

UNITED STATES SENATE
COMMITTEE ON THE JUDICIARY

QUESTIONNAIRE FOR NON-JUDICIAL NOMINEES

PUBLIC

1. **Name:** State full name (include any former names used).

Brian Allen Benczkowski

2. **Position:** State the position for which you have been nominated.

Assistant Attorney General, Criminal Division

3. **Address:** List current office address. If city and state of residence differs from your place of employment, please list the city and state where you currently reside.

Office:

Kirkland & Ellis LLP
655 Fifteenth Street, NW
Suite 1200
Washington, DC 20005

Residence: Arlington, Virginia

4. **Birthplace:** State date and place of birth.

October 5, 1969
Fairfax, Virginia

5. **Education:** List in reverse chronological order each college, law school, or any other institution of higher education attended and indicate for each the dates of attendance, whether a degree was received, and the date each degree was received.

Washington University School of Law, 1991 - 1994
J.D. – May 1994

University of Virginia, 1987 - 1991
B.A. – May 1991

6. **Employment Record:** List in reverse chronological order all governmental agencies, business or professional corporations, companies, firms, or other enterprises, partnerships, institutions or organizations, non-profit or otherwise, with which you have been affiliated as an officer, director, partner, proprietor, or employee since graduation from college, whether or not you received payment for your services. Include the name

and address of the employer and job title or description.

September 2010-present
Partner
Kirkland & Ellis LLP
655 Fifteenth Street, NW
Suite 1200
Washington, DC 20005
Paid

April 2009-September 2010
Republican Staff Director
United States Senate
Committee on the Judiciary
224 Dirksen Senate Office Building
Washington, DC 20510
Paid

August 2008-February 2009
Chief of Staff
Office of the Attorney General
United States Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530
Paid

May 2008-August 2008
Chief of Staff
Office of the Deputy Attorney General
United States Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530
Paid

July 2007-May 2008
Principal Deputy Assistant Attorney General
Office of Legislative Affairs
United States Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530
Paid

October 2006-July 2007
Chief of Staff
Bureau of Alcohol, Tobacco, Firearms and Explosives
United States Department of Justice

99 New York Avenue, NE
Washington, DC 20226
Paid

June 2005-October 2006
Majority Counsel
United States House of Representatives
Committee on the Judiciary
2138 Rayburn House Office Building
Washington, DC 20515
Paid

May 2004-June 2005
Attorney
Bancroft PLLC (firm merged with Kirkland & Ellis LLP in 2016)
2124 Bancroft Place, NW
Washington, DC 20008
Paid

January 2002-May 2004
Staff Director, Senior Counsel & Counsel
Office of Legal Policy
United States Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530
Paid

September 2000-June 2001
Assistant General Counsel & Senior Vice President for Business Development
thePit.com
235 Main Street
White Plains, NY 10601
Paid

January 1997-September 2000
Counsel
United States Senator Pete V. Domenici
328 Hart Senate Office Building
Washington, DC 20510
Paid

September 1994-December 1996
Professional Staff
United States Senate
Committee on the Budget
624 Dirksen Senate Office Building

Washington, DC 20510
Paid

Intermittently 1993 and 1994
Legal Intern
Carr Korein Tillery LLC
412 Missouri Avenue
East St. Louis, MO 62201
Paid

Summer 1993
Summer Associate
Marsh, Day & Calhoun (now Brody Wilkinson PC)
2507 Post Road
Southport, CT 06490
Paid

Summer 1992
Summer Law Clerk
Connecticut Superior Court
Bridgeport Judicial District
172 Golden Hill Street
Bridgeport, CT 06604
Unpaid

Summer 1991
Summer Clerk
United States Department of State
Office of Medical Services
2201 C Street, NW
Washington, DC 20520
Paid

7. **Military Service and Draft Status:** Identify any service in the U.S. Military, including dates of service, branch of service, rank or rate, serial number (if different from social security number) and type of discharge received, and whether you have registered for selective service.

I have not served in the military. I have registered for the selective service.

8. **Honors and Awards:** List any scholarships, fellowships, honorary degrees, academic or professional honors, honorary society memberships, military awards, and any other special recognition for outstanding service or achievement.

Kirkland & Ellis Pro Bono Public Service Award (2011-2013, 2015-2017)
Legal Times Champion of the Washington DC Legal Community Award (2009)

John Marshall Award, United States Department of Justice (2008)
Attorney General's Award for Distinguished Service (2003)
Member and Associate Editor, *Washington University Journal of Urban and Contemporary Law* (1993-1994)

9. **Bar Associations:** List all bar associations or legal or judicial-related committees, selection panels or conferences of which you are or have been a member, and give the titles and dates of any offices which you have held in such groups.

Member, Connecticut Bar Association (1994-present)
Member, District of Columbia Bar Association (2005-present)

10. **Bar and Court Admission:**

- a. List the date(s) you were admitted to the bar of any state and any lapses in membership. Please explain the reason for any lapse in membership.

