 16, 2016).

Missed a Tax Election, Now What?, North Carolina Association of CPAs (November 14, 2016).

Nuts and Bolts of an IRS Audit, Georgia Association of Accounting and Tax Professionals (November 11, 2016); Massachusetts Society of Enrolled Agents (September 22, 2016).

Offshore Enforcement, California Society of CPAs (November 8, 2016).

IRS Sensitive Audits and Criminal Enforcement, California Society of CPAs (November 8, 2016).

International Tax Transparency, California Society of CPAs (November 8, 2016); San Francisco Bank Attorneys Association (November 7, 2016).

Ethical Issues With Respect to Tax Opinions, Clear Law Institute (October 13, 2016); CPA Academy (multiple dates 2016–2017).

Employment Taxes and Criminal Prosecutions, American Bar Association Tax Section (September 30, 2016).

International Tax Issues Affecting Athletes and Entertainers, American Bar Association Tax Section (September 30, 2016).

Understanding Stages and Strategies in a Criminal Tax Case, American Academy of Attorney-CPAs (August 3, 2016); Bloomberg BNA Webinar (July 27, 2016); AICPA Webinar (July 19, 2016).

Federal Tax Updates: How Tax Changes in DC Affect Your Clients, San Antonio CPA Society (August 12, 2016): Austin CPA Society (August 11, 2016); Dallas CPA Society (August 10, 2016); CPA Academy (multiple dates 2016–2017).

Business Tax Update and Recent Developments, Grand Prairie Chamber of Commerce (August 8, 2016).

Current Developments in International Tax, American Bar Association Tax Section (February 17, 2016). No slides were used for this presentation.

When Disaster Strikes: Tax Implications and Relief, Lorman Live Webinar (July 15, 2015).

Up in Smoke: The Ethical and Tax Implications of the Legalization of Marijuana, American Bar Association Young Lawyers Division (May 15, 2015).

Hot Topics in International Tax, American Bar Association Tax Section (May 8, 2015).

Reducing the Client Who Failed to Plan or File the Required Forms, 27th Annual Estate Planning and Real Property Spring Symposia (May 1, 2015).

The Tough Compliance Issues Associated With Taxing Services, 2015 ABA/IPT Advanced Tax Seminar (March 17, 2015).

Current Developments in International Tax Enforcement, Federal Bar Association Tax Section (February 24, 2014). No slides were used for this presentation.

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

My deep experience in tax controversy, including working with and observing the U.S. Tax Court in both government and private practice, make me qualified to serve on the bench. In my roles as Deputy Assistant Attorney General at the Department of Justice, Attorney Advisor at the U.S. Tax Court, and private practitioner, I have been involved in over 50 cases before the U.S. Tax Court, Federal district courts, and courts of appeal. As Deputy Assistant Attorney General, I supervise the largest single section in the Tax Division and oversee all Federal tax appeals, including those from the U.S. Tax Court. This position has taught me how to manage both numerous cases of varying complexity as well as competing views of interested parties, a skill that I believe is necessary for any judge. In my role as Attorney Advisor at the U.S. Tax Court, I was involved in all daily office matters, observed trials, and drafted opinions. I learned firsthand the intricacies of the U.S. Tax Court from pre-trial discovery to briefing, as well as the important role that the Court plays in providing taxpayers a prepayment forum for challenging tax disputes.

I also spent many years in private practice, where I advised clients involved in civil and criminal tax controversies. I gained valuable experience on IRS administrative matters and represented clients in litigation in different Federal courts. My clients consisted of individuals and businesses from across the country and from all types of backgrounds. No matter the client or issue, I learned how important it is for government agencies and courts to provide taxpayers with fair and impartial decisions expeditiously. If confirmed, these are lessons that I will take with me to the bench.

I also lecture on significant and often-litigated tax issues. I spent several years as an adjunct professor at Georgetown University Law Center, where my courses focused on tax penalties and tax opinions. In addition, I speak to tax professional organizations across the country on substantive and procedural tax

issues. I have also been active in the tax bar, holding leadership positions with both the American Bar Association Tax Section and Federal Bar Association Tax Section. Through these activities and engagements, I have gained a greater understanding for the concerns and challenges faced by taxpayers and their return preparers as they seek to comply with tax laws.

In sum, these experiences have taught me the skills and instilled in me the temperament necessary to serve as a U.S. Tax Court judge, if confirmed.

B. FUTURE EMPLOYMENT RELATIONSHIPS

1. Will you sever all connections (including participation in future benefit arrangements) with your present employers, business firms, associations, or organizations, if you are confirmed by the Senate? If not, provide details.

   Yes; however, I anticipate holding passive investments and maintaining an active membership in bar and legal associations, and I will ensure that these relationships are permissible under the rules of the U.S. Court, the Code of Conduct for United States Judges, and 28 U.S.C. sec. 455.

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

   No.

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

   No.

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

   Yes.

C. POTENTIAL CONFLICTS OF INTEREST

1. Indicate any current and former investments, obligations, liabilities, or other personal relationships, including spousal or family employment, which could involve potential conflicts of interest in the position to which you have been nominated.

   None; however; I have represented clients in tax matters that could potentially be brought to the U.S. Tax Court. If this were to occur, I would take whatever steps were necessary or appropriate under the rules of the U.S. Tax Court, the Code of Conduct for United States Judges, or 28 U.S.C. sec. 455, to resolve the conflict, including recusal.

2. Describe any business relationship, dealing, or financial transaction which you have had during the last 10 years (prior to the date of your nomination), 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. In addition, please see the response to Question C.1.

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

   As the Tax and Economic Policy Advisor to Louisiana Governor Bobby Jindal, I advocated for bills in the Louisiana State legislature that the Governor supported.

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

   I will take whatever steps are necessary or appropriate under the rules of the U.S. Tax Court, the Code of Conduct for United States Judges, or 28 U.S.C. sec. 455, to resolve any potential conflict of interest, including recusal.

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

See Ethics Disclosure (Financial Disclosure Report).

D. LEGAL AND OTHER MATTERS

1. Have you ever been the subject of a complaint or been investigated, disciplined, or otherwise cited for a breach of ethics for unprofessional conduct before any court, administrative agency (*e.g.,* an Inspector General's office), professional association, disciplinary committee, or other ethics enforcement entity at any time? Have you ever been interviewed regarding your own conduct as part of any such inquiry or investigation? If so, provide details, regardless of the outcome.

No.

2. Have you ever been investigated, arrested, charged, or held by any Federal, State, or other law enforcement authority for a violation of any Federal, State, county, or municipal law, regulation, or ordinance, other than a minor traffic offense? Have you ever been interviewed regarding your own conduct as part of any such inquiry or investigation? If so, provide details.

No.

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

No.

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

No.

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

None.

E. TESTIFYING BEFORE CONGRESS

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

Yes.

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

Yes.

QUESTIONS SUBMITTED FOR THE RECORD TO TRAVIS GREAVES

QUESTIONS SUBMITTED BY HON. MARIA CANTWELL

PRO SE PLAINTIFFS

Question. If confirmed as a judge to the United States Tax Court, you will be responsible for resolving difficult tax controversies brought before you—in large and small cases. Judges for the U.S. Tax Court travel around the country and hear cases in 75 cities.

Oftentimes, volunteer tax practitioners provide assistance to unrepresented taxpayers as they navigate the process of petitioning the IRS. These cases are often brought by small businesses, innocent spouses, or low-income taxpayers.

As a judge for the U.S. Tax Court, what role would play to ensure that cases for pro se plaintiffs are being adjudicated in a fair and timely manner?

Answer. I believe that all parties, taxpayers and the government, should be treated with courtesy and respect, and that judges should act promptly in addressing issues brought before the Court. From my experience working at the U.S. Tax Court

and from my time representing clients pro bono in private practice, I know that many litigants and witnesses lack any experience litigating cases, much less tax litigation experience. If confirmed, I would ensure that such litigants are made aware the various resources at the website of the Tax Court and of pro bono services both pretrial and at calendar call, and I would also take the time to explain to them the general rules and procedures of the court, many of which are designed with pro se litigants in mind. I would also assure them that I intend to keep an open mind, attentive to each parties' arguments, and work diligently to apply the laws enacted by Congress to the facts established in the case.

NEW TAX LAW

Question. If confirmed as a judge to the United States Tax Court, you will be responsible for interpreting how our tax laws apply to a wide variety of plaintiffs—everything from multinational corporations with large legal teams to small businesses and individuals who appear before court without counsel.

As the Internal Revenue Service continues to review and publish new regulations implementing the 2017 tax bill, differences are emerging regarding the interpretation of these tax provisions.

Some of these issues may result in future litigation, and the Tax Court will be in a unique position to help settle interpretation of many issues arising from the 2017 tax bill.

As a judge for the U.S. Tax Court, what role would you give to legislative intent, conference report language, or statements from members as you interpret and apply the previously unlitigated tax law?

Answer. If confirmed as a U.S. Tax Court judge, I would look to the written statute and rely upon the traditional tools of statutory construction. Moreover, I would follow Supreme Court and circuit court precedent on the role agency guidance and legislative history should play in statutory interpretation.

QUESTION SUBMITTED BY HON. RON WYDEN

TAX COURT QUALIFICATIONS

Question. When the Finance Committee receives a nomination for the U.S. Tax Court, it typically receives a recommendation letter from the Tax Section of the American Bar Association—and with respect to your nomination, we did not receive such a letter.

Though not alarming, it does stand out as past nominees for the Tax Court have substantial amounts of both tax and litigation experience, including a letter from the ABA stating they are well-qualified for a 15-year term.

Could you please explain for the record why you believe your experience in tax law is sufficient for this nomination?

Answer. For more than a decade I have worked in the tax controversy space, including as an attorney adviser at the U.S. Tax Court, private practitioner, adjunct law professor at Georgetown University Law Center, and now as Deputy Assistant Attorney General overseeing all appeals from the U.S. Tax Court. Over this period of time I have been involved in more than 100 cases before the U.S. Tax Court, Federal district courts, courts of appeal, and U.S. Supreme Court. As Deputy Assistant Attorney General, a position previously held by three current U.S. Tax Court judges, I supervise the largest single section in the Tax Division. This position has taught me how to manage both numerous cases of varying complexity as well as competing views of interested parties, a skill that I believe is necessary for any judge. In my role as an attorney adviser at the U.S. Tax Court, I was involved in all daily office matters, observed trials, and drafted opinions. I learned first-hand the intricacies of the U.S. Tax Court from pre-trial discovery to briefing, as well as the important role that the Court plays in providing taxpayers a pre-payment forum for challenging tax disputes.

I also spent many years in private practice, where I advised clients involved in civil and criminal tax controversies. I gained valuable experience on IRS administrative matters and represented clients in litigation in different Federal courts. My clients consisted of individuals and businesses from across the country and from all types of backgrounds. No matter the client or issue, I learned how important it is for government agencies and courts to provide taxpayers with fair and impartial de-

cisions expeditiously. If confirmed, these are lessons that I will take with me to the bench.

I also lecture on significant and often-litigated tax issues. I served as an adjunct professor at Georgetown University Law Center, where my courses focused on tax penalties and tax opinions. In addition, I speak to tax professional organizations across the country on substantive and procedural tax issues. Through these activities and engagements, I have gained a greater understanding for the concerns and challenges faced by taxpayers and their return preparers as they seek to comply with tax laws. The sum of these experiences have taught me the skills and instilled in me the temperament necessary to serve as a U.S. Tax Court judge, if confirmed.

PREPARED STATEMENT OF HON. MITCH MCCONNELL,
A U.S. SENATOR FROM KENTUCKY

Chairman Grassley, Ranking Member Wyden, fellow Senators, thank you for allowing me to join you today. This is actually somewhat of a rare occasion for me: I'm introducing a nominee who isn't from the great Commonwealth of Kentucky. His loss.

Nevertheless, I could hardly be a bigger fan of Brian McGuire, the President's nominee for Deputy Under Secretary of the Treasury for Legislative Affairs, to be designated as Assistant Secretary for Legislative Affairs.

