

**Statement of Kenneth L. Wainstein
Partner, Cadwalader, Wickersham & Taft**

Before the

Senate Committee on Homeland Security and Governmental Affairs

September 18, 2013

Chairman Carper, Ranking Member Coburn and Members of the Committee, I appreciate the opportunity to appear before the Committee today with my friend, Steve Bunnell, and his family as the Committee considers his nomination as General Counsel of the Department of Homeland Security. I consider it a distinct honor to introduce Steve, given both the critical importance of that position and the sterling character of the nominee.

I am currently a partner at the law firm of Cadwalader, Wickersham & Taft. Prior to entering private practice in early 2009, I served for over twenty years as a lawyer in the federal government – first as a career federal prosecutor, then as FBI General Counsel and Chief-of-Staff, United States Attorney and Assistant Attorney General for National Security, and finally as Homeland Security Advisor to President Bush. In each of those positions, I had the opportunity to work closely with Steve. Given this history, I feel particularly well-equipped to speak to his suitability for the DHS General Counsel position.

Before providing my personal perspective, I would like to take a moment to go through Steve's resume and his objective qualifications for the job. Steve graduated Phi Beta Kappa from Yale University and then from Stanford Law School, where he served as senior editor on the law review. He clerked for highly-respected Judge Silberman on the D.C. Circuit Court of Appeals, and then spent some time in a law firm before serving for five years as one of the strongest line prosecutors in the United States Attorney's Office in Washington, D.C. From

there, Steve transferred to Department of Justice headquarters at “Main Justice” where he handled some of the Department’s most important and sensitive public corruption prosecutions before being asked to serve as counsel to the Assistant Attorneys General for the Criminal Division for both the Clinton and the George W. Bush administrations. He ended up his government career back at the D.C. United States Attorney’s Office, serving first as Chief of the Fraud and Public Corruption Section and then as Chief of the Criminal Division. In the latter position, Steve oversaw the establishment of a new National Security Section responsible for the prosecution of international terrorism, espionage and other national security crimes and he represented the Office in the Department’s policy discussions about the myriad national security issues that arose in the years after 9/11.

Those are Steve’s credentials on paper. Let me now explain why those credentials and Steve’s character add up to the ideal nominee for the DHS General Counsel position. I base this opinion both on my understanding of the demands of that job – derived from my experience in comparable government positions – and on my close working relationship and friendship with Steve over the past 21 years, a friendship that has given me a very clear understanding of the man and his character.

Steve is a natural choice for the General Counsel position for several reasons. First, he is quite simply an excellent lawyer, one of the very best I have ever worked with. His analytical skills and judgment are exceptional, having been honed through years of wrestling with tough issues of law and fairness as a line prosecutor and equally tough issues of national security policy as a high-level Justice Department official. Steve’s balanced, thoughtful approach to difficult and controversial issues makes him the ideal counsel to an agency that regularly confronts such

issues, and is the reason why Steve has always been the first person I seek out whenever I need sound and honest advice in a tough situation.

Besides being a tremendous legal talent, Steve has exceptional leadership skills – skills that will be absolutely critical for a General Counsel who is responsible for both managing an extended group of DHS lawyers across a wide spectrum of agencies as well as representing the Department with strength and credibility in the inter-agency process. Steve’s leadership qualities have stood out throughout his career – from his service as Chief of the Criminal Division when we were together at the United States Attorney’s Office to his successful tenure as Managing Partner of O’Melveny’s D.C. office over the past few years. At every step of his career, Steve has shown himself to be a natural leader who sets the example for the rest of his colleagues.

Steve has also proven himself a true government professional in the best sense of the word. From his earliest years as a line prosecutor, Steve has established a reputation as a completely apolitical straight-shooter and as someone who always subordinates political interests to the mission and to the needs of his agency and his country – a reputation that is reflected in the glowing letters of support this Committee has received from persons across the political spectrum. This apolitical approach is critical in all aspects of government, but particularly in a law enforcement and national security agency like DHS whose effectiveness is so dependent on having the trust of Congress and the American people.

Lastly, and most importantly, Steve is a man of honor who has the personal character one would want in such an important and sensitive position. Steve is universally respected and admired by all who have ever worked with him – from the Attorneys General and Deputy Attorneys General of both parties who have relied on his counsel to the O’Melveny associates who have flourished under his inclusive management style. Steve has earned that admiration in

part by his smarts and hard work, but also because he has had a career that exemplifies the qualities of integrity, decency and fidelity to public service. His willingness to step out of a highly successful law firm partnership and into the DHS counsel position is just the most recent example of Steve's selflessness and sense of duty.

In sum, I cannot think of a better person to assume this important role at this critical juncture of our history. I am confident that Steve will serve with honor and distinction and that the people of our country will be more secure both in their safety and in their civil liberties thanks to Steve's service as General Counsel of the Department of Homeland Security. I therefore give Steve my unqualified recommendation, and urge the Committee to endorse him unanimously.