S. HRG. 107–492

NOMINATION OF THOMAS M. SULLIVAN TO BE CHIEF COUNSEL FOR ADVOCACY AT THE U.S. SMALL BUSINESS ADMINISTRATION

HEARING

BEFORE THE

COMMITTEE ON SMALL BUSINESS AND ENTREPRENEURSHIP UNITED STATES SENATE

ONE HUNDRED SEVENTH CONGRESS

FIRST SESSION

OCTOBER 16–17, 2001

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The White House,

SEP 21 2001

To the
Senate of the United States.

I nominate Thomas M. Sullivan, of Massachusetts, to be Chief Counsel for Advocacy, Small Business Administration, vice Jere Walton Glover, resigned.

GEORGE W. BUSH

NOMINATION OF THOMAS M. SULLIVAN TO BE CHIEF COUNSEL FOR ADVOCACY AT THE U.S. SMALL BUSINESS ADMINISTRATION

TUESDAY, OCTOBER 16, 2001

UNITED STATES SENATE,
COMMITTEE ON SMALL BUSINESS AND ENTREPRENEURSHIP,
Washington, D.C.

The Committee met, pursuant to notice, at 10:51 a.m., in room SR–428A, Russell Senate Office Building, the Honoable John F. Kerry (Chairman of the Committee) presiding.

Present: Senators Kerry, Levin, Wellstone, Cleland, Bond, Bennett, Enzi, Allen, and Ensign.

OPENING STATEMENT OF THE HONORABLE JOHN F. KERRY, CHAIRMAN, SENATE COMMITTEE ON SMALL BUSINESS AND ENTREPRENEURSHIP, AND A UNITED STATES SENATOR FROM MASSACHUSETTS

Chairman KERRY. The hearing will come to order.

I do want to raise a couple of issues for the Administrator, who I appreciate being here, but who I gather has gone downstairs for a moment. So I will wait until he gets back up here and begin the process of introducing our nominee and the formal part of the hearing itself.

My apologies to all parties for the delay in proceeding. What we had, as I am sure you can imagine, is an important meeting of Senators with the Sergeant at Arms and the FBI personnel and health personnel and others with respect to yesterday's incident. It was important for all of us to be there.

This morning we are having a hearing on Mr. Thomas Sullivan to serve as the Chief Counsel for Advocacy at the SBA. I am particularly delighted to welcome him here, and members of his family. His mother, Mary Kaye Sullivan I have not met. There she is. Welcome, we are delighted to have you.

She hails from Wellesley, Massachusetts; his brother, Greg Sullivan of Newton; and his fiancee, Ms. Juliane Carter. We are delighted to welcome all of you.

Let me just say that the fact that your mother is from Wellesley, and your family from Massachusetts, and you too, will serve you extraordinarily well here today.

[Laughter.]

Chairman KERRY. This is a very important position. Witness the fact that it is a nomination by the President of the United States

and it does require confirmation of the U.S. Senate. It is a job with an important mission, of helping to really facilitate the ability of small businesses to be able to reach us and to meld the policies of the Administration, whoever's administration it is, and the small business community itself.

It has a wide scope of authority and responsibility. We created it to lighten the regulatory load as well as to try to facilitate the implementation of the Regulatory Flexibility Act and the Small Business Regulatory Enforcement Fairness Act. So Mr. Sullivan, these are important jobs and I am not going to go through all of the aspects of the job except to say that this is a position, when properly filled, that really facilitates the ability of small business to do its job, and frankly facilitates the relationship between us, the SBA, and the small business community. So properly administered, it has an enormous ability to be positive.

Now I need to raise an issue that regrettably was not going to be part of this hearing at all, and it is really a sidebar, Mr. Sullivan, to your nomination. But I want to talk directly to the Administrator for a minute.

Mr. Administrator, I'm delighted you are here to support this important nomination. I think Mr. Sullivan is a very fine candidate and I think he is going to make an excellent advocate for small business and I am confident we are going to facilitate his confirmation, and I certainly pledge to do that.

But I want to raise a couple of serious issues with you, with respect to where we stand in our relationship, the relationship of this Committee and the Congress with the SBA and the Administration. As you know, Mr. Barreto, small businesses across the country are literally dying for help in the aftermath of the September 11th attacks. Thousands of people have lost their jobs because, No. 1, business generically is bad; and No. 2, there has been a tremendous fall off of the spin-off businesses that are affected by September 11th.

As you also know, Senator Bond and I, together, in a bipartisan way, worked with all of the community. We did what this legislature is supposed to do at its best, which is reach out. We held a series of conference calls with staff because we had trouble with people not able to fly across the country. So we facilitated it in modern ways.

We introduced the American Small Business Emergency Relief and Recovery Act. It has broad support. It was introduced with the support of all the Democrats of this Committee and the majority of the Republican members. I think there were only two people who were not finally part of it. In the Senate as a whole, we now have 43 co-sponsors, almost half the Senate. I mean, I would be amazed if this is not a vote of 100 Senators, if it was taken to a vote.

In addition to that, it was drafted with the input of small business organizations, trade associations, SBA's lending and counseling partners through more than 30 meetings and conference calls. It is a good bill. It does good for people.

Despite the fact that I invited the Administration, through you, to personally be involved in this effort weeks ago, despite the fact that we made four separate requests for the Agency to work with

us, we have never received any word whatsoever. No cooperation, and no input.

Yesterday, just as our bill was being cleared to be voted out of the U.S. Senate by unanimous consent, what happens? The Administration asks the Republican leadership to put a hold on the bill so it cannot come up for a vote. The Administration then calls to tell my chief of staff that they have to put a hold on the bill because tomorrow the Administration is going to publish some regulations to expand the disaster loan program to the whole country.

The implication being that this partial remedy of expanding the disaster loan somehow meets the need of the broad assistance provided through the bill Senator Bond and I and others have introduced.

Now I am pleased that the Administration is finally seeing the importance of trying to do something for small business, but after refusing to work with the Committee, a month has gone by. Now we have a reaction that, in the judgment of many of us, simply does not do the job that we have intended to do. Yet, the Administration is trying to block what we have intended to do, even though it has the majority support of the U.S. Senate and would fly through the Congress.

Now I am not going to go through all of the story of what small business is. We talk about it all the time, about how half the workers in the private sector are in small businesses.

But let me just point out to you a couple of things in one industry alone, and that is the business of chauffeured ground transportation across the country. That industry used to employ about 160,000 people a month ago. Since September 11, they have laid off approximately 80,000 people. Fifty percent, half the jobs are gone.

Now that is one of many industries in trouble. Again, I could pose the question about the jobs that might have been saved if we had moved sooner on this in a cooperative fashion. I do not know what the Administration is waiting for, before it recognizes that is a serious problem. One hundred percent layoffs? I do not know what the measurement is that triggers a response.

But I have received nothing in writing. I have received no personal telecommunication, and I do not think Senator Bond has, that has engaged us in a way that says why do you not do this? Or why do you not do that? Or perhaps we ought to change this, and then we would willingly support this.

But let me tell you why I think there is a big difference between what you are now poised to say you are going to do by regulation versus what we wanted to do legislatively. I do not think what you are doing is going to restore confidence in the markets at all, simply declaring emergency disaster loan assistance.

Second, it is not clear at all that it is going to reach enough people that need loan assistance. It does nothing for those businesses needing help with Federal contracts delayed or suspended, or those needing business counseling on how to stay afloat after the attacks.

Third, you have chosen to rely on a program that was drastically cut in your own budget this year.

Fourth, it is my understanding that the Administration does not intend to request additional funding for September 11 disaster

loans, so there is going to be a gap between what you are offering and what you are able to offer. That is frustrating because we thought you had finally come to the point of understanding that we need to help these small businesses at this point.

And last, why would you choose to rely on the most expensive program in the SBA to deliver assistance? If you had worked with the Committee here we could have tailored the SBA loans program to help small businesses in ways that would cost less. For instance, it costs about $17 to $20 per $100 to make a disaster loan. It costs a little more than $1 to make a loan from the 7(a) program. It costs zero, nothing to make a loan out of the 504 program. Those are the ways in which we were trying to approach this issue.

So Mr. Barreto, I think it is pretty important, from my perspective, to try to clarify this so we can proceed forward here in good faith, which is the way we certainly approach this.

Let me turn to Senator Bond for his comment, and then we will ask you to respond.

OPENING STATEMENT OF THE HONORABLE CHRISTOPHER S. BOND, A UNITED STATES SENATOR FROM MISSOURI

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

Let me just say that I agree with Senator Kerry. I was very disturbed to learn that the measure that we had crafted on a bipartisan basis, and continually sought the input from the SBA and OMB staff, we wind up as we are about to pass it, the House is primed to pass it, then the OMB has asked that the leadership put a hold on it.

Frankly, I find it a little disingenuous. I have asked the Republican leadership to bring S. 1499 up as soon as possible, because I do believe that we can still work together on it. We need to make sure we have the best assistance available.

It truly is disturbing to me that all the time we thought we were working together, asking for input, we find out not at the 11th hour, but 11:59, that the Administration has chosen to go a different way and seeks to block our effort. That is a real problem and I hope that we have learned that that is not the way to make things happen.

So with that, Mr. Chairman, do you want to have the Administrator respond?

Chairman KERRY. It may be that the Administrator wants to respond.

Senator BOND. Then I want to say one or two things about Mr. Sullivan, very briefly.

Chairman KERRY. Absolutely. He can respond and then I will recognize you again.

STATEMENT OF HECTOR V. BARRETO, ADMINISTRATOR, U.S. SMALL BUSINESS ADMINISTRATION

Mr. BARRETO. Thank you very much.

Chairman Kerry, Senator Bond, Senator Bennett and the other members of the Small Business Committee, thank you for inviting me to appear before you to introduce Tom Sullivan as the President's nominee for Chief Counsel for the Office of Advocacy. Before

I introduce Tom, with your permission, I would like to discuss the status of our response to the September 11th tragedy.

The Administration's primary concern has been to address the immediate needs of the most affected by the tragedy at ground zero and the Pentagon. The President, with the support of the American people and the world community has committed to fight a war against terrorism. We are fighting that war on many levels. The President has vowed to bring the evildoers to justice while restoring confidence and prosperity to the American people.

The Administration knows that a key factor in economic prosperity is a strong small business community, and we can all be proud of our Administration's response to the victims of the disaster at ground zero. SBA staff is assisting disaster victims at nine locations. We have deployed approximately 94 people in the New York City area, and an additional 205 people at our Niagara Falls district office. We also have several of our disaster loan experts from offices from around the country temporarily assigned to New York to provide additional support to that area.

We have worked on getting disaster relief information to those who need it. To that end, we have contacted all elected officials in the New York City area to provide them with information about the SBA's program by phone, e-mail, and regular mail. Our staff has been canvassing the neighborhoods to talk to the small business owners suffering from this tragedy in order to inform them about SBA assistance. We have also provided Chinese and Spanish-speaking translators to assist in that effort.

SBA has directly assisted 12,000 individuals and businesses with loan applications. We have approved 346 disaster loans totaling $36 million with an average loan size of $100,000.

The hard work of the Administration and the Agency has not gone unnoticed. We have a disaster team that I am honored to work with. As we have grown to expect, they have gone above and beyond in their effort to provide relief to small businesses in the fastest and most effective means possible. We have received many compliments on the speed and effectiveness of our response. Governor Pataki and Mayor Guiliani, as well as our legislative leaders, have commented on our excellent work at the SBA.

I think I was most touched, though, when one of our loan recipients in New York said that we are the most "humane agency" in the Government. That is quite a compliment and also quite a charge to live up to. We intend to live up to that charge.

In addition to the compliments, we have also heard requests. The requests are that we expand economic injury recovery beyond ground zero. We have heard these requests from our legislative partners.

As Senator Kerry mentioned, Senator Bond, we have also spoken with Congressman Velasquez. Through hearings that Chairman Manzullo of the House Small Business Committee held.

