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Nominee, Chief Counsel of the Office of Advocacy at the Small Business Administration

Chair Ernst, Ranking Member Markey, distinguished members of the committee: thank you for the opportunity to appear before you today. My wife Julia and three of our children have joined us for a front-row view of part of the system of checks and balances. I appreciate their support and sacrifices as Dad served, and hopes to serve again, in government during such partisan times in our nation's history.

I'm grateful and honored by President Trump's nomination to join a team committed to replacing government overreach with common-sense leadership.

I have always lived in Illinois, except for 5 years living in the ranking member's state and one year here in Washington. After I was about three years' old, my parents' sole source of income was the small software business that my father co-owned and managed. My uncle also worked most of his career in that business. My mother and I worked there at times.

In my current capacity as the owner of small businesses, I am too familiar with uncompromising regulators. Agencies can shut down businesses, or short of that, cause exasperated owners to hand things over to a big corporation.

I file at least 10 payroll-related forms annually. It seems like as soon as one is mailed out, the IRS wants another one. With a check attached, of course.

I got one of my biggest accounting bills ever to comply with Treasury's Beneficial Ownership Interest requirements. Considering the relief that Treasury just put in place, maybe that wasn't necessary, but previously all of America's small businesses were threatened with monetary and criminal penalties.

One of my early projects was commissioned by family farmers in Central Illinois. They needed a look at the economic effects of eminent domain because the state was using that authority for private purposes. I testified about that at the Illinois Commerce Commission.

My late father-in-law started an oyster farm, now run by our nephew. Uncompromising regulators loom large there, always shifting attention and resources away from the shellfish and the customers toward hiring lawyers and experts. Once, the farm had to prove that the regulators don't know how to measure nitrogen in the water. Another time, it was to refute the government's false claim that the land under the water is not our land.

I have met and listened carefully to the advice and insights of every Chief Counsel from the past 30 years. If confirmed, my priorities for the Office of Advocacy are three. The first is to listen to small businesses, especially with Advocacy's Regional Outreach office. Second, monitor and

enhance agency compliance with the Regulatory Flexibility Act. Third, produce and curate data on small businesses through the Office of Economic Research.

Rigorous measurement of economic activity broadly, and the small-business situation specifically, is something I have done throughout my career as an economics professor. I have also published extensively on regulatory economics. Congress itself calls for economic expertise at the Office of Advocacy by designating the first of its primary functions to examine “the contribution which small business can make in improving competition, encouraging economic and social mobility for all citizens, restraining inflation, spurring production, expanding employment opportunities, increasing productivity, promoting exports, stimulating innovation and entrepreneurship....” 15 USC 634b(1).

I strongly support Congress’ approach of creating an independent Office of Advocacy and other elements of the Regulatory Flexibility Act to ensure that concerns of, and costs imposed on, small businesses receive significant weight in regulatory decisions. Advocacy’s Regional Outreach is vital because the power to regulate is centralized in Washington, but knowledge about constituents’ circumstances lies outside that bubble.

While the RFA exists on paper, too often small businesses are getting ambushed. Too many rules are imposed without engaging or even notifying them. The RFA has rules for regulators to follow, but often their attitude is “Rules for THEE but not for ME.”

The law requires keeping small businesses in the loop. It requires reviewing old rules for their effect on small business. Agency compliance with the RFA does not need many resources, particularly when there is an Advocacy Office ready to help, supported by Congress and the White House.

There is a misconception, founded on the notion that America’s elite knows what’s good for the rest of us, that listening to small entities runs counter to health and safety. Regulated entities have valuable situational knowledge that, when considered, can enhance health and safety.

Small businesses also need regulatory solutions that last beyond a single presidential term. They appreciate that the 115th Congress and President Trump used the Congressional Review Act a record number of times. This Congress has gotten off to an even faster start. For my part, I look forward to working with this committee and anyone else in Congress developing legislation to help agencies achieve their missions at less cost to small businesses. I also pledge to keep you apprised of the concerns expressed during the regional outreach process.

I thank the committee for its consideration. I welcome your questions and would be honored to earn your support to serve as the next Chief Counsel of the Office of Advocacy at the SBA.