



March 17, 2016

The Honorable Cresent Hardy  
Chairman, Subcommittee on Investigations,  
Oversight and Regulations  
Committee on Small Business  
U.S. House of Representatives  
Washington, D.C. 20515

The Honorable Alma Adams  
Ranking Member, Subcommittee on  
Investigations, Oversight and Regulations  
Committee on Small Business  
U.S. House of Representatives  
Washington, D.C. 20515

Dear Chairman Hardy and Ranking Member Adams,

On behalf of Associated Builders and Contractors (ABC), a national construction industry trade association with 70 chapters representing nearly 21,000 chapter members, I am writing in regard to Thursday's Subcommittee hearing titled, "Risky Business: Effects of New Joint Employer Standards for Small Firms." We appreciate your consideration of this important issue that has the possibility to dismantle business models in the construction industry and across America's economy.

On August 27, 2015, the National Labor Relations Board (Board or NLRB) issued its decision in *Browning-Ferris Industries* altering the "joint employer" standard under the National Labor Relations Act. The standard is used to determine when two separate companies are considered one employer with respect to a group of employees for purposes of liability and bargaining obligations under the National Labor Relations Act (NLRA). Prior to this decision, companies were only deemed joint employers when they both exercised "direct and immediate" control over the "essential terms and conditions of employment." In *Browning-Ferris*, however, the Board overturned 30 years of precedent to impose a new standard expanding the definition to include those employers who have "indirect" control and "unexercised potential" control.

In the construction industry, the contractor-subcontractor model has become an integral tool used to complete small and large scale projects safely, on time and on budget. Under the Board's new interpretation of a joint employer, general contractors will likely avoid increased costs and liabilities and limit hiring subcontractors, who are often small and locally owned specialty businesses. The negative consequences of NLRB's overreach will be felt throughout our industry and the entire economy, which can nill afford anti-growth policies during this time of struggling recovery.

We thank you again for scheduling this hearing to address this important issue and look forward to working with Congress to ensure locally owned businesses and their employees are protected.

Sincerely,

Kristen Swearingen  
Vice President of Legislative & Political Affairs