We have heard from Governors from across the Nation requesting that we assist small businesses in their States. We have also heard from small business industry representatives, and small business owners themselves.

I want you to know that the SBA has heard that message and the Administration has heard that message, and we are working

together to find the most effective and efficient method to assist small businesses.

The SBA's programs have evolved over the years to meet these needs. The SBA's disaster assistance loan program is the primary Federal program for funding recovery for private sector disaster victims. This program offers a low-interest rate loan, not to exceed 4 percent, as compared to non-disaster loans which are at 5 percent, 6 percent, or sometimes a greater percentage rate. The term of those loans can be for as long as 30 years, providing greater flexibility to small business owners, especially at this time when they need it the most.

We believe the economic injury recovery loan addresses precisely the type of injury that Congress considered when it developed this product. And we have been working on a proposal with the Administration. Through the expansion of a recovery proposal, we would (A), expand recovery to small businesses located outside of ground zero through our existing disaster loan program. (B), we would provide loans to businesses that have been directly injured by the September 11th event, and the Federal actions taken as a result of those events. And (C), we can accomplish the expansion through a change to our regulations. By making a regulatory change instead of a legislative change, we can provide the swiftest and most cost-effective and efficient response to small business.

We continue to work with the Administration to refine this proposal and we hope that we will have a more definitive statement with respect to this aspect of the economic recovery shortly.

At this time, it gives me great pleasure to introduce Tom Sullivan, the President's nominee for Chief Counsel for the Office of Advocacy. Part of my commitment, when I appeared before you for my own confirmation, was to work with the President to put the right people in key positions at the SBA, so that we have the best team available to meet the needs of small businesses.

I believe Tom Sullivan is the best qualified person for Chief Counsel for Advocacy. His experience at the National Federation of Independent Business Owners demonstrates his commitment to small business. His work as regulatory policy counsel put Government agencies on notice that the hundreds of thousands of members of the NFIB needed the Government to be more responsive to the unique nature of small business.

Prior to his tenure at NFIB, Tom worked at the EPA and at the Justice Department. This experience will prove to be invaluable as he works to ensure that all Government agencies help small business to succeed rather than bury them under the mandates and paperwork.

Mr. Chairman, I fully support Tom's nomination and look forward to working with him in supporting small business throughout our Nation. Thank you.

Chairman KERRY. Thank you, Mr. Barreto. I am going to go back to Senator Bond in a moment, but let me come back, if we can. Essentially, the statement you just gave is a prepared statement and not, frankly, a full answer to the question that Senator Bond and I asked.

In many ways, what you are telling the Committee indirectly, without quite answering my question directly, is that you are sim-

ply going to stick by the disaster loan and that is it, nothing more? You do not intend to work with us and that is where we are; is that correct?

Mr. BARRETO. No, sir.

Chairman KERRY. Is it fair to say that you did not really address our question?

Mr. BARRETO. Well, I hope that my statement articulated what the response of the SBA has been, not only to the disaster——

Chairman KERRY. I think you have done a laudable job. I am not here to question whether at ground zero you have been present. I am glad you have, and I think you have done a laudable job. That is not the issue here.

But this is much broader across the country than just ground zero. What we are talking about is the American response. You do not have enough people. You do not have enough loan officers or capacity or money in the disaster program to address the needs of the Nation.

That is what we are trying to do. We are trying to kick all small business in to gear here and provide the capacity to sort of privatize out, if you will, the ability to be able to meet the response. That is how you do it through those other programs.

I guess the question is, again, why is the Administration blocking our bipartisan effort to do that?

Mr. BARRETO. Senator, as we discussed when we met, we have received numerous proposals for response. One of the things that we are clear about is that there is an outpouring of commitment and care for small businesses across the country. As I have mentioned to you, we have received no less than six proposals from Congress, industry, representatives, Governors. We have taken a very serious look at those proposals, and it has taken us a little while to go through those and compare the provisions of those different proposals.

The reg change that I described is not to replace any of those other efforts. But one of the things that I know that you are committed to, and this Committee is committed to, is how do we help small business on a national basis in the quickest, most effective, most efficient manner possible?

Chairman KERRY. We have designed that and we have had no input from you to the contrary. We have worked with our House colleagues and they are prepared to pass the bill, too.

We also have reached out to Governors and to the various trade associations and interested parties. I am sure they are not communicating one thing to you and one thing to us with respect to these needs.

Mr. BARRETO. One of the things that we wanted to be very clear about when we looked into this reg change is to make sure that our folks that we have in our disaster team were prepared to look at this and to respond to this on a nationwide level. We have gotten assurances from our disaster folks that they will be able to do this, that we have the right personnel, that we will be able to respond to these small business needs on a nationwide level.

One of the things that we are also very glad about is that these loans are for 4 percent, and sometimes less than 4 percent, over a

30-year term. For a lot of the small businesses that are hurting right now, that is a very, very important proposal for them.

Chairman KERRY. I do not question that. It is a good one and if it is that good, the question is then begged why you cut the amount of money available for it in the budget. But that having happened, we are now trying to stopgap it and make up for the fact that there is a limited pool there. So we have to do more than just that.

I would like to find a way, like Senator Bond, I would like to get this thing passed. It is 1 month later. A lot of these companies, their credit cannot be extended. They have got to make a decision. Are they going to stay alive or are they not? They cannot afford to sit around while the U.S. Congress is bickering, which incidentally, we are not.

Now if you have a difference with this bill I would like you to come back this afternoon as the Administration and tell us what it is. We will sit there and work with you. We are prepared to work with you. We haven't even heard from you.

We would like to pass it. I do not know, Senator Bond, if you think there is a better way to try to do it?

Senator BOND. Mr. Chairman, Mr. Administrator, I think we are talking at two different levels. Nobody disagrees with your praise for the work that your people have done on the ground. There may be things you can do by regulation. But we have listened to all the groups, we have responded to our constituents, and we have come together on a bipartisan basis, as I think we have emphasized this Committee works. We put together what we think is a sound, bipartisan solution. We have asked SBA staff, we have asked OMB for their comments on it. Nothing.

Then we find, when the House is ready to pass it, we are ready to pass it, you put a hold on it. Nobody has told us what is wrong with the bill. If you have got a better way to do it, do not keep it a secret. This is a really shaky start, because we are ready, we have been ready to work with you on a bipartisan basis, which is the way we get things done around here.

I hope that this is an experience we will not experience again. Somebody said experience is what you get when you expected to get something else. I expected to get something else in working with the SBA.

With that, I think we have made our point. At least I hope we have.

Mr. BARRETO. Yes, you have, Senator. I just want to State that our relationship and our working relationship is something that we appreciate very much and we are committed to continue working with you.

I agree with you that the timing of this regulation could have been a lot better. We will work with you to make sure that this information is passing back and forth in a very timely basis. I think that we are in a truly unique situation. The SBA has never had to respond to a disaster of this type. There has never been a disaster of this type.

One thing that I am clear about is that there is tremendous commitment from this Committee, from the House Committee, from the business organizations that I have been meeting with, and leaders all across the country, to do the right thing for small busi-

ness. I want you to know that we are committed to the same thing, and I thank you for the opportunity to be here and to make this statement.

Chairman KERRY. Mr. Administrator, this will be the final word on it and then we will move to the Sullivan nomination. It is not the timing of the regulation. I think we could care less about the timing of the regulation. That is your right and prerogative and more power to you if you are going to facilitate the extension of those loans. We are all for it.

It is the blocking of our bill at the same time, which sends a completely different message. One for the other. That has got to stop. You have got to either lift that or tell us what you need changed immediately because there are a lot of other tools here in the U.S. Senate and there are a lot of other things the Administration needs to move forward on. We are intent on trying to get this help to business people.

As Senator Bond just said, if you have a better way to do it, terrific. There is no pride of authorship here. We think what we have is pretty good, but if you can improve on it, terrific. But I am not going to have a dark of night hold at the same time as people are talking about cooperating. That is unacceptable.

Let me let Senator Bond speak.

Senator BOND. Mr. Chairman, thank you. I will abbreviate my comments but I do want to extend a warm welcome on a cloudy day to Tom Sullivan, his fiancee, family members, and friends.

I think he is a very qualified candidate for the position of Chief Counsel of Advocacy. His experience and track record representing small businesses during his years at the NFIB make him superbly qualified to handle the important role.

Tom, I really look forward to working closely with you as you tackle the hard work of representing vigorously the views and interests of small business.

I am going to put in one very brief plug for a measure that I have introduced with respect to the Regulatory Flexibility Act and the SBREFA requirements. GAO has told us that the term significant economic impact to a substantial number of small entities need to be clearly defined. I have introduced a measure called Agency Accountability Act, AAA, which would give the Chief Counsel the power to conduct a rulemaking to define those critical terms. The Act would also increase the list of agencies required to conduct small business review panels. We think the process is working well but can work better.

We look forward to working with you on that. I am confident that we can do a great deal for small business.

Mr. Chairman, I have to apologize and excuse myself, because I had scheduled another meeting in just a few minutes. But we look forward to working with Mr. Sullivan.

[The prepared statement of Senator Bond follows.]

Senator Bond Introduction for Thomas L. Sullivan
Confirmation Hearing
before the
Senate Committee on Small Business & Entrepreneurship
October 16, 2001

It is my pleasure to extend a warm welcome to Tom Sullivan and to his fiancé, family members and friends who are able to join us this morning. President Bush's nomination of such a qualified candidate for the position of Chief Counsel of Advocacy at the SBA, bodes well for small businesses seeking to have their voices heard.

Tom Sullivan's experience and track record representing small businesses during his years at the **NFIB/National Federation of Independent Businesses** makes him superbly qualified to handle the important role of Chief Counsel of Advocacy. Tom I look forward to working closely with you as you tackle the hard work of representing vigorously the views and interests of small businesses.

This Committee has held hearings where small businesses have made clear that agencies are not complying with the Regulatory Flexibility Act and SBREFA requirements, which are supposed to protect small businesses from overly burdensome regulations. We hear too frequently that agencies are abusing the flexibility granted them under the RFA to circumvent the steps necessary to determine the impact of proposed regulations on small businesses or to find the least burdensome alternative.

The GAO has told us repeatedly that the terms "significant economic impact" and "substantial number of small entities" need to be clearly defined if the agencies are ever going to be consistent in their approach to the RFA/SBREFA. In light of the overwhelming evidence indicating that we need to tighten these definitions, I introduced during Small Business Week last May the Agency Accountability Act, which would require the Chief Counsel to conduct a rulemaking to further define these critical terms.

The Act would also increase the list of agencies required to conduct small business review panels before publishing proposed regulations. These review panels have proven extraordinarily successful in allowing the voices of small business to be heard at the time when they can have the most impact without interfering with the agencies' regulatory objectives. I hope that the Chairman and the new Chief Counsel of Advocacy will join me in making SBREFA the strong tool we envisioned to protect small businesses.

In the aftermath of the September 11th attacks, the duty of the Chief Counsel of Advocacy to keep policymakers aware of the impact their decisions have on small businesses has never been greater. In normal times, the voice of small business often needs a megaphone, today we must be even more vigilant as small businesses attempt to carry on with business as usual. Together we must ensure that small businesses continue to be one of our nation's greatest strengths. We must give them breathing room

and an environment that will foster the productivity that will get our economy moving again.

The challenge is clear, but with the hard work and determination of leaders as capable as Tom Sullivan, small businesses can, and will, step up to the plate and lead our nation at this critical time. I am confident that the Senate will find Tom Sullivan to be a superb choice for this position, and I am grateful that he has been willing to take it on.

Chairman KERRY. Thank you very much.

Let me just say to the Members of the Committee, I promise I want to try to expedite this nomination. It will probably, just because of the complications in our schedules this morning, with everything that is going on, be hard to get the quorum here now. But I will try to convene a quorum off the floor of the Senate at the first vote available. If all members could be alert to that, and we will try to have a vote in the President's Room off the Senate floor at the appropriate time.

