



Statement of the U.S. Chamber of Commerce

ON: "Small Businesses and PPACA: If They Like Their Coverage, Can They Keep it?"

TO: THE HOUSE COMMITTEE ON SMALL BUSINESS
SUBCOMMITTEE ON HEALTHCARE & TECHNOLOGY

DATE: July 28, 2011

The Chamber's mission is to advance human progress through an economic, political and social system based on individual freedom, incentive, initiative, opportunity and responsibility.

The U.S. Chamber of Commerce is the world's largest business federation, representing the interests of more than three million businesses and organizations of every size, sector, and region.

More than 96 percent of the Chamber's members are small businesses with 100 or fewer employees, 70 percent of which have 10 or fewer employees. Yet, virtually all of the nation's largest companies are also active members. We are particularly cognizant of the problems of smaller businesses, as well as issues facing the business community at large.

Besides representing a cross-section of the American business community in terms of number of employees, the Chamber represents a wide management spectrum by type of business and location. Each major classification of American business—manufacturing, retailing, services, construction, wholesaling, and finance—is represented. Also, the Chamber has substantial membership in all 50 states.

The Chamber's international reach is substantial as well. In addition to the U.S. Chamber of Commerce's 115 American Chambers of Commerce abroad, an increasing number of members are engaged in the export and import of both goods and services and have ongoing investment activities. The Chamber favors strengthened international competitiveness and opposes artificial U.S. and foreign barriers to international business.

Positions on national issues are developed by a cross-section of Chamber members serving on committees, subcommittees, and task forces. More than 1,000 business people participate in this process.

Statement on
“Small Businesses and PPACA: If They Like Their Coverage,
Can They Keep It?”
Submitted to
THE HOUSE COMMITTEE ON SMALL BUSINESS
SUBCOMMITTEE ON HEALTHCARE & TECHNOLOGY
on behalf of the
U.S. CHAMBER OF COMMERCE
By
Brian Vaughn
Owner & President
Nearly Famous, Inc.
Douglas, Georgia
July 28, 2011

Chairwoman Ellmers, Ranking Member Richmond and distinguished members of the Subcommittee, thank you for inviting me to testify before you today on the impacts the new health care law will have on my business and my employees. I commend your efforts in holding this valuable hearing to further understand the damage the new health care law will have on the ability of businesses, including small ones like mine, to compete, grow, and create jobs, as well as our ability to offer our employees health care benefits.

My name is Brian Vaughn, and I am the Owner and President of Nearly Famous, Inc. which consists of four Burger King franchises in Georgia. I am here to speak with you today on behalf of the U.S. Chamber of Commerce. The U.S. Chamber of Commerce is the world’s largest business federation, representing the interests of more than three million businesses and organizations of every size, sector, and region. More than 96 percent of the Chamber’s members are small businesses with 100 or fewer employees, 70 percent of which have 10 or fewer employees. Yet, virtually all of the nation’s largest companies are also active members. Therefore, the Chamber is

particularly cognizant of the problems of smaller businesses, as well as issues facing the business community at large.

I am also a proud member of the National Franchisee Association (NFA) and have served on their board of directors for three years. The National Franchisee Association, founded in 1988, serves the BURGER KING® franchisee community through advocacy, education and training, networking and member-focused programs, services and benefits. The NFA works with member franchisees, system suppliers, business partners and Burger King Corporation to promote franchisee growth and success and further its mission statement “to improve, preserve and ensure the economic well being of all members.” The NFA represents independent Burger King restaurant entrepreneurs in the United States and Canada who operate nearly 5,000 franchised restaurants and employ almost 200,000 individuals across the nation. The NFA represents more than 75 percent of the BURGER KING® franchised restaurants in the United States and Canada. These comments are my own and nothing I say here today reflects the position or opinions of my franchisor, Burger King Corporation.

Company Background

When people generally think of Burger King, they think of a big corporation. However, although the sign on the door says Burger King, the company that my wife and I own is a small operation—consisting of four Burger King restaurants serving three small communities in Georgia. And the beginning of our story is even more humble, but it is the kind of ‘pull yourself up by your own bootstraps’ story that has happened for thousands upon thousands of other small business owners across our great nation—it’s the type of story that goes to the very heart of what it means to

live the American dream and if we're not careful, stories like mine and that wonderful dream that has driven so many to succeed will cease to exist.

