

# NOMINATION OF HON. ALAN C. KESSLER

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## HEARING

BEFORE THE

### COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS UNITED STATES SENATE

OF THE  
ONE HUNDRED ELEVENTH CONGRESS

FIRST SESSION

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NOMINATION OF HON. ALAN C. KESSLER TO BE A GOVERNOR, U.S.  
POSTAL SERVICE

NOVEMBER 19, 2009

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## NOMINATION OF HON. ALAN C. KESSLER

THURSDAY, NOVEMBER 19, 2009

U.S. SENATE,  
COMMITTEE ON HOMELAND SECURITY  
AND GOVERNMENTAL AFFAIRS,  
*Washington, DC.*

The Committee met, pursuant to notice, at 2:32 p.m., in room SD-342, Dirksen Senate Office Building, Hon. Thomas R. Carper, presiding.

Present: Senator Carper.

### OPENING STATEMENT OF SENATOR CARPER

Senator CARPER. The Committee will come to order. Today, we are going to be considering the nomination of Alan Kessler to remain a member of the Postal Service Board of Governors. Normally, I would say before I give my opening statement that I would like to recognize the junior Senator from the Commonwealth of Pennsylvania to introduce our witness, and when Senator Casey arrives to introduce our witness, I will yield to him.

The clock tells us a vote has just begun, the first of three, so what I would like for us to do is go ahead and go as far as we can on an opening statement from me, an introduction from Senator Casey, and maybe get into Mr. Kessler's comments, and then we will break when we have to for three votes in a row, recess, and come right back.

But Mr. Kessler is no stranger to this Committee nor to the State of Delaware. He was confirmed by the Senate to serve on the Board of Governors in 2000, and over the course of his term on the Board, he has served as Vice Chair and Chair and has been an active, dedicated leader at the U.S. Postal Service (USPS) during a number of difficult years.

Mr. Kessler is no stranger to me personally. Mr. Kessler grew up in Delaware. He is now our neighbor to the north. Actually, his parents were a neighbor to my family in the northern part of the City of Wilmington. He grew up in Delaware, graduated from the University of Delaware. He is a Blue Hen, not a Mud Hen, and now lives in Pennsylvania. He serves as an attorney in Philadelphia and serves as a longtime leader in a number of ways in his community.

I would just say to Senator Casey, I have never seen a nominee with a list of references and activities and so forth as long as this one. It is amazing.

I am delighted that the President has decided to renominate Mr. Kessler at a time when we know it is very tough sledding for the

Postal Service. The Postal Service recently filed its financial statements for fiscal year 2009, and the data included in that filing showed a decline in mail volume of nearly 13 percent, and that resulted in a year-end loss of some \$3.8 billion, up from \$2.8 billion in the previous fiscal year.

This loss came despite the fact that the Postmaster General and his team, including the Board of Governors, were able to achieve more than \$6 billion in cost savings over the course of a single year, and it would have been significantly higher, about \$7.8 billion, to be exact, if Congress and the President had not acted at the end of September to reduce the size of the Postal Service's overly large retiree health prefunding payment.

The projections for the current fiscal year, frankly, do not look a whole lot better than the results for fiscal year 2009. Despite an expected recovery in at least some areas of our economy, the Postal Service is anticipating a further decline in mail volume. This is not as steep as what we have seen in the last 12 or 13 months, but a decline nonetheless. That decline is coupled with the fact that savings are going to be harder to come by this year. The low-hanging fruit, such as it is, has been plucked. But it is going to result in the kind of massive \$7 or \$8 billion loss that we were expecting right up until the end of fiscal year 2009.

Congress must address this problem by finishing the work that we began in the Continuing Resolution and permanently restructuring the Postal Service's retiree health obligation in a more rational way. The payments the Postal Service is required to make under the current law are simply unaffordable, especially during such difficult economic times when the Postal Service is already losing customers to electronic forms of communication.

And I will also note that those payments are not related at all to what the Postal Service owes to its future retirees. I have introduced legislation, along with some of my colleagues, to address this problem. It has been reported out of this Committee, and I hope it can be considered in the full Senate, if not this year, then early next year.

Another thing Congress can do is leave the day-to-day management of the Postal Service to the Postal Service. Too often, those of us here in the Senate and the House stand in the way of the Postal Service's efforts to streamline operations and remove excess capacity, especially when it comes to closing or consolidating retail and processing facilities.

We also, unfortunately, prevent the Postal Service from changing delivery frequency to adjust to the changing mailing economy. Studies have shown that the elimination of Saturday delivery alone could save the Postal Service upward of \$3 billion per year, and I would note that is not an idea without controversy, so let the record show that. But in many ways, I think we need to let Postal Service management do what it needs to do to manage its way through the crisis it currently faces.

Mr. Kessler, you have about a decade's worth of experience in making these kinds of decisions as a member of the Board. Your tenure started with the financial crisis and coincided with the September 11, 2001, attacks, anthrax in the mail, and now another fi-

nancial crisis, perhaps the worst we have seen in decades. Some might say that you just are plain bad luck. [Laughter.]

I would not say that, but some might say that. [Laughter.]

So I am pleased nonetheless that you are willing to take that experience and apply it to yet another term, 7 years this time, on the Board. I look forward to spending some time with you this afternoon exploring how you would use your experience and knowledge of postal issues to continue the Postal Service's streamlining efforts and, perhaps more importantly, help lead the way in efforts to attract new business and retain what is already there.

And Senator Casey, you have been great to join us, and I would love it if you would introduce your friend and mine, Mr. Kessler.

**TESTIMONY OF HON. ROBERT P. CASEY, JR., A U.S. SENATOR  
FROM THE STATE OF PENNSYLVANIA**

Senator CASEY. Mr. Chairman, thank you very much for this opportunity. I am honored to be here today. I know that a vote has just started, so I will be brief—as you know, when a Senator can be brief like you and I are trying to do, that is hard to do sometimes in the Senate, but we are going to do it.

Senator CARPER. But we are better at it than most.

Senator CASEY. Let me say first, Mr. Chairman, thank you for your leadership on so many issues. I never had a chance to talk to Mr. Kessler about this particular topic, meaning your leadership when I started here 3 years ago. Senator Carper has been a great mentor to those of us who are new, and now we have two new classes here. We are grateful for that.

Senator CARPER. Let the record show, Senator Casey and I mentor each other. [Laughter.]

We are support groups for one another.

Senator CASEY. Thank you very much. I am honored to be here to introduce or in large measure to reintroduce Mr. Kessler to this Committee and to this continuation of his public service.

I have known him a long time, and I have to admit up front that I do not sit here infused with objectivity because I have known him and I have strong feelings for him as a friend, but probably more importantly, I know his commitment to public service at a time when we need more people who are willing to dedicate a portion of their life to service to our country.

In the case of Mr. Kessler, he served the United States of America, the Commonwealth of Pennsylvania, and the City of Philadelphia, as well as other assignments. I do not want to get into every detail of his life, but I do want to highlight a couple of his professional achievements and associations.

As a partner at the Duane Morris Law Firm, Mr. Kessler has handled complex litigation and worked on behalf of a wide range of clients, including not only Fortune 100 companies, but also the Commonwealth of Pennsylvania, the City of Philadelphia, the Philadelphia Housing Authority—that is one I didn't mention—as well as other governmental agencies. He has served as a Township Commissioner, that alone merits commendation. Anyone who serves in local government is committed and brave at the same time. But he has been a member of the Philadelphia Planning Commission, a member of the Board of Directors of the Greater

Philadelphia Chamber of Commerce, the Philadelphia Industrial Development Corporation, and the Central Philadelphia Development Corporation.

He has had a strong commitment, I believe, over all these years to the U.S. Postal Service, which is now, over the last decade, as the Chairman noted, serving as Governor since November of 2000, Vice Chairman of the Board from January 2005 to January 2008, and Chairman from January 2008 to January 2009.

His interest in and experience with the Postal Service, as well as his years of service in economic development efforts, serve the agency well as it continues to face challenges in a turbulent economy.

Chairman Carper mentioned those challenges, and I know that Mr. Kessler has already demonstrated that he is up to the job. We are grateful that he is willing to continue to serve, and I strongly and unreservedly am here to commend his work and also to urge his prompt, speedy, and expeditious confirmation.

Thank you, Mr. Chairman.

Senator CARPER. Senator Casey, that means a lot to me, as I know it does to Mr. Kessler, that you are here, by his side, and you have these wonderful things to say about him. We thank you very much.

Senator CASEY. Thank you.

Senator CARPER. I am told by my staff here that we have about 6 minutes to go on this first vote, so feel free to head for the floor. I am going to have Mr. Kessler raise his right hand in just a minute. We are going to swear him in and then take a break and come back and hold our hearing. But thank you so very much. It is great to see you.

Mr. Kessler has filed responses to a biographical and financial questionnaire. He has also answered pre-hearing questions submitted by the Committee. In addition, his financial statements have been reviewed by the Office of Government Ethics.

Without objection, this information will be made part of the hearing record. The financial data, however, will remain on file and available for public inspection in the Committee offices.

The Committee rules require that all witnesses at nomination hearings give their testimony under oath, as Mr. Kessler knows. I am going to ask you to remain standing and to raise your right hand as I administer this oath.

Do you swear that the testimony you will give before this Committee will be the truth, the whole truth, and nothing but the truth, so help you, God?

Mr. KESSLER. I do.

Senator CARPER. Please be seated.

At this time, I had hoped we would have time for you to go ahead and give your opening statement and then I would run and vote, but I think I will miss my vote if we do that. So I am going to recess the Committee for probably the next 30 minutes. We have three votes right in a row. I should be back in about 30 minutes. I apologize for that, but sometimes my day job gets in the way of these hearings.

Mr. KESSLER. Thank you, Mr. Chairman.

Senator CARPER. I will be back shortly. Thanks.



In the meantime, the Committee stands in recess.

[Recess.]

Senator CARPER. All right. Enough fun. Now back to a hard day's night.

Well, so far, I have been able to give an opening statement. Senator Casey came by and gave really an uplifting introduction of our nominee. We have asked Mr. Kessler to take an oath, and he has done so. I think the next thing to do is to call on him to make his statement.

Please proceed and then I will ask some questions.

Mr. KESSLER. Well, thank you, Mr. Chairman.

Senator CARPER. Thank you all for your patience.

Mr. KESSLER. Our staff from the Postal Service says I have done a great job so far saying, "I do," so I am going to try to follow that up.

**TESTIMONY OF HON. ALAN C. KESSLER<sup>1</sup> TO BE A GOVERNOR,  
U.S. POSTAL SERVICE**

Thank you, Mr. Chairman, and I do want to thank you and Members of the Committee for holding this hearing this afternoon. I am grateful to President Obama for nominating me to a second term as a Governor of the U.S. Postal Service. I appreciate the Committee's actions in taking up my nomination so quickly.

I do want to add, on a personal basis, that I would like to thank the Chairman for your continued accessibility and your very genuine interest and concern for Postal matters. I have enjoyed working with you to address Postal issues and certainly hope to be able to continue those efforts over the next several years, so thank you very much, Senator Carper.

I would also like to thank my other longtime friend from Pennsylvania and a great public servant, Senator Bob Casey, for taking the time out of his schedule. I know how busy things are these days. So although he has gone on to better things, thank you very much, Senator Casey, for doing this.

Mr. Chairman, I have been asked why, given the rather dire financial condition of the Postal Service, I would want to serve a second term, and to that I have a simple answer. In my 9 years of service on this Board, I have had experience with challenges, the likes of which I never would have anticipated when I was first nominated. As you alluded to, at my very first Board meeting, the governors were discussing the impending loss of a half-a-billion dollars. Now, I thought they said a half-a-million dollars, and at that point I wondered what I had gotten myself into.

But shortly thereafter, it was the September 11, 2001, terrorist attacks and the anthrax attacks, which shook the Nation, the mailing industry, and the Postal Service. A number of challenges have followed since then, and those challenges have been significant, but none more so than the current fiscal crisis. Quite frankly, I would not want to leave the Board in the middle of those efforts, and if confirmed, I hope to have a hand in returning the Postal Service to solid fiscal health.

<sup>1</sup>The prepared statement of Mr. Kessler appears in the Appendix on page 17.

Since 2003, I have served as a member or chair of the Strategic Planning Committee of the Board, and I served as vice chairman of the Board from 2005 to 2007. I was greatly honored to serve as chairman of the Board in 2008. During my tenure, I instituted regular meetings between the Board as a whole and various stakeholders. I reorganized the Board's committees to have a full standing committee dedicated to government relations to allow for a more robust interaction between the Board and Congress. I was also the first chairman of the Board to address a convention of one of the Postal Service's major labor organizations.

As an individual member of the Board, I have spoken regularly with individual stakeholders one-on-one to hear their unique perspectives on the many challenges facing the Postal Service and their ideas for addressing those challenges.

The role of the Board of Governors is to set policies and goals for Postal management and to provide oversight to management in the achievement of those goals and policies. I have used my background as a business lawyer and as a former elected official in reviewing Postal issues and solutions. I have applied my legal experience to analyze the issues, and I have used my government experience to interact with the general public and elected officials and to ensure that our stakeholders are fully engaged.

I believe my 9 years of experience as a governor will be useful in guiding the Postal Service forward during this very troubling financial crisis. I am hopeful of having the honor and privilege of continuing my commitment to the Postal Service and of helping to restore the Postal Service to fiscal stability. In short, I am dedicated to the goals we all share, protecting the immediate and long-term viability of America's Postal system and the American public's need for universal mail service.

Again, I thank you very much for holding this hearing, and at this point, I will be happy to answer any questions that you have, Mr. Chairman.

Senator CARPER. Thank you very much, Mr. Kessler.

I will start off by asking you three questions that you have been asked before, and they are ones that we ask of all of our nominees who come before us.