Connecticut (1994-present)(active with no lapses in membership)
District of Columbia (2005-present)(active with no lapses in membership)

- b. List all courts in which you have been admitted to practice, including dates of admission and any lapses in membership. Please explain the reason for any lapse in membership. Give the same information for administrative bodies that require special admission to practice.

All state courts in Connecticut (1994-present)
District of Columbia Superior Court and Court of Appeals (2005-present)

11. **Memberships:**

- a. List all professional, business, fraternal, scholarly, civic, charitable, or other organizations, other than those listed in response to Questions 9 or 10 to which you belong, or to which you have belonged, since graduation from law school. Provide dates of membership or participation, and indicate any office you held. Include clubs, working groups, advisory or editorial boards, panels, committees, conferences, or publications.

Trump-Pence Presidential Transition Team (2016-2017)
Leader of Department of Justice Landing Team
Chesterbrook Swim and Tennis Club (2013-present)
Federalist Society for Law and Public Policy Studies (2002-present)
Washington University School of Law Alumni Association (1994-present)
University of Virginia Alumni Association (1991-present)

- b. Indicate whether any of these organizations listed in response to 11a above currently discriminate or formerly discriminate on the basis of race, sex, religion

or national origin either through formal membership requirements or the practical implementation of membership policies. If so, describe any action you have taken to change these policies and practices.

To my knowledge, none of these organizations discriminate or formerly discriminated on the basis of race, sex, religion or national origin either through formal membership requirements or the practical implementation of membership policies.

12. Published Writings and Public Statements:

- a. List the titles, publishers, and dates of books, articles, reports, letters to the editor, editorial pieces, or other published material you have written or edited, including material published only on the Internet. Supply four (4) copies of all published material to the Committee.

Letter to the Editor, *Show Some Decency*, WASHINGTON POST, April 28, 2001.
Copy supplied.

- b. Supply four (4) copies of any reports, memoranda or policy statements you prepared or contributed in the preparation of on behalf of any bar association, committee, conference, or organization of which you were or are a member. If you do not have a copy of a report, memorandum or policy statement, give the name and address of the organization that issued it, the date of the document, and a summary of its subject matter.

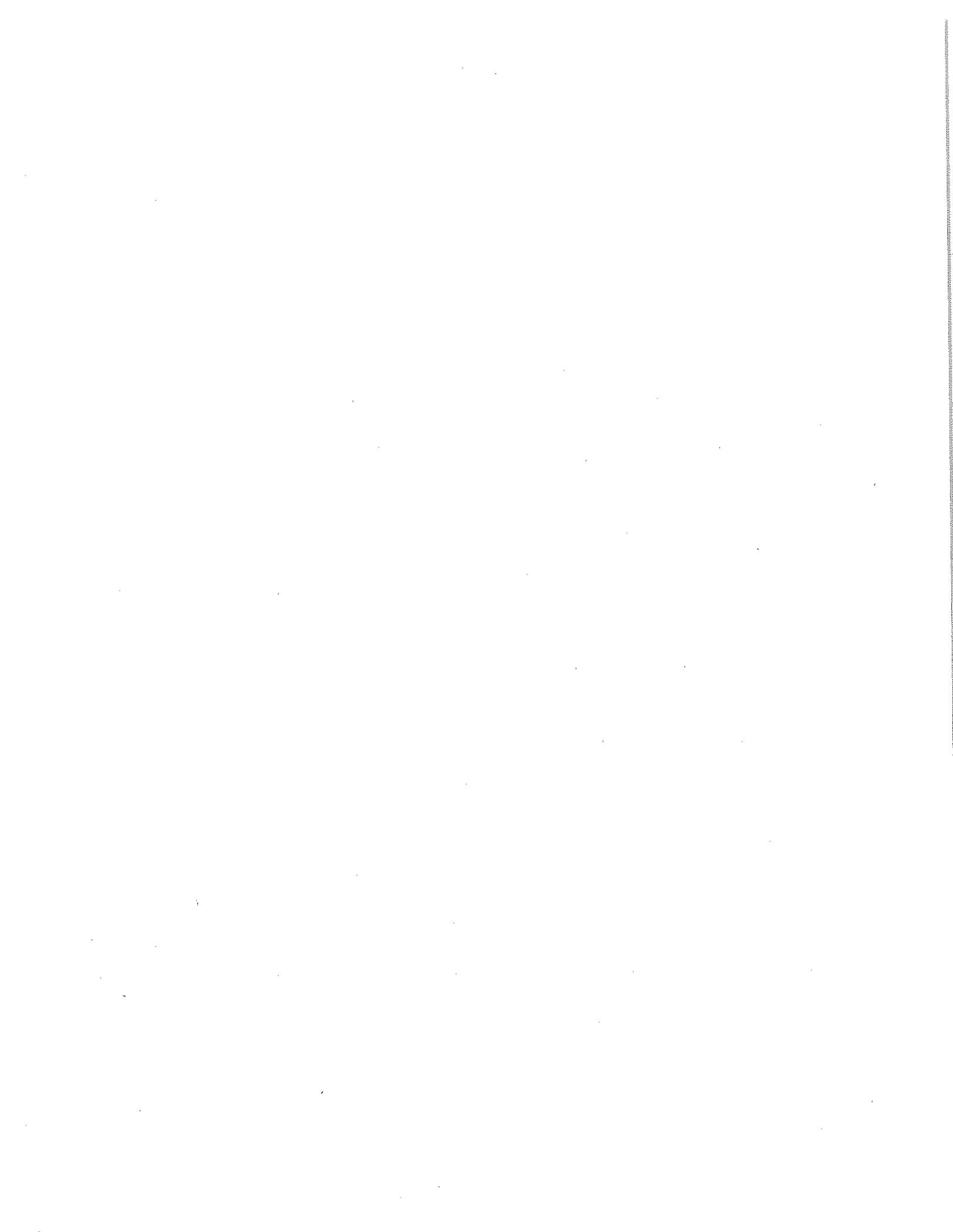
I have done my best to identify any reports, memoranda or policy statements I prepared or contributed to, including through a review of my personal files and searches of publicly available electronic databases. I have located the following:

Kirkland Alert, DOJ Issues New Guidance on Individual Accountability for Corporate Wrongdoing, September 15, 2015. Copy supplied.

Kirkland Alert, U.S. Department of Justice Official Urges Companies to Provide Evidence Against Their Employees to Obtain Cooperation Credit, October 2014.
Copy supplied.

Comment Letter, *OIG-403-P2 – Medicare and State Health Care Programs; Fraud and Abuse; Revisions to the Office of Inspector General’s Exclusion Authorities (79 Federal Register 26810, May 9, 2014)*, July 8, 2014. Copy supplied.

- c. Supply four (4) copies of any testimony, official statements or other communications relating, in whole or in part, to matters of public policy or legal interpretation, that you have issued or provided or that others presented on your behalf to public bodies or public officials.



I have not previously testified before Congress or any other public body.

During my tenure as Principal Deputy Assistant Attorney General for Legislative Affairs at the Department of Justice, I signed numerous letters to Congress on behalf of the Department that were drafted by others. I did not retain copies of any of these letters in my personal records.

- d. Supply four (4) copies, transcripts or recordings of all speeches or talks delivered by you, including commencement speeches, remarks, lectures, panel discussions, conferences, political speeches, and question-and-answer sessions. Include the date and place where they were delivered, and readily available press reports about the speech or talk. If you do not have a copy of the speech or a transcript or recording of your remarks, give the name and address of the group before whom the speech was given, the date of the speech, and a summary of its subject matter. If you did not speak from a prepared text, furnish a copy of any outline or notes from which you spoke.

Throughout my career in private practice, I have spoken on a number of topics in a variety of venues. I do not typically use prepared text, notes, or an outline when I speak and do not have materials from any of the lectures or panel discussions listed below.

National Constitution Center
525 Arch Street, Philadelphia PA
March 5, 2011

I participated in a panel discussion about Supreme Court nominations and the judicial nominations process generally. I spoke without notes and there was no press coverage or transcript of the panel discussion of which I am aware.

Washington University School of Law – DC Clinic
1779 Massachusetts Avenue NW, Washington, DC
May 4, 2011

I participated in a panel discussion with Washington University School of Law alumni and students where I spoke about my career in government service. I spoke without notes and there was no press coverage or transcript of the panel discussion of which I am aware.

Columbia Law School – DC Clinic (Professor Michael Shenkman)
1608 Rhode Island Avenue NW, Washington, DC
November 21, 2011

I gave a lecture about practical issues associated with the judicial nominations process. I spoke without notes and there was no press coverage or transcript of the lecture of which I am aware.

Columbia Law School – DC Clinic (Professor Michael Shenkman)

1608 Rhode Island Avenue NW, Washington, DC

January 23, 2013

I gave a lecture about ethics and leadership by government lawyers. I spoke without notes and there was no press coverage or transcript of the lecture of which I am aware.

Georgetown University Law Center (Adjunct Professors Chris Thuma and Carrie Cordero)

600 New Jersey Avenue NW, Washington, DC

November 26, 2013

I gave a lecture about congressional oversight of national security authorities and agencies, and the role of the national security lawyer in the Executive Branch. I spoke without notes and there was no press coverage or transcript of the lecture of which I am aware.

Georgetown University (Lecturer Susan Davies)

37th and O Streets NW, Washington DC

February 2, 2017

I participated in a class discussion with my Kirkland & Ellis colleague Susan Davies wherein we discussed the judicial nominations process with undergraduate seniors. I spoke without notes and there was no press coverage or transcript of the lecture of which I am aware.

- e. List all interviews you have given to newspapers, magazines or other publications, or radio or television stations, providing the dates of these interviews and four (4) copies of the clips or transcripts of these interviews where they are available to you.

