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United States Senate

COMMITTEE ON COMMERCE, SCIENCE,
AND TRANSPORTATION

WASHINGTON, DC 20510-6125

WEBSITE: <http://commerce.senate.gov>

NICK ROSSI, STAFF DIRECTOR
KIM LIPSKY, DEMOCRATIC STAFF DIRECTOR

June 22, 2017

Mr. Steven G. Bradbury, Esquire



Dear Mr. Bradbury:

The U.S. Senate Committee on Commerce, Science, and Transportation is in receipt of your nomination to the position of General Counsel of the U.S. Department of Transportation.

This position plays a critical role in ensuring the safety of our nation's transportation systems. As such, I believe that the person occupying this position must be free of any arrangements or entanglements that could be seen as impeding that duty to serve the American people.

In your response to the committee questionnaire, you state that you "[r]epresented TK Holdings Inc. (Takata Corporation) in connection with investigations of airbag inflator ruptures by [the National Highway Traffic Safety Administration] NHTSA, Congress, and other entities, and in related civil litigation." As you know, defective Takata inflators have been linked to 11 deaths and approximately 180 injuries nationwide. Recently, Honda confirmed that another Takata airbag inflator ruptured in Las Vegas, Nevada, causing serious injury to the driver.

Both civil and criminal litigation surrounding the Takata recalls is ongoing, and on February 27, 2017, Takata pled guilty to one count of wire fraud related to fabrication of its inflators' safety record and agreed to pay \$1 billion in criminal penalties. Three Takata executives currently face criminal charges for their alleged involvement in the Takata scheme. On May 18, 2017, four automakers involved in multi-district civil litigation reached a settlement agreement to pay \$553 million to compensate vehicle owners affected by the recalls.

Furthermore, under Takata's Amended Consent Order and Coordinated Remedy Orders with NHTSA, the agency will play an active role in overseeing the recall process, including the production of replacement airbag inflators, well into the next decade. In light of the low recall completion rates, it is reasonable to expect that oversight of the recalls by NHTSA and the Department will only increase in the future. Additionally, by the end of 2019, Takata must demonstrate to NHTSA the safety of its desiccated ammonium nitrate-based inflators. NHTSA's determination on this matter could result in expanding the recalls to include millions of additional Takata inflators.

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In your agreement with the Department's Designated Agency Ethics Official, you state, "I will not participate personally and substantially in any particular matter involving specific parties in which I know a former client of mine is a party or represents a party for a period of one year after I last provided service to that client, unless I am first authorized to participate, pursuant to 5 C.F.R. § 2635.502(d)." In addition, you state, "[F]or the duration of my appointment as General Counsel, I will not participate personally and substantially in any particular manner in which I know I previously appeared before, or directly communicated with, the U.S. Department of Transportation on behalf of Dechert LLP or any former client, unless I am first authorized to participate, pursuant to 5 C.F.R. § 2635.502(d)."

Unfortunately, this language does not fully address how you intend to handle recusals from matters involving Takata Corporation or TK Holdings Inc. Accordingly, prior to taking further action on your nomination, I ask you to confirm in writing that you will:

- 1) Not participate in any NHTSA or Department matter involving Takata Corporation or TK Holdings, Inc, including all subsidiaries and successor entities, during your entire term as General Counsel; and
- 2) Not seek or accept an authorization under 5 C.F.R. § 2635.502(d) to participate in any matter involving Takata Corporation or TK Holdings Inc., including all subsidiaries and successor entities, during your entire term as General Counsel.

Thank you in advance for your prompt response to this request.

Sincerely,



BILL NELSON
Ranking Member

cc: The Honorable John Thune, Chairman