Is there anything you are aware of in your background that might present a conflict of interest with the duties of the office to which you have been nominated?

Mr. KESSLER. No.

Senator CARPER. That is the best answer.

Mr. KESSLER. Thank you.

Senator CARPER. Do you know of anything, personal or otherwise, that would in any way prevent you from fully and honorably discharging the responsibilities of the office to which you have been nominated?

Mr. KESSLER. No.

Senator CARPER. Do you agree without reservation to respond to any reasonable summons to appear and testify before any duly constituted committee of Congress if you are confirmed?

Mr. KESSLER. Yes, I do, Mr. Chairman.

Senator CARPER. Thank you.

I have a number of policy questions. As I think I noted in my opening statement, the Postal Service suffered, as you know, very substantial losses in fiscal year 2009 and is projected to lose, I think, an even greater amount of money this year. If confirmed, would you explain for us how you would work with your colleagues on the Board of Governors and with senior Postal management, and I would add to that labor organizations, organizations representing the Postal employees, to attempt to minimize the financial impact of the loss in revenue that the Postal Service is currently experiencing?

Mr. KESSLER. Thank you, Mr. Chairman. Let me say that since I have been on the Board, we have worked on cost issues, never more so than over the last few years. The Postal Service faces three main challenges: The continued diversion of mail by electronic means; the impact of the worst recession in 70 years; and as the Chairman noted at the outset, the impact of the requirement to prefund retiree health benefits.

We have continued to address those problems as well as to work with management to find new ways to increase volume, new customers, and retain our customers. We are also looking to identify, if necessary, Mr. Chairman, legislative alternatives or remedies to this.

Since I have been on the Board, over the last 8 years, senior management has worked well with the Board to identify costs. As you know, we have taken \$13 billion in costs out of our structure. That includes \$6 billion this past year alone. We have worked hard on the cost side of the ledger.

And at the same time, Mr. Chairman, it is important that we have worked to maintain service levels. You talked about labor and our workforce. Because of the great job done by our Postal family workforce, we had our highest service levels ever. So at the same time we have taken \$6 billion out this past year, service levels have been high.

The trick is to continue to cut costs. Our Postmaster General has identified over \$2 billion in additional costs that we will take out over our fiscal year 2010. But we cannot, unfortunately, do it alone.

Congress was great in helping us through this crisis this past year with respect to prefunding our retiree health benefits. That was a one-year help. I do not want to go too far afield, and I will be happy to talk more about the retiree health benefit issue, but in addition to that, we also need to confront and ask Congress for authority to move from 6 to 5-day delivery. That is not something that any of us, myself included in the 9 years, have gotten to summarize. We have addressed that issue. We have debated it in the past. And that is something we are also going to need help on.

I do not know if that answers your question or if you would like me to discuss the labor issue.

Senator CARPER. Again, the question was focused more on how to grow revenues. The Postal Service had a couple of, I think, interesting and successful campaigns, the flat rate box campaign, the summer sale and fall sale. I understand that the Postal Service may start selling greeting cards in its retail outlets—maybe you have already started doing that, I am not sure—which seems to me

to be a logical extension of what is already part of the business strategy of the Postal Service, not inconsistent.

I understand that the Postal Service may have some interest in looking at other commercial ventures which could have the effect of raising revenues. I am not sure what they are. I understand they may need legislative approval. I am not positive, though. If you could cast any light on that——

Mr. KESSLER. Sure.

Senator CARPER [continuing] Without breaking any secrets or confidences, I would appreciate it.

Mr. KESSLER. Well, Mr. Chairman, the reality is that in addition to spending a tremendous amount of time on the cost side of the ledger, we have also done the same thing on the revenue side. I chaired the Postal Service Strategic Planning Committee for a number of years, and we have heard on a continuing basis from our new President of Mailing and Shipping Sources, Bob Bernstock, on ideas, some of which you have already mentioned, that they have come up with to help increase sales and volume. It has not, therefore, just been about cuts. It has also been a significant amount of time on the revenue side.

Some of what you have mentioned, the summer sale, and I would expect, without divulging secrets or confidences, you will probably see the same type of sale on the winter side——

Senator CARPER. I would be surprised if we did not.

Mr. KESSLER. Hopefully, we do. The advertising that you have talked about, it seems that everyone in America is talking about it. The flat boxes have caught hold. They have been a great jolt. The Board's role is to set broad policies and goals. We are not a Board that micromanages. On the other hand, we are a Board that wants to know how management attempts to achieve those goals and policies and then talks to us about it. We do not meet four times a year. We meet almost monthly, and we meet in committees, and we go over these things. We do not micromanage, but we do provide oversight, and we want to know what is working and what is not working. That includes the Postal revenue side.

The issue about what other products or services we should offer, it is true, we are not going to be able to go forward in the future simply on what some might call traditional Postal products. We do understand we have to run some of these by the Postal Regulatory Commission, and with the greatest respect to the Postal Regulatory Commission, it would be helpful if we had a little flexibility there. We have talked about a product like stored value gift cards. The Postal Regulatory Commission has said, no, that is not a traditional Postal product. If we are not given the flexibility there, then I suspect we are going to have to come back to Congress and get that flexibility to do those kinds of things.

I wish I could be a little more specific in terms of the kinds of products and services that might be out there in the future. Senior management has assured the Board that they are working on a study on additional products and services. They will come back to us. Hopefully to the extent we can proceed with those without Congressional approval, we will. As I said, I wish I could tell you more, but we don't have that full study at this point. But I can assure

you that the Board is very interested and diligent in pushing the revenue and new product side as much as the cost side.

Senator CARPER. It is not enough for the Congress to criticize the Postal Service for rolling up ever-larger deficits, and to the extent that there are reasonable ideas that will help on the revenue side or reasonable ideas that will help on the expense side, we need to be more open to those than we have been in the past.

We have already touched a little bit on my next question, which deals with the prefunding of future health obligations. I will come back to you just briefly and ask you to reiterate for us, in your view, how important is it for those of us in Congress to find some way to permanently restructure the Postal Service retiree health obligation?

Mr. KESSLER. Well, first of all, Mr. Chairman, let me say that when this arose in the 2006 reform discussions and then as law, I do not think anybody at that point could have foreseen the recession, the size and the impact that it has had on the Postal Service. So now we roll forward a couple of years, and again, we have taken \$13 billion in costs out, \$6 billion in one year alone, and yet in that one year that we already took \$6 billion in costs, we would not have been able to make the payment to the Treasury in September if we had not received relief from Congress.

That is going to continue. I note that I do not know that there is another Federal agency, or for that matter a private employer, that has such a prefunding obligation. And we are being told now, Mr. Chairman, that we expect to lose \$7 billion in 2010, possibly \$11 billion in 2011. It is imperative that everyone know that September will roll around and we will not be able to make that payment unless we get relief. What is envisioned by the Senate bill, it is hoped, is not another one-year relief.

This is going to continue to be something that we are going to have to face, and it is imperative that we get this relief. In terms of the short-term relief we need and then long-term relief, this is No. 1 on the list.

Senator CARPER. Is it also No. 2 and 3? [Laughter.]

Mr. KESSLER. It is No. 2 and 3.

Senator CARPER. All right. A different topic. As you know, the Postal Service receives criticism whenever it attempts to close or to consolidate facilities. What do you think the Postal Service needs to do to address this criticism and, where necessary, eliminate excess retail and processing capacity?

Mr. KESSLER. Well, these are tough times, Mr. Chairman. Anything that the Postal Service does to address those tough times is going to impact somebody. And we can talk about 5-day delivery. Whatever we talk about is going to impact stakeholders, and that is true with consolidations.

Again, it is important to note the distinction and the roles. The Board sets policies and goals. We do not tell senior management, well, you should close this facility or consolidate this facility but not that facility. We do get a full briefing. What we do ask for is that our stakeholders and our elected officials—Senate, Congress—be fully advised and informed and engaged. Engaged means that there be a discussion and not a decision and it is a done deal.

The reality is that our volume has shrunk considerably, and we have talked about ways to get that volume up. But our volume has dropped 27 billion pieces of mail, from 202 billion to 175 billion. I think it would be irresponsible as that volume shrinks to not also look for ways to shrink the network, to ask the questions whether a facility is absolutely necessary in this economy with that volume, and if not, for ways to look to consolidate.

But there are two questions or two issues there. Is there a need to consolidate, and then how are those consolidations carried out? Is there a process set up by which there is communication with stakeholders and an opportunity to be heard? And I believe there is that for most consolidations.

I should say that, in addition to those discussions involving senior management, our Board is also very much engaged, both in general and in individual decisions. I have told the story often, but one of the first consolidations we did was in Western Pennsylvania. I do not know how the decision got out, but our Governor of Pennsylvania, Ed Rendell, and Senator Arlen Specter had me on the phone within hours. I am one Board member, but I spoke to our Deputy Postmaster General. We set up a discussion, not with Senator Specter and Governor Rendell, but with three county commissioners that were impacted in Western Pennsylvania by this decision. And it turned out there was a lot of, not surprisingly, misinformation. We went through it, and there was a good discussion. At the end of the day, that consolidation took place. But I think everybody was pleased with the information they received.

It just highlights the importance of good communications, not just making decisions and having folks like you find out about it when it is too late, but having a process in place to engage the stakeholders.

Senator CARPER. Good points. In the past, I have spoken about the need for the Postal Service not just to focus on closing facilities, but also on expanding access to the services that it offers. This does not necessarily mean building new post offices, as you know, but, where appropriate, expanding access to alternative retail, such as Automated Postal Centers, centers located in places where people go everyday, such as our pharmacies or grocery stores.

I do not know why, but I am always surprised when I am in a supermarket and the person in line in front of me not only buys their groceries, but also buys their postage stamps there. I should get over that surprise, but it occurs fairly regularly. I have not seen anybody order and buy stamps in pharmacies, but I am sure they do, but certainly in grocery stores.

What do you think the Postal Service can do? What more can the Postal Service do in this area, and you may also use this as an opportunity to talk about purchases online.

Mr. KESSLER. Well, let me just say that I am right there with you. When you are in a supermarket, which I hate to say I do not get to that often, we need to make postage more accessible, in more places, as long as we are doing it appropriately and under our collective bargaining agreements.

It is important to note, Mr. Chairman, that what you have seen and what you talk about did not just happen by accident. Thirty

percent of our sales, give or take, is from these alternate retail channels.

Senator CARPER. Let me just interrupt you, if I could. Thirty percent? I am surprised that it is that high. Can you give us some idea if it is 30 percent and flat, 30 percent and growing, 30 percent and coming down?

Mr. KESSLER. I believe it is 30 percent and growing.

Senator CARPER. I see heads in the audience nodding yes.

Mr. KESSLER. Thank you. Thank you for that support. The important thing to note, Mr. Chairman, is that it did not just happen by accident. These are strategic decisions, and again, doing so within the framework of our collective bargaining agreements. And it is something that will continue.

We, as I said before, are looking for a report from staff in terms of new products and services that kind of plays into this, but we expect that what you saw and what you are looking for are going to continue. Hopefully when I come back the next time, the 30 percent will be more like 40 or 45 percent.

Senator CARPER. Would you comment for us a little bit about how the Postal Service uses the Internet to provide services? I should know that. I just do not know.

Mr. KESSLER. I should know that, too. The Postal Service has spent a lot of time and thought on the Internet. We had a great exhibit a couple of months ago about a new Website design, and it is absolutely incredible—the interactive way that the designers have engaged those who go online to the Website, by not only making our products available, but by showing the benefit of using USPS.

So I do not know that we have tried out the new Web design yet, but it will be great. You can have John show you, or somebody else, when we are ready to unveil it—

Senator CARPER. You mean John Kilvington, who is sitting right behind me?

Mr. KESSLER. That same John—even for those of us who are not, let us say, technical geniuses, we have given it a great deal of thought. Obviously, where we are losing most is with the younger generations who are not using the mail the way we did. I think through this Web design and our focus on the Internet, hopefully, we will bring those generations back into the mail.

Senator CARPER. I am going to ask you to just respond further on this point for the record. Can you talk a little bit about what is being done now and what is being contemplated in the near future—

Mr. KESSLER. I would be happy to do so.

Senator CARPER [continued] To use that as part of the growth engine for the Postal Service?

We have talked about this a little bit already, but I want to come back to it. One of the biggest issues, in some cases a fairly controversial issue, the Congress and the Postal Service may face in the coming years is the question of whether delivery frequency should be 6 days a week or whether it should be 5 days a week, perhaps by eliminating Saturday delivery. How important do you think it is that Congress allow the Postal Service to make the busi-

ness decision to eliminate a day of delivery if doing so is deemed necessary?

Mr. KESSLER. Mr. Chairman, let me say that I know this is an issue that does affect stakeholders, some more than others. We have had a number of discussions. When I was chair, one of the things that I instituted was regular meetings with our stakeholders, that is, our mailers and labor. We had a meeting with a number of our major mailers just 2 months ago during a retreat that we had, and probably the No. 1 topic, other than whether we were going to have another price increase, was 5-day delivery.

It is a challenging issue and it is one that I have struggled with. As I may have mentioned earlier, since I have been on the Board, we have discussed 5-day delivery, in addition to the most recent discussion, twice in the past. We decided because of the impact on stakeholders and for other reasons not to go down that road.

That was before we took \$13 billion of costs out and another \$2 billion this year. I don't want to say we are at the end of the road on taking costs out and further cuts in our workforce, but that alone is not going to do the trick. We have to look for different alternatives, whether it is, as we discussed, consolidating facilities.

In our opinion at this time, 5-day delivery is the only pragmatic structural change that will generate the kinds of savings we are talking about, \$3.4 billion according to our studies.

Senator CARPER. Say that amount again.

Mr. KESSLER. Three-point-four billion dollars. Senator, you may have seen opinion surveys. *USA Today* did one. Rasmussen, which does surveys, did one. They show that the American public is OK with it, at least when compared to other alternatives like price increases, and that the public can live with 5-day deliveries in this new economic reality.

