

Instructions for nominees: The Senate Committee on Commerce, Science, and Transportation asks you to provide typed answers to each of the following questions. It is requested that the nominee type the question in full before each response. Do not leave any questions blank. Type "None" or "Not Applicable" if a question does not apply to the nominee. Return printed answers to Committee. Begin each section (i.e., "A", "B", etc.) on a new sheet of paper.

## **A. BIOGRAPHICAL INFORMATION AND QUALIFICATIONS**

1. Name (Include any former names or nicknames used):

Joseph Jay Simons

2. Position to which nominated:

Commissioner of the Federal Trade Commission

3. Date of Intent to Nominate: October 19, 2017

4. Address (List current place of residence and office addresses):

Residence:

[REDACTED]

Office:

2001 K Street, NW, 5<sup>th</sup> floor, Washington, DC 20006

5. Date and Place of Birth:

May 4, 1958  
Brooklyn, NY

6. Provide the name, position, and place of employment for your spouse (if married) and the names and ages of your children (including stepchildren and children by a previous marriage).

Martha Marie Simons (wife) –  
Self-employed contractor for Maharishi Foundation USA, Inc.  
Employment address is home.

Samuel P. Simons (son) – 27 years old  
Jack W. Simons (son) – 24 years old  
Lauren L. Simons (daughter) – 20 years old  
Jaxson L. Zimmerman (stepson) – 29 years old  
Michelle M. Zimmerman (stepdaughter) – 28 years old  
Lauren L. Zimmerman (stepdaughter) – 24 years old

7. List all college and graduate degrees. Provide year and school attended.

Cornell University, AB (1980)

Georgetown University Law Center, JD (1983)

8. List all post-undergraduate employment, and highlight all management-level jobs held and any non-managerial jobs that relate to the position for which you are nominated.

Ocean County Department of Consumer Affairs, Toms River, NJ – Intern  
(Summer 1980)

Giordano, Halleran & Ciesla, Middletown, NJ – Summer Associate  
(Summer 1981)

Duncan, Weinberg & Miller, Washington, DC – Law Clerk (Fall 1981)

Cohen & Uretz, Washington, DC – Law Clerk (Spring 1982 – Fall 1982)

Stryker, Tams & Dill, Newark, NJ – Summer Associate (Summer 1982)

Butler & Binion, Houston, TX – Summer Associate (Summer 1982)

\*Wald, Harkrader & Ross, Washington, DC – Law Clerk and Associate (Spring 1983-1985)

\*Skadden, Arps, Slate, Meagher & Flom, Washington, DC – Associate (1985-1987)

\*\*Federal Trade Commission, Washington, DC – Assistant to the Bureau Director, Assistant Director for Evaluation, and Associate Director for Mergers, Bureau of Competition (1987-1989)

As Associate Director, responsible for supervising half of Commission's merger investigations. As Assistant Director, responsible for managing the Bureau's Evaluation Office.

\*Wachtell, Lipton, Rosen & Katz, New York, NY – Associate (1989-1994)

\*\*Collier, Shannon, Rill & Scott, Washington, DC – Partner and Counsel (1994-1998)

Madison Oil Company, Dallas, Texas – Board Member and Vice President (Approx. 1993-1998; 2000-2001)

Toreador Resources Corporation, Dallas, Texas – Board Member (approx. 2001-2003)

\*\*Clifford Chance, Washington, DC – Partner (1998-2001)

\*\*Federal Trade Commission, Washington, DC – Director of the Bureau of Competition (2001-2003)

\*\*Paul, Weiss, Rifkind, Wharton & Garrison LLP, Washington, DC – Partner and Co-Chair of the Antitrust Group (2003-12/31/2017)

Note: items marked with (\*) for roles related to nominated position and (\*\*) for managerial roles relating to nominated position.

9. Attach a copy of your resume.

A resume copy is attached.

10. List any advisory, consultative, honorary, or other part-time service or positions with Federal, State, or local governments, other than those listed above, within the last ten years.

None.

11. List all positions 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 within the last ten years.

Paul, Weiss, Rifkind, Wharton & Garrison LLP, Washington, DC –  
Partner (2003-12/13/2017)

12. Please list each membership you have had during the past ten years or currently hold with any civic, social, charitable, educational, political, professional, fraternal, benevolent or religious organization, private club, or other membership organization. Include dates of membership and any positions you have held with any organization. Please note whether any such club or organization restricts membership on the basis of sex, race, color, religion, national origin, age, or handicap.