I first met Brian in 2007 when I was interviewing prospective speechwriters. A resume crossed my desk: a son of Albany, NY with a background in newspaper journalism.

Perhaps not "central casting" for the staff of a newly chosen Republican leader from Kentucky. But—as my distinguished colleagues either already know or are about to find out—you can't help but be impressed by Brian McGuire.

Brian served my office with excellence for 10 years. First he proved his skills and savvy as my speechwriter. He combined a sophisticated understanding of policy with a knack for making it understandable.

Then I asked him to take his talents to the Russell Building and serve as chief of staff in my personal office. He ran the whole operation, and he did a great job. He got along with everybody. He built coalitions. He got results for Kentuckians.

Now, I know you aren't focused on the years of service that Brian rendered to me and my constituents. You're focused on what kind of service he will render, to our Nation, at the Treasury Department.

Well, take it from me, this is not somebody who will let you down.

Brian commands a big-time intellect, a truckload of integrity, dedication, and a dogged work ethic.

At this point in his career, Brian brings the perspective of a seasoned public servant to his work. After my office, he worked in the private sector and now serves as Counselor to Secretary Mnuchin.

But all this experience has not brought even a hint of complacency. The intensity, the focus, and the drive to serve are there every single day.

As far as I've seen, there are only two things Brian takes more seriously than work: his faith and his lovely family.

I know Brian's proud to have his wife Ashley here today; their oldest daughter Stella; his parents, David and Veronica; and Brian's older sister Annemarie.

The post to which Brian has been nominated is a big job. Its being done well is vital not only for the smooth functioning of Treasury, but also for Congress's ability to fulfill our own responsibilities—to conduct oversight and advocate for our constituents.

Bridges need to be built. Channels of communication need to remain open. So this is a key position.

Secretary Mnuchin and the President must really like what they've seen from Brian since he joined the Department to tap him for this promotion. And I can't say I'm even a little surprised.

I'm confident the members of this committee will find Brian a highly capable nominee—and a helpful, reliable team player and an asset to everyone once he's on the job.

PREPARED STATEMENT OF BRIAN MCGUIRE, NOMINATED TO BE ASSISTANT SECRETARY FOR LEGISLATIVE AFFAIRS, DEPARTMENT OF THE TREASURY

Chairman Grassley, Ranking Member Wyden, distinguished members of the committee, I am honored to appear before you this morning and grateful to the President and to Treasury Secretary Mnuchin for recommending me for the position of Assistant Secretary for Legislative Affairs.

I am conscious as I sit here of the great responsibility and privilege that being nominated for this position represents. And I am humbled to stand in the company of those who have served in this role before me.

I am grateful to be joined this morning by my parents, David and Veronica McGuire, who made the trip from Albany, NY to be here. Without their generous support and example of service, I would not be sitting here today.

My father moved to Capitol Hill after graduating from college in 1958, but almost immediately returned home at the urging of his older brother to, quote, get a real job. He went on to spend nearly 4 decades as a public middle and high school principal in Albany, NY. I often reflect that I am living vicariously the life he dreamed of when he moved here 61 summers ago. My mother, meanwhile, spent nearly 3 decades working full-time as a secretary at Albany's only VA hospital. True partners, together they raised four children on a tight budget, making many sacrifices along the way for each of us. They will be married 55 years next month.

I am also grateful to be joined by my big sister Annemarie, who also made the trip from Albany; the oldest of my three children, Stella, who's playing hooky from music camp to get a civics lesson this morning; and by my wife Ashley, an author and native Coloradan, whose encouragement and many sacrifices have made it possible for me to consider a return to public service.

I would like to take a moment to thank the Senators and staff who have given of their time to meet with me in preparation for today's hearing, and to share with me their priorities and concerns. If I am fortunate enough to be confirmed, I pledge to continue the dialogue we have begun, and to be as available and responsive to members and staff from both parties in both chambers as I can possibly be.

As a former Senate staffer, I believe I am uniquely alert to the perspective, the demands, and the deadlines of Senators and their staffs, and I commit to you this morning that, if confirmed, my door, and my mind, will always be open. It is my sincere intention, if confirmed, to spend far more time listening than talking, and to be an accessible and dependable source of prompt and honest feedback.

In reflecting on the decade I spent working in both the Senate Republican leadership office and in the personal office of Leader McConnell, I can't help but acknowledge the debt I owe to him. I cherish the memory of my years in both offices and am grateful for the mentorship and the opportunities that Leader McConnell gave to this native New Yorker in the midst of so many other pressing responsibilities.

Treasury is a special place with a storied past and vital role in ensuring the growth and stability of an increasingly complex domestic economy; in reinforcing our Nation's central role in the international financial system; and, crucially, in developing and aggressively implementing complex policies and strategies to combat terrorist financing and financial crimes both here and around the globe.

I have long admired the work of the Department and the many remarkable career and non-career professionals who have carried out this complicated work and who have brought their creativity to bear on the various crises and challenges of our day. As a graduate student in Manhattan in 2001, I watched as Treasury grappled with the post-9/11 order; and as a Senate staffer in 2008, I watched from a slightly closer vantage point as Treasury wrestled with a terrible financial crisis that few saw coming.

If confirmed, I cannot promise to bring the same intellectual gifts as many of these heroic public servants. But I pledge to bring the same seriousness and sense of purpose to my job that so many others have brought to the Department before me. Thank you again for your consideration. I look forward to your questions.

SENATE FINANCE COMMITTEE

STATEMENT OF INFORMATION REQUESTED OF NOMINEE

A. BIOGRAPHICAL INFORMATION

1. Name: Brian Thomas McGuire.
2. Position to which nominated: Deputy Under Secretary, designated Assistant Secretary for Legislative Affairs.
3. Date of nomination: February 25, 2019.
4. Address (list current residence, office, and mailing addresses):
5. Date and place of birth: December 9, 1974, Albany, NY.
6. Marital status (include maiden name of wife or husband's name):
7. Names and ages of children:
8. Education (list all secondary and higher education institutions, dates attended, degree received, and date degree granted):

   Columbia University, April 2001–August 2002, masters in journalism received February 2006; University of Dallas; August 1996–March 1999, masters in philosophy received May 2000; St. John's College, Annapolis, August 1992–May 1996, bachelors in liberal arts received May 1996; Albany High School, August 1988–June 1992, diploma received June 1992.
9. Employment record (list all jobs held since college, including the title or description of job, name of employer, location of work, and dates of employment for each job):

   Counselor for Legislative Affairs, U.S. Treasury; Washington, DC, 2019. Advise Treasury Secretary on Legislative Affairs.

   Policy Director, Brownstein Hyatt Farber Schreck; Washington, DC, 2017–2019. Advised clients on legislative matters before Congress.

   Chief of Staff, U.S. Senator Mitch McConnell; Washington, DC, 2014–2017. Managed Senator McConnell's personal office; oversaw legislative and communications effort, as well as constituent service.

   Acting Staff Director, U.S. Senate Republican Communications Center; Washington, DC, 2014. Managed communications staff for Senate Republican leadership office.

   Consultant, National Republican Senatorial Committee (NRSC); Scottsdale, AZ, 2012. Helped oversee communications strategy for Jeff Flake for Senate campaign.

   Deputy Communications Director, Senator Mitch McConnell; Washington, DC, 2009–2014. Helped oversee communications for Senate Republican leadership office.

   Chief Speechwriter, Senator Mitch McConnell; Washington, DC, 2007–2014. Oversaw and drafted speeches, op-eds, and other written communications.

   Chief Speechwriter, Secretary of Housing and Urban Development; Washington, DC, 2006. Oversaw speechwriting for Secretary Alphonso Jackson.

   Reporter, *The New York Sun;* Albany, NY and Washington, DC, 2005–2006. Reported on New York State and Washington, DC politics and wrote a weekly opinion column.

   Business Reporter, *The Daily Gazette;* Schenectady, NY, 2002–2005. Reported on local and regional business.

   Temporary work, various employers; Albany, NY, 2002–2002, Performed manual labor at various local businesses on a temporary basis while looking for work as a reporter.

Office assistant, Scepter Publishers; Princeton, NJ, 2002–2002. Performed clerical work and data entry while in graduate school.

Staff reporter, *National Catholic Register;* Hamden, CT, 1999–2001. Reported on national stories of general interest to subscribers of this Catholic weekly.

Office assistant, Spence Publishing; Dallas, TX, 1998–1999. Assisted with clerical work and shipping fulfillment.

Waiter, Treaty of Paris Restaurant; Annapolis, MD, 1996–1996. Waited and bussed tables.

Sales, Long Fence and Home; Annapolis, MD, 1996–1996. Door-to-door salesman during summer after college graduation.

10. Government experience (list any current and former advisory, consultative, honorary, or other part-time service or positions with Federal, State, or local governments held since college, including dates, other than those listed above):

All positions listed above.

11. Business relationships (list all current and former positions held as an officer, director, trustee, partner (*e.g.,* limited partner, non-voting; etc.), proprietor, agent, representative, or consultant of any corporation, company, firm, partnership, other business enterprise, or educational or other institution):

All relationships listed above.

12. Memberships (list all current and former memberships, as well as any current and former offices held in professional, fraternal, scholarly, civic, business, charitable, and other organizations dating back to college, including dates for these memberships and offices):

Cleveland Park Club, member; 2018 present.

Kentucky Business Council, member; 2017–present.

116 Club, member; 2014–present.

Churchill Society, former member; 2015–2016.

New York State Society, former member; 2008–2009.

Knights of Columbus, former member; 1993–1996.

National Trust for Historic Preservation, former member; 1996–1997.

13. Political affiliations and activities:

a. List all public offices for which you have been a candidate dating back to the age of 18.

None.

b. List all memberships and offices held in and services rendered to all political parties or election committees, currently and during the last 10 years prior to the date of your nomination.

Consultant, National Republican Senatorial Committee, Washington, DC, 2012.

Speaker, National Republican Senatorial Committee. Spoke pro bono three times to campaign officials at the NRSC in the 2012–2014 and 2014–2015 election cycles.

Volunteer, McConnell for Senate campaign, 2014.

Blackburn for Senate Campaign, 2018.

Steering Committee member; Blackburn for Senate, 2016–2018.

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

Please find below all contributions attributed to the nominee in the FEC database as of May 16, 2019. The nominee did not keep his own records of his political contributions but believes this is a complete list of all political contributions of $50 or more that he made in the past 10 years.

Recipient	Amount	Date
BHFS PAC	$416.66	12/28/2018
BHFS PAC	$416.66	11/30/2018
BHFS PAC	$416.66	10/31/2018
NRSC	$1,250	10/5/2018
BHFS PAC	$416.66	9/28/2018
BHFS PAC	$416.66	8/31/2016
Marsha for Senate	$2,700	8/24/2018
Friends of John Barrasso	$250	8/1/2018
TENN PAC	$500	7/31/2018
BHFS PAC	$416.36	7/31/2018
NRSC	$1,250	7/10/2018
BHFS PAC	$416.66	6/29/2018
Braun for Senate	$1,000	6/26/2018
BHFS PAC	$416.66	5/31/2018
BHFS PAC	$416.66	4/30/2018
NRSC	$1,250	4/26/2018
Scott for Senate	$1,000	4/25/2018
BHFS PAC	$416.66	3/30/2018
BHFS PAC	$416.66	2/28/2018
NRSC	$1,250	1/31/2018
BHFS PAC	$416.66	1/31/2018
BHFS PAC	$416.06	12/29/2017
BHFS PAC	$416.66	11/30/2017
BHFS PAC	$416.66	10/31/2017
BHFS PAC	$416.66	9/29/2017
BHFS PAC	$416.66	8/31/2017
Scalise Leadership Fund	$250	8/2/2017
Brady for Congress	$1,000	3/26/2018
Friends of John Barrasso	$1,000	2/28/2018
Marsha for Senate	$2,700	12/29/2017
McConnell for Senate	$1,650	12/06/2017
Heller for Senate	$1,000	11/03/2017
Deb Fischer for Senate	$500	9/15/2017
McConnell tor Senate	$2,500	9/11/2017
Gillespie for Governor	$1,000	9/11/2017
BHFS PAC	$416.66	8/31/2017
Scalise for Congress	$250	7/24/2017
Strange for Senate	$1,250	7/24/2017
McConnell for Senate	$1,250	7/24/2017
Romney for President	$500	10/19/2012

14. Honors and awards (list all scholarships, fellowships, honorary degrees, honorary society memberships, military medals, and any other special recognitions for outstanding service or achievement received since the age of 18):

Honorary Kentucky Colonel.