I have done my best to identify all interviews given, including through a review of my personal files, and searches of publicly available electronic databases. Despite my searches, there may be other materials that I have been unable to identify, find, or remember. I have located the following:

Paul Ryan Picks Veteran House Lawyer as General Counsel, LEGAL TIMES, November 16, 2015. Copy Supplied.

Senate Confirms Loretta Lynch as Attorney General, NATIONAL PUBLIC RADIO, April 23, 2015. Copy Supplied.

Democrats Call Lynch Confirmation Delay a New Low in Washington Gridlock, NPR MORNING EDITION, April 22, 2015. Copy Supplied.

Same Side, Different Minds, CQ WEEKLY, June 14, 2014. Copy Supplied.

Apple Prepares for Washington Onslaught, POLITICO, May 20, 2013. Copy Supplied.

Preet Bharara: The Enforcer of Wall Street, FORTUNE, August 2, 2011. Copy Supplied.

GOP Lawyers Wait in the Wings for Key Hill Jobs, THE LEGAL INTELLIGENCER, October 11, 2010. Copy Supplied.

Behind the Scenes at Judiciary, a Powerful Effort on Both Sides, WASHINGTON POST, June 28, 2010 at A13. Copy Supplied.

Short Timers: DOJ's Office of Legislative Affairs Looks for a New Leader, Again, THE NATIONAL LAW JOURNAL, June 9, 2008. Copy Supplied.

People, THE NATIONAL JOURNAL, November 18, 2000 at 3692. Copy Supplied.

Domenici Aide Starts Up an Internet Career, ROLL CALL, November 13, 2000. Copy Supplied.

13. Public Office, Political Activities and Affiliations:

- a. List chronologically any public offices you have held, other than judicial offices, including the terms of service and whether such positions were elected or appointed. If appointed, please include the name of the individual who appointed you. Also, state chronologically any unsuccessful candidacies you have had for elective office or unsuccessful nominations for appointed office.

I have not run for public office.

I have held the following appointed positions at the United States Department of Justice:

Chief of Staff, Bureau of Alcohol, Tobacco, firearms and Explosives, 2006-2007. I was appointed by Attorney General Alberto R. Gonzales.

Principal Deputy Assistant Attorney General for the Office of Legislative Affairs, United States Department of Justice, 2007-2008. I was appointed by Attorney General Gonzales.

Chief of Staff, Office of Deputy Attorney General Mark R. Filip, United States Department of Justice, 2008. I was appointed by Attorney General Michael B. Mukasey.

Chief of Staff, Office of Attorney General Michael B. Mukasey, United States Department of Justice, 2008-2009. I was appointed by Attorney General Mukasey.

- b. List all memberships and offices held in and services rendered, whether compensated or not, to any political party or election committee. If you have ever held a position or played a role in a political campaign, identify the particulars of the campaign, including the candidate, dates of the campaign, your title and responsibilities.

I am a member of the Republican Party, but have not held a position or played a formal role in a political campaign.

I served as the leader of the Justice Department transition for the Trump-Pence Transition team in 2016-17. I did not receive compensation for my services.

14. **Legal Career:** Answer each part separately.

- a. Describe chronologically your law practice and legal experience after graduation from law school including:

- i. whether you served as clerk to a judge, and if so, the name of the judge, the court and the dates of the period you were a clerk;

I have not clerked for a judge.

- ii. whether you practiced alone, and if so, the addresses and dates;

During a brief period from February to April 2009, I practiced alone and worked out of my personal residence. My work consisted of serving as a consultant on litigation and investigations matters.

- iii. the dates, names and addresses of law firms or offices, companies or governmental agencies with which you have been affiliated, and the nature of your affiliation with each.

Partner
Kirkland & Ellis, LLP
655 Fifteenth Street, NW
Suite 1200
Washington, DC 20005
September 2010 to present

Republican Staff Director
United States Senate
Committee on the Judiciary
224 Dirksen Senate Office Building
Washington, DC 20510
April 2009-September 2010

Chief of Staff
Office of the Attorney General
United States Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530
August 2008-February 2009

Chief of Staff
Office of the Deputy Attorney General
United States Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530
May 2008-August 2008

Principal Deputy Assistant Attorney General
Office of Legislative Affairs
United States Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530
July 2007-May 2008

Chief of Staff
Bureau of Alcohol, Tobacco, Firearms and Explosives
United States Department of Justice
99 New York Avenue, NE
Washington, DC 20226
October 2006-July 2007

Majority Counsel
United States House of Representatives
Committee on the Judiciary
2138 Rayburn House Office Building
Washington, DC 20515
June 2005-October 2006

Attorney
Bancroft PLLC (firm merged with Kirkland & Ellis LLP in 2016)
2124 Bancroft Place, NW
Washington, DC 20008
May 2004-June 2005

Staff Director, Senior Counsel & Counsel
Office of Legal Policy
United States Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

January 2002-May 2004

Assistant General Counsel & Senior Vice President for Business
Development
thePit.com
235 Main Street
White Plains, NY 10601
September 2000-June 2001

Counsel
United States Senator Pete V. Domenici
328 Hart Senate Office Building
Washington, DC 20510
January 1997-September 2000

Professional Staff
United States Senate
Committee on the Budget
624 Dirksen Senate Office Building
Washington, DC 20510
September 1994-December 1996

- iv. Whether you served as a mediator or arbitrator in alternative dispute resolution proceedings and, if so, a description of the 10 most significant matters with which you were involved in that capacity.

