

REGION I

NEW ENGLAND STATES

REGULATORY FAIRNESS BOARD HEARING

MANCHESTER, NEW HAMPSHIRE

AUGUST 22, 2000

MS. MCDONALD : Gail McDonald. We usually start with that joke about I am from Washington, and I am here to help you. But, I think in New Hampshire you invented that joke. So, I will not tell it.

But, I am very pleased to be here in your beautiful state. And I have come to feel in planning for this meeting that you are indeed a state of small business advocates. And I am so grateful for the help we have received.

This small program was created by Congress in 1996. And it is really, I like to say, a revolutionary program, because it asserts that small business people have a right to regulatory fairness, that they have a right to be part of a partnership with their government in enforcing fair laws which do not unduly penalize them.

And so, we have joined in getting this word out with a large citizen advisory board, which gives us five members in each region. And yours is indeed Region One. And we have had one of our best programs here, I believe. And I think you will see that today.

But, we have also been very lucky to have positive political leadership from your region. And today we are very privileged to have Congressman John Sununu open this hearing for us. He has not only distinguished himself in his two terms by becoming a member of the House Appropriations Committee, but by working for small businesses actively and by speaking out on their behalf. As a result of that, he received the Guardian of Small Business Award from NFIB, and that is a very prestigious honor.

We worked with Congressman's office to set up this meeting, and I should recognize Pam Kocher, who went the extra mile to both find us a date when we could snag him here, find a time on his schedule, and she found us this wonderful facility, which has made it easier for you to come and for us to conduct this hearing effectively. So, many thanks to Pam.

And with that I would like to introduce your Congressman.
[APPLAUSE.]

MR. SUNUNU : Thank you, Gail. I am happy to be here to offer a few remarks. I did not realize I would have the status of being able to open the hearing, but that is really a privilege and an honor.

Gail does a great job as National Ombudsman, or Ombudswoman as it were. And it would seem to be a straightforward job to go out and have hearings and allow people to weigh in. Pretty straightforward. But, in order to be effective in this role it is more than just organizing the opportunity for people to weigh in and for the small business community to be heard.

It is really a matter of listening and listening carefully, of

understanding the kinds of problems and concerns that are being presented in a regulatory fairness hearing like this, being able to identify trends and identify situations where there have been repetitive problems, and even being able to identify ways to address those problems. And ultimately, being able to communicate. Being able to communicate with the small business administration, with members of Congress and with people at the local level in order to really understand the nature of the problems that are being raised and to craft legislation where it is appropriate that will address those concerns.

So, her job is a tough one. It is complex. And from what I have seen over the past couple of years of hearings like this that are taking place across the region and across the country, she has been most effective.

Second, I do want to take a moment to thank Bill Phillips for being here. Bill has done an outstanding job leading the SBA here in New Hampshire, and he will have an opportunity to speak briefly. But, he certainly would be modest in his description of the work he has done. But, modesty is the last thing that we should see from Bill Phillips. Nobody in New Hampshire understands small business as well as he does. He has worked tirelessly on behalf of the small business community in New Hampshire, which is really the life blood of our economy.

It probably seems to many people that he has been running the Small Business Administration in New Hampshire for about fifty years. But, I think it is more a case of being able to pack fifty or sixty years of experience into his tenure there. The SBA's success is really owed to people like Bill across the country that can recognize local needs and work with those at the national level to address them effectively.

Finally, a few words about the topic of the hearing, regulatory fairness. Everyone is for regulatory fairness, even those that are the strongest proponents of a new set of regulations. The problem is understanding the cost and the impact of regulations in order to make sure that the goal of fairness is really met.

I had spoken a lot about moving to an environment that does a better job of stressing cooperation and takes us away from an atmosphere of confrontation in regulations. And this kind of a setting is essential to that goal, to being able to work with small businesses to understand the impact of regulation, work with small businesses to understand the cost of compliance.

And ultimately, if we can listen to businesses and understand how best to deal with our regulatory goals, not only will the regulations be fair, but they will be administrated in the least costly way. And the goals of workplace safety or environmental compliance will be met with the least cost to our economy.

I look forward to hearing the testimony that is being presented today, and I want to thank all those participants that are here. I know you are taking away from the job that you do, the businesses that you work at, or in many cases run, and that is a cost to you. But, in the long run, the information that you provide enable legislators like me at the federal level, and even at the state level, to better understand the implications of the rules and regulations that we deal with everyday.

Thank you one and all. [APPLAUSE.]

MS. MCDONALD : Well, and I certainly need to add to the Congressman's thanks to Bill Phillips, because this is a program that is located within the Small Business Administration. And it was put there because SBA has the best mechanisms for outreach to the small business community. And our administrator, Aida Alvarez, has worked hard to make this program develop partnerships with every SBA program. And our most important partnership in setting up these hearings is with our district director, like Bill Phillips.

And I need to thank Donna Harper for her excellent work. Today we even had radio coverage, which is exciting for us, a small program. So, we have broken into the media.

Bill, would you like to say a few words?

MR. PHILLIPS : First of all, I would like to welcome the members of the Fairness Board here today to listen to the testimony and to welcome all of you who are participating.

And to give you a little regional perspective as well as a New Hampshire perspective, as I am sure everybody here in this audience knows, and I am sure most of the members of the board know that our economy has been absolutely terrific. And part of the ways that we keep the economy that way is to make sure that government does not get in the way of the progress that small business makes.

That, I think, is part of the reason that we are here today, to make sure that our regulations and the regulations of our sister organizations throughout the government react in a positive way on small business.

So, at any rate, I would like to welcome you all and hope that you have a good meeting here today. Gail, it is nice to see you here and the members of the board. Thank you for coming and honoring New Hampshire. And do not forget to stop, as John Sununu's father used to say when he was governor, stop at the liquor stores on the way out. [LAUGHTER.]

MS. MCDONALD : The magic in this program is that it is a volunteer program. And we have nation-wide fifty small business leaders and prominent small business owners who give their time to get the word out about the program, to work with other small

business program owners in their regions and to contribute to our annual report to Congress.

And I did want to hold this up, because this is the product of the end of every year for us. We do a report to the Congress. This year, the Small Business Committee in the House had a hearing on the report. There is a lot of interest there, and I think the program is at a maturing point so that, again, people do look for the report.

So, I hope you will look for it on our website. You can always go to the SBA website and push the Reg. Fair link and read about hearings or delve into the report and into various other information.

I would like to introduce our Chair. Vinh Cam has been a member of our board since the beginning. She has given us invaluable advice and leadership as this program has developed. She will be chairing the program today, and she will tell you about her experiences and introduce the rest of our board. Vinh.

MS. CAM :Thank you. Can you all hear me? Hi.

I am very honored to serve as the Chair of SBRFA Board in Region One. Thank you all for coming. We are here to listen to your concerns and find ways to help you address your concerns.

As you know SBRFA has been instrumental in helping small businesses to comply with federal regulations. It is now easier for small businesses to get into that process. I urge you to use us as much as possible before going to your lawyers, and share this information with other small business owners. I found during my involvement it has been the best kept secret. We do not even have to publicize this program.

I want to take this opportunity also to thank the people who have helped in developing this program. All the board members on my left and Gail McDonald and John Greiner from SBA and other people at SBA. As you know, it is very small office at SBA who is doing that, and they have a huge mandate. Please join me in giving them a round of applause. [APPLAUSE.]

Having said that, I want to move into something more practical. Have you had a chance to go over your packet to see what is inside? I think the important thing is the appraisal form. Do you all have the appraisal form in your packet? This is all it takes to contact us. Put down all the information. And you also can tell us whether you want to be anonymous or you want to reveal your identity in terms of retaliation problems, if you are concerned about that.

Also, there is all the information in the back with the contact, with the website. And Gail already has gone through that. This is like the summary of all the major points of the report.

With that, let me now introduce my other board members. Ronald Williams is the President of WNR Business Affiliates, L.L.C. Ron has a wealth of experience in dealing with small business and other issues.

MR. WILLIAMS : Thank you, Vinh. Certainly we have a very capable and competent chairperson in Vinh. As was mentioned by Gail, she has been here from the inception. I also was fortunate enough to serve as chair prior to Vinh. And I must say that, and this is our fourth hearing. The first year we had it in Boston, Mass., second year in Augusta, Maine, last year in Connecticut and today of course in Manchester, New Hampshire. But certainly we have a real mandate. And I must say from year one we have a lot of concerns from agencies such as the EPA, the IRS, OSH-CA . And I must say, over the last couple years, I am not going to say certainly we were the spoke in the wheel, but we certainly were part of trying to bring some attention and also, as has also been mentioned, a mandate for some change to make sure that these agencies were much more sensitive to the needs of the small business community.

I would say year two, year three, year four we have seen some significant changes in how many of these agencies are handling the small business communities. So, I must say this group, we are volunteer. We are committed to making a difference, and we would like to hear your comments.

We must say that we have very zealously been guarding your comments. We really want you to speak up and to feel free to disclose who you are and what your needs are, because the more information we have, the more we can be useful to help you with your particular problems and issues.

And sometimes there are good things that happen also. So, do not think you have to talk about just the problems. If you see good things that have evolved within the small business community, feel free to let us know what they are, too. Thank you.

MS. CAM :The next board member is Roxanna Adams. She is the President of Atlantic Awards.

MS. ADAMS : Good afternoon. I am own a small business which employs twelve people. Can you hear me? Which employs twelve people in Bangor, Maine.

In the fifteen years since I left teaching, I have experienced many of the problems that are common to small business owners. Since small business employs over fifty percent of the private workforce and generates over fifty percent of the gross domestic product, who can argue that we are truly the beasts of burden for this country's economy. Break the back of the beast, break the country's economy.