American Bar Association (1983-present)

American Economic Association (approximately 1983-present)

Fellow of the American Bar Association (approximately 2012-present)

New York Bar (1989-present)

District of Columbia Bar (1983-present)

Alpha Tau Omega Fraternity (1977-present)

US Power Squadrons (approximately 2012-present)

National Rifle Association (member on and off over last ten years)

Executive Club of Wilmington, NC (2016-present)

Sport & Health Club, McLean, VA (approximately 2005-present)

Sports Club LA, Washington, DC (approximately 2003-2015)

Alpha Tau Omega Fraternity membership is limited to males. Otherwise, Alpha Tau Omega does not restrict membership on the basis of race, color, religion, national origin, age, or handicap. None of the other listed organizations restricts membership on the basis of sex, race, color, religion, national origin, age, or handicap.

13. Have you ever been a candidate for and/or held a public office (elected, non-elected, or appointed)? If so, indicate whether any campaign has any outstanding debt, the amount, and whether you are personally liable for that debt.

No.

14. Itemize all political contributions to any individual, campaign organization, political party, political action committee, or similar entity of \$500 or more for the past ten years. Also list all offices you have held with, and services rendered to, a state or national political party or election committee during the same period.

US Senate Victory Committee \$1000 (6/30/2010)

Friends of Dick Lugar \$1000 (12/06/2011)

National Republican Senatorial Committee \$2000 (12/13/2011) and \$3000 (10/15/2010)

Romney Victory Inc. \$1000 (7/20/2012)

Ted Cruz for Senate \$1000 (3/24/2011), \$500 (7/21/2012), \$500 (5/23/12), and \$500 (10/3/2012)

Zinke for Congress \$2600 (11/14/2013)

Sullivan for US Senate \$1000 (10/20/2014)

Friends of Pat Toomey \$1000 (9/17/2015)

Shelby for US Senate \$1000 (11/03/2015)

Marco Rubio for President \$1000 (12/23/2015)

McHenry for Congress \$1000 (6/30/2016)

Cornyn Majority Committee \$1000 (2/15/2017)

15. List all scholarships, fellowships, honorary degrees, honorary society memberships, military medals, and any other special recognition for outstanding service or achievements.

Recognized as a leading antitrust lawyer by Chambers USA, Chambers Global, and The Legal 500.

Selected to Best Lawyers in America, The International Who's Who of Competition Lawyers and Economists.

Selected to Crain's New York Business "40 Under 40", which recognizes 40 rising stars under 40 years old in the New York business community.

Federal Trade Commission Award for Meritorious Service.

Fellow of the American Bar Foundation.

16. Please list each book, article, column, or publication you have authored, individually or with others. Also list any speeches that you have given on topics relevant to the position for which you have been nominated. Do not attach copies of these publications unless otherwise instructed.

The following list reflects the best of my recollection and a diligent search, but it is possible that there is an article, presentation or speech that I have no record of or was unable to locate.

*A Practical Guide to Merger Analysis*, with Steven Salop, 29 Antitrust Bulletin 663 (Winter 1984).

*Fixing Price with Your Victim: Efficiency and Collusion with Competitor-Based Formula Pricing Clauses*, 17 Hofstra Law Review 599 (1989).

*Focusing Market Definition: How much Substitution is Necessary?*, with Barry Harris, 12 Research In Law and Economics 207 (1989), reprinted at 21 The Journal of Reprints for Antitrust Law and Economics 151 (1992).

*Real Estate Multiple Listings Services and Antitrust Revisited*, with John Loptka, in M. Geurin-Calvert and S. Wildman (eds.), *Electronic Services Networks: A Business and Public Policy Challenge* (Prager: 1991).

*The Often-Forgotten Role of Price-Cost Margins in Antitrust Merger Analysis*, with Barry Harris, 6 International Merger Law (February 1991)

*Horizontal Mergers in Spatially Differentiated Noncooperative Markets*, with Preston McAfee and Michael Williams, 40 Journal of Industrial Economics 349 (1992).

*New U.S. Merger Enforcement Guidelines: Competitive Effects*, with Michael Williams and Preston McAfee, 21 *International Merger Law* (May 1992).

*The Renaissance of Market Definition*, with Michael Williams, 38 *Antitrust Bulletin* 799 (1993).

Co-author with James Loftis of chapters on vertical mergers, conglomerate mergers, and potential competition in R. Schlossberg and C. Aronson (eds.), *MERGERS AND ACQUISITIONS* (ABA: 2000).

Keynote Address to the Tenth Annual Golden State Antitrust and Unfair Competition Law Institute Santa Monica California (October 2002).

*Report from the Bureau of Competition*, Presentation at the 2003 ABA Antitrust Section Spring Meetings (April 2003).

*FTC Initiatives in Intellectual Property*, oral remarks at the American Intellectual Property Law Association (May 2003).

*The State of Critical Loss Analysis: Let's Make Sure We Understand the Whole Story*, with David Scheffman, *The Antitrust Source* (November 2003).