Senator Cleland.

OPENING STATEMENT OF THE HONORABLE MAX CLELAND, A UNITED STATES SENATOR FROM GEORGIA

Senator CLELAND. Thank you, Mr. Chairman.

I would just like to thank you and the Ranking Member for your introduction of S. 1499, the American Small Business Emergency Relief and Recovery Act of 2001. I do think this is a hallmark piece of legislation which will go a long way toward assisting the small businesses which were directly and indirectly affected by the events of September 11th.

Congratulations on that, Mr. Chairman. As an original cosponsor, I look forward to its speedy action before the full Senate.

We are in an emergency. We are, I think, expected by the American people to act for their recovery in a very judicious and expedited way. So I endorse the concern of the Chair and Ranking Member about why this legislation was put on hold by the Administration. I look forward to its quick, early and easy passage.

Thank you very much, Mr. Chairman.

[The prepared statement of Senator Cleland follows.]

Senator Cleland -- Opening Statement to Small Business Committee Hearing

October 16, 2001

First, I would like to thank you, Mr. Chairman, for calling this hearing today. I think each of us realize the importance of small businesses in the American economy. The Office of Advocacy plays a key role in this regard by fighting for our small businesses within the federal government--just as we do in the Senate. I look forward to working with Mr. Sullivan in the future and I look forward to supporting his nomination today.

Secondly, I would like to thank the Chairman and the Ranking Member for their recent introduction of S. 1499, the American Small Business Emergency Relief and Recovery Act of 2001. This is a hallmark piece of legislation that will go a long way toward assisting the small businesses which were directly and indirectly affected by the events of September 11th. Congratulations on that Mr. Chairman and as an original cosponsor, I look forward to its speedy action before the full Senate.

Thank you.

Chairman KERRY. Thank you very much, Senator Cleland.

Senator Bennett.

OPENING STATEMENT OF THE HONORABLE ROBERT F. BENNETT, A UNITED STATES SENATOR FROM UTAH

Senator BENNETT. Thank you, Mr. Chairman. I was hoping to make this comment before the Administrator left, but Mr. Sullivan, if you would carry it back to him, my only comment in listening to this exchange goes back to what my professors used to tell me in college, which was read the question. You may understand all there is about the subject, but read the question.

In my view, the Administrator did not hear what the Chairman was saying and he was answering a different question. He was answering it very well, but it was the wrong question. So as you deal with this Committee, listen to what the Chairman says and respond specifically to the Chairman and we will not have any problems.

Thank you, Mr. Chairman.

Chairman KERRY. Thank you, Senator Bennett.

Senator Enzi.

OPENING STATEMENT OF THE HONORABLE MICHAEL ENZI, A UNITED STATES SENATOR FROM WYOMING

Senator ENZI. Thank you, Mr. Chairman. I would just ask unanimous consent that a copy of my statement be in the record.

Chairman KERRY. Without objection, your full statement will appear in the record.

[The prepared statement of Senator Enzi follows:]

STATEMENT FOR SENATOR MICHAEL B. ENZI
SMALL BUSINESS COMMITTEE
NOMINATION HEARING FOR THOMAS M. SULLIVAN
OCTOBER 16, 2001

Thank you, Mr. Chairman, for holding this committee nomination hearing this morning. We need to give small businesses the tools they need to be successful in today's competitive marketplace. I believe by accepting Mr. Thomas Sullivan's nomination as Chief Counsel for Advocacy for the U.S. Small Business Administration, we will be one step closer to reducing the burdens that federal policies often impose on small businesses and allowing for these businesses to effectively compete and succeed in today's marketplace.

I want to welcome Thomas Sullivan to the U.S. Senate Small Business Committee. Mr. Sullivan is an excellent candidate for the position of the Chief Counsel for Advocacy at the U.S. Small Business Administration. He has worked for the National Federation of Independent Business (NFIB) since 1998 as Regulatory Policy Counsel (1998-1999) and Executive Director of NFIB Legal Foundation

(1999-Present). His promotion of a small-business agenda at OSHA, EPA, and other government agencies greatly assisted the 600,000 small-business owners who belong to NFIB . As the Executive Director of NFIB Legal Foundation, Mr. Sullivan held government agencies like IRS, OSHA, and EPA accountable for their failure to comply with laws designed to help small employers. Mr. Sullivan has been an outspoken advocate for small business, especially in relation to regulatory reform at OSHA, EPA, and IRS and its effects on small business - both employers and employees. As the Chief Counsel for Advocacy, I believe he will continue to be a strong and fair small business advocate.

I definitely look forward to working with Mr. Sullivan and the Small Business Administration in the years to come to advance a small business agenda that will assist all small businesses nationwide. I again want to thank my colleagues for their leadership on Mr. Sullivan's nomination, and I look forward to continued bipartisan efforts to benefit our nation's small businesses.

Chairman KERRY. Mr. Sullivan, you have been well introduced to events in Washington this morning in ways you probably did not anticipate, but I certainly reiterate my welcome to you. We are really delighted to have you here, and I look forward to your testimony.

[The prepared statement of Senator Kerry follows.]

Nomination Hearing for Thomas M. Sullivan, Chief Counsel, Office of Advocacy, SBA

Good morning ladies and gentleman. Thank you for coming. I would like to take a moment to welcome SBA Administrator Hector Barreto and Mr. Thomas Sullivan, as well as some members of Mr. Sullivan's family who are with us today, his mother, Mary K. Sullivan, of Wellesley, Massachusetts, his brother, Greg Sullivan, of Newton, Massachusetts as well as his fiancé, Ms. Juliane Carter. Please except my apologies for having to delay this hearing to accommodate the funeral of Senator Mansfield.

Today we are holding a hearing on the nomination of Thomas M. Sullivan to serve as the Chief Counsel for the Small Business Administration's Office of Advocacy. Mr. Sullivan is a Massachusetts native and I have assured him this will reflect positively on my efforts to move his nomination through as speedily as possible.

The Office of Advocacy and its Chief Counsel play a critical role in protecting and promoting America's small businesses. From studying the role of small business in the U.S. economy, to promoting small business exports, to serving as an independent voice for small business within the Federal government, the Office of Advocacy has a wide scope of authority and responsibility. But most importantly, Congress created the Office of Advocacy to lighten the regulatory burden on small businesses with the assistance of the Regulatory Flexibility Act (RFA) and the Small Business Regulatory Enforcement Fairness Act (SBREFA).

The U.S. Congress created the Office of Advocacy, headed by a Chief Counsel, in June of 1976. It was not by accident that Congress mandated that the Chief Counsel be appointed by the President and confirmed by the Senate, and that the Chief Counsel come from the private sector. These stipulations were put in place by Congress to ensure that the Chief Counsel had the necessary independence and small business experience to serve as an effective advocate for small businesses from within the Federal government.

Each year, the Office of Advocacy works to facilitate meetings for small business people with congressional staff and executive branch officials and convenes ad hoc issue-specific meetings to discuss small business concerns. It has published numerous reports, including the annual "State of Small Business" report, compiled

important data and successfully lightened the regulatory burden on America's small businesses. In the area of contracting, the Office of Advocacy developed PRO-Net, a database of small businesses used by contracting officers to find small businesses interested in selling to the Federal government.

The U.S. Congress, the Executive Branch and of course, small businesses, have all benefitted from the work of the Office of Advocacy. For example, between 1998 and 2000, regulatory changes pushed for by the Office of Advocacy saved small businesses around $20 billion in annual and one-time compliance costs.

Small businesses remain the backbone of the U.S. economy, accounting for 99 percent of all employers, providing 75 percent of all net new jobs, and accounting for 51 percent of private-sector output. In fact, small businesses also employ 38% of high-tech workers, an increasingly important sector in our economy.

Small businesses have taken the lead in moving people from welfare to work. And an increasing number of women and minorities are turning to small business ownership as a means to gain economic self-sufficiency. Put simply, small businesses represent what is best in the United States economy, providing innovation, competition and entrepreneurship.

With the terrorist attacks on September 11, 2001, a downturn in the economy is turning into a recession, and small businesses need our help more than ever. To help them stay in business during these difficult economic times, I introduced, along with Senator Bond and 36 other original cosponsors, S. 1499, the "American Small Business Relief and Recovery Act of 2001," This legislation provides critically needed assistance to our nations small businesses....(from Kevin).

Also included in the legislation is a provision requiring the Office of Advocacy to study the effects of the September 11 attacks for their impact on small businesses and measure the benefits of this legislation. I look forward to working with the Office on this issue and I hope that, if confirmed, Mr. Sullivan, that one of your first acts will be to begin your investigation of the current state of small business. This Committee, and the House Committee on Small Business, are very interested in what you discover and we look forward to prompt and regular briefings on your findings.

To provide the necessary support to help small businesses, SBA's Office of Advocacy needs our support, and the dedication of its Chief Counsel.

Thomas Sullivan comes before the Committee today possessing, I believe, the necessary skills and experience to lead the Office of Advocacy at this critical time.

Mr. Sullivan currently serves as the Executive Director of the NFIB Legal Foundation, which aids small businesses with legal advice. He also served as the Regulatory Policy Counsel for NFIB. Additionally, Mr. Sullivan worked for the U.S. government, at both the U.S. Environmental Protection Agency's Office of Congressional and Intergovernmental Relations, and the U.S. Department of Justice's Environment and Natural Resources Division, General Litigation Section – positions which provide him with both the practical political and legal skills necessary to serve as a bridge between the small business community and the Federal government.

I would now like to welcome SBA Administrator Hector Barreto, who will introduce Mr. Sullivan.

STATEMENT OF THOMAS S. SULLIVAN, NOMINEE FOR CHIEF COUNSEL FOR ADVOCACY, U.S. SMALL BUSINESS ADMINISTRATION

Mr. SULLIVAN. Good morning, Chairman Kerry, Senator Bond, and distinguished members of the Committee. It is an honor to appear before you as the President's choice to head the U.S. Small Business Administration's Office of Advocacy.

It is touching to be surrounded by so many of my friends, colleagues in the small business community, and family. I would like to introduce my mother, Mary Sullivan and my brother Greg Sullivan. They flew down from Boston to share in this incredible honor for me. My other siblings, Barbara Roehrig in Denver, and BZ Honan in Marblehead are not able to be here. Last, I would like to introduce my fiancee, Juliane Carter, and thank her for being here with me this morning.

I would like to briefly summarize my background and outline some exciting opportunities that await me if I am confirmed as Chief Counsel for Advocacy. In addition, Mr. Chairman, I ask that my complete statement be included in the record.

Chairman KERRY. So ordered.

Mr. SULLIVAN. I did not grow up in a small business. My dad was an attorney and my mom worked in hospital administration in Waltham and Mt. Auburn hospitals. I did grow up in the shadow of admirable public service. I am proud of my mother's devotion to making the town of Wellesley, Massachusetts a good place to raise a family. Her countless hours of civic meetings and long nights at our locally-elected legislative body, the Wellesley Town Meeting, rubbed off on me.

While in law school, I followed in her footsteps and was elected to represent our neighbors in my precinct at the Wellesley Town Meeting. This fascination of public service and policy development led me to Washington, D.C.

My small business perspective comes from the past several years working for NFIB. My view of what it is like to own and run a small business has been shaped by my interaction with people like Barbara Williams, who owned a small restaurant in Gettysburg, Pennsylvania and Mike Nobis, who runs a small printing company in Quincy, Illinois. Both Barbara and Mike fell prey to the unfairness of a Federal law that was supposed to clean up polluted sites, but instead sometimes victimized innocent small businesses.

Bringing their perspective to Washington is what NFIB does best, and through that work I gained a great appreciation for what it takes to own a small business and how frustrating it can be when dealing with rigid Federal laws that oftentimes ignore the consequences in small business.