In 1980, I began my career with Burger King as an Assistant Manager, earning \$14,000/year. It wasn't much, but it was a start and that is all I wanted. By working hard and smart, I was able to eventually work my way up through the company to an officer position where I was responsible for servicing franchisees. In 1993, I partnered with Francis Lott – a real estate developer/architect and together we opened four Burger King locations in Georgia. It was a great opportunity; I was able to stay with the Burger King brand while essentially venturing out on my own. Then in 2001, I bought out my partner Francis' interests and today continue to operate those four stores with my wife, Cindy. Our size allows us to be a professional operation while still maintaining an all important family environment that extends to our managers and employees, many of whom have been with us for over a decade.

Our sense of family actually stretches into the Georgia communities of Douglas, Hazelhurst and Baxley where we operate. We strongly believe that it is important to give back to the communities which have been so great to us. Through our financial donations to the academic and athletic boosters, we are able to contribute toward our area's school systems and the children enrolled there which is very important to us. I have also served as President of our local Lion's Club, which typically raises and spends \$50,000 a year to purchase eyeglasses for the needy, and as Treasurer of our local chamber of commerce.

Like many other successful small business owners, I did not have anything handed to me—there was no proverbial goose with a golden egg, or silver spoon. I have worked hard and tirelessly for what I have now. My primary, current goals are twofold: first, to create financial security for my

family—my wife and our two children, one of who is just starting college; and second, to create more jobs and economic opportunities for others. To do this, our plan has been to expand and open a new store by reinvesting some of our profits back into our business. Sadly though, given the harm the new health care law is going to reek on our business as well as the uncertainty and the pain caused by other regulations, I fear that neither of these dreams nor my plans to achieve them will be possible. In fact, my worry is that everything I have worked for will be for not and may be wiped out by this new health care law. At the very least, I will be forced to adjust my number of full time staff and the economic opportunity that accompanies full time employment, in order to avoid the draconian provisions in the law.

Ten years ago, when we purchased our partner's interest in the franchise restaurants we knew that we were assuming a large financial obligation that had great risks. Up until the passage of health reform, our plan had been that after October 2011 (this October), my wife and I would have entirely paid off the debt on our business for that purchase. We have long anticipated and planned for the day when we could spend the money we were using to pay off this debt to expand our business and branch out further. For my entire career, I have been working to become financially independent but now I face a very uncertain future. I fear that everything I've worked for will be for naught.

The new health care law has wrecked our plans to grow our business and create jobs. We are already taking steps to downsize our team in anticipation of the full weight of the law's burden which will affect me most heavily in 2014. My new focus, unfortunately, is on how to have the leanest workforce possible and, even more dismaying, my worries about the very survival of our business are emblematic of the reactions of millions of small businesses throughout our nation. I

cannot imagine that this is what the President and Congress intended, particularly as they continue to try to pull our country out of a recession and reduce the unemployment rate. But intentions aside, it is the reality that they have created for us; it is the reality facing the very entrepreneurs that our nation needs to create the jobs to get our economy back on track.

It is ironic that the law touted as the Patient *Protection* and *Affordable Care* Act – neither protects our country’s people, nor makes health care more affordable. It is a law of broken promises – under which no one will be able to keep the health care they have, even if they like it and one which will incent more companies to scale back their workforces and reduce the benefits offered that were previously valued by their employees. Having shared a little about my business, our history and our future, I would next like to discuss how the new health care law will pummel my business and my employees and how you might prevent that trauma from occurring.

Health Care

Up until now, my wife and I have been pretty fortunate; and while our business has been on sound financial footing, we are not flush with cash. Like most in the fast food franchisee world, we operate on low margins and are very susceptible to quickly loosing this footing and our solvency. Our fundamental fear is that the new health care law, when fully implemented, will devour our minimal profits and put us in a negative cash position. Simply put, the shock the law will have on our business and employees will be devastating and it is already forcing us to make incredibly difficult decisions. Will we completely close our doors, shutter one or two of our stores, cut employees’ jobs, cut employees’ hours or a combination of these? Honestly, it is very hard to say. Certainly, none of these options are appealing, particularly given that we had been hoping to

actually expand the business and add employees. Unfortunately, these are the types of choices we are left with as a result of the new health care law.

