

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):

Noah Joshua Phillips

2. Position to which nominated:

Commissioner, Federal Trade Commission

3. Date of Nomination: January 25, 2018

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

Home: [REDACTED]

Office: Senate Judiciary Subcommittee on Border Security & Immigration, Dirksen Senate Office Building, Room 141, Washington, D.C., 20510.

5. Date and Place of Birth:

August 3, 1978, Boston, Massachusetts

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).

Spouse: Sarah Pauline Charles, Senior Director, International Rescue Committee

Children: [REDACTED]

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

A.B., Dartmouth College, 2000; J.D., Stanford Law School, 2005

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.

- a. Wasserstein Perella & Co. (later Dresdner Kleinwort Wasserstein), New York, NY, 2000-2002. I worked as an Analyst investment banker in the firm's Energy Group. At times, my work involved supervising more junior bankers, bankers at other firms, lawyers and other professionals involved in mergers and acquisitions work. M&A work necessarily involves study of the relevant markets in proposed deals. I focused on the energy industry, which is traditionally within the purview of the Federal Trade Commission.
- b. Hon. Edward C. Prado, U.S. Court of Appeals for the Fifth Circuit, San Antonio, TX, 2005-2006. I worked as a law clerk, which exposed me to a wide variety of areas of federal law and appellate litigation practice.
- c. Cravath, Swaine & Moore LLP, New York, NY, 2006-2010. I worked as an associate attorney in the firm's litigation group. I worked on fraud and antitrust matters, among others, including one significant merger review before the Department of Justice. I supervised teams of junior attorneys, accountants and support staff

on a variety of matters, including litigation and internal investigations.

- d. Steptoe & Johnson LLP, Washington, DC, 2010-2011. I worked as an associate attorney in the firm's litigation group. I worked on consumer protection, fraud and antitrust matters, including one involving patents. I was the lead associate on two larger litigations, one of which involved working with one partner to lead a team of lawyers and support staff through a successful trial.
- e. Senate Judiciary Committee, Subcommittees on Immigration, Refugees & Border Security, the Constitution, and Border Security & Immigration, Washington, DC, 2011-present. As Counsel, from 2011 to 2013, I advised Senator Cornyn on policy issues within the Committee's purview, including antitrust, consumer privacy, constitutional law, fraud and intellectual property. I worked on legislation and oversight related to these issues. Since 2013, as Chief Counsel to Senator Cornyn, I have continued to advise him on these issues and led a team of lawyers and others.

9. Attach a copy of your resume.

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.

From 2012 to 2016, I served on the Board of Directors of the Senate Employee Child Care Center. I served both as Secretary and Vice President.

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.

Member, D.C. Minyan approximately 2012-2016; Member, Ohr Kodesh Congregation, 2016-present. Both of these are Jewish congregations, but to my knowledge they do not restrict membership on the basis of religion.

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.

None.

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

a. Honorary Texan, 2017.

b. National Law Journal's "Hill Hot List," 2014.

c. Commendation for excellence in trial advocacy by the City of Lancaster, California, 2011.

- d. Mr. and Mrs. Duncan L. Matteson Sr. Award and Walter J. Cummings Awards in Stanford Law School's 2005 Marion Rice Kirkwood Moot Court Competition. My partner and I were the champions and I won Best Individual Oral Argument.
- e. Various academic awards.

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.

- a. Panel participant, "Legislative Perspectives – Agenda for Congress and the New Administration," 2016 IP Institute, Cravath, Swaine & Moore LLP, November 30, 2016.
- b. Panel participant, "Balancing Patent Rights and Litigation Abuses," The Federalist Society, December 4, 2014.
- c. Panel participant, "Effective Innovation Policies to Bolster Entrepreneurs & Enable New Markets," Consumer Electronic Association's Startup Government Day, May 16, 2014.
- d. Speech at American Enterprise Institute's "Preventing patent abuse: Prospects for Reform" event, April 3, 2014. I delivered remarks that Senator Cornyn had planned to deliver.
- e. "Sunlight for the Heart of Darkness: Conflict Minerals and the First Wave of SEC Regulation of Social Issues," written by Jonathan C. Drimmer and myself and published in Human Rights and International Legal Discourse. Citation: 6 Hum. Rts. & Int'l Legal Discourse 131 2012.
- f. I wrote a blog post (I believe titled "Imagining Conservatism") on a website, Snarksmith.com, in 2005 or 2006. I do not recall the substance and have been unable to find the article online.

g. Letters to the Editor of The Dartmouth, Dartmouth College's campus daily:

- i. "Atonal," April 27, 2001.
- ii. "False Racism Accusation is an Attempt to Discredit," November 4, 1999.
- iii. "Student Assembly Does Its Best To Represent Diverse Dartmouth Student Body," February 24, 1999.
- iv. "Collis Café Must Stay Vegetarian to Fairly Serve Dartmouth Students," January 28, 1997.

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?