*Non-Merger Enforcement at the FTC: An Aggressive Proconsumer Agenda*, with David Scheffman, *Antitrust Bulletin* 471 (Fall 2004).

*Antitrust Issues in Bidding for Corporate Control*, Paul, Weiss, Rifkind, Wharton & Garrison LLP, Client Alert (10/11/2006).

*Department of Justice Gives Antitrust Guidance to Standards Development Organizations*, Paul, Weiss, Rifkind, Wharton & Garrison LLP, Client Alert (11/08/2006).

*FTC Announces Revised Hart-Scott-Rodino Thresholds*, Paul, Weiss, Rifkind, Wharton & Garrison LLP, Client Alert (01/25/2007).

*New Supreme Court Decision Changes Standard on Motions to Dismiss*, Paul, Weiss, Rifkind, Wharton & Garrison LLP, Client Alert (05/21/2007).

DOJ Challenges Non-HSR Reportable Transactions, Paul, Weiss, Rifkind, Wharton & Garrison LLP, Client Alert (05/29/2007).

Supreme Court Overrules Dr. Miles and Holds That Vertical Price Restraints Are Not Per Se Illegal, Paul, Weiss, Rifkind, Wharton & Garrison LLP, Client Alert (07/02/2007).

In the Courts: A Changed Standard on Motions to Dismiss, Paul, Weiss, Rifkind, Wharton & Garrison LLP, Client Alert (07/14/2007).

Prohibition on Interlocking Directorates May Prohibit a Firm From Appointing Its Agents to Serve As Directors of Competing Corporations, Paul, Weiss, Rifkind, Wharton & Garrison LLP, Client Alert (11/13/2007).

District Court Dismisses Antitrust Class Action Complaint Against Private Equity Firms, Paul, Weiss, Rifkind, Wharton & Garrison LLP, Client Alert (02/26/2008).

DC Circuit Rules in FTC's Favor on Whole Foods-Wild Oats Merger, Paul, Weiss, Rifkind, Wharton & Garrison LLP, Client Alert (08/04/2008).

Court Declines to Dismiss Antitrust Claim Alleging Private Equity Firms Allocated Market For Leveraged Buyouts, Paul, Weiss, Rifkind, Wharton & Garrison LLP, Client Alert (12/18/2008).

President Obama Announces Key Antitrust Nomination: What to Expect From the FTC and DOJ in the New Administration, Paul, Weiss, Rifkind, Wharton & Garrison LLP, Client Alert (01/22/2009).

Recent DC Circuit Decisions in Whole Foods Leave Standard for Future Mergers Unsettled, with Ilene Gotts, Aidan Synnott and George Conway, Competition Law International 9 (Feb. 2009).

Federal Appeals Court Tightens Standards For Class Certification in Antitrust Actions, Paul, Weiss, Rifkind, Wharton & Garrison LLP, Client Alert (02/02/2009).



U.S. Supreme Court Addresses "Price Squeeze" Claim and Application of Twombly Pleading Standard to Section 2 of the Sherman Act, Paul, Weiss, Rifkind, Wharton & Garrison LLP, Client Alert (02/26/2009).

Leibowitz Named FTC Chairman, Paul, Weiss, Rifkind, Wharton & Garrison LLP, Client Alert (03/09/2009).

Implications of Pacific Bell v. Linkline, with Andrew Finch and William Michael, Law 360 (03/31/2009).

DOJ Antitrust Division Declares Reverse Settlements "Presumptively Unlawful", Paul, Weiss, Rifkind, Wharton & Garrison LLP, Client Alert (07/20/2009).

Department of Justice Proposes "Structured Rule of Reason" Approach to Resale Price Maintenance Claims, Paul, Weiss, Rifkind, Wharton & Garrison LLP, Client Alert (10/12/2009).

Interlocks Under Section 8 of the Clayton Act: Implications of the FTC's Investigation of Apple and Google, Paul, Weiss, Rifkind, Wharton & Garrison LLP, Client Alert (10/14/2009).

Ninth Circuit Courts Reject Antitrust "Bundling" Claims In Two Recent Cases, Paul, Weiss, Rifkind, Wharton & Garrison LLP, Client Alert (11/16/2009).

Critical Loss v. Diversion Analysis: Clearing up the Confusion, with Malcolm Coate, The Antitrust Chronicle (Dec. 2009).

The Potential Impact of New Economic Tests in Merger Analysis: A New Direction? (Presented at the ABA Antitrust Section Spring Meetings March 2010).

Court Rejects FTC Challenge to Reverse Settlement Agreement, Paul, Weiss, Rifkind, Wharton & Garrison LLP, Client Alert (03/01/2010).

Critical Loss v. Diversion Analysis: Another Attempt at Consensus, with Malcolm Coate, The CPI Antitrust Journal (April 2010).