So, I was delighted to be asked to serve on the Reg. Fair Board. I think it is a long overdue and much needed liaison between small

business owners and those that strike fear in our hearts.

So, I was appointed last year, about two days before the Hartford hearings. So, I was not allowed enough time to get arrangements made to attend it. So, today is my initiation hearing. I plan to listen well and learn from all of you, and I am very happy to be here.

MALE VOICE : You missed a great hearing, by the way. [LAUGHTER.]

MS. ADAMS : I know. I spent most of the night reading about it, the seventy-two pages.

MS. CAM : Thank you, Roxanna. Our next board member is Judith Obermayer. She is the President of Obermayer Associates, and I just found out that she has founded another company called Industry Marks, Inc. It is an Internet B&-NB, and I asked Judith whenever she goes to an IPO, please let me know about it. [LAUGHTER.]
Judith.

MS. OBERMAYER : Thank you, Vinh. I also have been on the board since the beginning, and I found it a very interesting and educational experience. Basically, the board is here to listen to you and then try to make a difference in a variety of ways.

One of the advantages I think we have today, and I have seen the difference in the last four years even, is there is a lot more focus and concern about the needs of small business today. There is a recognition politically in the country of the importance of the role of small business in the economy.

Roxanna mentioned some of the statistics, but it is more than the statistics. The statistics have been there for awhile. But, I think there is a general awareness now that if we do not support small business, the economy of the country is not going to grow the way it needs to, that it really is based on small business. Small business is the entry level employer. Small business is the creator of new jobs. Without small business all kinds of things would fall apart.

And so, I think that the political climate is particularly good right now for organizations like this to have more impact even than we did when we started, that there is much more receptivity in many of the agencies, because they have seen the political pressure to really pay attention to the small business community. And I am very pleased with that.

I should say that I am also on the board of the National Association for the Self-Employed, which also represents a large number of very small businesses that again are part of this whole infrastructure that we all depend on. So, I am very pleased to be here, and I look forward to hearing your comments.

MS. CAM : Thank you, Judith. Let's move on to the testimony part.

You are limited to two minutes each.

MS. MCDONALD : No. We ask people to kind of stay within a five minute. This is later, I think. We must have used an old form. But, our first speaker would be State Senator Marge Kilkelly?

MS. KILKELLY : I am here with my constituent Larry Schneider. I would actually like him to speak first, and I will follow him.

MS. MCDONALD : All right.

MR. SCHNEIDER : Thanks for giving us the time here today. My wife, Sherry, and I own an American dream restaurant in, well, we consider it to be an American dream restaurant, in Damariscotta, Maine, up in mid-coast Maine. We did this in '96, and we hit the floor running as we took an old building, developed it and really had three months to open, to develop the building and open it as a restaurant. It is about an eighty seat restaurant.

We went through all of the procedures that we had to do to get open properly. We met with the ADA and got licenses and time clocks and accountants and followed all the procedures necessary that we could possibly think of. Having never owned a small business before, it certainly can be overwhelming at times as to what you have to do, as we probably all know here in this room.

Today in four short years people say, where is Sherry, when she is not there hosting. And I say, she works for the government. People think that she actually has left our restaurant to work for the government. That is not the case. But, most of her time, is now spent on dealing with government regulations.

We work twelve hour days in our American dream, and we employ about forty people. Year round, by the way. We are not just a seasonal restaurant. We do about a million dollars in gross sales in four short years. We consider that to be quite an accomplishment and have poured into the local economy over four hundred thousand dollars in payroll.

We are living our American dream, and sometimes that is not quite what it lives up to be, because we figured out with the hours we put in we make about twelve dollars an hour. And that is not facetious, by the way.

Treating employees like family is something that we have done since the day we have opened. We had a young man that worked for us when we first opened that had a serious problem with alcohol and drugs. He was a good employee, young kid, probably just kind of lost. I wound up on my days off, and if anybody in this room has ever had any restaurant background before, again, the twelve hour days are, small business people included, know what it is like to have a day off. And when you do have a day off, you do not usually want to attend AA meetings for a child. That is what I did.

We also have had holiday dinners. We have had many of our young kids over to our home for dinner, both Christmas, Thanksgiving, and close for a day to throw parties for our staff. We treat these people all equally, not just the kids, all of us. When people are hired at our place, we tell them that we are no different than the dishwashers, because Sherry and I have washed our dishes. We have cleaned the bathrooms as recently as probably this morning or last night. That is what we do for a living. This is really a glorious position to be a restaurant owner.

But, we do enjoy it. We do love mid-coast Maine. We moved there because of the area and the people that we have in the area. It is a great area to live.

During some of the most difficult time to find labor, we have not had a problem. And I am sure Marge would verify that, because Marge Kilkelly does come into our restaurant as one of our customers. We do not have a problem, because we are a classy outfit to work for, as everybody in the community knows. And we do treat our people exceptionally well.

And, that is kind of, we do have a CIA trained chef, and we are kind of an upscale restaurant. We have had Barbara Bush in our restaurant many times. We have had Andrew Wyeth in our restaurant many times, and of course our state Senator Marge Kilkelly has been in our place many times.

In April of this year we had a random audit by the Department of Labor, and that is why we are here today. It took us about probably ten work days to get prepared for this, by the time we pulled all of our old time cards out for the past couple years. It was a two year audit. We got our work permits for our children under sixteen years old and a list of all of the employees who bought shirts or uniforms from us in the past and all of the employment records.

On the second day, he had an interview of all of our employees, especially looking at the eighteen years old and below. And an inspection of all of our kitchen equipment and how the people interact and work with them. Specifically, of course, what they were looking at was meat slicers and a mixer.

The problem. This is the problem, and this is hazard order number eleven, and this is how it reads. We were fined; well let me go back. We were fined first of all for not supplying shirts but charging our employees, our cost by the way, for shirts. We paid that fine, agreed to pay that fine, and we have no qualms about it other than the fact that we think that when you charge somebody your cost for a shirt, they are going to have to wear a shirt or a blouse to work anyhow, and they probably are not going to be able to buy it at cost, even as cheap as Renie's [phonetic] might be in the state of Maine. But, we did pay that fine. We paid four hundred and fifty-six dollars and obliged and agreed to do so.

Hours. We were caught, in two years we had three different violations. We were fined one thousand three hundred and fifty dollars. In two years, three violations, three separate violations of children. By the way, one of the children is the superintendent of schools' daughter, who is an honor roll student, who works for us.

No warning here. Again, excessive fine. We certainly think one thousand three hundred and fifty dollars is excessive. Were we willing to pay it? We were willing to pay it. Reason being that in the realistic world, when one of these children was on to work the day shift, somebody called in and said, I am not coming in tonight. We were absolutely packed. We probably did three hundred and fifty meals that day.

When that happens, your first thought is not, is that an eighteen or seventeen or a fifteen or a sixteen year old who was working for you. Your first thought is, I have got a full house out here, and we have got to satisfy the customer. And what I am pointing out here is idealism and reality. And boy, somewhere we have to find that regulatory source to be able to meet both of those.

So, we did keep the kid over. Never even thought about it. We were fined for that.

Hazard order number eleven is the one that I take exceptionally strong issue to. We were fined approximately, for a power driven bakery machine, and by the way, does anybody own a restaurant up there? What is your, what would be your determination of what a power driven bakery machine might be? Can I get somebody to give me an opinion of that? What would you think it might be?

Have you thought of maybe the great big bakery machines that you mix bread and dough in. That is right. No. This is a KitchenAid mixer, like the kind you might have had in home economics if you are as old as I am. Okay? KitchenAid mixer. Now, we still have not had, by the way, a clarification as to whether or not that means a portable mixer. It is definitely not a KitchenAid mixer, the kind you would find at Renie's Wal-Mart.

There is no warning on this. The fine for that was approximately eight thousand dollars, and we have no clarification here on that just yet, but we look at that, and also the fine also included a fine for having a kid touch not the blade but remove from a dishwasher the arm and the blade cover of a Hobart meat slicer. This is not the blade. They cannot touch that. Heat of battle. Let's be realistic again, as opposed to being idealistic again.

Heat of battle. Three hundred and fifty people in a day in your restaurant. The kid who normally would not, and we tell them do not touch the meat slicer. He walks away, the kid that normally would touch the meat slicer, because he is twenty or twenty-five or whatever, and goes and cuts the piece of pie for that dessert order

that just came in.

So, all of a sudden the bartender yells out, and this is how it works, folks. He yells out, I need a glass rack. He opens up, the sixteen year old opens up the dishwasher, lifts the components out, puts the glass rack in, washes the glass rack. We were fined fifteen hundred dollars for that. Okay? Rather excessive. No warning.

When I called John Baldacci, Congressman from Maine. We have two Congressman there, Tom Allen and John Baldacci. John has restaurant background. I said, John, what is your definition of a power driven bakery piece of equipment? And he said, I think it is probably one of those great big bread machines that you would make bread with.

Let me read what hazard order eleven says about it. And you tell me if we were supposed to be able to interpret this properly. Power driven bakery machine occupations, order number eleven. The following occupations involved in the operation of power driven bakery machines are prohibited. The occupations of operating assistants, assisting to operate or setting up, adjusting, repairing, oiling or cleaning any horizontal or vertical dough mixer.

By the way, the proper name of that machine is not a dough mixer. On their product information it is called a KitchenAid standing mixer, not a dough mixer.

Cleaning any horizontal or vertical dough mixer, batter mixer, bread dividing, rounding or molding machine, dough break, dough sheeter, combination bread slicing, wrapping machine or cake cutting band saw.

It does not say KitchenAid in here. Not whatsoever, anyplace in there.