I have not been able to help all those small business owners who have called or who I have met while working at NFIB. What is so tremendously exciting for me today is the opportunity I have, if confirmed, to help thousands, if not millions, more small employers.

How can the Office of Advocacy help millions of small employers? I see three distinct ways. First, Advocacy can recognize and improve the human capital of the office. SBA's Office of Advocacy hosts some of the finest public servants in the government. Devoted

economists, attorneys, and staff in the States and here in Washington have given the office the credibility and stature it deserves. Recognizing and highlighting the talent in the office is the first opportunity faced by the new Chief Counsel.

It is not enough for the fine work produced by Advocacy to be simply put on a website. Academic institutions and think tanks across the country deserve to benefit from the wealth of information and expertise the Office of Advocacy has to offer. Staff from Advocacy should be the resource for small business policy formation.

Second, the Office of Advocacy should stand on the principle that the formulation of sound policy is based on solid information. My goal, if confirmed, is to continue to bring Advocacy's research to the attention of decisionmakers here in Washington and bring renewed emphasis on getting that information outside the beltway. Advocacy's quality work belongs in the hands of every scholar who is studying small business and in every State legislator's hands who needs information before voting on bills that affect small business. The research products coming out of the Office of Advocacy belong in academia and in the halls of governments across the country.

Third, Advocacy's involvement early in the regulatory process can improve the culture in regulatory agencies. Laws like the Regulatory Flexibility Act and the Small Business Regulatory Enforcement Fairness Act have produced results. The Office of Advocacy estimated cost savings of $3.4 billion last year as a direct result of differences made in regulatory policy as it affects small business.

In real small business terms, $3.4 billion equates to an additional 1.3 million employees working in small businesses, receiving employer-sponsored health care. That is a positive sign and proof that Advocacy's role in the regulatory process is a critical one. Advocacy has helped ensure that small business saved money. Money that could be used to hire additional employees, buy new or upgrade existing computers, or provide employees with health care coverage. Most importantly, these cost savings were achieved without sacrificing environmental protection or worker safety.

Bringing the voice of small business into agency deliberations early in the process makes a difference. Advocacy's goal should be to convince agencies that it makes a positive difference.

Highlighting the human capital within SBA's Office of Advocacy, bringing their research outside the beltway, and helping change the regulatory culture of Federal agencies and departments provide a framework under which small business can benefit from Advocacy's success.

These challenges may seem monumental, but they are worth it. The confidence of President Bush, SBA Administrator Hector Barreto, this Committee, and my friends and colleagues, has impressed upon me what an honor this nomination truly is. If confirmed, I look forward to working with you to keep the entrepreneurial spirit of this country alive and well, through an Office of Advocacy devoted to ensuring a bright future for small business.

That concludes my statement and I would be happy to answer any questions the Committee may have.

Chairman KERRY. Thank you very much, Mr. Sullivan. It was a good statement and I appreciate your articulation of the possibilities of your job.

Let me just ask you, if I may, a number of pro forma questions before I ask you a few substantive ones about policies, et cetera. First of all, is there any conflict of interest that you are aware of that might prevent you from properly being able to carry out your responsibilities?

Mr. SULLIVAN. There are none, Mr. Chairman.

Chairman KERRY. In order to be able to make that statement, have you had to divest yourself of any interest of any kind that the Committee should be aware of? Or is there anything you need to recuse yourself from in order to perform these responsibilities?

Mr. SULLIVAN. I have signed an ethics agreement with the senior ethics official at the SBA that require me to recuse myself from involvement with the NFIB Legal Foundation for 1 year. Other than that, there are no other situations that I should bring before the Committee.

Chairman KERRY. What is the theory of the timeframe on the NFIB Foundation?

Mr. SULLIVAN. Well, I am currently employed as executive director of the NFIB Legal Foundation. It is my understanding, after consulting with the head ethics official at SBA, that a 1-year recusal from contact with my current employer is the standards ethics agreement.

Chairman KERRY. I was just curious as to how they arrived at the 1 year. I understand what they are trying to do. I assume they feel that after 1 year you are purged of any bad or good instincts you may have?

[Laughter.]

Mr. SULLIVAN. I believe that the SBA senior ethics official was acting within the guidelines that he is comfortable with. I want to assure the Committee that as situations arise where there are questions of how to conduct my activities, I will consult regularly with the senior ethics official.

Chairman KERRY. Fair enough. So it is essentially a discretionary fixing of the time period?

Mr. SULLIVAN. Yes, sir.

Chairman KERRY. Do you also agree that you will appear before any duly constituted committee of the U.S. Congress when requested, if confirmed? That any member of your staff appropriately asked to appear will also do so?

Mr. SULLIVAN. Yes, Mr. Chairman. It is my intention to appear before committees of Congress as requested. It is also my full intention to engage regularly with both sides of the aisle on the House and Senate on a regular basis on issues of importance to small business.

Chairman KERRY. Second, do you agree that you will yourself reply to any requests for information of any duly constituted committee of Congress and/or your staff also will do so?

Mr. SULLIVAN. Yes, Mr. Chairman.

Chairman KERRY. Thank you very much.

You have been appointed by the President, introduced by the Administrator, and that is the normal course of events. That is appro-

priate. But how do you guarantee to the interested small business community that in this role, and it is a question I would ask not necessarily of you but of any "independent" office of advocacy for any particular agency, how you guarantee that level of independence that is so critical to the credibility of the office? And frankly, to its functioning?

Mr. SULLIVAN. How do I guarantee the independence of the Office of Advocacy? I think first, I want to assure the Committee that I am answerable foremost to the views of small business owners that I am able to represent to the best of my ability if confirmed as Chief Counsel.

As far as procedural independence, the Office of Advocacy is unique in the sense that while housed at the SBA, the Office of Advocacy has independence from testimony and opinions stated before congressional committees that do not necessarily have to be cleared through the Office of Management and Budget clearance process.

The other way that procedurally the office has a statutory level of independence is the independent hiring authority. Through those levels of independence, the Office is able to both maintain its independence to effectively advocate for small business, while at the same time, working within a partnership with the Administrator and the Administration to best represent small business owners.

Chairman KERRY. Do you feel prepared to tell either the OMB or the Administrator or the White House itself that you think they are on the wrong course, if they happen to be, in terms of small business interest?

Mr. SULLIVAN. It is my understanding that Administrator Barreto fully expects from me, if confirmed as Chief Counsel, to represent to him and to the Administration the unbiased views of small business owners. To the extent those conflict with policy decisions underway or already made by the Administration or Hector Barreto, that is an understanding that he is willing to deal with on a daily basis, as long as I am presenting him the independent, unbiased view.

Chairman KERRY. What about the resources within the Office? Have you had a chance to analyze it and make a judgment as to whether you have the resources necessary to perform the functions?

Mr. SULLIVAN. It is my understanding, Mr. Chairman, and this is elaborated in my written statement, that the Office of Advocacy has the best and brightest. Through that, through recognizing, I believe I referred to in my written statement, the human capital in that office, that will encourage future best and brightest to come and work at the Office of Advocacy.

To the extent that I have undergone a thorough review of responsibilities and personnel, I have not. That certainly is a priority, once in place. I can assure the Chairman that if there are gaps in the resources needed or additional help that can be done legislatively, I will come before the Committee and make those requests and engage in a dialog to make sure that the Office of Advocacy can accomplish its mission with the resources that it has.

Chairman KERRY. So you are going to make that judgment as you go down the road, essentially?

Mr. SULLIVAN. Yes, Mr. Chairman.

Chairman KERRY. The small business community of the country is a diverse community. We have come, in this Committee, sort of by consensus almost always—again we work very much on a bipartisan basis. Over the years we have developed fairly strong support for some programs which, on occasion, are ideologically hot spots, and there have been pressures. Now you are coming from one business entity that, on occasion, has clashed with the concept of SBA itself. We have received some inquiries about that.

Obviously, I have grown to be comfortable with that. Others on the Committee, people are prepared to proceed forward. But help those people who might worry that something they fought for over 10, 15, 20 years which is now a part of the SBA program will also be represented by you and advocated for by you?

Mr. SULLIVAN. Mr. Chairman, the organization that is my current employer, NFIB, has historically prioritized for small business owners functions within SBA. When asked policy positions or votes on key pieces of legislation, NFIB only represents the consensus views of its membership of 600,000 small business owners. So to the extent that there have been issues related to the functioning of SBA, my understanding that NFIB has asked Congress to prioritize within SBA because that is what the 600,000 members of NFIB have told the organization is their position.

It is also my further understanding that historically NFIB has prioritized the Office of Advocacy as an extremely valuable resource for small business owners. So that, in part, makes it such an honor for me to appear before the Committee this morning, recognizing in my current employer how important the Office of Advocacy is to small business directly.

With regards to how I will act as Chief Counsel of Advocacy, again I would like to assure the Committee that I am absolutely beholden to the non-biased views of small business owners. That will determine my policy decisions and directions taken before this Committee and before different policymakers around the country.

Chairman KERRY. How important is the SBA itself, in your judgment?

Mr. SULLIVAN. I do not know, Mr. Chairman. In answer to the question of my current position and my current understanding of SBA again, it has been NFIB's position to prioritize programs. And in that prioritization, they have highlighted the effectiveness of the Office of Advocacy. Senator Bennett did say "read the question," and I want to be responsive to the Committee. But from a prioritization perspective, my focal point as one of the best parts of Government, and the best part certainly within SBA is the Office of Advocacy.

Chairman KERRY. But stepping outside the Office of Advocacy, once you are in the Office of Advocacy you are not advocating for the Office of Advocacy, you are advocating for the interests of small business. Small business finds the SBA as its primary governmental contact and a very critical linkage on a whole series of programs. The STTR, SBIC, SBIR, 504, so forth, lending.

What does your either analysis or study or experience tell you about those programs and the SBA's stewardship of them?

Mr. SULLIVAN. Well Mr. Chairman, I have not conducted analysis of SBA programs. It is my understanding that the Chief Counsel

position is charged with bringing the resources, the helpful resources of the Government, to small businesses across the country.

Now to the extent that the helpful parts of Government, whether it be loan assistance or small business compliance assistance centers housed within the Environmental Protection Agency, or voluntary cooperative compliance systems within OSHA, within Department of Labor, it is my understanding that the Office of Advocacy is charged with making sure that small business owners across the country have access to those programs, understand and can use those programs.

So to the extent that there is a governmentwide analysis of what is actually helpful to small business, it will be my job, if confirmed, to make sure that small businesses know about the programs that are helpful, whether it be in SBA or EPA or IRS. That is something that I am looking forward to if confirmed.

Chairman KERRY. But you have no opinion, as you approach this job, about the capacity of the SBA itself?

Mr. SULLIVAN. No, I do not, as I approach the job. I know that the Office of Advocacy does analyze trends and programs governmentwide that are helpful for small employers. I know there is reluctance of the Office of Advocacy to do a self-examination of the Small Business Administration. If confirmed, I actually would share that caution, that the Office of Advocacy not look exclusively at SBA programs to analyze their benefit or detriment to small employers, because then you trend very slowly into the Inspector General function of the Agency.

Chairman KERRY. Well, in the past, the Office of Advocacy has been deeply involved in making sure that small businesses get their fair share of Federal procurement. Specifically, that the Small Business Innovation Research program and technology transfer programs work well. Is it your intention to stay involved in those programs and in that effort?

Mr. SULLIVAN. Yes, Mr. Chairman. Sorry to interrupt. It is my intention to keep active on those programs.

Chairman KERRY. Whenever you say yes you can interrupt all you want.

[Laughter.]

Mr. SULLIVAN. Thank you. In particular, the Federal procurement example is a good one to show how the Office of Advocacy can be successful, because you've got the research component of the Office of Advocacy that analyzed Federal procurement trends. That research showed a disappointing trend as it affects small business. Then Advocacy didn't stop there. The Advocacy component of the office then took that research to the Federal Government, to the Defense Department and said "let us think outside of the box to cure this problem with Federal procurement and small business."

