



Testimony of:

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Courts

Hearing on “Opportunity Denied: How Overregulation Harms
Minorities”

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Mr. Chairman and members of the committee, my name is Michael Barrera, National Manager of Economic Prosperity for The LIBRE Institute, a non-partisan, non-profit organization that educates Hispanics on the importance of economic freedom. On behalf of the Institute, I welcome your invitation to testify regarding the impact of federal regulations on the minority community, small business, and in particular Hispanic-owned businesses.

Americans are suffering under the crushing burden of overregulation. According to the Competitive Enterprise Institute (CEI), economy-wide regulatory costs amount to an average of \$14,976 per household – around 29% of an average family budget of \$51,100. Although not paid directly by individuals, this “cost” of regulation exceeds the amount an average family spends on health care, food and transportation. Regulations also cost small businesses. Citing the Office of Information and Regulatory Affairs (OIRA) the National Federation of Independent Business (NFIB), notes there are 3,348 federal regulations in the pipeline, with nearly 1/3 impacting small business directly. Moreover, regulations are a growth business as the number of pages in the Federal Register for regulations grew from 22,877 pages in 1960 to almost 78,000 pages in 2015.

Businesses are being strangled by red tape and individuals face vast and growing limitations on personal freedom in nearly every aspect of their lives. Overregulation depresses economic growth, and it creates winners and losers, with some small businesses bearing the cost of regulations, while others either find a way around them or – in some cases – even manipulate the regulatory process to give them an edge over competitors. As rules are drafted, more efforts are put into lobbying Congress and regulatory agencies to tailor them to protect special interest groups, leaving many more with additional burdens or simply out of the market altogether. Unfortunately small and minority businesses don’t have a bevy of lawyers and lobbyists advocating on their behalf. Even more frustrating, studies show many of these regulations are ineffective and fail to deliver the benefits they were implemented to produce. Policymakers should

examine both new and existing regulations to ensure that each is necessary, beneficial to the marketplace, cost-efficient and beneficial to people's lives and business success.

As federal regulation has grown, the business improvements that drive wage growth have plummeted. Today the U.S. productivity growth rate is nearly half of its historical rate, dropping from an annual average rate of 2.5% since 1948 to 1.1% since 2011. With so much ongoing debate about family incomes that are at or below historic levels, it behooves Congress to consider the impact of costly government regulation. According to a recent analysis of U.S. Census Bureau (Census) data published by the Wall Street Journal the annual rate of new business starts is about 28% lower today than it was in the 1980s. It's critical that we review government policies to ensure they are not crushing the economic engine that drives American greatness

The CEI estimates federal regulations cost nearly \$2 trillion in 2014 through higher prices and lost productivity. The Small Business Administration's Office of Advocacy found small businesses, defined as firms employing fewer than 20 employees, bear the largest burden of federal regulations. As of 2008, small businesses face an annual regulatory cost of \$10,585 per employee, which is 36% higher than the regulatory cost facing large firms (defined as firms with 500 or more employees). This number can be assumed to be considerably higher today as the Advocacy report above was done 7 years ago and did not include the rising cost of federal regulations and the cost of complying with the Affordable Care Act. Small business regulatory burdens have also been measured by the NFIB.

According to the NFIB Small Business Optimism Index, small business owners have cited regulations as a top impediment to conducting business for over 65 months in a row and 21% of small business owners cite regulations as their single most important problem. Citing information from the World Bank, NFIB reports the growth of regulations contributed to the U.S. falling out of the top ten ranks in the world in the ease of starting a business. In fact, the World Bank found that it's easier to start a new business in Portugal, Romania, Panama, Hungary and Belarus than in the U.S. Moreover, according to a Gallup

analysis of data from the Census, business failures began to outpace business startups in 2008 - and have been negative every year since. From 1977 through 2008, the number of new startups outpaced the number of failing businesses by about 100,000 annually. Since then however, the country has a deficit of about 70,000 firms. This weakening of the vibrancy and creativity of the U.S. economy has enormous ramifications for the nation. For decades, successful companies making the transition from startup to major player have been the driver of job growth in the U.S. With fewer startups and more business failures, today's younger workers face daunting times ahead. There will be less economic opportunity for young workers, less impetus for innovation, and ultimately less revenue for all levels of government to address important national priorities, including our national defense and education of our children.