As I said, we did have discussions with mailers. We know some it will impact more than others. I am hopeful that we find a way to do 6-day delivery for those who absolutely need it, even if there is an additional fee or charge involved.

We know we will lose volume, or we are told we will lose some volume. It is possibly up to a half-a-billion dollars, \$500 million of lost volume. I am not even sure about that, but what I am sure about is when you net that out, you come away with \$3.4 billion in savings.

We would not be so decided that this is a way to go if it was not such a dire financial situation.

Senator CARPER. Thank you. I may ask you for the record to let us know what some other countries are doing in this regard, 5 days a week. I will probably ask you for the record whether or not there are some countries that may normally do 5-day-a-week delivery, but during certain times of the year, they may offer service more frequently, maybe six times a week, and if you could respond for the record on that, that would be great.

Mr. KESSLER. Mr. Chairman, I think it is a great question. I am unable today to respond, but I think it is a question that I am not sure we asked. If we did ask it, I am not sure what the answer was. So if we can supplement the record and get back to you with our answer—

Senator CARPER. That would be great.



Mr. KESSLER. Thank you.

Senator CARPER. The last question that I have is the following one. The Postal Service receives a fair amount of criticism due to the fact that its labor costs are such a large percentage of total costs, maybe as much as 80 percent. Where do you think the Postal Service and its employees have been successful over time in controlling labor costs and where do you think there might be opportunities for future savings?

Mr. KESSLER. Mr. Chairman, first, I want to use this opportunity to say that in an extraordinarily difficult year where, as I said before, we made \$6 billion in cuts, most of those workforce related, we had historically our highest service levels ever. That is due in no small part to the great job that our workforce has done.

In looking at labor, 80 percent of our costs, it is important to note that, again, we have already taken \$13 billion in cuts, and much of that has been in workforce and labor. When I went onto this Board, the Postal Service had somewhere in the neighborhood of almost 800,000 employees, some 780,000 employees. It is now down to 620,000 or thereabouts. In this last year alone, we took 114 work hours out of our—

Senator CARPER. A hundred-and-fourteen?

Mr. KESSLER. A hundred-and-fourteen-million work hours, I am sorry. And we have done this while following our collective bargaining agreements.

We have in place a great mechanism for labor to communicate with senior management, and for that matter, for labor to talk to the Board. I mentioned the fact that we have regular meetings with our stakeholders, including labor. I addressed a major labor convention. Our future depends, as we have discussed a number of times, not only on cutting costs, but on increasing volume, and to that, we have to look to continued good service by our workforce.

So in the final analysis, labor and management must come together and address these issues in a collaborative fashion in our next round of collective bargaining. One of the things that has to be discussed—you asked me what other alternatives in addition to continuing cuts—we have to continue to address our network realignment, streamlining our network. I am hopeful that both sides, the parties will get together and do this as they have in the past. I should mention that they have done this; the National Association of Letter Carriers (NALC) has gotten together with management, and they have been able to work out route reduction agreements.

So our hope is that we can brief you on these kinds of issues and do so in a positive way. There are continuing grounds to do this and to do it internally between senior management and our great unions. As I said, we would want to do this in the way of reporting to the Senate and not asking for anything legislatively.

Senator CARPER. I think that concludes my questions.

Any brief closing statement you would like to make?

Mr. KESSLER. No. Again, Mr. Chairman, I—

Senator CARPER. I would really like your closing argument.  
[Laughter.]

Mr. KESSLER. Well, all I can say is that, as I hearken back to my opening, when people ask, given the great challenges that the

Postal Service faces now, why do you want 7 more years, I appreciate what our friend, Senator Casey, said about public service. It has been a great opportunity to continue what I do in my day job and also do some public service.

I really did not want to leave this Board in the middle of its greatest challenge. I have been engaged. I take it very seriously. My great hope is to leave this Board at a time when the Postal Service is returned to a sound financial footing and we can look at other issues, not financial ones.

Thank you very much, Mr. Chairman, and I truly appreciate the kind things that you have said, your warm friendship over the years, and the fact that the Committee, John Kilvington and others, have moved this along as quickly as they have. It will be good to have a full complement of Board members, and I thank you very much for all the time you spend on Postal issues.

Senator CARPER. It has been our pleasure. It is important to our country and certainly important, I know, to us.

I think I speak on behalf of all my colleagues, none of whom are here, and that is a good thing because if they were all here, you would be in trouble— [Laughter.]

As would your nomination. But I think I speak for all of us to say our heartfelt thanks to you for your service in this vein as well in a number of others over the years.

And thank you for your willingness to continue that service, again, as a governor within the Board of Governors. My staff and I and others here look forward to working with you.

We are going to leave the hearing record open until 12 noon tomorrow for the submission of additional questions, and I would ask as you receive those questions, including the couple that we have talked about here today, that you respond to them promptly.

I do not know when we will be able to get your nomination reported out of Committee. Looking back at John Kilvington, he said he thought in about 2 years. [Laughter.]

Mr. KESSLER. That is not what he told me earlier, but—

Senator CARPER. No, excuse me, he said less than 2 weeks. Sometimes we can get bottled up around here over minor things, but hopefully that will not be a problem in this instance, and the idea is to move it as expeditiously as we can.

When does your term end? I think you are a one-year carryover.

Mr. KESSLER. That is right.

Senator CARPER. But when does that end?

Mr. KESSLER. December 8.

Senator CARPER. The day after Delaware Day. The day after December 7, the day that Delaware in 1787 became the first State to ratify the Constitution.

Mr. KESSLER. I know that.

Senator CARPER. Well, again, we appreciate your being before us. Our thanks to your family, as well, for their willingness to share you with the people of our country.

With that having been said, this hearing is adjourned. Thanks very much.

[Whereupon, at 4:14 p.m., the Committee was adjourned.]

## APPENDIX

**Statement of Senator Thomas R. Carper  
Committee on Homeland Security and Governmental Affairs  
November 19, 2009  
Nomination of Alan C. Kessler**

Today, we'll be considering the nomination of Alan Kessler to be a member of the Postal Service's Board of Governors.

Mr. Kessler is no stranger to this committee. He was confirmed by the Senate to serve on the Board of Governors in 2000. Over the course of his term on the Board, he has served as Vice Chair and Chair and has been an active, dedicated leader at the Postal Service during a number of difficult years.

Mr. Kessler is also no stranger to me personally. He grew up in Delaware and graduated from the University of Delaware. He is now a neighbor to our north, living in Pennsylvania, working as an attorney in Philadelphia and serving as a long-time leader in a number of ways in his community.

I'm pleased that the President has decided to re-nominate Mr. Kessler at a time which, as we all know, has been very difficult for the Postal Service.

The Postal Service recently filed its financial statements for fiscal year 2009. The data included in that filing showed a decline in mail volume of nearly 13 percent. This resulted in a year-end loss of some \$3.8 billion, up from \$2.8 billion in the previous fiscal year. This loss came despite the fact that the Postmaster General and his team were able to achieve more than \$6 billion in cost savings over the course of the year. And it would have been significantly higher - \$7.8 billion, to be exact - if Congress and the President has not acted at the end of September to reduce the size of the Postal Service's overly-large retiree health pre-funding payment.

The projections for the current fiscal year look no better than these results for fiscal year 2009. Despite an expected recovery in at least some areas of the economy, the Postal Service is anticipating a further decline in mail volume. This, coupled with the fact that savings will likely be harder to come by this year, will result in the kind of massive, \$7 billion or \$8 billion loss we were expecting right up until the end of fiscal year 2009.

Congress must address this problem by finishing the work we began in the continuing resolution and permanently restructuring the Postal Service's retiree health obligation. The payments the Postal Service is required to make under current law are simply unaffordable, especially during such a difficult economic time when the Postal Service is already losing customers to electronic forms of communication. I'll also note that those payments are not related at all to what the Postal Service owes its future retirees. I've introduced legislation to address this problem. It's been reported out of this

committee and I hope it can be considered in the full Senate, if not this year than early next.

Another thing Congress can do is leave the day to day management of the Postal Service to the Postal Service. Too often, those of us here in the Senate and the House stand in the way of the Postal Service's efforts to streamline operations and remove excess capacity, especially when it comes to closing or consolidating retail and processing facilities.

We also, unfortunately, prevent the Postal Service from changing delivery frequency to adjust to the changing mailing economy. Studies have shown that the elimination of Saturday delivery alone could save the Postal Service upwards of \$3 billion per year.

In many ways, then, we need to let postal management do what it needs to do to manage its way through the crisis it currently faces.

Mr. Kessler, you have about a decade's worth of experience in making those kinds of decisions as a member of the Board. Your tenure started with a financial crisis and coincided with the 9/11 attacks, anthrax in the mail and, now, another financial crisis — perhaps the worst we've seen in decades. So I'm pleased that you are willing to take that experience and apply it to another term on the Board. I look forward to spending some time with you afternoon exploring how you would use your experience and knowledge of postal issues to continue the Postal Service's streamlining efforts and, perhaps more importantly, help lead the way in efforts to attract new business and retain what is already there.

**STATEMENT OF THE  
HONORABLE ALAN C. KESSLER  
TO BE A  
GOVERNOR OF THE UNITED STATES POSTAL SERVICE  
NOVEMBER 19, 2009**

Thank you, Mr. Chairman and members of the Subcommittee for holding this hearing this afternoon. I am very grateful to President Obama for nominating me to a second term as a Governor of the United States Postal Service. I appreciate the Committee's actions in taking up my nomination so quickly.

I might also add on a personal basis that I would like to thank the Chairman for your continued accessibility and very genuine interest in and concern for Postal matters. I have enjoyed working with you to address Postal issues and hope to be able to continue those efforts over the next several years.

Finally, I would like to thank a long time friend from Pennsylvania and great public servant, Senator Bob Casey, for taking the time out of an incredibly busy schedule to introduce me to the Committee. Thank you very much Senator Casey.

I have been asked why, given the dire financial condition of the Postal Service, I would want to serve a second term. To that I have a simple answer. In my nine years of service on the Board, I have had experience with challenges the likes of which I could have never anticipated when I was first nominated.

At my very first Board meeting, the Governors were discussing the impending loss of \$500 million dollars – a half a billion dollar loss was not what I expected to address at my first meeting. Shortly thereafter, the 9-11 terrorist attacks and the anthrax attacks shook the nation, the mailing industry, and the Postal Service. A number of challenges have followed since then. Those challenges have been significant, but none more so than the current fiscal crisis. I would not want to leave the Board in the middle of those efforts, and if confirmed, I hope to have a hand in returning the Postal Service to solid fiscal health.

Since 2003, I have served as a Member or Chair of the Strategic Planning Committee of the Board. In addition, I served as Vice Chairman of the Board from 2005 through 2007. I was greatly honored to serve as Chairman of the Board in 2008.

During my tenure, I instituted regular meetings between the Board as a whole and various stakeholders. I reorganized the Board's committees to have a full standing Committee dedicated to government relations to allow for a more robust interaction between the Board and Congress. I was also the first Chairman to address a convention of one of the Postal Service's labor organizations.

As an individual member of the Board, I have spoken regularly with individual stakeholders one-on-one, to hear their unique perspectives on the many challenges confronting the Postal Service and their ideas for addressing those challenges.

The role of the Board of Governors is to set policies and goals for Postal management and to provide oversight to management in the achievement of those goals and policies. I have used my background as a business lawyer and as a former elected official in reviewing Postal issues and solutions. I have applied my legal experience to analyze the issues, and I've used my government experience to interact with the general public and elected officials, and to insure that our stakeholders are fully engaged.

I believe my nine years of experience as a Governor will be useful in guiding the Postal Service forward during this very troubling financial crisis. I am hopeful of having the honor and privilege of continuing my commitment to the Postal Service, and of helping to restore the Postal Service to fiscal stability. In short, I am dedicated to the goals we all share, protecting the immediate and long-term viability of America's postal system, and the American public's need for universal mail service.

Again, I thank you for holding this hearing and I will be happy to answer any questions you may have.

**BIOGRAPHICAL AND FINANCIAL INFORMATION REQUESTED OF NOMINEES**

**A. BIOGRAPHICAL INFORMATION**

1. **Name:** (Include any former names used.)  
Alan C. Kessler
2. **Position to which nominated:**  
Member, Board of Governors, United States Postal Service
3. **Date of Nomination:**  
October 15, 2009
4. **Address:** (List current place of residence and office addresses.)  
Residence: REDACTED  
Office: 30 South 17<sup>th</sup> Street  
Philadelphia, PA 19103
5. **Date and place of birth:**  
9/16/50 – Washington, DC
6. **Marital status:** (Include maiden name of wife or husband's name.)  
Married – Wife: Gail E. (Strauss) Kessler
7. **Name and ages of children:**  
Anastasia I. (Kessler) Dellaccio – 29  
Mark J. Kessler – 25  
Daniel J. Kessler – 19
8. **Education:** (List secondary and higher education institutions, dates attended, degree received and date degree granted.)  
Pierre S. DuPont High School – 9/1965-6/1968 – High School Diploma (6/1968)  
University of Delaware – 09/1968-06/1972 – B.A. (6/1972)  
University of Maryland School of Law – 09/1972-05/1975 – J.D. (5/1975)
9. **Employment record:** (List all jobs held since college, and any relevant or significant jobs held prior to that time, including the title or description of job, name of employer, location of work, and dates of employment. Please use separate attachment, if necessary.)