Honorary Duke of Hazard.

National Review Institute, fellow.

Heritage Foundation congressional fellow.

Catholic Press Association, second place, best feature article.

Elected class day speaker, St. John's College, Annapolis.

University of Dallas; Institute for Philosophical Studies, tuition scholarship.

15. Published writings (list the titles, publishers, dates and hyperlinks (as applicable) of all books, articles, reports, blog posts, or other published materials you have written):

In my previous career as a reporter, my reporting appeared in three publications: *The New York Sun, The Daily Gazette* in Schenectady, NY, and the *National Catholic Register* in Hamden, CT.

At the *Sun,* my reporting primarily covered State and, to some extent, national politics. At least some of this is available at following link, *https://www.nysun.com/authors/Brian+McGuire.*

At the *Gazette,* my reporting covered local and regional business issues almost exclusively. The *Gazette* does not appear to maintain an archive for that time period.

At the *Register,* my reporting covered a variety of topics of general interest to the paper's subscribers. I do not have those articles, but at least some of my articles appear on the publication's website. I also wrote two articles on a freelance basis after leaving the *Register, http://www.ncregister.com.*

At the *Sun,* I also wrote opinion columns, all of which are listed below. These do not appear to be available on the publication's website.

Title	Date
An Exit Strategy for Pataki	January 24, 2005
Embarrassment for the MTA	February 7, 2005
Lifting the Cap	February 14, 2005
The Legality of Empire Zones	February 22, 2005
The National Conversation and Local Labor	February 28, 2005
New York's Stem Cell Misstep	March 7, 2005
Morningside and its Money	March 14, 2005
Losing Choices	March 14, 2005
Charging Away in Albany	March 21, 2005
New Tax Code Will Boost State Business	March 28, 2005
Why the State Budget Was On Time	April 7, 2005
Union Made Stadium	April 11, 2005
Pataki Meets the Budget Gap	April 18, 2005
Advancing a Spitzer-proof Budget	April 25, 2005
How to Pick a Governor	May 2, 2005
Trial Lawyers Come to Albany	May 9, 2005
GOP Likes Lazio for State A.G.	May 16, 2005
Bruno, Silver Call Time-Out on Stadium	March 3, 2005
Bloomberg for Governor	June 6, 2005
A Dickensian View of Mr. Spitzer	June 13, 2005
Another Albany Power Broker	June 20, 2005
Hevesi's Heft in Albany	June 27, 2005
Schumer on the Sidelines	July 7, 2005
Hamilton's Lessons for Pataki	July 11, 2005
Edward Cox Takes on Mrs. Clinton	July 25, 2005
Pataki's Party on the Ropes	August 1, 2005
Spitzer's Dean Streak	August 8, 2005
Weld's Flash	August 22, 2005
Clinton's Campaign of Silence	August 15, 2005
Democrats Line Up Behind Dean	September 26, 2005
Bush's Next High Court Nominee	September 19, 2005
Democrats' Supreme Adviser	October 10, 2005
Governor Bredesen's Advantage	October 3, 2005
Ready, Aim, Miers	October 18, 2005
Redacting Barrett	January 16, 2005

One of my graduate school classes at Columbia University hosted a blog titled "Finding Faith" about a class trip to the former Soviet Union for which I wrote two online feature stories. These do not appear to be available online.

Title	Date
Notes From Underground	March 22, 2002
Russia's Past Present	April 26, 2002

As a student at Columbia and shortly after, I wrote four articles for *The Wall Street Journal.* These do not appear to be available on the publications website.

Title	Date
A Church in the Limelight	March 22, 2002
Don't Call it a Religion!	May 17, 2002
My Summer School	July 19, 2002
Play, Win, Give	January 10, 2003

My previous employer, Brownstein Hyatt Farber Schreck, self-published and distributed a piece of political analysis I co-authored with a colleague on the 2018 midterm elections titled "The Day After the Midterms" and dated November 7, 2018, *https://www.bhfs.com/insights/alerts-articles/2018/the-day-after-the-midterms-post---election-analysis-outlook*.

I have published one opinion piece since 2005 which is titled "Humility, Good of the GOP, Underpin McConnell Milestone" and appeared in *RealClearPolitics* on June 12, 2018, *https://www.realclearpolitics.com/articles/2018/06/12/humility_good_of_the_gop_underpin_mcconnell_milestone_137256.html.*

16. Speeches (list all formal speeches and presentations (*e.g.,* PowerPoint) you have delivered during the past 5 years which are on topics relevant to the position for which you have been nominated, including dates. Provide the committee with one digital copy of each formal speech and presentation):

Since my departure from the U.S. Senate in May 2017, I have given no formal speeches.

I spoke to the Republican Women's Federal Forum in November 2018. I do not have a copy of my remarks.

I have made four political presentations to various client groups, per below. I do not have the PowerPoint slides referenced below, all of which were political in nature.

Presentation on midterm election for members of the U.S. Travel Association; Washington, DC, November 2018.

Presentation on midterm election for clients, with Drew Littman; Las Vegas, NV and Los Angeles California; August 16–18, 2018.

Presentation on midterm election with Elizabeth Gore for Denver Water Conference; Denver, CO; Fall 2017.

Presentation on Political State-of-Play with Drew Littman; Denver; CO; August 17, 2017.

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

I believe my decade of work in the U.S. Senate Republican leadership office, the Senate Minority Leader's "personal" office has prepared me to serve as Assistant Secretary for Legislative Affairs. As a chief of staff, I worked diligently to understand and prioritize the immediate and long-term concerns of constituents and helped our legislative team to do the same. Identifying and seizing opportunities to advance legislative or regulatory solutions to some of these concerns was the highest priority for my office and something we prided ourselves on doing well. Whether it was working with U.S. embassies overseas to help unite parents with their adoptive children in foreign countries; helping retired mine workers secure medical benefits they had worked hard for and deserved; or helping small and large businesses in Kentucky secure more favorable tax treatment that enabled them to invest in the State and its workers, my role was to be open to the concerns and criticisms of our constituents, exercise judgement in evaluating and prioritizing legislative solutions, and working with all parties on both sides of the aisle in the House and Senate to drive legislative outcomes that were achievable. I view the position to which I have been nominated similarly in the sense that it has important internal and external facing components, both aimed at achieving favorable results for taxpayers and the government those taxpayers have elected to serve them.

The Secretary of the Treasury has a complex and vital role to play in ensuring that the needs and concerns of the various agencies he oversees as well as the taxpayers he serves are heard and understood on Capitol Hill. He also has a

vital role to play in ensuring the safety and stability of our complex domestic and international financial and banking system, and a key responsibility for helping ensure our Nation's national security by identifying and acting on illicit terrorist financing networks. I would view it as my solemn duty to ensure that lines of communication in all these areas are open, fluid, and effective in advancing sound policy through the relevant congressional committees, leadership offices, and among interested rank and file members on both sides of the aisle in both houses of Congress. Another high priority is ensuring that the Treasury Secretary has all the best information and input from relevant committee members in both parties from both chambers as well. Playing the role of an intermediary and advisor whose daily goal is to ensure smooth and productive relations between the Hill and Treasury is a responsibility my current and previous jobs have prepared me for very well, and one I would be honored and privileged to carry out.

B. FUTURE EMPLOYMENT RELATIONSHIPS

1. Will you sever all connections (including participation in future benefit arrangements) with your present employers, business firm, associations, or organizations if you are confirmed by the Senate? If not, provide details.

   I am currently employed at the Department of the Treasury. Note that consistent with government ethics rules, I continue to maintain a 401(k) from one former private employer, Brownstein Hyatt Farber Schreck, as disclosed on Form 278, but do not accrue any benefits under this plan following my resignation from the firm.

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

   No.

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

   No.

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

   My family situation will dictate how long I am able to serve in this role.

C. POTENTIAL CONFLICTS OF INTEREST

1. Indicate any current and former investments, obligations, liabilities, or other personal relationships, including spousal or family employment, which could involve potential conflicts of interest in the position to which you have been nominated.

   Any potential conflicts of interest have been identified and resolved in accordance with the terms and conditions of my ethics agreement with the Department of the Treasury, which is documented by a letter to Brian Sonfield, Designated Ethics Official and Assistant General Counsel for General Law, Ethics, and Regulation. Should any potential conflict arise in the future, I will seek guidance from a Treasury ethics official.

2. Describe any business relationship, dealing, or financial transaction which you have had during the last 10 years (prior to the date of your nomination), 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.

   Any potential conflicts of interest have been identified and resolved in accordance with the terms and conditions of my ethics agreement with the Department of the Treasury, which is documented by a letter to Brian Sonfield, Designated Ethics Official and Assistant General Counsel for General Law, Ethics, and Regulation. Should any potential conflict arise in the future, I will seek guidance from a Treasury ethics official.

3. Describe any activity during the past 10 years (prior to the date of your nomination) in which you have engaged for the purpose of directly or indirectly influencing the passage, defeat, or modification of any legislation or affecting the ad-

ministration and execution of law or public policy. Activities performed as an employee of the Federal Government need not be listed.

I represented Abbvie Pharmaceuticals before the Department of Homeland Security and the Executive Office of the President on issues related to pharmaceutical manufacturing on the island of Puerto Rico.

I represented the Alvin Ailey American Dance Theater Foundation on a pro bono basis before the U.S. Department of Education in its efforts to maintain accreditation for a proprietary degree-granting course of studies at Fordham University.

I represented Amgen Pharmaceuticals before the U.S. Senate in relation to the 340B Drug Discount Program and drug pricing more generally.

I represented Assicurazioni Generali before the Senate in opposition to the Holocaust Insurance Accountability Act (S. 258).

I represented Athene Holding before the Senate, Treasury, and IRS in support of the BEAT provision of the Tax Cuts and Jobs Act (H.R. 1).

I represented Blue Cross Blue Shield before the Executive Office of the President in relation to Cost Sharing Reduction (CSR).

I represented the Consumer Healthcare Products Association before the House in support of the DXM Abuse Prevention Act of 2017 (H.R. 1271).

I represented Early Learning Ventures before the Executive Office of the President in support of greater support for early childhood education through the tax code.

I represented Edison International before the Department of Transportation and the Executive Office of the President in relation to an Environmental Protection Agency CAFE waiver for the State of California.

I represented FedEx Corporation before the House, Senate, Executive Office of the President, Treasury, Department of Transportation, and Executive Office of the Vice President in support of existing Open Skies agreements; the House, Senate, and Department of Transportation in support of a reauthorization of the Federal Aviation Administration reauthorization bill; and the Department of Transportation in support of Federal approval of Twin 33′ trailers.

I represented Freeport LNG before the Federal Energy Regulatory Commission in support of permitting for the final train of their natural gas liquefaction facility in Brazos, TX.

I represented Jackson Family Wines before the Senate in support of revising the H–2A visa program to cover workers on horse farms (S. 1578), and in support of H.R. 5971 which would set aside acreage in Sonoma, California for the Lytton Tribe of Native Americans.

I represented The Jockey Club before the House and Senate in support of the Horse racing Integrity Act (H.R. 2651).

I represented The Northeast Maglev before the Senate, Commerce Department, and the U.S. Department of Transportation in support of its effort to secure Federal funding for a high-speed train.

I represented Ligado Networks before the Department of Transportation to support Ligado's application for spectrum approval.