It is my understanding they have been very successful in thinking outside the box in getting small business tied into the appropriate ways, into the Defense Department, so that they can get the percentage of small business involvement higher for Federal procurement. That is a perfect example of one of the strengths of the Office of Advocacy.

Chairman KERRY. What about the goal of Federal Government purchasing? We have set a goal of trying to achieve 23 percent of

goods and services being purchased from small business. Regrettably, we have failed to meet that goal, the Administrations previously, on either party has failed to meet that goal for either women or small disadvantaged businesses, HUBZones and veteran-owned businesses. What do you intend to do to try to make sure that the Government achieves those goals?

Mr. SULLIVAN. Mr. Chairman, it is my intention, if confirmed, to continue to work within the Government to impress upon those officials who are in charge of Federal procurement that it makes sense for the economy to get that percentage of small business involvement up.

Chairman KERRY. Good. We would appreciate that. I think it does make sense and I think it is an enormously important way to lift small companies ultimately into big company status and share some of the benefits of the Federal procurement process.

Should this Committee and the small business community in general read anything particular in the fact that while at the NFIB Legal Foundation you filed four amicus briefs, whereas in the whole history of Advocacy the Office has filed only one amicus brief? Do you view that as a role you will now assume in the Advocacy Office? Is this a different approach that you have?

Mr. SULLIVAN. Mr. Chairman, my experience as head of the NFIB Legal Foundation should assure this Committee and others that I will approach the amicus role in a similar manner. Here is what I mean. Litigation should be an absolute last resort. It is expensive, it is time consuming and, from a small business owners' perspective, it can be devastating.

The NFIB acts effectively because it advocates its positions in State legislatures, here in Congress, and in regulatory agencies. The idea of filing an amicus brief to represent those views in Federal court is used incredibly sparingly. I would like to urge this Committee that I will exercise similar restraint in my role as confirmed as Chief Counsel.

The benefit of that office, in regards to litigation, is the cooperative nature of dealing with Federal agencies behind the scenes to achieve regulatory cost savings with the threat of litigation hanging over all of the parties' heads. But it is not my intention to exercise that threat of amicus authority to the detriment of valuable discussions that actually have resulted in significant regulatory savings over the years.

Chairman KERRY. Thank you, Mr. Sullivan.

Senator Enzi.

Senator ENZI. Thank you, Mr. Chairman. Once again, I thank you for bringing this hearing up and the promise of the vote, when we have the vote later. I think you were most thorough in your questioning. The only thing you probably left out were those Massachusetts connections that he has.

[Laughter.]

Senator ENZI. All of us on this Committee, of course, because of the Committee title, are extremely interested in small business. I may be more interested than any of the other States, because in Wyoming there is no business that is headquartered in Wyoming that would meet big business requirements according to our small business definition. So we are extremely concerned, and not about

those ones that are up around the 500 employee one, because again even on ones that come in from out of state, we do not have many of those.

I try to maintain the definition more down around the person who owns the business being the one who sweeps the sidewalks, cleans the toilets, does the accounting, and waits on customers, and not necessarily in that order.

I do appreciate the efforts that you have made in the past on SBREFA. Giving people in small business a voice in the regulation process of the Federal Government, I think, is extremely important, not just from getting the regulation right but making sure that there is a reflection of the difference between a big business and a small business when it comes to dealing with these. Also recognizing that if we get it right for small business it usually helps out big business, too.

I thank you for your willingness to serve in this position and I really do not have any questions for you. Thank you.

Chairman KERRY. Thank you very much, Senator Enzi. You should be advised that I paid all the deference I could conceivably summon up to Massachusetts prior to your arriving here.

Let me just say, as we close, I do not have any further questions. I thank you for your testimony this morning. Mr. Sullivan, rest assured, you have done well. If I could just say, maybe it is that Jesuit training up there at BC or something. But we are delighted to try to proceed forward as rapidly as we can. I hope that we can perhaps report it out of Committee today. It depends a lot on the floor schedule. But I am confident that quickly this week we should be able to move it forward.

[The prepared statement of Mr. Sullivan follows:]

TESTIMONY OF

THOMAS M. SULLIVAN
NOMINEE
CHIEF COUNSEL FOR ADVOCACY
U.S. SMALL BUSINESS ADMINISTRATION

BEFORE THE

COMMITTEE ON
SMALL BUSINESS AND ENTREPRENEURSHIP

UNITED STATES SENATE

107th CONGRESS, 1st SESSION

OCTOBER 16, 2001

Good morning Chairman Kerry, Senator Bond, and distinguished members of the Committee. It is an honor to appear before you as the President's nominee to head the U.S. Small Business Administration's Office of Advocacy.

It is touching to be surrounded by so many of my friends, colleagues in the small-business community, and family. I would like to introduce my mother, Mary Sullivan, and my brother, Greg. They flew down from Boston to share in my incredible honor. My other siblings, Barbara Roehrig in Denver, and BZ Honan in Marblehead are not able to be here. Lastly, I would like to introduce my new fiancée', Juliane Carter, and thank her for being with me this morning.

My statement explains my background and outlines some exciting opportunities that await me, if I am confirmed as Chief Counsel for Advocacy.

I did not grow up in a small business. My dad was an attorney and my mom worked in hospital administration at Waltham and Mt. Auburn hospitals. I did grow up in the shadow of admirable public service. I am proud of my mother's devotion to making the town of Wellesley, Massachusetts a good place to raise a family. Her countless hours of civic meetings and long nights at our locally elected legislative body, the Wellesley Town Meeting, rubbed off on me. While in law school, I followed in her footsteps and was elected to represent our neighbors in my precinct at the Wellesley Town Meeting. The fascination of public service and policy development led me to Washington where I worked in an environmental consulting firm and at

the U.S. Environmental Protection Agency.

My small-business perspective comes from the past several years working for the National Federation of Independent Business (NFIB). First, as their Regulatory Policy Counsel, and later in my role as the head of the NFIB Legal Foundation. My view of what it is like to own and run a small business has been shaped by my interaction with people like Barbara Williams, who owned a small restaurant in Gettysburg, Pennsylvania, and Mike Nobis, who runs a printing company in Quincy, Illinois. Both Barbara and Mike fell prey to the unfairness of federal laws, which were enacted to clean up polluted sites, but instead victimized innocent small businesses.

My view of small business has been shaped by people like Bruce St. Hilaire, who owns a machine shop in North Chelmsford, Massachusetts, and Charlotte Cadwell, who owned a marina in South Dakota. When I last spoke with them, they had been completely overwhelmed by federal regulations and did not know where next to turn.

My view of small business has been shaped by the dozens of calls I have received from small business owners every month, in my capacity as the Executive Director of the NFIB Legal Foundation. Phone calls come from people like an owner of a small farm in New Jersey whose property was taken by eminent domain, and a builder in upstate New York who fought an OSHA violation all the way to the Second U.S. Circuit Court of Appeals.

Unfortunately, I have not been able to help all those small-business owners who have called or who I have met. What is so tremendously exciting for me today is the opportunity I have, if confirmed, to help thousands, if not millions, more small employers.

How can the Office of Advocacy help millions of small employers?

I. Advocacy can recognize and improve the human capital of the office.

SBA's Office of Advocacy hosts some of the finest public servants in the country. Devoted economists, attorneys, and staff in the states and here in Washington have given the office the credibility and stature it deserves. Recognizing and highlighting the talent in the office is the first opportunity the new Chief Counsel faces.

It is not enough for the fine work produced by Advocacy to be put on a web site. Academic institutions and think tanks all across the country deserve to benefit from the wealth of information and expertise the Office of Advocacy has to offer. Staff from Advocacy should be the resource for small-business policy formation.

Greater attention to the expertise within Advocacy will attract more of the best and brightest professionals to come to work at the Office of Advocacy, whether they are visiting professors, renowned economists, or career civil servants.

II. Formulation of sound policy based on solid information.

The Office of Advocacy has a two-pronged mandate when it comes to research. First, the Office is charged with examining existing government practices and documenting how they affect small business. How are government programs affecting small businesses' access to capital? What is the impact of contract bundling on small business?

Advocacy examines these issues, focusing on the consequences specific to small business, and empowers decision-makers to solve problems based on well-researched analysis.

The second prong of Advocacy's research mandate is the "crystal ball" approach to policy development. What factors will affect small business growth and prosperity ten to twenty years from now? Will computer usage and wireless devices make small businesses more efficient, or will continuing advances in technology leave rural small businesses in the Dark Age?

Research that looks ahead, into the "crystal ball," will help our nation's leaders make sound decisions in the near term that don't sacrifice the future potential of small enterprise.

My goal, if confirmed, is to continue to bring both prongs of Advocacy's research mandate to the attention of decision-makers in Washington and bring renewed emphasis on getting the

information outside the beltway. Advocacy's quality work belongs in the hands of every academic who is studying small business and in every state legislator's hands who needs information before voting on bills that affect small business. The research products coming out of the Office of Advocacy belong in academia, think tanks, and in the halls of governance across the country.

It is more than simply delivering a bound report to a research institute's doorstep in Sacramento or Pittsburgh. The Office of Advocacy will be involved in the collaborative outside-the-beltway process through getting its message out and by bringing the different regional and state perspectives back to us here in Washington.

III. Changing the culture in regulatory agencies.

Government agencies have come a long way since the 1980 passage of the Regulatory Flexibility Act, which mandated that agencies examine the impacts of regulatory proposals on small entities and consider whether there are alternatives that would be less burdensome on small business. Agencies have come even further since the 1996 enactment of the Small Business Regulatory Enforcement Fairness Act --sometimes called the "Red Tape Reduction Act." The Red Tape Reduction Act strengthened the Regulatory Flexibility Act, in part, by enhancing the Office of Advocacy's role in the rulemaking process and by subjecting agency compliance with the Act to judicial review.

The effect of these laws has been to insert a small-business perspective early in the regulatory process. And, it has produced real results. The Office of Advocacy estimated cost saving of $3.4 billion for last year as a direct result of differences made in regulatory policy as it affects small business.

In real small-business terms, $3.4 billion equates to an additional 1.3 million employees, working in small business, receiving employer-sponsored health care. This is a positive sign and proof that Advocacy's role in the regulatory process is a critical one. Advocacy has ensured that small business saved money -- money that could be used to hire additional employees, upgrade computers, or provide employees with health care coverage. Most importantly, these cost savings were achieved without sacrificing environmental protection or worker safety.

The once quixotic struggle to achieve a small-business friendly regulatory climate is not over. Estimates in 1995 showed that small businesses with 20-49 employees spent, on average, 19 cents out of every revenue dollar on regulatory costs. The very smallest businesses, with one to four employees, spent almost twice as much per employee on regulatory costs than their larger business counterparts.

Bringing the voice of small business into agency deliberations early in the process makes a

difference. Advocacy's goal should be to convince agencies that it makes a positive difference.

Highlighting the human capital within SBA's Office of Advocacy, bringing Advocacy's research outside the beltway, and helping change the regulatory culture of federal agencies and departments provide a framework under which small business can benefit from Advocacy's success.

The challenges may seem monumental, but they are worth it. The confidence of the President, SBA Administrator Barreto, and my friends and colleagues, has impressed upon me what an honor this nomination truly is. If confirmed, I look forward to working diligently with this Committee to keep the entrepreneurial spirit of this country alive and well, through an Office of Advocacy devoted to ensuring a bright future for small business.

Thank you for the opportunity to appear before you today. I will be happy to answer questions you may have.