None.

b. Describe:

- i. the general character of your law practice and indicate by date when its character has changed over the years.
- ii. your typical clients and the areas at each period of your legal career, if any, in which you have specialized.

I have had the great fortune of serving both in private practice and in public service throughout my career as an attorney. The majority of my career has been in public service to the United States Senate, the United States House of Representatives, and the United States Department of Justice, where I viewed (and continue to view) my clients as the American people, along with the institutions and elected representatives I served.

When I first started in private practice in 2004, my early work (for approximately one year) focused on civil and appellate litigation. I returned to private practice in 2010, where my work during the last seven

years has been almost exclusively in the areas of government and internal investigations, white collar criminal defense, and congressional investigations matters.

I began my legal career in 1994 as a Professional Staff Member of the United States Senate Budget Committee. During my tenure on the Budget Committee, my responsibilities included reviewing the budget and appropriations for the United States Department of Justice and related federal law enforcement agencies. I also staffed Chairman Domenici on issues before the Senate Banking Committee and on congressional investigations matters in the Banking and Governmental Affairs (now Homeland Security and Governmental Affairs) Committees. In 1997, I became Counsel to Senator Domenici in his personal office, where my portfolio included congressional investigations, judiciary, law enforcement, banking, and commerce issues.

In 2000, I left Washington, DC to serve as in-house counsel to an Internet start-up company, where I negotiated contracts, and advised on intellectual property, finance, and labor and employment matters.

In January 2002, I returned to Washington, DC after the September 11, 2001 attacks and joined the Office of Legal Policy at the United States Department of Justice, where I handled judicial nominations, law enforcement and national security policy, and other matters.

In 2004, I became an attorney at Bancroft PLLC, where my work included civil litigation, appellate matters, and public policy advising of technology companies. Our clients included an individual sued in the aftermath of September 11th, as well as companies, non-profit organizations, and trade associations that we advised on litigation matters and for whom we wrote and filed amicus briefs in the United States Supreme Court.

In 2005, I joined the staff of the Committee on the Judiciary of the United States House of Representatives, where I advised Chairman Sensenbrenner on legislation related to the reauthorization of the Department of Justice, criminal justice, national security, tort reform, and other matters.

From 2006 to 2007, I served as Chief of Staff at the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), where I was a member of senior management and provided strategic direction in the areas of law enforcement operations, policy, management and budget, and helped lead ATF's transition to its new headquarters building.

In 2007, I returned to the Department of Justice, where I led the Office of Legislative Affairs as Principal Deputy Assistant Attorney General. In

this role, I served as the Department's liaison with Congress and handled legislation, oversight, and investigations matters.

From 2008-2009, I served as Chief of Staff to Deputy Attorney General Mark Filip and Attorney General Michael Mukasey, where I assisted each in setting the strategic direction of their offices and the Department. I also served as a co-leader of the 2008-09 Justice Department transition, where I worked with incoming Obama transition team members to complete the hand-off of the Department to the new administration.

Since 2009, I have been a partner at Kirkland & Ellis in the Government and Internal Investigations, Crisis Communications and Management, and Litigation practice groups. My work largely consists of conducting internal investigations on behalf of large corporate clients, as well as managing Department of Justice, other governmental agency, and congressional investigations for companies and individuals.

- c. Describe the percentage of your practice that has been in litigation and whether you appeared in court frequently, occasionally, or not at all. If the frequency of your appearances in court varied, describe such variance, providing dates.

I have not appeared in court, except on 1-2 limited occasions to address routine scheduling or other matters, during my career in private practice. Most of my matters involve confidential internal investigations, large matters that are either resolved favorably or through settlement with a governmental body, or congressional investigations matters where my clients are asked to produce documents and information and/or appear for testimony before congressional committees.

Approximately 40 percent of my matters have been confidential internal investigations, 30 percent have involved matters with either federal or state government entities, and 30 percent have been congressional investigations.

I would estimate that approximately 50 percent of my matters outside of internal investigations have involved civil, administrative or congressional issues, and 50 percent were criminal or had a significant criminal component to them.

- d. State the number of cases in courts of record, including cases before administrative law judges, you tried to verdict, judgment or final decision (rather than settled), indicating whether you were sole counsel, chief counsel, or associate counsel.

None.

- e. Describe your practice, if any, before the Supreme Court of the United States. Supply four (4) copies of any briefs, amicus or otherwise, and, if applicable, any

oral argument transcripts before the Supreme Court in connection with your practice.

My practice before the Supreme Court has been limited to co-authoring two amicus briefs and one brief in support of a petition for writ of certiorari during the early part of my career. Copies supplied.

I have not argued or served as counsel of record in any Supreme Court matter.

