

BULKY DOCUMENTS

(Exceeds 300 pages)

Proceeding/Serial No: 91156321

Filed: 4-15-08

Title: DEPOSITION OF BRADLEY L. PECK

Part 1 of 7



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ORIGINAL

1 IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

2 BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

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4 THE CHAMBER OF COMMERCE OF :

5 THE UNITED STATES OF AMERICA, :

6 Opposer, : Opposition No

7 vs. : 91/156,321

8 UNITED STATES HISPANIC CHAMBER : Serial No.

9 OF COMMERCE FOUNDATION, : 78/081,731

10 Applicant. :

11 - - - - - x

12

13 Deposition of BRADLEY L. PECK, a witness

14 herein, called for examination by counsel for

15 Opposer in the above-entitled matter, pursuant to

16 notice, the witness being duly sworn by Robert M.

17 Jakupciak, a Notary Public in and for the District

18 of Columbia, taken at the offices of Kenyon &

19 Kenyon, 1500 K Street, N.W., Washington, D.C.,

20 20005, at 1:00 p.m., on June 26, 2007, and the

21 proceedings being taken down by Stenotype by Robert

22 M. Jakupciak, RPR.

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19 Also Present:

20 Shanise Gholston

21 Michael Jackson

22 BRADLEY L. PECK

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1 Whereupon,

2 BRADLEY L. PECK,

3 called for examination by counsel for Opposer and

4 having been duly sworn by the Notary Public, was

5 examined and testified as follows:

6 (Peck Exhibit Nos. 1

7 through 53 were marked

8 for identification.)

9 EXAMINATION BY COUNSEL FOR OPPOSER

10 BY MR. KANE:

11 Q. Good afternoon, Mr. Peck. For the
12 record, can you please state your full name?

13 A. Bradley Lynn Peck.

14 Q. Mr. Peck, where are you currently
15 employed?

16 A. The U.S. Chamber of Commerce.

17 Q. And what is your current role within the
18 U.S. Chamber of Commerce?

19 A. I'm the senior director of communications
20 publishing.

21 Q. And how long have you held that role?

22 A. Since the summer of 2005.

1 Q. And how long have you been with the U.S.
2 Chamber?

3 A. Since January 2002.

4 Q. And what previous roles did you hold at
5 the U.S. Chamber?

6 A. Prior to being in charge of the full
7 publishing group, I was in charge of the Website and
8 prior to that I was the programmer for the Website.

9 Q. Okay. And can you please describe your
10 job responsibilities as senior director of
11 communications?

12 A. The publishing group is responsible for
13 all electronic and print publications, to include
14 the Website, e-mail, and some event material, books,
15 advertisements created by the Chamber. We do design
16 and layout of those. Let's see. Website, e-mail,
17 books, event material, placards, menu cards,
18 programs, things of that nature.

19 Q. And for electronic and print publications
20 and advertisements, can you please describe what
21 your group's involvement is with those publications?

22 A. Generally our group is a service group.

1 So we have a customer, a customer will come to us
2 and say they are going to be producing a book or
3 producing a, hosting an event or producing an
4 advertisement. We will work with them to gather the
5 message they're trying to get across. We will
6 receive content from them, we will lay out the
7 piece, go through several proofs with them, and then
8 handle the production of it on the print side.

9 On the electronic side it's somewhat
10 similar, though there are static things that we will
11 just post when they're given to us because they're
12 templated. For instance, press releases, they will
13 just give us a press release and we will post it.
14 They will just give us a letter to Congress, we will
15 just post it. There's not a revision process and
16 things like that.

17 Q. What do you mean by post it?

18 A. Excuse me. We will place it up for, on
19 our Website so that the public can access it.

20 Q. And now, please define what you mean by
21 customer?

22 A. A customer is anyone visiting the

1 Website. We have some parts of the Website that are
2 members only, but generally most of the information
3 on the Website is available to anyone who visits the
4 Website.

5 Q. Before you mentioned preparing these
6 electronic and print publications for your
7 customers.

8 Are those the same customers of the
9 Website?

10 A. I'm sorry. I'll use internal customers
11 from now on. An internal customer is, if someone
12 brings us a job and says we want to place an ad in a
13 publication and these are the ad specs, we consider
14 that person our customer. When I said the Website,
15 I meant external customers, the general public.

16 Q. So internal customers are employees of
17 the Chamber of Commerce?

18 MR. ELISEEV: Objection; leading.

19 A. Internal customers are groups within the
20 Chamber of Commerce.

21 Q. Okay. All right. I have before me a
22 collection of materials that I want to go through

1 with you. For simplicity sake, I've premarked all
2 the exhibits and I'll hand you the exhibits to you
3 as we speak about them.

4 I'm going to first hand to you what's
5 been marked as Peck Exhibit 1.

6 MR. ELISEEV: Objection; lack of
7 foundation.

8 Q. Can you please identify this document?

9 A. This is the State of American Business
10 book which was published in January of 2004.

11 Q. And are you familiar with this document?

12 A. Yes, I am.

13 Q. And how are you familiar with this
14 document?

15 A. This document was a job that was opened
16 with the art department. The designer took the text
17 that was provided and laid it out and prepared it
18 for printing, and I created a Web page to post the
19 content of the document on our Website.

20 Q. Do you oversee the designer?

21 A. Yes.

22 Q. And is this document available in any

1 other format?

2 A. It's in print and electronic format.

3 Q. Okay. I'm now going to hand you what's
4 been marked as Peck Exhibits 2 through 4, and ask
5 you to identify these documents?

6 A. The State of American Business
7 publications from January 2005, January 2006, and
8 January 2007.

9 Q. Are those the same -- later editions of
10 the previous document that you identified?

11 A. Correct.

12 MR. ELISEEV: Objection. You need to lay
13 a foundation.

14 Q. Are you familiar with these documents?

15 A. I am familiar with these documents. The
16 text is provided for the documents and the designer,
17 who I supervise, lays out the text, prepares it for
18 printing and we post it on the Website.

19 Q. And is that available in any other
20 format?

21 A. Print and the electronic format.

22 Q. Okay. And let me hand you what's been

1 marked as Peck Exhibit 4A, and ask you to identify
2 this document?

3 A. This is a printout that I made of the
4 State of American Business page on our Website where
5 these documents are available.

6 Q. And does that Website printout indicate
7 where you can download the document?

8 A. The URL for the document is at the bottom
9 of the printout.

10 Q. What exhibit -- what document does that
11 download?

12 A. It allows you to save the American
13 Business for 2003 -- excuse me, 2002, 2003, 2004,
14 2005, 2006 and 2007.

15 Q. Okay. I'm next going to hand you what's
16 been marked as Peck Exhibit 5, and ask you to
17 identify this document?

18 A. This is the Employee Benefit Study from
19 the year 2000.

20 Q. And are you familiar with this document?

21 A. I am familiar with this document.

22 Q. And how are you familiar with the

1 document?

2 A. The year 2000 version I'm familiar with
3 because it is available on our Website.

4 MS. PIETRINI: What exhibit number? I've
5 got one, two, three, five. Did you just call this
6 six or five?

7 MR. KANE: That's five. That was four
8 4A.

9 MR. ELISEEV: 4A.

10 MR. KANE: It corresponds to Exhibit 4.

11 MS. PIETRINI: Sorry.

12 MR. KANE: That's all right.

13 BY MR. KANE:

14 Q. And was your department responsible for
15 preparing that document?

16 A. Yes.

17 Q. And what did they do to prepare that
18 document?

19 A. The designer will receive the text and
20 will lay it out for the statistics and research
21 center and prepare it for printing.

22 Q. And this document is available on the

1 Website as well?

2 A. It is available on the Website.

3 Q. Okay. I'm going to hand you what's been
4 marked as Peck Exhibits 6, 7 and 8, and ask you to
5 identify these documents?

6 A. The Employee Benefit Study, 2002, 2005,
7 and 2006.

8 Q. And are you familiar with those
9 documents?

10 A. Yes.

11 Q. And how are you familiar with those
12 documents?

13 A. Our department receives text from the
14 statistics and research center, lays out the
15 documents and prepares them for printing.

16 Q. And are those documents available on
17 another format?

18 A. The documents are available on the
19 Website. These documents and the document from 2002
20 are available on the Website for purchase. They are
21 not in electronic format.

22 Q. And who makes them available for

1 purchase?

2 A. I do.

3 Q. And have you received orders for those
4 documents?

5 A. We have.

6 Q. Okay. I'm now going to hand you what's
7 been marked as Peck Exhibits 9, 10, 11 and 12, and
8 ask you to identify these documents?

9 A. These are the 2001, 2003, 2004, and 2006
10 versions of our Workers' Compensation book.

11 Q. And are you familiar with these
12 documents?

13 A. I am.

14 Q. And how are you familiar with them?

15 A. My group receives the text and charts,
16 text and charts from the statistics and research
17 center, designs the document, lays it out and
18 prepares it for printing.

19 Q. And are those documents available in
20 another format?

21 A. They are available for purchase on the
22 Website.

1 Q. And who makes them available for
2 purchase?

3 A. I do.

4 Q. And have you received orders for these
5 documents?

6 A. We have.

7 Q. Okay. I'm going to hand you what's been
8 premarked as Peck Exhibit 12A, and ask you to
9 identify that document?

10 A. This is a printout of the Web page where
11 you can go to purchase the 2006 version of this
12 document.

13 Q. Of which document?

14 A. Of the Workers' Compensation book.

15 Q. The book that's been marked as Exhibit
16 12? Peck Exhibit 12?

17 A. The booklet that's marked as -- yes. The
18 book that was marked as Peck Exhibit 12.

19 Q. Who created that Website?

20 A. I created this Website.

21 Q. Okay. I'm going to now hand you what's
22 been premarked as Peck Exhibits 13, 14, 15 and 16,

1 and ask you to identify these documents? Can you
2 please identify what these exhibits are?

3 A. These are the March 2004, May 2005, May
4 2003 and December 2003 editions of our monthly
5 magazine.

6 Q. What is the magazine's title?

7 A. U.S. Chamber.com.

8 Q. And are you familiar with those
9 documents?

10 A. Yes, I am. My department is in charge of
11 laying out the documents, preparing them for
12 printing and the communications group actually
13 writes the magazine as well. But that is not in the
14 publishing group.

15 Q. Are those documents available in another
16 format?

17 A. The documents are available on the
18 Website, both as PDFs of the print version and as
19 individual Web pages.

20 Q. And who distributes these documents?

21 A. The documents are distributed by the
22 printing company.

1 Q. Okay. I'm now going to hand you what's
2 been marked as Peck Exhibit 17.

3 MR. KANE: One of them was broken apart
4 in the copy set. But I caught it in all the
5 duplicate sets.

6 MS. PIETRINI: Okay.

7 MR. KANE: There should be only four.
8 One of them, I think, got broken apart in half in
9 the copy set, in the copy group.

10 MR. COLBERT: I'm just going to make sure
11 we have --

12 - - -

13 (Discussion off the Record.)

14 - - -

15 MR. COLBERT: Can you read back the order
16 in which he read them?

17 THE WITNESS: Peck Exhibit 13 is March
18 2004.

19 MR. COLBERT: That's 13.

20 THE WITNESS: Peck Exhibit 14 is May
21 2005. Peck Exhibit 15 is May 2003. And Peck
22 Exhibit 16 is December 2003.

1 MR. COLBERT: This is a part of the March
2 '04. The one here that got copied in two bunches
3 and you've got it in one bunch. That's why I wanted
4 to make sure.

5 MR. KANE: The copy group had trouble
6 with the oversized documents, I'm sorry.

7 BY MR. KANE:

8 Q. Okay. I'm going to hand you what's been
9 marked as Peck Exhibit 17, and ask you to identify
10 that document?

11 A. This is a reprint of an article that
12 appeared in the September 2006 edition of U.S.
13 Chamber.com, our monthly magazine.

14 Q. And are you familiar with that document?

15 A. I am familiar with this document.

16 Q. And how are you familiar with it?

17 A. Groups within the Chamber will request
18 reprints of certain articles. We receive those
19 reprints, we pull out the article and print it and
20 deliver it to them.

21 Q. Okay. I'm going to hand you what's been
22 marked as Peck Exhibit 18, and ask you to identify

1 this document?

2 A. This is the 2005-2006 edition of the
3 National Business Agenda.

4 Q. And are you familiar with this document?

5 A. I am.

6 Q. And how are you familiar with it?

7 A. This document is produced bi-annually.
8 The text is given to our group, which lays out, does
9 the design, and sends it for printing.

10 Q. Okay. I'm now going to hand you what's
11 been marked as Peck Exhibit 19, and ask you to
12 identify this document?

13 A. It's the 2007-2008 edition of the
14 National Business Agenda.

15 Q. And are you familiar with this document?

16 A. I am.

17 Q. And how are you familiar with it?

18 A. Our group receives the text from our
19 Congressional group within the Chamber. We do the
20 design and layout and prepare it for printing.

21 Q. Okay. I'll hand you what's been
22 premarked as Peck Exhibit 20, and ask you to

1 identify that document?

2 A. This is a booklet version of a speech
3 called Auditing, A Profession at Risk.

4 Q. Are you familiar with that document?

5 A. I am familiar with this document.

6 Q. How are you familiar with it?

7 A. The document, the speech was given to our
8 group, the designer designed and laid out the book
9 and prepared it for printing and it's also posted on
10 the Website.

11 Q. Okay. I'm going to hand you what's been
12 marked as Peck Exhibit 20A, and ask you to identify
13 this document?

14 A. This is the page where the PDF version of
15 Exhibit 20 is available for download.

16 MR. COLBERT: Can I see the last one we
17 just gave you?

18 MS. PIETRINI: It's Auditing, A
19 Profession at Risk, page one of two. That's Exhibit
20 20?

21 MR. COLBERT: This is 20 and that's --

22 MR. KANE: 20A.

1 MR. COLBERT: This is Exhibit 20.

2 MS. PIETRINI: Is this one 20A?

3 MR. KANE: That's 20A.

4 MS. PIETRINI: Okay. And that's 20?

5 BY MR. KANE:

6 Q. I'm sorry. Can you identify that
7 document?

8 A. This is a printout of the page where the
9 speech booklet Auditing, A Profession at Risk is
10 available for download.

11 Q. Who created that Website?

12 A. I did.

13 Q. Okay. I'm going to hand you what's been
14 marked as Peck Exhibit 21, and ask you to identify
15 that document?

16 A. This is a speech booklet entitled
17 Shareholder Activism: The Good, The Bad and The
18 Ugly.

19 Q. And are you familiar with this document?

20 A. I am.

21 Q. And how are you familiar with it?

22 A. The speech was given to our group for, to

1 be designed and laid out in booklet form, prepared
2 for printing and we also posted the contents of the
3 speech on the Website.

4 Q. You say the content of the speech. Is
5 that booklet available on the Website?

6 A. The booklet itself is. I don't know if
7 it's available on the Website. I know that the
8 speech is available on the Website, the text of the
9 speech.

10 Q. The speech of the booklet? The speech
11 contained within the booklet?

12 A. The speech contained within the booklet.

13 Q. Okay. I'll hand you what's been
14 premarked as Exhibit 22, and ask you to identify
15 this document?

16 A. This is a booklet form of testimony on
17 the Thompson Memorandum's Affect on the Right to
18 Counsel and Corporate Investigations.

19 Q. Are you familiar with this document?

20 A. I am.

21 Q. And how are you familiar with it?

22 A. The testimony was given to our group for

1 design and layout in booklet form and the testimony
2 is also published on our Website.

3 Q. Okay. I'm going to hand you what's been
4 marked as Peck Exhibit 23. This fell off the back
5 of it. It's the last page of it.

6 Can you identify that document, please?

7 A. This is a briefing book entitled, Trends
8 in Union Corporate Campaigns.

9 Q. And are you familiar when document?

10 A. I am.

11 Q. And how are you familiar with it?

12 A. The text of this document was given to us
13 from another group within the Chamber and we did a
14 design and layout for printing.

15 Q. And is it available in another format?

16 A. The booklet is available on our Website.

17 Q. Okay. I'm going to hand you what's been
18 marked as Peck Exhibit 23A, and ask you to identify
19 that document?

20 A. This is the download page on our Website
21 where this booklet is available.

22 Q. And who created that Website?

1 A. The Web team created this Web page.

2 Q. Do you supervise the Web team?

3 A. I supervise the Web team.

4 Q. Okay. I'm now going to hand you what's
5 been marked as Peck Exhibit 24, and ask you to
6 identify that document?

7 A. This is a small business guide entitled,
8 How to Make Immigration Law Work for Your Business.

9 Q. And are you familiar with that document?

10 A. I am.

11 Q. And how are you familiar with it?

12 A. The text was given to our department to
13 do the design and layout and prepare for printing.

14 Q. Okay. I'm going to hand you what's been
15 premarked as Peck Exhibit 25, and ask you to
16 identify this document?

17 A. This is a booklet we prepared entitled,
18 Work, Entrepreneurship, An Opportunity in 21st
19 Century America.

20 Q. And are you familiar with this document?

21 A. I am.

22 Q. And how are you familiar with it?

1 A. The text of this document was given to
2 our group for design and layout in preparation for
3 printing.

4 Q. Okay. I'm now going to hand you what's
5 been premarked as Peck Exhibits 26 through 28, and
6 ask you to identify these documents?

7 A. The 2002, 2003 and 2004 editions of our
8 How They Voted Score Card.

9 Q. And are you familiar with these
10 documents?

11 A. I am.

12 Q. How are you familiar with them?

13 A. These documents are given to our group
14 for design and layout and preparation for printing
15 and they are also available on the Website in a
16 different format.

17 Q. Okay. I'm going to hand you what's been
18 marked as Peck Exhibit 29, and ask you to identify
19 this document?

20 A. This is a promotional folder which we
21 created in support of our Small Business Summit,
22 2007.

1 Q. And are you familiar with this document?

2 A. I am.

3 Q. How are you familiar with it?

4 A. Our group did the design and the layout
5 of the folder and prepared it for printing.

6 Q. And is this document available in a
7 different format?

8 A. We created an entire subsection of our
9 Website dedicated to the Summit.

10 Q. Okay. I'm going to hand to you what's
11 been marked as Peck Exhibit 29A, and ask you to
12 identify this document?

13 A. This is the Small Business Summit portal
14 on the U.S. Chamber of Commerce Website.

15 Q. Is this the Website you just previously
16 described?

17 A. Yes.

18 Q. Who created this Website?

19 A. The Web team did, which I supervise.

20 Q. All right. I'll hand you what's been
21 marked as Peck Exhibit 30, and ask you to identify
22 this document?

1 A. This is the promotional document for the
2 2006 edition of the Small Business Summit.

3 Q. And are you familiar with this document?

4 A. I am.

5 Q. How are you familiar with it?

6 A. My team did the design layout in
7 preparation for printing.

8 Q. Is this document available in a different
9 format?

10 A. The contents, some of the contents of the
11 document are, still exist on the Web portal, Exhibit
12 29A.

13 Q. The same Web portal?

14 A. Correct.

15 Q. Okay. I'm now going to hand you what's
16 been marked as Peck Exhibits 31 through 36, and ask
17 you to identify these documents?

18 A. The U.S. Chamber of Commerce tax returns
19 for year 2000, 2001, 2002, 2003, 2004 and 2005.

20 Q. And where did you obtain these documents?

21 A. I requested these documents from our
22 finance department and they were delivered to me via

1 interoffice mail.

2 Q. Okay. I'll now hand you what's been
3 marked as Peck Exhibit 37, and ask you to identify
4 this document? I have the original if that will aid
5 you.

6 A. This is the membership folder for our
7 National Accounts' members.

8 MR. COLBERT: This is a copy?

9 MR. KANE: That's --

10 MR. COLBERT: This is a copy and that's
11 the original. That's the copy. That's the
12 original.

13 BY MR. KANE:

14 Q. And where did you obtain this document?

15 A. I requested this document from our
16 fundraising team.

17 Q. Okay. I'm now going to hand you what's
18 been marked as Peck Exhibit 38, and ask you to
19 identify this document?

20 A. This is the fundraising photo which goes
21 to our President's Advisory Group.

22 MR. COLBERT: That's a copy.

1 BY MR. KANE:

2 Q. And where did you obtain this document?

3 A. I requested this document from our
4 fundraising team.

5 MS. PIETRINI: This is 38?

6 MR. KANE: Yes.

7 BY MR. KANE:

8 Q. Okay. I'm now going to hand you a
9 collection of documents that's been collectively
10 marked as Peck Exhibit 39, and ask you to look
11 through the documents and identify them?

12 A. This is a copy of the communication
13 division in the news publication for March 9 through
14 March 16. It is a compilation of news reports over
15 the previous week, coverage of the U.S. Chamber.

16 Q. And where did you obtain these documents?

17 A. I received this document electronically
18 via e-mail and I requested the printout from our
19 marketing assistant.

20 Q. Do you regularly receive this document?

21 A. Every Friday afternoon or Monday morning.

22 Q. And are you in any way responsible for

1 the distribution of these documents?

2 A. The documents used to be distributed via
3 e-mail. They are -- now an e-mail is sent out that
4 the documents are available and people within the
5 Chamber can download from the Chamber's Internet
6 using a mechanism which I wrote.

7 Q. Okay. I'm going to now hand you a
8 collection of documents that's been collectively
9 marked as Peck Exhibit 40, and ask you to identify
10 these documents?

11 A. This is the Monday, June 14th, 2004 Hot
12 Clips document. Hot clips are a daily news summary,
13 articles of interest to Chamber employees. I
14 receive this e-mail every day -- excuse me -- I
15 receive this every day via e-mail. It is also
16 available for download from the Internet via a
17 mechanism which I wrote.

18 Q. Okay. I'm now going to hand you what's
19 been marked as Peck Exhibit 41.

20 MR. COLBERT: I've got it.

21 BY MR. KANE:

22 Q. Okay. And ask you to identify this

1 document? And we have the original for that.

2 A. This is a CD I made containing our U.S.
3 Chamber produced radio actualities produced by the
4 U.S. Chamber in 2006.

5 Q. And who created this CD?

6 A. I created this.

7 MR. ELISEEV: Objection, over-broad.

8 Q. And are these actualities available in
9 another format?

10 A. The actualities are available for
11 download from our Website.

12 Q. And who is responsible for posting these
13 actualities on the Website?

14 A. The Web team is responsible, over whom I
15 supervise.

16 Q. Okay. I'm going to hand you what's been
17 marked as Peck Exhibit 41A. There's two documents
18 here. I'm going to ask you to, please, identify
19 these two documents.

20 Can you identify these documents?

21 A. The first document is the page for radio
22 actuality from April 3rd, 2006 on Comprehensive

1 Immigration Reform. And it is a printout of the Web
2 page in which you can listen to or download the
3 actuality.

4 Q. Who created that Web page?

5 A. The Web team did, over which I supervise.

6 Q. And the second page?

7 A. The second page is a list of the 2006
8 Radio Actualities which are available to be listened
9 to or downloaded from the Website and are also on
10 the CD, which I created.

11 Q. Who created the Website?

12 A. The Web team, over which I supervise.

13 Q. Okay. I'm now going to hand you what's
14 been marked as Peck Exhibit 42, and ask you to
15 identify this?

16 A. This is a CD I created for the radio
17 piece, Speaking for Business, created in 2006.

18 Q. And what is contained on the CD?

19 A. Contained on the CD are one-minute
20 Speaking for Business pieces which Tom Donahue
21 records.

22 Q. And where are those recordings used?

1 A. The recordings are distributed to radio
2 stations around the country.

3 Q. Do you know how many radio stations?

4 A. I do not.

5 Q. Are those Speaking for Business
6 recordings available in another format?

7 A. They are available on the Website for
8 download.

9 Q. Who creates that Website?

10 A. The Web team, over which I supervise.

11 Q. Okay. And I'm going to hand you what's
12 been premarked as Peck Exhibit 42A, and ask you to
13 identify this document?

14 A. This is a list of the Speaking for
15 Business files contained on the CD for 2006. This
16 is a printout of the Web page where you can go to
17 listen to or download those files.

18 MS. PIETRINI: This is 42A or 43?

19 MR. KANE: 42A.

20 BY MR. KANE:

21 Q. And you mentioned this before, I believe,
22 but who created this Website?

1 A. The Web team, over which I supervise.

2 Q. Okay. I'm now going to hand you a
3 collection of documents that's been collectively
4 marked as Peck Exhibit 43, and ask you to identify
5 these documents?

6 A. These are four press releases the Chamber
7 issued.

8 Q. Can you read the titles of each them into
9 the record?

10 A. U.S. Chamber urges Congress to
11 Reauthorize No Child Left Behind Act; March 13,
12 2007.

13 Chamber Applauds Move Towards Cross
14 Border Trucking with Mexico; February 23, 2007.

15 U.S. Chamber Welcomes Bipartisan
16 Immigration Reform Bill; May 25th, 2006.

17 Chamber Praises President's Signing of
18 Anti-Counterfeiting Bill; March 16, 2006.

19 Q. And are you familiar with these
20 documents?

21 A. I am.

22 Q. And how are you familiar with them?

1 A. The press releases are given to the
2 publishing group for posting on the Website and they
3 are also distributed through an e-mail mechanism,
4 which the publishing group maintains.

5 Q. And the publishing group, is that the
6 same group as the communications and publishing
7 group?

8 A. It's the communications publishing group,
9 which I oversee.

10 Q. All right. I'm going to hand you what's
11 been marked as Peck Exhibit 44, and ask you if you
12 can identify this document?

13 A. This is a Legislative Agenda flyer.

14 Q. And are you familiar with this document?

15 A. I am.

16 Q. How are you familiar with it?

17 A. Our group receives text for this document
18 and we do design and layout work and prepare for
19 printing.

20 Q. Okay. I'm now going to hand you what's
21 been marked as Peck Exhibit 45 and ask for you to
22 identify it. If you need to see the original, I

1 have it.

2 A. This is a Chamber envelope.

3 Q. And are you familiar with these
4 documents?

5 A. I am.

6 Q. How are you familiar with it?

7 A. The art department prepares stationery
8 for Chamber use.

9 Q. And do you supervise the art department?

10 A. I do supervise the art department.

11 Q. Okay. I'm now going to hand you what's
12 been collectively marked as Peck Exhibit 46, and ask
13 you to identify these documents?

14 A. This is a membership package.

15 Q. And are you familiar with this document?

16 A. I am.

17 Q. How are you familiar with it?

18 A. Our group does the design and layout of
19 this document and prepares it for printing.

20 Q. Okay. And --

21 MR. KANE: Sorry. These are out of
22 order.

1 BY MR. KANE:

2 Q. I'm going to hand you what's been
3 collectively marked as Peck Exhibit 47, and ask if
4 you can identify these documents?

5 A. These are screen printouts of the U.S.
6 Chamber of Commerce home page, the issues and
7 actions center within the U.S. Chamber of Commerce
8 Website, the member center within the U.S. Chamber
9 of Commerce Website, the local Chambers of Commerce
10 Center within the U.S. Chamber of Commerce Website.

11 Q. And are you familiar with these
12 documents?

13 A. I am.

14 Q. How are you familiar with them?

15 A. Our group does the design, production and
16 maintenance of this Website.

17 Q. Okay. I'm now going to hand you what's
18 been collectively marked as Peck Exhibit 48, and ask
19 you if you can identify these documents?

20 A. This is the U.S. Chamber Monster.com
21 co-brand Recruiting for Professional Associations
22 content page, the Institute for Organizational

1 Management co-branded U.S. Chamber of Commerce page
2 and the Business of Leadership Center co-branded
3 U.S. Chamber of Commerce page.

4 MR. COLBERT: Excuse me. I gave you --
5 this is Exhibit 48. I just saw it when he started
6 reading it.

7 MS. PIETRINI: I was thinking I'm just
8 not here.

9 MR. COLBERT: No. When I started reading
10 it -- if you give the other one back, we will give
11 it to you.

12 MS. PIETRINI: I already started writing
13 on it. You'll get to it. I will write on it
14 whatever that number is. This is 48?