THOMAS M. SULLIVAN
303 South Wayne Street, Arlington, VA 22204 (703) 685-7608 tom.sullivan.home@bc.edu

NFIB LEGAL FOUNDATION Nov. 1999 - Present

Executive Director, Washington, D.C.
Run newly created legal foundation for the National Federation of Independent Business. Responsible for all aspects of the foundation's operations which include litigation, program development, and fundraising. Coordinate litigation with outside counsel and interact with Advisory Board made up of top political, regulatory, and legal experts. Foundation gained national recognition through aggressive press strategy and an impressive list of first-year accomplishments.

NATIONAL FEDERATION OF INDEPENDENT BUSINESS May 1998 - Nov. 1999

Regulatory Policy Counsel, Washington, D.C.
Counsel and spokesman on regulatory issues for membership organization which represents 600,000 small and independent businesses. Responsibilities included leading coalitions, drafting legislation and position papers, advising small-business owners, and coordinating grass roots efforts on regulatory policy. Regularly met with senior officials from government agencies, including the Occupational Safety and Health Administration and the Environmental Protection Agency, to advocate a pro small business agenda. Testified before congressional committee on Superfund reform. Registered to lobby in both the U.S. House of Representatives and the U.S. Senate.

U.S. ENVIRONMENTAL PROTECTION AGENCY Oct. 1994-Apr. 1998
Congressional & Intergovernmental Relations, Washington, D.C. Summers 1991, 1992
Responsibilities included daily contact with congressional members and staff, representing EPA's Enforcement and Compliance Office, Small Business Ombudsman and Regulatory Management Offices, and Agency-wide initiatives. Agency lead for congressional hearings on compliance issues and legislative matters related to regulatory reform and small business. Office ethics counsel. Recipient of National Network of Environmental Management Studies Fellowship under Administrator William K. Reilly and Department of Justice commendation for legislative and policy development. Regularly spoke before EPA-sponsored national meetings.

U.S. DEPARTMENT OF JUSTICE Oct. 1996-Mar. 1997
Environment and Natural Resources Division, General Litigation Section, Washington, D.C.
Responsibilities for six-month assignment included representing client agencies before U.S. District Courts, the development and implementation of litigation strategy, and coordination with U.S. Attorney offices for courtroom appearances. Counsel of record for U.S. Forest Service in challenges to forest management practices.

EDUCATION:

Suffolk University	Boston, MA., Juris Doctor, May 1993
Boston College	Chestnut Hill, MA., Bachelor of Arts, English, May 1989

BAR ADMISSION & ELECTED POSITIONS:

Admitted	District of Columbia, April, 1996; Massachusetts, November, 1993
Elected Office	Boston College Alumni Association, Board of Directors, 1995-1997
	Precinct C Representative, Town Meeting, Wellesley, MA., 1992-1993

Thomas M. Sullivan, Esq.
Executive Director
NFIB Legal Foundation

The NFIB Legal Foundation was established in 2000 to protect the rights of America's small-business owners by providing guidance on legal issues and by ensuring that the voice of small business is heard in the nation's courts.

Under Tom Sullivan's leadership, the NFIB Legal Foundation has held government agencies like IRS, OSHA, and EPA accountable for their failure to comply with laws designed to help small employers. Additionally, the Foundation has provided thousands of small-business owners with educational materials on the legal system and on employment law.

The Foundation's involvement in precedent-setting legal actions helped the National Federation of Independent Business (NFIB) secure a preeminent position within the public-interest legal community and led to national recognition in numerous print and broadcast media outlets. Tom Sullivan was listed in *Fortune Small Business* magazine's most recent ranking of influential small-business advocates.

Prior to becoming Executive Director of the Legal Foundation, Tom Sullivan served as NFIB's Regulatory Policy Counsel. From 1998-2000, he promoted a small-business agenda at OSHA, EPA, and other government agencies on behalf of the 600,000 small-business owners who belong to NFIB.

As Regulatory Policy Counsel, Tom lead the Small Business Coalition for Regulatory Relief, and stimulated dialogue between government officials and small business trade associations through the NFIB-sponsored Small Business Regulatory Forum. Tom testified before the U.S. House of Representatives, Water Resources and Environment Subcommittee, on the need for small business Superfund liability relief.

From 1994-1998, Mr. Sullivan worked in the Administrator's office of the EPA and in the Environment and Natural Resources Division of the U.S. Department of Justice. Tom received his undergraduate degree in English in 1989 from Boston College and remains active in alumni activities on a local and national level. He earned his law degree from Suffolk University in Boston, MA in 1993 and is admitted to the District of Columbia Court of Appeals and the Supreme Judicial Court of Massachusetts.

Tom's interest in policy and commitment to public service dates back to his involvement in Wellesley Town Meeting (the elected body in Tom's hometown of Wellesley, MA). Tom was elected to represent his precinct in Town Meeting from 1992-1993.

LEGAL FOUNDATION

Protecting the Rights of America's Small Business Owners

October 9, 2001

Patricia R. Forbes
Majority Staff Director and Chief Counsel
Committee on Small Business & Entrepreneurship
Washington, DC 20510

Dear Patty,

Thank you for your letter of October 3 requesting my views on areas of concern for Chairman Kerry and other Committee members. My responses are contained in the enclosed document.

I look forward to presenting my views in greater detail before the Committee tomorrow morning during the hearing on my nomination and personally answering questions that the Chairman or other members of the Committee may have.

Sincerely,

Thomas M. Sullivan
Executive Director

Enclosure

National Federation of Independent Business
1201 F Street NW, Suite 200 • Washington, DC 20004 • 202-554-9000 • Fax 202-484-1566
website: www.nfiblegal.com • email: legalfoundation@nfib.org

1. The position of Chief Counsel for Advocacy is an independent voice for small business. How do you see your role in instances where the Administrator and the White House may disagree with the views of small business?

A. The Office of Advocacy's mission is to represent the views of the small-business community. Those views are supported by a wealth of data and analysis within the research component of the Office of Advocacy. It is the Office's duty to provide the Administrator and the White House with an unbiased perspective unique to small business and the research to support it. Those views may be at times inconsistent with those of the Administrator and the White House.

2. Will you publicly oppose the President and the Administrator when they take positions that have a negative effect on the small business community?

A. Yes, and it is my understanding that Administrator Barreto and President Bush expect the Chief Counsel to present them with the unbiased views of the small-business community.

3. The Chief Counsel for Advocacy is a unique position in the Government. Since the Chief Counsel must represent all small business and work with all small business associations, how would you avoid any appearances of a conflict of interest with any of your former employers?

A: I will fully comply with SBA regulations concerning conflicts of interest. I have signed an ethics agreement and will discuss any potential conflicts as they arise with the agency's ethics officer and will comply with his or her suggestions.

4. You have a lot of experience in the regulatory area. There are a number of other areas of importance to the small business community such as access to capital, procurement, access to credit and the entire area of data and economic research where you have limited experience. How do you plan to promote these other important areas of Advocacy's responsibility?

A. My written statement goes into greater detail on how I plan to highlight and strengthen the Office of Advocacy. My goal is for the office to continue its top-quality data and economic research and to bring that expertise to academia, policy institutes and foundations, and governing bodies outside of Washington, DC so that the Office of Advocacy becomes the resource for small-business policy formation.

5. It appears that the economy is slowing down significantly for a number of reasons. How will you go about determining the impact on small business throughout the country?

A. Determining the impact is exactly what the Office of Advocacy is designed to do. Reports like the State Small Business Profiles that document job growth and other economic indicators in each state are perfectly situated to determine the impact of an economic slow down on small business.

6. What are your priorities for the Office of Advocacy?

A. My written statement goes into greater detail on the priorities I have for the Office of Advocacy. My goals are to highlight and improve the

expertise of Advocacy staff, bring the small-business perspective into policy debates based on solid information and quality research, and to continue to change the culture within regulatory agencies for the benefit of small employers.

Chairman KERRY. I will leave the record open just for a few more hours, in case there is anybody else who wants to submit a statement and then we will close it by the time of our next meeting, whenever that occurs, this afternoon or otherwise.

We stand adjourned. Thank you.

[Whereupon, at 11:51 a.m., the Committee was adjourned.]

COMMITTEE BUSINESS

WEDNESDAY, OCTOBER 17, 2001

UNITED STATES SENATE,
COMMITTEE ON SMALL BUSINESS AND ENTREPRENEURSHIP,
Washington, D.C.

The Committee met, pursuant to notice, at 4:15 p.m., in room 216, U.S. Capitol Building, the Honorable John F. Kerry (Chairman of the Committee) presiding.

Present: Senators Kerry, Levin, Harkin, Wellstone, Cleland, Landrieu, Edwards, Bond, Bennett, Snowe, Enzi, Allen and Ensign.

Chairman KERRY. The Small Business Committee is convened for the purpose of voting out the nomination of Thomas Sullivan to be chief counsel for advocacy at the U.S. Small Business Administration. The clerk will call the roll.

The CLERK. Mr. Levin.
Senator LEVIN. Aye.
The CLERK. Mr. Levin, aye.
Mr. Harkin.
Senator HARKIN. Aye.
The CLERK. Mr. Harkin, aye.
Mr. Lieberman.
Chairman KERRY. Aye by proxy.
The CLERK. Mr. Lieberman, aye by proxy.
Mr. Wellstone.
Senator WELLSTONE. Aye.
The CLERK. Mr. Wellstone, aye.
Mr. Cleland.
Senator CLELAND. Aye.
The CLERK. Mr. Cleland, aye.
Ms. Landrieu.
Senator LANDRIEU. Aye.
The CLERK. Ms. Landrieu, aye.
Mr. Edwards.
Senator EDWARDS. Aye.
The CLERK. Mr. Edwards, aye.
Ms. Cantwell.
Chairman KERRY. Aye by proxy.
The CLERK. Ms. Cantwell, aye by proxy.
Mrs. Carnahan.
Chairman KERRY. Aye by proxy.
The CLERK. Mrs. Carnahan, aye by proxy.
Mr. Bond.
Senator BOND. Aye.
The CLERK. Mr. Bond, aye.

Mr. Burns.
Senator BOND. Aye by proxy.
The CLERK. Mr. Burns, aye by proxy.
Mr. Bennett.
Senator BENNETT. Aye.
The CLERK. Mr. Bennett, aye.
Ms. Snowe.
Senator SNOWE. Aye.
The CLERK. Ms. Snowe, aye.
Mr. Enzi.
Senator ENZI. Aye.
The CLERK. Mr. Enzi, aye.
Mr. Fitzgerald.
Senator BOND. Aye by proxy.
The CLERK. Mr. Fitzgerald, aye by proxy.
Mr. Crapo.
Senator BOND. Aye by proxy.
The CLERK. Mr. Crapo, aye by proxy.
Mr. Allen.
Senator ALLEN. Aye.
The CLERK. Mr. Allen, aye.
Mr. Ensign.
Senator ENSIGN. Aye.
The CLERK. Mr. Ensign, aye.
Mr. Chairman.
Chairman KERRY. Aye.
The CLERK. Mr. Chairman, aye.
Nineteen ayes, zero nays.
Chairman KERRY. I have letters in support of the nominee to be included in the record.
[The information referred to follows:]

LETTERS FOR THE RECORD

BRAND & FRULLA
A PROFESSIONAL CORPORATION
923 FIFTEENTH STREET, N.W.
WASHINGTON, D.C. 20005

TELEPHONE: (202) 662-9700
TELECOPIER: (202) 737-7565

October 9, 2001

VIA HAND DELIVERY

The Honorable John Kerry, Chairman
Committee on Small Business & Entrepreneurship
United States Senate
Washington, D.C. 20510

The Honorable Kit Bond, Ranking Member
Committee on Small Business & Entrepreneurship
United States Senate
Washington, D.C. 20510

Re: Nomination of Thomas M. Sullivan

Dear Chairman Kerry and Ranking Member Bond:

We write to strongly support the nomination of Thomas M. Sullivan of Massachusetts to be Chief Counsel for the Small Business Administration's Office of Advocacy.