I represented Liggett/Vector brands before the Senate in support of modifications to the Cole-Bishop Amendment to H.R. 3268, the Agriculture and Rural Development Appropriations Bill.

I represented Lightstone before the U.S. Department of Transportation in support of a BUILD grant application for an infrastructure project related to a residential development in Coachella, California (La Entrada).

I represented Merrill Law on behalf of Soaren Management before the U.S. House of Representatives in its efforts to establish/maintain a call center on tribal land.

I represented McDonalds before the U.S. Senate in relation to National Labor Relations Board decisions related to franchisee model.

I represented the National Cable and Telecommunication Association in opposition to a Congressional Review Act resolution of disapproval related to "Net

Neutrality" and in support of broadband language included in the Senate version of the Farm Bill (H.R. 2).

I represented the National Collegiate Athletic Association before the U.S. Senate in relation to its concerns about the impact of sports wagering on collegiate athletics.

I represented the Patients Rights Action Fund in support of a resolution, H. Con. Res. 80, expressing the sense of the Congress that assisted suicide puts vulnerable citizens at risk.

I represented RELX Inc. in support of a delay in the public release of its scientific publications and in support of its effort to introduction of the Federal Aviation Administration to its aviation research offerings.

I represented SafeRx before the Executive Office of the President in its efforts to promote an innovative, lockable storage container for prescription drugs.

I represented Synack, a Palo-Alto, California-based cybersecurity firm, before several Federal agencies, including the Department of Treasury, with the goal of helping Synack obtain cybersecurity work, and in support of modifications to S. 1761, the Intelligence Authorization Act of 2018, that would limit the use of "bug bounty" programs to firms that vet and monitor ethical hackers used to test U.S. systems.

I represented the U.S. Travel Association before the House and Senate and Office of Management and Budget in support of reauthorizing Brand USA.

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

Any potential conflicts of interest have been identified and resolved in accordance with the terms and conditions of my ethics agreement with the Department of the Treasury, which is documented by a letter to Brian Sonfield, Designated Ethics Official and Assistant General Counsel for General Law, Ethics, and Regulation. Should any potential conflict arise in the future, I will seek guidance from a Treasury ethics official.

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

D. LEGAL AND OTHER MATTERS

1. Have you ever been the subject of a complaint or been investigated, disciplined, or otherwise cited for a breach of ethics for unprofessional conduct before any court, administrative agency (*e.g.,* an Inspector General's Office), professional association, disciplinary committee, or other ethics enforcement entity at any time? Have you ever been interviewed regarding your own conduct as part of any such inquiry or investigation? If so, provide details, regardless of the outcome.

No.

2. Have you ever been investigated, arrested, charged, or held by any Federal, State, or other law enforcement authority for a violation of any Federal, State, county, or municipal law, regulation, or ordinance, other than a minor traffic offense? Have you ever been interviewed regarding your own conduct as part of any such inquiry or investigation? If so, provide details.

No.

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

No.

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

No.

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

None.

E. TESTIFYING BEFORE CONGRESS

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

   Yes.

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

   Yes.

PREPARED STATEMENT OF HON. BRENT JAMES MCINTOSH, NOMINATED TO BE UNDER SECRETARY FOR INTERNATIONAL AFFAIRS, DEPARTMENT OF THE TREASURY

Chairman Grassley, Ranking Member Wyden, and members of the committee, thank you for the opportunity to appear before you today. I am honored to be the President's nominee to be Under Secretary of the Treasury for International Affairs, and I am grateful to the Secretary for his confidence in recommending me for this position.

Before proceeding, I would like to take a moment to acknowledge my family here with me today: my beloved wife of 18 years, Laura, who graces my life; as well as my parents Carl and Shirley McIntosh, who have always brought a quiet ethic of community service to all they do. Both of my parents grew up on farms in the thumb of Michigan, and they have driven in from that great State for today's hearing. My wonderful children, Mia, Rhys, and Ethan, could not be here today, as they are enjoying summer camps in New England.

As Treasury's General Counsel for the past 2 years, I have appreciated the opportunity to work with many of you and your staffs. Since being nominated to be Under Secretary, I have met with several of you, and I am grateful for the courtesies you afforded me in those meetings. I take seriously the priorities that committee members outlined during our visits, and those meetings only reinforced to me the importance of a close working relationship with the Congress. Over the past 2 years, I have endeavored to foster that relationship, and I look forward to working with you and your staffs to strengthen and deepen it, should I be confirmed as Under Secretary.

When I appeared here 2 years ago, I observed that the challenges Treasury confronts are daunting in both breadth and complexity. My service as General Counsel has driven home just how true that is. It has been a privilege to confront these challenges standing arm-in-arm with the immensely talented and dedicated career attorneys and staff of Treasury's Legal Division. Their hard work and insight benefit our department—and our Nation—every day.

I have seen firsthand that many of Treasury's most pressing challenges manifest themselves in our economic and financial relationships with other countries and with various international institutions. These issues run the gamut: ensuring our Nation's voice is clearly heard in coordinating international financial regulation; negotiating economic agreements with foreign partners; advancing U.S. interests in multilateral bodies such as the World Bank and the IMF; and providing valuable technical assistance to developing countries. Treasury's International Affairs division has a special responsibility to effectively implement last year's bipartisan legislation modernizing our CFIUS investment security regime, a task that has profound implications for both our economy and our national security. Serving as General Counsel has afforded me the opportunity to work toward solving these challenges alongside former Under Secretary David Malpass and his team—especially the hardworking experts who make up IA's career staff.

It is an honor to be nominated to lead IA's continued efforts on behalf of the American people. The international issues in Treasury's remit may at times seem esoteric or far-flung, but as David Malpass said during his confirmation hearing, and as I've seen regularly throughout my time in government, those issues have significant, real-world impacts on the citizens of every State in the Union. That reality demands unwavering focus on the effects international matters have on individual Americans, and it must be a guiding principle for those who are charged with ad-

vancing our Nation's interests abroad. I pledge that, if confirmed, it will guide my every action.

Thank you again for the opportunity to appear today. I look forward to your questions.

SENATE FINANCE COMMITTEE

STATEMENT OF INFORMATION REQUESTED OF NOMINEE

A. BIOGRAPHICAL INFORMATION

1. Name (include any former names used): Brent James McIntosh.
2. Position to which nominated: Under Secretary of the Treasury for International Affairs.
3. Date of nomination: May 23, 2019.
4. Address (list current residence, office, and mailing addresses):
5. Date and place of birth: September 28, 1973, Lansing, Michigan.
6. Marital status (include maiden name of wife or husband's name):
7. Names and ages of children:
8. Education (list all secondary and higher education institutions, dates attended, degree received, and date degree granted):

   Yale Law School (1996–1999), Juris Doctor, May 1999.

   University of Michigan (1992–1996), bachelor of arts, May 1996.

   London School of Economics (1994–1995).

   Williamston High School (1988–1992), diploma, June 1992 (certain classes taken at Michigan State University (1988–1990) and Lansing Community College (1990–1991)).
9. Employment record (list all jobs held since college, including the title or description of job, name of employer, location of work, and dates of employment for each job.)

   General Counsel for the Department of the Treasury, Washington, DC (2017–present).

   Partner, Sullivan and Cromwell LLP, Washington, DC (2011–2017).

   Special Counsel, Sullivan and Cromwell LLP, Washington, DC (2009–2010).

   Deputy Assistant to the President and Deputy Staff Secretary, The White House, Washington, DC (2007–2009).

   Associate Counsel to the President, The White House, Washington, DC (2006–2007).

   Deputy Assistant Attorney General, Office of Legal Policy, U.S. Department of Justice, Washington, DC (2005–2006).

   Counselor to the Assistant Attorney General, Office of Legal Policy, U.S. Department of Justice, Washington, DC (2005).

   Senior Counsel, Office of Legal Policy, U.S. Department of Justice, Washington, DC (2005).

   Counsel, Office of Legal Policy, U.S. Department of Justice, Washington, DC (2004–2005).

   Associate, Sullivan and Cromwell LLP, New York, New York (2001–2004).

   Law clerk, Honorable Laurence H. Silberman, U.S. Court of Appeals for the District of Columbia Circuit, Washington, DC (2000–2001).

Law clerk, Honorable Dennis Jacobs, U.S. Court of Appeals for the Second Circuit, New York, New York (1999–2000).

Summer law clerk, Kirkland and Ellis, Washington, DC (1999).

Research assistant, Professor William Eskridge, Jr., Yale Law School (1998–1999).

Summer associate, Davis, Polk, and Wardwell, New York, New York and London, England (1998).

Research assistant, Professor Henry B. Hansmann, Yale Law School (1997–1998).

Legal intern, Special Prosecutions Group, U.S. Attorney's Office for the Eastern District of New York, Brooklyn, New York (1997).

Administrative assistant, Alumni Association of the University of Michigan, Ann Arbor, Michigan (1996).

10. Government experience (list any current and former advisory, consultative, honorary, or other part-time service or positions with Federal, State, or local governments held since college, including dates, other than those listed above):

Romney-Ryan Readiness Team (pre-election presidential transition team) (2012).

11. Business relationships (list all current and former positions held as an officer, director, trustee, partner (*e.g.,* limited partner, non-voting, etc.), proprietor, agent, representative, or consultant of any corporation, company, firm, partnership, other business enterprise, or educational or other institution):

Partner, Sullivan and Cromwell LLP (2011–2017).

12. Memberships (list all current and former memberships, as well as any current and former offices held in professional, fraternal, scholarly, civic, business, charitable, and other organizations dating back to college, including dates for these memberships and offices):

To the best of my recollection, I am or have been a member of, or hold or have held another position with, the following organizations:

Ahn Family Foundation, Grants Committee (2001–2016).

Alexander Hamilton Society (2010–present), co-chair, DC Chapter (2012–2017); DC Chapter Steering Committee (2010–2012).

All Saints Church (approx. 2004–2009, 2017–present).

Alumni and Friends of the London School of Economics, life member (2000–present).

Alumni Association of the University of Michigan, life member (2000–present).

American Bar Association (2001–2006, 2009–present).

American Society of International Law (2001–2005, 2009–present).

Association of the Bar of the City of New York (2001–2005); Pro Bono Society (2002, 2003).

Bannockburn Swim Club (neighborhood pool) (2005–2011).

Bretton Woods Committee (2015–present).

Chevy Chas Club (2016, 2017–present).

Christ and St. Stephen's Episcopal Church (2001–2004).

Council on Foreign Relations (2005–2011, 2019).

Entomological Society of America (2011–2012).

Federalist Society (1997–present); International and National Security Law Practice Group Executive Committee (2010–2017).

Heritage Foundation/Chertoff Group National Security Law Working Group (2014–2017).

International Bar Association (2015–2017).

International Churchill Society (2018–present).

International Institute for Strategic Studies (2009–present).

John Hay Initiative, International Law Working Group (2015–2017).

Links Club (2017–present).

London School of Economics Intercollegiate Basketball Team (1994–1995).

Metropolitan Club of the City of Washington (2008–present).

Michigan Daily, writer and editor (1993–1996).

Montgomery County Recreation, youth basketball coach (2016–present).

New York State Bar Association (2001–2004).

Pilgrims of the United States (2017–present).

Republican National Lawyers Association (2013–present).

S.A.F.E.WALK (approx. 1992–1994).

St. Albans School Fathers' Committee (2016–present).

St. Columba's Episcopal Church (2009–2017); Gratitude and Resources Strategic Initiative Team (2016); lay reader (2016–2017).

Supreme Court Historical Society (2011–present).

U.S. Chamber Litigation Center, U.S. Chamber of Commerce, Financial Services Advisory Committee (2015–2017).

Yale Club of New York City (2009–present).

Yale Law and Policy Review (approx. 1996–1998).

Yale Law Journal (1997–1999), articles editor (1998–1999).

Yale Law School Association, Executive Committee (2012–2015); Nominating Committee (2015).