15 MR. KANE: Yes.

16 BY MR. KANE:

17 Q. And are you familiar with these
18 documents?

19 A. I am.

20 Q. How are you familiar with them?

21 A. The Institution -- excuse me. The
22 Institute for Organizational Management and the

1 Business Civic Leadership Center, our group did
2 the design and production of these two Websites to
3 include the Chamber co-brand and the Monster
4 Recruiting Through Professional Associations page,
5 my group coordinated with Monster, the U.S. Chamber
6 of Commerce co-branded at the top of that page.

7 Q. Can you explain what co-branding means?

8 A. Co-branding, this page actually exists on
9 the Monster.com site, which we have a partnership
10 with. We have a banner at the top of the page which
11 includes links back to the U.S. Chamber site.

12 The Institute for Organizational
13 Management also has their own branding, but they
14 include a U.S. Chamber of Commerce co-brand with
15 links back to the U.S. Chamber of Commerce main site
16 at the top. And the Business Civic Leadership
17 Center site also has its own brand name with U.S.
18 Chamber of Commerce branding at the top with links
19 back to the Website.

20 Q. Who is responsible at the U.S. Chamber
21 for the co-branding?

22 A. The publishing group, which I oversee, is

1 responsible for the co-branding on the Website.

2 Q. And do you know approximately how many
3 third-party Websites are co-branded with the U.S.
4 Chamber banner?

5 A. I honestly do not know.

6 Q. I'm going to jump out of order in the
7 exhibit numbers just for a second. I'm going to
8 hand you what's been marked as Peck Exhibit 52.
9 It's this one. Yep. And ask if you can identify
10 this document?

11 A. This is a printout of a page in our, the
12 member center of the U.S. Chamber of Commerce.com
13 Website where members can download a Web sticker to
14 place on their Website indicating their membership
15 in the U.S. Chamber of Commerce.

16 Q. Are you familiar with this document?

17 A. I am.

18 Q. And how are you familiar with it?

19 A. I created this page.

20 Q. Who is responsible for the Web Sticker
21 Program of the U.S. Chamber?

22 A. Our group is responsible for the Web

1 Sticker Program.

2 Q. Can you briefly describe how the Web
3 Sticker Program works?

4 A. A member of the U.S. Chamber can log into
5 this page and download a Web sticker, which they can
6 then put on their own Website indicating their
7 membership in the U.S. Chamber and that Web sticker
8 links back to the U.S. Chamber.

9 Q. Are there guidelines for explaining the
10 Web sticker?

11 A. The Web sticker cannot be modified in any
12 form.

13 Q. Okay. I'm going to hand to you what's
14 been marked as Peck Exhibit 53.

15 MR. COLBERT: Fifty-three is this one.

16 MS. PIETRINI: Okay. Got it.

17 BY MR. KANE:

18 Q. And ask if you can identify this
19 document? It's a collection of documents.

20 Can you identify each of them, please?

21 A. This is the Montana Chamber of Commerce,
22 a printout of the Montana Chamber of Commerce home

1 page; a printout of the Greater Riverside Chamber of
2 Commerce home page, in Riverside, California; a
3 printout of the Galveston Chamber of Commerce
4 demographics page; and each of these pages contains
5 a U.S. Chamber of Commerce Web sticker.

6 Q. Are those the same Web stickers that are
7 displayed on Exhibit 52?

8 A. Yes.

9 Q. Okay. And who printed these Web pages?

10 A. I printed these Web pages.

11 MR. ELISEEV: Objection.

12 BY MR. KANE:

13 Q. I'm sorry?

14 A. I printed these Web pages.

15 Q. I'm now going to hand you what's been
16 marked as Peck Exhibit 49, and ask you if you can
17 identify these documents?

18 A. This is an ad for Comprehensive
19 Immigration Reform done by the Essential Worker
20 Immigration Coalition; this is an ad for the
21 National Chamber Foundation CEO Leadership Series;
22 this is an ad for the U.S. Chamber of Commerce; an

1 ad for Comprehensive Immigration Reform; an ad for
2 the Global Anti-counterfeiting and Piracy Initiative
3 of the U.S. Chamber of Commerce; an ad for our
4 Chamber policy experts; a response card for our Vote
5 for Business Program; an advertisement for the
6 Center for Capital Markets Competitiveness; an
7 advertisement for Tele-Consensus for Net Neutrality.
8 And an ad to fix our broken immigration system.

9 Q. And are you familiar with these
10 documents?

11 A. I am.

12 Q. And how are you familiar with them?

13 A. Our group did the design and layout of
14 all these documents.

15 Q. Okay. I'm now going to hand you what's
16 been marked as Peck Exhibit 50, and ask for you to
17 identify this document?

18 A. This is a U.S. Chamber of Commerce fact
19 sheet.

20 Q. And are you familiar with this document?

21 A. I am.

22 Q. And how are you familiar with it?

1 A. Our group does the design and layout of
2 this document.

3 Q. Okay. And I'm going to hand to you
4 what's been marked as Peck Exhibit 51, and ask you
5 to identify this document?

6 A. This is the results document from the
7 U.S. Chamber.com leadership survey. The survey
8 itself is placed in the magazine, my group does the
9 design and layout of the survey, a different group
10 receives the results and does the analysis.

11 Q. Are you familiar with this document?

12 A. I have seen this document before.

13 Q. And did you receive a copy of the
14 results?

15 A. I did receive a copy of the results.

16 Q. Okay.

17 MR. KANE: No further questions.

18 MR. ELISEEV: I would like to take a
19 minute or two to quickly look at the exhibits and
20 state our objections to them.

21 MR. KANE: Okay.

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(Recessed at 1:52 p.m.)

(Reconvened at 2:40 p.m.)

- - -

BY MR. ELISEEV:

Q. Good afternoon.

A. Good afternoon.

Q. Mr. Peck, how did you prepare for your testimony today?

A. I pulled documents from archives, I printed out Web pages, and discussed how the question and answer format would go.

Q. Who did you meet with to prepare for the testimony?

A. The attorneys.

Q. Mr. Kane and Mr. Colbert?

A. Correct.

Q. Anybody else?

A. As well as Ms -- Shanise Gholston.

Q. She's an attorney?

A. Correct. At the U.S. Chamber.

Q. And when did you meet with them?

A. Yesterday.

1 Q. How long did you meet for?

2 A. An hour and a half.

3 Q. And did you bring the documents to the
4 meeting, the documents that were introduced today as
5 exhibits?

6 A. The majority of the documents I had given
7 to Shanise prior to the meeting.

8 Q. How did you know which documents to give
9 to Shanise prior to the meeting?

10 A. I was asked to provide examples of the
11 work that my department does.

12 Q. Who were you asked by?

13 A. By Shanise.

14 Q. You said that you brought a majority of
15 documents?

16 A. I provided the majority of the documents
17 prior to, the booklets and everything. I brought
18 some of the Web printouts yesterday.

19 Q. Were you given a specific list of
20 documents to bring to today's testimony?

21 A. To bring to today's testimony?

22 Q. Yes.

1 A. No.

2 Q. What about to your meeting with
3 attorneys?

4 A. No.

5 Q. You were not given the exact list?

6 A. I was not given an exact list.

7 Q. You just discussed -- you just discussed
8 documents with Shanise, which documents need to be
9 brought; right?

10 MR. KANE: Objection; mischaracterization
11 of prior testimony.

12 A. I pulled documents relevant to my work
13 and provided them. I was given a list yesterday of
14 the things that were going to be submitted. But
15 that was the first time I had seen the list.

16 Q. Were you given a list of questions that
17 you were going to be asked at your testimony today?

18 A. I was not given a list of questions.

19 Q. Can you please give me your educational
20 background?

21 A. I graduated from high school in
22 Pennsylvania and entered the United States Air Force

1 and received technical training in communications in
2 computer programming and have taken some college
3 classes toward that end.

4 Q. Do you have any degree?

5 A. No, I do not.

6 Q. What kind of technical classes did you
7 take at the Air Force?

8 A. I took classes while I was in the Air
9 Force on communications programming and I have taken
10 classes since then on Web programming and marketing.

11 Q. How many courses did you take on these
12 topics?

13 A. It's part of the Air Force training
14 course. I don't know exactly how many courses there
15 were.

16 Q. How long ago was that?

17 A. 1989.

18 Q. Have you taken any technical classes
19 since then?

20 A. Yes.

21 Q. Which classes?

22 A. I don't recall the exact classes.

1 Q. And what schools did you take them from?

2 A. The University of Maryland, University

3 College.

4 Q. And you took specifically technical

5 classes or was it part of a bigger program?

6 A. It was part of a larger program.

7 Q. What was the name of the program?

8 A. It's the computer science program.

9 Q. You did not get any degree there?

10 A. No.

11 Q. And when was that?

12 A. I've continued to take classes up to

13 today.

14 Q. Throughout how many years?

15 A. Since -- I'm not sure.

16 Q. What was the last class that you had

17 taken in that program?

18 A. The last class I took in that program,

19 I'm not sure.

20 Q. When was the last class that you took in

21 that program?

22 A. It's been about two years.

1 Q. You don't remember the name of it?

2 A. No.

3 Q. What was -- any class before that in the
4 last five years?

5 A. In the last five years I've taken a
6 variety of classes relevant to the program. They
7 are marketing classes and programming classes.

8 Q. Programming classes? Which ones?

9 A. I have taken a C class, a java class, and
10 a database class in the last five years that I can
11 recall.

12 Q. Where were you employed before you
13 started at the United States Chamber of Commerce?

14 A. Prior to working at the U.S. Chamber of
15 Commerce I was employed by a company called Chamber
16 Biz. And on that I would like to correct a
17 statement I made earlier. I stated that I started
18 working at the Chamber in January of 2002. I
19 actually became a Chamber employee in January 2001.

20 I didn't move to the communication
21 division until 2002. We were still with the Chamber
22 Biz group up until then.

1 Q. Tell me again what is this Chamber Biz --
2 I'm sorry.

3 What was the job you held before joining
4 the Chamber of Commerce in 2001?

5 A. I worked for a company called Chamber
6 Biz, which was a joint venture between the U.S.
7 Chamber of Commerce and a venture capitalist firm.

8 Prior to that I worked for a consulting
9 company called ATS on a contract at the Department
10 of Housing and Urban Development. Prior to that I
11 worked for a company called CREN, which is an
12 educational association. And prior to that I worked
13 for Raytheon.

14 Q. What were the -- what were your
15 responsibilities at the job you held immediately
16 prior to the Chamber of Commerce job?

17 MR. KANE: Objection; outside the scope
18 of direct.

19 Q. Go ahead.

20 A. I was a Web programmer and director of
21 Web activities at Chamber Biz.

22 Q. What languages did you use to program?

1 A. Chamber Biz was written in a scripted
2 language called Cold Fusion.

3 Q. So you said in January of 2002 you moved
4 to the communications group at the Chamber of
5 Commerce; right?

6 A. Correct. The decision was made to draw
7 Chamber Biz down, so I had a mixture of duties in
8 2001, 2002, working on the Chamber Website and
9 shutting down Chamber Biz.

10 Q. What was the name of your position
11 between January 2002 and summer of 2005?

12 A. I was a technical manager on the Website
13 and then the Website manager.

14 Q. What responsibilities did you have in
15 that position, in the technical manager position?

16 A. In the technical manager position I was
17 responsible for all of the programming on the
18 Website as well as some content.

19 Q. Who did you report to?

20 A. I reported to the vice president of
21 communications.

22 Q. What was his or her name?

1 A. Neal Hare.

2 Q. Then in the summer of 2005 you were
3 promoted to the senior director of communications
4 and publishing; correct?

5 A. I was actually made the director of
6 communications and publishing. The decision was
7 made to merge the Web team with the art department
8 as part of a publishing group. And at that time Mr.
9 Hare left the Chamber and the media department was
10 also folded into the communications group and Linda
11 Rossett took over. I was director of communications
12 publishing then. I was promoted to senior director
13 in January of this year.

14 Q. Do you report to anybody at that
15 department?

16 A. I report to Linda Rozett.

17 Q. What is her title?

18 A. She's the senior vice president of
19 communications.

20 Q. What does the art department exactly do?

21 A. The art department?

22 Q. Yeah.

1 A. The art department is responsible for
2 basically all print products that the Chamber
3 generates, to include event material, signs, if
4 there's an event, we will do the design and layout
5 of the menu for the event, any program that's
6 distributed at the event, if there are specific
7 response cards at the event, you know, to sign up
8 for further event notification. The art department
9 also handles booklets, pamphlets and the design and
10 layout of advertisements.

11 Q. And orders usually would come from what
12 you describe as internal customer, which is a
13 particular division or group of the Chamber of
14 Commerce; is that right?

15 A. Correct. Internal customers are groups
16 and individuals within the Chamber.

17 Q. Okay. Are you familiar with the U.S.
18 Hispanic Chamber of Commerce?

19 A. Yes.

20 Q. When did you learn about it?

21 A. When I was asked to participate in this.

22 Q. When was that?

1 A. It was this past winter. I don't recall
2 the exact date.

3 Q. Who did you talk to about that?

4 A. I talked to Shanise and Judy Richmond.

5 Q. Are you familiar with the United States
6 Hispanic Chamber of Commerce foundation?

7 A. No.

8 MR. ELISEEV: All right. First before we
9 go to the exhibits, I would like to state objections
10 to particular ones and then we will go in detail
11 into every exhibit.

12 I'll object to the lack of authentication
13 and lack of foundation on the following pack:
14 Exhibit Numbers 1 through 4, 5 through 12, 13
15 through 20, 21, 22, 23, 24 through 29, 30, 31
16 through 36, 37 through 38, 39 through 41, 42 through
17 44, 46 and 49 through 51.

18 BY MR. ELISEEV:

19 Q. Turning to Exhibit Number 1, Mr. Peck,
20 who wrote the content of what was marked as Exhibit
21 1?

22 A. There are multiple authors of the

1 document.

2 Q. Who are those authors?

3 A. I don't know.

4 Q. Did you write this document?

5 A. No.

6 Q. Did anybody in your department write this
7 document?

8 A. I believe that people in our department
9 contributed to the document.

10 Q. How did they contribute to the document?

11 A. Through creation of sections and editing
12 of sections.

13 Q. Do you know for a fact whether any of the
14 employees in your department contributed any text to
15 this document?

16 A. I do not know that for a fact.

17 Q. Do you know when the content was written?

18 A. I do not know exactly when the content
19 was written.

20 Q. Do you know -- the name of the document
21 is the State of American Business 2004.

22 Do you know if it was written in

1 2004-2005?

2 A. The booklet has to go to print for an
3 event that occurs in the first two weeks of the
4 month. So generally we receive the text around
5 December 20th of that previous year.

6 Q. So you received the text of this document
7 in December -- on December 20th of 2004?

8 A. Not on. Around that time period.
9 Because it has to be laid out and sent to the
10 printer for delivery that first week of January.

11 Q. And who did you receive the content from?

12 A. I'm. Not sure.

13 Q. Which department did it come from?

14 A. There are a variety of authors around the
15 building. I'm not sure exactly who delivered the
16 final version.

17 Q. And how was the final version delivered
18 to you?

19 A. It is delivered via e-mail as a Word
20 document.

21 Q. Was it delivered directly to your e-mail
22 to your address?

1 A. I was copied on the delivery.

2 Q. Who else received the document?

3 A. The document, the actual to person on the
4 document is the production artist who will be doing
5 the layout.

6 Q. And so you said it came as a Word
7 document; right?

8 A. Correct.

9 Q. And if there were any graphs or pictures
10 in it, it still would be embedded within the Word
11 document; correct?

12 A. On the Word document they would typically
13 give information that they would want a graph here
14 with the data points and it is up to the artist to
15 the generate that graph.

16 Q. But the graphic artist would not be
17 provided the material for the graph?

18 A. They would be given the data that needed
19 to go on the graph.

20 Q. Was this document available only in print
21 or also on a Website for download?

22 A. It was also available on a Website for

1 download.

2 Q. Do you know the number of copies of this
3 document that was printed?

4 A. I do not.

5 Q. Do you know if it was more than ten?

6 A. Yes.

7 Q. Do you know if it was more than a
8 thousand?

9 A. Yes.

10 Q. More than 50,000?

11 A. I don't know beyond 1,000.

12 Q. Do you know if it was more than 10,000?

13 A. I do not know beyond 1,000.

14 Q. But you know it was above 1,000 copies?

15 A. Yes.

16 MR. KANE: Objection; asked and answered.

17 BY MR. ELISEEV:

18 Q. Do you know if it was between one and
19 4,000 copies?

20 A. I don't know a precise number above
21 1,000.

22 Q. Who decides how many copies of the

1 documents are to be printed?

2 A. An initial order is placed, an actual
3 call goes out around the building and various groups
4 will request a number of copies.

5 Q. So the people who send to you this
6 document do not specify to you how many copies
7 should be printed; correct?

8 MR. KANE: Objection; mischaracterization
9 of prior testimony.

10 A. They will state the numbers that they
11 wish to receive, but other groups around the
12 building also request copies.

13 Q. How do the groups learn about the
14 existence of this document?

15 A. We will send an e-mail out to the
16 administrative assistants stating that orders have
17 to be in by a certain date and they have to send us
18 their quantities.

19 Q. Do you know if the copies that are
20 distributed around the United States Chamber of
21 Commerce are for internal consumption or for
22 external consumption?

1 A. My group only delivers them internally.

2 Q. You don't know what happens to the
3 documents once the copies are delivered to the
4 departments that order it?

5 A. No.

6 Q. So you don't remember the number of
7 the -- okay.

8 Do you know the number of the copies of
9 the documents that were distributed?

10 A. Excuse me?

11 Q. You said you printed over 1,000
12 documents. And all of those copies were
13 distributed?

14 A. No. We retain a certain number for
15 archives.

16 Q. How many do you retain?

17 A. Probably less than 25. I don't have an
18 exact number.

19 Q. The rest are distributed as ordered?

20 A. Correct.

21 Q. So you did not distribute this document
22 to any external entities or individuals; correct?

1 A. We made it available for download on the
2 Website by external individuals.

3 Q. Okay. I think we'll get to that download
4 Web page later; right?

5 A. Okay.

6 Q. Let's look at Exhibit Number 2.

7 Do you know who wrote the content of this
8 document?

9 A. A variety of people wrote the content.

10 Q. Who are the people who wrote the
11 document?

12 A. I'm not sure exactly.

13 Q. Do you know any names?

14 A. That -- I cannot say with absolute
15 certainty who any of the people are who wrote the
16 content of the document.

17 Q. Can you name at least one person who
18 wrote a portion of the document?

19 A. We only receive a final copy. We aren't
20 privy to the authoring.

21 Q. So you did not write this document?

22 A. No.

1 Q. Nobody in your department wrote any text
2 for this document?

3 A. I'm not sure who wrote any text.

4 MR. KANE: Objection.

5 Q. Do you have a reason to believe that
6 anybody from your department wrote any portion of
7 this document?

8 A. I received no information back from the
9 people that report to me that they were tasked with
10 contributing to the document, but that doesn't mean
11 that it didn't happen.

12 Q. Would you otherwise be apprised of the
13 fact that somebody in your department wrote a piece
14 of the document?

15 A. I would generally be apprised if someone
16 were tasked with contributing to the document.

17 Q. As far as you are aware, nobody in your
18 department wrote any portion of this document?

19 A. Correct.

20 Q. Do you know how many of the, how many
21 copies of this document was printed out?

22 A. I do not.

1 Q. Do you know if it was more than 1,000?

2 A. Yes.

3 Q. Do you know if it was more than 5,000?

4 A. I don't have a specific number above
5 greater than 1,000.

6 Q. Do you know -- okay. And is it the same
7 case as with Exhibit Number 1? You retained certain
8 copies, like a couple, a couple dozens of those
9 copies and the rest were distributed as ordered?

10 A. Correct.

11 Q. And, again, the only recipients of this
12 document, as far as you are aware, are departments
13 or groups within the U.S. Chamber of Commerce?

14 MR. KANE: Objection; mischaracterization
15 of prior testimony.

16 A. Correct.

17 Q. All right. Exhibit Number 3, do you know
18 who wrote this document?

19 A. I do not know exactly who wrote the
20 document.

21 Q. Did you receive this -- did you receive
22 the text of this document in a Word document as you

1 did with Exhibit Number 1 and 2?

2 A. Yes.

3 Q. And as far as you're aware nobody at your
4 department contributed any text, any portion of this
5 document?

6 MR. KANE: Objection; vague.

7 A. As far as I can recall right now, no one
8 in my department contributed to the document.

9 Q. And you did not contribute anything to
10 this document; correct?

11 A. Contributed anything?

12 Q. I'll specify. You did not contribute any
13 text for this document?

14 A. I did not contribute any text for this
15 document.

16 Q. And you did not contribute any content
17 otherwise to this document?

18 MR. KANE: Objection; vague.

19 A. You need to define content.

20 Q. What did you contribute to this document?

21 A. I don't recall any specific
22 contributions, but it is possible that I would

1 identify, call out text or that a call out box
2 needed to exist on a specific page if the layout
3 looked --

4 Q. What is that call out text or box?

5 A. Call out text can be witnessed on
6 USCC55857. It's the black box that states that 2005
7 was a year of substantial accomplishments for the
8 business community in economic progress for the
9 American people.

10 Q. What would be your role in creating this
11 box?

12 A. I'm not saying that I had a role in
13 creating this specific box, but boxes of this type,
14 if while reviewing the design and layout I felt that
15 a page lacked something or I may suggest text for
16 inclusion in the call out box.

17 Q. Where would you get the text from for
18 inclusion in the box?

19 A. From the approved final version.

20 Q. Who would you suggest it to?

21 A. The design and layout artist.

22 Q. How many copies of these documents were

1 printed out -- of this document, Exhibit 3?

2 A. I don't have an exact number.

3 Q. Again, somewhere you said about 1,000?

4 A. Certainly above 1,000.

5 Q. But you don't know?

6 A. An exact number beyond that.

7 Q. And, again, as with Exhibits 1 and 2,
8 most of the documents, most of the copies of these
9 documents that were ordered were distributed and
10 kept, I think you said, 20 or 25 copies; right?

11 A. We distribute based on the internal --
12 excuse me, based on the internal orders to internal
13 customers and we keep 25 or fewer for archive
14 purposes.

15 Q. And you did not distribute any copies of
16 this document to anybody outside of the United
17 States Chamber of Commerce; correct?

18 MR. KANE: Objection to the
19 mischaracterization of prior testimony.

20 A. I did not personally distribute it, the
21 document to anyone outside the U.S. Chamber of
22 Commerce, with the exception of the posting on the

1 Website, which is available for download by members.

2 Q. Do you know if anybody in your department
3 sent out any copies of this document to anybody
4 outside of the United States Chamber of Commerce?

5 A. I do not know.

6 Q. So you don't know whether they were sent
7 out to anybody outside of United States Chamber of
8 Commerce; correct?

9 MR. KANE: Objection; mischaracterization
10 of prior testimony.

11 A. It is possible that someone received a
12 phone order and sent the book on their own, but I
13 don't have any knowledge of that.

14 Q. How does that, getting orders processed
15 work?

16 A. I'm sorry?

17 Q. How does the getting orders process work?

18 MR. KANE: Objection; vague and lack of
19 foundation.

20 Q. You said somebody at your department
21 might have received a phone order and they might
22 have sent it out.

1 A. We have regional offices around the
2 United States that could call in and say I need ten
3 copies of this book. It is possible that those
4 would be distributed to that person without my
5 knowledge, that is outside of the U.S. Chamber of
6 Commerce and still within the organization, I
7 suppose.

8 Q. How large is your department?

9 A. How large is the, my department?

10 Q. Yes.

11 A. Thirteen people.

12 Q. That's the number of people that you
13 supervise?

14 A. Yes.

15 Q. What are their positions?

16 A. We have a, we have an e-mail services
17 position, we have a Web production assistant
18 position.

19 Q. If you could give me the number of people
20 at each position?

21 A. Those are single person positions. We
22 have a Web programming position. We have a director

1 of Web content. We have a production coordinator.
2 We have two production artists. Two graphic
3 designers. One Web graphic designer, a
4 photographer, a art director and myself.

5 Q. And what portion of your work is
6 supervising people? And if there's any portion of
7 your work that you actually do a particular task?

8 A. I haven't actually metricked it, but I do
9 have both supervisory and production roles.

10 Q. I see. Exhibit Number 4; do you know who
11 wrote this document?

12 A. I do not know specifically who wrote this
13 document.

14 Q. Do you know who -- do you know when the
15 content was written?

16 A. I do not know when the content was
17 written.

18 Q. Do you know if the content was written
19 just like the three exhibits prior to this, i.e., in
20 the end of the year 2007, as this document states?

21 A. The content would have -- would have had
22 to have been delivered to us by the 20th of

1 December, 2006, in order to be laid out, designed
2 and printed for the event, which occurred the first
3 week of 2007.

4 Q. And was this document prepared for an
5 event early -- that took place in early 2007?

6 A. The document was not prepared for the
7 event. There's an event in which a speech is given
8 and the document is distributed at that event.

9 Q. Who did you receive the Word document
10 containing the text of this document?

11 A. I'm not sure where I received the final
12 version from.

13 Q. Again, as far as you are aware, nobody in
14 your department contributed any text to this
15 document; correct?

16 MR. KANE: Objection; mischaracterization
17 of prior testimony.

18 A. I am not aware of any text contribution.

19 Q. From your department?

20 A. From my department.

21 Q. How many copies of this document were
22 printed out?

1 A. At least 1,000. I don't know a specific
2 number beyond that.

3 Q. And again, most all of them were
4 distributed to internal Chamber of Commerce
5 customers?

6 A. The copies would have been distributed to
7 the internal customers who order them.

8 Q. Do you know if any copies of documents
9 that were marked Exhibits 1 through 4 were
10 distributed to Hispanic businesses?

11 MR. KANE: Objection; vague.

12 A. I have no way of knowing that.

13 Q. That's because you only distribute them
14 to internal customers and they already deal with
15 documents the way they see fit?

16 A. And we post them on the Website. We
17 don't do demographic profiling on our downloads.

18 Q. Exhibit Number 4A, who created this Web
19 page?

20 A. I created that Web page.

21 Q. Did you write the text that appears on
22 this Web page?

1 A. The text that appears on that Web page
2 was pulled from the book.

3 Q. Which book was it pulled from?

4 A. Sorry. From the State of American
5 Business 2007.

6 Q. What criteria did you use to pull
7 particular text from that book?

8 MR. KANE: Objection; vague.

9 A. The -- this text right here?

10 Q. Yeah.

11 A. I believe this text was pulled from the
12 introduction of the book. I would have to go back
13 and look.

14 Q. And so do I understand correctly that
15 this Web page shows availability of downloads for
16 State of American Business report for years 2002,
17 2003, 2004, 2005, and 2006; is that correct?

18 MR. KANE: Objection; mischaracterization
19 of prior testimony.

20 A. And 2007.

21 Q. And 2007? I don't see it here.

22 A. Download the full report, read more on

1 the full report.

2 Q. Oh, I see. Okay. Who are these
3 downloads available to?

4 A. The downloads are available to anyone
5 visiting this Web page.

6 Q. Do you know how many downloads were
7 undertaken?

8 A. I do not.

9 Q. Do you have any way of tracking how many
10 people downloaded any of these reports?

11 A. Yes.

12 Q. And how do you do that?

13 A. We can pull from our log files and see if
14 reports were downloaded.

15 Q. What are the log files?

16 A. These documents are -- the page is in --
17 the html page, the documents are PDF documents. A
18 visitor's computer would have to request the
19 document from our server and our server would
20 annotate that in the log that a visitor's computer
21 requested that file.

22 Q. And is there any tracking software on the

1 Website that shows how many downloads took place?

2 A. No.

3 Q. As you sit here today, do you know how
4 many people downloaded any of the reports, State of
5 American Business 2002 through 2007, that appear on
6 this Web page?

