

Written Remarks of Stephen Alexander Vaden
U.S. Department of Agriculture General Counsel Nominee
before the
United States Senate Committee on Agriculture, Nutrition & Forestry
November 9, 2017

Mr. Chairman, Ranking Member Stabenow, and members of the Committee, it is an honor to come before you today as the President's nominee to serve as General Counsel for the United States Department of Agriculture. Before I respond to your questions, I wish to spend a few moments to tell you about my background and why the President's nomination – and Secretary Perdue's unwavering confidence – are so personally meaningful to me.

I come from a farming family. My father, John Marshall Vaden, was born on a farm in rural Obion County, Tennessee, in April 1918 and engaged in farming his whole life. Following his death two years ago, my brother and I learned that one of the family farms we inherited had been in the family since the early 1800s, as it appears in exactly its current dimensions on the original map of Fulton County, Kentucky, with the name of my ancestor handwritten across its plat.

It was the profits my Father reaped that paved the way for me to come before you today. Those profits, wisely invested over time, paid for the exorbitant tuition charged by Vanderbilt University and Yale Law School. They made it possible for me to delay entering the private practice of law so that I could clerk for two of our nation's finest federal judges – Julia Smith Gibbons of the United States Court of Appeals for the Sixth Circuit and Samuel H. Mays, Jr., of the United States District Court for the Western District of Tennessee. They supported my move to the much more expensive Washington, D.C., area, where I entered the private practice of law

first at the firm of Patton Boggs and later at the firm of Jones Day. I therefore need no refresher course on why low commodity prices are harmful to the futures of rural communities.

As I am nominated for the role of U.S. Department of Agriculture General Counsel, it is important to spend a moment reviewing my legal experience. My practice has focused primarily on three main areas: litigation, particularly appellate litigation; administrative law; and regulatory compliance. These happen to be three of the principal areas of focus for any departmental general counsel. The briefs I have drafted and the cases I have argued have covered areas of law as diverse as the procedural requirements of the Administrative Procedure Act, the confines of the First Amendment's protections, the transparency requirements imposed on agencies by the Freedom of Information Act, the fiduciary duties of corporate officers, and the procedural protections provided to union members to safeguard union elections – to name just a few.

My practice thus has focused on making certain the government and others in positions of power follow the legal guidelines meant to guarantee due process of law. Having been on the other side of the “v” from the government in litigation, I can understand the trepidation citizens feel when they must challenge a governmental decision. It is the job of the General Counsel to keep the government to its word by requiring the Department to follow its constitutional, statutory, and regulatory responsibilities. I believe that a General Counsel can be considered to have done well if producers can say that, while they did not always agree with the Department's decisions, they felt their concerns were heard; and the Department treated them fairly. If confirmed, this is the goal I aim to meet.

I would be remiss if I did not mention that, for the past eleven months, I have served in the Office of General Counsel – first as a senior adviser and, since March 17, as the principal deputy general counsel.

Every day I have the high honor of working with 203 of the finest attorneys in America to perform the legal work necessary to allow rural America to thrive once again. They are joined by 54 support staff, without whom, none of us attorneys could get anything done. As the members of this Committee know all-to-well, the men and women of the Office of the General Counsel are committed to providing legal advice in a timely and professional manner. Equally as important, the Office provides that advice with the accumulated knowledge of the challenges that our producers face to grow the food and fiber that powers America. It is a special charge that each member of the Office takes seriously – including myself.

As I mentioned at the opening of my remarks, my Father was a farmer. Throughout his life, he also was a grocer, an investor, and a real estate developer. But it was the title of farmer of which he was most proud. I know this because he placed that title – “Farmer” – below his name on every check I ever saw him sign. The last three checks he ever signed hang on my wall, framed, as a reminder of the responsibilities I bear as principal deputy general counsel to ensure that America’s producers are treated fairly, equitably, and in accordance with the law. Should the Senate confirm me as General Counsel, I commit to you to carry out the responsibilities of that office with this same, very personal, commitment.

Thank you, once again, for the opportunity to come before you today. I look forward to answering your questions.