Yale Law School class of 1999, class secretary (2013–present).

Yale Law School class representative (1998–1999).

Yale Law School reunion gift campaign, co-chair (2003–2004); class committee (2013–2014).

Bar admissions:

State of New York (admitted 2001).

District of Columbia (admitted 2009).

Supreme Court of the United States (admitted 2005).

U.S. Court of Appeals for the District of Columbia Circuit (admitted 2010).

U.S. Court of Appeals for the Second Circuit (admitted 2010).

U.S. Court of Appeals for the Third Circuit (admitted 2015).

U.S. Court of Appeals for the Fourth Circuit (admitted 2001).

U.S. Court of Appeals for the Fifth Circuit (admitted 2016).

U.S. Court of Appeals for the Ninth Circuit (admitted 2006).

U.S. District Court for the District of Columbia (admitted 2010).

U.S. District Court for the Eastern District of New York (admitted 2002).

U.S. District Court for the Southern District of New York (admitted 2002).

U.S. District Court for the Southern District of Texas (admitted 2003).

U.S. Court of Federal Claims (admitted 2009).

13. Political affiliations and activities:

a. List all public offices for which you have been a candidate dating back to the age of 18.

None.

b. List all memberships and offices held in and services rendered to all political parties or election committees, currently and during the last 10 years prior to the date of your nomination.

Romney Justice Advisory Committee (2011–2012).

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

Recipient	Date	Amount
John Adams for Virginia	6/08/2016	$803.46
Matthew Berry for Congress	11/18/2009	$250.00
George P. Bush Land Commissioner campaign	1/04/2013	$250.00
Jeb 2016 (Jeb Bush)	10/05/2015	$2,700.00
Capito for West Virginia (Shelley Moore Capito)	4/24/2013 7/22/2014	$500.00 $1,000.00
Cotton for Senate (Thomas Cotton)	10/24/2013	$250.00
Mike Crapo for U.S. Senate	8/06/2015	$1,000.00
Ted Cruz for Senate	6/30/2011	$300.00
Robert L. Ehrlich, Jr. gubernatorial campaign	7/28/2010	$250.00
Foley for Connecticut (Thomas C. Foley)	4/22/2014	$100.00
Freedom First PAC	7/29/2010	$250.00
Ed Gillespie for Governor	1/23/2017	$2,000.00
Ed Gillespie for Senate	3/06/2014 7/17/2014 9/25/2014	$2,600.00 $500.00 $1,000.00
Adam Laxalt Attorney General campaign	5/14/2014	$250.00
Friends of Mike Lee	6/19/2015	$1,000.00
Josh Mandel Senate Victory Committee	9/21/2012	$300.00
Justice for All	10/04/2013	$300.00
NRCC	7/19/2010	$250.00
NRSC/NRCC Victory Committee	11/13/2013	$250.00
Portman for Senate Committee (Rob Portman)	6/16/2009 8/15/2010 5/14/2015 9/27/2016	$250.00 $250.00 $1,500.00 $500.00
David A. Pepper mayoral campaign	6/01/2009 9/29/2010	$250.00 $150.00
Prosperity Action	6/30/2011	$1,000.00
Romney for President (Mitt Romney)	5/09/2011 1/31/2012	$1,000.00 $1,500.00
Romney Victory	5/24/2012	$2,500.00
Ben Sasse for U.S. Senate	9/16/2013 3/31/2014	$1,000.00 $1,000.00

Recipient	Date	Amount
	11/28/2016 12/31/2018	$1,000.00 $1,000.00
Shelby for U.S. Senate (Richard C. Shelby)	10/13/2015	$1 ,000.00
Elise for Congress (Elise M. Stefanik)	11/21/2013 9/21/2016	$250.00 $500.00
Sullivan for U.S. Senate (Dan Sullivan)	10/28/2013	$250.00

14. Honors and awards (list all scholarships, fellowships, honorary degrees, honorary society memberships, military medals, and any other special recognitions for outstanding service or achievement received since the age of 18):

Alvin and Arvella Bentley Scholar (University of Michigan).

Benedek London Scholarship (University of Michigan).

Distinguished Alumni Award (Williamston High School).

Distinguished Legal Writing Award 2016, Burton Awards for Legal Achievement.

Horace Rackham Scholar (University of Michigan).

James B. Angell Scholar (University of Michigan).

National Merit Scholar.

New York Law Journal 2013 "Rising Star."

Phi Beta Kappa (University of Michigan).

Pi Sigma Alpha political science honor society (University of Michigan).

Presidential Scholar (U.S. Department of Education).

U.S. Department of State Superior Honor Award (group award).

Yale Law Journal, articles editor (Yale Law School).

15. Published writings (list the titles, publishers, dates, and hyperlinks (as applicable) of all books, articles, reports, blog posts, or other published materials you have written):

"City Fair Housing Suits May Have Unfortunate Consequences," *Law360* (November 15, 2016). *https://www.law360.com/articles/860830/city-fair-housing-suits-may-have-unfortunate-consequences.*

"D.C. Circuit Invalidates CFPB Structure as Unconstitutional; Rejects 'Flawed' Statutory Application in Enforcement Proceeding," Columbia Law School Blue Sky Blog (October 20, 2016) (with Steven Meyer et al.), *http://clsbluesky.law.columbia.edu/2016/10/20/sullivan-cromwell-discusses-d-c-circuit-ruling-invalidating-cfpb-structure/.*

"On Apple, the FBI, and Old iPhones," Federalist Society Blog (February 18, 2016), *https://fedsoc.org/commentary/bloq-posts/on-apple-the-fbi-and-old-iphones.*

"A Guide to the Cybersecurity Act of 2015," *Law360* (January 12, 2016) (with John Evangelakos et al.), *https://www.law360.com/articles/745523/a-guide-to-the-cybersecurity-act-of-2015.*

"The Cybersecurity Act of 2015," Columbia Law School Blue Sky Blog (January 6, 2016) (with John Evatigelakos et al.), *http://clsbluesky.law.columbia.edu/2016/01/06/sullivan-cromwell-discusses-the-cybersecurity-act-of-2015/.*

"SEC Enforcement: SEC Issues Guidance on Approach to Forum Selection in Contested Actions," Columbia Law School Blue Sky Blog (June 15, 2015) (with Nicolas Bourtin et al.), *http://clsbluesky.law.columbia.edu/2015/06/15/Sullivan-cromwell-discusses-sec-guidance-on-approach-to-forum-selection-in-contested-actions/.*

"How Cybercriminals Are Targeting Corporate Transactions," *Law360* (May 19, 2015) (with Judson Littleton), *https://www.law360.com/articles/657836/how-cybercriminals-are-targeting-corporate-transactions.*

"President Obama Issues Executive Order Authorizing Sanctions for Malicious Cyber Activities," Columbia Law School Blue Sky Blog (April 17, 2015) (with Eric Kadel, Jr.), *http://clsbluesky.law.columbia.edu/2015/04/17/sullivan-cromwell-discusses-president-obamas-executive-order-authorizing-sanctions-for-malicious-cyber-activities/*.

"'The FBI Followed You': Why Twitter's Surveillance-Disclosure Lawsuit Puts U.S. Intel Agencies in a Quandary," *Law.com* (April 16, 2015), *https://www.law.com/sites/brentmcintosh/2015/04/16/twitter-surveillance-lawsuit/?slreturn=20190429112917*.

Perez v. Mortgage Bankers Association, Harvard Law School Forum on Corporate Governance and Financial Regulation (March 29, 2015) (with Jeffrey Wall et al.), *https://corpgov.law.harvard.edu/2015/03/29/perez-v-mortgage-bankers-association/*.

"Supreme Court Clarifies Liability for Opinions in Registration Statements," Harvard Law School Forum on Corporate Governance and Financial Regulation (March 28, 2015) (with Robert Giuffra Jr. et al.), *https://corpgov.law.harvard.edu/2015/03/28/supreme-court-clarifies-liability-for-opinions-in-registration-statements/*.

"'An Emblem of a Deeper Pathology in the Criminal Code': Thoughts on the Supreme Court's Ruling That, Sometimes, Fish Aren't Tangible Objects," *Law.com* (March 4, 2015), *https://www.law.com/sites/brentmcintosh/2015/03/04/fish_are_not_tangible_objects/*.

Judicial Review of SEC Consent Judgments, 47 Review of Securities and Commodities Regulation 275 (December 3, 2014) (hyperlink not found).

"Second Circuit Adopts Bright-Line Rule for Determining Customer Status for Mandatory FINRA Arbitration," *Business Law Today* (September 2014) (with Robert Giuffra Jr. et al.) (hyperlink not found).

"As End of Supreme Court Term Looms, High-Profile Business Disputes Remain," *Law.com* (May 24, 2014) (hyperlink not functional; *see https://www.law.com/sites/brentmcintosh/*).

Class of 1999 Class Notes, *Yale Law Report* (2013–present) (with Brad Snyder) (hyperlinks not found).

"Patriot Act Protects U.S.," *Lansing State Journal* (March 19, 2006) (hyperlink not found).

"The Revolutionary Second Amendment," 51 *Alabama Law Review* 673 (2000), *https://www.law.ua.edu/pubs/lrarticles/Volume%2051/Issue%202/McIntosh.pdf*.

As a student journalist in college (1993–1996), numerous articles in the *Lansing State Journal; The Michigan Daily* (University of Michigan student newspaper), and *The Alumnus* (University of Michigan alumni magazine), primarily regarding University of Michigan and mid-Michigan sports.

16. Speeches (list all formal speeches and presentations (*e.g.,* PowerPoint) you have delivered during the past 5 years which are on topics relevant to the position for which you have been nominated, including dates. Provide the committee with one digital copy of each formal speech and presentation).

To the best of my recollection, the formal speeches or presentations I have given that might be considered relevant to the position for which I have been nominated are as follows (remarks provided are as prepared for delivery).

Reviewing the Office of Information and Regulatory Affairs, U.S. Senate, Subcommittee on Regulatory Affairs and Federal Management, April 2018.

Regulatory Reform, the Treasury Department, and More, Federalist Society DC Chapter, March 2018.

Hearing to Consider the Nominations of Eric D. Hargan, David Malpass, Andrew K. Maloney, and Brent James McIntosh, U.S. Senate, Committee on Finance, June 2017.

I have also occasionally participated in panels, question-and-answer sessions, and moderated discussions without prepared remarks. To the best of my recollection, those that might be considered relevant to the position for which I have been nominated are the following:

Regulatory Reform Report Card: Agency General Counsel Perspective, Federalist Society Executive Branch Review Conference, May 2019 (panelist).

Leaders in Finance: A Conversation to Strengthen America's Economy, Milken Institute Global Conference, April 2019 (panelist).

Women in Housing and Finance Annual Symposium, April 2019 (moderated discussion).

American Bankers Association Government Relations Council, April 2019 (moderated discussion).

Treasury's Role in Advancing U.S. National Security, George Mason University Antonin Scalia Law School National Security Institute Distinguished Speaker Series, March 2019 (moderated discussion).

The Role of Financial Institutions in National Security, Institute of International Bankers Annual Washington Conference, March 2019 (moderated discussion).

Dollars and Diplomacy: Treasury's Role in U.S. Foreign Policy, Alexander Hamilton Society New York Initiative, March 2019 (moderated discussion).

Dollars and Diplomacy: Treasury's Role in U.S. Foreign Policy, Columbia Law School National Security Program/Alexander Hamilton Society Columbia University Chapter, March 2019 (moderated discussion).

Financial Tools and the National Security, Yale Law School Federalist Society, March 2019 (moderated discussion).

Stability vs. Growth: Unintended Consequences of Post Crisis Financial Regulations, Milken Institute London Summit, December 2018 (panelist).

FinTech: Regulators Take the Stage, U.S. Chamber of Commerce Center for Capital Markets Competitiveness/Chamber Technology Engagement Center, November 2018 (moderated discussion).