7 A. Do I know how many people?

8 Q. Yeah.

9 A. No.

10 Q. How many times any of these reports were
11 downloaded?

12 A. No.

13 Q. Were you asked by anybody to ascertain
14 how many times any of these reports were downloaded
15 for this litigation?

16 A. No.

17 Q. Do you know if any of these reports were
18 downloaded by any Hispanic businesses?

19 MR. KANE: Objection; vague.

20 A. I have no way of ascertaining who
21 downloads them.

22 Q. And when were these reports posted on

1 this Web page?

2 A. This Web page is the State of American
3 Business page. The latest report is posted upon its
4 release and the prior year's report is moved down to
5 the related links at the bottom.

6 Q. For example, how long would the State of
7 American Business 2002 PDF be available on this Web
8 page?

9 A. The State of American Business 2002, the
10 PDF has been available since January 2002.

11 Q. You don't know how many times it was
12 downloaded since then; correct?

13 A. No.

14 Q. So then State of American Business report
15 2003 was available on this Web page since January
16 2003?

17 A. Correct.

18 Q. And you don't know how many times it was
19 downloaded since then?

20 A. No.

21 Q. And you don't know how many times any of
22 the reports for 2004, '05, '06' or '07 were

1 downloaded from this Web page; correct?

2 A. No.

3 Q. And if they were in fact downloaded, you
4 don't know who they were downloaded by?

5 MR. KANE: Objection; asked and answered.

6 Q. Right?

7 A. No. I do not know who downloaded them.
8 Or I would not know who downloaded them.

9 Q. Is it possible that none of these reports
10 were ever downloaded by anybody?

11 A. No. The reports have been downloaded.

12 Q. How do you know?

13 A. I've seen statistics that they have been
14 downloaded. I just don't know the number of times.

15 Q. When did you see those statistics?

16 A. We look at reports monthly.

17 Q. So did you see the statistics for a
18 report for 2002?

19 A. I've seen -- the monthly statistics do
20 not show the exact PDF downloads. We have to pull
21 those separately.

22 Q. Okay. So --

1 A. It shows views of this page.

2 Q. So you're saying that you've seen the
3 reports that show some downloads for say, State of
4 American Business 2002?

5 A. Yes.

6 Q. When did you see that last time?

7 A. I'm not sure.

8 Q. Was it this year?

9 A. For 2002?

10 Q. Yeah.

11 A. No.

12 Q. Was it in 2003?

13 A. I'm not sure.

14 Q. What about the report for 2007? Do you
15 know for a fact whether any copies of this -- any --
16 that this report was downloaded at all?

17 A. Yes.

18 Q. How do you know that?

19 A. Because I specifically looked at that
20 report in the January and February time frame.

21 Q. What did you see?

22 A. That it had been downloaded. I don't

1 know a number at this time.

2 Q. Was it more than five times?

3 A. Yes.

4 Q. Was it more than 1,000 times?

5 A. I can't recall.

6 Q. Was it less than ten times?

7 A. No.

8 Q. Was it more than ten times?

9 A. Yes.

10 Q. It was between ten and 50?

11 A. I believe from the reports I looked at in
12 January and February it was downloaded at least 400
13 times. I have no number beyond 400.

14 Q. You don't know who they were downloaded
15 by?

16 MR. KANE: Objection; asked and answered.

17 A. I do not know the individuals they were
18 downloaded by.

19 Q. Do you know if any of those individuals
20 are from U.S. Chamber of Commerce?

21 A. Our software filters out the U.S. Chamber
22 of Commerce employees.

1 Q. So what does that mean?

2 A. That means that we do not track downloads
3 that occur from within the building or from logged
4 in U.S. Chamber of Commerce employees.

5 Q. Do you know if the State of American
6 Business 2006 was downloaded at all?

7 A. Yes.

8 Q. How do you know that?

9 A. At the time we tracked the numbers. I
10 know that it was downloaded fewer times than the
11 2007 report.

12 Q. What is your --

13 A. As of when I last checked the numbers in
14 February, the 2007 report had been downloaded more
15 than the 2006 report was in that same time frame.

16 Q. Was it significantly more?

17 MR. KANE: Objection; vague.

18 A. Define significantly.

19 Q. You define significantly.

20 A. I would define significantly personally
21 as if the 2007 report were downloaded more than 30
22 percent, 30 percent more is not a very good

1 sentence. If it was downloaded more than 130
2 percent of the 2006 number, that is how I would
3 define significantly. I do not believe it was
4 significantly more.

5 Q. So do you think it was downloaded less
6 than 300 times and I'm talking about the report for
7 2006?

8 A. I'm not sure.

9 Q. Do you know if it was downloaded less
10 than 200 times?

11 A. I'm not sure.

12 Q. You don't know -- in other words, you
13 don't know the approximate number of times it was
14 downloaded; right?

15 MR. KANE: Objection; asked and answered.

16 A. I do not.

17 Q. You don't know approximately how many
18 times it was downloaded?

19 A. I do not know exactly how many times it
20 was downloaded.

21 MR. ELISEEV: Can we change the
22 temperature a little bit? It's really hot.

1 MR. COLBERT: It's down as low as it will
2 go.

3 - - -

4 (Discussion off the Record.)

5 - - -

6 BY MR. ELISEEV:

7 Q. Do you know if the State of American
8 Business report 2004 was downloaded at all from this
9 Web page?

10 A. Downloaded at all?

11 Q. At all.

12 A. Yes.

13 Q. How do you know that?

14 A. I saw reports at the time that it was
15 being downloaded.

16 Q. You saw them in 2004?

17 A. Yes.

18 Q. Do you remember an approximate number of
19 times it was downloaded?

20 A. I have no idea.

21 Q. How about report for 2003?

22 A. I know that it was downloaded. I have no

1 idea.

2 Q. You don't know how many times at all?
3 Same for 2002?

4 A. Correct. We routinely track it for a few
5 weeks to make sure it's functioning, but barring a
6 specific request, we don't go back to it.

7 Q. If they were, in fact, downloaded you
8 don't know who they were downloaded by?

9 MR. KANE: Objection; asked and answered.

10 A. I do not know the individuals who
11 downloaded it.

12 Q. Or organizations?

13 A. Or organizations.

14 Q. Exhibit Number 5, the 2000 Employee
15 Benefit Study. Who wrote this document?

16 A. I do not know who wrote the document.

17 Q. How did you receive this document?

18 A. We would receive the document in a text
19 format from the Statistics and Research Center.

20 Q. Was it received the same way that the
21 previous documents, Exhibits 1 through 4 were
22 received by your department?

1 A. I do know specifically how this document
2 was received. Generally we receive Word documents.

3 Q. You received it from some other
4 department at the United States Chamber of Commerce;
5 correct?

6 A. Correct.

7 Q. And they sent it to you in a Word
8 document?

9 A. Yes.

10 Q. As far as you're aware, did anybody at
11 your department contribute any portion of this
12 document?

13 MR. KANE: Objection; vague.

14 A. Can you define contribute any portion?

15 Q. By contribute I mean write any text or
16 create any figures or graphs or pictures that appear
17 in this document?

18 A. Yeah. The production artist creates the
19 graphs and charts.

20 Q. Okay. So as far as you're aware, nobody
21 in your department contributed any text to this
22 document?

1 MR. KANE: Objection; mischaracterization
2 of prior testimony.

3 A. As far as I'm aware, my department did
4 not originate any text.

5 Q. And when you said that somebody from your
6 department could have prepared graphs or charts,
7 what do you mean by that?

8 A. The -- on USCC56440, the bar charts at
9 the bottom, our graphic designer would have prepared
10 those based on the information, the numbers given in
11 the text document they received.

12 Q. So your graphic designer only generates
13 the graph by using the numbers or other data that
14 was given to him or her by the author of the
15 document; correct?

16 MR. KANE: Objection; mischaracterization
17 of prior testimony.

18 A. Correct.

19 Q. How many copies of this document were
20 printed?

21 A. I'm not sure.

22 Q. Do you know if it was more than 1,000?

1 A. Yes.

2 Q. But you don't know whether it was more
3 than 2,000 or 3,000?

4 A. It was more than 3,000.

5 Q. Was it more than 5,000?

6 A. Yes.

7 Q. Was it more than 10,000?

8 A. Yes.

9 Q. How do you know that?

10 A. I generally know what the print runs are.
11 I don't have specific numbers.

12 Q. And again, the number of copies are
13 dictated by the number of orders you receive from
14 internal customers; right?

15 MR. KANE: Objection.

16 A. Specifically from the Statistics and
17 Research Center.

18 Q. And why specifically from the Statistics
19 and Research Center?

20 A. This is, this is their product directly.

21 Q. I see. Was this document requested by
22 any other internal customers?

1 A. Requests for this document will go
2 through the Statistics and Research Center.

3 Q. So you only dealt with Statistics and
4 Research Center with respect to printing and
5 distributing this document?

6 MR. KANE: Objection; mischaracterization
7 of prior testimony.

8 A. Correct.

9 Q. You did not -- your department did not
10 distribute any copies of this document to any
11 internal customers? In other words, any individuals
12 or entities outside of the United States Chamber of
13 Commerce; right?

14 MR. KANE: Objection; vague.

15 A. I'm sorry. You said internal customers?

16 Q. No. As far as you know, none of the
17 copies of this document were distributed to anybody
18 outside of U.S. Chamber of Commerce?

19 MR. KANE: Objection; mischaracterization
20 of prior testimony.

21 A. This document is available on the Website
22 for ordering. We have received orders for this

1 document. We do not, my group does not actually
2 fulfill those orders, so.

3 Q. You said your group received orders for
4 this document?

5 A. We received orders through the Website
6 for this document.

7 Q. What about for hard copies of this
8 document?

9 A. That is the -- we've received orders for
10 hard copies of this document.

11 Q. Who did you receive orders from?

12 A. Over the Website?

13 Q. Yeah.

14 A. I don't know the individuals.

15 Q. But were those external customers?

16 A. Those were external customers.

17 Q. How many orders did you receive?

18 A. I'm not sure.

19 Q. Was it less than 50?

20 A. I'm not sure.

21 Q. You have no idea?

22 A. I have no number.

1 Q. Was it more than 2?

2 A. For the -- I have no idea.

3 Q. Who at your department receives orders to
4 distribute this document?

5 A. The orders come in over the Website and
6 the Statistics and Research Center gets a copy of
7 the order and they actually fulfill the order.

8 Q. You don't know who the copies of this
9 document were distributed to?

10 MR. KANE: Objection; asked and answered.

11 Q. Aside from the Statistics and Research
12 Center; correct?

13 A. No, they're delivered to the Statistics
14 and Research Center. The orders that we received
15 over the Website are also delivered from the
16 Statistics and Research Center.

17 Q. And what Statistics and Research Center
18 does with this document you have no idea?

19 A. Their fulfillment -- we do not fulfill
20 the orders of what we deliver to them.

21 Q. You don't know what they do with this
22 document; correct?

1 MR. KANE: Objection; no foundation.

2 Q. Let me rephrase. You don't know who
3 they, who they sent copies of this document to?

4 MR. KANE: Objection; asked and answered.

5 A. I don't know.

6 Q. You don't know whether any copies of this
7 document were distributed to Hispanic businesses;
8 right?

9 A. I do not know.

10 MR. KANE: Objection; vague.

11 Q. Exhibit Number 6. Who wrote the content
12 of this document?

13 A. I do not know who wrote the content of
14 this document.

15 Q. As far as you're aware, do you know if
16 anybody in your department write any text for this
17 document?

18 A. As far as I'm aware, no one from my
19 department wrote any text for this document.

20 Q. What is the extent of the contribution of
21 anybody from your department to this document?

22 MR. KANE: Objection; vague.

1 A. The art department is responsible for the
2 design and layout of the document to include
3 creation of cover charts, et cetera.

4 Q. But the text is not contributed by
5 anybody in your department?

6 MR. KANE: Objection; asked and answered.

7 Q. Right?

8 A. I do not know of any text contribution.

9 Q. You certainly did not contribute any text
10 to this document; right?

11 MR. KANE: Objection; asked and answered.

12 A. I did not.

13 Q. Did you contribute any content to this
14 document?

15 A. Can you define content?

16 Q. Did you -- what content, if any, did you
17 contribute to this document? Did you, yourself,
18 contribute to this document?

19 MR. KANE: Objection; vague.

20 A. Did I, myself, contribute?

21 Q. Yeah.

22 A. I did not contribute any content to this

1 document.

2 Q. Do you know how many copies of this
3 document were printed out?

4 A. I do not know.

5 Q. And again, copies of this document were
6 ordered by Statistics and Research Center?

7 A. Correct.

8 Q. And they administered the distribution of
9 copies of this document to you? In general; right?

10 MR. KANE: Objection; vague.

11 A. I'm not sure I understood your question.

12 Q. In other words, the Statistics and
13 Research Center is the department that distributed
14 copies of this document?

15 MR. KANE: Objection;
16 mischaracterization.

17 A. We distribute copies of the document to
18 the Statistics and Research Center. They handle
19 fulfillment.

20 Q. And you did not distribute any copies of
21 this document to anybody else outside of the
22 Statistics and Research Center; correct?

1 A. I did not.

2 Q. Your department did not send any copies
3 to anybody outside of Statistics and Research
4 Center?

5 A. We did not send any hard copies of this
6 document to anyone but the Statistics and Research
7 Center.

8 Q. And this document was also available
9 online?

10 A. It was possible to order a hard copy of
11 this document online.

12 Q. It was not possible to download from the
13 Website, this document; correct?

14 A. Correct.

15 Q. By the way, Exhibit Number 5, the 2000
16 Employee Benefit Study document was not available
17 for download from Chamber of Commerce Website;
18 right?

19 A. The 2000?

20 Q. Yeah. Exhibit Number 5.

21 A. I am not sure if it's available for
22 download. The employee benefit studies are made

1 available for purchase. Whether that specific one
2 was made available for purchase, I'm not sure, or is
3 still available for purchase, I'm not sure.

4 Q. Do you know how many copies of this
5 document were purchased? I'm talking about Exhibit
6 Number 5.

7 A. Were purchased, no.

8 Q. You have no idea how many copies were
9 purchased?

10 MR. KANE: Objection; asked and answered.

11 A. Purchased by external customers?

12 Q. Yeah.

13 A. No.

14 Q. And you don't know how many copies of the
15 document appearing as Exhibit Number 6, were
16 purchased by external customers; correct?

17 A. No, I do not.

18 Q. You don't know how many copies of this
19 document were ordered by Statistic and Research
20 Center for distribution; correct?

21 MR. KANE: Objection;
22 mischaracterization.

1 A. I do not know a specific number.

2 Q. Do you know a general number?

3 A. The general -- I do know the general
4 print run.

5 Q. What is the general print run for Exhibit
6 Number 6?

7 A. The general print run is more than 20,000
8 copies.

9 Q. How do you know that?

10 A. I just know what the general print runs
11 of these documents are.

12 Q. Do you get -- did you get any copies of
13 Exhibit Number 5 back from Statistic and Research
14 Center?

15 A. The Statistic and Research Center does
16 not return any documents to us.

17 Q. Even if they don't sell all of them?

18 A. We do not except returns of documents.

19 Q. Do you know what they do with copies that
20 are not sold?

21 A. No, I don't.

22 MR. KANE: Objection; lack of foundation.

1 Q. So you don't know from the number that
2 Statistics and Research Center ordered, you don't
3 know how many of them were sold or otherwise
4 distributed; correct?

5 MR. KANE: Same objection.

6 A. No.

7 Q. Same for Exhibit Number 6?

8 MR. KANE: Same objection.

9 A. No.

10 Q. In other words, you don't know how many
11 of the copies that were ordered by Statistics and
12 Research Center, of Exhibit Number 6, were sold or
13 distributed; correct?

14 MR. KANE: I'm going to make a continuing
15 objection to all questions about a department that,
16 which the witness has no knowledge.

17 BY MR. ELISEEV:

18 Q. I'm specifically asking about your
19 knowledge of that.

20 A. I do not know.

21 Q. Thank you. Exhibit Number 7, do you know
22 who wrote the content of this document?

1 A. No.

2 Q. Do you know where your department
3 received this document from?

4 A. Our department received this document
5 from the Statistics and Research Center.

6 Q. And again, they were the preparers of
7 this document and they were the ones who ultimately
8 distributed it; correct?

9 A. We received it from them and we returned
10 the print run to them for distribution.

11 Q. And as far as you are aware, nobody from
12 your department contributed any text to this
13 document?

14 A. I am not aware of any text contributions.

15 Q. Did you, yourself, contribute any content
16 to this document whatsoever?

17 MR. KANE: Objection; vague.

18 A. I did not.

19 Q. When was this document written, Number 7?
20 Exhibit Number 7.

21 MR. KANE: Objection; vague.

22 A. I have no idea when the document was

1 written.

2 Q. Do you know when your department received
3 this document?

4 A. I do not.

5 Q. Was it in, again, December 2005?

6 MR. KANE: Objection; asked and answered.

7 A. I do not know when our department
8 received this document.

9 Q. Do you know when this document was
10 completed and ready for shipment to the Statistics
11 and Research Center?

12 A. I do not.

13 Q. Because the name of the document is
14 Employee Benefit Study 2005, does it mean that you
15 may have received it in 2006?

16 MR. KANE: Objection; lack of foundation.

17 A. I'm sorry. I did not answer your
18 previous question correctly by saying I didn't know
19 what year it was prepared. It is the 2005 version.
20 It was -- design layout and printing was in 2005. I
21 don't know specifically when in 2005 it was
22 received.

1 Q. But before the end of 2005?

2 A. Correct.

3 Q. So you received this document and printed
4 it and sent it out to Statistics and Research Center
5 before the end of 2005; correct?

6 A. Correct.

7 Q. And again, your department did not
8 distribute any copies of this document to anybody
9 outside of the Statistics and Research Center;
10 correct?

11 MR. KANE: Objection; mischaracterization
12 of prior testimony.

13 A. We deliver all copies to the Statistics
14 and Research Center.

15 Q. And how many copies were printed out?

16 A. I don't have an exact number.

17 Q. Was it between 100 and 1,000?

18 A. It was more than 20,000.

19 Q. More than 20,000. And again, you don't
20 know how many copies of this document were sold or
21 otherwise distributed by Statistics and Research
22 Center?

1 A. I do not.

2 Q. You don't know who, if anybody, this
3 document was distributed to --

4 MR. KANE: Objection; vague.

5 Q. -- by Statistics and Research Center?

6 A. I don't know who they distributed them
7 to.

8 Q. You don't know whether any copies of this
9 document were distributed to Hispanic businesses?

10 MR. KANE: Objection; vague, and I'm
11 going to reiterate my previous continuing objection.

12 A. I have no knowledge.

13 Q. And do you know if this document was
14 available for downloading from a Website?

15 A. It was available for purchase through the
16 Website.

17 Q. In hard copy?

18 A. Correct.

19 Q. And you don't know how many copies were
20 ordered through the Website?

21 A. I do not.

22 Q. Do you know if any copies were ordered

1 through the Website?

2 A. Yes.

3 Q. How do you know that?

4 A. I see the e-mail through our Web Master
5 box that copies have been ordered, but we don't
6 track them.

7 Q. Exhibit Number 8. Who wrote the
8 document?

9 A. I do not know who wrote this document.

10 Q. Did anybody from your department write
11 this document?

12 A. Define write this document.

13 Q. Write any text of this document?

14 A. Not that I'm aware.

15 Q. Did you, yourself, contribute any content
16 to this document?

17 A. No.

18 Q. Do you know if anybody from your
19 department contributed any content of this document?

20 A. Define content.

21 Q. Text, graphs, tables?

22 A. Yes. Our production artist laid out the

1 text -- well, format the text and layout the graphs
2 and table.

3 Q. He only did the formatting, but not the
4 substantive content; correct?

5 A. The -- let's find an example of one. On
6 USCC56597 -- that's actually a bad one. That's the
7 pricing. For instance, on USCC56602, page 7, the
8 survey participants by number of employees, that
9 data would be included in the text document. The
10 production artist would lay it out in that table.

11 Q. I see. But your production artist did
12 not, was not responsible for the correctness of
13 these numbers in any way; correct?

14 MR. KANE: Objection; mischaracterization
15 of prior testimony.

16 A. They are responsible for ensuring that
17 the numbers that they are given are correctly laid
18 out, but they are not responsible for the collection
19 of the numbers.

20 Q. All the numbers that appear in this table
21 were given to your production artist by Statistics
22 and Research Center; correct?

1 A. Correct.

2 Q. And Exhibit Number 8, again, was printed
3 out specifically for shipment to Statistics and
4 Research Center?

5 MR. KANE: Objection; mischaracterization
6 of prior testimony.

7 A. It was printed and delivered to
8 Statistics and Research Center.

9 Q. How many copies were delivered?

10 A. I don't know.

11 Q. It was again on the order of 20,000?

12 A. Approximately. Greater than 20,000.

13 Q. And you don't know how many of those
14 copies were sold or distributed by Statistics and
15 Research Center?

16 MR. KANE: Objection; vague.

17 A. I don't know the inner workings of the
18 Statistics and Research Center.

19 Q. You don't know whether, in fact, any of
20 those copies were distributed; correct?

21 MR. KANE: Objection; asked and answered.

22 A. I do not know that.

1 Q. And if they were, in fact, distributed,
2 you don't know who they were distributed to;
3 correct?

4 MR. KANE: Objection; vague.

5 A. That is correct.

6 Q. And you don't know whether any of the
7 copies were distributed to Hispanic members; true?

8 MR. KANE: Objection; vague.

9 Q. I'm sorry. Hispanic businesses?

10 MR. KANE: Same objection.

11 A. I do not know.

12 MR. KANE: I just want to make an
13 objection for the record. It took about an hour for
14 direct testimony and we are now a couple hours into
15 cross-examination. If your intent is to march
16 through each exhibit and ask the same questions
17 exhibit after exhibit, we're not planning to
18 reproduce this witness beyond the time allotted for
19 this deposition.

20 MR. ELISEEV: I think I have another at
21 least hour and a half. You guys introduced at least
22 50 exhibits and I will go over each of them. So I

1 will not take much longer than the ones we just went
2 through.

3 MR. KANE: As long as it doesn't go
4 beyond the time period allotted. We don't plan on
5 reproducing this witness.

6 MR. ELISEEV: Are you talking about 5
7 o'clock?

8 MR. KANE: It is now quarter to four.
9 So, yes, beyond 5 o'clock is the time allotted for
10 the deposition.

11 MR. ELISEEV: How is it allotted until 5
12 o'clock?

13 MR. KANE: We believe we designated two
14 half days of depositions with these witnesses.

15 MR. ELISEEV: If we are not done with
16 these documents -- you guys quickly introduced over
17 50 documents. We will need more time.

18 MR. KANE: You're asking repetitive
19 questions about the documents, the same questions
20 for each of these documents. To the extent you can
21 ask the questions about the documents as a whole,
22 since you're asking the same questions over and over

1 again, to save time, but if you're going to be going
2 and asking these repetitive questions continuously
3 and eating up the time, we don't plan on reproducing
4 this witness at a different time.

5 MR. ELISEEV: These are not repetitive
6 questions. These are important questions for every
7 document and I can't skip them and I can't address
8 with every -- I can't group documents.

9 MR. KANE: On the record, the witness has
10 been asked and answered most of these questions
11 already during direct testimony, and to the extent
12 that you wish to continue asking questions that have
13 already been answered and want to go beyond 5
14 o'clock, we will not continue the deposition beyond
15 that point.

16 MR. ELISEEV: I'll disagree on that. He
17 did not answer the questions that I asked him. You
18 did not ask those questions. I asked them and those
19 are new questions and you never touched upon them.
20 With that, you're incorrect. We're just going to go
21 on and see what happens at 5 o'clock.

22 MR. COLBERT: I'm not ganging up on you,

1 but I'll pitch in that in listening, you've asked
2 exactly the same question of the witness and the
3 witness has fully answered the question and you ask
4 the same question a minimum of three and four times
5 of the same document. The witness will answer the
6 question with respect to the question you asked with
7 the second document and you ask the same series
8 repetitively again.

9 I will have to say as an observer, it
10 sounds like you're trying to eat up the entire
11 afternoon so that you can complain about the length
12 of time that you have had with these documents and
13 it's of your own doing.

14 MR. ELISEEV: I don't plan to complain,
15 but I've got to ask each of those questions with
16 respect to every document because the documents do
17 differ.

18 MR. KANE: To the extent that you go past
19 5 o'clock. We're off the record at 5 o'clock.

20 MR. ELISEEV: You can't expect me to be
21 off --

22 MR. COLBERT: I want to tell you that I

1 do and you can always hand him the stack of
2 documents that are identical and say do any of your
3 answers differ. And then you have your answer.

4 MR. ELISEEV: As much as I can, I'll try
5 to group them.

6 MR. COLBERT: Do you need a break now?
7 Okay.

8 - - -
9 (Recessed at 3:43 p.m.)

10 (Reconvened at 3:54 p.m.)

11 - - -

12 BY MR. ELISEEV:

13 Q. Mr. Peck, moving to Exhibits Number 9 and
14 10; do you know who wrote documents that were marked
15 as Exhibits Number 9 and 10?

16 A. I do not.

17 Q. Who did you receive these documents from?

18 A. We received the text from the Statistics
19 and Research Center.

20 Q. Did you contribute any text to documents
21 appearing as Exhibits 9 and 10?

22 A. I did not.

1 Q. Did you contribute any content,
2 whatsoever, to Exhibits 9 and 10?

3 MR. KANE: Objection; vague.

4 A. I did not.

5 Q. Did anybody from your department
6 contribute any content to these two documents?

7 MR. KANE: Same objection.

8 A. Define content.

9 Q. The content is defined as substantive
10 information appearing in these documents.

11 MR. KANE: Same objection.

12 Q. Text, numbers.

13 A. The text and numbers, aside from the page
14 numbers, no.

15 Q. And the Statistics and Research Center is
16 the department that ordered copies of these
17 documents for distribution; correct?

18 MR. KANE: Objection; asked and answered.

19 A. That is correct.

20 Q. Did your department distribute any copies
21 of these two documents to any organization or entity
22 outside of the Statistics and Research Center?

1 A. We deliver the copies to the Statistics
2 and Research Center.

3 Q. That's it? That's the only or that's the
4 only department you delivered copies of these two
5 documents to; correct?

6 MR. KANE: Objection; mischaracterization
7 of prior testimony.

8 A. That is correct.

9 Q. Do you know who the Statistics and
10 Research Center distributed these documents to?

11 A. I do not.

12 Q. Do you know if any copies of these two
13 documents were distributed to Hispanic businesses?

14 MR. KANE: Objection; vague.

15 A. I do not.

16 Q. You don't know how many numbers, if at
17 all, were distributed to anybody aside from the
18 Statistics and Research Center; correct?

19 A. How many were distributed by them? I do
20 not.

21 Q. Okay. Exhibit Number 11. We will look
22 at Exhibits Number 11 and 12.

1 Who wrote these two documents?

2 A. I do not know who wrote these two
3 documents.

4 Q. Who did your department get these
5 documents from?

6 A. These documents?

7 Q. Yes. These two documents, 11 and 12?

8 A. We received these two documents from the
9 printer. We got the text of the documents from the
10 Statistics and Research Center.

11 Q. Did you contribute, personally, any
12 content to these two documents?

13 MR. KANE: Objection; vague.

14 A. I, personally, did not contribute.

15 Q. Did anybody from your department
16 contribute any substantive content to these
17 documents, and by substantive I mean text and
18 numbers?

19 A. No.

20 Q. What, if anything, did anybody from your
21 department contribute to these two documents?

22 A. Our department contributes to the layout,

1 the creation of the charts and the covers and other
2 photos.

3 Q. I see. And again, just like the exhibits
4 prior to these two, these two documents were printed
5 out and sent out to Statistics and Research Center;
6 correct?

