

July 29, 2010

The Honorable President Barack Obama
The White House
1600 Pennsylvania Avenue, N.W.
Washington, D.C. 20500

Dear President Obama:

On behalf of the 18 organizations listed below that represent millions of small business owners, we are writing to express our strong support for the Office of Advocacy of the U.S. Small Business Administration and our hope that the Administration will continue to reinforce the Office of Advocacy's longstanding role as an independent advocate for small businesses.

Small businesses are the backbone of our nation's economy, and their ability to operate efficiently and free of unnecessary regulatory burdens is key for our country's economic recovery. Research from a 2005 study released by the Office of Advocacy illustrates that the small business community is disproportionately affected by burdensome federal regulations.¹ The study found that small businesses spend more than \$7,000 per employee annually to comply with federal regulations. In fact, the study concluded that complying with federal regulations costs small businesses 60 percent more than it would a company employing 500 or more employees.

Small businesses – and in turn our nation – have benefited significantly from the independent role of the Office of Advocacy. Most importantly, the Office of Advocacy ensures that small business concerns and alternatives are fully and objectively considered throughout the federal rulemaking process, and that needless regulatory burdens and costs are minimized, if not eliminated, whenever possible.²

The Office of Advocacy advances the interests of small businesses by also ensuring that the requirements set forth by the Regulatory Flexibility Act of 1980,³ as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996⁴ are met. The Office of Advocacy reviews the Regulatory Flexibility analysis or certification prepared by federal departments and agencies, submits comments on proposed rules, hosts public roundtables to solicit comments from small business entities, presents Congressional testimony, engages in Interagency dialogue, files *amicus curiae*, periodically reviews existing regulations, and participates as a panel member on SBREFA panels when convened by the respective federal agency.

The Office of Advocacy's SBREFA responsibilities have been significantly expanded under the *Dodd-Frank Wall Street Reform and Consumer Protection Act* (P.L. 111-517) to include the newly created Consumer Financial Protection Bureau (CFPB). The Small Business Fairness and Regulatory Transparency provisions included in P.L. 111-517 requires the CFPB to include recommendations from a Small Business Advocacy Review Panel with any proposed rules that

¹ W. Mark Crain, *The Impact of Regulatory Costs on Small Firms*, U.S. Small Business Administration, Office of Advocacy-sponsored research, September 2005, at <http://www.sba.gov/advo/research/rs264tot.pdf>.

² 15 U.S.C. § 634a, *et. seq.*

³ Pub. L. No. 96-354, 94 Stat. 1164 (1981).

⁴ Pub. L. No. 104-121, 110 Stat. 857 (1996), codified as amended at 5 U.S.C. §§ 601-612.

are anticipated to have significant impact on small firms and to inform the public of how its rules will impact small business access to credit.

The success of the Office of Advocacy in fulfilling its statutory objectives is dependent on a Chief Counsel who has demonstrated experience with the Regulatory Flexibility Act and the federal rulemaking process. Last May, however, you nominated Dr. Winslow Sargeant as the Chief Counsel for the Office of Advocacy. While Dr. Sargeant may be knowledgeable about small businesses in general, and also supportive of their overall value to the economy, we nonetheless have concerns about his qualifications to lead the Office of Advocacy. Indeed, following the markup of his nomination, Senate Small Business and Entrepreneurship Committee Ranking Member Olympia Snowe (R-ME), along with four other Committee members, expressed these same concerns about Dr. Sargeant's nomination and respectfully requested that you reconsider him as SBA Deputy Administrator. More specifically, they stated at that time that:

As a former small business owner, researcher, venture capitalist, and program manager for the Small Business Innovation Research Program at the National Science Foundation, Dr. Sargeant is a talented and accomplished individual qualified for myriad high level posts at the SBA, yet we believe a successful nominee for the SBA's Chief Counsel for Advocacy requires legal degree and training, as well as a background in regulatory law and policy, to successfully carry out the core functions and demands of the office [of Advocacy].⁵

As representatives of small businesses, the undersigned organizations agree with these concerns and, therefore, respectfully urge you to resubmit Dr. Sargeant's nomination to another position within the Administration where his experience and skills would enable him to be the most effective.

There is a critical need for the Office of Advocacy to be able to continue functioning as an independent government advocate for the small business community. Small businesses rely on the Office of Advocacy as the watchdog within the Executive Branch to ensure small business concerns are considered and overly burdensome regulations are reduced without undermining the policy objectives. A strong candidate with extensive knowledge of regulatory affairs and both the independence and courage to weigh-in and advocate on small businesses behalf, regardless of the political environment, is essential to the viability of the Office of Advocacy and its mission.

Sincerely,

American Composites Manufacturers Association
American Trucking Associations
Ball Clay Producers Association
Industrial Minerals Association – North America
National Association of Manufacturers
National Club Association
National Industrial Sand Association
National Utility Contractors Association
Small Business & Entrepreneurship Council

American Hotel & Lodging Association
Associated Builders and Contractors
Independent Electrical Contractors
International Diatomite Producers Association
National Association of Wholesaler-Distributors
National Federation of Independent Business
National Ready Mixed Concrete Association
Prometrix Consulting
Tire Industry Association

⁵ Letter from Ranking Member Olympia Snowe, et al., Senate Small Business and Entrepreneurship Committee, to President Barack Obama (October 5, 2009).