*Unilateral Effects for Differentiated Products: Theory, Assumptions and Research*, with David Scheffman, The Antitrust Source (April 2010).

*U.S. Antitrust Agencies Propose Revisions to Merger Guidelines*, Paul, Weiss, Rifkind, Wharton & Garrison LLP, Client Alert (04/22/2010).

*Second Circuit Invites Rehearing in Reverse Settlement Case*, Paul, Weiss, Rifkind, Wharton & Garrison LLP, Client Alert (05/06/2010).

*Upper Pressure on Price Analysis*, with Malcolm Coate, 6 European Competition Journal 377 (August 2010).

*U.S. Antitrust Agencies Issue Revised Merger Guidelines*, Paul, Weiss, Rifkind, Wharton & Garrison LLP, Client Alert (08/26/2010).

*Continuity and Change in the 2010 Merger Guidelines*, with Malcolm Coate, CPI Antitrust Journal (Oct. 2010).

*The 2010 Merger Guidelines, Critical Loss and Linear Demand*, with Jay Ezrielev, 7 Journal of Competition Law and Economics 497 (2011).

*Court of Appeals Upholds Antitrust Conspiracy Claim, Addresses Application of Twombly*, Paul, Weiss, Rifkind, Wharton & Garrison LLP, Client Alert (01/18/2011).

*Seventh Circuit Affirms Dismissal of "Buyers' Cartel" Claim, Provides Guidance Regarding Premerger Information Sharing*, Paul, Weiss, Rifkind, Wharton & Garrison LLP, Client Alert (01/24/2011).

*Eighth Circuit Affirms Summary Judgment for Medical Device Supplier in Antitrust Case Challenging Pricing Practices*, Paul, Weiss, Rifkind, Wharton & Garrison LLP, Client Alert (06/20/2011).

*In Dismissal of Hospital's Tying Claim Against Drug Manufacturer, Third Circuit Takes Narrow View of Direct Purchaser Requirement*, Paul, Weiss, Rifkind, Wharton & Garrison LLP, Client Alert (06/27/2011).

*Hart-Scott-Rodino Reporting Requirements Amended*, Paul, Weiss, Rifkind, Wharton & Garrison LLP, Client Alert (07/13/2011).

*A Comment on Choosing Among Tools for Assessing Unilateral Effects Analysis*, with Malcolm Coate, 8 *European Competition Journal* 429 (2012).

*In Defense of Market Definition*, with Malcolm Coate, 57 *Antitrust Bulletin* 667 (Winter 2012).

*A Comment on the Articles in the Special Kaplow Edition*, with Malcolm Coate, 57 *Antitrust Bulletin* 953 (Winter 2012).

*Known Unknowns: Uncertainty and its Implication for Antitrust Policy and Enforcement in the Standard-Setting Context*, with Bruce Hoffman, 57 *Antitrust Bulletin* 89 (Spring 2012).

*Hart-Scott-Rodino Enforcement: Executive Equity Awards Can Trigger HSR Filing Obligations*, Paul, Weiss, Rifkind, Wharton & Garrison LLP, Client Alert (01/06/2012).

*Third Circuit Holds that "Reverse Settlement" Payments Are Prima Facie Evidence of an Antitrust Violation, Widening Circuit Split*, Paul, Weiss, Rifkind, Wharton & Garrison LLP, Client Alert (07/19/2012).

*Supreme Court Reverses Certification of Antitrust Class Action But Defers Decision on Standards for Expert Testimony*, Paul, Weiss, Rifkind, Wharton & Garrison LLP, Client Alert (04/04/2013).

*Federal Court Rules "Loyalty Discounts" Do Not Violate Antitrust Laws Unless Below-Cost*, Paul, Weiss, Rifkind, Wharton & Garrison LLP, Client Alert (04/22/2014).

*Seventh Circuit Affirms Dismissal of Antitrust Claims Based on Foreign Purchases*, Paul, Weiss, Rifkind, Wharton & Garrison LLP, Client Alert (12/09/2014).

*FTC Announces New Hart-Scott-Rodino and Clayton Act Section 8 Thresholds*, Paul, Weiss, Rifkind, Wharton & Garrison LLP, Client Alert (01/21/2015).

*Fifth Circuit Reverses Jury Verdict for Antitrust Plaintiffs, Finding Lack of Sufficient Evidence to Establish a Conspiracy*, Paul, Weiss, Rifkind, Wharton & Garrison LLP, Client Alert (01/23/2015).

*Court of Appeals Upholds Decision Unwinding Consummated Merger of Two Physician Groups Following FTC Suit*, Paul, Weiss, Rifkind, Wharton & Garrison LLP, Client Alert (02/17/2015).