7 A. They were delivered to the Statistics and
8 Research Center, correct.

9 Q. And you don't know who the Statistics and
10 Research Center distributed or sell these documents
11 to?

12 MR. KANE: Objection; asked and answered.

13 A. I do not.

14 Q. You don't know how many copies of these
15 two documents were sold to anybody outside of the
16 Chamber of Commerce; correct?

17 MR. KANE: Same objection.

18 A. I do not know how many were sold by the
19 Statistics and Research Center.

20 Q. And out of the Statistics and Research
21 Center, you did not deliver any copies to -- any
22 copies other than these two documents to anybody?

1 MR. KANE: Same objection.

2 A. That is correct.

3 Q. And when was the document appearing under
4 Exhibit 11 written?

5 A. I do not know.

6 Q. And when was it prepared by your
7 department for distribution to Statistics and
8 Research Center?

9 A. In 2004.

10 Q. When in 2004?

11 A. I'm not sure.

12 Q. Was it the beginning of 2004?

13 A. The standard release date is May for the
14 Workers' Compensation Law, but I don't know
15 specifically when this one was.

16 Q. Same for Exhibit Number 12?

17 A. Correct.

18 Q. Do you know if these two documents were
19 available for downloading over the Chamber of
20 Commerce Website?

21 A. They were available for purchase over the
22 Chamber of Commerce Website. The orders are

1 fulfilled by the Statistics and Research Center.

2 Q. And your department does not participate
3 in any way in distribution of any copies of these
4 two documents to those who ordered them through the
5 Website; correct?

6 MR. KANE: Objection; asked and answered.

7 A. Define participate in any way. We
8 collect the orders, so that would be participation
9 in the process, but we do not actually fulfill the
10 orders.

11 Q. How many orders did you collect for
12 document Number 11?

13 A. I'm not sure.

14 Q. How about for document Number 12, Exhibit
15 Number 12?

16 A. I'm not sure.

17 Q. Do you remember approximate number of
18 orders for Exhibit Number 11?

19 A. No.

20 Q. Do you know if any copies were, in fact,
21 ordered of Exhibit Number 11?

22 A. Yes.

1 Q. Do you remember whether it was more than
2 10, less than 10?

3 A. I have no number.

4 Q. Same for Exhibit Number 12?

5 A. Correct.

6 Q. Exhibit Number 12A; who created this Web
7 page?

8 MR. KANE: Objection; asked and answered.
9 You may answer.

10 A. This Web page was -- this Web page was
11 actually created by Recardo Harvin, who I supervise.
12 I created the processing portion of the Web page,
13 but he puts the images and text on.

14 Q. Is that the Web page through which orders
15 to buy 2006 analysis for Workers' Compensation laws
16 can be purchased?

17 A. That is correct.

18 Q. And you mentioned that your department
19 does not handle fulfillment of the orders made
20 through this Web page; is that correct?

21 MR. KANE: Objection; mischaracterization
22 of prior testimony.

1 A. I'm sorry. Could you, please, restate?

2 Q. You mentioned that your department does
3 not handle fulfillment of the orders made through
4 this Web page?

5 A. Define handle fulfillment. No. We don't
6 actually deliver the publication.

7 Q. But do you collect payments?

8 A. The Website -- yes. Payments are
9 collected on the Website.

10 Q. But does your department actually collect
11 the funds that are contributed through this Web
12 page?

13 A. The funds are collected by a processing
14 company, dynamically through the Website.

15 Q. So your department just created the Web
16 page for people to go to and order copies; is that
17 right?

18 MR. KANE: Objection: mischaracterization
19 of prior testimony.

20 A. We created the programming that
21 interfaces with the bank that processes the payments
22 and then when a successful payment is processed it

1 is sent to the Statistics and Research Center to
2 physically distribute the product.

3 Q. Is there any tracking software on the
4 Website that tracks the number of orders?

5 A. Yes.

6 Q. Is it, in fact, functioning?

7 A. Yes.

8 Q. And if you could, you would be able to
9 tell how many orders were placed over the Web page
10 that you created and that appears in Exhibit 12A?

11 A. Yes.

12 Q. Do you have any way of determining who
13 places orders over this Web page?

14 A. The persons shipping, billing and
15 shipping address is directed through the Web page.

16 Q. So you would be able to tell what
17 organizations or entities actually buy this
18 publication, this particular publication?

19 A. We would be able to tell the individual
20 who was billed and who the publication was supposed
21 to be shipped to.

22 Q. Does anybody keep statistics of who

1 purchases these publications over the Website?

2 A. Define statistics.

3 Q. Statistics as to whether those are
4 individuals versus entities, for example?

5 A. I do not.

6 Q. Is there any statistics that are kept
7 with respect to orders placed over this Web page?

8 MR. KANE: Objection; vague.

9 A. Again, please define statistics.

10 Q. Any statistics. I mean any statistics of
11 data generated. Is there any statistical data
12 generated in connection to orders placed over this
13 Web page?

14 MR. KANE: Same objection.

15 A. Over this specific Web page?

16 Q. Yes, for this specific Web page --

17 A. No.

18 Q. -- that offers for sale copies of this
19 analysis for Workers' Compensation laws?

20 A. I do not generate any statistics based
21 solely on this Web page.

22 Q. Is there any statistics generated

1 whatsoever in connection with this Web page or
2 orders placed on this Web page, rather?

3 A. I keep a monthly track of publications
4 ordered, how many publications were ordered and the
5 amount, but it's not broken down by publication or
6 by user.

7 Q. And therefore, there's no statistics over
8 who purchases this publication over this Website?

9 MR. KANE: Objection; mischaracterization
10 of prior testimony.

11 A. I do not create statistics.

12 Q. Do you know if anybody does?

13 A. I do not.

14 Q. And you don't know whether this
15 particular publication showing on Exhibit 12A was,
16 in fact, ordered by Hispanic businesses, do you?

17 MR. KANE: Objection; vague.

18 A. I do not know that.

19 Q. Exhibit Number 18, I'm sorry. Exhibit
20 Number 13. I found it. Actually, let's look at
21 Exhibits Number 13, 14, 15 and 16.

22 Who created the context of these

1 publications?

2 MR. KANE: Objection; vague.

3 A. I'm sorry?

4 Q. Who created the context of these -- I'm
5 sorry, the content of these publications?

6 A. The content contained in the magazine is
7 generated by numerous people in the U.S. Chamber of
8 Commerce.

9 Q. Who are these people?

10 A. The people are subject matter experts and
11 writers on the communication editorial team.

12 Q. What, if anything, is contributed --
13 what, if anything, was contributed for these
14 publications by you, personally?

15 A. By me, personally?

16 Q. Yeah.

17 A. I attend editorial line-up meetings in
18 which I can suggest subjects. I receive the design
19 and layout and will point out design elements and
20 make suggestions to articles.

21 Q. What kind of suggestions?

22 A. If an article is boring, I'll say this

1 article is boring, and suggest that they rewrite it
2 or have the author rewrite it.

3 Q. Did you write any of the articles
4 yourself, partially or fully?

5 A. Define partially.

6 Q. Did you write a single paragraph in any
7 of the articles appearing in these exhibits?

8 A. In these exhibits?

9 Q. Yeah.

10 A. I may have made suggestions to edits, but
11 I was not responsible for it, creating the content
12 initially or its final approved format.

13 Q. So did you actually write a paragraph, a
14 single paragraph in any of the articles appearing in
15 these --

16 A. No.

17 Q. -- five publications?

18 A. No.

19 Q. Did you collect any numbers or any data
20 that appears in these publications?

21 A. I have to look.

22 MR. KANE: Just for the record, it's

1 4:10.

2 A. I can't recall.

3 Q. So you cannot point me to any numbers or
4 other data that you contributed to any of these
5 publications appearing as Exhibits 13 through 16;
6 correct?

7 A. Are you referring to text or numerical
8 data?

9 Q. Sure.

10 A. No.

11 Q. What, if anything, did you contribute
12 to -- strike that.

13 Who are the recipients of these
14 publications?

15 A. There are both member and non-member
16 recipients of these publications.

17 Q. And who is in charge of distribution of
18 these publications?

19 A. The distribution to members occurs
20 through the, our printer in Kentucky.

21 Q. And to the outsiders?

22 A. To the non-members?

1 Q. To the non-members, yeah.

2 A. There are various groups around the
3 building that request a certain number of copies and
4 are responsible for that distribution.

5 Q. Your department is not in charge of
6 distributing these publications?

7 MR. KANE: Objection; mischaracterization
8 of prior testimony.

9 A. My department is in charge of
10 distributing to our small business members through
11 our mail house in Kentucky. There are other groups
12 around the building that are responsible for their
13 own distribution.

14 Q. You mentioned small business members?

15 A. Correct.

16 Q. And who are these members?

17 A. They are members who are small business
18 members of the U.S. Chamber of Commerce.

19 Q. And your department received orders from
20 these small members, small business members?

21 A. No. The magazine is a benefit of
22 membership, so all small business members receive

1 the magazine.

2 Q. How many of these members receive this
3 magazine?

4 MR. KANE: Objection; asked and answered.

5 A. It varies from month-to-month. We get a
6 list from the membership department and send it to
7 the mail house.

8 Q. With respect to Exhibit Number 13, do you
9 know how many copies were distributed to small
10 business members?

11 A. No.

12 Q. Do you know if it was less than 100?

13 A. It was not less than 100.

14 Q. Was it between 100 and 1,000?

15 A. It was not between 100 and 1,000.

16 Q. Was it between 1,000 and 5,000?

17 A. No, it was more than 5,000.

18 Q. More than 10,000?

19 A. Yes.

20 Q. More than 20,000?

21 A. Yes.

22 Q. More than 50,000?

1 A. Yes.

2 Q. More than 1,000,000?

3 A. No.

4 Q. Between 50 and 150,000?

5 A. In all honesty, in March of 2004 I can
6 say it was more than 50,000, but I don't have an
7 exact number.

8 Q. How do you know these numbers?

9 A. I know these numbers because I actually
10 get a monthly report of the breakdown. And I know
11 that it's, it's never been less than 50,000, but we
12 do do different distribution tests. So I don't know
13 exactly how many were.

14 Q. Are these publications distributed in
15 hard copy or electronically or both?

16 A. They are -- these publications were
17 distributed in hard copy. An electronic version of
18 the print publication is available on the Website as
19 well as electronic versions of individual articles.

20 Q. And who are the downloads available to?

21 A. The downloads are available to members.

22 Q. To members and non-members? To the

1 general public?

2 A. The articles on the Website are available
3 to members. They have to log in.

4 Q. So these articles are not available to
5 those who are not members of the U.S. Chamber of
6 Commerce?

7 A. Online.

8 Q. Online.

9 A. Let me correct that. We do give out
10 member accounts to a few non-members that request
11 it, Senators, Congressmen, et cetera, members of the
12 press.

13 Q. How many?

14 A. I have no idea how many non-member
15 accounts are given. And I also stated earlier that
16 it is mailed to small business members. It's also
17 mailed to Chambers and Associations.

18 Q. That are members of the U.S. Chamber of
19 Commerce?

20 A. That are members of the U.S. Chamber of
21 Commerce.

22 Q. Do you know the number of these

1 publications, copies of these publications that are
2 sent out or otherwise distributed to Hispanic
3 businesses?

4 MR. KANE: Objection; vague.

5 A. We do not have any demographic
6 information on our distribution file.

7 Q. Exhibit Number 17. Who wrote the
8 document appearing on Exhibit 17?

9 A. I'm not sure who wrote it.

10 Q. Where did you obtain this document from?

11 A. The text of this document was originally
12 an article in the magazine. Our education policy,
13 people requested a reprint of the article for them
14 to distribute.

15 Q. Which magazine was it originally
16 appearing in?

17 A. It originated in U.S. Chamber.com., which
18 is our monthly member magazine.

19 Q. And you don't know who that article was
20 written by?

21 A. I do not.

22 Q. And so you were forwarded this article

1 for printing and distribution?

2 A. No. We already had the article because
3 we lay out the magazine. They just said that they
4 wanted a reprint of the education article from
5 September 2006, so we went back to our original
6 layout and pulled the text from there.

7 Q. And how many copies did they order?

8 A. I'm not sure.

9 Q. And why did you -- strike that.

10 You don't know who this, who are the
11 recipients of the copies that you printed out of
12 this article?

13 A. I do not know who they distributed them
14 to.

15 Q. You don't know whether any Hispanic
16 businesses were recipients of this article; correct?

17 MR. KANE: Objection; vague.

18 A. I have no way of knowing.

19 Q. Did you contribute anything, any content
20 to this article?

21 MR. KANE: Objection; asked and answered.

22 A. No.

1 Q. Did anybody from your department
2 contribute any text to this article whatsoever?

3 MR. KANE: Same objection.

4 A. I'm not sure.

5 Q. Do you have reason to believe that
6 anybody from your department would contribute
7 anything to this article?

8 MR. KANE: Objection; calls for
9 speculation.

10 A. Could you restate, please?

11 Q. Do you have any reason to believe that
12 anybody from your department would contribute any
13 contents to -- any content to this article
14 whatsoever?

15 MR. KANE: Same objection.

16 A. It is possible that someone from my
17 department contributed a picture or a caption for a
18 photo if they felt that it was necessary for the
19 design.

20 Q. But otherwise, you don't believe that
21 anybody contributed any text of this article;
22 correct?

1 MR. KANE: Mischaracterization of prior
2 testimony.

3 A. I do not know.

4 Q. Okay. Exhibit Number 18. Who wrote this
5 document?

6 A. I do not know who wrote this document.

7 Q. How did your department receive this
8 document?

9 A. Our department receives this document
10 from our Congressional Affairs Division of the U.S.
11 Chamber.

12 Q. And when did your department receive this
13 document?

14 A. I'm not sure.

15 Q. Was it in 2006 or 2007?

16 A. Exhibit 18?

17 Q. Yes.

18 A. Was in 2005.

19 Q. Do you know when in 2005?

20 A. I do not know exactly when in 2005. It
21 is generally distributed early in the year.

22 Q. Did you create any content for this

1 document?

2 A. Define content.

3 Q. Did you contribute anything to this
4 document whatsoever?

5 MR. KANE: Objection; vague.

6 A. Contributed superb management oversight.
7 I did not contribute any text or numbers to this
8 document.

9 Q. What, if anything, did you contribute to
10 this document?

11 A. I reviewed the document prior to its
12 publication to ensure that it, there are no typos,
13 look and feel is okay, that sort of thing.

14 Q. But otherwise, other than that, you did
15 not contribute any content?

16 A. I personally, no.

17 Q. And just like with other documents,
18 anybody from your department did not contribute any
19 substantive content for this document?

20 MR. KANE: Objection; vague, asked and
21 answered.

22 A. We receive text from Congressional. We

1 do not change that text because that's policy text.
2 We lay out the text. My graphic designers would be
3 hard pressed to say that they're work isn't
4 substantive, but they do not contribute text.

5 Q. Is this document available online?

6 A. This document -- the text within the
7 document is available online in a different form.
8 It is a, broken up by issue.

9 Q. How many copies of this document were
10 printed?

11 A. I'm not sure.

12 Q. Who asked you to print copies of this
13 document?

14 A. The Congressional Affairs Department
15 controls its distribution.

16 Q. So when you print it out copies of this
17 document you only sent them to that department?

18 A. That is correct.

19 Q. You did not send them anywhere outside of
20 that document?

21 A. They are responsible for the
22 distribution. We may distribute a few copies

1 internally for our copy purposes.

2 Q. And you don't know who this document was
3 distributed to at all?

4 A. We distribute it to the Congressional
5 Affairs Department. I do not know who they
6 distributed it to.

7 Q. You don't know whether any copies of this
8 document were distributed to Hispanic businesses;
9 correct?

10 MR. KANE: Objection; vague.

11 A. I do not know who the Congressional
12 Affairs Department distributed it to.

13 Q. Exhibit Number 20. Who wrote this
14 document?

15 A. I do not know who wrote this document.

16 Q. Who did your department receive this
17 document from?

18 A. My department received this document from
19 our editorial group.

20 Q. From your department's editorial group?

21 A. The communications department is divided
22 between the publishing group and editorial group and

1 a marketing group. We received this document from
2 our editorial group.

3 Q. You don't know who in that group wrote
4 this document?

5 A. I'm not sure who wrote the document.

6 Q. Did you contribute any content to this
7 document whatsoever?

8 MR. KANE: Objection; vague.

9 A. We do design and layout of the text of
10 the document without changes.

11 Q. Okay. How many copies of this document
12 were printed?

13 A. I'm not sure.

14 Q. And was this document written sometime in
15 2006?

16 A. It was prepared by us in 2006. I'm not
17 sure when it was written.

18 Q. Who was distributing this document?

19 A. An order went out around the building to
20 request -- excuse me. An order went out around the
21 building to put in orders and it was then
22 distributed to the people who asked for copies.

1 Q. And who asked for those copies?

2 A. It was a variety of groups around the
3 building. I'm not sure exactly.

4 Q. You don't know the number of copies that
5 were distributed?

6 A. I do not know the number of copies that
7 were distributed.

8 Q. Was it a reasonably large number?

9 MR. KANE: Objection; vague.

10 A. Define large number.

11 Q. You are going to give me some estimate of
12 how many documents are related to the initial print
13 run. We can go, start -- you can --

14 A. The initial print run was approximately
15 1500.

16 Q. And do you know if much more -- many more
17 copies were printed after the initial print?

18 MR. KANE: Objection; vague.

19 A. I do not know.

20 Q. And you don't know whether those outside
21 of the U.S. Chamber of Commerce received any copies
22 of this document; correct?

1 A. I do not personally know.

2 Q. Otherwise you don't know who, if anybody,
3 outside the Chamber of Commerce received this
4 document?

5 A. I know that we have delivered this
6 document to our fundraising department, which
7 typically includes it in the folders, but I don't --
8 I can't personally say that it was included in the
9 folders or distributed outside of the building.

10 Q. Do you know if this document was
11 downloaded from the Website by anybody outside of
12 Chamber of Commerce?

13 A. Yes.

14 Q. And who was it downloaded by?

15 A. I don't know.

16 Q. How do you know that it was downloaded at
17 all by anybody outside of the Chamber?

18 A. Again, typically when we put a document
19 up we monitor it for a few weeks to make sure that
20 it's working. I know that it was downloaded by,
21 well, actually I know that it was downloaded by
22 machines, not operated from within the Chamber of

1 Commerce building or by logged-in Chamber employees.
2 We just get a number. There's no registration
3 required to download it.

4 Q. What does it mean, downloaded by
5 machines?

6 A. We exclude information from our
7 statistics for machines located within the U.S.
8 Chamber of Commerce building or its regional
9 offices. And we exclude from our statistics
10 logged-in Chamber members, or excuse me, logged-in
11 Chamber employees, but the machines are fairly
12 anonymous.

13 Q. But otherwise, there's a tracking
14 software on the Website that would be able to --

15 A. Yes.

16 Q. Right. Would be able to tell whether and
17 how many of the copies were downloaded; correct?

18 A. Correct.

19 Q. And you don't know whether any copies of
20 this document were downloaded by Hispanic
21 businesses?

22 MR. KANE: Objection; vague.

1 A. I have no way of knowing.

2 MR. KANE: For the record, it is now 4:30
3 and we have just gotten through Exhibit 20, and
4 opposing counsel has continued to ask and answer
5 questions of the witness and has repeatedly asked
6 him the same questions about each exhibit.

7 Unless opposing counsel has some need to
8 establish the number of distribution of each
9 individual document, I ask counsel to please move
10 along at a faster clip.

11 MR. ELISEEV: It's clear to me that we
12 are not going to be done in a half an hour. My
13 period of deposition is clearly not limited by 5
14 o'clock. I'll need this witness to come back as
15 we've heard the court reporter said he will leave at
16 5 o'clock and, therefore, this witness will have to
17 reappear on Friday. I'm willing to come here and
18 continue the deposition. If you do not produce on
19 Friday, we will move to strike the entire testimony.

20 MR. KANE: It's your choice to continue
21 asking the same questions exhibit after Exhibit. If
22 you choose to go beyond 5 o'clock, then we're going

1 to submit the testimony as is. And should you
2 desire to move to strike, you are free to do so.

3 But you have asked the same questions
4 repeatedly for document after document and it is not
5 clear from the testimony so far as to what you are
6 trying to establish from one document to the other,
7 other than a possible number of distribution of each
8 individual document.

9 MR. ELISEEV: I don't understand where
10 the 5 o'clock limitation comes from. It's clearly
11 arbitrary and, therefore, this witness has to appear
12 on Friday, again to continue, because we're
13 obviously not going to be done in 25 minutes.

14 So I will continue with my documents. We
15 will be done probably with another 4 or 5 exhibits,
16 but then on Friday Mr. Peck will have to come to
17 continue to be deposed by me and if he doesn't come,
18 we will move to strike his testimony in its
19 entirety.

20 MR. KANE: That's your choice, but I
21 would suggest that you ask, within the remaining
22 time allotted until 5 o'clock, whatever questions

1 you consider to be most important.

2 MR. ELISEEV: I will continue asking as I
3 was planning. So I will not choose and pick my
4 questions. Let's go on.

5 BY MR. ELISEEV:

6 Q. We are now at 28. Who wrote this
7 document?

8 A. This is a Web page. The text for this
9 document was taken from the booklet, from the
10 report.

11 Q. Did this text come from the booklet that,
12 marked as Exhibit Number 20?

13 A. It did.

14 Q. And did you contribute any text other
15 than what was taken from Exhibit Number 20?

16 A. I can't recall if I contributed any text
17 to have it flow on the Web page. If so, it would
18 have been cosmetic in nature.

19 Q. And this Web page shows that the document
20 appearing under Exhibit 20 is available for download
21 through this Web page; correct?

22 A. Correct.

1 Q. And therefore, this, in fact, was the Web
2 page that you were talking about when we discussed
3 Exhibit 20 and the process of downloading of those
4 documents; is that correct?

5 A. Correct.

6 Q. With respect to Exhibits Number 31
7 through 36, you said in your direct testimony that
8 you received them through --

9 MR. KANE: Hold on one second. He hasn't
10 found the exhibits yet.

11 BY MR. ELISEEV:

12 Q. You stated in your direct testimony that
13 you received these tax forms through interoffice
14 mail?

15 A. Correct.

16 Q. When did that happen?

17 A. I'm not sure. It was in April of this
18 year.

19 Q. Who sent them to you over interoffice
20 mail?

21 A. They were sent from the finance
22 department.

1 Q. Why were you sent these documents?

2 A. I requested them.

3 Q. Why did you request them?

4 A. In the initial meeting I was asked to
5 assemble documents so I sent information out to
6 various groups around the building asking for their
7 input.

8 Q. And after you received those documents
9 through interoffice mail, what did you do with them?

10 A. I turned them over. I gave them to
11 Shanise to add to my testimony material.

12 Q. When you received them over interoffice
13 mail in April of 2007, was it the first time you
14 have ever seen these documents?

15 A. It is the first time I ever saw these
16 documents in this format.

17 Q. Okay. Did anybody tell you specifically
18 to request these documents from the financial
19 department?

20 A. In our initial meeting, it was given an
21 example of the types of documents that would be
22 useful, but I specifically requested the tax forms

1 because I knew those were available.

2 Q. Were you involved, in any way, in
3 preparation of any of these tax forms?

4 A. No.

5 Q. Did you contribute any information on any
6 numbers for the preparation of these documents?

7 A. As the manager with the budget, I
8 complete my budget, I assume that some of those
9 numbers may be used. But in terms of specifically
10 preparing a tax form, no.

11 Q. So you provided some revenue figures for
12 the preparers of these forms; is that correct?

13 MR. KANE: Objection to the
14 mischaracterization of prior testimony.

15 A. No. I prepare my budget form. I'm not
16 sure how those are used.

17 Q. You're not sure how those numbers are
18 used at all in these tax forms; right?

19 A. Correct.

20 Q. Do you know if they are used at all?

21 A. I do not know. Hopefully.

22 Q. All right. So it's fair to say that you

1 had no direct involvement in preparation of these
2 tax forms?

3 MR. KANE: Objection; mischaracterization
4 of prior testimony.

5 A. I did not prepare the tax forms.

6 Q. Do you know -- do you have any
7 familiarity with any of the numbers appearing in
8 these tax forms?

9 MR. KANE: Objection; vague.

10 A. I did not prepare the tax forms. I don't
11 know.

12 Q. But do you have any familiarity with any
13 of the numbers appearing there?

14 A. No.

15 Q. Do you have any familiarity with any of
16 the exemptions or deductions claimed in these forms?

17 A. No.

18 Q. And after your receipt of these forms,
19 you did not change them in any way prior to
20 forwarding them on to the lawyers; is that right?

21 A. No.

22 Q. Exhibit Number 19. Who wrote this

1 document?

2 A. I do not know who wrote the document. It
3 was prepared by our Congressional Affairs
4 Department.

5 Q. What was the role of your department in
6 the preparation of these documents?

7 MR. KANE: Objection; asked and answered.

8 A. Our department's role is to lay out the
9 document, prepare it for printing.

10 Q. Did you have any substantive input,
11 yourself, in this document?

12 MR. KANE: Objection; vague.

13 A. I did not have any input into the text of
14 the document.

15 Q. Did you have any input with respect to
16 the numbers appearing in the document?

17 A. There are phone numbers appearing in the
18 document. I may have is supplied a phone number.
19 But in terms of it statistics or House Bill numbers,
20 no.

21 Q. And who in your department distributed
22 copies of this document to?

1 A. This document is prepared for our
2 Congressional Affairs Department. The print run
3 distribution will go to them. We may keep some
4 copies for our archives.

5 Q. How many copies were printed out?

6 A. I'm not sure.

7 Q. And when was this document prepared?

8 A. When did my department lay out the
9 document?

10 Q. No. When was this document written? Do
11 you know?

12 A. I'm not -- I don't know.

13 Q. When did your department complete the
14 layout of this and otherwise complete preparation of
15 this document?

16 A. In the March of this year.

17 Q. You did not distribute, your department
18 did not -- you don't know if any copies of this
19 document were distributed outside of the Chamber of
20 Commerce?

21 A. I did not distribute any copies outside
22 the Chamber of Commerce.

1 Q. Or anybody at your department?

2 A. Or anyone in my department.

3 Q. And you don't know who the recipients,
4 who are the outside recipients of this document?

5 MR. KANE: Objection; lack of foundation.

6 A. I do not know specific recipients.

7 Q. Do you know general recipients?

8 MR. KANE: Same objection.

9 A. I know that documents are included in the
10 fundraising folders that we have as an exhibit.

11 Q. As an exhibit where?

12 A. Exhibit 37 is a fundraiser folder. This
13 fundraising folder has the State of American
14 Business in it. I know that the National Business
15 Agenda is included in the fundraising folders as
16 well.

17 Q. But you don't know how many copies are
18 distributed?

19 A. I do not know.

20 Q. Okay. And you don't know whether any
21 Hispanic businesses are the recipients of this
22 document; right?

1 A. No.

2 Q. Exhibit Number 21. By the way, before we
3 move to 21, Number 19, is that available online?

4 A. It is not available online in that
5 format.

6 Q. Who wrote Exhibit Number 21?

7 A. The speech was written by our editorial
8 team.

9 Q. Do you know who on that team wrote that
10 document?

11 A. I do not know specifically who wrote it.

12 Q. Did anybody in your department contribute
13 to any substantive content to this document?

14 MR. KANE: Objection; asked and answered.

15 A. I don't know.

16 Q. Did you contribute any content to this
17 document?

18 A. I suggested the cover.

19 Q. Anything else?

20 A. No.

21 Q. And by suggesting the cover, you mean
22 suggesting the name or the layout or the picture?

1 A. The layout.

2 Q. Did you suggest anything else on the
3 cover but the layout?

4 A. The layout and -- excuse me. By layout I
5 meant the photo as well.

6 Q. The photo as well. Okay. And who was
7 this document distributed to?

8 A. This document was distributed to groups
9 around the building who requested copies.

10 Q. And by the building you mean --

11 A. Excuse me. Groups around the U.S.
12 Chamber of Commerce who requested copies.

13 Q. Was it distributed to anybody outside of
14 the Chamber of Commerce?

15 A. By me, no.

16 Q. By your department?

17 A. No.

18 Q. Do you know if, in fact, it was
19 distributed at all outside of the Chamber?

20 A. I do not know.

21 Q. Is this document available for download
22 online or viewing, downloading or viewing online?

1 A. The speech is available for viewing
2 online.

3 Q. But is it available for downloading?

4 A. This document as a PDF, I'm not sure.

5 Q. When you say the speech, what is not
6 available online?

7 A. The -- I'm not sure, if the booklet as a
8 PDF is available online or if the speech as a PDF is
9 available online.

10 Q. And it's available online for the general
11 public?

12 A. The speech is available online for the
13 general public.

14 Q. Do you know the number of people who
15 viewed the speech online?

16 A. I do not.

17 Q. Is there any software, tracking software
18 on the site that would be able to provide that
19 information?

20 A. Yes.

21 Q. And if that information, in fact, is
22 available?

1 A. We could track that information.

2 Q. Did anybody ask you to track that

3 information?