Duane Morris LLP 30 South 17 <sup>th</sup> Street Philadelphia, PA 19103	2009- Present	Partner
Wolf, Block, Schorr and Solis-Cohen LLP 1650 Arch Street, 22nd Floor Philadelphia, PA 19103	1999-2009	Firm Executive Committee Partner: Class Action, Antitrust, Securities, Commercial and Civil Rights Litigation, Government Relations
Buchanan Ingersoll & Rooney Professional Corporation Eleven Penn Center 1835 Market Street, 14th Floor Philadelphia, PA 19103	1991-1999	Partner: Class Action, Antitrust, Securities and Commercial Litigation; Chair of Litigation, Philadelphia Office
Township Commissioner Township of Lower Merion County of Montgomery 75 East Lancaster Avenue Ardmore, PA 19097	1987-2000	Population approximately 57,000 Elected three terms
Mesirov, Gelman, Jaffe, Cramer & Jamieson 1735 Market Street Philadelphia, PA 19103	1981-1991	Partner: Class Action, Antitrust, Securities and Commercial Litigation; Firm Executive Committee (1989-1991)
Berger & Montague, P.C. 1622 Locust Street Philadelphia, PA 19103	1977-1981	Associate: Antitrust and Commercial Litigation
Dilworth, Paxson, Kalish, Levy & Kauffman 1735 Market Street Philadelphia, PA 19103	1975-1977	Associate: Litigation Department
The Institute for Paralegal Training The Mulberry Atrium Building 2133 Arch Street Philadelphia, PA 19103	1978-1996	Instructor: Antitrust Litigation

10. **Government experience:** (List any advisory, consultative, honorary or other part-time service or positions with federal, State, or local governments, other than those listed above.)



Member, Board of Governors, U.S. Postal Service (2000-Present) (appointed by President Clinton in 1999 and confirmed by U.S. Senate in 2000)

Chair of Board (2008-2009)

Vice Chair of Board (2005-2008)

Chair, Governance and Strategic Planning Committee (2004-Present)

Vice Chair, Presidential/Congressional Commission on Risk Assessment and Risk Management, Washington, D.C. (1994-1998) (appointed by President Clinton)

Volunteer Staff, Presidential Personnel Office, Old Executive Office Building, Washington, D.C. (1993)

Member, Electoral College, Commonwealth of Pennsylvania (2000)

Township Commissioner, Board of Commissioners, Lower Merion Township (1987-2000; elected November, 1987; sworn-in January 1988; re-elected November, 1991 and November, 1995)

Member, Presidential Transition Team, Washington, D.C. (President-elect Bill Clinton and Vice President-elect Al Gore, 1992-1993)

Co-Chair, Mayor's Transition Team, City of Philadelphia (Mayor-Elect John Street, 1999-2000)

Co-Chair Governor's Transition Team, Commonwealth of Pennsylvania (Governor-Elect Edward G. Rendell, 2002-2003)

Co-Chair, Mayor's Transition Committee, City of Philadelphia (Mayor-elect Ed Rendell, 1991-1992)

Member, Philadelphia City Planning Commission (appointed by Mayor Ed Rendell, 1992)

Member, Executive Committee, Philadelphia 2000 (1997-2000)

Chairman, Board of License and Inspection Review, City of Philadelphia (appointed by Mayor W. Wilson Goode, 1984-1991)

Chairman, Board of Building Standards, City of Philadelphia (appointed by Mayor William Green, 1983; reappointed by Mayor W. Wilson Goode, 1984)

Mayor's Task Force on the Homeless, Philadelphia, PA (1989-1998)

Chair and Board Member, Pennsylvania Supreme Court Committee on Continuing Legal Education (1998-2004) (appointed by Pennsylvania Supreme Court)

Mayor's Committee on Special Services District, Philadelphia, PA (1989-1991)

11. **Business relationships:** (List all positions currently or formerly held as an officer, director, trustee, partner, proprietor, agent, representative, or consultant of any corporation, company, firm, partnership, or other business enterprise, educational or other institution.)

421 Willow Corporation -- Limited Partner (1995 -- present)

Keystone Property Group -- Limited Partner (2007 -- present)

Petra Solar, Inc. -- Advisory Board (2009 -- present)

Duane Morris LLP, Partner (2009-Present)

Wolf, Block, Schorr and Solis-Cohen LLP, Partner (1999-2009)

Philadelphia Industrial Development Corporation, Board Member (1999-Present)

Supreme Court of Pennsylvania Continuing Legal Education Board (1998-2004)

Buchanan Ingersoll Professional Corporation, Shareholder (1991-1999)

Mesirov Gelman Jaffe Cramer & Jamieson, Partner (1981-1991)

Central Philadelphia Development Corporation, Board of Directors (1989-Present)

Executive Committee, Philadelphia 2000, (1997-2000)

The Education Foundation of Lower Merion (2007-Present)

12. **Memberships:** (List all memberships, affiliations, or other offices currently or formerly held in professional, business, fraternal, scholarly, civic, public, charitable or other organizations.)

Bar and Court Memberships:

Bar of the Supreme Court of the Commonwealth of Pennsylvania (1975)

United States District Court for the Eastern District of Pennsylvania

(1975)

Northern District of Georgia

Western District of Tennessee

United States Court of Appeals for the Third Circuit (1984)

United States Supreme Court

American Bar Association:

Member, Antitrust Section

Member, Section of Corporations, Banking and Business Law

Pennsylvania Bar Association

Philadelphia Bar Association:

Chair, Committee for the Prompt Filling of Federal Judicial Vacancies,  
(1998-2001)

Vice Chair, Large Firm Management Committee (1998)

Member, Legislative Liaison Committee

Member, Philadelphia Police Study Task Force (1988-1989)

Chairman, City Policy Committee (special appointment by Chancellor in  
1985 and 1987)

Member, Executive Board of the Young Lawyer's Section (elected 1981-  
December, 1984)

Member, American Arbitration Association

Charter Member, Hamilton Circle, Philadelphia Bar Foundation

Chair, Board Member, Supreme Court of Pennsylvania Continuing Legal  
Education Board (appointment by Supreme Court of Pennsylvania, 1998-2004)

Member, Board of Directors, Greater Philadelphia Chamber of Commerce (2008-  
Present)

Board of Directors, Philadelphia Industrial Development Corporation (City's economic development agency) (1999-Present)

Executive Committee, Board of Directors, Central Philadelphia Development Corporation (CPDC) (1989-Present)

Board of Directors, The Education Foundation of Lower Merion (2007-2009)

Board of Advisors, Public Interest Law Center of Philadelphia (1992-2007)

Board of Directors, Support Center for Child Advocates (1983-1992)

Board of Directors, Jewish Employment Vocational Services (1989-1996)

Board of Directors, Anti-Defamation League (1996-1999)

13. **Political Affiliations and Activities:**

- (a) List all offices with a political party which you have held or any public office for which you have been a candidate.

Township Commissioner, Board of Commissioners, Lower Merion Township (1987-2000)

Managing Trustee, Democratic National Committee (1992-1997)

- (b) List all memberships and offices held in and services rendered to any political party or election committee during the last 10 years.

Finance Vice Chair, Democratic National Committee (1999-2000)

National Finance Committee, Obama for America (2008)

National Finance Co-Chair, Hillary Clinton for President (2007-2008)

National Finance Vice Chair, Gore 2000

Finance Chair, Pennsylvania Democratic Party (2003-Present)

Finance Co-Chair, Rendell for Governor, (2001-2002, 2005-Present)

Local Legislation Committee, Greater Philadelphia Chamber of Commerce

Managing Trustee, Democratic National Committee (1992-2000)

Special Counsel, Democratic City Committee of Philadelphia (1980-1984)

Finance Committee, Democratic City Committee of Philadelphia (1980-1984)

Co-Chair, Pennsylvania, Gore for President Campaign (1988)

National Finance Board, Clinton/Gore Campaign (1996)

National Finance Committee, Clinton/Gore Campaign (1992)

Co-Chair, Pennsylvania, Gore Vice Presidential Campaign (1992)

- (c) Itemize all political contributions to any individual, campaign organization, political party, political action committee, or similar entity of \$50 or more during the past 5 years.

In searching my records, I was able to identify political contributions of \$50.00 or more which is attached as Exhibit "A."

14. **Honors and awards:** List all scholarships, fellowships, honorary degrees, honorary society memberships, military medals and any other special recognitions for outstanding service achievements.

Omicron Delta Kappa National Leadership Honor Society

Who's Who in the World, 10th Edition (1991-1992)

Who's Who in American Law, 5th and 6th Editions (1987-1988)

Who's Who in America, 48th and 49th Editions (1993, 1996)

Who's Who in America, 53rd Edition (1999)

Who's Who in America, 54<sup>th</sup> Edition (1999)

Who's Who in America, 55<sup>th</sup> Edition (2000)

Pennsylvania Super Lawyers, 2009

Pennsylvania Super Lawyers, 2008

Pennsylvania Super Lawyers, 2007

Pennsylvania Super Lawyers, 2005

Pennsylvania Super Lawyers, 2004

University of Maryland School of Law - Graduated with Honors; Moot Court Board (National Competition)

University of Delaware - Graduated with Honors; Omicron Delta Kappa - National Leadership Honor Society; President of Senior Class; President of Sophomore Class; Vice-President of Freshman Class; University President's Advisory Council; Speaker at Commencement, 1972

Leukemia Society of America, The First Celebrity Waiters (1991)

City Council Resolution, City of Wilmington, Delaware, (1987)

Philadelphia Bar Association, Certificate of Recognition (1985 and 1987)

Certificate of Recognition, Young Lawyers' Section

Executive Committee, Philadelphia Bar Association (1984)

Outstanding Adult Volunteer, Pennsylvania District 27, Little League Baseball (1998)

Pennsylvania State Association of Township Commissioners Award for Dedicated Service as a Township Commissioner (1999)

15. **Published writings:** (Provide the Committee with two copies of any books, articles, reports, or other published materials which you have written.)

"Framework for Environmental Health Risk Management", Volume 1, The Presidential/ Congressional Commission on Risk Assessment and Risk Management (1997)

"Risk Assessment and Risk Management in Regulatory Decision-Making", Volume 11, The Presidential/Congressional Commission on Risk Assessment and Risk Management (1997)

"Boulder Clouds Cable Reception", Volume VI, No. 2, Pennsylvania Law Journal-Reporter (January 10, 1983)

"Future of Philadelphia Cable TV Systems Remains Uncertain", Volume 188, No. 8, Legal Intelligencer (January 12, 1983)

16. **Speeches:**

- (a) Provide the Committee with two copies of any formal speeches you have delivered during the last 5 years which you have copies of and are on topics

relevant to the position for which you have been nominated. Provide copies of any testimony to Congress, or to any other legislative or administrative body.

**DATE****EVENT**

7-19-07	Testimony before the Federal Workforce, Postal Service and the District of Columbia
7-25-08	Speech before the National Association of Letter Carriers Convention

- (b) Provide a list of all speeches and testimony you have delivered in the past 10 years, except for those the text of which you are providing to the Committee. Please provide a short description of the speech or testimony, its date of delivery, and the audience to whom you delivered it.

The following list includes all the speeches and testimony I have been able to identify for the last ten years.

**DATE****EVENT**

6-27-01	Legendary Playing Fields Stamp FDOI Ceremony Chicago, Illinois
8-6-01	Lucille Ball Stamp FDOI Ceremony Hollywood, California
2-26-03	Thurgood Marshall Stamp SDOI Ceremony Philadelphia, Pennsylvania
1-14-04	Love: Candy Hearts Stamp FDOI Ceremony Revere, Massachusetts
6-9-04	2004 Olympic Games * Athens, Greece Stamp FDOI Ceremony in Philadelphia, Pennsylvania
8-4-05	Presidential Libraries Stamps FDOI Ceremony William J. Clinton Presidential Center Little Rock, Arkansas
9-7-05	Child Health Stamp FDOI Ceremony Children's Hospital of Philadelphia Philadelphia, Pennsylvania
11-18-05	Philadelphia Postmaster Installation Ceremony Philadelphia, Pennsylvania

4-7-06	Benjamin Franklin Stamps FDOI Ceremony Philadelphia, Pennsylvania
5-26-06	Ribbon Cutting Ceremony for New Philadelphia, PA Processing and Distribution Center
4-2-08	Open Session USPS Board of Governors Meeting Washington, DC
5-7-08	Open Session USPS Board of Governors Meeting Washington, DC
5-12&14-08	Frank Sinatra Stamp Ceremonies New York, New York, and Las Vegas, Nevada
9-10-09	Gary Cooper Stamp FDOI Ceremony Los Angeles, California
9-24-08	Open Session USPS Board of Governors Meeting Washington, DC
11-13-08	Open Session USPS Board of Governors Meeting Washington, DC
2-3-09	Open Session USPS Board of Governors Meeting Washington, DC

17. **Selection:**

- (a) Do you know why you were chosen for this nomination by the President?

I have served on the United States Postal Service Board of Governors since 2000, and as Chairman of the Board from 2008-2009, and Vice Chairman from 2005-2008. The USPS employs in excess of 600,000 employees, and my last four years serving as Chairman and Vice Chairman on the Board have given me the unique experience of managing a complex and diverse organization. Especially in light of the tumultuous economic times the country is facing and the consequent severe fiscal issues facing the USPS due to the economic crises, continuity and experience in leadership is essential for the health and future of the USPS. My past years on the Board provide both. In addition, during the period 1994-1998, I served as Vice Chair on the Presidential/Congressional Commission on Risk Assessment and Risk Management, a Commission that consisted of Presidential appointees as well as appointees by the Senate Majority Leader, Senate Minority Leader, Speaker of the House and others, that issued well received reports in two volumes to the White House and to the Congress. I believe that because of my



experience as a member of the Board of Governors and my broad background as a business attorney and a local public official, including public service on a bipartisan federal commission as well as a number of city boards and commissions, I am well qualified for this position.

- (b) What do you believe in your background or employment experience affirmatively qualifies you for this particular appointment?