Now, as we move on, it is a household unit, by the way. It says for household use only on it. And these are the absurdities that we find in having to deal with this on a regular basis. This is something you found in a home ec. class. Sixteen year olds drive four thousand pound vehicles in our state. Maybe they do in this state. I am sure they do just about nation-wide. We would entrust a sixteen year old to drive sixty-five miles an hour, probably to go three miles to work. Sixty-five miles an hour. We will not entrust him to be able to make boursin cheese in our mixer. Eleven year olds in Maine hunt with rifles.

Now, going back to the "Portland Press Herald," the week after we were fined eleven thousand two hundred and fifty dollars for these violations all together. What hurts most is the fact that we take these kids under our wing as our family, and the United States government came down on us and slapped us with an eleven thousand two

hundred and fifty dollar fine without showing any compassion whatsoever for a first time employer.

Criminal fines in the court paper, superior court paper of the "Portland Press Herald." Forgery, one hundred and twenty-four dollar fine and one year probation.

These are convictions. This is two weeks ago in the newspaper, right out of the newspaper. Three different assaults. Zero dollars for two of the assaults, one hundred dollar fine for the third assault. One year probation. Burglary, two hundred and fifty dollar fine. One year probation. Stealing of drugs, two hundred and fifty dollar fine. One year probation. Stealing of drugs, second offense, two hundred and fifty dollar fine. Another one year probation.

What is going on here? We are a hard-working family. This is a family run little business that has hit the floor running and has put twelve, fourteen, fifteen hours a day into it, has created forty jobs, and the government came down on us so heavy that it is an absurd situation.

Now, what is really absurd is the fact that the government does not know their own laws. They stated to us during the investigation and on many phone calls since then that this machine can be used to whip cream, but not to make boursin cheese.

And how do I know that they made sure that was the case, that they did not know the law? Because on the fine itself it says, a sixteen year old using the machine to make boursin cheese. If it just said a kid using a KitchenAid mixer to make boursin cheese, if they knew the law they would just say they cannot use a KitchenAid mixer, because that is the law. That was the law in 1995.

As recently as last Thursday, this is a letter to Tom Allen and I believe Olympia Snowe, our state Senator also has one, and Tom Allen is our Congressman. This is from the District Director of Labor here in Manchester, New Hampshire to our Congressman in Maine. Let me read to you, this is a quote.

The department has recognized, however, that a heavy duty mixer may not necessarily constitute a prohibitive piece of equipment when equipped with a wire whip attachment that is designed and exclusively used for mixing light materials, like eggs and cream. And the employer, meaning us, was not cited for minors who used the machine this way.

Now, let me quote the same facts he sent to Mr. Allen of another letter. It was from Arthur Carchner [phonetic]. Arthur Carchner in 1995 established law, and he says; this law, by the way, is five years old, and the Department of Labor could not interpret it properly themselves.

We are, this is from Arthur Carchner, 1995, to John Kelley [phonetic], Product Design Policy Department of Hobart [phonetic] Corporation.

We are, however, receiving information from several different sources, including our own investigators, that firms are indeed using this attachment to mix batters. They are talking about the wire whip. The use of a horizontal or vertical dough mixer by minors to mix batters, regardless of the attachment used, is prohibited by HO Eleven, and violators will be charged accordingly.

So, as recently as last Thursday, Mr. George Riu [phonetic], the District Director here, did not know the law himself. How does he expect us to understand the law? His investigator doing the investigation in our restaurant, when we closed for the day to go through this investigation, the investigator told us as he was leaving they could make whipped cream, after spending two hours talking to Washington. But, you cannot make boursin cheese. Boursin cheese is a soft cheese, by the way.

So, they do not understand the law. We are fined an excessive amount of money. We have not slept a whole lot, quite frankly, until we got slapped in the face with an eleven thousand two hundred and fifty dollar fine. And it has caused us a considerable amount of concern, and we just hope it has not hurt our business.

The employee testimonials to this and interviews that went on at our restaurant were pretty incredible. Almost to the person, every person in our place told this man that we are a great place to work, and that these employers are terrific people. We are like family. Primary comment that came back was, that is not what we are here today to discuss. We are here to discuss the law today. I mean, is there no compassion, once again? I do not know.

Arbitrary fine. How did they determine this fine? Last week on Friday I got a call from the District Director, Mr. George Riu, just basically saying we are going to reduce the fine by thirty-seven hundred dollars. I said, no. Still get me that room in Leavenworth Prison, because I am going there before I will pay you a damn dime.

How did they determine it? Is it negotiable? It is negotiable. What is negotiable? You get stopped on the highway at eighty-five miles an hour in a thirty-five mile zone it is a two hundred dollar fine. Did you ever negotiate a speeding ticket? I mean, what is negotiable?

There is no warning for first time violations. That is pretty incredible, isn't it? I mean, when I called this man and explained to him that I understand why we have child labor laws for sure. And he right away basically said, and I do not blame him one bit. He used a very bad example of people working, fourteen and fifteen year old kids, until three o'clock in the morning.

Why don't we take a look at who we are, though? We do not do that. This is an honest little company trying to make an honest little living, and at twelve bucks an hour I am wondering sometimes what I am doing in it.

Solutions and suggestions. That is what we really should be doing here today. The DOL has to be realistic about the regulations. They have to know that the rules are ambiguous. It never states once in this order number eleven anything about a KitchenAid mixer. And again, half of the people in this room probably thought I was talking about a big dough mixer that a bread manufacturer would use.

We need to take each case on its own merit. Again, we were just automatically assumed to be guilty, as my wife and I took it, with the same guy who worked his kids until three a.m. in the morning. Excessive hours. Fourteen and fifteen year old. That is not how we do things.

Listen to the employee feedback. Do not just pass it off as saying, I am not here today to listen to how good these people are. Listen to that feedback. That is going to give you an indication as if this is a real working environment that is a decent working environment, or whether it is not.

A mistake warrants a fine. If we did this on purpose, I would not be sitting here in front of you today. We spend more time trying to satisfy the government every day before we even see if we make a profit. That may sound absurd. That is the truth.

One of the other things we did talk about with Mr. Riu, and I am almost done. I am sorry I am taking more, but you can see that I did not drive down here for three and a half hours to be heard for five minutes. I am sorry. One of the things that I did want to say today is that we talked a little bit about education and educating people such as us, who are first time employers in the restaurant business.

And Mr. Riu said, well, you know, when we do this and we really try, and I believe he really does try to educate people. He said, a lot of times in a room maybe of this size, that they would look at us as though we have two heads. If you walked into my restaurant and you looked at me as though I had two heads, you would not come back into my restaurant. I would have to change my approach. And that is what I suggest to the DOL. Change your approach to training. Make it, if you have that kind of a problem where people think you have two heads, change your approach to training. There is a problem with that.

The ultimate solution would be not ever to hire anyone under eighteen years old again. Think about that for a second. Just think about that for a second. We are working, and we had one young girl go back to college the other day after she made a lot of money at our restaurant this summer, who called us three times from her

car phone because she likes us so much. She thinks that Sherry is her mother.

Think about that for a minute. Do not hire anyone under eighteen. We are a small business state, Maine, but what is the backbone of this country? Small business. If you cannot hire anybody under eighteen, where do they learn their work ethic? Where do they learn to be able to be responsible? Where do they get their money to get their education, to continue on for their education? They cannot.

Another, I mean, I really believe in this. It is a very strong suggestion. The qualification for DOL management should be five years experience of owning or managing a small business. Why wouldn't they? Why wouldn't they have that kind of a qualification? If you have a qualification to be an osteopath, you better have your license. If you have a qualification to have a master's degree in psychology, to practice psychology you have to have a master's degree. There are qualifications.

For us not to be able to relate or go head to head with the Department of Labor, just as an example, that is because primarily I do not understand government, and they do not understand our side.

The last thing I will say is I take strong exception to their wording of their letterhead. Their letterhead says at the bottom, working for America's workforce. My God. My wife and I and our twelve, fourteen hour days must not be considered part of America's workforce. It is ludicrous, isn't it?

But, we work twelve, fourteen hours a day, and it is not always just in saying we are driving some Mercedes Benz, because we are not. This is our life's savings put into his little restaurant. And I am insulted, and I am embarrassed for the Department of Labor to even have informed us of an eleven thousand two hundred and fifty dollar fine.

Thank you very much for you time today.

MS. CAM : Thank you, Mr. Schneider.

MS. MCDONALD : Mr. Schneider, would you take some questions from the board?

MS. CAM : I just want to ask you whether you have filed an appraisal form with us at all.

MR. SCHNEIDER : I think, Sherry, do you have that form?

MS. CAM : You have, but you have not filed it yet.

MR. SCHNEIDER : Any other questions?

MS. ADAMS : I have a question. I have two questions actually. How much time do you think you spent on the claim?

MR. SCHNEIDER : Well, I am going to invoice the Department of Labor for that time. And that is not a joke. I will do that. I will do that, because just as we are sitting here today we have to have coverage for my wife and I at the restaurant. So, every minute that we have taken for this, which is, I am telling you it is probably near a hundred hours. Of course, it is only going to be twelve hundred dollars, because we only make twelve dollars an hour. But, it is not going to be significant, but I am going to send a bill to them for my time. And if we do get penalized I will deduct that from it.

MS. ADAMS : Why do you think they targeted you?

MR. SCHNEIDER : I have no idea. They said it was a random audit, that they picked us out of a telephone book. And they did say flat out that they were picking on restaurants primarily because they know that restaurants employ youthful kids and high school age. That is what we were told.

MR. WILLIAMS : What stage are you right now? Have you had a hearing yet?

MR. SCHNEIDER : No. We have, we took; that is another thing. In the final wording of the letter from the District Director, you only have fifteen days to answer that, and it is unappealable. This is hard to imagine in itself, that it is unappealable if you do not answer that within fifteen days. That states right here.