How Should Our Existing Regulatory Structure Be Applied to Support an Activities-Based Approach? U.S. Department of the Treasury Office of Financial Research/University of Michigan Center on Finance, Law, and Policy Conference on Functions and Firms: Using Activity- and Entity-Based Regulation to Strengthen the Financial System, November 2018 (panel moderator).

ICOs, Air Drops and the Future of Regulating Decentralized Money, Money 20/20 conference October 2018 (panelist).

American Banker RegTech 2018 conference, October 2018 (moderated discussion).

The Future of Financial Regulation; Manhattan Institute/George Mason University Antonin Scalia Law School Center for the Study of the Administrative State, October 2018 (panelist).

Tax and Regulatory Reform, American Swiss Foundation Building Bridges Conference, September 2018 (panelist).

Fintech, a Double-edged Sword for AML/CFT, International Monetary Fund 2018 Law and Financial Stability High-Level seminar, September 2018 (panelist).

Reg Reference Center, sponsored by the American Action Forum; the Mercatus Center, and the George Washington University Regulatory Studies Center, July 2018 (panelist).

Interagency Functions, Alexander Hamilton Society National Institute 2018, June 2018 (panelist).

Financial Regulation in the 21st Century: Perspectives From the Treasury Department, Financial Services Roundtable Spring Meeting of Lawyers Council, May 2018 (question-and-answer session).

Cryptocurrencies: Irrational Exuberance or Brave New World?, Milken Institute Global Conference, May 2018 (panelist).

Decrypting Crypto: Policy, Security, and Regulatory Challenge, YPO-George Mason University National Security Institute Blockchain Technologies Summit, March 2018 (panelist).

American Bankers Association Regional General Counsels Meeting, November 2017 (moderated discussion).

Regulatory Reform Update, U.S. Department of the Treasury, October 2017 (panelist).

Prospects for Cybersecurity in the Donald J. Trump administration, Council on Foreign Relations roundtable, March 2017 (presider).

Financial Markets in the Aftermath of Cyberattacks, University of Virginia Symposium on Impediments to the Global Economy, February 2016 (panelist).

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

Serving for nearly 2 years as the Senate-confirmed General Counsel for the Treasury Department has afforded me the invaluable opportunity to advise on and participate in the work of Treasury's Office of International Affairs. I have been fortunate to work closely with former Under Secretary David Malpass, Acting Under Secretary Heath Tarbert, and the talented, dedicated professionals in International Affairs. This close working relationship has brought me to be deeply involved in many of the key issues that International Affairs confronts, including international financial regulatory matters, Treasury's work with multilateral development banks, issues relating to currency and monetary policy, bilateral and multilateral economic relationships with our foreign partners, sovereign debt, trade, and investment security. As to the last of these, one paramount challenge the next Under Secretary will confront is implementing the Foreign Investment Risk Review Modernization Act of 2018 while ensuring the continued effective functioning of the CFIUS process. I have worked extensively with International Affairs colleagues on implementation of this landmark legislation and on CFIUS matters more generally.

In addition, my prior service in government and in private practice should provide important background and experience, if I am confirmed. My law practice focused on the resolution of difficult, often novel disputes, including analyzing complicated problems, advocating for my clients' positions, and negotiating workable solutions to complex problems. Much of my professional career involved advising multinational entities participating in the global financial system, affording me substantial familiarity with many financial, regulatory, and economic issues International Affairs handles. While in government at the Treasury Department, the White House, and the Department of Justice, I worked extensively with interagency colleagues and foreign partners on a wide variety of foreign affairs and national security matters. Finally, both in government and in private practice, I have managed large teams of professionals.

B. FUTURE EMPLOYMENT RELATIONSHIPS

1. Will you sever all connections (including participation in future benefit arrangements) with your present employers, business firms, associations, or organizations if you are confirmed by the Senate? If not, provide details.

The position for which I have been nominated is with my present employer, and I have no other such employment relationships.

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

No.

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

No.

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

Yes.

C. POTENTIAL CONFLICTS OF INTEREST

1. Indicate any current and former investments, obligations, liabilities, or other personal relationships, including spousal or family employment, which could in-

volve potential conflicts of interest in the position to which you have been nominated.

Any potential conflicts of interest have been identified and resolved in accordance with the terms and conditions of my ethics agreement with the Department of the Treasury, which is documented by letter to Brian J. Sonfield, Designated Agency Ethics Official and Assistant General Counsel for General Law and Ethics. Should any potential conflict of interest arise in the future, l will seek guidance from a Treasury ethics official.

2. Describe any business relationship, dealing, or financial transaction which you have had during the last 10 years (prior to the date of your nomination), 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.

Any potential conflicts of interest have been identified and resolved in accordance with the terms and conditions of my ethics agreement with the Department of the Treasury, which is documented by letter to Brian J. Sonfield, Designated Agency Ethics Official and Assistant General Counsel for General Law and Ethics. Should any potential conflict of interest arise in the future, I will seek guidance from a Treasury ethics official.

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

Other than as a lawyer representing clients in adversarial or regulatory proceedings, none.

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

Any potential conflicts of interest have been identified and resolved in accordance with the terms and conditions of any ethics agreement with the Department of the Treasury, which is documented by letter to Brian J. Sonfield, Designated Agency Ethics Official and Assistant General Counsel for General Law and Ethics. Should any potential conflict of interest arise in the future, I will seek guidance from a Treasury ethics official.

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

None.

D. LEGAL AND OTHER MATTERS

1. Have you ever been the subject of a complaint or been investigated, disciplined, or otherwise cited for a breach of ethics for unprofessional conduct before any court, administrative agency (*e.g.,* an Inspector General's office), professional association, disciplinary committee, or other ethics enforcement entity at any time? Have you ever been interviewed regarding your own conduct as part of any such inquiry or investigation? If so, provide details, regardless of the outcome.

No.

2. Have you ever been investigated, arrested, charged, or held by any Federal, State, or other law enforcement authority for a violation of any Federal, State, county, or municipal law, regulation, or ordinance, other than a minor traffic offense? Have you ever been interviewed regarding your own conduct as part of any such inquiry or investigation? If so, provide details.

In 1994, when I was a sophomore in college, I was charged with one misdemeanor count of "Receiving stolen property—$100 or less." The charge was subsequently dropped.

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

No.

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

No.

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

None.

E TESTIFYING BEFORE CONGRESS

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

Yes.

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

Yes.

QUESTIONS SUBMITTED FOR THE RECORD TO HON. BRENT JAMES MCINTOSH

QUESTIONS SUBMITTED BY HON. RON WYDEN

SALT WORKAROUND REGULATIONS AND INCONSISTENT INTERPRETATION OF 2017 TAX LAW

Question. The 2017 Republican tax law partially paid for massive tax cuts for corporations, the wealthy, and passthrough businesses by limiting the deduction for State and local taxes to $10,000.

This was a rifle-shot at constituents in high cost of living States like Oregon, Washington, New York, New Jersey, and others.

While I wasn't a fan of the SALT cap, I am even more concerned about recent Treasury regulations that reach far beyond what was contained in the 2017 Republican tax law. These regulations effectively extend the $10,000 SALT cap to include State tax credit programs.

These regulations reversed the long-standing IRS position that taxpayers are entitled to a full charitable deduction, even if they receive State tax credits in return for their contribution.

Could you please tell me where in the 2017 tax law it instructs the Treasury Department to limit charitable deductions for donations for State tax credit programs?

Answer. The Tax Cuts and Jobs Act did not amend section 170 of the Internal Revenue Code. The proposed and final regulations to which your question refers are based on the application of longstanding Federal income tax principles under section 170. Specifically, under section 170, any benefit received or expected to be received by a donor in return for making a donation to a charitable organization reduces the amount of any Federal charitable contribution deduction for such donation.

On September 5, 2018, Secretary Mnuchin announced these regulations wouldn't apply to businesses that make donations to private school voucher programs, with the strong backing of Republican Senators.

Question. Could you tell me where in the 2017 tax law it said that school voucher programs should get a special deal?

Answer. The Tax Cuts and Jobs Act does not make distinctions among State tax credit programs. Likewise, Treasury and IRS regulations and guidance on this issue apply equally to all such programs.

It appears that Treasury as a general matter is picking and choosing when it wants to use broad authority in regulations issued under the 2017 tax law.

Question. Could you please provide guidance on how you determine the expansiveness of your regulatory authority in interpreting the 2017 tax law?

Answer. The scope of Treasury's regulatory authority under the Tax Cuts and Jobs Act (TCJA) is a matter of statutory interpretation. As a result, the answer to this question is highly context-dependent. It requires interpreting the terms of the particular grant of rulemaking authority being invoked and, as importantly, the language of the substantive Internal Revenue Code provision or provisions being implemented. Under title 26, Congress has provided general and specific grants of rulemaking authority. Section 7805 confers authority to "prescribe all needful rules and regulations for enforcement of [title 26]," including "all rules and regulations as may be necessary by reason of any alteration of law in relation to internal revenue." Treasury has relied on these general grants of authority to implement some provisions of TCJA. In addition, Congress often includes specific grants of authority to implement particular provisions of the code; TCJA contains at least 72 such specific grants of authority. Some of those specific grants provide explicit indication of the nature of the regulatory authority Congress expected Treasury to exercise, such as directives to adopt anti-abuse rules, to provide special rules for applying a general rule to specified situations, or to implement new information reporting requirements.

The attorneys of the Treasury Department's Office of Tax Policy (OTP) and the IRS Office of Chief Counsel have primary responsibility for legal analysis of tax regulatory actions; the Office of General Counsel relies on their analysis and expertise in the review of all tax regulatory actions. Our general approach to statutory interpretation is described in the response to the question below.

Treasury's Office of Tax Policy and Office of General Counsel would be pleased to provide your staff with a briefing or additional information on any particular interpretation adopted in TCJA implementing regulations.

Question. What principles of statutory interpretation are you applying in developing regulations under that law?

Answer. The approach of the Treasury Office of General Counsel is to follow the Supreme Court's guidance governing agency interpretations of Federal statutes. The best evidence of congressional intent is the text of the statute. We also consider statutory context and structure, as well as how similar statutory language has been interpreted by Treasury in the past. The provisions of the Internal Revenue Code are often deeply interconnected, so we take particular care to analyze how Congress intended a new provision to work with existing code provisions. When the text does not resolve a question of interpretation, courts have indicated that a review of legislative history may help elucidate the meaning of a statutory provision.

In some cases, even after applying all of the traditional tools of statutory construction, a statutory provision may remain ambiguous. In such cases, in the context of TCJA, Treasury's goal is generally to adopt the construction that best effectuates congressional intent, as Treasury's senior policymakers understand it.

TREASURY OBSTRUCTION OF DARK MONEY CONGRESSIONAL REVIEW

Question. I oppose any attempts to make it easier for illegal and foreign money to influence our political process. That's why I have been fighting the Treasury Department's rule change that stopped requiring dark money groups to disclose the identities of their major donors to the IRS.

Last year, shortly after IRS issued its dark money rule, Senator Tester and I introduced a resolution to overturn the rule under the Congressional Review Act (CRA). It should have been a straight-forward process—the Treasury Department even filed the paperwork with the Senate stating that this was a rule subject to the CRA.

But when Treasury found out that Senator Tester and I were planning to overturn the rule, they sent us a letter asking for a "do-over." They simultaneously claimed that they were eligible for the legal benefits of the Congressional Review Act, but also that we weren't allowed to challenge the rule under that same CRA provision.

It was clear in my mind that Treasury was waging a frivolous legal battle in an attempt to obstruct congressional action. Treasury managed to tie up our CRA process for five weeks. Some months later, the GAO eventually weighed in with its own, independent legal opinion finding Treasury's "do-over" argument meritless.

My concern is that the Treasury Department was clearly trying to impede Congress's right to vote on the dark money rule.

My question is this: is it ever appropriate for the Treasury Department to play legal games to obstruct the Senate's right to legislate?