Over the years, we have gotten to know Tom both personally and as a client, in his capacity as Executive Director of the National Federation of Independent Business Legal Foundation (the formation of which he helped to spearhead). His keen intellect, good-natured determination, background in regulatory flexibility issues, and tireless work on behalf of our Nation's small business community make him an ideal candidate for Chief Counsel.

Tom's experiences also blend important components of the role of Chief Counsel. His work at NFIB has not only provided him with a wide-ranging practical background regarding a formidable variety of small businesses, but also an appreciation of the legal and legislative issues they face. In that Tom has also worked within the Executive Branch, he will also have an appreciation of how the Office of Advocacy can work constructively with other agencies to develop measures that achieve these agencies' objectives, while tailoring their measures' impacts to small businesses' concerns and capabilities.

We have worked closely with former Chief Counsel and the Office of Advocacy on behalf of our small business clients and associations, and look forward to continuing our work with Mr. Sullivan upon his confirmation.

Please do not hesitate to contact us, at (202) 662-9700, if we can provide you with any additional information or perspectives regarding this most worthy nominee.

Respectfully submitted,

Stan Brand

Stanley M. Brand

David E. Frulla

cc: Mr. Dirksen Lehman,
Special Assistant to the President for Legislative Affairs (by facsimile)

TOM DAVIS ASSOCIATES, LLC

381 Lyons Rd.
Basking Ridge, NJ 07920
Phone: 908.903.9556
Fax: 908.647.5549

West End Place, #804
1099 22nd St., NW
Washington, DC 20037
Phone/Fax: 202.776.0539

tomdavis@webspan.net

The Honorable John Kerry, Chairman
Committee on Small Business & Entrepreneurship
United States Senate
Washington, DC 20510

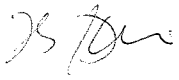
Dear Chairman Kerry,

I want to express my complete support for Thomas Sullivan who is being put forth to head the office of SBA Advocacy Office.

Tom has been a personal and professional friend for many years and I have the highest respect for his abilities. As a small business person myself, I would be very please to know that Tom is in the SBA in this capacity and that he is working for small business people everywhere.

I hope that you will endorse and speed his nomination.

Sincerely,



Jack Faris
President & CEO

September 26, 2001

The Honorable John Kerry
Chairman, Committee on Small Business
& Entrepreneurship
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

I am writing you to express the National Federation of Independent Business' (NFIB) strong support for Tom Sullivan's nomination as Chief Counsel for the Office of Advocacy of the Small Business Administration.

Mr. Sullivan served as NFIB's first Regulatory Policy Counsel and worked tirelessly to bring the small-business owner's perspective into discussions at IRS, OSHA, EPA and other agencies.

Over the past two years, Tom has extended NFIB's advocacy strength beyond legislative and regulatory matters into the legal arena as Executive Director of the NFIB Legal Foundation. Through his leadership, the NFIB Legal Foundation represents the interests of small business in precedent-setting legal actions and provides advisory materials to help navigate complex legal and regulatory issues.

I am proud to recommend him for your consideration and favorable vote for confirmation when his nomination is before the Small Business and Entrepreneurship Committee.

Please do not hesitate to call if I may personally answer any questions you may have about Mr. Sullivan's qualifications or ability to effectively serve as the SBA's Chief Counsel for Advocacy.

Sincerely,

Jack Faris

Jack Faris
President

National Federation of Independent Business
1201 F Street NW • Suite 200 • Washington, DC 20004 • 202-554-9000 • Fax 202-554-2470 • www.nfib.com

Date: 10/15/01 5:37 PM
Sender: Dan Donovan
To: Salvatore Ciolino
cc: Jere Glover
Priority: Normal
Subject: Fwd[2]:Support Tom Sullivan for SBA Chief Counsel

Subject: Support Tom Sullivan for SBA Chief Counsel
Author: Scott George <sgeorge@sofnet.com>
Date: 10/8/01 8:28 PM

Dear Senator Bond,

Kit, I support Tom Sullivan for SBA Chief Counsel. I have worked with Tom over the past several years on regulatory reform issues. Tom is a strong supporter of small businesses in the USA.

Tom has led the fight for regulatory reform. One example is when he successfully led a legal challenge, under the SBREFA statute, to overturn a regulation because the agency failed to take into account the detrimental effect on USA's small businesses.

I understand that the Senate Committee on Small Business and Entrepreneurship is holding a confirmation hearing, to consider the nomination of Tom Sullivan to Chief Counsel for Advocacy at the Small Business Administration, on October 10, 2001 at 10:15 a.m. in 248A Russell.

Mr. Sullivan is the former director of the National Federation of Independent Business (NFIB) Legal Foundation, and also has served as the organization's regulatory counsel.

I urge my fellow small business owners to contact their Senators regarding this important nomination.

In my opinion, a vote for Tom Sullivan is a vote for America's small businesses.

Thanks for your support of Tom and America's small businesses.

Yours for a Better and Smaller Government,

Scott George
Mid America Dental & Hearing Center
1050 W. Hayward Drive
Mt. Vernon, MO 65712

417-466-7184 ext 152
fax 417-466-4081

CHAMBER OF COMMERCE
OF THE
UNITED STATES OF AMERICA

R. BRUCE JOSTEN
EXECUTIVE VICE PRESIDENT
GOVERNMENT AFFAIRS

1615 H STREET, N.W.
WASHINGTON, D.C. 20062-2000
202/463-5310

September 26, 2001

The Honorable John Kerry
Chairman, Committee on Small Business
& Entrepreneurship
United States Senate
Washington, DC 20510

Dear Mr. Chairman:

I am writing you to express the U.S. Chamber of Commerce's strong support for Tom Sullivan's nomination as Chief Counsel for the Office of Advocacy of the Small Business Administration.

The U.S. Chamber of Commerce is the world's largest business federation, representing more than three million businesses and organizations of every size, sector, and region. More than 96 percent of the Chamber's members are small businesses with 100 or fewer employees.

We believe that Mr. Sullivan's longstanding experience in the regulatory and trade association community will equip him with the knowledge and understanding necessary to address the needs of small business.

Mr. Sullivan's impressive leadership and management skills will provide a new dimension of service in a position of utmost importance to the small business community. We urge you to approve his nomination and look forward to working with you to ensure prompt confirmation of Mr. Sullivan.

Sincerely,

R. Bruce Josten

VARD M. KENNEDY
MASSACHUSETTS

United States Senate
WASHINGTON, DC 20510–2101

October 4, 2001

The Honorable John F. Kerry, Chairman
Committee on Small Business & Entrepreneurship
304 Russell Building
Washington, D.C. 20510

Dear John:

I'm writing in support of Thomas M. Sullivan for the position of Chief Counsel for Advocacy at the Small Business Administration. Tom has done an outstanding job as Executive Director for the National Federation of Independent Business Legal Foundation, where he provided effective guidance on legal issues and worked skillfully to see that the voice of small business is heard in the nation's courts. I am confident he will do an impressive job for SBA representing small business.

Prior to becoming Executive Director of the Legal Foundation, Tom served in numerous positions to promote the interest of small business. His extensive experience makes him an excellent choice to be Chief Counsel for Advocacy at SBA.

We must do as much as we can to ensure that small business has the same opportunity as larger corporations to conduct business with the federal government. I share your concerns about contract bundling among federal agencies. Tom will be an effective advocate in addressing this issue and addressing the need for a level playing field for American small business.

Tom also worked from 1994-1998 in the Administrator's office in the EPA and in the Environment and Natural Resources Division of the U.S. Department of Justice. Tom's interest in policy and commitment to public service dates back to his hometown involvement in Wellesley Town Meeting. Tom was elected to represent his precinct in Town Meeting from 1992-1993.

With respect and appreciation,

As ever,

Ted Kennedy

Edward M. Kennedy

October 8, 2001

The Honorable John F. Kerry
United States Senate
Chairman
Senate Committee on Small Business and Entrepreneurship
275 Russell Senate Office Building
Washington, D.C. 20515

Dear Chairman Kerry,

On behalf of National Small Business United, the nation's oldest small business advocacy organization, I would like to offer our strong support for the nomination of Thomas Sullivan to be the Chief Counsel of the Office of Advocacy.

The members of National Small Business United feel that Mr. Sullivan's experience as director of the National Federation of Independent Business (NFIB) Legal Foundation and as NFIB's Regulatory Policy Counsel make him an excellent candidate for the position of Chief Counsel. We have had the opportunity to work with Mr. Sullivan in those roles and have been consistently impressed with his knowledge, fair-mindedness and dedication to the small business community. And, of course, he's done a great job.

We hope that Mr. Sullivan's nomination will meet with approval on October 10th and we look forward to working in concert with yourself and Mr. Sullivan in the future to advocate for the advancement of small businesses nationwide.

Sincerely,

Todd McCracken
NSBU President

National Small Business United • 1156 15th Street, N.W., • Suite 1100 • Washington, D.C. 20005-1711 • 202-293-8830
Toll Free: 800-345-NSBU • Fax: 202-872-8543 • http://www.nsbu.org • nsbu@nsbu.org

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Vice President, Administration
Janet Weitkunat

Director of
Technology Transfer
Dieter Bergman

Director of
Government Relations
John D. Kania
Washington, DC

Director of
Environmental Policy
Fern Abrams
Washington, DC

October 1, 2001

The Honorable John Kerry, Chairman
Committee on Small Business & Entrepreneurship
United States Senate
Washington DC 20510

Dear Chairman Kerry,

On behalf of IPC, The Association Connecting Electronics Industries, I would like to offer our support for the President's nomination of Thomas M. Sullivan to be Chief Counsel for Advocacy at the Small Business Administration (SBA).

As the trade association for the electronic interconnection industry, IPC fully supports the role of the SBA in ensuring that the voice of the small business community is heard throughout the regulatory process. We believe Mr. Sullivan has been, and will continue to be, a tireless advocate for small businesses throughout this country. IPC has had the pleasure of working with Tom at the National Federation of Independent Business (NFIB) on many issues of mutual interest, most recently regarding the failure of the Environmental Protection Agency (EPA) to properly evaluate increased EPA reporting burdens on small businesses.

IPC represents more than 2,800 member companies, located in 40 states and 331 Congressional districts, involved in all facets of the electronic interconnection industry, including design, printed wiring board manufacturing and electronics assembly. IPC is committed to a regulatory environment that takes account of best possible scientific practices and programs to meet the needs of a $44 billion U.S. industry employing more than 400,000 people.

The continued success of the American small business community, and this country's strong entrepreneurial spirit will be well served by confirmation of Mr. Tom Sullivan to this position. IPC is pleased to support his nomination as an important step to improving and elevating the role of small entity concerns within the regulatory framework, and compels you to do the same. Thank you for your consideration on this matter.

Sincerely,

Dennis P. McGuirk
President

cc: Dirksen Lehman, Special Assistant to the President for Legislative Affairs
Tom Sullivan, Executive Director NFIB Legal Foundation

SBEA

SMALL BUSINESS EXPORTERS ASSOCIATION

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Baltimore, MD

First Vice-Chair
Robert E. Duncan, President
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Overland Park, KS

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Miami, FL

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Don Lloyd Williams, President & CEO
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James Morrison
SBEA
Washington, DC

3 October 2001

Honorable John Kerry
Chairman
Senate Small Business Committee
Room 428A, Russell Senate Office Building
Washington, DC 20510

Dear Senator Kerry,

The Small Business Exporters Association enthusiastically endorses the nomination of Thomas Sullivan to be the next Chief Counsel for Advocacy of the United States Small Business Administration.

Tom Sullivan knows small business and how to advocate for it within the federal government. He has a detailed grasp of the laws governing that advocacy. He is easy to work with, because he is a very good manager and a coalition-builder. He's also honest, which inspires trust and loyalty. When he makes a commitment, he follows through with it. His background in the Executive Branch of government, in a small business association, and as a lawyer would bring a helpful span of experience to the Office of Advocacy. And he is approachable -- a true prerequisite for leading Advocacy's work.