If an exception is not filed within the required fifteen days, the above determination shall become the final and unappealable order of the Secretary of Labor.

Holy cow. What if we were on vacation?

MR. WILLIAMS : Did you file within the fifteen days, though?

MR. SCHNEIDER : Yes, we did. We did make it. Fortunately. We made it only by about three or four days.

MR. WILLIAMS : So, you do have a hearing that has been set up.

MR. SCHNEIDER : We have a hearing. I have not received a date on it yet.

MR. WILLIAMS : Okay.

MR. SCHNEIDER : I hope they drop the charges before the hearing, because it is such an absurd situation. And if they have any sense about them, they will.

MR. WILLIAMS : Well, as Vinh said, definitely filing the appraisal form keeps us in the loop. That is the Fairness Board.

MR. SCHNEIDER : We will.

MR. WILLIAMS : That is number one. Number two, some of us have had experiences with various agencies, whether the EPA, DOL, etc. And, again, there is a little bit more sensitivity than there was maybe a few years ago. So, what I suggest here is while a lot of the issues you bring up seem to be a bit egregious and/or perhaps a little heavy-handed, I found at many hearings, depending upon how you couch things and who the hearing officers are, etc., that there can be more sensitivity.

Now, there is also a liaison at the Department of Labor who is a small business advocate, shall we say. So, if you have not already taken it upon yourself to make that contact, I might also recommend that. And with the things that you and others have brought to the table, I think you are definitely going in the right direction relative to standing up for what you think is correct and proper.

MR. SCHNEIDER : Thank you. Thanks for your time today. I very much appreciate it.

MR. HICKS : My name is Thomas Hicks, and my boss is the liaison at the Department of Labor, Joan Robinson [phonetic]. I generally attend all the regulatory hearings. What I would like to do is get some information regarding the situation. What we generally do is when we get involved, we take it from the region, and it goes up to the assistant secretary of that specific enforcement agency.

So, I would like to get some information on that today. I will be back in Washington tonight.

MS. CAM : Thank you. You see how it works? [LAUGHTER.]

MS. KILKELLY : Ombudsman McDonald, Chair Cam, members of the committee, I am Marge Kilkelly the State Senator of District Sixteen in Maine, primarily Lincoln County, which is a county in the mid-coast area, comprised of fifteen small towns and the Pigan Island. Most of them depend on tourism for jobs.

I grew up in Boothbay Harbor, a community noted for its hospitality industry and its hospitality. I attended graduate school here in Manchester. I have a master's degree in community economic development from New Hampshire College. I have served in the legislature for fourteen years.

Larry Schneider has done a wonderful job of outlining the King Eider Pub case to you, as amazing as it is. It is one of the most amazing stories that I have heard in that fourteen years in the legislature.

I want to take this opportunity to share with you my concerns as a policy maker about this situation and what I believe it means to businesses, kids, our community and our future.

I certainly do not want kids or anyone else to work in unsafe working conditions. I believe that there need to be laws about safe and healthy working conditions, but those laws and regulations must

be practical, understandable and reasonable.

It took a trained DOL inspector two hours on the phone to determine if running a small home kitchen type mixer with a particular attachment was legal or not. Given that scenario, how can we expect the average businessperson, who is interested in obeying the law, but probably not going to have time to be a student of it, to understand what is allowed or not? How many business folks have two hours to sit on the phone at every decision that they need to make?

So, what is the person to do? The choice seems clear to me. The most obvious is not to employ kids. So, while that may accomplish the short-term result of not worrying about complying with the law, what are the other consequences? Most crimes committed by kids occur between three and six p.m., when parents are off and at work and kids are not supervised. If we continue to create regulatory barriers or threats to businesses that do employ kids, then we will see an increase in youth unemployment, and those crime numbers will only increase.

In rural areas like mine, where many of the seasonal jobs available are in the food service industry;

MS. KILKELLY : ...such jobs often provide an important training ground for future employees and managers. They pay for college educations. They help to support families. Locking kids out of these jobs will severely impact our rural economies and our rural communities.

Here in New England, and of course I must add especially in Maine, we value a work ethic that teaches that work is good. We attempt to instill in our kids, and I raised three as a single parent, that not only does society expect you to work and return something to your community, but further that work is satisfying, and while often demanding, it is gratifying.

The first work experience, like any other first, is the one that we remember the most. It should be a time of transitioning into adult work and into the adult world and taking on adult responsibilities. It should be a time of learning new skills, learning in an environment that is not home or school, learning and then being in a position to teach others. Work can and should be about self-actualization.

By creating laws and regulations that force mid-teens to labor in safe, and safe by definition means bland and uninteresting employment experiences, I am concerned that we are sending them the wrong message. That work is a labor to be endured. That they are not able or capable. Simply looking at whether an item is motor driven misses the point, and it is fairly archaic.

Having worked in commercial kitchens as a staff and a manager, I can unequivocally say that there is a big difference between a sixty quart floor mixer and a KitchenAid home mixer. One is truly safer than the other. Both are motor driven, and that is where the similarity ends.

I cannot believe that the person who drafted hazardous order eleven, power driven bakery machine operations, really anticipated it being used in this way. To tell kids that government has determined that they are old enough to operate a motor vehicle on the open road but not able to run a motor-driven home mixer must be very confusing to them. It will only serve to instill in them a cynical vision of government, and who can blame them?

As someone who has dedicated a great deal of my life to public service and believes that government can play a reasonable role in protecting the health and wellbeing of its citizens, this situation saddens me. The laws and regulations that have been created to protect kids are static from the moment they are written. They stay the same, while society moves on, for better or for worse.

The social maturation of kids has changed in the past ten, fifteen or twenty years. The expectations of a child of sixteen are far different than that of a child the same age, for example, in 1964. These regulations and laws, if they are written to benefit kids, must be reviewed on a regular basis in order to keep up with the needs of kids and the development levels of those that they are protecting.

Finally, to that end I suggest that you recommend or create a committee to review these child labor laws and include on that committee teens, educators and employers. Teens, because we are all looking back on those years, some further back than others. But nonetheless, we do not have the firsthand knowledge and experience necessary to accomplish this task well.

I want to thank you for your willingness to serve on this committee. As a legislator, I had only heard about this committee and meeting through David Clow [phonetic], the NFIB Director in Maine. And I would like to request, as the comment was made about outreach, I would like to request that notices be sent, even a postcard, to all legislators when you are going to be holding a regional hearing. Because we in fact can and do that outreach effort. Even though these are federal issues, when someone has a problem in my district, they call me, as I want them to. And I know that particularly here in New England that is the case with all of us, that we get the calls, and then we sort out what happens.

The appraisal form that was pointed out by the chairperson earlier today, is the first one I have ever seen, and it appeared from my conversation with the Schneiders. It was the first one they had seen. And maybe when there is this kind of a fine, maybe what should be included in that mailing is a copy of that form, because

how else are people going to know that those forms are available? I think that would be a really positive way to make sure that your board, in fact, has the information that it needs.

You play a very significant role as an intermediary between the bureaucracy and the small business person. You have the ability to impact the future of small business in this region and certainly the food service business in my county. We have put our faith in you and look forward to your assistance.

I would be pleased to answer any questions. I regret that I cannot stay through the entire hearing. I have to go back to Waldoboro and talk about traffic lights at some point in time. [LAUGHTER.] But, I am very pleased to be here. I am glad I found out about the meeting. And as you heard the compelling story from Larry, I mean, it is a very serious situation, certainly for his business. But my concern is this situation, his business is really a catalyst for looking at the bigger issue. They are willing to stand up and say, this is not okay. I wonder how many people have not been willing to do that.

So, I see him and his wife as people who are willing to take on a very significant challenge, because it needs to be done. Thank you very much.

MS. CAM : Thank you, Senator Kilkelly. I think that was a great idea to send out postcards to legislators. We will definitely look at it.

MS. KILKELLY : Thank you.

MR. WILLIAMS : I would also comment that several of your comments, they were certainly earnest, and it was a great disservice to somebody obviously quite deserving.

We as a board have in the past, as part of recommendations, recommended or suggested to agencies that they actually do submit information about SBRFA when there is a complaint filed, as well as the appraisal form. We have had some success in some areas and less in others, shall we say. But, a willingness on your part to, for one, recommend that we certainly send information to our legislators is really important as we build a greater constituency out here with our legislators in a liaison. And more importantly, that we continue to do more outreach. It is obviously very critical.

My final comment would be that one of the things that we really pushed very heavily when we started this effort here, which came out of the White House conference in 1996, was to, not to work toward penalization, but to brief people into compliance per se. And there has been a lot of discussion about how do you in fact do this.

Unfortunately, in the past so much of our system to bring people into compliance has been punitive, as opposed to trying to say,

okay, maybe there is a issue, if it was willful or malicious conduct, that is one thing. But, if it is something that maybe is more marginal, we have asked that there be more consideration given to a company or business. They do look at people's records as well when they do an assessment or try to leverage any kind of fine against a company per se.

So, we are very, very cognizant of this. I mean, I think many of you, if you are not aware of this, please go back and look at the reports of '97, '98, '99, 2000. You will see we have talked to many of these issues here. Some with success, some with less success. But, having all of you working with us makes it much easier.

MS. KILKELLY : Well, whatever I can do to be of assistance in that process I am certainly happy to. You know, I remember classes that I took in terms of business development, and one of the things we would often look at when you are working with a person to develop a business plan, is that the person who makes the best pottery in the world may know nothing about running a business.

And so, we need to make sure that we are not thwarting that entrepreneurial spirit for people who want to start a business. It really is the backbone, particularly of our rural areas. And we need to make sure that there is this relationship between the regulator and the regulated community that in fact supports education and supports bringing people into compliance.

