STATEMENT OF GILBERT ANDREW GARCIA

"Examining How Capital Markets Serve Diverse Entrepreneurs and Investors"

HEARING BEFORE THE SENATE BANKING COMMITTEE'S SUBCOMMITTEE ON SECURITIES, INSURANCE, AND INVESTMENT

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Chairman Menendez, Ranking Member Scott, and Subcommittee Members:

Thank you, Senators.

My name is Gilbert Andrew Garcia, and I am the Managing Partner of Garcia Hamilton & Associates. I am a native Texan, product of public schools, first-generation college, and a graduate of Yale University. The financial services industry was foreign to me until I went through a program called SEO that places minority undergraduates on Wall Street for summer internships. It changed my life. In the summer of 1983, SEO placed me at Salomon Brothers, the prince of capitalism, and I ultimately flourished as a full-time employee starting in 1985. With time, I returned home to Texas in late 1990 to start a fixed income money management firm. In early 2002, I joined Garcia Hamilton and we had only $200 million in bond assets. We crossed $18 billion early this year, making us the largest Hispanic-owned firm in the country and the largest independent bond firm in Texas. We are almost 90% minority and women-owned and almost 65% minority-owned. Furthermore, 75% of our employees are women, and almost 70% are black and brown. We have received numerous awards for performance, leadership, and diversity. We are extremely proud of the firm. However, relative to many mainstream trillion-dollar firms, we are hardly a monthly cash flow.

In October 2019, I had the honor to serve on a FACA committee for the SEC called AMAC (Asset Management Advisory Committee). As stated in the Federal Advisory Committee Act (FACA), under Findings and Purpose, (paraphrasing), "the Congress finds that there are numerous committees which have been established to advise officers and agencies in the executive branch of the Federal Government and that are frequently a useful and beneficial means of furnishing expert advice, ideas, and diverse opinions to the Federal Government." So, this is largely why I am here today as I wish to share some challenges my firm has faced, my experience serving as Chair of the Diversity and Inclusion (D & I) subcommittee of AMAC, our recommendations to the SEC and their current status.

The topic of Diversity can be challenging to talk about openly. It often uses terminology and facts that can make some people uncomfortable. However, the conversation must take place as the vast income inequality in our country among demographic groups has clearly led to disparities in wealth, access to health care, access to education and the like. This wealth gap has grown considerably the past 30 years and has only exasperated the great division and social unrest we have experienced the past few years in our country. President Biden signed an Executive Order on Racial Equity and said, "We need to make the issue of racial equity not just an issue for any one department of government; it has to be the business of the whole government. Every White House component and every agency will be involved in this work because advancing equity has to be everyone's job."

AMAC consisted of 22 industry professionals, all leaders in their firms. The members came from such prestigious firms as Goldman Sachs, Charles Schwab Corp, Morningstar Research Services, T. Rowe Price, Apollo Global Management, and Fidelity Institutional. I was the only Hispanic member and we had only one African American member. We had a two-year journey and my D & I subcommittee held three panels of expert testimony from industry leaders and reviewed several research papers.

We started with data. We soon learned that data is limited as many have been unwilling to disclose demographic information or have not tracked such information in the past. Even the SEC's own diversity demographic survey has a poor response rate, probably because it's voluntary.

Talent in the diverse community is undeniable, including in the asset management industry. One of my panelists presented research by the Bella Research Group in 2017 and 2019. The studies looked at what percentage of assets were managed by diverse-owned firms within the U.S. based asset management field. The 2017 results showed 1.1% of $71.4 trillion in assets were managed by diverse-owned firms. The 2019 results showed 1.3% managed by diverse-owned firms. The results also revealed that diverse managers performed on par with non-diverse firms, and in many cases outperformed mainstream firms. Keep in mind that the Washington Post reported that 69% of the U.S. population are women and minorities. In a system where 69% of the population are unable to reach their full potential because of institutional barriers of entry or outright bias, then talent is not being fully realized to the detriment of the investing public and the nation.

One key area that the testimony showed would improve these statistics considerably is the Investment Consultant industry, many of whom are SEC registrants. They are often the allocators to the asset management industry, and they are the gatekeepers for many foundations, endowments, and pension funds by recommending money managers to them for hire. While notable efforts are now being made, most consultants lack diversity both internally and externally in their manager recommendations. Some even receive economic benefit from managers without clear public disclosure. Pensions & Investments Magazine (P&I) publishes an annual list of the largest consultants and, according to the 2020 report, they advise $42.7 trillion in assets. The concentration of assets is notable as the largest 10 advise $36 trillion or over 85% of the assets. The largest 20 consultants have 94% market share. Likewise, the concentration of assets in the asset management industry is similar. As an example, according to P&I, as of December 31, 2019, there were 148 Active Domestic Fixed Income Money Managers that have approximately $2.2 trillion in assets under management. The largest 10 have 69% market share and the largest 20 have 84% of the market share.