Many office holders in the federal government affect small businesses from time to time. But none has the potential to do more enduring good for more small businesses than the Chief Counsel for Advocacy at SBA. I have had the distinct privilege of knowing all four previous Chief Counsels. I believe that Tom Sullivan will be a worthy successor to them, building on their achievements and leaving behind a distinguished record of his own.

In working closely with Mr. Sullivan on a number of issues over the last five years, I found him unfailingly principled, capable and gracious. He will help set the tone of professionalism and civility that the President, Congress and the country are seeking.

On behalf of SBEA, I urge the Committee and the full Senate to quickly approve Mr. Sullivan's nomination.

Sincerely,

James Morrison, Ph.D.
President

1156 15th Street NW
Suite 1100
Washington, DC 20005

Tel: 202-659-9320
Fax: 202-872-8543
e-mail: sbexporters@aol.com
www.sbea.org

FITA

A Council of National Small Business United
NSBU
www.nsbu.org

BOSTON COLLEGE ALUMNI ASSOCIATION

The Honorable John Kerry, Chairman
Committee on Small Business & Entrepreneurship
United States Senate
Washington, DC 20510

Dear Chairman Kerry:

I write this note on behalf of the Boston College Alumni Association, in support of Tom Sullivan, nominated by President Bush to be Chief Counsel for Advocacy at the US Small Business Administration. Along with the Honorable R. Nicholas Burns '78 (US Ambassador to NATO) and Pierre-Richard Prosper '85 (Ambassador at Large for War Crimes Issues), it's exciting for us to see another future leader nominated for such high service.

Tom's professional and personal accomplishments and successes, both material and intangible, reflect greatly on the spirit and character of our alumni worldwide, and we are proud to call on him for help and guidance. We count on his generous spirit and always remain confident in his deliverance when needed.

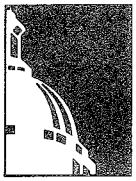
Tom is an exemplary alumnus of Boston College, and I can think of no better person to fill the nominated role. On behalf of the Boston College Alumni Association, representing over 132,000 university graduates, I recommend him highly.

Sincerely,

Grace Cotter Regan

Grace Cotter Regan '82
Executive Director

ALUMNI HOUSE, 825 CENTRE STREET, NEWTON, MASSACHUSETTS 02458-2527
617-552-4700 800-669-8430 FAX 617-552-4626 E-MAIL ALUMNI.COMMENTS@BC.EDU



SMALL BUSINESS
LEGISLATIVE
COUNCIL

September 27, 2001

The Honorable John F. Kerry
Chairman, Committee on Small Business and Entrepreneurship
United States Senate
SR-428A Russell Senate Office Building
Washington, DC 20510-6350

Dear Mr. Chairman:

I am writing you to express the Small Business Legislative Council's strong support for Tom Sullivan's nomination as Chief Counsel for the Office of Advocacy of the Small Business Administration.

Tom has exactly the skills and temperament the position requires and demands. We believe that Tom's longstanding experience in the regulatory and trade association community will be especially valuable. He possesses the enthusiasm and commitment to the future of small business that has been the hallmark of the previous Chief Counsels.

The SBLC is a permanent, independent coalition of nearly 80 trade and professional associations that share a common commitment to the future of small business. Our members represent the interests of small businesses in such diverse economic sectors as manufacturing, retailing, distribution, professional and technical services, construction, transportation, and agriculture. Our policies are developed through a consensus among our membership. Individual associations may express their own views. A list of our members is attached.

Sincerely,

John S. Satagaj
President & General Counsel

JSS/mlm/S4426

1010 Massachusetts Avenue, NW, Suite 400 • Washington, DC 20001
(202) 639-8500 / Fax: (202) 296-5333 • Email: email@sblc.org

SMALL BUSINESS
LEGISLATIVE
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Members of the Small Business Legislative Council

Air Conditioning Contractors of America
Alliance of Independent Store Owners and Professionals
Alliance of Affordable Services
American Bus Association
American Consulting Engineers Council
American Council of Independent Laboratories
American Machine Tool Distributors Association
American Moving and Storage Association
American Nursery and Landscape Association
American Road & Transportation Builders Association
American Society of Interior Designers
American Society of Travel Agents, Inc.
American Subcontractors Association
Associated Landscape Contractors of America
Association of Small Business Development Centers
Association of Sales and Marketing Companies
Automotive Recyclers Association
Bowling Proprietors Association of America
Building Service Contractors Association International
Business Advertising Council
CBA
Council of Fleet Specialists
Council of Growing Companies
Cremation Association of North America
Direct Selling Association
Electronics Representatives Association
Health Industry Representatives Association
Helicopter Association International
Independent Community Bankers of America
Independent Electrical Contractors, Inc.
Independent Medical Distributors Association
International Association of Refrigerated Warehouses
International Association of Used Equipment Dealers
International Business Brokers Association
International Franchise Association
Machinery Dealers National Association
Mail Advertising Service Association
Manufacturers Agents for the Food Service Industry
Manufacturers Agents National Association
Manufacturers Representatives of America, Inc.
National Association for the Self-Employed
National Association of Plumbing-Heating-Cooling Contractors
National Association of Realtors
National Association of RV Parks and Campgrounds
National Association of Small Business Investment Companies
National Community Pharmacists Association
National Electrical Contractors Association
National Electrical Manufacturers Representatives Association
National Lumber & Building Material Dealers Association
National Ornamental & Miscellaneous Metals Association
National Paperbox Association
National Private Truck Council
National Retail Hardware Association
National Tooling and Machining Association
National Wood Flooring Association
Painting and Decorating Contractors of America
Petroleum Marketers Association of America
Printing Industries of America, Inc.
Professional Lawn Care Association of America
Promotional Products Association International
The Retailer's Bakery Association
Saturation Mailers Coalition
Small Business Council of America, Inc.
Small Business Exporters Association
SMC Business Councils
Society of American Florists
Specialty Equipment Market Association
Tire Association of North America
Turfgrass Producers International
United Motorcoach Association
Washington Area New Automobile Dealers Association

1010 Massachusetts Avenue, N.W., Suite 400 Washington, DC 20001
(202) 639-8500 / FAX (202) 296-5333

CONSAD Research Corporation
121 North Highland Avenue
Pittsburgh, Pennsylvania 15206
Telephone: (412) 363-5500
Facsimile: (412) 363-5509

1 October 2001

The Honorable John Kerry
Chairman
Committee on Small Business and Entrepreneurship
United States Senate
Washington, DC 20510

Dear Chairman Kerry,

I understand that a very old (though quite young) and dear friend, Mr. Tom Sullivan, has been nominated by the President to become the Chief Counsel for Advocacy at the Small Business Administration.

You and I have discussed the needs of small business both at Ms. Heinz's beautiful home near Fox Chapel and other occasions when Jeff Lewis (also, a dear colleague and friend) had brought us together. I can't think of anyone that is better suited for this position than Mr. Sullivan, partly because of his experience (both public and private) and his strong character, drive, and intelligence. Indeed, I believe that Mr. Sullivan, if confirmed, will become a most effective, busy, fair, objective, purposive, smart Counsel. I look to see him following in the footsteps of two excellent Counsels I have had the pleasure of knowing well -- Frank Swain and Jere Glover.

I know that you take such confirmations seriously. By all means, please call me if you need further elaboration (412-363-5500 x212).

Most sincerely,

Wilbur A. Steger
President

WAS:cms

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October 5, 2001

Hon John Kerry, Chairman
Hon. Kit Bond, Ranking Member
Committee on Small Business
United States Senate
Washington, DC 20510

Dear Chairman Kerry and Senator Bond:

I am writing to strongly endorse President Bush's nomination of Thomas Sullivan as Chief Counsel for Advocacy. Tom is an exemplary nominee, with the experience and character traits that equip him to be an outstanding advocate for the nation's small businesses.

From August 1981 through November 1989 I served as Chief Counsel for Advocacy. This position has a serious mandate, requiring forceful advocacy for small business, regardless of the prevailing Administration or Congressional perspectives. But the position also requires, in order to actually get anything done, a degree of patience and willingness to work within the Administration and Congress to constructively change policies, legislative proposals and regulations.

Tom Sullivan has particularly apt experience to take on these responsibilities. He has worked with a major regulatory agency, the EPA. He has counseled the largest small business association specifically on regulatory matters. And he has sharpened his understanding of the legal and practical methods of challenging and changing regulation through leading the NFIB Legal Foundation. His challenge at the Foundation is particularly good background for his duties as Advocate – to identify which of the myriad Federal regulatory programs and proposals combine a major impact on smaller firms with a significant need for reform.

The Office of Advocacy will never have enough resources to devote to every regulatory or small business policy challenge. Making informed choices on where and how to use the legal, personnel and political resources of the SBA is essential to successful action by the Advocate. Knowing and working with Tom, I am confident he can make those decisions.

More importantly, Tom's legal, agency and association background shows he will work diligently for small business, both within the Administration and as a clear and objective critic. The small business community deserves an energetic, capable advocate. Tom Sullivan fits that bill perfectly.

Thank you for your and the Committee's consistent support of the SBA Office of Advocacy.

Sincerely,

Frank S. Swain

Frank S. Swain

Chairman KERRY. Thank you very much.

[Whereupon, at 4:34 p.m., the Committee was adjourned.]

STATEMENTS FOR THE RECORD

STATEMENT OF SENATOR MARIA CANTWELL ON THE CONFIRMATION OF TOM SULLIVAN AS CHIEF COUNSEL FOR ADVOCACY OF THE SMALL BUSINESS ADMINISTRATION

September 16, 2001

Mr. Chairman, thank you for bringing this nomination to the committee in prompt fashion.

I want to join you in your expression of concern regarding the White House request that the Republican leadership place a hold on S. 1499, the American Small Business Emergency Relief and Recovery Act of 2001. It makes no sense to me that a bill so widely supported would be blocked by the Administration, and I urge the Administration to let Congress proceed promptly.

Mr. Sullivan, welcome to the Committee. You have an impressive and appropriate background for the position for which the Administration has nominated you.

You have worked in the executive branch in the Department of Justice and the Environmental Protection Agency, and most recently you were an advocate for the largest association representing small businesses.

The position of Chief Counsel is one that has historically had substantial independence from the Administrations that they served. This independence serves the small business community well. In your case, I believe your autonomy can be extremely valuable to representing the small business community within the government. I hope the Administration will afford you adequate autonomy, and you will exercise your autonomy, both from the Administration and your most recent business relationships, where doing so would best serve the American people.

Let me focus on one particular concern. In my state of Washington, the energy crisis and drought have had a great impact on our small businesses. Senator Kerry and I held a hearing in Seattle earlier this year and heard how hard small businesses have been hurt, and we learned how some businesses have attempted to mitigate the increased energy costs on their bottom line. I was impressed with the innovations and conservation measures small businesses employed. I want you to know that this is an area of personal concern, particularly in light of the economic downturn. And I will be looking to you to bring to this Committee's attention opportunities to bring new and innovative technologies and conservation methods to the small business community.

I look forward to your testimony, and again, thank you for coming before us today.

NOMINATION REFERENCE AND REPORT

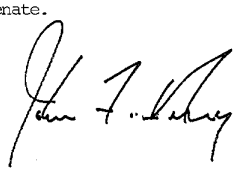
PN1065

AS IN EXECUTIVE SESSION,
SENATE OF THE UNITED STATES,
September 21, 2001.

Ordered, that the following nomination be referred to the Committee on Small Business and Entrepreneurship:

* Thomas M. Sullivan, of Massachusetts, to be Chief Counsel for Advocacy, Small Business Administration, vice Jere Walton Glover, resigned.

October 17, 2001.

Reported by Mr. Kerry with the recommendation that the nomination be *confirmed*.

* signifies nominee's committment to respond to requests to appear before any duly constituted committee of the Senate.