It follows that the growth of federal regulations negatively impacts Hispanic owned businesses and the Hispanic community. The United States Hispanic Chamber of Commerce (USHCC) reports there are 4.07 million Hispanic owned businesses generating an estimated 661 billion dollars a year. The Census reports they are doubling the national rate of business growth and many of these businesses employ members of the community. However, Hispanic owned businesses tend to be small businesses and they are experiencing the same difficulty in complying with federal regulations as all small businesses.

Hispanic-owned businesses are not simple statistics and faceless numbers. These are real people, and many are family-owned businesses that are either run by or started on behalf of the family. In many cases a small business is the family's primary source of income for not only the immediate family but for the extended family. Nationally, family-owned businesses account for 50% of U.S. gross domestic product, generate 60% of the country's employment and 78% of all new job creation. In a report by Mass Mutual, 89% of Hispanic entrepreneurs report that they started their business to provide financially for their family and 70% of Hispanic business owners plan to pass their business on to family members vs. 54% of the general population. Additionally 31% of Hispanic entrepreneurs hire extended family vs 19% of the general population.

As such, the impact of federal regulations goes far beyond impacting the small business community alone. Regulations also impact American workers, their families as well as the growing Hispanic community. As federal regulations expand, the cost of doing business rises, thereby forcing small businesses and their families to make difficult choices. Do I spend my time and money complying with federal, state and city mandates or do I spend it managing and marketing my business? Do I have to hire a lawyer and accountants to ensure my business is in compliance? Should a Hispanic entrepreneur spend business resources satisfying the insatiable appetite of a bloated regulatory monster or should he or she spend the resources improving the business, hiring new people, and increasing wages for his or her employees and family? Unfortunately, many entrepreneurs are choosing to forgo their American dream and either not starting a business, expanding or closing up shop.

This is not a blanket rejection of all regulation. Far from it. Instead, we should weigh the costs and benefits of each proposed rule before proceeding. An overwhelming majority of Hispanics, like all Americans, want to comply with rules and regulations and uphold the rule of law. However, excessive regulation continues to diminish the spirit of their American Dream of business ownership. All too often, regulation is treated as innocent until proven guilty, rather than the other way around. The burden of proof is on the regulator to prove that a rule is necessary, not on small and minority business owners to prove that it is not.

Conclusion.

America's small businesses are always a popular subject when our leaders discuss their plans and aspirations to revive the American economy. This makes sense as small businesses employ close to 2/3 of American workers. Unfortunately, these plans are being hijacked by unelected officials who in theory claim to help, while in practice continue to hinder growth and prosperity. It is interesting to note that unelected agency officials pass 16 new regulations for every law passed by our elected officials.

Small businesses need to be more than a talking point. Most entrepreneurs will tell you government rules and regulations take a one size fits all approach and are confusing, complex, time consuming and expensive. Many small businesses are also hesitant to contest or complain - unable to defend or advocate for themselves due to the expense, the time and in some cases the intimidation - real or perceived - involved. In my career as an attorney, the former National Ombudsman for the SBA, President and CEO of the USHCC and with the LIBRE Institute I came into contact with numerous small business owners who told me about their difficulties working with government - but that they won't complain or fight it because they don't want to be on the government's "radar."

I believe most small businesses, including Hispanic owned business, would say that if our leaders are serious about achieving the American Dream, they must actually do something to eliminate the American nightmare of over-regulation and unnecessary enforcement. In the best American tradition of market competition, constitutionally-limited government means the market should primarily dictate the exchange of goods and services without the growing presence of cronyism and government overreach. Polls consistently show the economy and jobs are a top priority for Hispanics. Government's role is not to create wealth, but rather create an environment where ingenuity, hard work and risk are rewarded rather than punished. Economic freedom, the rule of law, the free market, and a constitutionally limited government - not cronyism and excessive regulation - are the road of freedom to prosper and the best way for each person to achieve their American Dream.