*Supreme Court Holds State Regulatory Board Controlled by Active Market Participants Is Not Immune from Antitrust Liability*, Paul, Weiss, Rifkind, Wharton & Garrison LLP, Client Alert (02/27/2015).

*Sixth Circuit Court of Appeals Adopts Below-Cost Standard for “Non-Explicit” Tying Arrangements*, Paul, Weiss, Rifkind, Wharton & Garrison LLP, Client Alert (03/30/2015).

*Third Circuit Court of Appeals Joins Other Circuits in Applying Daubert to Expert Testimony at Class Certification*, Paul, Weiss, Rifkind, Wharton & Garrison LLP, Client Alert (04/13/2015).

*Second Circuit Applies Rule of Reason to Uphold Preliminary Injunction Preventing Manufacturer from Removing Alzheimer’s Drug from Market*, Paul, Weiss, Rifkind, Wharton & Garrison LLP, Client Alert (06/03/2015).

*Federal Judge Preliminarily Enjoins Sysco-US Foods Merger and Parties Abandon the Transaction*, Paul, Weiss, Rifkind, Wharton & Garrison LLP, Client Alert (07/02/2015).

*FTC’s Challenge to Family Dollar/Dollar Tree Merger Suggests Potential for Significant Increase in Merger Enforcement*, Paul, Weiss, Rifkind, Wharton & Garrison LLP, Client Alert (07/27/2015).

*Federal Judge Denies FTC’s Bid to Preliminarily Enjoin Steris-Synergy Health Merger*, Paul, Weiss, Rifkind, Wharton & Garrison LLP, Client Alert (09/28/2015).

*Recent Enforcement Actions Highlight Importance of Hart-Scott-Rodino Compliance When Acquiring Voting Securities*, Paul, Weiss, Rifkind, Wharton & Garrison LLP, Client Alert (10/08/2015).

*FTC Announces New Hart-Scott-Rodino and Clayton Act Section 8 Thresholds*, Paul, Weiss, Rifkind, Wharton & Garrison LLP, Client Alert (01/26/2016).

*Second Circuit Affirms Dismissal of Sherman Act Claims Based on Failure to Allege a Plausible Geographic Market Definition*, Paul, Weiss, Rifkind, Wharton & Garrison LLP, Client Alert (03/22/2016).

*District Court Dismisses Tying and Bundling Claims, Holding that Medical-Surgical Distributor Failed to Show Market Power or Injury to Competition*, Paul, Weiss, Rifkind, Wharton & Garrison LLP, Client Alert (04/12/2016).

*Executive Order Calls on Agencies to Address Industry Concentration: The Implications for Common Ownership Interests*, Paul, Weiss, Rifkind, Wharton & Garrison LLP, Client Alert (05/03/2016).

*Third Circuit Court of Appeals Affirms Dismissal of Claim that "Loyalty Discounts" Violate Antitrust Laws*, Paul, Weiss, Rifkind, Wharton & Garrison LLP, Client Alert (05/06/2016).

*Federal Court Blocks Staples-Office Depot Merger, Finding Sale of Office Supplies to Large Business Customers to Be a Distinct Relevant Market*, Paul, Weiss, Rifkind, Wharton & Garrison LLP, Client Alert (05/20/2016).

*U.S. Justice Department Requires Restructuring of Transaction Involving Foreign Entities to Address Section 8 Interlocking Directorates Concern*, Paul, Weiss, Rifkind, Wharton & Garrison LLP, Client Alert (07/19/2016).

*Amendments to the HSR Rules Including Allowing Submission of HSR Filings via DVD*, Paul, Weiss, Rifkind, Wharton & Garrison LLP, Client Alert (08/29/2016).

*Deferring to China's Interpretation of Its Own Regulation, Second Circuit Throws Out \$147 Million Antitrust Judgment*, Paul, Weiss, Rifkind, Wharton & Garrison LLP, Client Alert (09/22/2016).

*Department of Justice and FTC Release Antitrust Guidance for Employee Hiring and Compensation*, Paul, Weiss, Rifkind, Wharton & Garrison LLP, Client Alert (11/10/2016).

*Settling an Antitrust Case*, with Daniel Crane, Chapter 31 in *Settlement Agreements in Commercial Disputes: Negotiating, Drafting and Enforcement Volume 2* (Wolters Kluwer 2017).

*FTC Announces New Hart-Scott-Rodino and Clayton Act Section 8 Thresholds*, Paul, Weiss, Rifkind, Wharton & Garrison LLP, Client Alert (01/26/2017).

*FTC Releases Study Examining Merger Remedies Between 2006 and 2012*, Paul, Weiss, Rifkind, Wharton & Garrison LLP, Client Alert (02/17/2017).

17. Please identify each instance in which you have testified orally or in writing before Congress in a governmental or non-governmental capacity and specify the date and subject matter of each testimony.