And then when someone repeatedly is a violator or is a flagrant violator, nail them. I mean, that is fine. But, let's have a better relationship, at least in that initial place, and more opportunity for education.

MR. SCHNEIDER : It should be working them, not for them.

MS. OBERMAYER : Listening to the saga, I think there is another piece of it that I hear you saying that I think should be in the record clearly. That has to do with whether the regulations are in understandable, intelligent English. I mean, what I am hearing is that, among other problems with the regulations and how they are enforced, is how they are explained or not explained. I think that a test of regulations perhaps needs to be whether an intelligent human being can read them and understand what they say clearly. In this case it seems clear that even the regulators could not understand it, never mind a businessperson for whom this is not their area of expertise.

MS. KILKELLY : Absolutely.

MS. CAM : Anybody else? All right.

MS. KILKELLY : Thank you very much.

MS. CAM : You are welcome.

MS. KILKELLY : I do need to get back to my traffic lights.

MS. CAM : Betty B. Hall? She is not here. The next person is Carl Anderson. Carl Anderson? The next person is Suzynne D. Cummings.

MS. CUMMINGS : Good afternoon. Mrs. McDonald, members of the committee, thank you for having this committee meeting and giving us the opportunity to talk.

My name is Suzynne Cummings. I am an owner of three small businesses, two which unfortunately there are no regulations, and often times they do not fit into the norm. And the third is that I am an accountant, which means that I get to pick up the pieces of small business owners, and I am the one who gets the panicked phone calls and those types of things.

But, I have had the opportunity to either pick up the pieces, plus also meet the challenges, because one of the businesses that I own is an accident reconstruction firm. And there are very little regulations that are on the books, very little definition according to what in essence governs them, what they have to answer to, how they are controlled, what the mapping of them is and also what the educational criteria, etc., are. And on top of it, many of the people who are in that field are ex-law enforcement officers. So, there is a whole energy in that field that unfortunately presumes guilt before innocence.

But, there are just so many agencies out there, including workman's compensation, for an example, who have- absolutely no idea how to insure, what category to put people in. They do not even understand the industry. So, I get to deal with that on an individual level, and it is frustrating. It is frustrating knowing what I know, being an accountant, and dealing with all those issues, and being put forth into that situation.

But, the financial challenges that the small business owner faces are unbelievable. I think most small business owners do not have the advantage that large companies have, and that is that they employ accountants, they employ lawyers. They have them right on staff. And therefore, they are keeping up, their primary job is to keep up with the tax regulations, keep up with the employment regulations, all the legalities, the filings, etc. And they have that advantage.

Whereas, small business owners actually view the accountants, such as Dick Charpent [phonetic] here and myself that are in this room, as a huge expense to their business. I mean, we are the bad guys, because what happens is that we are the ones that have to clean up, who deal with the agencies, because the small business owners do not know what it is that they are dealing with. So, they see us as, unfortunately, a huge expense that they would rather not have.

And unfortunately, you know, as a small business owner myself, I

also have to bill to be able to pay my bills that go with that. And we do get the clean up procedures. I can think of at least half a dozen vacations that I have postponed, if not cancelled, because I have had a small business owner who has called me, because the DES has shown up, the IRS has shown up, the DOL, Workman's Comp., unlimited agencies that just show up. Including, I have had a small business owner whose spouse has called me because of the fact that her husband attempted suicide over a regulatory issue that was brought on them by one of the agencies, and they could not deal with the agent that was involved with it.

And I have been through the audits with small business owners, with the IRS, on the sub-contract regulation. Are they independent? Are they not? And often times it has come right down to the issue of does the person have Frosted Flakes or Cheerios for breakfast when they did the audit. And that is sad, because they were not getting a fair administration. And then the person went through the appeals and went through basically trying to get through it.

There has been a huge change since the White House Conference on Small Business. It has become friendlier, especially here in New Hampshire. We have the advantage of Congressman Sununu, who we can call. Bill Phillips at the SBA is wonderful. We have a great regional director of the IRS who is now accessible to us, that we can actually call in dealing with the different issues.

But unfortunately, I have had a story just recently, very similar, with the Department of Labor. And it was with a seasonal business owner who found that it was less expensive to hire me to go through their Department of Labor regulation audit and to actually have me prepare the files, go through, prep everything, actually go down and meet with the auditor. And the auditor to her face called the small business owner a liar, because of the fact of documentation that was in the file. The small business owner had nothing to do.

Actually, this has gone on for three years. Her first year she received a violation. It was a hundred dollars. She paid it. She thought it was easier to do that than to fight it. Second year she turned around, she got fined, and the fine all of a sudden was thirteen thousand five hundred. She appealed it. She paid me to go with her to represent her, to go through the files, to prove that she did not get fair representation. We ended up getting it down to the point that she wrote out a check for six hundred and fifty dollars, which was a huge discount from thirteen thousand five hundred.

And the third year, which was this year, she paid me to go and do the Department of Labor enforcement. Went through it. It was amazing. The audit was done in half an hour, with myself doing the audit, versus with the small business owner, who had put in six, seven hours sitting at the table with the Department of Labor person, who just was put through the ringer. And it was cheaper for her to do that.

She came out with zero violations this year, and the auditor looked me square in the eye and said, well, it is a damn good thing that you were here, because you just saved the business owner a ton of money.

That is hard to look at. That is hard to be in that position. There have been huge changes, and we have, you know, had a huge amount of local access. And we are fortunate in this state because of the fact that we do have agencies who are willing to work with us. But in the meantime, the small business owners hire us to do the clean up.

I personally right now am in the midst of a battle, of fighting with one of the agencies on my accident reconstruction business, because they do not know what the business is, and they are not willing to take the time to find out what it is. So, because it does not fit that we are a standard business that fits into the financial industrial ratios guide as to what our expenses should be, therefore it ends up coming out that, what ends up happening is we go penalized for something that is an ordinary form of our business, but there is no statement of principle that would identify it.

And so, I see it on both sides. And I think that forums like this are absolutely wonderful to be able to get out, to be able to air these, to be able to continue to work. And I know that you are all taking your own time to do it, as well. I have served for years on the NFIB. I have worked on the White House Conference on Small Business and actually had the pleasure of going through that entire ordeal.

And I most recently personally have gone through two very traumatic personal car accidents in which my business could have toppled. But, I work with small businesses. And they were, just like Larry said, they are like family to you. I mean, small business owners have a whole different issue. But, the sad part is that some of the government regulatory agencies were not willing to take from my clients the answer that, she was in a car accident, or those types of things in dealing with it. And there was no human element.

It feels like because it did not fit into the mold, therefore they could not do it. And so, the penalty stood or the enforcement stood. Or, I had one client who was actually devastatingly put up against a wall by an IRS revenue agent, and he was strip searched. Not strip searched, but he was pat searched, in which he had to empty out his pockets, and he was physically felt to find out what was in his pockets, because the man had to go to a collection hearing without representation, because it would take too long to bring somebody else up to speed on his case. And so, he had the devastating experience of actually being pat searched.

It is sad, because if we could just talk to each other, if we could be able to work through these regulations and it was not such a cost effectiveness. And if in essence what could happen is these

agencies could let the small business owners know what it is that is expected of them. And I know that when I finish my Department of Labor audit on this particular employer, the auditor did say to me, be aware that the regulations are changing again in October. And so of course I asked, well, are you going to publish those? Are you going to do a business education form? And she said, no. It is going to be up to them to contact us to know that there has been a change or to sign on to our website in order to get it.

So therefore, if they are not in compliance with the change, does that mean that every employer then is going to be subject to a fine? The same with the changes when the independent contractor ruling changed. Was that publicly notified? Were people informed?

There are so many regulations that change, and there is not an easy access to these changes. It is not easy for the small business owner, who has to be the manager, who has to be the dishwasher, who has to be the front end person, who has to comply with this, who has to meet with the accountants, the lawyers, OSHA, who have to have the Department of Health in there, etc. But yet, they do not know what they are fighting.

And so, we get to come along and clean up. And it is one of those that it would be much nicer to be able to work in a forum of which you are educating, you are working with, and there is a handshake, and there was some kind of an element of a first time offense or an ignorance plea. That if somebody truly did not know it, that in essence, and it could be that it was a purely innocent issue, that they would have that right to be able to do it and to be able to work with the agencies and to be able to feel comfortable, to call up the different agencies themselves, rather than to hire somebody to be able to make that.

And on a personal level, I would just love to see this relationship continue to grow, and I would like to be able to see it where it is more on an educational, more on a developmental format, instead of on a penalty and on a bad guy and that you are presumed guilty instead of innocent.

Thank you.

MS. CAM : Thank you.

MR. WILLIAMS : I will make a comment to you also. You made a lot of comments, some of them general, some of them more specific. You talked about standards for one, with you know change. When those standards change and it does not fit into a specific format. You know, a company is again dealt with through the closest common denominator, shall we say.

So, if in fact you felt this is an issue, and you want to put in a form for that, that would be also very good.

You also spoke to the issue of notification, regulatory changes and notification. Again, this is an issue we have been dealing with for some time. Some agencies are very effective with this, others are more challenged. But again, if you feel strongly about this, which you do, and you have people you are an advocate for, again, your being able to let us know via an appraisal form would be very helpful.

MS. CUMMINGS : Great. Thank you.

MS. CAM : The next person is Dick Stonner from Sir Speedy Printing.

MS. MCDONALD : I would have just one comment. Are a lot of your clients not using the Internet, so they would not have access to it? Or is there a digital divide here among small business owners?

MS. CUMMINGS : I represent a large variety of small business owners. It literally can be a person who is still doing their books, they are still writing them, and they are not computerized. They are not even computer literate. And so, there is not that access to it. Or, there is even the cost factor for some of the businesses that I represent that are so small that what happens is the cost of acquiring a computer, getting on to the Internet and those types of things are actually a large expense to them. That would create a cash deficit for them.

