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United States Senate

COMMITTEE ON HEALTH, EDUCATION,
LABOR, AND PENSIONS

WASHINGTON, DC 20510-6300

J. MICHAEL MYERS, STAFF DIRECTOR AND CHIEF COUNSEL
FRANK J. MACCHIAROLA, REPUBLICAN STAFF DIRECTOR

<http://help.senate.gov>

August 24, 2009

President Barack Obama
The White House
Washington, D.C. 20500

Dear Mr. President:

I write to express my concern about the nomination of Patricia Smith to Solicitor of the Department of Labor. While I recognize and respect Ms. Smith's professional accomplishments, I believe that she is not qualified for the position for which she has been nominated as her statements before the Committee are in direct contradiction to documents subsequently supplied to the Committee. I respectfully request that you withdraw her nomination.

The Solicitor of Labor is a very important position, playing a key role in nearly every policy, regulatory and enforcement decision. As the number three official at the Department of Labor and the head law enforcement officer, the Solicitor of Labor leads one of the largest legal offices in the federal government with a staff of more than 400 attorneys.

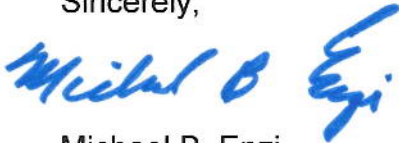
During Ms. Smith's HELP Committee confirmation hearing and again in subsequent questions for the record, she was asked about a program called Wage and Hour Watch that she and her deputies created and implemented for the State of New York. There are at least four significant inconsistencies between Ms. Smith's statements for the record and documents related to the Wage and Hour Watch Program that have been provided by the State of New York. Though I have no reason to believe Commissioner Smith intentionally misled the Senate, her statements to the Committee are in direct contradiction with the documents provided to the HELP Committee. If it was her intention to mislead the Senate, then I must oppose her nomination. If she unintentionally gave inaccurate statements to the Senate, then I question her ability to manage a large operation, since she does not have a clear understanding of what is taking place in her own Department in New York.

In addition, I have significant concerns about Ms. Smith's ability to work with small businesses. While Wage and Hour Watch was clearly designed to target small- and medium-sized businesses, Ms. Smith did not consult any small business owners or stakeholders in the development and implementation of the program. It was only after

small business owners raised concerns that she agreed to meet with them and then it was more than a month after Wage and Hour Watch was well underway.

The Department of Labor deserves to have a Solicitor who can be counted on to fairly enforce the law and who has the full confidence of the Congress. I would be pleased to work with you to identify a replacement nominee capable of receiving swift confirmation, but under the circumstances I cannot support your current nominee. I would be willing to discuss my concerns in detail with your staff.

Sincerely,



Michael B. Enzi
Ranking Member

cc: Rahm Emanuel, White House Chief of Staff
The Honorable Hilda Solis
The Honorable Edward M. Kennedy, Chairman
The Honorable Judd Gregg
The Honorable Lamar Alexander
The Honorable Richard Burr
The Honorable Johnny Isakson
The Honorable John McCain
The Honorable Orrin G. Hatch
The Honorable Lisa Murkowski
The Honorable Tom Coburn, M.D.
The Honorable Pat Roberts