None.

18. Given the current mission, major programs, and major operational objectives of the department/agency to which you have been nominated, what in your background or employment experience do you believe affirmatively qualifies you for appointment to the position for which you have been nominated, and why do you wish to serve in that position?

I have worked at the Federal Trade Commission twice before, the last time as Director of the Bureau of Competition, with responsibilities for roughly half of the agency's mission. My tenure there was both active and highly successful. The Commission during that time brought more non-merger enforcement actions than in any comparable period two decades before or since, while remaining very active in merger enforcement as well. As a matter of personal pride, those efforts were characterized by a high degree of bipartisanship.

In private practice, I have spent about 30 years representing clients largely before the Federal Trade Commission and the Department of Justice Antitrust Division, an experience which provides valuable insights that can be applied in running the agency.

I am seeking this appointment for the following reasons. Our country's economic potential is unmatched, and the Federal Trade Commission has an important role to play in making sure we exploit that advantage in a way that benefits US consumers to the greatest extent possible, and at the same time, creates more jobs. Our economy is based largely on free-enterprise, a system designed to incentivize sellers to produce the best products at the lowest prices. But such a system requires rules of the road (and a reliable referee to enforce them) to ensure that it stays true to its purpose. Those rules must prohibit anticompetitive conduct and help ensure consumers are protected from deceptive and unfair practices. The chance to play a significant role in enabling the FTC to fulfill that mission would be a great opportunity and honor.

Between my two prior stints at the FTC, and my experience in private practice, I feel as though I have been essentially training for this job since law school. Furthermore, I love the agency's mission, the stimulating issues it deals with, and its outstanding personnel. I am confident that I am in an excellent position to be successful as Commissioner if confirmed.

19. What do you believe are your responsibilities, if confirmed, to ensure that the department/agency has proper management and accounting controls, and what experience do you have in managing a large organization?

I would be responsible for ensuring that the FTC has proper management and accounting controls. In terms of experience, I was previously Director of the Bureau of Competition and responsible for roughly half of the agency's mission, which involved personnel management and budgeting. I have also had managerial experience running cell phone businesses worth over \$2 billion as a trustee for the Department of Justice and the Federal Communications Commission.

20. What do you believe to be the top three challenges facing the department/agency, and why?

1. Significant concerns have been raised that the federal antitrust agencies have been too permissive in dealing with mergers and acquisitions, resulting in harm to consumer welfare via increased prices, limited consumer choice, and harm to workers. Addressing these concerns is critical, as they lie at the heart of the agency's competition mission. The FTC needs to devote substantial resources to determine whether its merger enforcement has been too lax, and if that's the case, the agency needs to determine the reason for such failure and to fix it. Even if the evidence shows no such failure, it would be good practice to evaluate more systematically the Commission's merger enforcement program through the regular use of retrospective studies to prevent potential problems in the future. It would also be good practice to extend the retrospectives to non-merger matters as well.
2. The FTC recently conducted a study of its merger remedies and concluded that cases involving divestitures of asset packages not involving stand-alone businesses had a 30% failure rate. That rate is too high and needs to be lowered substantially or, ideally, zeroed out altogether.
3. Rapid changes in technology and cyber threats provide a significant challenge to the Agency's ability to fulfill its consumer protection mission and provide meaningful guidance to the business community. It is critical, despite these challenges, that the FTC protect consumers without unduly burdening them or interfering with the ability of firms (especially small firms and new entrants) to use data to enhance competition.

## **B. POTENTIAL CONFLICTS OF INTEREST**

1. Describe all financial arrangements, deferred compensation agreements, and other continuing dealings with business associates, clients, or customers. Please include information related to retirement accounts.

I retired from Paul, Weiss, Rifkind, Wharton & Garrison LLP effective 12/31/2017. I will receive my final partnership share distribution as a



single, lump sum payment prior to assuming the duties of my federal position. The total amount of the payment will be calculated as of the date of my retirement from the partnership.

Pursuant to the firm's partnership agreement and the firm's handbook, I have been provided an office, secretarial services, access to a computer and computer services, and the ability to participate in the firm's health insurance plan. Upon confirmation, I will forgo all of these benefits.

I will continue to participate in the Paul, Weiss, Rifkind, Wharton & Garrison LLP defined benefit plan under which I will receive approximately \$13,154 per month beginning in 2018.

2. Do you have any commitments or agreements, formal or informal, to maintain employment, affiliation, or practice with any business, association or other organization during your appointment? If so, please explain.

No.

3. Indicate any investments, obligations, liabilities, or other relationships which could involve potential conflicts of interest in the position to which you have been nominated.