But then, you look at the other side, the penalties they are getting assessed, which they have to pay, or they end up in severe; but yes, not all of them do have access to the Internet. And I do try to inform them and educate them, and I think that is one of our roles as accountants, that we are responsible. It feels like they expect us to tell them everything. And you cannot remember to do that with everyone, because it is not always appropriate.

MS. CAM : Mr. Stonner?

MR. STONNER : No problem. I have been yielding time to her for five, six years now. [LAUGHTER.] As you can see, there are a lot of NFIB members in the audience. I want to thank you very much and thank you for coming to New Hampshire for this forum.

My name is Dick Stonner. With my wife and son I own and operate Sir Speedy Printing right here in Manchester. I also have the pleasure of serving as Vice Chair of the leadership council of NFIB New Hampshire.

I have a prepared minute, but I would like to adlib and say I have seen first hand in the last five or six years the changes that have gone from confrontation and adversarial to cooperation and communication. Many of us in the room had the opportunity to work on Congressman Zeliff's task force for small business and then Congressman Sununu's. I worked with Senator Humphrey, who was here earlier and saw a lot of this come out of the Regulatory Reform Act.

So, I think while we have a way to go, we are doing a lot of good things. You folks are doing a lot of things and Congress has done a lot of things in the last six years.

I would just like to point out, we mentioned NFIB. Just to clarify, it is the largest business organization nationally, with over six hundred and fifty members, and in the state of New Hampshire with over thirty-three hundred members. And in New Hampshire about sixty-seven percent of all non-government employees are small business in New Hampshire. When we say small business, we mean under fifty, not under five hundred employees.

Thank you for that time. On behalf of Jacques Ferris, our National President, Joan Laplant, our State Director of Public Affairs, and representing Jerry Tibbitt over at the State Leadership Council and Bill Car, Chairman of the Leadership Council, I would like report that our thirty-three hundred plus members in New Hampshire are on record as being very concerned about, one, taxes, including but not limited to the marriage penalties, the death penalties and the capital gains.

I have testified before that I feel sometimes like I am between a rock and a hard place. If I wanted to start estate planning in a way and retirement in the next few years, if I sell my business I am faced with tremendous capital gains taxes, even though my wife and I and my son have over twenty years of sweat and equity in the business. That is not recognized.

If I die, like many of you in small business, I own a business. I own the building it is in. I have a house, maybe an insurance policy, a couple of cars. Bingo. If something happens to us, the kids have to sell everything just to pay the inheritance taxes. Where does that leave them? Especially our son, who has grown up in the business, is now thirty years old and starting his own family. He would be out on the street, selling everything to pay off death taxes. So, that is a big concern of the NFIB members.

Another one is health insurance and the availability of it, which is a national problem, and in particular a state problem because of some state regulations that have come about. But, that is not your concern here today.

And thirdly, the regulatory compliance regulations, which we have heard horror stories about, one that was new to me, that gentleman from Maine. These are our areas of concern as a business owners group. We tackle some of these concerns on a state level. We try and take ten, fifteen issues each legislative session. And it usually revolves around those. On a national level it pretty much mirrors that.

So, while we had nothing new to say, we did want to get on record with NFIB as small business people and number one say thank you. Welcome to the state. Keep up the work, and let's keep going in

that direction.

If there are any questions, I would be happy to answer.

MS. CAM : Thank you.

MR. WILLIAMS : The only comment I would make is that NFIB has certainly been one of our monthly groups that has sponsored during the year. We have different groups, such as your own, who we will basically will actually try to make more information available to members of your organization on a state-wide basis. So, we are obviously very much in tune to NFIB. It makes a great contribution to us.

MR. STONNER : Good. I am glad you brought that up, because we are fortunate in New Hampshire to have a lot of support in our Congressional delegation. Bill Zeliff when he was in, Congressman Sununu of course, a near perfect record. When Senator Humphrey, who was here earlier, served twelve years in the U.S. Senate, he was like number one on the NFIB list.

So, being a small business state with the environment, like you have up in Maine, we appreciate that. And thank you again.

MS. CAM : Our next speaker is Peter Griffin.

MS. MCDONALD : Well, I wanted to say, Mr. Stonner, when your governor spoke to the Democratic Convention last week he talked about being a small business person.

MR. STONNER : Unfortunately, we are the only state in the union right now with a state deficit. [LAUGHTER.] So, some of us took exception to that statement.

MR. JACOBS : Ms. Cam, I am George Jacobs. I am the regional administrator here in New England for the Health Care Financing Administration. And even though I may not sound like it, because I recently transferred to our Boston regional office from Atlanta, I am familiar with New Hampshire, because I went to school here up in Hanover in Dartmouth.

When I came in here, I did not see that any home health agencies that you asked for testimony about were signed up here present. And I wondered if you wanted me to go ahead and proceed with my testimony. Or, if there are home health agencies represented, I would be more than happy to adlib some of it, particularly about some of the more recent developments. But, whatever is suitable for you. And I do have written copies of my testimony that I will leave here.

MS. MCDONALD : Whatever you want to do, go ahead.

MR. JACOBS : Okay. Fine.

MS. MCDONALD : Absolutely.

MR. JACOBS : Great. Okay. Wonderful.

As I say, I am the regional administrator here for the Health Care Financing Administration in New England.

Again, I want to thank you for the opportunity to testify in the hearing today. I know that the Small Business Administration and the Health Care Financing Administration have agreed to work more closely together, and this hearing is a timely and appropriate occasion to do so.

I would like to point out that my viewpoint here today will largely be a regional one, which is natural, not only because this is a regional hearing, particularly concerned with small businesses and their issues here in New England, but also as a regional administrator I need to know what these issues mean in my region where I can be responsive to them.

Additionally the theme of my testimony is "we do listen," and I will give some examples of this. But first, I do want to report that I and the other nine regional administrators in HCFA, and that is what we call our agency, I believe we have the same regional boundaries as you in the SBA do. We were recently instructed to get in closer contact with the SBA regional ombudsmen in our areas to learn more about the fairness program and small business issues pertinent to HCFA. And this is one of the reasons that I find this hearing timely and helpful.

In fact, I will share with my regional colleagues the results of this meeting. Too, it gives me another opportunity to listen, which as I said was a theme of mine here today.

I would like to point out that we do respond to concerns. For example, I participated in a hearing that you held last June in Hartford. And we also attended a hearing sponsored by Vermont Senators James Jeffords and Patrick Leahy in Montpelier earlier that year, where home health agencies expressed their concerns on a number of issues about the Medicare program.

One of these was bill sequencing, which is a requirement that we established to implement a part of the 1997 Balanced Budget Act. I will refer to this as the BBA, which required us to keep track of which Medicare trust fund paid a home health agency bill. So, we required home health bills for particular beneficiaries to be processed in sequence.

This meant that if our regional home health intermediary began examining one month's bill, the Home Health Agency would not be paid for its next month's bill for that beneficiary until we adjudicated the first bill, since bills had to be processed in sequence. Agencies complained that this hurt their cash flow, and it is likely

smaller agencies felt the impact more than larger ones.

After the Montpelier hearing, I sent this issue to our headquarters as a critical one. Several months later at a national listening session, where HCFA joined quite a number of representatives of national home health associations and which I attended, the same issue arose, and we listened to the providers.

We did take action and soon removed this requirement, looking instead to our actuaries to accomplish the requirements of the act. So, we did listen. In fact, this requirement was first removed here in New England as we worked with our regional home health intermediary to quickly change their computer system to eliminate sequencing.

Let me give another example. At the same Montpelier, Vermont hearing, HHA's stated that they were being subject to multiple reviews at the same time. They first said that this adversely impacted them, as they did not have the resources to deal with these multiple demands.

Shortly after that hearing, my staff and I began working with the New England Region's Associated Hospital Services of Maine, that is our regional home health intermediary here in New England, to minimize this, especially with medical reviews. While we will continue to do these reviews and deny services which are not covered as medically necessary, our aim was to zero in on a particular problem area at an HHA, rather than subjecting that agency to multiple types of issues at the same time.

In addition, we required the intermediary to coordinate their on-site reviews so the same company was not visited by different groups of intermediary people at the same time. While we in HCFA do not control all reviews an agency is subject to, for example, the Office of the Inspector General is completely independent of HCFA and can audit or inspect any provider at any time. I believe our approach has been reported to be of some relief to HHAs and most especially to the smaller ones, which do have fewer resources.

I am also pleased to have to have been invited here, because I think there is a misperception that HCFA has used its discretion in implementing the Balanced Budget Act in ways that shift a disproportionate share of the impact of the BBA onto the shoulders of the small home health business owners. To the contrary, HCFA was required by Congress to implement the BBA. While the effects of the BBA may have, to be sure, a negative effect on smaller home health agencies, HCFA has tried very hard to be fair to all Home Health Agencies, regardless of their size.

I think there is also a misimpression that HCFA is perhaps a bit insensitive to the plight of some HHAs who have had to absorb the very real payment reductions caused by implementation of act. As I speak to you today, I hope to disabuse you of this notion and set

out for you some of the steps that HCFA has taken to lessen the burden on smaller HHAs.

I think it is important for you to have some context. In the mid-1990s, the number of HHAs rose dramatically from seventy-seven hundred in 1994 to ten thousand three hundred in 1997. While the number of beneficiaries increased only about one and a half percent a year. From 1990 to 1997, Medicare outlays for home health almost quadrupled, from \$4.7 billion to \$17.2 billion. These trends had a significant effect on the very solvency of the Medicare Trust Fund.