Answer. No, that would not be appropriate. It is my understanding that in connection with Rev. Proc. 2018–38, the IRS explained to GAO the IRS's approach to Congressional Review Act analysis both with respect to Rev. Proc. 2018–38 and more broadly, and that, in response to several developments including GAO's 2018 opinion, the Office of Chief Counsel has enhanced its review of IRS guidance prior to submission under the CRA process.

G7/G20 LEADERSHIP

Question. The United States has long played a crucial role in the global economy by confronting systemic challenges and working with like-minded partners to address the tough problems. We know that the big stuff requires collective action.

At the summits like the G7 and G20, consensus-based statements reflect the collective views of the United States and our allies on major issues such as monetary policy, security, and multilateral rules-based trading. Rather than working with allies to find areas of agreement and make progress toward addressing our collective challenges, the Trump administration has a record of unnecessarily isolating the United States on everything from climate change to trade.

Do you agree with me that it is critical for the United States to refocus our efforts with our allies in the G7, G20, APEC and other international fora to find solutions to the major issues facing the United States and the world?

Answer. The United States continues to play a lead role in international fora such as the G7, G20, and APEC. As part of this engagement, Treasury is advancing a robust international policy agenda on issues such as risks and challenges to global growth, a comprehensive solution to the taxation of digital companies, measures to enhance debt transparency and sustainability for low-income countries, and the application of anti-money laundering standards to virtual assets and crypto-currencies. Greater international cooperation on these issues will lead to stronger global growth, which in turn will directly benefit the U.S. economy.

TREASURY ETHICS

Question. As General Counsel, you oversee the Treasury Department's ethics office. During your tenure, the Office of Government Ethics (OGE) refused to certify Secretary Mnuchin's 2018 Financial Disclosure report because he acted on advice that Department ethics officials provided *without* consulting OGE. The Director of OGE—a Trump appointee—determined that your ethics office essentially told the Secretary he could ignore his own Ethics Agreement. Government ethics experts say it is extremely rare for cabinet officials not to have their financial records certified. Yet, that happened on your watch.

What does that say about your enforcement of ethics rules at the Treasury Department? What message does that send to the Department's employees when the Secretary of the Treasury fails to comply with ethics rules?

Answer. This question addresses advice that Treasury's career ethics officials gave prior to my arrival at Treasury. With regard to the Secretary's 2018 financial disclosure report, it is my understanding that the Secretary's disclosures were complete and accurate and that the Secretary was in compliance with all applicable ethics laws. Although the underlying events occurred prior to my arrival at Treasury, I have come to understand that prior to the Secretary's 2017 confirmation, the Office of Government Ethics listed a particular asset for divestiture in the Secretary's Ethics Agreement, and the Secretary in fact divested that asset. At a later date in early 2017, prior to the Secretary's wedding, the Secretary sought the advice of the Department's then-serving career ethics official because his fiancée held the same asset, meaning her interest would be imputed to the Secretary once they married. The Department's career ethics officials reviewed the asset in question and correctly determined that it presented no conflict with the Secretary's official duties, and so advised that his fiancée need not divest her interest in that asset. (Treasury's ethics attorneys had initially identified this asset for divestiture only out of an abundance of caution, and subsequent review established that it presented no conflict.) The Secretary relied on this advice, and his fiancée did not divest her interest. Upon learning of this advice, OGE acknowledged that it was not aware of any conflict posed by the asset in question or of any violation of any ethics law as a result of the imputed interest, but nonetheless declined to certify the Secretary's financial disclosure. With OGE's consent, the Secretary's Ethics Agreement was subsequently

amended to reflect the advice of Treasury's career ethics officials. I have immense respect for Treasury's career ethics officials, I rely heavily on their advice as to the requirements of applicable ethics laws, and I believe that it is appropriate for the Department's senior officials to seek and rely on those career ethics officials' guidance.

CHINA/CURRENCY NEGOTIATIONS

Question. USTR has publicly stated that Treasury is leading the currency negotiations that were reportedly concluded with respect to Korea and are ongoing with China. If confirmed, you will be leading the team negotiating the China currency agreements.

Will you commit to brief Congress in a timely manner on the substance of these and any other currency negotiations?

Answer. If confirmed, I commit to keeping Congress appropriately apprised of ongoing currency negotiations.

Question. Is it appropriate to agree to binding obligations on the United States with regard to monetary policy, as part of a negotiation intended to settle claims regarding China's unfair trade practices? If it is appropriate, please explain why.

Answer. No, that would not be appropriate. It is my understanding that no agreement with China would result in binding obligations with regard to U.S. monetary policy. The ability of an independent Federal Reserve to pursue its dual objectives of low inflation and high employment should not be restricted.

Question. If confirmed, will you commit to immediately make the currency agreement with Korea public?

Answer. If confirmed, I intend to be as transparent as possible, consistent with our international commitments and national interest.

It is critical that allies support our views on China's unfair trade practices and reiterate our concerns regarding intellectual property theft, forced technology transfer, and steel and aluminum overcapacity to China. However, it is difficult for our allies to support our attempts to address China's unfair trade practices when we are also placing tariffs on their imports in order to gain leverage in other, unrelated negotiations.

Question. If confirmed, how will you seek support from our allies to address China's unfair trade practices, and what would you ask allies to do, to demonstrate their support?

Answer. If confirmed, I will continue our efforts to seek support from allies to address our shared concerns with respect to China's unfair trade and investment policies. China's use of subsidies for State-owned enterprises and other forms of industrial policies create distortions in the global economy. The market access and structural reforms that we are pushing China to undertake would benefit U.S. firms as well as foreign firms. I will continue efforts to coordinate with allies through the G7 as well as through bilateral engagement.

CFIUS

Question. In its dealings with Huawei, ZTE, and others, this administration has demonstrated its willingness to put national security issues on the table when seeking economic or trade deals from our trading partners. As chairman of the Committee on Foreign Investment in the United States (CFIUS), Secretary Mnuchin is responsible for evaluating the national security implications of specific foreign investments and recommending whether to modify or reject them. In this capacity, CFIUS is intended to focus solely on genuine national security concerns raised by a covered transaction, and not on other national interests.

Do you agree that genuine national security concerns should be the key factor when determining whether to reject or modify a proposed investment? What steps will you take to mitigate the risk of other factors, including geopolitical concerns, trade policy, or other conflicts, influencing the Secretary's decisions on CFIUS matters?

Answer. The Committee on Foreign Investment in the United States (CFIUS) evaluates each covered transaction notified to CFIUS for the sole purpose of determining whether any threat to the national security of the United States would arise from the transaction. Consistent with section 721 of the Defense Production Act,

CFIUS produces a risk-based analysis of any risks to the national security that would arise as a result of the transaction, considering in each case the particular threat, vulnerabilities, and consequences associated with the transaction. As Chair of CFIUS, Treasury is committed to ensuring this rigorous analysis is conducted for each covered transaction, as required by law.

DIGITAL SALES TAX/OECD PROCESS

Question. During the nominations hearing on July 24, 2019, you recognized the importance of a multilateral approach and, in particular, the Organisation for Economic Co-operation and Development (OECD) process, in addressing the tax challenges created by the digitalization of the economy.

Please describe the concrete steps you will take to identify and implement a strategy for engagement at the OECD on resolving the DST issue. Please describe the interagency and international engagement necessary to achieve a successful outcome at the OECD.

Answer. The Treasury Department believes all companies—regardless of nationality or economic sector—should pay fair rates of taxation. Treasury recognizes that changes in business practices in the increasingly digitalized, 21st-century global economy are challenging the decades-old global consensus on the rules for allocating taxing rights among countries. As a result, the United States—in particular, the Treasury Department—is leading efforts in the OECD to reach consensus on new international tax rules. In the OECD, we are working with 131 countries on a multilateral solution. We seek a global consensus for new rules that will ensure all companies pay fair rates of taxation while also (i) providing certainty to taxpayers; (ii) minimizing administrative burdens; (iii) avoiding double taxation; and (iv) addressing transfer pricing and nexus issues that arise with respect to digital and non-digital businesses.

Treasury is fully committed to seeing the multilateral OECD process succeed. We believe that the ongoing work is on a good course and that the Program of Work approved by the Inclusive Framework provides a path to deliver a global consensus on new rules by the end of 2020. While we are addressing important and complicated issues in the OECD, we are unfortunately also seeing a disturbing trend of some governments, especially in Europe, politicizing the complex issue of achieving genuine fairness in the rules for allocating taxing rights. This regrettable trend is seen most clearly in unilateral DSTs.

With regard to this engagement, Treasury is coordinating closely with all critical stakeholders in the executive branch, including the Department of State and relevant embassies, the Department of Commerce, and the U.S. Trade Representative, through an interagency policy coordination committee process. The Department also believes a robust engagement with the Congress is vital to achieving these ends, and, if confirmed, I look forward to working with members of the committee on this vital issue.

QUESTIONS SUBMITTED BY HON. CATHERINE CORTEZ MASTO

Question. On July 16, 2018, the Treasury Department issued Rev. Proc. 2018–38, which eliminated the requirement for tax-exempt "dark money" organizations to report the identities of major donors. This rule change will significantly hamper the ability of the IRS, law enforcement, and intelligence organizations to police the laundering of funds through our political system. The Office of General Counsel provides legal and policy advice to the Treasury Secretary, and Secretary Mnuchin decided he would no longer collect donor information for certain nonprofit organizations that may engage in political activities. The Treasury Secretary relied on General Counsel's legal analyses to justify these actions.

Please provide me with exactly and specifically what role you had in that decision and the drafting of the legal justification.

Answer. I was aware that the Internal Revenue Service intended to relieve certain categories of 501(c) organizations of the obligation to report donor information, while still maintaining that information for inspection upon IRS request. I do not recall having had any role in preparing the IRS's legal justification for doing so, but I believe that the IRS issued Revenue Procedure 2018–38 based on the IRS's determination that the inclusion of personally identifiable donor information on Form 990 is

"not necessary for the efficient administration of the internal revenue laws," Rev. Proc. 2018–38 (quoting 26 CFR § 1.6033–2(g)(6)).

Question. Who lobbied or engaged the Department for Rev. Proc. 2018–38? Please provide me and this committee a list of organizations and interest groups that the Department met with, either publicly or privately, before the decision was released?

Answer. I do not recall having had any involvement in or awareness of any engagement with external parties regarding Rev. Proc. 2018–38.

QUESTIONS SUBMITTED BY HON. MICHAEL F. BENNET

Question. During your time as General Counsel, did anyone at the White House or the administration request that: (a) you or someone in your office intervene in a personal tax matter that was within the purview of IRS's tax administration or enforcement responsibilities; (b) you or someone in your office intervene in a personal matter related to the work of Treasury's Office of Terrorism and Financial Intelligence, including the Office of Foreign Assets Control (OFAC) or Financial Crimes Enforcement Network (FinCEN); (c) a staff member at the Treasury Department intervene in a personal tax matter that was within the purview of IRS's tax administration or enforcement responsibilities; (d) a staff member at the Treasury Department intervene in a personal matter related to the work of Treasury's Office of Terrorism and Financial Intelligence, including the Office of Foreign Assets Control (OFAC) or Financial Crimes Enforcement Network (FinCEN)?

If yes to any of the above, please provide information about those contacts to the committee—including the person contacting you or another Treasury employee, the reason for the contact, and the nature of the request.

Answer. I am not aware of any such requests.

Question. If you are confirmed as Under Secretary, will you be committed to remaining independent of the administration, and keep the Department free from outside political influence?

Answer. Under Article II of the Constitution and the laws establishing the Department of the Treasury, each Under Secretary of the Treasury is an officer of the executive branch. If confirmed, I would fulfill those duties assigned to me in a manner consistent with the Constitution and laws, without regard to any improper political influence.