In connection with the nomination process, I have consulted with the U.S. Office of Government Ethics and the Federal Trade Commission's Designated Agency Ethics Official to identify potential conflicts of interest. If confirmed, any potential conflicts of interest will be resolved in accordance with the terms of the ethics agreement that I have entered into with the Commission's Designated Agency Ethics Official. I am not aware of any other potential conflicts of interest.

4. Describe any business relationship, dealing, or financial transaction which you have had during the last ten 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 U.S. Office of Government Ethics and the Federal Trade Commission's Designated Agency Ethics Official to identify potential conflicts of interest. If confirmed, any potential conflicts of interest will be resolved in accordance with the terms of the ethics agreement that I have entered into with the Commission's Designated Agency Ethics Official. I am not aware of any other potential conflicts of interest.

5. Describe any activity during the past ten years in which you have been engaged for the purpose of directly or indirectly influencing the passage, defeat, or modification of any legislation or affecting the administration and execution of law or public policy.

None.

6. Explain how you will resolve any potential conflict of interest, including any that may be disclosed by your responses to the above items.

If confirmed, any potential conflicts of interest will be resolved in accordance with the terms of the ethics agreement that I have entered into with the Commission's Designated Agency Ethics Official. I am not aware of any other potential conflicts of interest.

### **C. LEGAL MATTERS**

1. Have you ever been disciplined or cited for a breach of ethics, professional misconduct, or retaliation by, or been the subject of a complaint to, any court, administrative agency, the Office of Special Counsel, professional association, disciplinary committee, or other professional group? If yes:
  - a. Provide the name of agency, association, committee, or group;
  - b. Provide the date the citation, disciplinary action, complaint, or personnel action was issued or initiated;
  - c. Describe the citation, disciplinary action, complaint, or personnel action;
  - d. Provide the results of the citation, disciplinary action, complaint, or personnel action.

No.

2. Have you ever been investigated, arrested, charged, or held by any Federal, State, or other law enforcement authority of any Federal, State, county, or municipal entity, other than for a minor traffic offense? If so, please explain.

No.

3. Have you or any business or nonprofit of which you are or were an officer ever been involved as a party in an administrative agency proceeding, criminal proceeding, or civil litigation? If so, please explain.

No.

4. Have you ever been convicted (including pleas of guilty or *nolo contendere*) of any criminal violation other than a minor traffic offense? If so, please explain.

No.

5. Have you ever been accused, formally or informally, of sexual harassment or discrimination on the basis of sex, race, religion, or any other basis? If so, please explain.

No.

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

None to my knowledge.

#### **D. RELATIONSHIP WITH COMMITTEE**

1. Will you ensure that your department/agency complies with deadlines for information set by congressional committees?

If confirmed, I would work diligently with my fellow Commissioners to do so.

2. Will you ensure that your department/agency does whatever it can to protect congressional witnesses and whistle blowers from reprisal for their testimony and disclosures?

If confirmed, I would work diligently with my fellow Commissioners to do so.

3. Will you cooperate in providing the Committee with requested witnesses, including technical experts and career employees, with firsthand knowledge of matters of interest to the Committee?

Yes.

4. Are you willing to appear and testify before any duly constituted committee of the Congress on such occasions as you may be reasonably requested to do so?

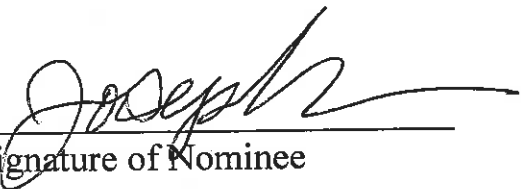
Yes.

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(Nominee is to include this signed affidavit along with answers to the above questions.)

**F. Affidavit**

Joseph Simbas 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.

  
Signature of Nominee

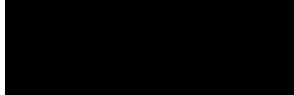
Subscribed and sworn before me this 31 day of January, 2018.

  
Notary Public



GLEND A. KUN  
NOTARY PUBLIC DISTRICT OF COLUMBIA  
My Commission Expires November 30, 2020

**JOSEPH J. SIMONS**  
Retired Partner (Of Counsel)



Washington, DC  
2001 K Street, NW  
Washington, DC 20006-1047

Formerly, a partner and co-chair of the Antitrust Group, Joe Simons focused on antitrust M&A, litigation and counseling. Prior to joining Paul, Weiss, he was the chief antitrust enforcer at the Federal Trade Commission (FTC), serving as Director of the Bureau of Competition from June 2001 until August 2003. Under his leadership, the Commission pursued a strong bipartisan enforcement agenda under which all but one of the more than 70 antitrust enforcement actions taken by the agency were by unanimous vote. During his tenure, the FTC prevailed in all of the 46 merger enforcement actions taken by the Commission. Joe was responsible for overseeing the re-invigoration of the FTC's non-merger enforcement program, initiating well over 100 investigations in two years and producing more non-merger enforcement actions in one year than in any year in the prior two decades. He also initiated a new emphasis at the FTC on administrative litigation, substantially increasing the number of trials before the agency, including merger, monopolization and horizontal restraint cases.