While these increase in home health expenditures were dramatic, they were but part of the expansion in general of Medicare outlays, and HCFA was being criticized for having over twenty-three billion dollars in inappropriate payments paid out in 1996. A figure I am happy to say that HCFA has, though its program integrity efforts, cut in half in the last three years.

However, in response to the problems Medicare was facing at the time, Congress passed the Health Insurance Portability and Accountability Act in 1996. Under that act Congress provided separate and annually increasing funding for program integrity efforts.

HCFA's strategy in implementing HIPAA focused on the prevention and early detection of inaccurate claims. That is, to pay claims right the first time, and not to go into a pay and chase mode of operation. What this means is there were new and increased levels of medical review and audits of agency claims.

HCFA's contractors are on the front line of interacting with Medicare providers, whether the providers are small or large businesses. Medicare contractors routinely provide guidance in specifics of the law and regulations, conducting training sessions, producing provider bulletins and so forth.

Medicare contractors have staff trained in various functional aspects, such as claims processing, medical review, reviews and appeals, provider education and audit. Frequently, our contractors and our regional office staff meet with individual providers, groups of providers or representatives of provider organizations to address concerns, give them guidance, share information and the like. HCFA's own organizational structure, both in the central office and the regional offices, has a component to be responsive to entities that provide services to Medicare beneficiaries.

In addition, HCFA is continually increasing its efforts to educate and train the provider community. One example of HCFA's outreach method is our website for plans and providers at www.HCFA.gov. This website is very informative and customer friendly. Online links to provider billing forms, documentation guidelines, frequently asked questions, coding and payment systems, as well as publications, are a sample of the information available to all providers. We are

constantly upgrading our websites and encourage and welcome visitors.

The BBA of 1997, which I mentioned, as amended by the Omnibus Consolidated and Emergency Supplemental Appropriations Act of 1999, mandates the implementation of a prospective payment system for home health services, effective on or after October 1, 2000. The PPS, Perspective Payment System, would replace the current retrospective reasonable cost-based system currently used by Medicare for the payment of home health services.

This is not the proper occasion to detail the requirements of our prospective payment system. But, I do think that as we get ready for its implementation on October first, I can say that HCFA has also listened to home health agencies.

The statute provides authority for a transition period, no longer than four years to PPS. However, we planned for a full transition to the PPS. We know the majority of the home health industry seems to be eager to move to it. In fact, the industry fully supported the requirement that we pay all providers under PPS on October first, rather than phasing in by cost report periods.

I note that we will be using a sixty day episode as a unit of payment under the Home Health Perspective Payment System. Evidence from the phase two PPS demonstration project illustrated that a sixty day episode length captured a majority of the patients. Moreover, the sixty day episode would coordinate with the sixty day physician re-certification period of the plan of care and with the sixty day reassessment of the patient, using the outcomes and assessment information set, also known as OASIS. So, we think by coordinating these three mechanisms, we made life easier for the agencies. And too, we believe this encourages physicians' involvement in beneficiaries' plans of care.

Because the PPS system must maintain a cash flow to agencies accustomed to billing on a thirty day cycle or receiving periodic interim payments, we originally proposed a split percentage billing for each sixty day episode. Under this system, an agency would receive a partial episode payment, fifty percent, as soon as it notifies us of an admission, and a final percentage of fifty percent payment at the close of the sixty day episode.

We believe the proposed split percentage payment approach provides providers a reasonable and balanced cash flow without creating the same possibility of large overpayments that were experienced under the interim payment system. However, although HHAs liked the split payment, as it assured them up front money, they argued that the split should be more heavily loaded on the front end. They believed that most care would be given at the beginning of an episode, and thus they would incur most expenses then. They also feared that, as with a new system, there would be long delays in our paying the claims, severely restricting their cash flow. So, in our final

regulation we did change this to a sixty/forty split. I think we could say we listened.

In addition, one important thing in there is when we get the original request for payment we make an immediate payment on that, as we do not consider its claim. Because under the statute we are required once we adjudicate a claim to wait fourteen days before we pay it.

But these are all national issues. Regionally, we took action in another way to help ease the implementation of the new system. As background, we are requiring all our intermediaries to go to one standard claim processing system. This will require our home health intermediary to change its processing system, and this was originally scheduled, ironically, for October first, just when the prospective payment system was to be implemented.

After discussing this with several home health agency associations, we were able to get this postponed. They felt, and we in the region agreed, that these two changes at the same time would be too close together to be successful.

Let me close by emphasizing our commitment to work with our partners in the home health industry to alleviate some of the impact that BBA has had on them, while at the same time making sure that we comply with the law and that we safeguard the Medicare Trust Fund. We believe that home health agencies are an important component of the delivery of appropriate care to Medicare patients in this country.

Thank you again for the opportunity to speak to you today. And I look forward to continuing our work with the SBA in the future.

MR. WILLIAMS : I would like to make a comment.

MR. JACOBS : Sure.

MR. WILLIAMS : You mentioned earlier that you are focusing your comments today on what you have done, and thought that was very helpful to start off in that regard. Then, you made comments about the sequential litigation as well as the multiple reviews. Now, was this a regional initiative?

MR. JACOBS : Well, the sequencing the bills was something that was really being done nationally.

MR. WILLIAMS : Right.

MR. JACOBS : What we did do in the region, I think we were particularly effective in bringing that to the national level, because of how strongly the home health agencies in our region raised the issue.

MR. WILLIAMS : Right.

MR. JACOBS : And we were also actually the first place in the country that went off the sequencing of bills. It was here, because we were able to influence our regional home health intermediary to make computer changes actually more quickly than they were made in other places.

MR. WILLIAMS : Okay. And as far as the multiple reviews?

MR. JACOBS : Yes. Now, that is something that was strictly a regional initiative. What was going on here is that we used various ways of looking at what providers submit in claims. And typically, we look at claims that we have already processed and use the information to look at what is coming in the front door to decide what level of scrutiny to give any particular group of claims or to a particular provider.

What we were finding is that our intermediary used different approaches, which is fine. But then they would zero in on one home health agency with two or three different issues all at once. We thought it was going to be a much better effort to sort of, at least as far as each agency was concerned, to centralize their effort, to take out the most problematic issue, to deal with that, to take whatever adjudicator action and education we could do and get that settled and then go on to another issue, rather than hitting the same agency with multiple issues at the same time.

MR. WILLIAMS : And my final comment, you made reference to the BBA. Obviously, this was not of your own doing. Of course, your agency had the responsibility for administering that and ensuring that there was a compliance in the way to back into the reduction of funds that were available and the like there. As we all know, it was a very rocky process.

While I certainly applaud some of the changes that have been made, certainly initially it really, you know, caused a lot of consternation.

MR. JACOBS : Yes.

MR. WILLIAMS : And a lot of small businesses that had much less cash flow are not here today, quite simply. I just want to make sure for the record we understand that a lot of those businesses, because of the way the program was implemented, the BBA was implemented, I am saying, are not here today quite simply. And many of them perhaps could have been here had there been a different approach initially.

And again, You know, we can all go back and say, you know, hind sight is twenty/twenty. And we certainly cannot do that. But, this is such a good example of what a real, insightful review on the front end could have meant to the lifeblood of small business, the micro-businesses that had three, four, five, six employees, I am saying.

As you said before, too, that there was a real uptake in the number of businesses that are servicing this industry. I understand that, but it did not mean necessarily because there were more people serving that some of those folks were not doing a good job. Maybe they were doing a good job, and actually some of the bigger companies were the ones who were more flagrant in violation of some of these regulations.

MR. WILLIAMS : I think on the front end had there been a little bit more assessment and review and consideration for the impact of small businesses, we may not have had some of the casualties that we incurred.

MR. JACOBS : I believe you are correct.

MS. CAM : I just wanted to ask you whether you feel there will be a reform of this business or it is not going to happen.

MR. JACOBS : Well, I think as I mentioned both we and the vast majority of the home health agencies seem to be willing to, you know, very desirous of going on this new perspective payment system. And there are many reasons for that, but I think the real reason, it gets us and our intermediaries out of the business of saying whether this particular visit by a home health aid to this beneficiary on this day was or was not necessary into a more global look at the care that beneficiary needs and if they qualify for an episode of care.

Then, it is completely at the discretion of the home health agency as to what kinds, whether they need to send a nurse or a therapist or home health aid, how often and when. That is going to be their business and not ours. So that, I think there will be more discretion to each agency as to how they are going to handle the care of that patient.

One of the things I am sure you have heard at these hearings is the, you know, an attempt or a belief on the part of a number of agencies that, you know, we were playing a big brother role in getting into the minutia of the care of the beneficiary. They were closer to the beneficiary. They were the ones that were going out and visiting. They should have more of a say in the care. I think that is true.

The other thing is because we are getting away from the strictly cost reimbursement system, particularly if a home health agency is heavily into the Medicare beneficiaries, they almost cannot win under a cost system. Because any time we deny any claim or any time that we question or disallow something on their cost report, they are in the red already. At least with the perspective payment system the more efficiently they deliver the care, the more money that we pay them that they will be able to use, you know, to cover for, you know, episodes of care that we may not cover, or to, you

know, just become more efficient.

When you are under a cost reimbursement system, we are almost encouraging you to be wasteful. And now people will have the incentive to be efficient.

MS. CAM : Thank you.

MS. MCDONALD : Well, I wanted to say that in the Mid-Atlantic Hearing we heard a lot of testimony about contractors. Is that what you were referring to as intermediaries?

MR. JACOBS : Right.

MS. MCDONALD : And it strikes me that this issue is one of those cross cutting issues, that as government downsizes and so forth, all agencies are, you know, encouraged to go out and use contractors and so forth.

MR. JACOBS : Ironically, our agency, we are larger now than we have ever been.

MS. MCDONALD : Okay.