15. **Litigation:** Describe the ten (10) most significant litigated matters which you personally handled, whether or not you were the attorney of record. Give the citations, if the cases were reported, and the docket number and date if unreported. Give a capsule summary of the substance of each case. Identify the party or parties whom you represented; describe in detail the nature of your participation in the litigation and the final disposition of the case. Also state as to each case:

- a. the date of representation;
- b. the name of the court and the name of the judge or judges before whom the case was litigated; and
- c. the individual name, addresses, and telephone numbers of co-counsel and of principal counsel for each of the other parties.

As noted above, my practice has largely consisted of managing government and internal investigations rather than engaging in trial advocacy. I have listed below five significant matters involving criminal and civil claims that also involved litigation in federal court or a federal administrative agency. I have further described my practice in detail in response to Question 16 below.

1. United States v. BP Exploration and Production, Inc.
Case No. 2:12-cr-00292-SSV-DEK
United States District Court for the Eastern District of Louisiana
The Honorable Sarah S. Vance
2010-2013

My law firm and several others represented BP in the aftermath of the explosion onboard the *Deepwater Horizon* in the Gulf of Mexico. My work largely consisted of leading various phases of the company's factual investigation and preparing witnesses for interviews by the government.

The company pleaded guilty to 14 counts, including 11 counts of felony manslaughter, one count of obstruction of Congress, and violations of the Clean Water and Migratory Bird Treaty Acts, and agreed to pay \$4 billion in criminal fines and penalties.

Primary Co-Counsel:
Mark R. Filip
Kirkland & Ellis LLP
300 North LaSalle
Chicago, IL 60654
(312) 862-2192

Henry DePippo
Kirkland & Ellis LLP
601 Lexington Avenue
New York, NY 10022
(212) 446-4780

Jamie Gorelick
Howard Shapiro
WilmerHale
1875 Pennsylvania Avenue, NW
Washington, DC 20006
(202) 663-6500

F. Joseph Warin
Gibson Dunn
1050 Connecticut Avenue, NW
Washington, DC 20036
(202) 887-3609

Opposing Counsel:
Lanny Breuer, Assistant Attorney General
John Buretta, Director, Deepwater Horizon Task Force
Derek Cohen, Deputy Director, Deepwater Horizon Task Force
United States Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

2. United States v. Abbott Laboratories, Inc.
Case No. 1:12-cr-00026-SGW
United States District Court for the Western District of Virginia
The Honorable Samuel G. Wilson
2010-2012

My law firm represented Abbott Laboratories in connection with civil and criminal matters related to the company's marketing of the drug Depakote. My work consisted of reviewing the factual record, which was more than four million pages of documents across 120 subpoenas dating to 2008, preparing presentations for use in settlement discussions, responding to questions and requests for information from federal prosecutors to aid in settlement negotiations, and

working to finalize the written settlement agreement. I also led the subsequent negotiations with various state attorneys general that resulted in the settlement of the majority of parallel state claims.

Abbott pleaded guilty to one misdemeanor count of misbranding under the Federal Food, Drug and Cosmetic Act, paid a criminal fine and forfeiture of \$700 million, and entered into civil settlements with the federal government and several states of \$800 million.

Co-Counsel:

Mark R. Filip
Kirkland & Ellis LLP
300 North LaSalle
Chicago, IL 60654
(312) 862-2192

Henry DePippo
Kirkland & Ellis LLP
601 Lexington Avenue
New York, NY 10022
(212) 446-4780

Theodore V. Wells, Jr.
Paul Weiss
1285 Avenue of the Americas
New York, NY 10019
(212) 373-3089

Opposing Counsel:

Rick Mountcastle, Assistant United States Attorney
Randy Ramseyer, Assistant United States Attorney
United States Attorney's Office for the Western District of Virginia
180 West Main Street
Abingdon, VA 24210
(276) 628-4161

3. United States v. Volkswagen AG
Case No. 16-CR-20394
United States District Court for the Eastern District of Michigan
The Honorable Sean F. Cox
2015-2016

My law firm and several others represented Volkswagen AG and Volkswagen Group of America in the early stages of this case. Our clients allegedly conspired to sell diesel vehicles in the United States containing "defeat devices" designed to circumvent U.S. emissions testing requirements. My role included general fact

development, conducting witness interviews and preparing witnesses for interviews by the government, assisting a witness to prepare for congressional testimony, and crisis management in the early stages of the matter.

In January 2017, Volkswagen AG agreed to plead guilty to participating in a conspiracy to defraud the United States and its U.S. customers and to violate the Clean Air Act, obstruction of justice, and entry of goods by false statement. Volkswagen AG agreed to pay a \$2.8 billion criminal penalty and \$1.5 billion in a separate civil resolution.