Over the past nine years serving on the Board of Governors of the United States Postal Service, I have been privileged to gain valuable experience participating in the oversight and management of such a complex and diverse organization. As the USPS faces unprecedented challenges from the struggling economy and a societal shift towards the increased use of electronic means of communication, that experience would be a great source of knowledge to aid in the economic recovery of the USPS and the future of the organization. In addition, in my practice as a business lawyer, I have represented a number of different business interests, including real estate developers and major corporations as well as entrepreneurial companies. I have been involved not only in the courtroom but in negotiations and counseling in an effort to achieve goals while often utilizing alternative methods at resolving disputes. I have served as a local elected official in a township with a population of approximately 58,000 residents and have dealt with the full spectrum of issues facing local governments including budgetary and fiscal issues, public safety, public works, land development, and recreation matters. I also have served at the federal level as Vice Chairman of a bipartisan commission which held hearings and then issued two volumes of reports to both the White House and the Congress on the issues of Risk Assessment and Risk Management. In connection with that effort, I worked with both House and Senate Committee staffers and assisted in the preparation and delivery of testimony before both. I have served on a number of boards and commissions of the City of Philadelphia including the Board of Licenses and Inspection Review, Board of Building Standards, Planning Commission and the Philadelphia Industrial Development Corporation, the City's economic development arm. Finally, I was appointed by the Pennsylvania Supreme Court to serve as the Chairman of its Continuing Legal Education Committee which oversees mandatory continuing legal education for all Pennsylvania lawyers.

I believe that the cumulative experience that I have gained through my years as a member and as Chairman and Vice Chairman of the Board of Governors of the USPS and my practice of law, local government service, additional federal government service on the Risk Commission, and City governmental board experience affirmatively qualifies me for continued service on the Board of Governors of the United States Postal Service.

#### **B. EMPLOYMENT RELATIONSHIPS**

1. **Will you sever all connections with your present employers, business firms, business associations or business organizations if you are confirmed by the Senate?**

Since this is a part-time Board position, I plan to maintain my current memberships and my position as a partner in the law firm of Duane Morris LLP.

2. **Do you have any plans, commitments or agreements to pursue outside employment, with or without compensation, during your service with the government? If so, explain.**

No, except as described in response to Question 1, above.

3. **Do you have any plans, commitments or agreements after completing government service to resume employment, affiliation or practice with your previous employer, business firm, association or organization, or to start employment with any other entity?**

No, except as described in response to Question 1, above.

4. **Has anybody made a commitment to employ your services in any capacity after you leave government service?**

No, except as described in response to Question 1, above.

5. **If confirmed, do you expect to serve out your full term or until the next Presidential election, whichever is applicable?**

Yes, I expect to serve out my full term.

6. **Have you ever been asked by an employer to leave a job or otherwise left a job on a non-voluntary basis? If so, please explain.**

No.

#### C. POTENTIAL CONFLICTS OF INTEREST

1. **Describe any business relationship, dealing or financial transaction which you have had during the last 10 years, whether for yourself, on behalf of a client, or acting as an agent, that could in any way constitute or result in a possible conflict of interest in the position to which you have been nominated.**

In connection with the nomination process, I have consulted with the Office of Government Ethics and the U.S. Postal Service's designated agency ethics official to identify potential conflicts of interest. Any potential conflicts of interest will be resolved in accordance with the terms of an ethics agreement that I have entered into with the USPS's designated agency ethics official. I am not aware of any other potential conflicts.

2. Describe any activity during the past 10 years in which you have engaged for the purpose of directly or indirectly influencing the passage, defeat or modification of any legislation or affecting the administration or execution of law or public policy other than while in a federal government capacity.

None, except for my service as an elected Township Commissioner of the Township of Lower Merion, Pennsylvania.

3. Do you agree to have written opinions provided to the Committee by the designated agency ethics officer of the agency to which you are nominated and by the Office of Government Ethics concerning potential conflicts of interest or any legal impediments to your serving in this position?

Yes.

#### D. LEGAL MATTERS

1. Have you ever been disciplined or cited for a breach of ethics for unprofessional conduct by, or been the subject of a complaint to any court, administrative agency, professional association, disciplinary committee, or other professional group? If so, provide details.

No.

2. Have you ever been investigated, arrested, charged or convicted (including pleas of guilty or nolo contendere) by any federal, State, or other law enforcement authority for violation of any federal, State, county or municipal law, other than a minor traffic offense? If so, provide details.

No.

3. Have you or any business of which you are or were an officer, director or owner ever been involved as a party in interest in any administrative agency proceeding or civil litigation? If so, provide details.

Yes, primarily as an elected or appointed official. See Exhibit "B."

4. For responses to question 3, please identify and provide details for any proceedings or civil litigation that involve actions taken or omitted by you, or alleged to have been taken or omitted by you, while serving in your official capacity.

See Exhibit "B".

5. Please advise the Committee of any additional information, favorable or unfavorable, which you feel should be considered in connection with your nomination.

None.

**E. FINANCIAL DATA**

All information requested under this heading must be provided for yourself, your spouse, and your dependents. (This information will not be published in the record of the hearing on your nomination, but it will be retained in the Committee's files and will be available for public inspection.)

REDACTED

**AFFIDAVIT**

ALAN C. KESSLER being duly sworn, hereby states that he/she has read and signed the foregoing Statement on Biographical and Financial Information and that the information provided therein is, to the best of his/her knowledge, current, accurate, and complete.

Alan C. Kessler  
Subscribed and sworn before me this 30th  
District of  
Columbia day of October, 2009.  
Paul O. Collinson  
Notary Public

Paul O. Collinson  
Notary Public, District of Columbia  
My Commission Expires September 14, 2010

## Exhibit "A"

Political Contributions2004

9th Decade (Wolf Block state) PAC	5,652.00
Tercentenary (Wolf Block federal) PAC	3,080.00
Daschle for Senate	1,000.00
Kerry for President	1,000.00
Murphy for Congress	1,000.00
Schwartz for Congress	2,000.00
Gerber for PA House	1,000.00

2005

9 <sup>th</sup> Decade PAC/Tercentenary PAC	8,352.37
New Jersey State Democratic Party	500.00

2006

9 <sup>th</sup> Decade PAC/Tercentenary PAC	8,909.56
Casey for Senate	1,000.00
Gerber for PA House	500.00

2007

9 <sup>th</sup> Decade PAC	5,600.00
Tercentenary PAC	3,290.00
Hillary Clinton for President	4,600.00
Biden for President	1,000.00

2008

Wolf Block State PAC	6,498.00
Wolf Block Federal PAC	4,200.00
Obama Victory	2,500.00

In each of these years, I was a contributor to and member of Wolf Block's political action committees, 9<sup>th</sup> Decade Fund (State) and Tercentenary Fund (Federal). Both committees were bipartisan in nature, making contributions to numerous candidates and committees of both parties.

## Exhibit "B"

1. **Ronald Coruzzi and John O'Brien v. Buchanan Ingersoll, PC, et al.,**  
No. 2214, June Term 1996 (Court of Common Pleas, Philadelphia,  
Co.)

In this suit, plaintiffs alleged that Buchanan Ingersoll, PC, and two attorneys, Pam McCallum and myself, (collectively, "Buchanan"), wrongfully used the civil litigation process when the firm represented the Commonwealth of Pennsylvania in litigation against the plaintiffs. The plaintiffs alleged defamation and other claims arising from court filings in that litigation.

Plaintiffs filed their complaint against Buchanan June 19, 1996. On August 30, 1996, the defendants filed preliminary objections. On October 29, 1996, the court sustained these preliminary objections and the complaint was dismissed. On October 17, 1997, the Superior Court affirmed the dismissal of the complaint. Finally, on May 5, 1998, the Pennsylvania Supreme Court declined to hear plaintiff's appeal.

2. **Alan C. and Gail E. Kessler v. Mannington Mills, Inc., et al.,**  
(C.C.P., Philadelphia County, February Term, 1998, No. 3068)

This was a claim against the manufacturer of a flooring product as well as the installer of the flooring product for defective flooring and/or defective installation. In turn, the contractor sued plaintiffs for amounts alleged to be owed for the installation. In an arbitration proceeding, the arbitration panel ruled that the installer and manufacturer each owed one-half of the amount due for the defective flooring product and defective installation and that against those amounts, the plaintiffs, in turn, owed the contractor for some portion of the installation charges.

3. **Kenneth E. Davis, et al. v. Richard Glanton, et al.,**  
(C.C.P., Montgomery County, No. 96-03920)

This was an action brought by Lower Merion Township Commissioners in their individual capacities for defamation against Richard Glanton arising out of the comments that he made to the media regarding Lower Merion Township Commissioners. The matter was settled by the payment of a substantial sum by Mr. Glanton.

4. **Barnes Foundation and Richard A. Glanton v. Township of Lower Merion, Lower Merion Board of Commissioners, et al.,**  
(United States District Court for the Eastern District of Pennsylvania,  
Docket No. 96-CV-0372)

In this action, plaintiffs claimed under Section 1983 that the reason they did not receive certain zoning and other approvals was because of discrimination. Defendants vigorously denied these frivolous claims and immediately moved for summary judgment. The Court granted summary judgment, dismissing the case, and counsel fees were awarded against the plaintiffs.

5. **Laden v. City of Philadelphia, et al.**  
Civil Action No. 92-0697 (E.D. Pa. 1992)

In this case, I was named as a defendant in my capacity as a member of the City of Philadelphia's Licenses and Inspections Review Board.

Plaintiff Laden, who represented himself in this action, alleged that the defendants violated his constitutionally protected rights when he was denied an application for a firearms permit. Named as defendants were the City of Philadelphia, all of the members of the Licenses and Inspections Review Board, several attorneys for the City, and "all City of Philadelphia employees." In an unpublished Opinion, United States District Court Judge Gawthrop held that the Immunity Doctrine barred suit against all of the members of the Licenses and Inspections Review Board, along with all of the other governmental defendants. The case was dismissed.

6. **Midnight Sessions, Ltd. (t/a After Midnight) v. The City of Philadelphia, et al.**  
Civil Action Nos. 91-1055 and 91-1140 (E.D. Pa.)

In this case, I was named as a defendant in my capacity as a member of Philadelphia's Licenses and Inspections Review Board. The decision was reported at 945 F.2d 667 (3d Cir. 1991).

The suit was brought by two businesses operating nightclubs against Philadelphia's Department of Licenses and Inspections ("L&I") and members of its Review Board. Plaintiffs alleged due process violations, unconstitutional discrimination and takings, and a RICO claim (against a different defendant.) The claims were in connection with the denial of licenses to operate two nightclubs, including a 2,700-capacity 24-hour dance hall and roller rink in a residential neighborhood of Philadelphia.

The trial court entered judgment in favor of the defendants on the discrimination and RICO claims and entered judgment for the plaintiffs on their due process and taking claims. On appeal, the Third Circuit reversed the trial court in part, holding that several of the due process claims should have been dismissed on summary judgment. One issue was remanded to the district court, but all the individual defendants, including me, were dismissed from the case. The city settled with the plaintiffs in 1994.

7. **Allan Selvy v. United States Postal Service**  
No. 2:03x71538 (E.D. MI, filed Apr. 17, 2003)

In this case, I was named as a defendant in my official capacity as a member of the United States Postal Service Board of Governors.

Plaintiff Selvy made an untimely claim for miscarriage of the mail. He filed two years after the alleged loss, failed to properly serve the complaint, and wrongly named the Governors as defendants (all tort claims must be brought against the United States). The case was dismissed. (The plaintiff is a "serial litigator" who has brought numerous

frivolous suits against the federal government, current and former federal officials, numerous federal and state agencies, and the Government of Canada.)

8. Wolk v. the Township of Lower Merion,  
#2:90-cv-08013-FVA (E.D. Pa, filed Dec. 20, 1990), and  
Gay v. the Township of Lower Merion,  
#2:90-cv-08013-FVA (E.D. Pa, filed Jan. 8, 1992)

I was named in these suits in my official capacity as a member of the Lower Merion Township Commissioners.

These cases both involved challenges to the validity of a section of the Lower Merion Township code that required parties who wished to subdivide property or engage in new construction on a property to include on subdivision or construction plans any existing bridle easement or trails (a bridle easement grants the ability for a horse to pass over a property and is generally an easement by use). Plaintiffs in both cases did not want to show the easements on their plans.

Both cases were dismissed after Lower Merion Township amended the code so the revelation of bridle easements was no longer necessary on subdivision or construction plans.



**U.S. Senate Committee on Homeland Security and Governmental Affairs  
Pre-hearing Questionnaire  
For the Nomination of Alan C. Kessler to be  
Governor of the United States Postal Service**

**I. Nomination Process and Conflicts of Interest**

1. Why do you believe the President nominated you to serve a second term as Governor of the United States Postal Service ("USPS" or "Postal Service")?

I have served on the United States Postal Service Board of Governors since 2000, as Chairman of the Board from 2008-2009, and Vice Chairman from 2005-2008. The USPS employs in excess of 600,000 employees, and my last four years serving as Chairman and Vice Chairman on the Board have given me the unique experience of managing a complex and diverse organization. Especially in light of the tumultuous economic times the country is facing and the consequent severe fiscal issues facing the USPS due to the economic crises, continuity and experience in leadership is essential for the health and future of the USPS. My past years on the Board provide both. In addition, during the period 1994-1998, I served as Vice Chair on the Presidential/Congressional Commission on Risk Assessment and Risk Management, a Commission that consisted of Presidential appointees as well as appointees by the Senate Majority Leader, Senate Minority Leader, Speaker of the House and others, which issued well-received reports in two volumes to the White House and to the Congress. I believe that because of my experience as a member of the Board of Governors and my broad background as a business attorney and a local public official, including public service on a bipartisan federal commission as well as a number of city boards and commissions, I am well qualified for this position.

2. Were any conditions, express or implied, attached to your nomination? If so, please explain.

No.