4 A. No.

5 Q. Exhibit Number 22. Who is the author of

6 this document?

7 A. I do not know.

8 Q. Did you write or did you contribute any

9 content from this document whatsoever?

10 A. Define content.

11 Q. Anything?

12 MR. KANE: Objection; vague, over-broad.

13 A. I don't recall.

14 Q. You don't recall contributing anything

15 whatsoever to this document; right?

16 A. Correct.

17 Q. Who ordered this document for printing?

18 A. I'm not sure.

19 Q. Where did you obtain this document?

20 A. The testimony was provided to me by our

21 editorial team.

22 Q. And then what did you end up doing with

1 this document?

2 A. The testimony was originally published on
3 the Website for download by anyone visiting the
4 Website and then we received a request to turn it
5 into a booklet.

6 Q. And did you print out any copies of this
7 booklet?

8 A. The booklet was printed.

9 Q. And your department did not participate
10 in distributing this booklet whatsoever; correct?

11 A. We distributed it to internal customers
12 who requested copies.

13 Q. But not to external?

14 A. Correct.

15 Q. And do you know if this, in fact, was
16 available online for viewing?

17 A. The testimony is available online for
18 viewing.

19 Q. Do you know who viewed that testimony?

20 A. I do not.

21 Q. Do you know how many people viewed that
22 testimony?

1 A. I do not.

2 Q. Is there any way to track down how many
3 people viewed that testimony?

4 A. Yes.

5 Q. But you were not asked to track down that
6 information; correct?

7 A. I was not.

8 Q. And you, yourself, never did track that
9 information?

10 A. I don't recall tracking that information
11 with respect to exhibit number.

12 Q. With respect to Exhibit 23, who is the
13 author of this document?

14 A. Gerald B. Manheim.

15 Q. Who is he or she?

16 A. A Professor of Media and Public Affairs
17 and Political Science at the George Washington
18 University.

19 Q. How do you know that?

20 A. I read it on USCC55330.

21 Q. Do you have any other sources that would
22 confirm that that, in fact, is true information?

1 A. Do I?

2 Q. Yeah.

3 A. No.

4 Q. So outside from reading from that page
5 you just named, there's no way for you to tell who
6 this person is?

7 A. For me to tell, no.

8 Q. Did you contribute any content of this
9 document whatsoever?

10 A. No.

11 Q. Did anybody on your department contribute
12 any content to this document whatsoever?

13 A. Our department received the text from our
14 policy group and did the layout of the text. I'm
15 assuming that they created the tables, because that
16 is a layout function, but I didn't witness them
17 printing the tables. But we did not create -- we do
18 not generally create content. We receive content
19 and format it.

20 Q. And who ordered the printing of this
21 document?

22 A. Our labor policy group.

1 Q. How many copies did they order?

2 A. I don't know.

3 Q. Do you know whether they distribute any
4 copies of this document?

5 A. I do know that they distributed copies
6 anecdotally. I did not distribute copies for them.

7 Q. You don't know who they distributed and
8 how many of those copies were distributed?

9 A. I don't know.

10 Q. You don't know whether anybody outside of
11 the U.S. Chamber of Commerce received any copies of
12 this document; correct?

13 A. I do not personally know.

14 Q. Exhibit 23A. Is this the Web page that
15 contains the download link for Exhibit Number 23?

16 MR. KANE: Objection; asked and answered.

17 A. Yes.

18 Q. And who created this Web page?

19 A. This Web page was created by Recardo
20 Harvin, who is under my supervision.

21 Q. Where did he get the text appearing on
22 this page?

1 A. The text appearing on this Web page came
2 from the booklet.

3 Q. Did he contribute otherwise anything to
4 this Web page?

5 A. Aside from the formatting and making it
6 publicly available, no. Actually, he created the
7 thumbnail on the cover as well.

8 Q. Do you know who downloaded, if at all,
9 this booklet from this Website?

10 A. I do know what individuals downloaded
11 from the Website.

12 Q. Do you know what entities downloaded
13 this?

14 A. No.

15 Q. Do you know if it was downloaded at all?

16 A. Generally speaking, when we put new
17 booklets up we do track them for a period of time to
18 make sure they are working. So I do know there were
19 downloads.

20 Q. How many downloads approximately?

21 A. I don't know.

22 Q. You don't know the number at all?

1 A. Huh-uh.

2 Q. And you don't know who they were
3 downloaded by; right, if at all?

4 A. I do not know who they were downloaded
5 by.

6 Q. Exhibit 24. Who is the author of this
7 document?

8 A. I do not know.

9 Q. Where did you get the text of this
10 document?

11 A. We received the text of this document
12 from our labor group.

13 Q. When did you receive it?

14 A. I'm not sure.

15 Q. Was it this year?

16 A. It was not this year.

17 Q. So your department was just given the
18 text of this document to be printed; correct?

19 A. For design and layout.

20 Q. And you, yourself, did not contribute
21 anything to this document; true?

22 A. I did not.

1 Q. And otherwise from your department, the
2 only contribution, if any, were the layout and
3 design, but not substantive --

4 A. The --

5 Q. Let me finish.

6 But not substantive additions to this
7 document; correct?

8 A. I honestly do not know if they added
9 pictures or if the pictures were provided.

10 Q. And how many copies of the documents were
11 printed out?

12 A. I'm not sure.

13 Q. Do you know if this document was
14 distributed to anybody outside of the Chamber of
15 Commerce at all?

16 A. We distributed it to the labor, labor
17 policy group and they handle distribution.

18 Q. And the labor policy group is part of
19 Chamber of Commerce?

20 A. Correct.

21 Q. And you don't know -- okay.

22 Do you know if this document was

1 available online?

2 A. I do not know.

3 Q. Exhibit Number 25. Who is the author of
4 this document?

5 A. I don't know.

6 Q. And who did you receive this document
7 from? I mean the text of this document?

8 A. We received this, the text of this
9 document was from our editorial group.

10 Q. Did you, yourself, make any contribution
11 to this document whatsoever?

12 A. I did not.

13 Q. And do you know if anybody from your
14 department contributed anything to this document, to
15 the creation of this document?

16 A. Our group did the design layout and, of
17 the document.

18 Q. Okay. And who was this document
19 distributed to?

20 A. The document was distributed to internal
21 customers who requested copies.

22 Q. Do you know if any external customers

1 obtained any copies of this document?

2 A. This document is available online and it
3 was, it had some downloading.

4 Q. How do you know that?

5 A. From tracking reports.

6 Q. And how -- do you know who downloaded
7 this document from online?

8 A. No.

9 Q. What is the number of viewers or entities
10 or individuals who downloaded this document online?

11 A. I don't know.

12 Q. And when was this document posted online?

13 A. It was posted online and it was released
14 May of 2006.

15 Q. And you don't know whether any Hispanic
16 businesses obtained a copy of this document?

17 MR. KANE: Objection; vague.

18 A. We have no way of capturing that
19 information.

20 Q. Exhibit Numbers 26, 27, 28. Who is the
21 author or authors of these three documents?

22 A. These documents are created by our

1 political affairs group within the U.S. Chamber of
2 Commerce.

3 Q. Do you know any names of the people who
4 wrote this document?

5 A. I do not know specifically who wrote this
6 document.

7 Q. Did you contribute anything at all to
8 these three documents?

9 MR. KANE: Objection; vague.

10 A. My group does design and layout of the
11 documents. I don't recall contributing.

12 Q. You personally --

13 A. Me, personally, to these three documents.

14 Q. You don't recall contributing anything to
15 these three documents?

16 A. Correct.

17 Q. And who ordered these documents to be
18 printed?

19 A. The documents are -- the order was placed
20 and distributed through the political -- I'm
21 blanking. The political policy group or the
22 political affairs. There we go. Political affairs

1 within the U.S. Chamber of Commerce.

2 Q. You don't know where this document goes
3 from there?

4 A. No. They do distribution.

5 Q. And this document -- these documents were
6 available online?

7 A. These documents are available online in a
8 different format.

9 Q. What format?

10 A. The bulk of these documents is a score
11 card and the score card information is available
12 online through a vendor who tracks that information.

13 Q. And it's available for purchase?

14 A. It's available for viewing.

15 Q. Viewing but not for purchase?

16 A. These booklets are not available for -- I
17 do not believe are available for purchase.

18 Q. Do you know how many people viewed this
19 document?

20 A. I do not.

21 Q. Do you know if this document was viewed
22 at all?

1 A. Actually, let me retrack that. I do know
2 that the document is available for purchase, but we
3 do not handle that.

4 Q. Do you know if any copies were, in fact,
5 purchased?

6 A. I do not know.

7 Q. You don't know either way? You don't
8 know whether it was purchased at all?

9 A. The reason I restated my answer is I
10 received calls before from journalists looking for
11 editions and for the public affairs group and they
12 told me to keep sending people. So I know they do
13 some fulfillment, but we do not.

14 Q. You don't know whether those journals
15 actually went ahead and were ordered?

16 A. I do not.

17 Q. Exhibit Number 29.

18 MR. KANE: For the record, it's 4:55 and
19 there is five minutes left of the depo.

20 BY MR. ELISEEV:

21 Q. Did you contribute anything at all to
22 this document?

1 A. To Exhibit 29?

2 Q. Yeah.

3 A. I worked on the layout of this document
4 and did some text editing of this document.

5 Q. How much editing did you do on this
6 document?

7 A. Sort of a team effort, so I can't tell
8 specifically. Don't recall specifically what
9 changes I made or may have.

10 Q. What kind of editing was it?

11 A. This was a marketing piece generated from
12 within the communications team, so it would have
13 been removing sentences, combining sentences, that
14 sort of thing.

15 Q. And who ordered the printing of this
16 document?

17 A. The communications marketing group.

18 Q. And they were in charge of distributing
19 this document?

20 A. Correct.

21 Q. Do you know who they distributed this
22 document to?

1 A. They distributed the document to
2 attendees and potential attendees to the submit.

3 Q. How do you know they distributed that?

4 A. The -- we gave the documents to them and
5 we had several reprints. So I know that --

6 Q. But you don't know what they did with the
7 documents?

8 A. No.

9 Q. You don't know if they just throw it
10 away? Is it possible?

11 A. I did not physically distribute them
12 myself.

13 Q. So you don't know whether they were
14 distributed at all?

15 A. I did not distribute them myself.

16 Q. But you don't know they were distributed
17 by that group; true?

18 A. I do not know that they distributed them.

19 Q. Do you know if it was available online?

20 A. It was available online in another form
21 as part of the Exhibit 29A, which is the Summit
22 portal.

1 Q. Do you know who were the attendees of
2 that Summit?

3 A. The -- do I know individual attendees?

4 MR. KANE: Objection; lack of foundation.

5 Q. No. Do you know who attended the Summit?

6 A. Political leaders, small business owners,
7 Chamber of Commerce leaders, Association leaders.

8 Q. Did you personally attend this Summit?

9 A. I did.

10 MR. KANE: Objection. This is all beyond
11 the scope of direct.

12 Q. Which year?

13 A. I attended the Summit both of these
14 years.

15 Q. Do you know if anybody from U.S. Chamber
16 of Commerce or U.S. Hispanic Chamber of Commerce
17 Foundation attended that Summit?

18 A. I do not.

19 Q. With respect to Exhibit Number 29A, were
20 you the one who created this document?

21 MR. KANE: Objection; asked and answered.

22 A. I printed this Web page out and worked on

1 the creation of this Web page.

2 Q. And what was your contribution to this
3 Web page?

4 A. I designed the photo gallery and the
5 sign-up for updates form.

6 Q. Do you know if this page is available for
7 viewing by the general public?

8 A. It is.

9 Q. And do you know if, in fact, this page
10 was viewed by anybody?

11 A. Yes.

12 Q. How do you know that?

13 A. Through Web tracking.

14 Q. Do you know how many people viewed it?

15 A. I do not.

16 Q. When did you check that Web track last
17 time?

18 A. For the Summit?

19 Q. Yeah.

20 A. I probably looked at the Summit tracking
21 in, last about two weeks ago.

22 Q. What numbers did you see there?

1 A. It's impossible to tell how many people
2 viewed it. I can tell how many page views there
3 were from the Website. It was two weeks ago, it was
4 still greater than 1,000 page views a week.

5 Q. Do you know if anybody from Hispanic
6 Chamber of Commerce or Hispanic Chamber of Commerce
7 Foundation viewed this page?

8 A. I do not.

9 Q. Do you have any way of tracking that kind
10 of information?

11 A. I could look at IP address in the log
12 files and do a trace route back to the organization,
13 but we do not routinely do that.

14 Q. Exhibit Number 30. Who is the author of
15 this document?

16 A. Our, the communications marketing group.

17 Q. Do you know who at the communications
18 market group wrote this document?

19 A. It's a team effort.

20 Q. You don't know any of the names?

21 A. I can't recall specifically who wrote
22 anything specifically.

1 Q. Did you have any contribution to this
2 document at all?

3 A. I also contributed to editing and layout
4 suggestions of the document.

5 Q. But you did not contribute any text or
6 numbers to this document?

7 MR. KANE: Objection;
8 mischaracterization.

9 A. I can't recall specifically any text or
10 numbers.

11 Q. That you contributed; correct?

12 A. Correct.

13 Q. And how many copies of this document were
14 printed out?

15 A. I can't recall.

16 Q. Who was this document distributed to?

17 A. Attendees and potential attendees of the
18 Summit.

19 Q. Do you know how many?

20 A. I do not.

21 Q. Do you know whether any Hispanic Chamber
22 of Commerce or Hispanic Chamber of Commerce

1 Foundation members attended this Summit?

2 MR. KANE: Objection; outside the scope
3 of direct.

4 A. I do not.

5 Q. And you stated that some contents of this
6 document are available on the Web portal?

7 A. Correct. The summary of the event from
8 2006 and 2004 are available on the Web portal and
9 some of the photos from the 2006 folder are from the
10 2004 event and those are available on the portal.

11 Q. With respect to Exhibit Number 46, who
12 wrote this document?

13 A. I don't know specifically who wrote the
14 document.

15 Q. Did you contribute any content to this
16 document?

17 A. The design of the membership card on
18 54234 was my design.

19 Q. Otherwise --

20 MR. KANE: Objection; vague.

21 Q. -- otherwise no contribution to this
22 document at all?

1 A. Aside from oversight and review? No.

2 Q. With respect to Exhibit Numbers 39 and
3 40, how were these documents prepared?

4 A. These documents are prepared by our
5 marketing assistant, who uses vendor software which
6 identifies news stories in which the Chamber is
7 mentioned.

8 Q. And how are these articles collected?

9 A. The vendor software identifies the
10 articles and for Exhibit 40, the hot clips, the
11 marketing assistant chooses five, four to seven
12 articles of significance for that day and pulls them
13 from the software, creates a single document, loads
14 it on the Internet and sends out a notification to
15 the building that they are now available. She also
16 prints off 15 to 20 copies for those in the building
17 who are the first to receive it electronically.

18 Q. Is that person a member of the Chamber of
19 Commerce publications department?

20 A. She is not a member of the publications
21 department. She is a member of the marketing
22 department.

1 Q. And why are these documents ultimately
2 forwarded to you?

3 A. I ask her for the documents as examples
4 of the print media coverage of the U.S. Chamber.

5 Q. And you have no contribution to these
6 documents whatsoever; is that correct?

7 MR. KANE: Objection; mischaracterization
8 of prior testimony.

9 A. All of us will send her articles that we
10 run across, and I developed a mechanism by which the
11 reports are downloaded off the Internet. But the
12 daily publication is handled by her.

13 Q. And where do these documents go after
14 they are compiled?

15 A. They go onto the Chamber's Internet and
16 an e-mail goes out alerting people of the presence.
17 People can click on a link in the e-mail to view it
18 on the Internet.

19 Q. The people you're talking about, those
20 are members of the Chamber of Commerce or outside as
21 well?

22 A. Excuse me. It is U.S. Chamber of

1 Commerce employees. The copyright by which we use
2 the information is for employees.

3 Q. Do you know what the employees do with
4 these documents after they receive it?

5 A. I don't know what any official employees
6 do with the documents.

7 Q. Do you know if these documents are
8 distributed to the outsiders?

9 A. The copyright prohibits that. I do not
10 know.

11 Q. You don't know either way?

12 MR. KANE: Objection; asked and answered.

13 A. I do not know how individuals who receive
14 it, use it.

15 Q. Do you know of any United States
16 Chamber -- any articles that mention U.S. Chamber of
17 Commerce, whether they are appearing in any Hispanic
18 media?

19 MR. KANE: Objection; vague.

20 A. I do not.

21 Q. Exhibit Number 41. You are the one who
22 actually created this photo archive on the CD?

1 A. This is actually not a photo archive.
2 It's an audio archive. We just have a lot of the
3 photo archive CDs lying around. I created the CD,
4 yes.

5 Q. How did you create it?

6 A. I downloaded the actualities from our
7 Website and burned them onto a CD.

8 Q. What are actualities?

9 A. Radio actualities are small radio
10 segments that are made available to radio stations
11 to play.

12 Q. Do you know what radio stations they were
13 played on?

14 A. I do not.

15 Q. Do you know how often they were played?

16 A. I do not.

17 Q. You did not, yourself, create any
18 contents for those actualities, did you?

19 A. The -- I do not create the text or record
20 the actualities.

21 Q. So you don't know the audience for these
22 actualities either?

1 A. We post them on the Website, so an
2 audience would be Web visitors.

3 Q. And you don't know whether, in fact,
4 there were any visitors for those Web pages where
5 these actualities appear?

6 A. Yes, I do know that the actualities do
7 receive visitors.

8 Q. Do you know the number of hits they
9 receive?

10 A. I do not.

11 Q. You don't know weekly, monthly or
12 annually?

13 A. No. I actually created a reporting page
14 for the editorial person who monitors it. I check
15 the editorial -- excuse me, I check the reporting
16 page to make sure it's working, but I don't register
17 the numbers.

18 Q. So that information is otherwise
19 available, but not for you and you have not seen it;
20 true?

21 A. It is available to me but I don't recall
22 any of the numbers.

1 Q. Okay.

2 MR. ELISEEV: I think, if Mr. Court
3 reporter will stay just a little longer, I might
4 finish everything today. Off the record.

5 - - -

6 (Discussion held off the Record.)

7 - - -

8 BY MR. ELISEEV:

9 Q. I don't believe we covered Exhibit 42,
10 but is Exhibit 42 the same kind of compilation of
11 materials as appear on Exhibit 41?

12 A. Correct. It's audio material.

13 Q. The audio material is not created by you
14 personally?

15 A. Correct.

16 Q. And you don't know what radio stations
17 it's played on?

18 A. No.

19 Q. You don't know who the listeners are and
20 you don't know who, and how often it is played; is
21 that correct?

22 A. No. We have a contract with the vendor.

1 The vendor is given the files and it's his network.

2 Q. Is it true that materials appearing on
3 the CD on Exhibit 42 are available for download?

4 A. Correct.

5 Q. And on the Chamber of Commerce Website?

6 A. Correct.

7 Q. Do you know if, in fact, it has been
8 downloaded from the Website?

9 A. Yes. Messages have been listened to and
10 downloaded.

11 Q. How do you know?

12 A. I created a tracking system for the audio
13 files. So I see that messages are being downloaded,
14 but I do not compile statistics on them.

15 Q. Do you know how many at all were
16 downloaded?

17 A. No.

18 Q. With respect to Exhibits 41 and 42, and
19 43 -- I'm sorry, 41A, 42A and 43, I'll start with
20 41A. That's the printout of a Web page that shows
21 the availability to download Comprehensive
22 Immigration Reform report; is that correct?

1 A. The Comprehensive Immigration Reform
2 radio actuality.

3 Q. That's one of those actualities that
4 appear on the CDs we just discussed?

5 A. Correct.

6 Q. You don't know who or how many times that
7 report was actually downloaded?

8 A. No.

9 Q. Exhibit Number 42A, did you create it?

10 A. Yes, I did.

11 Q. What exactly did you contribute to this
12 document?

13 A. I created this document, this particular
14 page on the Website creates this listing of
15 available radio actualities dynamically. I wrote
16 the software that does that. Our Web production
17 assistant uploads the individual files once they are
18 received from the vendor.

19 Q. And you don't know the number of times it
20 was downloaded --

21 A. I do not.

22 Q. -- or listened to?

1 The press release appearing at Exhibit
2 43, it was not drafted by you, was it? I'm sorry,
3 any of these press releases that appear in Exhibit
4 43; correct?

5 A. I did not draft these press releases, no.

6 Q. You were just asked to post it online and
7 that's it?

8 A. Correct.

9 Q. Um --

10 A. And we, the publications group maintains
11 the e-mail service by which the press releases are
12 distributed electronically.

13 Q. Do you know where these releases were
14 distributed?

15 A. I do not.

16 Q. You don't know organizations or
17 individuals who were distributed this document?

18 A. I do not. The editorial department
19 actually maintains the list.

20 Q. Do you know the number of these releases
21 that were distributed?

22 A. In a year? Or what do you -- the number

1 of releases?

2 Q. Ever.

3 A. I do not.

4 Q. How about in a year?

5 A. I don't know the exact number of press
6 releases distributed in a year, exactly for the
7 past -- since I've worked there, it's well over 100
8 a year.

9 Q. And these are available online?

10 A. These are available online.

11 Q. They are available for Internet
12 downloading?

13 A. They are available for viewing.

14 Q. Do you know how many people, if at all,
15 viewed these documents, these documents appearing in
16 Exhibit 43?

17 A. I did not know how many people viewed
18 these specific press releases.

19 Q. Is there any tracking software on the
20 Website that would allow you to obtain this
21 information?

22 A. Yes.

1 Q. But you were never asked to track it
2 down?

3 A. We monitor press releases for the
4 previous month, but the numbers are given to the
5 editorial department and I can't recall what they
6 were.

7 Q. When was last time you tracked down the
8 numbers?

9 A. I send them the numbers monthly.

10 Q. When was the last time you sent that?

11 A. The end of May.

12 Q. What was the number you sent?

13 A. I don't recall.

14 Q. You don't recall at all?

15 A. No. I give them a list of all the press
16 releases that were viewed the previous month and the
17 number of times. There are hundreds, if not over
18 1,000 press releases on the Website.

19 Q. You don't know who those releases were
20 by?

21 A. No.

22 Q. You don't have any way to tell who they

1 are viewed by; correct?

2 MR. KANE: Objection; asked and answered.

3 A. We could pull the computers numerical IP
4 address from the log files and track it back to an
5 individual or company.

6 Q. But that is not --

7 A. But that is not something we routinely
8 do.

9 Q. Have you ever done that?

10 A. The only times we have done it are when
11 we've been subjected to malicious activity.

12 Q. Like hacking?

13 A. Correct.

14 Q. Exhibit 45, the envelopes of U.S. Chamber
15 of Commerce.

16 Do you know how much mail you, as Chamber
17 of Commerce, send out in this envelope?

18 A. I do not.

19 Q. Do you know how many copies of these
20 envelopes are printed out annually?

21 A. I do not. We created the template for
22 this envelope and it's on, it's all through a

1 vendor. So each individual employee can order them
2 themselves.

3 Q. You don't know, at all, the number of
4 envelopes printed out monthly, weekly, ever?

5 A. No.

6 Q. Exhibit Number 37.

7 A. If I may, Exhibit 37 and 38 are almost
8 identical.

9 Q. Yeah. That's right, 37 and 38.

10 Have you contributed any content to these
11 documents whatsoever?

12 A. Our department is responsible for the
13 design and layout of the folders and we also handle
14 design and layout of some of the material which is
15 in the folders. But in terms of contributing
16 content, I don't know because we do not actually
17 stuff the folders.

18 Q. You, yourself, did not contribute any
19 content?

20 A. To these two exhibits, I did not
21 contribute any content, the content of these two
22 exhibits.

1 Q. Okay. With respect to Exhibit 47, did
2 you, yourself, create the Web page appearing as
3 Exhibit 47?

4 A. I created the template for the Web page
5 based on a design by a Web designer under my
6 supervision.

7 Q. You did not add any text or numbers here?

8 A. Yes, I did.

9 Q. Okay. What text?

10 A. I wrote the script for the video, which
11 is on this page. I put up the American Small
12 Business Summit link, and the events. I put up the
13 Energy Success story paragraph and quick links. I
14 put up the Top Ten Minutes about No Child Left
15 Behind and this graphic on the page.

16 Q. Do you know --

17 A. The graphic in the box.

18 Q. Do you know if this page was viewed by
19 anybody outside of the Chamber of Commerce?

20 A. Yes.

21 Q. How do you know that?

22 A. We track it through Web --

1 Q. Who are the people who viewed it?

2 A. We do not track individuals.

3 Q. You don't -- you don't know the number of
4 people who viewed it?

5 A. I do not know exactly the number of
6 people.

7 Q. Do you know a general number?

8 A. Yes.

9 Q. What is the general number of people who
10 viewed it?

11 A. What time frame are you looking for?

12 Q. When was it posted?

13 A. This Web page is the default home page
14 for the Website. So it's been up since about 1996.

15 Q. Do you know how many people viewed it
16 since the posting of the Web page?

17 A. No.

18 Q. Do you know how many people viewed it
19 annually?

20 A. No.

21 Q. What numbers can you give me with respect
22 to viewings?

1 A. We track the home page views on a
2 week-to-week basis too.

3 Q. What are the weekly numbers?

4 A. Generally in a week, the home page
5 receives about -- I have to think. I actually
6 cannot give you an average. I can say that last
7 week the home page received about 8,000 unique
8 visitors.

9 Q. Is that -- do you recall numbers
10 significantly higher or lower than that number?

11 A. The home page fluctuates up and down
12 almost on a week-to-week basis, depending on what's
13 going on.

14 Q. So where does that 8,000 fit in that
15 range?

16 A. Eight thousand is probably a lower
17 number.

18 Q. With respect to Exhibit Number 49, and
19 this is a compilation actually of documents. Who
20 prepared each of these documents?

21 A. Each of these documents that were
22 designed and laid out by the, my department.

1 Q. Who created the text and numbers
2 appearing in these documents?

3 A. Assorted authors.

4 Q. Did you --

5 A. For each ad.

6 Q. Did you, yourself, attribute any content
7 to any of advertisements appearing under 49?

8 A. Define content.

9 Q. Anything?

10 A. Yes.

11 Q. What was your contribution?

12 A. For USCC57227, I made corrections to the
13 image.

14 Q. Okay.

15 A. For Exhibit 57231, I suggested the
16 Statute of Liberty, perhaps unimaginatively. For
17 USCC57225, I presented the concept. And I don't
18 recall any other contributions.

19 Q. Do you know the publications or other
20 media where these advertisements appear in?

21 A. I do not. We generally receive a
22 specification from the person who is going place the

1 ad and we return it to them in that specification.