At our four locations, we are proud to have created 182 jobs. Fifty-nine of the jobs are full-time jobs and the rest are part-time positions with under thirty hours of work per week. Fourteen of the full-time jobs are management jobs for which we currently cover 100% of the cost of the health care for the employee at an annual cost to us of nearly \$56,000 per year. For the fourteen management jobs, we also cover 100% of the cost of term life, short-term disability, vision and dental. Our current carrier for our management is a Blue Cross-Blue Shield Major Medical plan. My wife and I also participate in this same plan. I also offer a value mini-med plan to the rest of the employees at a cost of between \$106 and \$165 per month. Currently, only 19 of the more than 100 part time employees eligible for the mini med plan I offer have elected to take it. They simply would rather have more in their paycheck or they get coverage on a spouse's plan.

During a time when the economy is struggling to regain its footing and when unemployment rates continue to hover at 9%, my employees – like my wife and I – are grateful to have jobs. Many choose to keep the wages they earn to help pay for their day to day living expenses, rather than use a portion of them to pay for coverage that I offer. Just as my employees have a limited amount of income, so does our company. And just as my employees have to decide how much of their wages they need to use to cover their daily living expenses, as the president of my company, I have to decide how much of the company's income can be used to pay wages and benefits, and how much has to be used to cover the expenses of daily operations. There is only so much money and at the end of the day, my employees and I each have to first and foremost cover our daily expenses.

There was much ado last fall about the types of plans that I offer my employees – Washington, under the health reform law, decreed that so called “limited benefit plans” – are not acceptable. Despite repeatedly promising that “if you like your plan, you can keep it” the law has outlawed these plans. Now while I understand that for many, a more comprehensive plan seems critical and, by comparison, these limited benefit plans are slim, it is important to acknowledge reality. There is only so much money – both for my employees and for me. These plans offer less expensive coverage options that allow my team members to choose to take more of their wages home to pay for other expenses and use a small amount to pay for some coverage. Just like my employees, my income is limited. Prior to health reform, I had the ability to hire more workers, pay them a wage and offer them access to this moderate coverage. Now, I am being told by Washington that I have to offer all of my full time employees’ Washington defined health coverage or pay a penalty. First, because of the cost of offering this prescribed coverage and the size of the penalty, I have no choice but to restructure my workforce in a way that permits me to avoid losing everything. What does this mean? Well – given the law and the regulations that are still being promulgated – it is hard to say.

What I do understand is that while it may be difficult for me to reduce my workforce to the extent that I am no longer an applicable “large employer” under the health care law, I may be able to restructure my workforce in a way to avoid the penalty. Although part-time workers are included in determining whether I am a large employer, they are not included in calculating the penalty. Prior to the law’s enactment – my goal had always been to hire *fewer* people for *more* hours. It is easier to retain employees that work full time. However, now that the law has passed, I have to consider options other than what makes practical business sense. Now, because of what Washington has mandated, it seems to make more practical business sense for me to hire *more*

people for *fewer* hours. At a time when millions of Americans are out of work, is this really the right incentive? This is not what I want and it is not what is best for my employees, but in order to survive and be able to pay the employees that I have, it is what I will have to do.

While I have not read the entire law, and I am not able to follow the regulations which are being issued at record speed by the Administration, I am trying to figure out how to protect the company that I have spent my entire life building. With 30 years in the business, I don't want to have to read "Interim Final Rules" and notices issued by administrative departments in Washington to figure out what my legal obligation is under the law. I want to keep my company financially afloat, to give back to my community and to keep my promise to my employees. Unfortunately, to do this, the law is forcing me to take a position that is 180 degrees from where I want to be.

Conclusion

I understand that given the existing political realities in Washington, DC, a total repeal of the health care law by Congress is an unlikely proposition for now. However, I am hopeful that this Subcommittee and your colleagues in the House and Senate will focus on repairing or eliminating the more onerous mandates such as the employer mandate. These provisions saddle businesses with burdens that actually encourage us not to expand our business and astoundingly discourage job creation. The bottom line is that your decisions can help or hinder us. The laws you create can either foster an environment that gives small businesses greater confidence and certainty to grow and generate new jobs, or do just the opposite. Regrettably, this new health care law is already doing the latter and Congress must take the necessary action to rectify it.

Thank you again for this opportunity and I look forward to your questions.