3. What would be your priorities as a Governor?

My priorities as Governor would be to ensure that the Board addresses major Postal issues such as the current fiscal crisis, as well as long range strategies, in a responsible and balanced way and also to ensure that the Board meets with and hears from Postal stakeholders. This direct input is important to the Board's understanding of the needs and priorities of the people who use the mail, receive the mail, and work for the Postal Service. In that regard, as the former Chairman of the Board of Governors, I instituted regular meetings with our stakeholders and

plan to continue those meetings as Governor. Finally as Governor, I would also continue to meet with and brief members of the Senate and House Oversight Committees and their staffs on Postal matters.

4. What specific background and experience affirmatively qualifies you to be a Governor of the Postal Service?

Over the past nine years serving on the Board of Governors of the United States Postal Service, I have been privileged to gain valuable experience participating in the oversight and management of such a complex and diverse organization. As the USPS faces unprecedented challenges from the struggling economy and a societal shift towards the increased use of electronic means of communication, that experience would be a great source of knowledge to aid in the economic recovery of the USPS and the future of the organization.

In addition, in my practice as a business lawyer, I have represented a number of different business interests, including real estate developers and major corporations as well as entrepreneurial companies. I have been involved not only in the courtroom but in negotiations and counseling in an effort to achieve goals while often utilizing alternative methods of resolving disputes. I have also served as a local elected official in a township with a population of approximately 58,000 residents and have dealt with the full spectrum of issues facing local governments including budgetary and fiscal issues, public safety, public works, land development, and recreation matters. I also have served at the federal level as Vice Chairman of a bipartisan commission which held hearings and then issued two volumes of reports to both the White House and the Congress on the issues of Risk Assessment and Risk Management. In connection with that effort, I worked with both House and Senate Committee staffers and assisted in the preparation and delivery of testimony before both. I have served on a number of boards and commissions of the City of Philadelphia including the Board of Licenses and Inspection Review, Board of Building Standards, Planning Commission and the Philadelphia Industrial Development Corporation, the City's economic development arm. Finally, I was appointed by the Pennsylvania Supreme Court to serve as the Chairman of its Continuing Legal Education Committee which oversees mandatory continuing legal education for all Pennsylvania lawyers.

I believe that the cumulative experience that I have gained through my years as a member and as Chairman and Vice Chairman of the Board of Governors of the USPS and my practice of law, local government service, and additional federal government service on the Risk Commission, and City governmental board experience affirmatively qualifies me for continued service on the Board of Governors of the United States Postal Service.

5. Have you made any commitments with respect to the policies and principles you will attempt to implement as Governor? If so, what are they, and to whom were the commitments made?

No.

6. If confirmed, are there any issues from which you may have to recuse or disqualify yourself because of a conflict of interest or the appearance of a conflict of interest? If so, please explain what procedures and/or criteria that you will use to carry out such a recusal or disqualification.

No.

## **II. Role and Responsibilities of Governor of the United States Postal Service**

7. Why do you wish to serve a second term as a Governor of the Postal Service?

At my first Board meeting, the Board was discussing the Postal Service's annual financial loss of \$500 million. Following closely upon that issue, the 9-11 terrorist attacks and the anthrax attacks shook the mailing industry significantly. A number of challenges have followed since that time. Those challenges have been significant, none more so than the current fiscal crisis. I would not want to leave the Board, after having spent so much time attempting to address ways in which to return the Postal Service to fiscal health, in the middle of those efforts. I believe my experience as a Governor will be useful in guiding the Postal Service forward during this very troubling financial crisis. In short, I would like to continue my commitment to the Postal Service and help complete efforts aimed at restoring the Postal Service to fiscal stability.

8. What do you see as the principal mission of the Postal Board of Governors (the Board)? What do you see as its principal responsibilities?

The principal mission of the Board of Governors is to set policies and goals for the Postal Service. Its principal responsibility is to review senior management's actions to ensure those policies and goals are being pursued.

9. What do you see as the main challenges facing the Postal Service? What do you believe should be the Board's top priorities in meeting those challenges?

The Postal Service faces three main challenges: the continued diversion of mail into electronic alternatives; the impact of the national recession on the mailing industry; and the impact of the large retiree health benefit pre-funding payments imposed upon the Postal Service in 2006. The Board's top priorities are to guide

senior management in exploring new ways to retain customers, new ways to increase revenue and volume and to determine what legislative changes would be necessary to allow the Postal Service to return to financial stability.

10. What do you believe are the functions and responsibilities of an individual Governor? What in your training and experience demonstrates your qualifications to fulfill these functions and responsibilities?

The responsibility of an individual Governor is to ensure that he or she is educated about the issues confronting the Postal Service and the environment within which the Postal Service is operating. During my tenure on the Board, I have served in the following capacities:

2001 and 2002: Member, Capital Projects Committee  
 2003 through 2006: Chair, Strategic Planning Committee  
 2005 through 2007: Vice Chairman of the Board  
 2006: Member, Compensation and Management Resources Committee  
 2007: Chair, Governance and Strategic Planning Committee  
 2008: Chairman of the Board  
 2009: Co-Chair of the Governance and Strategic Planning Committee;  
 Member, Communications Sub-Committee

I believe these years of experience on the Board and its committees have positioned me well to continue service as a productive and valued member of the Board.

11. What do you believe should be the respective roles and functions of the Postal Service Board of Governors and the Postal Service management? How do you believe the Board and management can best work together to meet the challenges facing the Postal Service?

The Board's role is to set policy and overall goals for the organization. Senior management's role is to implement that policy and achieve those goals. The Board should not be in the position of day-to-day management of the Postal Service; that is a responsibility borne by management. Currently, I believe the Board and management work well together in outlining the significant challenges facing the Postal Service and discussing ways in which the Postal Service can address those challenges. The Board is continually urging the Postal Service management to recognize the fundamental shift in the way in which American use the mail and to respond accordingly.

12. The Governors are chosen to represent the public interest generally. As a Governor, please explain your interactions with various stakeholders interested in postal issues.

I was the first Chairman of the Board to address a convention of the Postal Service's labor organization. I was also the first to institute regular meetings between the Board as a whole and various stakeholders. In addition, I regularly talk with individual stakeholders one on one, to hear their unique perspectives on the challenges confronting the Postal Service and their proposed solutions, as well as to consider proposed innovations in the way in which the USPS conducts its business.

13. What contributions have you made during your tenure on the Board of Governors?

As mentioned above, I was the first Chairman of the Board to address a convention of the Postal Service's labor organization. I was also the first to institute regular meetings between the Board as a whole and various stakeholders. In addition, I have used my background as a lawyer and as a former elected official in approaching issues and solutions, utilizing legal experience with an eye towards public and political perceptions. I have been a regular contributor on the strategic side, and have chaired, for many years, the Board's Strategic Planning Committee, served as Vice Chairman of the Board for three years and as Chairman of the Board.

### **III. Policy Questions**

#### *Postal Reform and Financial Issues*

14. In December 2006, the Congress enacted the Postal Accountability and Enhancement Act (PAEA) (P.L. 109-435). One of the primary challenges of this landmark legislation was to give the Postal Service more flexibility to operate like a business, while also providing appropriate accountability mechanisms. How should the role and responsibilities of the Board of Governors complement and balance the role and responsibilities of the regulator under PAEA to ensure that these challenges are appropriately met?

Under PAEA, the regulator has significantly more authority than it did previously. The Governors have worked to fully exercise the new pricing authority given to the Board by the PAEA, particularly on the competitive products side. In addition, the Board was fully engaged in implementing the provisions of PAEA that required Sarbanes-Oxley compliance by FY2010. That effort has required the Board to work closely with management on changes to the Postal Service financial controls. It has also required the Board to make certain changes to the Board by-laws to ensure the Board activities are Sarbanes-Oxley compliant.

15. PAEA requires the Postal Service to operate under an inflation-based rate cap. However, some of USPS' costs continue to rise above inflation. Considering the impact of the current economic downturn, are there any changes that you believe the Postal Service should make in order to successfully function under the new rate-cap system?

For the thirty years prior to the enactment of PAEA, the Postal Service's prices generally tracked the rate of inflation. However, imposing a price cap on classes of mail makes it difficult for the Postal Service to fine tune the pricing for those products. In addition, while PAEA imposed a price cap on the products producing 90 percent of the Postal Service revenues, PAEA did not provide the Postal Service with any new cost cutting tools and, in fact, imposed new costs in the form of the ten-year roughly \$5.5 billion annual pre-funding requirement.

16. In Fiscal Year (FY) 2009, the Postal Service experienced significant declines in mail volumes and revenues.

- a. How proactive should the Board be in identifying areas for the Postal Service to cut costs quickly so that it can cover its operating expenses?

It is senior management's role to determine precisely where cuts can be made to reduce the Postal Service's loss. It is the Board's role to set goals for those cost reductions, as well as goals for maintaining service levels while the cost cutting efforts are under way. However, it is also the Board's role to continually remind and prod senior management that, because of declines in mail volumes and revenues, it must be aggressive in responding, as is permitted under current law, and in seeking legislative solutions as well. Moreover, while it is senior management's role to determine where cuts can be made, it is the Board's role to monitor and make sure that those cuts are in fact being made when appropriate.

- b. What is the Board's role and responsibilities in identifying opportunities for USPS to increase volume?

Again, it is senior management's responsibility to perform the day-to-day tasks of managing; that would include doing the detailed research and analysis required to determine whether to move into new product areas. It is the Board's role to set goals for those efforts. The Board meets regularly with President, Mailing and Shipping Services, Bob Bernstock, to discuss new product and sales initiatives, as well as to forward proposed new ideas that we receive from stakeholders regarding new and innovative techniques and measures. As with cost reductions, in addition to setting goals to increase volume, it is also the Board's role to actively monitor the measures that management implements to determine whether sales volume meets management projections.

17. The Government Accountability Office (GAO) recently returned the Postal Service to its high-risk list. In your view, what should be the Postal Service's strategy for improving its financial condition and restructuring its business model to ensure its long-term viability?

As stated above, I believe the Postal Service faces three main challenges: the continued diversion of mail into electronic alternatives; the impact of the national recession on the mailing industry; and the impact of the large retiree health benefit pre-funding payments imposed upon the Postal Service in 2006. The Board's top priorities are to guide senior management in exploring new ways to retain customers; new ways to increase revenue and volume; and to determine what legislative changes would be necessary to allow the Postal Service to return to financial stability. Without legislative changes, the Postal Service will not be in a position to return to financial stability. In that regard, the Board also must continue to interact with members of the Senate and House Oversight Committees and its staff.

18. What short and long-term actions, if any, could Congress take to assist the Postal Service in achieving financial viability?

In the short term, the Postal Service needs to have the retiree health benefit pre-funding requirement restructured. The Postal Service is simply not in the position to afford a roughly \$5.5 billion annual payment. The Board also needs the authority to allow the Postal Service to move to five-day delivery, as that is the only significant structural change that will significantly reduce Postal Service costs. In the long-term, the Postal Service, management and the Board, needs to work with Congress to develop the legislative changes necessary to allow the Postal Service to remain viable into the future. While the Postal Service needs to perform additional market analysis to determine where the Postal Service could add value, it is clear that simply selling traditional products and services will not provide sufficient revenue to support the Postal Service.

19. PAEA requires the Postal Service to make payments into the Postal Service Retiree Health Benefits Fund to cover the health insurance premiums of future retirees. These payments range from \$5.4 to \$5.8 billion annually. The Postal Service indicated that it was unable to make the payment for FY2009. In September, Congress passed legislation to provide the Postal Service with short-term financial relief by reducing its payment into the Postal Service Retiree Health Benefits Fund from \$5.4 billion to \$1.4 billion for FY2009. Based on your experiences as a Governor and an attorney, what changes does the Postal Service need to make in order for it to meet its funding requirements for retiree health benefits?

As stated above, the Postal Service needs to have its retiree health benefit pre-funding requirement restructured. The Postal Service is simply not in the position to afford a roughly \$5.5 billion annual payment. Over the past three years, the payments required by PAEA significantly altered the Postal Service's financial picture. In FY07, the Postal Service's \$3.3 billion net income was changed to a \$5.1 billion net loss; in FY08 the \$2.8 billion net income was changed to a net loss; and in FY09, had retiree health benefit payment amount not been reduced by

\$4 billion, the Postal Service would have posted roughly a \$7.2 billion net loss. At this point, the Postal Service is projecting a net loss of more than \$7 billion in FY2010 and almost \$8 billion in FY2011, without any additional legislative changes.

20. The Postmaster General has proposed reducing mail delivery to five days per week as a way to reduce costs. While the USPS estimates annual cost savings to be about \$3.3 billion, the Postal Regulatory Commission (PRC) estimates that the annual savings would be less than \$2.2 billion. One factor that accounts for this difference is the assumption about the effect on mail volume. How do you believe reducing mail delivery to five days per week would impact mail volume and revenue generation opportunities?

Reducing delivery to five-days per week is a very difficult decision. However, the Board needs the authority to allow the Postal Service to move to five-day delivery, as that is the only significant structural change that will significantly reduce Postal Service costs. USPS preliminary analysis has shown that while there will be roughly \$500 million per year reduction in mail volume as a result of a reduction in delivery days, the Postal Service could save more than \$3 billion per year by such a change. While I realize the five day delivery would impact some of our stakeholders more than others, surveys including one by USA Today demonstrate that a majority of Americans understand that difficult and changing times sometimes call for difficult decisions, and are willing to see a move to five day delivery. I am hopeful that there are ways to address the issue of continuing six day delivery for those who absolutely need it, possibly through special fees for six day delivery.

21. The Postmaster General has also recently asked Congress for the authority to introduce new, non-postal lines of business at its retail facilities. He cited banking, cell phones, and logistics as possible new lines of business and indicated that this might allow USPS to generate additional revenue to support its existing retail and delivery network.