Co-Counsel:
Mark R. Filip
Kirkland & Ellis LLP
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Chicago, IL 60654
(312) 862-2192

Steven R. Ross
Akin Gump Strauss Hauer and Feld
Robert Strauss Building
1333 New Hampshire Avenue, NW
Washington, DC 20036
(202) 887-4343

Opposing Counsel:
Andrew Weissman
Chief, Fraud Section
Criminal Division
United States Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530
(202) 514-2000

John Cruden
Assistant Attorney General
Environment and Natural Resources Division
United States Department of Justice
United States Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530
(202) 514-2000

4. In Re Terrorist Attacks on September 11, 2001
Case No. 1:09-cv-07055-GBD-SN
03 MDL 1570 (GDB)
United States District Court for the Southern District of New York

The Honorable George B. Daniels
2004-2005

In this multi-district civil litigation matter, co-counsel and I represented Yousef Jameel, a Saudi national alleged to have provided financial assistance to al Qaeda prior to the September 11th attacks. My role included fact development, litigation strategy, preparing and editing motions to dismiss and other filings, and generally monitoring the large number of lawsuits consolidated under the MDL.

In 2010 (long after I departed the representation), Judge Daniels dismissed our client from the MDL on personal jurisdiction grounds. The Second Circuit affirmed the dismissal in 2013 in In Re Terrorist Attacks on September 11, 2001 (Asat Trust Reg., et al), 714 F.3d 659 (2d Cir. 2013).

Co-Counsel:
Viet D. Dinh
Kirkland & Ellis LLC
655 Fifteenth Street, NW
Washington DC 20005
(202) 879-5017

Kenneth Caruso
White & Case
1221 Avenue of the Americas
New York, NY 10020
(212) 819-8853

Marvin R. Lange
Bracewell LLP
1251 Avenue of the Americas
New York, NY 10020
(212) 508-6108

Primary Opposing Counsel:
Sean P. Carter
Stephen A. Cozen
Cozen O'Connor
One Liberty Place
1650 Market Street
Suite 2800
Philadelphia, PA 19103
(215) 665-2000

5. Campaign Legal Center, et al v. Specialty Investments Group, Inc.
MUR 6711
Federal Election Commission

2013-2016

I represented Adam Brandon, a senior executive at FreedomWorks for America, in this FEC matter wherein two organizations alleged that there was reason to believe that Mr. Brandon and other individuals and organizations had violated 52 U.S.C. § 30122. After reviewing the original and amended complaints, and investigating the facts, I drafted and filed a response arguing that the complaint should be dismissed. On February 23, 2016, the Commission considered the complaint, but there were insufficient votes to find a reason to believe that my client had violated the law and the file was closed.

Opposing Counsel:
Mark D. Shonkwiler
Assistant General Counsel
Federal Election Commission
999 E Street, NW
Washington, DC 20463
(202) 694-1650

16. **Legal Activities:** Describe the most significant legal activities you have pursued, including significant litigation which did not progress to trial or legal matters that did not involve litigation. Describe fully the nature of your participation in these activities. List any client(s) or organization(s) for whom you performed lobbying activities and describe the lobbying activities you performed on behalf of such client(s) or organizations(s). (Note: As to any facts requested in this question, please omit any information protected by the attorney-client privilege.)

As noted above, approximately 40 percent of my work in private practice has involved conducting confidential internal investigations on behalf of corporate clients. Although I cannot divulge specific clients or any information protected by the attorney-client privilege, I offer the following general description of that work for the Committee's review, which was on behalf of separate and distinct clients from the matters listed in response to Question 15 above.

I have conducted no fewer than four lengthy internal investigations for clients in the banking, finance, and energy sectors. These investigations typically have taken anywhere from six months to two years to complete, and have involved issues as varied as anti-money laundering and Title 31 compliance, Foreign Corrupt Practices Act issues, and environmental matters. The investigations usually involve extensive document collection and review, comprehensive fact development (typically including anywhere from 10-50 interviews of relevant personnel), and the preparation of a privileged written report or presentation to senior management and/or the Board of Directors.

In addition to the internal investigations work outlined above, approximately 30 percent of my work in private practice has involved representing clients in congressional investigations. Below is a summary of two particularly significant congressional

investigations matters (of the approximately dozen) I have handled since 2010.

Senate Permanent Subcommittee on Investigations (PSI) - Cable and Satellite Television Investigation (2015-2017) - I served as lead counsel to Charter Communications, Inc. in this lengthy PSI investigation into customer service, billing and competition issues. I assisted my client in complying with two extensive document subpoenas, prepared approximately ten corporate witnesses for interviews by Subcommittee staff, prepared a senior company executive for sworn testimony at a public hearing, and worked with staff on a bipartisan basis in connection with their drafting of two reports related to the investigation.

House Oversight & Government Reform and House Energy & Commerce Committees - Review of Affordable Care Act (2011-2017) - I have served as lead counsel for the Blue Cross Blue Shield Association in multiple investigations involving the Affordable Care Act (ACA), including the circumstances surrounding the passage of the ACA, risk corridors, reinsurance, cost sharing reduction payments and other issues. I assisted my client in responding to numerous document requests, prepared witnesses for briefings to investigative staffs of both committees, and prepared corporate witnesses for testimony at public hearings.

