

December 13, 2023

The Honorable Bob Good
Chairman
House Education and Workforce Committee
Subcommittee on Health, Employment, Labor and Pensions
461 Cannon House Office Building
Washington, DC 20515

The Honorable Mark DeSaulnier
Ranking Member
House Education and Workforce Committee
Subcommittee on Health, Employment, Labor and Pensions
503 Cannon House Office Building
Washington, DC 20515

Dear Chairman Good and Ranking Member DeSaulnier:

On behalf of the millions of direct sellers and qualified real estate agents around the country who are classified as independent contractors and members of the Direct Selling Association (DSA) and the National Association of REALTORS® (NAR), we submit this letter for the record to the United States House Education and Workforce Committee, Subcommittee on Health, Employment, Labor and Pensions for the hearing entitled “Protecting Workers and Small Businesses from Biden’s Attack on Worker Free Choice and Economic Growth.”

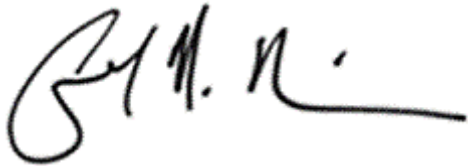
Being classified as an independent contractor is why many individuals are attracted to the direct selling and real estate sales industries – it empowers entrepreneurship, maximizes flexibility, and promotes autonomy. Preserving the ability to be classified as an independent contractor is integral to the functioning of these professions for the benefit of the consumer sales and housing markets. Direct sellers contributed \$42.7 billion to the United States economy in 2021 and the real estate industry comprises of \$3.9 trillion or 17 percent of the economy. Homeowners across the country and micro-entrepreneur direct sellers therefore rely on this status, to boost the economy.

In September, bi-partisan legislation H.R. 5419 was introduced. During the April 19 hearing of the Workforce Protections Subcommittee, Congressman Walberg expressed his support for the independent contractor status of direct sellers and realtors as well as his intention to re-introduce the legislation again.

While the ability to work as an independent contractor is recognized and protected under the IRC and many state laws, class action and wage and hour lawsuits, new state legislation, and new federal rules expanding the definition of employee, continue to threaten workers’ ability to be classified as independent contractors, including for real estate professionals and direct sellers. The United States Department of Labor is currently finalizing a rule on independent contractor status under the FLSA, which may result in unnecessary confusion for direct sellers and qualified real estate agents. Having Congress align the FLSA with the IRC would ensure professionals within these industries can continue to operate their businesses and support economic growth without uncertainty posed from conflicting statutes and regulations.

The legislation amends the Fair Labor Standards Act, which this subcommittee does not have jurisdiction over. However, the recognition of the integral work provided by independent contractors in the economy will ensure more workers have opportunities for themselves as entrepreneurs while also supporting industries that drive broad economic growth for all.

Sincerely,



Joseph N. Mariano, President, Direct Selling Association



Tracy Kasper, President, The National Association of REALTORS®