USPS's past attempts in providing non-postal services have had little success. For example, a December 2001 GAO report highlighted serious deficiencies in USPS's "e-commerce" program. GAO concluded that none of these initiatives were profitable. Additionally, GAO indicated in response to recent questions for the record following an August 2009 hearing that, given the difficulties USPS has had with past non-postal initiatives, careful consideration is required before changes are made that would allow USPS to perform non-postal services.

The PAEA limits the Postal Service to "postal services," defined as products related to "the delivery of letters, printed matter, or mailable packages, including acceptance, collection, sorting, transportation, or other functions ancillary thereto."



- a. What are your views on whether Congress should grant USPS the authority to enter into new, non-postal lines of business?

Given the changing use of the mails by the American public and commercial mailers, I believe that the Postal Service needs to explore what types of new products and services it could provide to generate new revenue to maintain its financial viability. Without the benefit of a thorough market analysis, which is underway, I cannot provide specific examples of new products.

- b. What types of products do you believe would be legal and appropriate for the Postal Service to offer under existing law?

I believe the Postal Service should build on the test that is currently underway with greeting cards, which would be to identify those products that are either "postal products" or "ancillary" products under the PRC's definition. However, given that the PRC has determined that the Postal Service cannot offer items such as stored value gift cards or private branded products, it is not clear what products fit that definition.

#### *Postal Rates*

22. One of the core principles of the PAEA is to provide the mailers with predictability and stability, which allows mailers to better plan their mailing and could allow them to increase the amount of business they do with the Postal Service. What steps do you believe the Postal Service should take to provide mailers with this desired predictability and stability?

I believe the Postal Service has taken significant steps in this direction. The Postal Service has provided more advance notice of price changes for its market dominant products than is required by the law. In addition, the Postal Service has aligned its announcement of price changes for competitive products with the announcement of our competitors to allow our customers to make informed shipping decisions. I can also say that in any discussion about price increases, advance notice to our stakeholders is something the Board feels is critical and emphasizes in those discussions.

23. Under PAEA, the Postal Service has more pricing flexibility and is allowed to retain earnings. What opportunities do you see for the Postal Service to use this flexibility to further its mission and the intent of the legislation?

The PAEA did give the Postal Service more pricing flexibility, particularly on our competitive products. The Postal Service is using that freedom to price its products to generate greater volume and revenue. As an example, the Postal Service has different prices for some competitive products depending on how the

product is purchased and the number of pieces sent. There is one price for Priority Mail if it is purchased at a Post Office, a lower price if it is purchased online, and a lower price still if the customer sends a large number of pieces in a year.

*Facility Closings and Relocations*

24. The Postal Service recently submitted a list stations and branches subject for possible consolidation to the Postal Regulatory Commission, as required by law. Please explain the Board's involvement in making decisions to realign postal retail and mail processing networks, including decisions to close specific facilities.

The Board's role is in setting overall goals for cost reductions for the Postal Service. The Board is keenly aware of the Government Accountability Officer and Office of the Inspector General reports outlining the various ways that the Postal Service has excess capacity in its processing and retail networks. The Board reviewed the numerous efforts undertaken by senior management, however, the Board does not get involved in the day-to-day management issues, such as decisions to consolidate or close specific facilities. On the other hand, the Board is responsive to elected officials and stakeholders and will discuss with management any issues raised to make sure that any individual closing was justified and appropriate.

25. What role should the Board play in ensuring that the Postal Service communicates with its customers and employees so that they are aware of updated information on the consolidation process, as it becomes available?

The Board should ensure that management is complying with Postal policies and with its collective bargaining agreements. In addition, the Board encourages the Postal Service to share appropriate information with interested stakeholders, which include customers, employees, and elected officials. Moreover, I believe the Board should be responsive to stakeholder input on these closings while at the same time understanding that these decisions must be made by senior management.

26. According to GAO, approximately 30 percent of postal revenue comes from alternate retail channels. How can the Postal Service increase the use of less costly alternate retail channels, such as the USPS website, self-service kiosks, or non-postal locations?

This is a goal of the Board and management. The financial situation of the Postal Service makes it ever more imperative for the Postal Service to find alternatives to its brick and mortar facilities. The Board has provided guidance for management to expand alternate access channels, while abiding by our collective bargaining agreements.

27. Postal facility consolidations and closures, as well as workforce realignment, may result in a decline in delivery services. How can the Board ensure that delivery performance does not decline as a result of facility consolidations and workforce realignments?

The Board has set the maintenance of service as a top goal for management, particularly in this era of rigorous cost cutting. The Postal Service has long measured service performance; under provisions of PAEA, that measurement has been expanded to new types of mail. The Board routinely reviews those service scores to ensure that service levels have not been impacted. In fact, the Board is critically aware of the fact that service levels must be maintained to avert even more declines in volume. The Board questions every major action proposed to be undertaken from the standpoint of its impact on service.

*Transparency and Accountability*

28. The PAEA calls for a significant amount of transparency and accountability from the Postal Service. For example, the Postal Service must file regular financial statements modeled after the requirements placed on private businesses under Sarbanes-Oxley.
- a. How do you think that these measures will improve and make more valuable the service that the Postal Service provides?

Sarbanes-Oxley compliance makes the Postal Service more accountable to stakeholders and the American public in general. In addition, to the extent that Sarbanes-Oxley compliance ensures that the Postal Service follows its policies and receives the appropriate revenues for its products and services, it will provide customers with service that is reliable and does not vary from location to location.

- b. The purpose of increased transparency is to make the Postal Service more accountable. However, the Postal Service has indicated that this increased reporting is cost and resource intensive. Do you believe there can be costs or other disadvantages from extensive reporting and transparency? How would you balance the value of enhanced transparency against any costs and other disadvantages?

There are increased costs in implementing Sarbanes-Oxley and the financial controls systems needed to comply with the Act. However, by requiring uniform practices and procedures, Sarbanes-Oxley provides the opportunity for the Postal Service to reduce its operating costs through standardization of our processes.

*Workforce-Related Issues*

29. Approximately 80 percent of USPS's costs are labor-related, which includes employee compensation and benefits. What is the appropriate approach for the Board to take with respect to USPS' labor-related costs?

Although 80% of our costs are labor-related, it is nonetheless important that undue emphasis on reducing costs not be focused on labor. I believe we have created a mechanism by which labor can communicate with management and the Board, and those views are given full review and consideration. On an individual level, I have been accessible to labor and as Chairman, have insured that meetings of stakeholders, including labor, take place regularly. The future of the Postal Service continues to depend in large part upon the great service provided by our workforce, but we do need its representatives and senior management to come together in a collaborative way to deal with this significant fiscal crisis.

30. In 2008, GAO reported that the Postal Service's Postal Career Executive Service (PCES) was comprised of 29 percent women and 25.5 percent minorities. The PAEA requires the Board of Governors to report on the representation of women and minorities in supervisory and management positions. In addition to this requirement, how do you believe the Board should work with the Postal Service to fully assess and evaluate diversity issues within USPS and make improvements in this area?

The Board, particularly the Compensation Committee, does regularly review the Postal Service employment and hiring policies to ensure that the Postal Service is a diverse employer. The Board was quite pleased when the Postal Service was recognized for the third year in a row by *Hispanic Business* magazine, ranking 50th in the magazine's annual Top 60 Diversity Companies list of best employers for Hispanics. The Postal Service is the only federal agency included in the magazine's 2009 list. Since I have been on the Board, diversity in our workforce has been of particular importance to me. I have raised this issue individually in a number of Board meetings, not only with respect to our regular workforce, but also with respect to USPS top management. While the Postal Service has never had a woman or person of color as Postmaster General or Deputy Postmaster General, the Board is determined to push for elevations of minority candidates to senior level positions, thus creating a pool of potential future candidates for those positions.

31. The Postal Service has been reducing its workforce through hiring freezes, early retirements, and incentive payments for some targeted attrition. Does the Postal Service have sufficient flexibility to adjust its workforce to changes in mail volume? If not, what additional flexibility is needed?

The Postal Service has successfully reduced its workforce through attrition by 150,000 since 2000; 40,000 positions were reduced in FY2009 alone. In doing so, the Postal Service has complied with its collective bargaining agreements. As mentioned above, the Board and management have discussed additional network streamlining, which will likely require additional labor flexibilities. To the extent that additional flexibilities are needed, the Board will set goals for management to

achieve during the next round of collective bargaining, which begins in the fall of 2010.

32. As an increasing number of postal executives, managers, and supervisors are eligible to retire, how can the Board work with postal management to address these challenging succession, continuity and associated cost issues?

The Board, particularly the Compensation Committee, has focused on succession planning, particularly in light of the continued reduction in the number of Postal employees. With the Board's oversight and guidance, the Postal Service has implemented a robust succession planning system, which identifies and trains people to move into middle and upper management positions.

33. Performance-based compensation systems have recently been implemented for postal executives, as well as managers and supervisors. The success of these systems depends on the credibility of the performance measures. How can the Board ensure the credibility of the Service's performance-based compensation systems? Do you have an opinion about performance-based compensation?

One of the strengths of the performance management systems is its reliance on objective, verifiable goals. Again, with the Board's oversight and guidance, the Postal Service has implemented and refined a performance management system that has driven remarkable performance in maintaining service levels while achieving unprecedented cost cutting. The Board has spent considerable time at its meetings discussing not only the system and its goals, but actual performance. In these extraordinarily difficult times, we have had some extraordinary performances under this system, so I would certainly say it is working.

34. The Postal Service is subject to Occupational Safety and Health Act workplace safety laws in the same manner as private-sector employers. How can the Board help ensure compliance with this law and encourage efforts to improve the safety of the workplace?

The role of the Board is to ensure that the Postal Service complies with all applicable statutes. OSHA compliance is an important issue to the Board; we want to ensure a safe working environment. We were very pleased that the Postal Service was the first federal agency to be approved into OSHA's Voluntary Protection Programs (VPP), which recognizes facilities that have implemented best safety programs. We have also encouraged management to engage in programs like the Ergonomic Risk Reduction Process (ERRP), which reduces the number and severity of musculoskeletal disorders, builds labor/management teams with ergonomic skills, and cultivates partnerships to identify and control ergonomic risk. These partnerships include the Postal Service, OSHA, the National Postal Mail Handlers Union, and the American Postal Workers Union.

35. Please describe the kind of labor-management relationship you believe is most desirable at the Postal Service, and what is your opinion about the current state of labor-management relations within the Postal Service?

In order to have a good labor-management relationship, I think all employees must be heard and treated fairly. The Board and management have worked hard to improve labor-management relationships at the Postal Service. While there will also be tension in such a relationship, particularly in these financial difficult times, I believe we have created a mechanism by which labor can communicate with management and the Board, and those views are given full review and consideration. On an individual level, I have been accessible to labor and as Chairman, I instituted regular meetings of stakeholders including labor representatives. Further, I was the first Chairman of the Board to address a major convention of a Postal Service labor organization.

36. What do you believe should be done to facilitate effective cooperation between postal management and Postal Service labor unions, and what should the Board do in this regard?

I believe that lines of communication must be open and regular. Senior management and the labor organizations meet and talk regularly. The Board also interacts with representatives of the labor organizations in various formats. Given the serious challenges facing the Postal Service, I believe it is essential for labor and management to share their best thoughts on how to address and overcome these challenges. It is also important for labor organizations to understand that the Board is aware of the significant contribution made by the Postal workforce/Postal family and is appreciative of that contribution. The future of the Postal Service continues to depend in large part upon the great service provided by our workforce, and we do need its representatives and senior management to come together in a collaborative way to deal with this very significant fiscal crisis.

*Mail Safety and Security*

37. What is your opinion of the Postal Service's current programs to manage risks posed by suspicious mail to enhance the safety and security of the mail?

I believe the Postal Inspection Service and operations have developed a reasonable program to address the safety of the mail. For example, the Postal Service has installed biodetection systems and specialized filtration systems in its processing plants to protect its employees and customers from hazards in the mail. The Postal Service has also worked to develop a mail safety awareness program to educate its employees, mailers and mail recipients about mail safety.

38. What are the tradeoffs that should be considered to determine what actions the Postal Service should take to enhance the safety and security of the mail -- for example, in terms of potential impacts on postal operations and service delivery?

Particularly in light of plummeting mails volumes under current conditions, I believe it is vital that we balance any new security requirements against the impact on service and operational efficiency. I am not aware of any needed changes at this time.

39. To what extent should any additional costs of enhancing mail security be funded by ratepayers, and to what extent by taxpayers?

To the extent that mail security is a homeland security issue, I believe new mail security enhancement should be funded through appropriations, as they were immediately following the anthrax attacks of 2001.

40. What steps should the Postal Service take to maintain trust and credibility with its employees and customers that the mail is safe? How can the Postal Service improve its response to hazardous incidents to ensure that appropriate safety procedures are understood and followed by all employees?

The Postal Service has a number of ways it maintains the safety of the mail. The technology solutions mentioned above are key to maintaining safety. In addition, the Postal Service regularly communicates with customers and employees on how to identify and handle suspicious mail. The Postal Service has developed training for its employees on how to handle suspicious mail. The Postal Service regularly reminds its employees of this training, which ensures employees know the correct safety procedures.

#### **IV. Relations with Congress**

41. Do you agree, without reservation, to respond to any reasonable summons to appear and testify before any duly constituted committee of the Congress if you are confirmed?

Yes.

42. Do you agree, without reservation, to reply to any reasonable request for information from any duly constituted committee of the Congress if you are confirmed?

Yes.

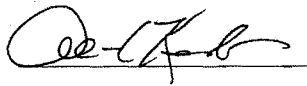
#### **V. Assistance**

43. Are these answers your own? Have you consulted with the Postal Board of Governors or any interested parties? If so, please indicate which entities.