During my time in private practice, I served as a registered lobbyist for one client, LightSquared. LightSquared was a litigation client of Kirkland & Ellis, and out of an abundance of caution, I registered as a lobbyist for two quarters (November 2011 to March 2012) so that I could attend broader litigation and public policy strategy meetings that from time to time involved discussions of federal lobbying activities. As best as I can recall, I engaged in *de minimis* (no more than 2-3) lobbying contacts for the client, and de-registered as a lobbyist for the company in 2012. I have not acted as a lobbyist for any other clients during my time in private practice.

17. **Teaching:** What courses have you taught? For each course, state the title, the institution at which you taught the course, the years in which you taught the course, and describe briefly the subject matter of the course and the major topics taught. If you have a syllabus of each course, provide four (4) copies to the committee.

I have not taught any courses on a full time basis. From time to time, I have been asked to serve as a guest lecturer at educational institutions on various topics. I have described those lectures in response to Question 12d above.

18. **Deferred Income/ Future Benefits:** List the sources, amounts and dates of all anticipated receipts from deferred income arrangements, stock, options, uncompleted contracts and other future benefits which you expect to derive from previous business relationships, professional services, firm memberships, former employers, clients or customers. Describe the arrangements you have made to be compensated in the future for any financial or business interest.

I contribute to the Kirkland & Ellis 401k plan, which is managed by a third-party

provider. I intend to maintain my holdings in that plan after departing Kirkland & Ellis, but the law firm will no longer make any contributions to the plan on my behalf.

19. **Outside Commitments During Service:** Do you have any plans, commitments, or agreements to pursue outside employment, with or without compensation, during your service? If so, explain.

No.

20. **Sources of Income:** List sources and amounts of all income received during the calendar year preceding your nomination and for the current calendar year, including all salaries, fees, dividends, interest, gifts, rents, royalties, licensing fees, honoraria, and other items exceeding \$500 or more (if you prefer to do so, copies of the financial disclosure report, required by the Ethics in Government Act of 1978, may be substituted here).

Please see OGE-278.

21. **Statement of Net Worth:** Please complete the attached financial net worth statement in detail (add schedules as called for).

Please see attached statement of net worth.

22. **Potential Conflicts of Interest:**

- a. Identify the family members or other persons, parties, affiliations, pending and categories of litigation, financial arrangements or other factors that are likely to present potential conflicts-of-interest when you first assume the position to which you have been nominated. Explain how you would address any such conflict if it were to arise.

During the nomination process, I consulted with the Department of Justice's ethics office and Designated Ethics Officer to identify any potential conflicts. If I am confirmed, I will continue to consult with that office and will recuse myself from any matter in which recusal is required.

- b. Explain how you will resolve any potential conflict of interest, including the procedure you will follow in determining these areas of concern.

If I am confirmed, I will continue to consult with the Department of Justice's ethics office and will recuse myself from any matter in which recusal is required.

23. **Pro Bono Work:** An ethical consideration under Canon 2 of the American Bar Association's Code of Professional Responsibility calls for "every lawyer, regardless of professional prominence or professional work load, to find some time to participate in serving the disadvantaged." Describe what you have done to fulfill these responsibilities,

listing specific instances and the amount of time devoted to each. If you are not an attorney, please use this opportunity to report significant charitable and volunteer work you may have done.

Most of my career as an attorney has been in public service, including for the United States Senate, United States House of Representatives, and the United States Department of Justice. During my time in private practice at Kirkland & Ellis, I have undertaken at least 20 hours of pro bono work in six out of the eight years I have been at the firm. Some of that time has involved supervising the work of younger attorneys.

I personally have handled two significant pro bono matters since I have been at Kirkland, both of which involved more than 100 hours of work over several years. A brief description of those matters is below.

I represented an undocumented immigrant teenaged female, who had been sex trafficked by members of a notorious international street gang, in her cooperation as a victim/witness with state and federal law enforcement and a United States Attorney's Office. I assisted the client in preparing for and participating in several interviews with law enforcement and federal prosecutors to discuss the difficult circumstances surrounding her victimization and to provide information in connection with the investigation. I also worked with the United States Attorney's Office to obtain a certification of her cooperation, which I and other attorneys at Kirkland used successfully to obtain a T-visa for the client.

I represented a former employee of the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) in connection with congressional and Department of Justice Office of Inspector General investigations into the circumstances surrounding what became known as "Operation Fast and Furious." My client was not directly involved in many of the underlying events that occurred, but instead was a material fact witness to some of the matters under investigation. I worked with the client to prepare for several transcribed interviews, as well as public testimony at a congressional hearing, and he cooperated fully with each investigation.

I also am proud of charitable work my family has done with Doorways for Women and Families, an organization in Arlington, VA that provides resources and support for women and children who are the victims of domestic abuse and sexual violence. In addition to donating to the organization, for the past two years we have worked with individual families at Christmas time to understand their needs and their children's wish lists so we could purchase holiday gifts for mothers to provide on Christmas Day.