Several aspects of my professional background qualify me for appointment to the FTC. As Chief Counsel and, earlier, Counsel to Senator Cornyn, I have advised him on a number of subject matters that fall within the FTC's jurisdiction, notably antitrust, consumer protection, fraud, intellectual property and privacy. I have also advised him on oversight of both the agency and the Department of Justice's Antitrust Division, when those issues have come before the Senate Judiciary Committee. As an attorney in private practice, I worked on those areas (including merger review), as well as on other litigation issues related to mergers and acquisitions. My career began in mergers and acquisitions, advising firms on transactions in the energy industry.

The FTC's antitrust, consumer protection and public education missions are as important to the American economy as ever. Technology and business practices are evolving rapidly, public discussion about antitrust is growing louder and Americans are grappling with increasing healthcare costs and new realities of data privacy. I want to help lead the FTC to face these challenges in order to protect American consumers. My nearly two decades of experience – in public and private service, as an adviser to policy makers and businesses alike – will enable me to do so.

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?

Management of the FTC is vested principally in the Chairman. As Commissioner, I would work with the Chairman, the other Commissioners and agency senior staff to ensure proper management and accounting controls. I have never run a large organization. As a Commissioner, I would leverage the managerial experience I gained in my professional career as a lawyer in private practice, a congressional staffer, and a non-profit board member.

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

In my view, the agency's top three challenges are: (i) protecting the American consumer by enforcing the antitrust and consumer protection laws written by Congress; (ii) maintaining predictability and intellectual rigor in the interpretation and enforcement of those laws; and (iii) keeping abreast of developments in technology and business practices to ensure the protection of American consumers.

## **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 have none.

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, other than my work as a congressional staffer.

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

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.

### **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?

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.

Yes. In 1997, my sophomore year in college, my roommates and I threw a party at which alcohol was served. My roommates and I were not yet 21, and the Hanover Police Department (HPD) shut down the party following a complaint. I was arrested for the unlawful possession of alcohol. The charges were dropped following my participation in the HPD's Alcohol Diversion Program.

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.

See answer to question C2, above.

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.

I have no additional information to disclose.

#### **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.

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

**F. Affidavit**

NJAH JOSHUA PHILLIPS 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 <sup>th</sup> 30 day of January, 2018.

Consuella R. Goosby  
\_\_\_\_\_  
Notary Public

CONSUELLA R. GOOSBY  
NOTARY PUBLIC DISTRICT OF COLUMBIA  
My Commission Expires October 14, 2019



# Noah Joshua Phillips

## PROFESSIONAL EXPERIENCE

**U.S. Senate Committee on the Judiciary**, Washington, D.C., Subcommittees on the Constitution and the Border Security and Immigration

*Chief Counsel to Senator John Cornyn, Republican Whip, 2013-present, Counsel, 2011-2013*

- Advise Senator Cornyn on Judiciary Committee matters during committee and floor consideration, including antitrust, bankruptcy, civil justice, constitutional law, intellectual property, privacy and national security.
- Represent Senator Cornyn on Judiciary Committee issues to House and Senate Republican committee and floor leadership, as well as outside stakeholder groups.
- Draft and shepherd legislation on topics including intellectual property, bankruptcy and national security.
- Featured on the National Law Journal's 2014 "Hill Hot List" of congressional staff lawyers.

**Step toe & Johnson LLP**, Washington, DC

*Litigation Associate, 2010-2011*

- Drafted briefs for federal and state litigation on issues including federal preemption, antitrust, and patent law.
- Lead associate in representation of hedge fund client in multi-hundred million dollar FINRA arbitration; and individual directors in securities, derivative and ERISA lawsuits stemming from environmental disaster.

**Cravath, Swaine & Moore LLP**, New York, NY

*Litigation Associate, 2006-2010*

- Practiced civil litigation before federal and state courts and agencies involving Alien Tort Statute, antitrust, contracts, copyright, patents, professional malpractice, Rule 11 sanctions, securities fraud and takeover disputes and provided advice to clients on mergers, litigation strategy and related matters.
- Conducted internal investigations of client companies involving employee misconduct and political corruption.

**U.S. Court of Appeals for the Fifth Circuit, The Honorable Edward C. Prado**, San Antonio, TX

*Law Clerk, 2005-2006*

**Wasserstein Perella & Co.** (later Dresdner Kleinwort Wasserstein), New York, NY

*Analyst, Mergers & Acquisitions, 2000-2002*

## EDUCATION

**Stanford Law School**, Palo Alto, CA

J.D., May 2005

*Selected Honors/Activities:* Co-Champion, 2005 Marion Rice Kirkwood Moot Court Competition (Mr. and Mrs. Duncan L. Matteson Sr. Award for Winning Team and Walter J. Cummings Award for Best Individual Oral Argument).

**Dartmouth College**, Hanover, NH

A.B. in Government with Honors, *Magna Cum Laude*, June 2000

*Selected Honors/Activities:* Phi Beta Kappa; William S. Churchill Memorial; Class President (1997-1998); White House Intern in the Office of Counsel to the President (Winter 1999).

## BAR ADMISSIONS

New York (2006); District of Columbia (2010); U.S. Court of Appeals for the Second Circuit (2007); U.S. Court of Appeals for the Ninth Circuit (2010); U.S. District Courts for the Southern and Eastern Districts of New York (2006).