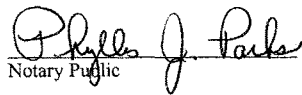
These answers are my own. I consulted with the Postal Service's Office of Government Relations during the development of my answers.

AFFIDAVIT

I, Alan C. Kessler, being duly sworn, hereby state that I have read and signed the foregoing Statement on Pre-hearing Questions and that the information provided therein is, to the best of my knowledge, current, accurate, and complete.



Subscribed and sworn before me this 12<sup>th</sup> day of November, 2009.

  
Notary Public

**PHYLLIS J. PARKS**  
Notary Public, District of Columbia  
My Commission Expires July 31, 2012





United States  
**Office of Government Ethics**  
 1201 New York Avenue, NW., Suite 500  
 Washington, DC 20005-3917

October 23, 2009

The Honorable Joseph I. Lieberman  
 Chairman  
 Committee on Homeland Security  
 and Governmental Affairs  
 United States Senate  
 Washington, DC 20510

Dear Mr. Chairman:

Under the Ethics in Government Act of 1978, Presidential nominees requiring Senate confirmation who are not expected to serve in their Government positions for more than 60 days in a calendar year are not required to file public financial disclosure reports. The Act, as amended, however, contains a provision in section 101(b) that allows the committee with jurisdiction to request any financial information it deems appropriate from the nominee.

We understand that your committee desires to receive a financial disclosure report (SF 278) from any Presidential nominee for a position on the Board of Governors for the United States Postal Service, along with a written opinion from this Office regarding any possible conflicts of interest.

Therefore, I am forwarding a copy of the financial disclosure report of Alan C. Kessler, who has been nominated by President Obama for the position of Governor on the Board of Governors for the United States Postal Service. Because the nominee is not expected to serve more than 60 days in any calendar year, the enclosed report and this letter are submitted to you in accordance with your committee's confirmation procedures and will be available for public inspection only to the extent provided by your practices. There is no authority under the Act for public release of this material by the executive branch.

We have reviewed the report and have also obtained advice from the United States Postal Service concerning any possible conflict in light of its functions and the nominee's proposed duties. Also enclosed is an ethics agreement outlining the actions that the nominee will undertake to avoid conflicts of interest. Unless a date for compliance is indicated in the ethics agreement, the nominee must fully comply within three months of confirmation with any action specified in the ethics agreement.

Based thereon, we believe that this nominee is in compliance with applicable laws and regulations governing conflicts of interest.

Sincerely,

Robert I. Cusick  
 Director

Enclosures - REDACTED

**Senator Thomas R. Carper**  
**Additional Questions for the Record**  
**Nomination Hearing of Alan C. Kessler**  
**November 19, 2009**

1. You noted in your testimony that a growing percentage of the Postal Service's business is conducted through alternate retail. I assume that a good portion of that occurs online. How is the Postal Service using the Internet to attract new business?

*As we discussed at the hearing, about 30 percent of retail revenue is generated through alternate postal product and service access channels. The Postal Service is continuing to work on "bringing the Post Office to your fingertips." The near term goal is to move up to 50 percent of sales to alternate access sources such as the Internet, phone, automated postal centers, and alternate access channels. As more customers embrace alternate access channels for small, simple transactions, such as stamp purchases, the Postal Service can optimize its retail assets with the sale of more complex transactions.*

*As part of this project, the Postal Service has introduced the three most requested postal service functions on mobile devices. Beginning last month, customers can now track and confirm packages, locate a Post Office, and find ZIP Codes on their mobile phones. In the near future, unique applications will be available on smart phones such as the iPhone and Blackberry.*

*Currently, the website is one of the busiest in the nation with some 30 million visitors each month. The Postal Service's multichannel integration project, which includes an update of our usps.com website, will provide customers with one postal account, a complete transaction history and new payment methods, bringing Postal e-commerce capabilities in-line with, and even slightly ahead of, other major online retailers. More and more, customers will be able to manage their postal transactions online or via phone as well as at retail outlets. In the future, the Postal Service will have the potential to offer new services that had not been contemplated at the time the current law was enacted.*

*The Board has been closely overseeing the efforts of Bob Bernstock, the new President of Mailing and Shipping Services, and his team, as they have developed new ways to make Postal services available to Postal customers.*

2. During your hearing, we discussed the Postal Service's proposal to change delivery frequency, perhaps by eliminating Saturday delivery. You mentioned in your testimony of continuing six-day delivery in some circumstances. Do you know of any other countries where they have eliminated a day of delivery but have maintained six days under certain circumstances, perhaps during holidays? How could the Postal Service learn from these examples and provide those here who might be concerned with the end of six-day delivery with some level of assurance?

*As I stated in my testimony, it is my sincere hope that we can find ways to maintain six-day delivery under some circumstances. As the Postal Service explores the operational issues underlying five-day delivery, the Board will continue to examine ways to provide additional services, perhaps for an additional charge. I have asked the Postal Service to research and review practices in other countries. Based on an initial review, it appears that a number of countries have moved to five-day delivery including Australia, Austria, Canada, Finland, Spain, and Sweden. Apparently in Australia, postal deliveries are made on the two weekends before Christmas in most parts of the country. If confirmed, I hope to further review the practices in countries that may have eliminated a day of delivery, and I look forward to communicating with you and your staff regarding this issue.*

**Senator Susan Collins**  
**Additional Questions for the Record**  
**Nomination of Alan C. Kessler**  
**November 19, 2009**

1. The Postmaster General has proposed reducing mail delivery to five days per week as a way to reduce costs. While USPS estimates annual cost savings to be about \$3.3 billion, the Postal Regulatory Commission (PRC) estimates that the annual savings would be less than \$2.2 billion. One factor that accounts for this difference is the assumption about the effect on mail volume. I am concerned that USPS has not adequately accounted for the decrease in mail volume and service this will bring to customers. In addition to losing existing customers, USPS will likely deter potential new customers by moving to five-day delivery. How do you believe reducing mail delivery to five days per week would affect mail volume and revenue generation opportunities?

*This has been a challenging issue because it will impact Postal stakeholders, some more than others. In addition, the Postal Service's analysis of moving to five-day delivery recognizes that there will be some reduction in mail volume and revenue as a result of moving to five-day delivery. The current estimate is roughly a \$500 million reduction, with a net savings of roughly \$3.3 billion per year. As part of its operational review of five-day delivery, the Postal Service is reaching out to its customers in many different ways – briefings, informal meetings, market research, to name a few – and is incorporating that information into its analysis, which is not yet complete. As I testified during my hearing, I have worked hard on the Board to ensure not only early notification to our stakeholders on major issues like this one, but also active engagement between senior management, the Board, and those stakeholders on these issues. It has been a priority for me in the past, and if confirmed, it will be a priority for me in the future.*

*I do believe that moving to five-day delivery will have an impact on volume and revenue, however, I believe that such a change is the only pragmatic and systematic way that the Postal Service can reduce costs in the range of \$3 billion and address its financial situation. As I also testified, the Board has addressed and discussed possible five-day delivery at least twice before while I have been on the Board. However, given almost \$13 billion in productivity reductions during that time and a dire financial condition that appears to be without precedent, I do not believe we have any equivalent alternatives. I am hopeful that for those who absolutely need six-day delivery, we will find a way to provide it.*

2. During the nomination process, you have advocated for Congress to authorize USPS to enter into new, non-postal lines of business at retail facilities. USPS's past attempts in providing non-postal services, including "e-commerce," have had little success. In fact, a December 2001 Government Accountability Office (GAO) report concluded that none of its initiatives was profitable. Additionally, GAO indicated in its response to recent questions for the record following an August 2009 hearing that, given the difficulties

USPS has had with past non-postal initiatives, careful consideration is required before changes are made that would allow USPS to perform non-postal services.

You have indicated during the nomination process that the new, non-postal services USPS would enter into would be different than the past “e-commerce” initiative. How could USPS avoid past mistakes to ensure that new, non-postal lines of business would be profitable? What considerations would USPS have to take into account before Congress could consider any changes that would allow USPS to perform non-postal services?

*As I stated previously, the Postal Service was not unique in its experience with e-commerce initiatives in the 1990s and early 2000s. The Postal Service has had more experience lately in testing concepts to determine their effectiveness. The 2009 summer sale for standard mail is an example. The summer sale increased volume and revenue, and Postal management is now reviewing this experience to determine how and whether it can be applied to different classes of mail or markets. The Board has been very involved in reviewing that effort. We thoroughly vet new lines of business and ideas at our Strategic Planning Committee meetings and then revisit actual performance on a regular basis to ensure either that they meet projections. If projections are not met, we question whether the line of business should be continued.*

*As I mentioned during my staff interview, the Postal Service has recruited some high-level personnel with private sector experience. That has been valuable in shaping the way the Postal Service is examining this issue. I also mentioned the Postal Service was undertaking a market analysis to determine where the Postal Service could provide products and services that would generate new revenue. When that analysis is complete, the Board will closely examine the results to determine what, if any, legislative changes are needed.*

3. The Postal Accountability and Enhancement Act of 2006 (PAEA) requires USPS to make payments into the Postal Service Retiree Health Benefits Fund to cover the health insurance premiums of future retirees. Due to the unanticipated and deep recession, USPS indicated that it was unable to make the payment for Fiscal Year 2009, so Congress passed legislation to provide USPS with short-term financial relief by reducing its payment into the Fund from \$5.4 billion to \$1.4 billion for Fiscal Year 2009.

Although USPS committed to making this annual payment less than three years ago, you indicated that without a change to this payment schedule, USPS will not be in a position to return to financial stability. What steps can USPS take to decrease costs and increase revenue so that it can, once again, afford to make this payment?

*Let me first state that although USPS committed to making these annual retiree health benefit prefunding payments in 2006, I do not believe that anyone could have foreseen at that time the worst recession in this country in seventy years and the unprecedented impact it has had on the Postal Service. The Board is completely focused on both cost reductions and revenue growth through new customers and volume increases.*

*Under the Board's direction and guidance, the Postal Service is taking significant steps to decrease costs. The Postal Service has reduced costs by roughly \$13 billion over the past six years; \$6 billion of that cost reduction came in FY2009 alone, and we are expecting more than \$2 billion in FY2010. In addition, the Postal Service is using the pricing flexibility under PAEA to generate new revenue. However, in this recession, it has been difficult to grow revenue by any significant amount, given the 26 billion piece decline in mail volume in FY2009. To put this in perspective, an annual decrease of 26 billion pieces is more than twice the level of decline ever experienced in the Postal Service's history. Based on economic projections, the Board has no reasonable expectation that the Postal Service will be able to afford a roughly \$5.5 billion retiree health benefit pre-payment any time in the near or mid-term.*

4. In your response to prehearing questions you indicated that "undue emphasis" should not be placed on reducing labor-related costs. Eighty percent of costs are labor-related, however, so this is an area that GAO and other experts have repeatedly identified as needing attention.

In September 2008, the Postal Service's Inspector General found that while employee benefits programs for postal employees are comparable to other federal and quasi-federal agencies, the Postal Service contributes at a significantly higher rate for postal employees than federal agencies do for their employees. Specifically, in Fiscal Year 2009, USPS paid 83 percent of employees' health benefits premiums, compared to other federal agencies, which paid 72 percent of their employees' health benefits premiums. USPS also paid 100 percent of employees' life insurance premiums, compared other federal agencies, which paid 33 percent.

To what extent do you believe cuts in labor costs should be made?

*As I stated in my staff interview, that written response was focused on "undue" emphasis on labor cuts. It is clear that labor costs have been addressed. The Postal Service has reduced its workforce by roughly 150,000 employees in the last seven years. Overtime has been significantly reduced, delivery routes have been eliminated or adjusted, and facilities have been consolidated or closed. Much of the \$13 billion in cost cuts made in the last eight years have been for workforce reductions. During the last round of union negotiations, employee contributions to the Federal Employees Health Benefits Program were increased by 1 percent per year.*

*The Board has set goals for Postal management to continue to cut costs and generate revenue. These issues will be thoroughly discussed in the next round of collective bargaining. However, one of the important factors that we always consider is maintaining and improving service levels. We are well aware that the Postal Service will not be positioned to increase revenue if we are not providing consistent, high-quality service. To do that, the Postal Service needs a well-motivated workforce. Our employees, despite all the challenges discussed above, have delivered for the American people, and we want to ensure that continues. In fact, during the last year when \$6*

*billion in productivity cuts were made resulting in the reduction of 114 million work hours, our workforce performed at historically high service levels.*

5. In July, this Committee approved legislation, S. 1507, which would adjust USPS's payment schedule into its Retiree Health Benefits Fund. During the Committee's consideration of this legislation, a provision was added that would require the arbitrator to consider USPS's financial health when rendering decisions about collective bargaining agreements. The purpose of the amendment is to provide a balance to the arbitration process. Do you believe this provision is important to the Postal Service's long-term fiscal health?

*Let me start out by saying that I personally deliberated on this issue for some time. During one of the most challenging fiscal periods in the Postal Service's history, our workforce performed at historically high levels. The Postal Service's ability to regenerate volume growth will continue to depend upon the great service by its workforce. However, currently, the Federal deficit is more than a trillion dollars. The Postal Service debt level is currently \$10.2 billion (end of FY2009), and the Postal Service is on target to hit its debt ceiling in FY2011. I believe that given this fiscal reality, it is appropriate and important to the Postal Service's fiscal health that the arbitrator be required to consider the financial health of the Postal Service, while also considering the pay comparability mandate set by current law. Under current law, the arbitrator has the ability to consider the financial situation of the Postal Service, but is not required to do so; however, he or she is absolutely required to consider the pay comparability requirement of the statute. That situation has led to arbitration decisions where arbitrators clearly have and have not considered the financial situation of the Postal Service. Because the arbitrator already can currently consider the financial condition of the Postal Service, an amendment that would require an arbitrator to consider the Postal Service's financial health would act to balance the comparability requirement in the statute.*