**EXPERIENCE**

Joe has extensive experience representing clients before the FTC, the Department of Justice, the Department of Defense, and Congress in a wide range of antitrust and regulatory matters, from the largest mergers and acquisitions to price fixing and novel predation and vertical restraints cases. He has represented clients in numerous industries ranging from airlines and computer reservations systems to telecommunications, defense contracting, consumer electronics, music, financial services, credit cards, transportation, agriculture, health care, soft drink concentrate, beer, aluminum can sheet and software.

Some of his work includes representing:

- **Rockstar, a consortium including Microsoft, Ericsson, RIM and Sony, in its \$4.5 billion acquisition of the patent portfolio of Nortel Networks in a bankruptcy**

**PRACTICES**

Antitrust  
Litigation

**EDUCATION**

J.D., Georgetown University  
Law Center, 1983  
*cum laude*  
A.B., Cornell University, 1980

**RECOGNITIONS**

*The Best Lawyers in America*  
*Chambers USA*  
*Crain's New York Business*  
"40 Under 40"  
*The Legal 500*

court approved auction. Paul, Weiss is representing both Ericsson and the consortium in seeking antitrust clearance in the U.S.;

- **Sharp Corporation** in antitrust litigation and investigations of cartel activity related to liquid crystal display units;
- **Ericsson** in its acquisitions of the CDMA, GSM and Passport businesses of Nortel Networks in several bankruptcy court approved auctions for aggregate consideration in excess of \$1.3 billion. The transactions required antitrust clearance in numerous jurisdictions including U.S., Europe and China;
- **Mastercard Inc.** in antitrust class actions in federal court in New York involving all merchants in the United States that accept Mastercard, alleging that the fees merchants pay when consumers use credit and debit cards are fixed illegally under antitrust laws; and
- **The Lightstone Group** on antitrust issues in connection with the disposition of its portfolio company, Prime Outlets Acquisition Company, to Simon Property Group, Inc. in a transaction valued at approximately \$2.3 billion, which was subject to an FTC investigation.

Along with a former chief economist of the Department of Justice Antitrust Division, Joe developed "Critical Loss Analysis," a technique for market definition that has been adopted and used widely by the Antitrust Division, the FTC, and the U.S. Court of Appeals. It was incorporated into the DOJ/FTC Merger Guidelines. Critical Loss Analysis also plays a fundamental role in evaluating the competitive effects of transactions as well. Joe was also the first practicing attorney to evaluate monopolization and vertical restraints under the theory of "Raising Rivals Costs" and contributed to the development of the theory, which now plays a significant role in the analysis of such cases at both federal antitrust enforcement agencies.

Joe's history with the FTC's Bureau of Competition started in the late 1980s when he served as the Associate Director for Mergers and the Assistant Director for Evaluation, respectively. In the former position, he was responsible for supervising numerous merger investigations, and as head of the Evaluation Office, he was responsible for analysis of all of the Competition Bureau's non-merger matters.

While in private practice in 2000, Joe was nominated by the Department of Justice, and approved by the Federal Communications Commission and Federal District Court, as trustee of four wireless telephone businesses relating to the GTE/Bell Atlantic/Vodafone transaction. In that capacity, he became the holder of the FCC licenses to these properties, making him the 10th largest wireless carrier in the United States, and he was responsible for managing and divesting these businesses valued at over \$2 billion. He performed a similar function for the Cingular/AT&T Wireless transaction.

Joe has published a wide range of articles on antitrust-related topics, including two papers appearing in refereed economics journals, one of which was selected for *The Journal of Reprints for Antitrust Law and Economics*. He co-authored an article published in Oxford's

*Journal of Competition Law & Economics* titled “The 2010 Merger Guidelines, Critical Loss, and Linear Demand.” Most recently, he co-authored “In Defense of Market Definition,” published in the Winter 2012 issue of *The Antitrust Bulletin*, a special issue with articles written in response to Professor Louis Kaplow’s *Harvard Law Review* article “Why (Ever) Define Markets?”

Joe continues to be recognized as a leading antitrust lawyer by *Chambers USA*, *Chambers Global* and *The Legal 500*. For the past three years, he has also been acknowledged by his peers for inclusion in *The Best Lawyers in America*. Joe was selected to “The International Who’s Who of Competition Lawyers & Economists 2013” by the *Global Competition Review*. Earlier in his career, he was selected to *Crain’s New York Business* “40 Under 40,” which recognizes 40 rising stars in the New York business community.