2 Q. And this person from whom you get this
3 order is an internal Chamber of Commerce person?

4 A. Yes.

5 Q. So you don't know anything about the
6 media where these ads appeared; correct?

7 A. No.

8 Q. You don't know anything about their
9 circulation, leadership?

10 A. No.

11 Q. Whether this ad appears in a different
12 size in the publication; correct?

13 A. We create it and -- we created these ads
14 at this size. If the ads were resized, we don't
15 know.

16 Q. Can you give me the dates on which these
17 ads were created?

18 A. 57227 was created within the last six
19 months. 57228 was created within the last six
20 months. I'm not sure about 57230 or 57231. 57232
21 was created, the initial design was created in 2005.
22 I'm not sure when this particular ad was created.

1 57216 was initially created for the 2004 Election
2 cycle. I'm not sure when this particular ad was
3 created. 57225 was created within the past year.
4 And I'm not sure about the other two.

5 Q. With respect to Exhibits Number 48, 50,
6 52 and 53, did you contribute any text to these
7 documents?

8 A. These documents are printouts from the
9 various Websites. For Exhibit 48, USCC57219, I
10 created the co-brand bar at the top.

11 Q. Okay.

12 A. 57218, I created the co-brand bar at the
13 top. And 57212, our designer did the cover.

14 Regarding Exhibit 52, I created this
15 page. I believe I copied the text from somewhere,
16 but I may have written it.

17 Q. These are stickers; correct?

18 A. Correct. If you right click on these
19 stickers you are given a code to download.

20 Q. With respect to Exhibit Number 53 -- I'm
21 sorry. Exhibit Number 48, that is a page from
22 Monster.com; right?

1 A. Correct. Exhibit 48 is a page from
2 Monster.com. I did the co-brand banner at the top.

3 Q. You don't know how many people visit that
4 the page at Monster.com; correct?

5 A. I do not know exact numbers.

6 Q. Do you know general numbers?

7 A. I know that it is visited, because I --
8 if you'll notice at the bottom, we are linking over
9 to that page, so I know how many -- I don't actually
10 know specifically how many, but I do know we have
11 sent people to the page.

12 Q. But you don't know the rough numbers of
13 people you sent to that page; correct?

14 A. No.

15 Q. All right. Exhibit Number 44. Again,
16 you did not author this document, did you?

17 A. No.

18 Q. And was it available online?

19 A. The Legislative agenda?

20 Q. Yes.

21 A. That document is not available online in
22 that form.

1 Q. But the information was available online?

2 A. Correct. When we receive that document
3 for layout, we review our policy pages to see if any
4 verbiage has changed and if verbiage has changed, we
5 will change it.

6 Q. Exhibit Number 51. You stated in your
7 direct that this survey is placed in a magazine;
8 correct?

9 A. Correct. The survey is a cover wrap of
10 the magazine.

11 Q. What magazine is that?

12 A. U.S. Chamber.com.

13 Q. You don't participate in gathering
14 results for the survey, do you?

15 A. The results are mailed back or faxed
16 back.

17 Q. The results are what?

18 A. Mailed back or faxed back to the survey
19 and statistics team.

20 Q. So what is your participation in the
21 survey?

22 A. Oversee the cover wrap design and we,

1 from a design standpoint, review the results to see
2 if any design changes are warranted.

3 Q. You mentioned it's another group that
4 does the analysis. Which group is that?

5 A. That does the analysis of the survey?

6 Q. Yes.

7 A. The statistics and research group
8 compiles the results and then the marketing group
9 analyzes it.

10 Q. Okay.

11 A. For the -- excuse me. For the May 2005
12 Edition, the marketing group did not exist yet. So
13 it would have been the editorial team would have
14 analyzed the results.

15 Q. So you, yourself, did not write this
16 survey; correct?

17 A. Correct.

18 Q. And you were not involved in the
19 substantive preparation of the survey?

20 A. In creation of the questions, no.

21 Q. And you were not involved in the analysis
22 of the survey; correct?

1 A. I was not involved in preparing this
2 report.

3 Q. What about analyzing?

4 A. We had a group meeting after this report
5 was prepared and went through, but our team is
6 really looking for design changes that need to be
7 made. I can't actually recall any design changes
8 that came out of this.

9 Q. You were not involved in the analysis of
10 this report out of that --

11 A. Can we pause for a minute?

12 Q. Sure.

13 - - -

14 (There was a pause in the proceedings.)

15 - - -

16 A. I'm sorry. What was the last question?

17 Q. Other than the design of the survey, you
18 don't participate in the analysis of the survey;
19 correct?

20 A. I did not prepare in the creation of this
21 report, compiling the results. The entire team sat
22 down to review the results to see what changes were

1 necessary.

2 Q. What changes in the design?

3 A. What changes in the design or the
4 presentation were necessary.

5 Q. Do you know why the survey was done?

6 A. The survey was done every year. It's
7 something they started when they began the magazine
8 and I think to large extent by 2005 it was done
9 because it had been done before.

10 Q. Do you know if the survey was posted
11 online?

12 A. The survey is not posted online.

13 Q. So who has access to the survey and the
14 results of the survey?

15 A. The access to the survey would be to
16 people who received a print version of the magazine.
17 The results of the survey would be, would only be
18 available internally.

19 Q. I see.

20 A. Or to anyone who received it from someone
21 internally.

22 MR. ELISEEV: Okay. No more questions.

1 BY MR. KANE:

2 Q. Just really quick. I'll hand you a
3 CD-ROM, just for the record, that's been marked as
4 USCC56735, and I'll show you what's been marked,
5 it's marked as Peck 41.

6 Is 41 a photocopy of the CD-ROM?

7 A. It is a photocopy of the CD-ROM.

8 Q. And for the record, I hand you a CD-ROM
9 labeled USCC56736, and I'll hand you Peck Exhibit
10 42. Can you please tell me if Peck 42 is a
11 photocopy of the CD-ROM?

12 A. The CDs were in the wrong cases. So
13 56735 was actually in the 56736 case. So I just
14 swapped them back. So this photocopy, Peck Exhibit
15 42, now reflects USCC56735.

16 Q. And 41, does that reflect what's in
17 USCC --

18 A. 56736.

19 MR. KANE: Okay, for the record, we will
20 be submitting copies of CD-ROMs to the Board, and
21 have you received copies of the CD-ROMs?

22 MR. ELISEEV: I can't tell sitting today.

1 I have to call back and check.

2 MR. KANE: If you haven't, let us know
3 and we will make copies and send them to you.

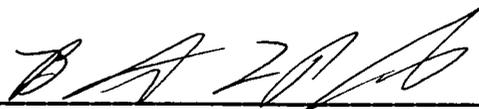
4 MR. ELISEEV: All right.

5 MR. KANE: No further questions.

6 MR. COLBERT: Thank you. I just wanted
7 to say for that for tomorrow morning we're
8 cancelling the deposition in the morning, Jennifer
9 Sheffield, but the afternoon is still on. Just so
10 you know that you don't have to be here until the
11 afternoon. Thank you.

12 - - -

13 (Whereupon, at 5:43 p.m. the taking of
14 the instant deposition ceased.)

15 

16 BRADLEY L. PECK

17
18 Subscribed and sworn to before me
19 this 24th day of September, 2007.

20
21 ALICIA R. HARRIS
Notary Public, District of Columbia
My Commission Expires May 31, 2011



22 (Notary Public)

My Commission Expires:

1 UNITED STATES OF AMERICA)

2 ss:

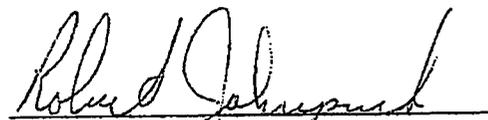
3 DISTRICT OF COLUMBIA)

4

5 I, ROBERT M. JAKUPCIAK, a Notary Public in
6 and for the District of Columbia, do hereby certify
7 that the within transcript is a true and accurate
8 record of the testimony of BRADLEY L. PECK under
9 oath and other proceedings in The Chamber of Commerce
10 of the United States of America v. United States
11 Hispanic Chamber of Commerce Foundation, Opposition
12 Number 91/156,321 and Serial Number 78/081,731. The
13 deposition was held at the offices of Kenyon & Kenyon
14 LLP, 1500 K St. N.W., Washington D.C., on Tuesday,
15 June 26, 2007, from 1:00 p.m. to 5:43 p.m. and in
16 the presence of both parties.

17 I further certify that I am not a
18 relative, employee, attorney or counsel of any of
19 the parties to this action and that I am in no way
20 interested in the outcome of this matter.

21 IN WITNESS WHEREOF, I have hereunto set
22 my hand this 9th day of July, 2007.


ROBERT M JAKUPCIAK

21 My Commission Expires:
22 December 14, 2008

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EXHIBIT 1

THE STATE OF AMERICAN BUSINESS

2004



THOMAS J. DONOHUE

President & CEO
United States Chamber of Commerce

USCC 55788

PECK EXHIBIT 1

Offered by Opposer, The Chamber of
Commerce of the United States of America

The Chamber of Commerce of the United
States of America v. United States Hispanic
Chamber of Commerce Foundation
Opposition Number 91/156,321

The State of American Business 2004

Foreword

It's finally here. After withstanding nearly three years of crises, scandals, and uncertainties—including terrorist attacks that aimed a dagger at the heart of our enterprise system—the American economy is undergoing an unambiguous, balanced, and job-creating recovery.

In response to the weak economy it inherited and a series of subsequent shocks, the Bush administration made tax reduction the centerpiece of its economic policy—three major cuts amounting to \$1.7 trillion in relief. The Chamber helped lead the fight for this tax relief. The results—and the vindication—of this approach are now in plain view for all to see.

Tax cuts helped consumers hang in there through uncertain times. The Federal Reserve's low interest rate policy kept the housing boom going and boosted household wealth, which mitigated losses in the stock markets. The expansion of free trade and the productive efficiencies created by globalization helped control inflation by providing Americans with a wide choice of competitively priced products.

As we confront the challenges of 2004 and beyond, we must not ignore the lessons that brought us through troubled times to today's position of strength and potential. In an election year, with the pressures and temptations of politics so strong, the Chamber will strongly challenge those who would reverse course by raising taxes, closing markets, expanding

The Chamber will strongly challenge those who would reverse course by raising taxes, closing markets, expanding litigation, and smothering small and large businesses with more regulations.

litigation, and smothering small and large businesses with more regulations. Instead, we offer a positive vision of what the American economy can accomplish by embracing an ambitious package of economic reforms to ensure our nation's sustained growth and competitiveness.

There has been much debate recently over whether the American economy is losing jobs to China, India, and other countries. While many of the assertions in this debate have been wrong, the issue of America's competitiveness is precisely the issue we should be examining. As our economy gathers strength, this is the ideal time to address the fundamental structural challenges that add significantly to the cost of doing business in the United States.

In 2004, the Chamber will vigorously advance a series of immediate priorities and longer-term reforms to reduce these costs and boost the job-creating capacity of our economy.

To succeed in this endeavor:

- The nation can no longer afford to squander its productive capital on frivolous litigation, an antiquated tax system, and outmoded and unfounded regulations.
- Our economic base must be wired with the best technologies, fueled with a secure and affordable energy supply, and interlinked with the safest and most efficient transportation modes and facilities.
- Our companies must be able to trade around the world under free and fair rules so that they can meet their customers' needs and create jobs and economic strength here at home.
- Burdens should be removed from small businesses and entrepreneurs so that these vital engines of growth and opportunity can prosper.

USCC 55790

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- We must remain a free and open society that works with the world and welcomes tourists, scholars, workers, businesspeople, investors, and products—even as we fight a critical and necessary war on terror.
 - The learning and earning potential of every American must be strengthened through better education and job training, just as we need to adopt immigration policies that recognize the demographic realities of society.
 - We must find innovative ways to meet the health and retirement needs of our people without bankrupting companies or unfairly burdening younger generations of workers.
 - Companies and employees must have the flexibility to remake themselves so that they can succeed and grow, always remaining on top and ahead of the curve. This means stopping excessive corporate governance and accounting rules, modernizing outdated labor laws, and resisting efforts to “punish” firms for sourcing around the world to meet their needs.

This nation has lifted itself out of a trough in the business cycle. We must now lift our sights even higher—by addressing the fundamental structural challenges that confront our economy. This is the wrong time to be complacent. It’s the right time to up the ante. In our annual *State of American Business* report that follows, you will learn how the Chamber of Commerce of the United States plans to do just that in what promises to be a watershed year for business, the economy, and our nation.

Thomas J. Donohue
Washington, D.C.
January 2004

USCC 55791

WHAT'S INSIDE

2003 in Review 6

A job-generating economic recovery is under way. In 2003, the Chamber and its business allies helped by securing a number of important policy successes—led by tax cuts, legal reform, transportation funding, Medicare reform, and victories for business in the courts.

2004 Economic and Political Outlook 11

The economy will grow substantially throughout 2004, but the spotlight will be on business during a fierce election-year debate over the country's future direction. The Chamber will lead the business response through a major political program, aggressive grassroots and communications efforts, and a high profile at national and international gatherings.

The 2004 Agenda 13

In addition to helping elect a pro-business Congress, the Chamber will push an ambitious policy agenda comprised of immediate 2004 priorities and a comprehensive program to ensure America's competitiveness.

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The Chamber will advance an aggressive legislative agenda as soon as Congress returns for what will be a compressed, election-year legislative calendar.

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Ensuring America's Competitiveness 16

The Chamber has identified eight core competitive challenges that the nation must begin addressing this year in order to sustain U.S. growth and prosperity in the future.

Conclusion—Securing Our Future 29

The Chamber will secure its own institutional future through an unprecedented Capital Campaign that seeks to raise a minimum of \$150 million in reserve funding over three years.

About the U.S. Chamber 31

2003 in Review

Observers were surprised when it was initially announced that the U.S. economy had expanded by 7.2 percent in the third quarter of 2003. When that figure was revised to 8.2 percent, they were stunned. It was the best quarter in more than two decades.

That wasn't the only good news to boost the confidence of businesses and consumers as 2003 drew to a close. Business fixed investment, investment in equipment and software, new construction, and manufacturing activity all posted solid gains. Productivity continues to soar. The economy is creating new jobs again—328,000 net jobs from July to November 2003.

As we begin 2004, the U.S. economy has clearly regained its footing. A so-called jobless recovery has been replaced with a broad-based, job-generating expansion.

**As we begin 2004,
the U.S. economy
has clearly regained
its footing.**

The business community helped create the environment for this expansion by convincing policymakers to move forward on a number of key business issues. Here are some of the major achievements of 2003:

Jobs and Growth Tax Relief Package

The Chamber played a leading role in securing \$330 billion in net tax relief, which includes individual tax rate reductions, a cut in dividend and capital gains tax rates, a 50 percent bonus depreciation, and increased small business expensing.

Legal Victories

The Chamber's law firm, the National Chamber Litigation Center (NCLC), entered a record 72 cases and helped win 29 of those decided to date. The most significant was *State Farm v. Campbell*—

in which the U.S. Supreme Court overturned a punitive damage award that was 145 times greater than the compensatory damages. This historic case set standards for lower courts to follow in other punitive damage cases. The application of these standards has already saved companies hundreds of millions of dollars and will potentially save billions in the future.

Legal Reform

Backed by the Chamber's Institute for Legal Reform (ILR), landmark class action reform legislation passed the House and made it to the Senate floor with 59 senators voting to end a filibuster. This "near miss" triggered renewed negotiations with several additional senators, and a resulting compromise has set the stage for a successful vote in early 2004. The Chamber also brought competing interests closer together in the drive to find a solution to runaway asbestos litigation—an effort that will continue in the New Year.

Also, ILR moved legal reform forward in Mississippi, West Virginia, and Texas by publicly ranking the states according to their legal climates and by launching concerted lobbying, advertising, and public education campaigns. Seminal research covering mold, pharmaceuticals, and obesity litigation helped expose the impact of spurious lawsuits in key industries.

Trade Expansion

The Chamber's International Division founded and led coalitions that helped convince Congress to pass the Singapore and Chile free trade agreements. We led a successful campaign to repeal a Belgian law on universal jurisdiction that would have subjected U.S. companies and executives to spurious litigation and criminal investigations. This success will help stymie similar laws in other countries.

We had a major presence at recent Free Trade Area of the Americas and World Trade Organization ministerials. During important bilateral meetings with leaders from France, Germany, Spain, Italy, and China,

The Chamber's International Division founded and led coalitions that helped convince Congress to pass the Singapore and Chile free trade agreements.

we helped keep trading relationships on track during a period of international tension. The Chamber issued a strongly worded report calling on China to move faster on implementing commitments it made when joining the WTO.

Medicare Reform and Modernization

The Chamber supported and lobbied for the most sweeping overhaul of Medicare since the program's creation in 1965. In addition to a first-ever prescription drug benefit, the bill provides private employers with \$70 billion in payments while moving Medicare away from a standard,

universal benefit system operated solely by the government. Key reforms include tax-advantaged health savings accounts and the introduction of cost containment, means testing, and private plan competition.

Transportation

The Chamber-led coalition, Americans for Transportation Mobility, helped convince lawmakers to renew AIR-21, covering the nation's aviation system, and to temporarily continue funding for the core surface transportation program, TEA-21. Interruptions in these programs would have caused major layoffs and project delays.

Excessive Regulations

While backing reasonable regulations to protect the environment and public safety, the Chamber and its allies supported EPA's effort to improve its new source review program—a decision that will allow power plants to modernize and replace old parts without violating unclear regulatory standards. An unworkable plan to reduce greenhouse gases was defeated in the Senate. A new Healthy Forests Initiative was enacted, marking an important step toward multiple uses of our forests.

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Regulations jeopardizing the solvency of unemployment trust funds by providing paid family leave were repelled, and efforts to again establish unworkable ergonomics standards were turned back.

Energy

A Chamber-backed coalition helped steer comprehensive energy legislation through both houses of Congress and then through a conference committee. A filibuster derailed final passage in 2003, making enactment of this plan a priority for 2004. Increasing energy production and efficiency, modernizing the power grid, ensuring the continuation of safe, clean nuclear power, and developing new energy technologies are major parts of this plan.

Small Business

The Chamber fought to make tax relief benefiting smaller enterprises a key component of recently enacted tax packages—including repeal of the death tax, reduction in personal income tax rates, cuts in dividend and capital gains taxes, and a temporary quadrupling of small business expensing. We also launched a small business Web site, successfully lobbied for Small Business Administration (SBA) lending authority, and held successful “matchmaking” programs for minority and women-owned businesses across the country through our Access America outreach program.

Fair Credit Reporting Act

Reauthorizing the Fair Credit Reporting Act (FCRA) was a major 2003 priority for business and the Chamber, and it has been accomplished. FCRA creates a uniform system of rules and obligations for reporting on the credit activity and history of U.S. consumers.

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Anti-Spam Legislation

A balanced measure designed to rein in unwanted e-mail has been enacted. Of major significance to business, this legislation also preempts state anti-spam laws—including a California law that was to take effect in January and which would have greatly expanded litigation directed at the business community.

Homeland Security and Mobility

The Chamber succeeded in defeating deadlines and regulatory proposals that would have impeded international tourists and visitors from entering the United States. We also created a new Homeland Security Policy Division. Staff from this division, advised by a task force of member companies, meets regularly with federal officials to ensure that economic impacts are considered without sacrificing security.

Corporate Governance and Accounting Rules

While supporting many corporate governance, accounting, and financial reporting reforms, the Chamber has worked to stop excessive requirements that add unnecessary cost and confusion to corporate decision making. We helped convince regulators to exempt foreign-listed firms from some contradictory requirements triggered by Sarbanes-Oxley that would have put these firms in violation of their own domestic laws. Legislative efforts to gratuitously require CEO signatures on corporate tax returns have been turned back. The Chamber has also gathered and submitted extensive comments in several rulemakings on topics such as defining auditor independence and the Securities and Exchange Commission's proxy proposal.

Business Advocacy

In recognition of the Chamber's role as the preeminent voice of business, the number of reporters covering Chamber activities increased 52 percent in 2003. The Chamber's federation of local chambers, industry associations, and small businesses continues to grow stronger and played a pivotal role in convincing Congress to pass important legislation.

The National Chamber Foundation—the Chamber's public policy futures group—had its most active and successful year ever, conducting a record 68 events on vital business issues such as cargo security, tourism, immigration, and counterfeiting. The Foundation has become a major force in leading the business debate nationwide and in creating critical momentum for economic reform and policy innovation.

The Chamber's influence and advocacy were also bolstered by solid membership and revenue growth. Major strides were achieved in strengthening the organization's small business membership base. From 1997 to 2003, the budget of the Chamber and its affiliates grew by 250 percent. Independent media reports appearing in 2003 (using 2002 data) ranked the Chamber's ILR and the Chamber itself as the two largest Washington business lobbies in dollar terms.

2004 Economic and Political Outlook

The Chamber is forecasting 4.8 percent real growth for the year and a balanced economic performance that includes solid advances in consumption, residential investment, business fixed investment, and net exports.

The unemployment rate will drop slowly to 5.5 percent by the end of 2004. Core inflation will remain under 2 percent.

The improving economy, along with the ascendancy of the Iraq issue, might be expected to diminish the role of economic concerns in the 2004 elections. We have a different view. Despite recent gains, many workers and businesses are still struggling, and much work must still be done to secure our recovery and future prosperity. As the two

Independent media reports appearing in 2003 ranked the Chamber's ILR and the Chamber itself as the two largest Washington business lobbies in dollar terms.

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parties grid for one of the most philosophically divisive national elections in decades, we expect the full array of issues surrounding jobs, trade, and the role of business to be front and center in an intense debate over the nation's future and its place in the worldwide economy.

In 2004, the Chamber will lead business' participation in this debate. We will do this in politics, where we will direct unprecedented resources to at least 33 of the most competitive congressional races—24 House contests and 9 Senate races—tough, close elections that will determine whether the next Congress is pro- or anti-business. The Chamber will hold fund-raisers and endorsement events, put expert political organizers on the ground in key districts, and launch a massive get-out-the-vote campaign through programs such as VoteForBusiness.com—which we developed to assist companies in registering their employees and educating them about the candidates. These efforts will help turn out the business vote like never before.

ILR will educate voters about important state Supreme Court, attorney general, and gubernatorial races. Since the inception of IRL's

voter education program in 2000, 34 out of 42 pro-legal reform candidates have been elected. A record number of contests will be considered for ILR involvement in 2004.

The Chamber will direct unprecedented resources to at least 33 of the most competitive congressional races—24 House contests and 9 Senate races—tough, close elections that will determine whether the next Congress is pro- or anti-business.

The Chamber will also keep its entire federation of business organizations and grassroots activists on "high alert" throughout the year. We will attend the two parties' national conventions. We will be on-site at major international trade negotiations. We will advance

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the business viewpoint through a concerted media offensive. Our National Chamber Foundation will bring thousands of policymakers and businesspeople together to meet on issues such as homeland security and corporate governance.

In what promises to be a high-stakes year of partisan politics, we will not permit any attack on the business community to go unanswered. Despite the upcoming elections and a compressed congressional calendar, we will press forward with a vigorous agenda on all fronts. In short, in 2004, the Chamber will up the ante with a program of work as big as the challenges facing our nation.

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The 2004 Agenda

Helping elect a pro-business Congress, educating voters about pro-legal reform candidates in the states, and protecting the interests of business in a political year will be principal Chamber goals in 2004. We will also pursue an ambitious policy agenda focusing on two overarching objectives:

- To convince Congress and the administration to complete action on **immediate business priorities** that will underpin our recovery and position our economy for long-term growth.
- To **ensure America's competitiveness** by launching a comprehensive program to address eight serious structural challenges facing the business community.

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Immediate 2004 Priorities

- **Pass the Class Action Fairness Act**
After falling one vote short in the Senate last November, a compromise has been reached with several senators that should bring the additional votes needed to end the most egregious class action abuses by moving many cases to federal courts.
- **Achieve an asbestos litigation solution**
The Chamber will continue to help broker an agreement to stop the abuses that have already bankrupted more than 60 companies, threaten many more, and deny the truly sick the compensation they deserve.
- **Pass comprehensive energy legislation**
A Chamber-led coalition will seek an acceptable compromise bill that encourages domestic production of oil, gas, hydro, and nuclear power; modernizes our power grid; and creates incentives for greater efficiency and the development of new technologies.
- **Reauthorize transportation programs**
Congress must reenact and expand the nation's core transportation programs—covering roads, aviation, public transportation, waterways, and ports—to ease congestion, clean the air, improve economic efficiency, and save lives.
- **Enact a 30-year Treasury Bond “fix” for pension plans**
Urgent Senate action is needed to finalize a measure that temporarily replaces the 30-year Treasury Bond rate with a corporate bond index rate. Congress must also move quickly on multiemployer pension reform and other measures to strengthen private pensions.
- **Replace FSC/ETI tax provisions with business tax reform**
To avoid \$4 billion in WTO-approved punitive tariffs against U.S.

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exports, legislation is urgently needed to replace the FSC/ETI provisions with incentives to stimulate U.S. exports and reduce the tax disadvantages afflicting our companies when they compete around the world.

- **Extend temporary tax credits and incentives**

The Senate must follow the House in extending a series of expiring tax provisions to further fuel our recovery, including net operating loss carryback, brownfields

remediation expensing, the Welfare to Work credit, MSAs, and Section 809 relief.

- **Modernize overtime rules**

The omnibus spending bill, passed by the House and pending in the Senate, would allow the administration's plan to modernize overtime rules to move forward. These rules haven't been modernized in 50 years, and the confusion over who qualifies for overtime has spawned an explosion in workplace litigation.

- **Pass association health plans and legislation reimbursing small businesses for legal fees**

Association health plans (passed by the House and pending in the Senate) would allow small firms to band together to affordably provide coverage for workers. Changes to the Equal Access to Justice Act would automatically reimburse small businesses for legal fees when they successfully challenge government regulators in court.

Congress must reenact and expand the nation's core transportation programs—covering roads, aviation, public transportation, waterways, and ports—to ease congestion, clean the air, improve economic efficiency, and save lives.

- **Make Bush tax cuts permanent**

With the possibility of a change in government and the lack of certainty in tax policy diminishing economic activity, temporary tax-cut provisions such as the repeal of the death tax and income tax rate reductions should be made permanent.

- **Conclude and enforce free trade agreements**

The Chamber will campaign for congressional approval of free trade agreements with Australia as well as Central America and the Dominican Republic. We will work with the U.S. Trade Representative to ensure that commercially meaningful agreements are negotiated with four Andean countries, Panama, Thailand, several Middle Eastern and Southern African countries, and the 34 countries involved in the Free Trade Area of the Americas.

- **Stop “election-year measures”**

In an election year, the Chamber expects to be called on many times to beat back a wide array of politically appealing but economically harmful measures—such as health care mandates, a minimum wage increase, isolationist trade policies, punitive anti-business measures, and union-backed efforts to end secret ballot elections when workers vote to organize.

Temporary tax-cut provisions such as the repeal of the death tax and income tax rate reductions should be made permanent.

Ensuring America’s Competitiveness

Enacting these immediate priorities would constitute a significant “down payment”

on a broader program of comprehensive reforms to ensure America’s competitiveness and our ability to keep and create more jobs in this country.

The debate over competitiveness is not new, yet it came into sharp focus in 2003 as the economy grew but companies continued to lay off workers and, in some cases, moved both manufacturing and service jobs overseas.

In the case of manufacturing, it is not only the flight of jobs overseas but also continued improvements in productivity as well as the recession that explain the recent decline in employment. Sourcing in the service sector must also be viewed in context. Even the most drastic forecast, issued by Forrester Research, predicts that 3.3 million service jobs—out of a private sector workforce of more than 135 million—could be shifted over the next 15 years.

The decades-long decline in manufacturing employment, along with anecdotal examples of companies hiring white-collar workers offshore, has prompted many to blame our trading partners, advocate isolationist trade policies, and criticize U.S. executives who are only trying to succeed and stay ahead of the curve in an economy that is worldwide.