QUESTIONS SUBMITTED BY HON. ROBERT MENENDEZ

Question. If confirmed, you will play an important role in implementing America's foreign policy priorities. One such priority is the fight against human trafficking. Human trafficking is a $150 billion a year crime with over 20 million victims around the world. The Trafficking Victims Protection Reauthorization Act of 2017, which I authored and was passed unanimously by both houses of Congress, requires the Department of the Treasury to advocate for better anti-trafficking safeguards and interventions in multilateral development bank projects. If confirmed as Under Secretary for International Affairs, you will have the ability to exert influence on the multilateral development banks, to get them to leverage their projects in smart ways that prevent trafficking and to encourage borrowing countries to increase their own efforts to combat trafficking.

If confirmed, will you commit to making this a priority and to working with my office to ensure effective implementation of the law?

Answer. Yes. If confirmed, I look forward to working with you and your staff on this important matter.

I am increasingly concerned that the United States is not well positioned to engage in economic statecraft for the 21st century—including promoting U.S. jobs, business and economic interests, engaging in development financing for infrastructure and other needs, including climate change-related resiliency, and setting standards for emergent technologies and the digital economy.

Question. Can you expand upon how you would view your role, if confirmed, in helping to renew and replenish U.S. economic statecraft instruments?

Answer. The Treasury Department, including in particular its International Affairs division, is committed to advancing American interests abroad in all matters within its remit. Doing so requires well-considered strategic shepherding of the various economic and financial matters committed to Treasury's care, ensuring at all times that Treasury's authorities are deployed judiciously, with a clear-eyed focus on the effects that actions abroad will have on individual Americans. For International Affairs, this includes ensuring that the CFIUS process is focused vigilantly and precisely on national security threats posed by inbound transactions, all while preserving the open investment environment that has made the United States the best place in the world to invest; that Treasury's engagement with the World Bank, the IMF, and other multilateral bodies is consistent with and designed to advance American national interests; that those portions of trade negotiations that fall within Treasury's authorities result in arrangements that benefit Americans and the American economy; that international taxing arrangements are fair to American taxpayers and American companies, and do not discriminate against them; and that economic agreements and technical assistance are deployed in ways that foster partnerships with foreign countries that are broadly beneficial to American interests.

Question. Where do you see the biggest challenges and biggest opportunities?

Answer. While challenges and opportunities with regard to America's economic interests are constantly evolving with world events, International Affairs is—and must be—focused on certain issues that present both challenges and opportunities. For one, the modernization of America's CFIUS investment security regime pursuant to the recent bipartisan FIRRMA legislation must satisfy dual imperatives: preventing the weaponization of foreign investment in U.S. companies while preserving the open investment environment that has made the United States the world's most attractive investment destination. For another, confronting market-distorting policies advanced by certain competitors so as to protect American jobs, American technological leadership, and American competitiveness is a challenge that must be contested on a wide variety of fronts, including through bilateral negotiations and through U.S. influence at multilateral bodies. For yet another, pushing for high-standard lending to low-income countries—lending that is transparent and sustainable and in the best interests of the borrowing country—presents both an opportunity to secure greater economic stability around the world and a challenge to bring about reform in the lending and borrowing practices of those countries that have not adopted best practices and thus have had a derogatory effect on international economic stability. If addressed prudently and effectively, all of these matters have the potential to benefit individual Americans.

QUESTIONS SUBMITTED BY HON. ROBERT P. CASEY, JR.

Question. As you know, Rev. Proc. 2018–38 was issued on July 16, 2018. When did you conduct your legal review of Rev. Proc. 2018–38?

Answer. I am aware that lawyers in the Office of General Counsel reviewed the IRS's Rev. Proc. 2018–38 for any legal issues, as they do for many tax rules and guidance, but I do not recall having myself reviewed that revenue procedure.

Question. Were you involved in the drafting of the response I received from the IRS on July 23, 2019 regarding Rev. Proc. 2018–38?

Answer. Not that I recall.

Question. If so, what sections did you draft, review, or provide advice on?

Answer. I do not recall having been involved in the drafting of the response in question.

QUESTION SUBMITTED BY HON. JOHN CORNYN

Question. The North American Development Bank has helped finance a total of 257 infrastructure projects in its 25 year history. In Texas, the Bank has financed 56 projects providing $605 million in loans and grants, and has leveraged that amount for $1.76 billion in total investment. The Bank continues to provide critical resources that help improve the quality of life for a total of 17 million U.S.-Mexico border residents. I have introduced legislation that would authorize the Bank moving forward and further support its activities.

Do you support the effort to further capitalize and expand the North American Development Bank?

Answer. At Treasury, we support the North American Development Bank's mission to foster growth and development on our shared border with Mexico. I am confident that in carrying out its mission, NADB can do more to advance the economic well-being of the people of the United States and Mexico. We are committed to working with our Mexican partners on the development of a new strategy for NADB to boost its ability to create economic opportunities, enrich communities, and improve the quality of life along both sides of the border. We recognize that a new strategy could benefit from greater resources and will consider whether additional capital would improve the NADB's ability to realize our ambitions. I understand that the administration has asked Congress to authorize a $10-million purchase of shares, having already appropriated the funds, so that the U.S. can maintain its 50-percent ownership share of NADB.

QUESTIONS SUBMITTED BY HON. MARIA CANTWELL

Question. I believe the United States must work with other countries to address concerns about China—from theft of intellectual property to barriers to market access. Both bilateral and multilateral dialogue are very important.

The office you were nominated to lead heads up Treasury's role in bilateral discussions with China. It previously led the Strategic and Economic Dialogue (S&ED), the U.S.-China Joint Commission on Commerce and Trade (JCCT), and the U.S.-China Comprehensive Economic Dialogue. Unfortunately, these dialogues were frozen by the Trump administration.

How will you ensure that the United States maintains regular ongoing dialogue with China on commercial and economic issues?

Answer. The United States and China have resumed dialogue on an enforceable trade deal, as President Trump and President Xi agreed to do during their meeting at the G20 in Osaka, Japan. Our discussions will center on protecting intellectual property, stopping forced technology transfers, opening China's markets, and other needed structural reforms. With respect to non-trade economic issues, Treasury also regularly engages with its counterparts from the Chinese Ministry of Finance, the People's Bank of China, and other Chinese financial regulators at multilateral meetings such as the G20, IMF, World Bank, APEC, and the Financial Stability Board.

Question. How will you coordinate with other allies like Europe and Japan on China?

Answer. Through Treasury's regular bilateral engagements with our European and Japanese counterparts, as well as our active participation in multilateral forums such as the G7, G20, and the Paris Club, Treasury routinely coordinates with our European and Japanese counterparts on economic issues of mutual concern related to China, such as investment security, debt sustainability and transparency, and overseas development finance, as well as market barriers and China's distortive economic and trade policies, which affect firms in all of our countries.

QUESTION SUBMITTED BY HON. TIM SCOTT

Question. As Under Secretary for International Affairs at the Treasury Department, you will be responsible for leading the U.S. delegation in and determining policy for a number of multi-lateral regulatory bodies like the Financial Stability Board (FSB) and the International Association of Insurance Supervisors (IAIS). Sometimes these multilateral bodies develop different standards or regulations that might not be compatible with the United States or could have negative repercussions for U.S. consumers and it will be your job to assertively and effectively stand up for U.S. interests.

One current issue that could use your attention immediately is the ongoing development of an insurance International Capital Standard (ICS) by the IAIS. The current draft of the ICS closely resembles the EU's approach to solvency regulation and is widely agreed to not be equivalent with the U.S. system of insurance regulation. The ICS is expected to be finalized in November at a meeting in Abu Dhabi and the IAIS has not yet agreed to provide mutual recognition to the U.S. system of insurance regulation as part of the completion of this proposal. I, with 41 of my col-

leagues, recently sent a letter to Federal Reserve Governor Randal Quarles expressing these concerns.

Will you commit that you will make achieving formal recognition of the equivalency of the U.S. insurance system a top priority?

Answer. Treasury strongly supports the state-based system of insurance regulation and is committed to continued engagement in the international standard-setting work at the IAIS to advance U.S. interests. Treasury is working closely on this issue with the other members of "Team USA"—the U.S. States, the National Association of Insurance Commissioners, and the Federal Reserve Board. It is important to note that international standards issued by the IAIS and other standard-setting bodies are non-binding in the United States, and they will only become law in the United States if implemented by the relevant State or Federal authorities. Treasury will continue to coordinate with other members of Team USA on the work at the IAIS, and we will continue to advocate, both now and during the ensuing 5-year monitoring period, that the ultimate outcome of the ICS accommodates the diverse approaches to solvency regulation taken by various jurisdictions around the world, including consideration of our State-based regulatory system.

PREPARED STATEMENT OF HON. RON WYDEN,
A U.S. SENATOR FROM OREGON

This morning the Finance Committee meets to discuss four important nominations.

Mr. Brent McIntosh is nominated to be Treasury Under Secretary for International Affairs. Mr. Brian Callanan is nominated to be Treasury General Counsel. Mr. Brian McGuire is nominated to be a Deputy Under Secretary of the Treasury for Legislative Affairs. And Mr. Travis Greaves is nominated to be a judge of the United States Tax Court.

I'll start my remarks with the Treasury nominees. There's been a pattern among some of the Trump nominees who've come before this committee. In this room they swear up and down that they'll serve with independence on behalf of all Americans. But after they're confirmed, blind loyalty to Donald Trump takes precedence over following the law.

The nominees before the committee today are experienced—there's no question about that. But with the Trump administration defying nearly all congressional oversight, the right resumes are not enough. The Finance Committee should have confidence that nominees would be able to resist pressure to make politically expedient decisions that help Donald Trump personally at the expense of typical American families.

In that vein, I want to turn to the Treasury Department's handling of the Ways and Means Committee's request for Donald Trump's tax returns under section 6103 of the tax code.

From where I sit, the Department has tossed aside the law and decades of precedent to protect the President from congressional scrutiny.

In May, I began investigating whether there was political interference in the decision to withhold the tax returns. I asked the Treasury a series of questions about the involvement of political appointees, and the initial response was misleading and inaccurate. I went back and demanded concrete answers.

After working with the Treasury to get them, the set of facts the Department agreed upon shows the unprecedented nature of its actions.

This type of inquiry has never been political. Now the Trump Treasury Department is politicizing it—top officials there are trampling all over a process that's always been routine.

The Treasury Secretary has never before been involved in responding to a request for tax returns under section 6103. Secretary Mnuchin is the first.

Second, the Treasury Department has never before formally consulted the Office of Legal Counsel on whether to comply with a specific 6103 request. OLC's opinion read like it was written by Rudy Giuliani to justify the decision Treasury had already made. The analysis put forward by the Justice Department has already been laughed out of court by judges who have noted that the Congress has broad investigative authority.

And third, the Treasury Department has never before formally considered whether there is a legitimate legislative purpose behind a 6103 request—not even for Chairman Grassley's investigation into ACORN.

Taken together, it's impossible to conclude that any of what the Treasury did was on the level. That's why I have deep concerns about the nominations of Brent McIntosh and Brian Callanan, who played central roles in the Department's response. They were also right in the middle of the Trump administration's decision to allow more foreign money and dark money groups like the NRA to buy their desired outcomes in American elections. That was a terrible decision, and the damage was compounded when the Treasury Department then made a frivolous argument to attempt to thwart congressional review of the rule.

I cannot ignore those facts. Mr. McIntosh and Mr. Callanan are currently the top lawyers at the Treasury. It has appeared that Treasury's leadership is more interested in protecting Donald Trump and party interests than guaranteeing that the Department follows the law. In my judgement, that conduct does not warrant promotions.

Switching gears for a moment to the U.S. Tax Court, Travis Greaves has been nominated to serve a 15-year term and would help ensure taxpayers get a fair shake in resolving tax disputes.

It's true that this nominee has 2 years of experience at the Justice Department's Tax Division, as well as time spent in private practice. However, Mr. Greaves's nomination to the committee was not accompanied by a recommendation letter from the American Bar Association's Tax Section. This is the first time in many years such a letter was not included with the paperwork of a Tax Court judge. It could be because Mr. Greaves' experience is far more limited than other nominees to the Tax Court. So I look forward to hearing from him as to why he feels he is qualified for this important role.