Thus, one sees a semi-closed system where the largest consultants appear to be recommending the largest money managers. If consultants only recommend large managers, there is little to no opportunity for diverse firms to compete since diverse firms are still smaller in size. Many consultants avoid consideration of minority–owned firms by setting arbitrary and unnecessary barriers such as length of track record, firm asset size, amount of insurance and other factors that indirectly exclude nearly all minority-owned firms. Then, there is direct exclusion. A colleague and I were the focus of a very hostile and unprofessional meeting by one of the largest ten consultants advising over $1 trillion. They rudely proclaimed that they would never recommend our firm to any of their clients and would never put us in a new business search. The reason they boldly stated was because we did not have enough white male partners in our firm, and we did not have enough white male portfolio managers. This was not the 40's and 50's like the stories my grandfather shared, nor the 60's and 70's like the stories my father shared, this was just a few years ago. And if they say it to us, the best in class, what do they say to the newer, smaller firm? And if they say it to our face, what do they say when they deliberate behind our back? Sadly, this is just one example.

Many in the consultant community and others realize that greater transparency is inevitable. Instead of greater effort to improve, some are simply moving the goal post to improve their abysmal diversity statistics. How? They are circumventing established federal and state laws and practices which use a 50% ownership threshold to define diverse-owned and are creating a new term called "substantially diverse", some as low as 25% diverse ownership.

After great discussion, the D & I subcommittee produced a series of recommendations that are material and in the interest of the investing public. The entire list of recommendations was reviewed publicly and was unanimously passed by the full AMAC committee on July 7, 2021.

I will summarize them here:

1. The SEC has a Diversity and Inclusion Strategic Plan. We suggest two additional goals. The first, that Diversity and Inclusion is elevated to a core value and a material fact for consideration through all SEC activities. The second, to promote business diversity practices among SEC registrants.

2. The SEC issues guidance and bulletins regularly for clarification or to address new initiatives. We suggest that the SEC issues guidance clearly discouraging the use of parameters for manager selection that have the impact of exclusion of minority-owned firms, and that the inclusion of diverse firms in a manager search is not a violation of one's fiduciary duty. The importance of this cannot be overstated as many of the same participates who foster a closed financial system often do so under the shield of violating fiduciary duty.

3. Another recommendation relates to transparency where the SEC has clear authority-through ADV Disclosures (Uniform Application for Investment Adviser Registration). We suggest requiring additional demographic data of the work force of SEC-Registered Investment Advisers including (1) transparency of ownership; (2) transparency of workforce demographics that provide a window into gender and racial diversity at four levels: (a) ownership; (b) board level; (c) officer level; and (d) all employees.

4. We suggest enhancing the ADV Disclosure for consultants and asset allocators to provide sunlight on the consulting and selection process for RIAs (Registered Investment Advisor) with services or products including: (a) consulting on asset manager; (b) managing fund-of-funds; (c) services as manager-of-managers; and (d) RIAs providing trustee services, where trustee responsibilities include selecting other managers/funds.

5. Despite stringent pay-to-play regulations currently, large assets managers have incredible access to policymakers providing the appearance of unfair bias particularly as it relates to managing federal monies. Clearer guidance and better transparency would be helpful to all, including the investing public. At a minimum, we suggest to study whether modern political contribution practices have evolved to permissibly do indirectly, through mediums such as PACs and lobbyists, what pay-to-pay rules sought to prohibit directly. We suggest a thorough review of pay-to-play rules to ensure that they have not disadvantaged small firms, including diverse firms.

6. Presently, there is no avenue for a firm to bring forward discriminatory business practices by financial services companies, like the one I described earlier. We suggest the SEC develop a forum for complaints to be shuttled through the SEC to other appropriate federal agencies.

After the recommendations passed unanimously by AMAC, I thought action would be taken quickly as a FACA committee was represented to all of us to be important. Our expectations were high since my committee, my staff and I personally spent hundreds of hours on this project creating a large record over two years of expert testimony, letters of support, research and the like. In fact, many of the individual commissioners have expressed support publicly in speeches and other comments on the record. Regrettably, after nearly two years, only two items were recently implemented and with minimal fanfare. The two are listed above as item 2, clarification that consideration of a diverse manager is not a violation of one's fiduciary duty, and item 6, where the SEC website will now allow discriminatory complaints to be shared on their website.

I have been extremely disappointed to date. As a reminder, the diverse community is not calling for any quotas nor any thumb to be paced on a scale. We just want a fair chance to compete and deliver superior performance to the investing public. All the remaining recommendations are material and relevant to the investing public. They are also part of today's modern-day civil rights movement, or what some of us call the financial civil rights movement. With the growing population of the minority community, the future of our nation is intimately intertwined with the financial success of the minority community. All of us here have an incredible opportunity and history is on our side. Justice, transparency and the facts are on our side. So, I please urge you to support these recommendations and to unequivocally call for their immediate adoption. At a minimum, we deserve an open and transparent discussion by the SEC Commissioners as to why they are not being implemented.

Congressman John Lewis said "When you see something that is not right, not just, not fair, you have a moral obligation to say something. To do something. Our children will ask us 'What did you do? What did you say?'" We need to act so when our children ask us the questions in the future, we can tell them that we did THE RIGHT THING!