In fact, while stronger enforcement of trade agreements is important, we must also change our own domestic anti-growth policies. For years, the business community has warned policymakers that the accumulating burdens of excessive federal and state regulations, an out-of-control legal system, an archaic tax code, and precarious energy supplies could someday make it prohibitively expensive to expand or maintain U.S. operations and employment.

While stronger enforcement of trade agreements is important, we must also change our own domestic anti-growth policies.

Jobs can stay and be created in the United States—good, high-paying knowledge jobs and technologically sophisticated manufacturing jobs—if the nation embarks on a program of economic reform and renovation.

Many of these warnings have gone unheeded, and many American workers are paying the price. Some of the lost jobs will never be restored, and workers who have held those jobs deserve retraining and adequate support during their transition.

Yet many more jobs can stay and be created in the United States—good, high-paying knowledge jobs and technologically sophisticated manufacturing jobs—if the nation embarks on a program of economic reform and renovation.

We must begin now to address eight critical competitive challenges facing our country:

1. Reducing Excessive Legal, Tax, and Regulatory Costs

Legal reform: The legal system has run amok and imposes a \$233 billion lawsuit abuse tax on the American economy, making U.S. companies less competitive and resulting in the transfer of incredible wealth from production, services, facilities, and jobs to trial attorneys.

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The U.S. Chamber's Institute for Legal Reform was founded six years ago and has successfully launched a multifaceted campaign to reduce litigation's severe drag on our productive economy through federal and state legislation, court action, voter

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education, targeting problem jurisdictions, research, and the rebranding of the plaintiff's bar in the eyes of the public. This campaign will be expanded on all fronts in 2004 and in years to come. The Chamber will also significantly increase the legal activism of the Litigation Center.

Tax reform: The tax system is overly complex, unnecessarily burdensome, and inefficient. In recent years, important incremental reforms have been achieved to lower marginal rates, reduce the multiple taxes on capital and saving, and establish more effective cost recovery on investment. We must now expand on this beginning and make these changes permanent.

However, international tax rules have not been changed significantly for more than 40 years. American businesses are being held back and frequently double-taxed by the U.S. tax code. While many countries do not tax income earned outside their borders, the United States taxes income wherever it is earned. Our tax code needs provisions that allow U.S. companies to be more competitive.

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The most pressing concern is the imminent repeal of the FSC/ETI provisions of the code, which have been declared WTO-illegal. Double taxation must be prevented by improving foreign tax credits. Subpart F rules also must be reformed.

Regulatory burden: The annual cost of the regulatory process is approaching \$1 trillion—a tax that exceeds by four times what companies pay in corporate income taxes.

In recent years, the Chamber has been instrumental in imposing data access, data quality, and peer review requirements on federal

The annual cost of the regulatory process is approaching \$1 trillion—a tax that exceeds by four times what companies pay in corporate income taxes.

regulations. These powerful tools create the potential for a regulatory revolution—a revolution we must have to reduce the enormous amounts of productive capital now being wasted with little or no benefit to the public. The objective of business is not to undo legitimate health, safety, and security protections but to ensure that rules are based on sound science, that they deliver true benefits, and that companies are measured on performance rather than on paperwork and bureaucracy.

2. Expanding America's Energy, Transportation, and Technology Infrastructure

Energy: The country lacks a comprehensive energy policy and desperately needs one if it is to remain the world's leading economy. Restrictions on our ability to develop new supplies of energy have increased our dependency on foreign sources and have placed our economic and national security at increasing risk.

Moreover, the nation's energy infrastructure is outdated and lacks reliability. Our electrical grid system was developed more than a half century ago. We have not built a new refinery or nuclear power plant since the 1970s, and we need to build hundreds of thousands of miles of natural gas transmission and distribution lines just to meet the demands of the next decade. More oil, gas, and coal must be retrieved. If they are not, important industries such as chemicals will be forced to increasingly move their plants and jobs out of the United States to be closer to energy supplies.

Convincing the Senate to pass comprehensive energy legislation is a vital first step. By some estimates, however, the nation needs to invest more than \$3 trillion into its energy infrastructure to meet future demand. Without this investment, we will lose our competitive advantage in the world.

The country lacks a comprehensive energy policy and desperately needs one if it is to remain the world's leading economy.

Transportation: With almost 4 million miles of public roads and bridges, more than 5,000 airports, 170,000 miles of track, 7,500 miles of subway and urban commuter track, and 9,000 commercial docks, wharves, and piers, the U.S. transportation network is an extraordinarily vital and valuable asset—and one we can no longer afford to neglect. Yet improvements have been stymied by inadequate funding and interminable delays caused by excessive regulations and litigation.

Reauthorizing the core transportation programs covering surface transportation, aviation, and waterways and ports is a critical step, but these programs must soon be significantly expanded to match expected growth, enhance competitiveness, reduce pollution, and improve safety.

Technology: Technology is the driving force behind innovation and productivity. Yet federal regulators are stifling technological advances by managing competition in the marketplace.

For example, the current disparities and costs in the regulatory system and the uncertainty that they create are major reasons why the investment world has been cold on the telecommunications sector. This lack of investment has translated into the loss of 617,000 jobs since January 2001.

In addition, the country lacks a comprehensive approach to introducing broadband, the always-on, high-speed Internet access that would provide benefits to nearly all sectors of the economy and allow us to remain globally competitive. Other countries, notably

South Korea, are ahead of the United States, and we are playing catch-up. Congress has stalled for more than five years in producing legislation that would enable rapid deployment of broadband technologies.

The United States cannot afford to squander its global leadership in technology.

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3. Expanding Trade to Help Companies and Workers Succeed

The European Union has 32 free trade agreements around the world. The United States has just five. The restoration of Presidential Trade Promotion Authority has given us an opportunity to catch up. It is critical that we advance additional bilateral trade agreements, along with regional pacts like the Free Trade Area of the Americas and the Doha Development Round of multilateral talks.

The Chamber will continue to press China to move more quickly and thoroughly to implement its WTO commitments. Our National Chamber Foundation will launch a major multi-industry program to reduce counterfeiting and intellectual property theft around the globe, which is costing U.S. companies tens of billions of dollars per year. We will work with counterpart organizations in Europe to stop excessive EU regulations, such as the proposed chemicals directive and barriers targeting biotechnology and genetically modified foods.

Strengthening business-to-business ties in South Asia, a region of tremendous opportunity, will be a top Chamber priority—as will

increasing commercial ties with the Middle East. Through our Center for International Private Enterprise (CIPE), the Chamber is providing the tools necessary to establish democracy, freedom, rule of law, and free market principles in undeveloped and unstable countries—most recently in Afghanistan and Iraq.

Business and government together must address America's negative image in many societies and the growing isolationism at home and abroad. To assist in this effort, TradeRoots, the Chamber's grassroots trade education and development program, will conduct more than 60 programs in 35 states in 2004.

We must stop the unwarranted loss of international business opportunities caused by unduly restrictive export controls, bureaucratic delays in the processing of business visas for investors and customers traveling to our country, and overly restrictive new security rules on the movement of goods across our borders.

4. Strengthening Small Business and Entrepreneurship

Small business is the backbone of the American economy, leading us to recovery today and innovation and job growth throughout our history.

Nevertheless, governments at all levels continue to punish small business and threaten to smother the spirit of entrepreneurship that powers our economic and community life. Regulations imposed by government disproportionately impact smaller firms. For example, the cost per employee of complying with environmental regulations is \$3,328 for companies with fewer than 20 workers but just \$717 for firms with more than 500 workers.

Business and government together must address America's negative image in many societies and the growing isolationism at home and abroad.

From tax, legal, and regulatory reform to health care and privatization of some government work, much of the Chamber's core agenda has been designed to boost small businesses and help them succeed.

Access to capital is the number one hurdle facing small companies. Scarce capital can be put to more productive use by reducing the regulatory burden, stopping frivolous lawsuits, making recent tax relief measures permanent, and working to further reduce costs through relaxed rules on auto depreciation and other business expenses.

The small business sector has a vital role to play in expanding commercial ties across the globe.

Lending authority through the Small Business Administration must be extended, and special outreach programs must be expanded to further one of society's most encouraging

recent developments—the vast increases in the number of women, Hispanic, and other minority-owned enterprises. Many of these entrepreneurs are uniquely equipped to build commercial bridges between the U.S. economy and emerging markets around the world. The small business sector thus has a vital role to play in expanding commercial ties across the globe.

5. Maintaining an Open Society and a Mobile Economy During a War on Terror

With \$7 trillion in goods and more than 400 million individuals moving through our ports and borders each year, securing the homeland while retaining mobility and freedom is a mammoth challenge.

The impact on the travel and tourism industry, one of America's largest, has been severe. A 25 percent decline in foreign travel to the

United States from 2000 to 2002, resulting in the loss of \$15 billion in revenues, is just one troubling example.

We must take steps to enhance security in cargo, in our airlines, at border crossings, in the issuance of visas, and in critical infrastructure—but these efforts must be effective, practical, and conducive to the demands of the global economy and the values of a free society.

In particular, recent efforts to overhaul the granting and processing of visas to foreign businesspeople, tourists, health specialists, and students have been unrealistic. Proposals to more thoroughly inspect air cargo and seagoing containers have been ill-conceived. Security measures at airports need to be constantly reexamined to ensure the continued viability of air travel.

It is imperative that we maintain the proper balance between security and the flow of commerce and people. We must uphold our civil liberties and legal protections. Protecting the homeland must be a top priority, but in doing so, we must also exercise the utmost care to preserve the vitality of our economy—the engine that materially contributes to our national defense and our way of life.

6. Educating, Training, and Finding Qualified Workers

As it leads the Chamber's efforts to help the business community find qualified workers, our Center for Workforce Preparation (CWP) reports that 75 percent of today's workers must be retrained to remain proficient in their current jobs.

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With 80 percent of jobs requiring some form of postsecondary education or training, the quality of schools and training opportunities at all levels will be critical to our continued success in the global economy. CWP is working with local chambers and business communities on specific strategies to help companies hire, train, retain, and advance qualified workers. The expansion of these initiatives is essential. Business must also continue to be a leading force in the nationwide public school reform and accountability movement.

We must also face the demographic reality that job growth will soon outpace labor force growth and that this will be a drag on our economy—unless business has the flexibility to utilize the international workforce. Immigration must be a part of the solution, just as it has been throughout history. We must create expanded visa programs, both temporary and permanent, to meet workforce needs at both the entry-level and highly skilled ends of the spectrum, and we must find a way to legitimize the status of millions of hardworking immigrants already within our borders.

7. Controlling Medical Costs and Providing Retirement Security in an Aging Society

Several years of double-digit premium growth, in addition to a weak economy, have forced employers to shift more health care costs to employees and in some instances to drop coverage. Litigation, duplicative regulations, and the unintended consequences of 1,500 state and federal mandates make up a significant share of rising health care costs.

We can help reduce health care costs, expand access, and improve quality by passing medical liability reform; eliminating fraud and regulatory burdens; resisting new mandates at the state and federal levels; and enacting market-based measures such as pooled purchasing for small employers (association health plans), targeted refundable tax credits, and equitable tax treatment for individuals who purchase their own health coverage.

The nation's public and private sector pension systems are also under tremendous stress and are undergoing major changes. In recent years, the share of workers participating in an employment-based retirement plan has declined and by 2002 stood at 42 percent. In the defined benefit system, the number of plans has dropped dramatically as many employers have moved to other options such as cash balance plans.

The nation's public and private sector pension systems are under tremendous stress and are undergoing major changes.

Significant changes are needed, including replacing the 30-year Treasury Bond rate, increasing the contributions workers can make to 401(k) plans and IRAs, and funding reforms for multiemployer plans. The Pension Benefit Guaranty Corporation must remain a viable institution. And Congress must resist the temptation to overregulate plans and constrain employer options.

The accumulating burden of health and retirement "legacy costs" extends to government entitlements as well. Business should—the Chamber certainly will—lead the charge in support of adding a private investment component to our Social Security system. Without comprehensive entitlement reform, the level of payroll tax increases needed to maintain the current system would be so prohibitively high that it would derail any effort to keep America competitive in the years ahead.

8. Restoring Management Flexibility in Corporate Governance, Accounting, and Workforce Rules

The aftermath of the 2002 corporate scandals produced legislation that was supposed to address issues of accounting, auditing, reporting, and corporate governance in order to restore investor confidence in business and financial markets. While some needed improvements

were made, the legislation has also created a dysfunctional regulatory system that confuses the roles of the accountants, auditors, corporate managers, and investors. This translates into more policies, more procedures, more risk assessment, more analysis, more scrutiny—and more expense.

In this new regulatory environment, companies will have to add financial staff and pay significantly higher auditing fees—projected by one source at 20 percent to 200 percent over pre-Enron/Andersen fees. In some cases, independent auditors are being retained to audit company auditors.

Corporate governance costs are also on the rise, with companies spending hundreds of thousands to many millions of dollars to comply with a maze of new rules. Multiplied over the entire economy the combined diversion of productive capital to nonproductive and duplicative regulatory compliance is enormous.

We must ensure that companies have the flexibility to move quickly to seize opportunities and outpace their competitors.

Of equal concern are rigid labor laws that impair the ability of companies to create efficiencies, reduce unnecessary costs, and adjust to new market realities.

While vigorously punishing corporate wrongdoers, we must ensure that companies have the flexibility to move quickly to seize opportunities and outpace their competitors. They must be free to take reasonable risks, to innovate, and to reach all around the global supply and manpower chain to maximize productivity, profit, and shareholder value. On an economywide basis, these qualities—which have been hallmarks of American economic success—will create attractive jobs, raise standards of living, and boost the value of the savings and investments of workers, retirees, and families.

Conclusion—Securing Our Future

Economic growth is the foundation of a secure America and a peaceful and prosperous world. It is only through sustained growth that we can generate the public and private revenues needed to implement the programs in this report, increase the living standards of Americans, and protect the security of the nation.

Recent experience has taught us that forecasts, plans, and agendas for the future—in business, in economics, in politics, and in global affairs—can be upended without warning. The Chamber and the business community enter 2004 with growing confidence about the economy but ever mindful of the known and unknown challenges that lie ahead.

The best preparation for unknown challenges is to vigorously tackle the ones we know and not push them onto the next Congress, the next administration, or a future generation. Climbing to the top of a business cycle is not good enough. We must climb atop higher peaks of economic growth, innovation, and excellence. We can do this by successfully enacting both a series of immediate policy priorities in 2004 as well as a longer-term program to remove impediments and boost our competitiveness.

To provide the vital business leadership needed to meet known and unknown challenges, this institution must also grow stronger and prepare itself for the future. 2004 marks the beginning of the public phase of an unprecedented three-year effort dedicated to *Securing the Future of the Chamber of Commerce of the United States* through a Capital Campaign with a minimum goal of \$150 million.

With this foundation of reserve funding, the Chamber will be ready to meet any challenge or threat to the business community or to the continuity of our institution. We will underpin the work of the Institute for Legal Reform, upgrade and maintain our historic

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headquarters and other facilities, and expand our policy expertise and influence on the critical business issues outlined in this report. Major early gifts have already moved us significantly toward our goal.

As the Chamber prepares to celebrate its centennial in 2012, we hope that the scope and ambition of the Capital Campaign signal our absolute commitment to stand up and

fight for businesses of all sizes and to protect and defend the free enterprise system from any threat or detractor as we work to create a more prosperous and hopeful future for all Americans.

About the U.S. Chamber

The U.S. Chamber of Commerce is the world's largest business federation. Our federation includes:

- 3 million businesses
- 2,800 state and local chambers of commerce
- 830 business associations
- 96 American Chambers of Commerce in 84 countries

Members include businesses of all sizes, sectors, and regions. Most of the nation's largest companies are active Chamber members; more than 96 percent of our members are small businesses with 100 employees or fewer.

The Chamber's core mission is to fight for business and free enterprise before Congress, the White House, regulatory agencies, the courts, the court of public opinion, and governments around the world.

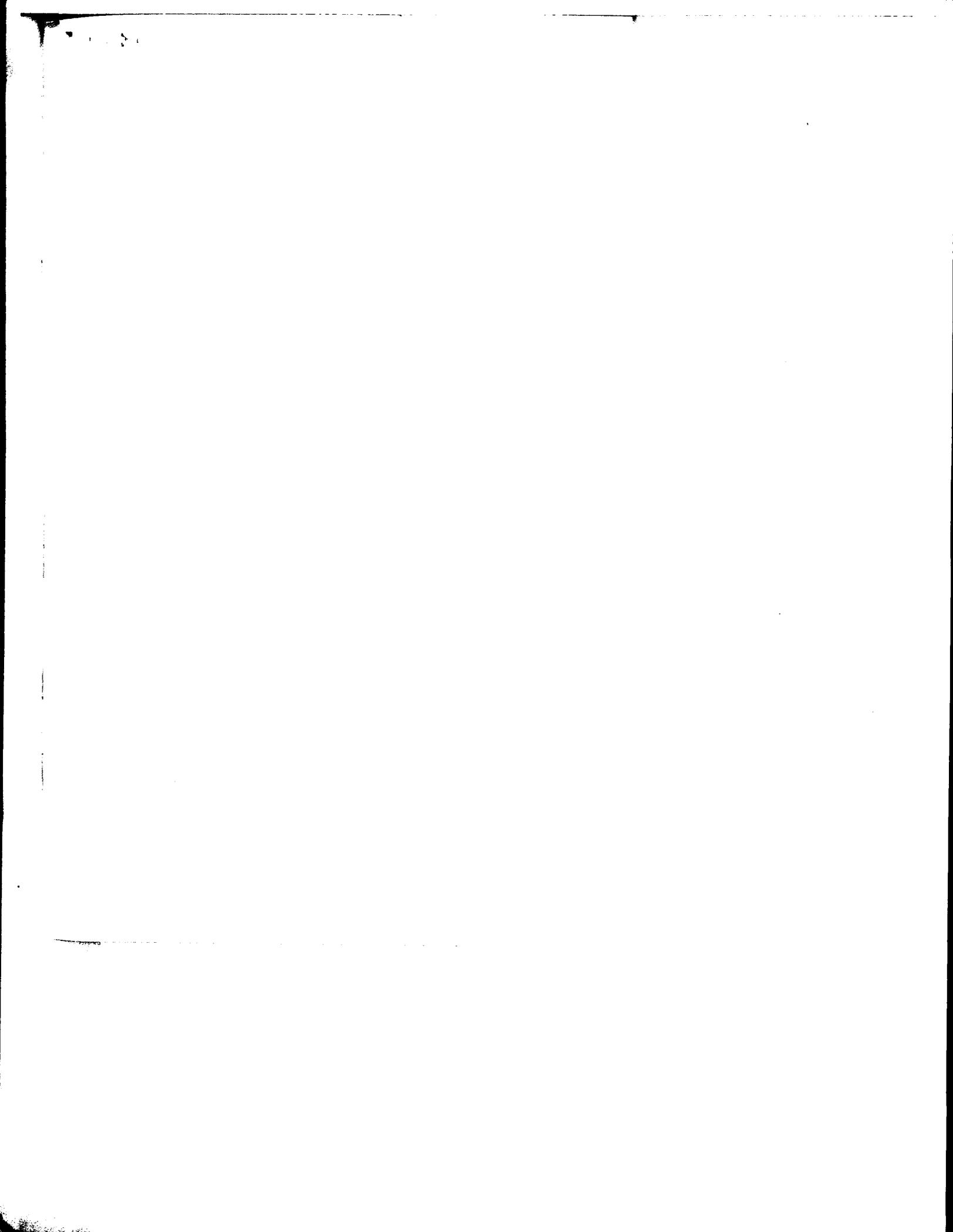
From our headquarters, located directly across Lafayette Park from the White House, the Chamber maintains a professional staff of more than 300 of the nation's top policy experts, lobbyists, lawyers, and communicators. Their efforts are supported by eight regional offices around the country, offices in Brussels and Hong Kong, and a network of grassroots business activists who, at our urging, contact representatives to influence votes on business issues in Congress.

Distinctive Chamber assets and capabilities also include the following:

- **The National Chamber Litigation Center**—our law firm that defends business interests and sues government agencies.
- **The Institute for Legal Reform**—the Chamber affiliate that challenges frivolous litigation on many fronts, fights for legal

reform legislation, and educates voters in state judicial and attorney general races.

- **The National Chamber Foundation**—our public policy futures group that advances business arguments and influences the nation's policy agenda on vital issues.
- **The Political Program**—the Chamber's aggressive political action component that endorses, supports, raises money, and turns out the vote for pro-business congressional candidates from both parties who are engaged in key races.
- **The International Division**—a team of regional and policy experts covering all major and emerging markets who provides advocacy, services, and programs to create new opportunities for U.S. companies and manages the Center for International Private Enterprise.
- **TradeRoots**—a sustained grassroots trade education program supporting free trade legislation and helping chambers, communities, and governors assist small and medium-size companies expand into the global marketplace.
- **The Center for Workforce Preparation**—the Chamber affiliate that focuses on workforce development and education issues.
- **The Center for Corporate Citizenship**—a business service organization of the Chamber that exists to enable and facilitate corporate civic and humanitarian initiatives, particularly in terms of community engagement, economic development, economic security, and disaster management/economic recovery.
- **Access America**—the Chamber's special initiative to support women- and minority-owned businesses and involve them in Chamber programs and activities.





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Washington, D.C. 20062-2000
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EXHIBIT 2

THE STATE OF AMERICAN BUSINESS

2005



THOMAS J. DONOHUE

President & CEO
United States Chamber of Commerce

USCC 55894

PECK EXHIBIT 2

Offered by Opposer, The Chamber of
Commerce of the United States of America

The Chamber of Commerce of the United
States of America v. United States Hispanic
Chamber of Commerce Foundation
Opposition Number 91/156,321

The State of American Business 2005

Foreword

The American business community has good reason to be confident and optimistic as we head into 2005.

Our economy is fundamentally strong and continues to outperform most of our global competitors. The U.S. Chamber is forecasting solid rates of growth, job creation, business investment, and consumer spending—along with relatively low inflation, unemployment, and interest rates—throughout 2005.

Moreover, business can point to some recent policy successes, including the enactment of important legal reforms in the states and through the courts, new free trade agreements, tax relief and pension reforms, and the defeat of nearly 200 state and federal proposals to restrict companies' ability to source and trade around the world.

The Chamber's aggressive political program helped elect a pro-business Congress and improved the legal environment in a number of states. By doing this, we sent an unmistakable message to lawmakers and candidates that when it comes to politics, we mean business!

Yet even with an expanded pro-business majority in Congress and the reelection of President Bush, America is still a nation divided and in many respects so is our government. Policy victories will not be easily won. The business community must not permit

Our economy is fundamentally strong and continues to outperform most of our global competitors.

The business community must not permit recent successes to blind us to the tremendous challenges ahead.

recent successes to blind us to the tremendous challenges ahead.

Our competitive position in the world is being tested as never before. The rapidly developing economies of China, India, and East Asia are becoming major players in technology, business services, and high-end manufacturing. They are consuming more of the world's resources, attracting more of its capital, and producing more engineers and science majors than the United States. Meanwhile, the European Union is consolidating and enlarging its economic power while aggressively expanding its regulatory impact in areas from antitrust policy to food production to climate change.

America's response to this competition has not been adequate. Instead, we are driving companies, capital, and jobs out of our country with excessive legal, health, tax, and energy costs as well as with abusive corporate governance rules. We countenance an inferior education system that has allowed our students to fall behind in math, science, and advanced degrees.

We must take strong action now to create a more competitive American economy and secure our nation's leadership in the 21st century.

world, which offer lower costs, abundant energy supplies, and legions of highly trained workers.

In fact, economic growth is *not* automatic. It will not "just happen." We must constantly work to improve, modernize, compete, and move up the

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ladder of innovation. *We must take strong action now to create a more competitive American economy and secure our nation's leadership in the 21st century.*

How can we achieve this?

First, remove the barriers that make it too expensive to create and keep good jobs in the United States.

Runaway litigation, abusive enforcement of corporate governance and accounting rules, expensive and unstable energy supplies, and a regulatory price tag that exceeds the entire gross national product of Canada have, according to one study, added a 22 percent premium to the price of production in the United States relative to our major foreign competitors.

Second, establish a fair, honest, and open playing field for American companies and workers in the global marketplace.

Our companies lose an estimated \$250 billion per year due to intellectual property theft, counterfeiting, and piracy—part of a worldwide crime wave that has reached epidemic proportions. Competing nations have more free trade agreements in force than we do; the United States is still playing “catch-up.” Proposals to restrict outsourcing could trigger retaliation and jeopardize American jobs created by foreign investors.

Third, bring tax, regulatory, health and retirement systems, and our physical infrastructure into the 21st century.

Americans are being held back by a tax system that discourages savings and investment—critical drivers of future growth. Spiraling health care costs have increased the ranks of the uninsured and the untreated. Many private pension plans as well as Social Security are in serious financial trouble. Our physical infrastructure is ill-prepared to

We are under no illusions that this ambitious agenda can be achieved in a single year or even 10. Yet we must set big goals in order to achieve great things. At the Chamber, we have done this enthusiastically and look forward to working with policymakers and lawmakers of both parties, businesses of all sizes and sectors, and every American who embraces the vision of a free, prosperous nation that continues to lead the world in hope and opportunity.

Thomas J. Donohue
President & CEO
U.S. Chamber of Commerce

carry the people, goods, and information in a growing economy.

Fourth, build for the future by building on America's strengths.

One of our real strengths is that America has been the best place on earth to take a good new idea, advance it with accessible capital and highly skilled entrepreneurs, and establish great global industries that create markets, jobs, and prosperity.

If we allow others to steal our best innovations, drive our capital off-shore, and fail to educate and train our workers, then we will kill what has been a uniquely American strength.

We must unlock the potential of the world's most talented people with outstanding schools and opportunities for lifelong learning. We must reaffirm America's legacy as an open, welcoming, and diverse society through immigration reform and balanced homeland security policies. Our country was built on the dreams and daring of entrepreneurs, many of them immigrants, women, and minority Americans. We must support a thriving small business sector to create new jobs and open new avenues of opportunity and independence.

We must support a thriving small business sector to create new jobs and open new avenues of opportunity and independence.

To achieve these goals, we must also strengthen the Chamber of Commerce movement nationally, internationally, and at the state and community levels in politics, policy, and economic education to preserve and improve the free enterprise system.

In the pages that follow, you will find the Chamber's specific proposals for creating a more competitive American economy, as well as our economic outlook for 2005 and our assessment of the political and legislative environment.

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The Economy in 2005

The U.S. economy is gaining strength as it transitions from a recovery to long-term growth. Over the last year, the economy has produced more than 2 million new jobs. Employee compensation is rising, and household wealth is at an all-time high.

In 2005, the Chamber believes that the economy will grow at an average rate of 3.7 percent, with consumer demand, business investment, exports, and job creation all posting solid gains. We expect the unemployment rate to average 5.3 percent over the year, with monthly job growth of 125,000 to 150,000.

Expanding payrolls and an improving stock market should offset the waning effects of the tax cuts and be sufficient to underpin consumer spending despite an end to the refinancing boom and higher oil prices.

Growth in personal consumption will exceed 3 percent in 2005.

Business investment will also remain strong. We are forecasting 8.5 percent growth in equipment and software.

Business investment will also remain strong. We are forecasting 8.5 percent growth in equipment and software. The 2005 "tax holiday," which will allow companies to repatriate accumulated foreign earnings at a sharply reduced tax rate, could bring an estimated \$300 billion back to the domestic economy.

While inflation is not currently a problem, there could be a modest acceleration in core prices as the economy grows. We expect the Federal Reserve to continue targeted rate hikes until rates reach approximately 3.5 percent. The Chamber also sees the trade situation improving somewhat in 2005 as the weaker dollar begins to help exporters and trim imports.

The biggest short-term risk to the economy is oil prices. They have edged down of late, and if they continue to fall, GDP growth will be higher than we are currently forecasting. For every \$10 a barrel change, we should subtract or add about four-tenths of one percent in GDP growth.