MR. JACOBS : But, we have had a history at our agency, we do very little day-to-day work within our agency. We have always used intermediaries and carriers to process Medicare claims. The single state Medicaid agencies have the day to day responsibility for the Medicaid programs. We contract with state agencies to do the certification and review of nursing homes, hospitals and so forth. So, we do very little of the day to day work inside of our agency.

And actually, we only have about forty-four hundred employees, which considering we manage fifteen percent of the federal budget, is a fairly small agency.

MS. MCDONALD : I wonder what you do to train the intermediaries. They are after all dealing with people;

MR. JACOBS : Right.

MS. MCDONALD : One reason you are sitting on such a powder keg is that home health care issues are critical to people being taken care of in their homes. So, it becomes a very emotional issue when their services are cut and so forth.

MR. JACOBS : Sure.

MS. MCDONALD : But, I was struck, as I say in the testimony we received previously, by a sense that perhaps those intermediaries were not receiving the kind of training that they needed to receive in order to represent a government agency. I wondered if you would comment on that, because I just do not have any information.

MR. JACOBS : Yes. As a matter of fact, what we are doing there, and this effort really has only been going on a year or two years at our agency. It is that, you know, we think that we do have to have greater responsibility in training providers and physicians in the Medicare program.

And we have started a number of efforts within the agency to increase that level of training. I mentioned our website. This is an opportunity that providers have to come right into us to get questions and answers, to download the copies of our program memoranda, which are, you know, program directions and so forth.

We are using that whole venue to try and get more consistency in each of our contractors, as well as to present to the provider community a clearer, you know, display of what our rules and regulations; not so much the regulations, which have always been available on the Internet. But, on what the program instructions are. We have an effort going to try and increase the amount of training activities the our contractors can do. You know, what we give to them and what they in turn give to providers.

[QUESTION.]

MR. JACOBS : Not specifically. You have to understand, we have, you know, a whole gambit of providers. Just virtually every hospital in this country, for example, is a Medicare provider. And of course, some of those hospitals employ thousands and thousands of people. And some of them do have, you know, old departments or sub-departments that deal with Medicare claims processing and coverage guidelines.

But, many of the home health agencies, I think it was mentioned, are much smaller providers. And some of them have gone into business to do nothing but, you might say, niche marketing to the Medicare community. So, all of their efforts virtually are, you know, directed at the Medicare rules and regulations. So, it depends a lot on how broad a segment of the community the provider chooses to serve.

MS. CUMMINGS : But the regulations are very difficult from the provider perspective, as far as meeting it. It is very costly for the individual providers to keep up with that. Is there any hope that is going to become more simplistic and user friendly?

MR. JACOBS : The user friendliness probably comes in our ability to distribute the rules more widely. You know, I think some people would argue that under the prospective payment system the guidelines are simpler. For example, under the current cost reimbursement system the provider payment is based on a fairly complex cost reporting document. While we will still require some cost reporting and statistical information, it will not be as complex as it used to be.

So, there are changes. I think whenever you go through a major change in the payment system it is very complex, and it takes people awhile to get used to it.

MS. WILLIAMS : I kind of think what she is speaking to is the issue of the administrative burden per se. And, you know, perhaps even from the small business provider, the HHA, you know, looking at what is the amount of time that it takes in order to properly administer the program, make sure that they are compliant, etc.

MR. JACOBS : Yes.

MS. CUMMINGS : Specifically I would like to clarify, and that is that dealing with the small businesses who are health care providers, whether they are actually home health care, whether they are actually individual practitioners who are running their own practices, that type of thing. I think one of the largest things is that they complain about the costliness of the re-processing of the claims and about keeping up with your regulations and about the specific extenders that they have to put on their CPT codes and making sure that the DX9 codes tie in exactly to the regulations that you do.

And you have your own set of rules, which in essence basically is a huge cost to the independents as far as trying to administer that. And yet, it is not fair to the patients not to be able to have the providers as a participant in the system.

MR. JACOBS : I think that, as you indicate, that when we use the current procedure code, that we use a nationally established one that is actually maintained by the American Medical Association. And it is really the same whether it is a Medicare beneficiary or a private pay or a Blue Cross beneficiary. It is the same coding system.

Now, we do require some modifiers on some of the codes. On the diagnostic code, and again, we have used the international ICD9 coding, which is a standard coding system that is in use throughout the country. I think having adopted these well-established coding systems, I think at least in that respect we made things a little easier, that we do not require a completely different coding system for either the procedures or diagnostics.

MS. CUMMINGS : Just as a comment, I can tell you that I think, having seen your manual and having seen some of the outlines that you use, I think a user friendly procedure would be much easier for the providers, because of the fact that there is part of it that, in all honesty, I think still to the individuals who are working for the providers, it is Greek.

MR. JACOBS : Thank you. You know, I think as medicine does get more and more complex and more complicated and more procedures are used, I do not think it is ever going to get easier, because people do

have to know and use the correct codes, really no matter which billing system you are under.

MS. CUMMINGS : Thank you.

MS. CAM : I would like to ask whether the representative from DUL, do you have any comment? Is there any other business owner in the audience who wants to testify?

Then, let me call the next speaker. Robert L. Neal, Director of;

MALE VOICE : They were invited, but they declined.

MS. CAM : All right. We are at the end then.

MS. MCDONALD : I just want to thank everyone for coming. I did think it was, I should say for our colleague from the Department of Labor, it was impressive that you were able to come up and respond on the spot. We like to see that in our hearings.

It seems to me that over time these hearings do allow individuals certainly to air their problems, but they also allow the rest of us to learn more about our government and the functions of it. I think that is certainly worthwhile.

What I have learned from these first eight hearings that I have been involved with is that we do need to make outreach efforts in a local way. We do need local partnerships, because these problems are local, and we want to do more of that in our office.

So, I thank you all for coming, and I hope you will stay with us in the program and work with us as we progress.

MS. CAM : Yes. I would like to second the same things that Gail said. I want to thank all of you for being here, especially the DOL representative. It was a very timely appearance, and that will give credibility to our program.

MR. WILLIAMS : My comments are brief. Part of the queries that come from us are based upon the fact that we have been able to watch for some time a number of issues evolve. And really for me it is really positive to see that there is some responsiveness from the agencies, at least some of the agencies, to many of our issues.

I will be also very clear to suggest that some agencies are intransigent. They have not really stepped up and been as supportive, as adoptive shall we say, to the fairness regulations. Because clearly the Fairness Board regulations impact every single government agency. I want to say that again. They effect every single government agency, although some think that perhaps they are immune to responding.

We will not give up. We will be very adroit and forceful in how we do work toward some positive compliance relative to the small

business community and make sure that the voices are heard.

Again, our outreach is something that was said earlier. It is critical to all of us here. We hope that each of you in this room today will make sure when you leave this room you take the time to really let people know what you heard. If you have other small businesses that you are affiliated with in some way, shape or form, or some association, please let them know that we are one of the best kept secrets but want to change that as quickly as possible.

Thank you.

MS. ADAMS : I would like to say thank you also for coming. I found this extremely interesting. I guess what struck me today is that the government agencies that are out enforcing regulations do not seem to have any kind of system by which they administer their penalties.

The majority of small business owners in this country I really believe are trying very hard to comply with an ever-changing set of policies. There will be rogues always, and those rogues will I am sure be able to keep all of the agencies busy for any number of hours that they want to spend going after them.

However, I would like to see Mr. Schneider's situation, for instance. I would like to see, you know, a warning. A warning and then time to comply. And then maybe some system of, you know, escalating penalties, you know, with more severity in relation to the violation.

But, it just struck me, and please excuse me for what I am going to say, but it is kind of like what my oncologist called the random bastard theory. Cancer. You know, you kind of, you just do not really know where it is going to hit. And I just think there need to be a lot of changes. And I think that these kinds of hearings and this board can do a great deal for that.

So, thank you again.

MS. OBERMAYER : I, too, want to thank you for coming. We cannot do anything without information coming from the small business community. We need to understand what is happening. One of the advantages the hearings have is that we can look at cases from across the country and see if there are patterns and be able to do something when we see a pattern. So, sometimes even though you may have just one little case here, we may have picked up information from other places that together allow us to see a pattern and to do something.

It seems to me the other thing that seems very clear from a couple of the comments here today is whenever the rules change it is a problem for small business. It is a problem for large business, too, but they have staffs to keep on top of that. For small

business, I mean, anybody knows whenever the tax law changes everybody is scurrying to figure out what does it mean to me and my business. Because it always means something, not necessarily bad, but simply knowing what the rules are is a problem. And for small business, this agency is difficult to get anything out of. If the rules for HCFA or anything else change it is very difficult to make sure that all the people that need to know, know.

And so, it is really important I think to work with the agencies and encourage them not to change the rules more often than they absolutely have to. Most businesses can deal much better with a steady playing field, whatever the rules may be. If they are clear about what they are, and they know they are going to stay there for awhile, they can learn how to deal with it. But, as soon as they change every two months, everybody is always having a great deal of difficulty dealing with and trying to be, you know, a good business person and follow the rules. It becomes almost impossible when they keep changing all the time.

You know, Internet, whatever. People are not necessarily connected in those ways. And small businesses in particular is often not connected and not knowledgeable about what those changes are. And so, I would encourage whatever we do in our own reports from this group to encourage agencies to be cautious about how often they change the rules.

Granted, legislation will often force them to do it. And even then, it should be done with a review that I know is mandated but does not always happen, to have it reviewed by small business people and look at the impact that it has. That is part of the purpose of why we are here, but it still is not happening as much as it should.

But anyway, thank you for coming.

MS. CAM : On behalf of the SBRFA Board and the SBA, I would like to thank Congressman Sununu and Mr. William Phillips for having helped us in the outreach efforts. Thank you, and let's adjourn.