While executives continue to struggle with the uncertainties of new corporate governance rules, volatile oil prices, and the ever-present threat of another terrorist attack, the overly cautious mood among many CEOs has improved, and there is growing confidence in the near-term prospects for our economy.

The Political and Legislative Environment

One reason for renewed confidence is that the cloud of political uncertainty has lifted since the November elections. The Chamber spearheaded a massive effort within our federation and the greater business community to help elect a pro-business government.

In congressional races, the Chamber endorsed 269 candidates and 250 of them won. We also targeted 28 close, tough House races for intensive support of pro-business candidates and succeeded in 20. We targeted 9 Senate contests and were successful in 7—including John Thune's win over Tom Daschle in South Dakota.

The Chamber did not endorse a presidential candidate, but we conducted a voter education and get-out-the-vote effort focused on legal reform issues and the consequences of electing a renowned trial lawyer as vice president. The U.S. Chamber Institute for Legal Reform (ILR) also

**The Chamber
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also made major strides in improving the legal environment in the states. Pro-legal reform candidates prevailed in 15 of the 16 state Supreme Court and attorney general races in which ILR supported voter education activities.

Yet even with expanded pro-business majorities in Congress, Senate Republicans are still 5 votes short of the 60 needed to invoke cloture and end filibusters. Rancorous partisanship remains at an extremely high level. We can expect extraordinary conflicts between the parties and also *within* the parties on issues ranging from immigration to trade to deficit reduction. Congress could also get bogged down with Cabinet and Supreme Court appointments, as well as with battles over social issues.

Business and the Chamber will therefore have to earn policy victories the old-fashioned way—by building coalitions, educating opinion leaders and decision makers, mobilizing grassroots support, participating in politics at the federal and state levels, and by working with lawmakers on *both* sides of the aisle.

The full range of Chamber assets will be deployed to create success. A strong federation of state and local chambers, industry associations, and grassroots activists will be tapped to turn election victories into policy achievements. Chamber affiliates, such as ILR and the National Chamber Foundation, as well as major coalitions, will play a vital role in our work. We will not hesitate to take aggressive legal action in court when necessary and appropriate.

We will continue to expand our base of large and small companies in order to support a more aggressive program of work and strive to meet the ambitious second-year goals of a successful Capital Campaign, which will endow the Chamber with unprecedented financial resources for years to come.

The Chamber's 2005 Agenda

Reform the Legal System and Stop Lawsuit Abuse

2005 Highlights...

- ✓ Enact class action reform and pass legislation to solve the asbestos litigation crisis
- ✓ Limit small business liability
- ✓ Pass medical liability and bankruptcy reform
- ✓ Improve the legal environment in states and problem jurisdictions

America's litigation system is the world's most expensive, costing the average family more than \$3,200 per year. The Chamber and the Institute for Legal Reform (ILR) are determined to change this.

Over the past decade, class action lawsuit filings rose more than 300 percent in federal courts and more than 1,000 percent in state courts. We are calling on the 109th Congress to pass the Class Action Fairness Act, which will reduce venue shopping and frivolous cases by moving many state class actions to federal courts. This bill passed the House of Representatives last year, and we enlisted the support of at least 62 senators. Congressional leaders have promised swift action on this reasonable legislation.

Asbestos litigation reform will also be a top priority in 2005. Runaway asbestos lawsuits have driven almost 70 companies into bankruptcy, eliminating as many as 60,000 jobs. The Chamber and ILR will work to construct a solution that is acceptable across the business community — one that helps the truly sick while stopping frivolous cases and limiting further damage to American industries and jobs.

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We will work to pass the Small Business Liability Reform Act, which provides caps on punitive damage awards and proportional liability for small businesses. Medical liability reform is also essential to improving our legal environment as well as our health care system.

Congress should enact bankruptcy reform, a long-standing business priority, to crack down on abuses. And, in response to the explosion of lawyer-driven litigation against food companies, the Chamber supports legislation that would prevent frivolous “obesity” lawsuits.

Last year, ILR was a leader in enacting comprehensive legal reform in Mississippi, the worst state in legal fairness according to the ILR/Harris State Liability System Ranking Study. This success provides a blueprint as we turn our focus to other problem states and jurisdictions—especially Madison County, Illinois, and West Virginia. In March 2005, we will release the latest results of the Harris Study.

The Chamber supports legislation that would prevent frivolous “obesity” lawsuits.

We will continue our initiative to curb global forum shopping whereby cases from around the world are brought in U.S. courts in order to take undue advantage of our more lenient laws and legal procedures.

The Chamber will work to reduce frivolous securities fraud and investor-related class actions, defending existing reform legislation while also filing high-quality amicus briefs in key securities class actions.

We will continue investigating allegations of improper conduct between a small segment of fraudulent or abusive short sellers and plaintiffs’ lawyers to attack and manipulate stock prices. The expanding role of state attorneys general will be closely scrutinized.

The National Chamber Litigation Center (NCLC) will continue to pursue efforts to apply the punitive damage standards set by the U.S. Supreme Court in its landmark *State Farm* decision of 2003. In punitive damage cases, NCLC has already produced tremendous savings for member companies.

NCLC, which entered a record 75 cases in 2004 and helped secure 30 victories to date, will vigorously represent our members' interests in court and before regulatory agencies.

Stop the Unintended Expansion and Abusive Enforcement of Corporate Governance Rules

2005 Highlights...

- ✓ Carry out a major corporate governance initiative to challenge the SEC, attorneys general, and other authorities whose regulatory overreach and abusive enforcement practices have penalized honest businesses, damaged our capital markets, and denied companies the right of due process under the law
- ✓ Oppose other parties—such as labor unions, trial lawyers, and public pension funds—that have jumped on the corporate governance bandwagon in pursuit of their own financial and special interest agendas

The Chamber supports strong corporate governance and accounting rules to protect investors, as well as vigilant oversight and enforcement to root out all fraud. However, we strenuously oppose regulators who have exceeded their authority and reached well beyond what Sarbanes-Oxley and other laws have intended. And we are deeply troubled by the actions of some prosecutors and attorneys general who seem bent on criminalizing honest mistakes and legitimate accounting differences. By forcing some companies into settlements without due process, these

powerful officials have inexcusably trampled on the rights guaranteed to all of us.

The unintended expansion of corporate governance rules and excessive compliance demands will cost the nation's 17,000 public companies billions of dollars this year. Entire industries have been consumed by multiple, sweeping demands from competing regulators for their data, e-mails, and correspondence. These excesses have discouraged bold business decision making, have sent both domestic and foreign companies fleeing from public markets, and have hurt efforts to attract strong board members and executives to public companies.

Outside groups with special interest agendas—such as trial lawyers, labor unions, public pension funds like CalPERS, and rating agencies such as the Institutional Shareholder Services—are exploiting concerns about corporate governance to win concessions and advance their interests.

The Chamber's corporate governance initiative will aggressively challenge these groups and all the excesses and abuses we have seen in

what began as a legitimate, well-intentioned effort to strengthen the integrity and transparency of our markets.

**The Chamber will
shine a light on
the unreasonable
costs associated
with Section 404
of Sarbanes-Oxley.**

We will soon release a major independent study on the future of the accounting profession—a very timely topic. Without a strong accounting profession, our enterprise system as we know it cannot function.

The Chamber will fight new regulations, including the proposal to allow small groups of special interest-driven shareholders to put their own candidates on proxy ballots.

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We will work to reform the SEC's current enforcement practices, and we have challenged its mutual fund governance rule in court to prove that the commission is consistently exceeding its authority and violating regulatory requirements to prove the benefits of new regulations.

Through research, public education, and a comprehensive report to be issued this spring, the Chamber will shine a light on the unreasonable costs associated with Section 404 of Sarbanes-Oxley, expose the excesses and abuses of recent government actions, and address issues concerning the criminal justice system's sentencing guidelines.

Expand America's Energy Supply While Protecting the Environment

2005 Highlights...

- ✓ Enact a comprehensive energy plan, including ANWR
- ✓ Secure full funding for Yucca Mountain
- ✓ Seek flexible environmental rules based on sound science, including Clear Skies legislation

The failure of this nation to expand and safeguard a stable, affordable supply of energy poses a serious threat to our economic future and to our national security. We now import 56 percent of our petroleum from foreign sources. High fuel prices and shortages of natural gas have forced some companies to move their plants and jobs overseas.

Congress should quickly enact a comprehensive energy plan, including allowing oil and gas exploration on a small tract of the Arctic National Wildlife Refuge (ANWR). The plan should promote domestic production, new technologies, greater efficiency, regulations based on sound science, and incentives to modernize our power grid.

We will continue to seek full funding of the Yucca Mountain nuclear waste repository, and we will work to enact Clear Skies legislation, which will reduce certain emissions and allow trading of emission credits, thus providing needed flexibility in meeting environmental laws.

On the issue of global warming, U.S. policy must be guided by facts and common sense, not by international pressure or media hype. If we make the wrong choices, we will drive energy prices much higher than they are today and accelerate the movement of jobs out of our country.

Improve Access to Affordable Health Care

2005 Highlights...

- ✓ Enact legislation to allow Association Health Plans and to expand Health Savings and Flexible Spending Accounts
- ✓ Pass medical liability reform
- ✓ Extend the IT revolution to the health care sector

The United States has the world's best health care but a wasteful and inefficient system for delivering that care. Five consecutive years of double-digit premium increases have hit the business community hard, especially small firms. An estimated 45 million Americans lack health insurance.

The United States has the world's best health care but a wasteful and inefficient system for delivering that care.

Congress should enact Association Health Plans, which would allow small businesses to band together and negotiate lower premiums. Lawmakers should also expand

Health Savings Accounts and allow Americans with Flexible

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Spending Accounts to roll over unused balances to pay for future medical expenses.

The liability crisis is shuttering hospitals and clinics and driving doctors and medical specialists out of the profession. The Chamber will strongly back medical liability reform legislation in the 109th Congress to cap punitive damages.

By enacting refundable tax credits for the purchase of health insurance, Congress could extend coverage to an estimated 4 million Americans. No additional mandates should be imposed on health plans voluntarily provided by employers.

For all its advances on the treatment side, our health care system is stuck in the past when it comes to record keeping and claims processing. Bringing the IT revolution to health care could wring out as much as \$131 billion in wasteful spending, reduce upward pressure on prices, and create new jobs in the IT sector.

Prevent Intellectual Property Theft, Counterfeiting, and Piracy

Key Highlights...

- Advance an unprecedented global initiative to prevent IP theft, counterfeiting, and piracy
- Combat these crimes with strong legislation and increased efforts by the Departments of Justice and Homeland Security
- Launch country-specific initiatives beginning with China and Brazil

According to the World Customs Organization and Interpol, the global trade in illegitimate goods increased last year to more than \$600 billion.

U.S. companies lose an estimated \$250 billion per year, costing 750,000 American jobs.

These are serious crimes that put consumers at risk with fake prescription drugs, untested consumer electronics, harmful cosmetics, exploding batteries, and substandard automobile and aircraft parts. There are even links to terrorism. For example, the first attack on the World Trade Center in 1993 was largely financed through counterfeit goods.

The National Chamber Foundation will lead an unprecedented global initiative to fight these illegal activities with the following strategies:

- Educate businesses, the media, and lawmakers on the growing economic threat of counterfeiting
- Work with manufacturers, retailers, and law enforcement agencies to disrupt the use of legitimate distribution channels to peddle fraudulent products
- Implement country-specific initiatives in priority nations—beginning with China and Brazil and then expanding to Korea, India, and Russia

In 2004, the efforts of a Chamber-led coalition prompted the first comprehensive government-wide strategy targeting organized piracy. This year, we will work to pass legislation to toughen penalties on counterfeiting and piracy, press the Department of Homeland Security to dramatically increase the interdiction of bogus products, and help implement the recommendations of a Department of Justice report on expanding law enforcement and prosecution of intellectual property thieves.

To focus on China's major role in both the problem and the solution, we have recently established an on-the-ground lobbying presence in Beijing as well as a China-focused global business coalition to enhance

IP protections. The Chamber also released the first-ever study about the impact of IP theft and related crimes on the Brazilian economy.

In 2005, while expanding lobbying and education in China and Brazil, we will also move ahead with education and enforcement programs in Korea, India, and Russia.

Open International Markets and Expand Trade

Highlights...

- ✓ Renew presidential Trade Promotion Authority
- ✓ Improve China's compliance with WTO obligations
- ✓ Win congressional backing for free trade agreements with the Dominican Republic/Central America and Bahrain and pursue additional FTAs
- ✓ Support Free Trade Area of the Americas and Doha Development Round negotiations as well as U.S.-European regulatory cooperation
- ✓ Oppose anti-outsourcing proposals and unilateral trade sanctions

In 2005, the Chamber will advance an ambitious international agenda to open markets for Americans while ensuring greater levels of transparency, market integrity, and economic growth across the globe.

We will call upon Congress to swiftly renew presidential Trade Promotion Authority and reject any effort to pull out of the WTO. We will generate significant grassroots support to persuade lawmakers to approve the Dominican Republic/Central America Free Trade Agreement as well as an accord with Bahrain.

The Chamber strongly supports the successful completion of the

Doha Round of multilateral trade negotiations, the Free Trade Area of the Americas, and free trade pacts with Thailand and the Andean countries. We will help steer U.S. bilateral trade agreements with Russia and Vietnam through Congress.

China will be a major focus of our international program this year, as we work to improve and speed up its compliance with all WTO obligations. We will continue to urge China to move in an orderly fashion to a market-based currency and also press our European and Japanese partners to spur growth in their economies. We will help companies tap the growing commercial opportunities in India and South Asia. These steps will help reduce our nation's serious trade deficit.

We will call upon Congress to swiftly renew presidential Trade Promotion Authority and reject any effort to pull out of the WTO.

The Chamber will continue to lead the fight against misguided protectionist responses to outsourcing at the federal, state, and local levels. Unilateral trade sanctions and unreasonable export controls have a history of failure and must be rejected. Success on all international trade issues depends on

generating more public support for the positive benefits of trade. Our TradeRoots program will spearhead this effort.

To ease global poverty and to enhance our own security, the Chamber-led Center for International Private Enterprise (CIPE) will work to build free market institutions in struggling regions of the world, such as Africa, the Middle East, and the war-torn nations of Afghanistan and Iraq.

Modernize Pensions and Entitlements

Highlights...

Encourage policies that strengthen private pension plans in all forms

Ensure that the temporary 30-year Treasury rate replacement for calculating pension plan contributions does not expire

Support Social Security reform that includes individual investment accounts

The financial troubles facing the nation's private and public pension systems are real and immediate. In the past year, the unfunded liability of the Pension Benefit Guaranty Corporation, which insures the pensions of 44 million Americans, doubled to \$23.3 billion. In 2018, Social Security will begin paying out more in benefits than the program collects in taxes. Over 75 years, Social Security's unfunded liability is estimated to be \$3.7 trillion.

Clearly, strong and immediate action is needed to shore up the nation's private and public pension systems.

In 2004, the Chamber helped relieve financial pressure on many private pension plans through the enactment of a high-quality corporate bond rate for two years to calculate pension contributions instead of the obsolete 30-year Treasury bond rate. In 2005, we must ensure that the replacement rate does not expire and also enact reasonable funding rules for multiemployer plans.

In addition, lawmakers and regulators must give companies the flexibility to devise the pension plans that are right for them and their workers—including defined benefit, defined contribution, cash balance, multiemployer, and hybrid plans. Greater tax incentives should be

provided to encourage workers to save more for their own retirement.

The Chamber strongly supports Social Security reform that allows younger workers to invest a portion of their tax contributions in individually managed accounts. Entitlement reform should be addressed now and not pushed off to future Congresses or administrations.

Reform the Tax Code and the Regulatory Process

2005 Highlights...

- ✓ Achieve significant tax simplification through faster recovery of capital investment, reducing the double taxation of corporate income, and lower taxes on saving
- ✓ Encourage passage of small business tax provisions, including permanent elimination of the death tax
- ✓ Advance the principles of sound science and quality data in regulations

The federal tax code is thousands of pages long and needlessly complex. As Vice President Cheney recently observed, we have more people at work in our country preparing taxes than we have soldiers in the United States Army. On top of this, we also impose a regulatory tax on our economy that now exceeds \$869 billion per year.

In 2005, the Chamber will support tax reform that modernizes and simplifies the code, encourages small business investment in equipment and access to capital, promotes savings, and removes competitive disadvantages that penalize domestic companies.

At the same time, we will guard against business tax increases that would slow economic growth and damage our ability to compete in world markets. For example, the Chamber will vigorously fight efforts

to repeal the Section 911 provision of the tax code that helps American workers stationed overseas absorb the costs they incur while advancing U.S. commercial interests around the world.

**We have more people
at work in our country
preparing taxes than
we have soldiers in the
United States Army.**

The Chamber will seek strict implementation of the Data Quality Act, including requirements that agencies disclose all data and analyses supporting proposed regulations and that the data are objective, accurate, and complete.

Educate and Train a Skilled Workforce

2005 Highlights...

- ✓ Adjust workplace rules to meet the modern-day needs of workers and employers
- ✓ Seek immigration and visa policy reforms to obtain quality workers
- ✓ Support improvements in education and training to close a growing skills gap

As emerging nations such as China and India produce increasing numbers of highly trained scientists, engineers, and technology workers, the United States has been seriously neglecting the educational needs of its workforce.

The National Science Board reports that we now rank 17th in the proportion of college students majoring in science and engineering. In 1975, we ranked 3rd. Nearly half of the engineering, math, and computer science Ph.D.s working in our country are foreigners. Many American-trained scientists and engineers are now returning to

their home countries to take advantage of improving conditions and new opportunities.

Due to changing demographics and the aging of our society, we face impending shortages of workers at *all* skill levels. By 2012, there will be anywhere from 3 million to 5 million more jobs in our economy than we will have workers to fill them.

To secure a sufficient supply of workers to run our economy, we must make workplaces more flexible to fit modern lifestyles and to improve our competitiveness. This requires reasonable adjustments in employment laws through legislative, regulatory, and administrative changes. We will aggressively oppose union-backed proposals, such as the abolition of secret ballot elections and reliance on card check majorities for union recognition.

Ours is a nation built on the labor and the dreams of immigrants. We need immigration reform that both increases the number of highly skilled foreigners that can be attracted to our country and that recognizes the extraordinary contributions that undocumented workers now make to our economy—giving them an earned pathway to legal recognition and establishing a closely monitored guestworker program.

We must close the serious learning gap that has opened up in the United States due to education and training systems that have not kept pace with the needs of today's knowledge-based economy. The Chamber's Center for Workforce Preparation (CWP) will press for substantial improvements in these programs.

America must reaffirm its commitment to scientific research and technological entrepreneurship.

We strongly support federal legislation that ensures accountability for student performance and achievement, reallocates funds for nonperforming schools,

provides enrollment alternatives, and requires that high standards are set and met.

As Congress reauthorizes the Higher Education Act, there should be recognition of the retraining needs of adult workers as well as equitable treatment for proprietary postsecondary education companies. Congress should use the reauthorization of the Workforce Investment Act to involve local businesses directly in job training. Community colleges must be expanded and strengthened. We must also bring more people with disabilities, minorities, older workers, and veterans into our workforce.

Secure America's Leadership in Technology and Innovation

2005 Highlights...

- ✓ Make the Research & Experimentation Tax Credit permanent
- ✓ Lead a policy process that overhauls telecom regulations
- ✓ Reaffirm America's preeminence in science, technology, and basic research

America must reaffirm its commitment to scientific research and technological entrepreneurship. We still lead the world in these critical fields, but other nations are closing the gap. Japan and South Korea now invest a greater percent of their GDP than we do. The number of Americans seeking degrees in science and technology is lagging. Our lead in patents and published research papers is eroding.

In 2005, the Chamber will seek to make the Research & Experimentation Tax Credit permanent. Expanding this credit to other areas of collaborative research should be considered as well. Further,

we can unleash a new wave of innovation and productivity in IT and other communications services by modernizing regulations in the telecommunications sector.

The Chamber will also work to increase support for science and research while preventing legislative or regulatory barriers that could hinder the growth of technology, including e-commerce, biotechnology, and genetic engineering. We must reduce the processing time and improve the legal viability of patents and trademarks by ensuring that the United States Patent and Trademark Office receives full funding.

Expand Transportation and Boost Travel and Tourism

2005 Highlights...

- ✓ Reauthorize TEA-21 to increase investment in infrastructure
- ✓ Carry out a major Chamber initiative to promote travel and tourism
- ✓ Address the crisis in commercial aviation

America's transportation system, once a marvel of the modern world, has been stretched beyond its capacity and has fallen into disrepair. A decaying transportation system costs our economy more than \$78 billion annually in lost productivity. Congestion adds significant pollution to our air, and substandard roads claim thousands of lives every year.

Working with the Chamber-led Americans for Transportation Mobility coalition, we will seek reauthorization of TEA-21, the surface transportation law, to increase investment in infrastructure to meet the needs of our growing economy.

We need to streamline the approval process for transportation projects, thus ensuring the faster delivery of congestion relief and safety improvements. The Chamber will seek full funding of the nation's waterways programs through the reauthorization of the Water Resources Development Act.

Working with the Chamber-led Americans for Transportation Mobility coalition, we will seek reauthorization of TEA-21, the surface transportation law.

The Chamber is committed to promoting and facilitating travel and tourism, an industry that employs more than 12 percent of the civilian labor force. Our travel and tourism initiative, managed by the National Chamber Foundation, includes an education campaign and the development of a grassroots network to generate support for this industry.

Commercial aviation is crucial to our entire economy—and it is in crisis. The Chamber's agenda includes reducing the burden of unjustified taxes, fees, and regulations on our airlines, dramatically expanding our air traffic control and airport capacity, and promoting policies that help airlines compete.

Protect Americans From Terror While Preserving Freedom and Mobility

2005 Highlights...

- ✓ Provide the business voice in all homeland security decisions so that we can continue to move people, goods, capital, and information in a free economy
- ✓ Clear the backlog in visa processing
- ✓ Renew the federal terror reinsurance backstop

The Chamber has weighed in on literally hundreds of homeland security decisions that have washed over government policymaking since September 11. In 2005, we will continue our almost daily interaction with the Department of Homeland Security (DHS), urging officials to strike the right balance between enhanced security, freedom, mobility, and economic efficiency.

We will also help develop public policy that protects the nation's critical infrastructure and work with DHS to implement the SAFETY Act, which will encourage the development of anti-terrorism technologies by providing sellers with certain liability protections.

Two years ago, the Terrorism Risk Insurance Act (TRIA) was enacted to create a federal reinsurance backstop against losses resulting from a catastrophic terrorist attack. This law has been successful in restoring a market for property and casualty insurance after the terrorist attacks of 9/11. TRIA expires at the end of 2005, and its renewal will be a top Chamber priority.

Many concerns have been registered about the backlog of visa applications and the growing difficulty of obtaining visas for legitimate

purposes. Last year, we helped secure a one-year extension of the deadline for countries enrolled in the Visa Waiver Program to issue biometric passports. The Chamber has presented detailed recommendations to the government that will safely accelerate visa processing, and we will seek their speedy implementation.

America's National Guard and Reserve play a critical role in the nation's defense at home and abroad. We will work with the Department of Defense to rebuild the "compact" between the military and employers so that companies continue to hire members of the National Guard and Reserve in this era of increased call-ups for citizen soldiers.

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Summary of 2004 Accomplishments

POLITICS

2004 Elections—The Chamber helped elect a pro-business government with an unprecedented get-out-the-vote campaign that included a Web-based program with more than 400 participating organizations. Some 93 percent of Chamber-endorsed congressional candidates won. The Chamber also ran a voter education program stressing legal reform in key presidential battleground states.

LEGAL REFORM

Class Action Reform—The Chamber built filibuster-proof support in the Senate for legislation that would make it easier to move some class action lawsuits from state courts to federal courts, teeing up the measure for passage early in the 109th Congress.

State Legal Reform—The Chamber's Institute for Legal Reform (ILR) helped secure enactment of groundbreaking legal reform legislation in Mississippi. ILR also supported voter education efforts in 16 key state Supreme Court and attorney general elections. Pro-legal reform candidates prevailed in 15 of those contests.

TAX RELIEF

The American Jobs Creation Act of 2004—The Chamber was instrumental in winning legislation that effectively reduces corporate tax rates on domestic manufacturing and provides a one-year major tax reduction for income earned overseas that is brought back home.

Tax Cut Extenders—With the Chamber's support, President Bush signed legislation that renews and extends several business tax provisions, including the R&E Tax Credit, the Welfare to Work Tax Credit, and the Work Opportunity Tax Credit.

BUSINESS VICTORIES IN COURT

Our law firm, the National Chamber Litigation Center (NCLC), entered

a record 75 cases of significance to the business community in 2004 and to date has secured 30 victories. NCLC's successes in punitive damage cases alone—a major focus of its work—have produced tremendous savings for American business.

PENSIONS

30-Year Treasury Bond Fix—The Chamber helped win passage of a bill that allows employers to use a high-quality corporate bond rate for two years to calculate pension contributions instead of the obsolete 30-year Treasury bond rate. This bill saves companies \$80 billion in inflated pension contributions and provides some relief to a limited number of multiemployer plans.

TRANSPORTATION

Highway Funding—The Chamber and the Americans for Transportation Mobility coalition persuaded Congress to continue record highway and public transportation investment by temporarily extending TEA-21 reauthorization through May 2005.

INTERNATIONAL

Free Trade Agreements—The Chamber helped secure enactment of free trade agreements with Australia and Morocco; assisted in the launch of negotiations with Thailand and the Andean countries; and helped conclude negotiations for a free trade agreement with Central America and the Dominican Republic.

Intellectual Property Rights Protection—The Chamber launched a coordinated, global initiative to curtail IP theft, counterfeiting, and piracy. These issues were included in a strong Chamber report urging China to move more quickly to implement its WTO commitments.

Global Sourcing—The Chamber helped derail nearly 200 measures at both the state and federal levels designed to restrict the ability of U.S. companies to source around the world.

IMMIGRATION

H-1B Visas—The Chamber helped secure an exemption from the H1-B visa cap for foreign graduates of master's and Ph.D. programs from U.S. colleges and universities.

Visa Processing—The Chamber was instrumental in the State Department's decision to extend for one year the deadline for Visa Waiver countries to issue biometric passports.

CORPORATE GOVERNANCE AND ACCOUNTING REFORMS

Through lawsuits, testimony, and comments to the SEC, the Chamber worked to strike down the unintended expansion of corporate governance rules, including those concerning corporate proxy rules and the mutual fund and hedge fund industries.

The Chamber also worked to defeat efforts by unions, public pension funds, attorneys general, and the trial bar to use corporate governance reforms for financial gain or to advance special interest agendas.

WORKPLACE REGULATIONS

Overtime Pay—The Chamber beat back efforts to derail the Labor Department's improved and modernized overtime eligibility rules.

No Fax Rule—The Chamber successfully worked to delay implementation of this rule.

SMALL BUSINESS

SBA Loans—The Chamber helped bring about legislation that expanded the Small Business Administration 7(a) guaranteed loan program.

HEALTH CARE

Association Health Plans—With the Chamber's support, the House passed legislation that would allow small businesses to band together to purchase health insurance.

Medical Liability—The House passed a Chamber-backed bill to limit legal fees and cap punitive and noneconomic damages in medical liability cases.

TECHNOLOGY & E-COMMERCE

Telecommunications—The Chamber released a landmark independent study that examined how regulatory uncertainty creates barriers to telecom investment and hinders America's competitiveness.

Internet Tax Moratorium—The Chamber helped convince Congress to pass and the president to sign a bill that extends the prohibition on Internet access taxes.

FINANCIAL SERVICES

Section 809 Repeal—The Chamber secured enactment of legislation to repeal Section 809 of the Internal Revenue Code.

Stock Option Expensing—The Chamber fought the Financial Accounting Standards Board's proposed mandatory expensing of stock options, successfully delaying implementation of the rule.