

TESTIMONY BEFORE THE UNITED STATES CONGRESS  
ON BEHALF OF THE  
**NATIONAL FEDERATION OF INDEPENDENT BUSINESS**

**NFIB**  
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Testimony of

**Dr. Joseph P. Sergio**

before the

**Joint Economic Committee**

on the subject of

**Examining the Employment Effects of the Affordable Care Act**

on the date of

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Chairman Coats, Ranking Member Maloney and distinguished members of the Joint Economic Committee, thank you for the opportunity to address you and share my experience with the impact of the Affordable Care Act on small businesses.

### **My Family History**

I come to you representing small business. By way of introduction, I am a first generation American citizen, born in Indianapolis and raised in South Bend, IN. My father was born in the poorest part of Southern Italy, known as Reggio Calabria, and with my grandparents he emigrated to the United States, where they were looking for better futures for their children and grandchildren. They held firmly to their Christian Catholic faith, and lived the family values of “Faith, Family, Education, and Hard Work.”

I have returned several times to Reggio Calabria with my sons to introduce them to their simple origins, and to help them appreciate the tremendous price and courage that their great grandparents paid to allow us to be raised in this great country of ours.

We have grown up thankful for all that the United States has provided to us and for the values for which it stands. Very importantly, we grew up knowing that members of our family actually lost their lives just coming to this country, losing my Aunt Maria and her four young children on the Andrea Doria when it was hit broadside by the ocean liner, the Stockholm, just off the coast of New York. My grandparents narrowly escaped death and were reunited on the shore. But our family was changed forever and will never forget the price paid to get us all here.

My grandfather was a small businessman, a shoemaker, with his shoe shop in the Golden Dome Administration Building on the campus of the University of Notre Dame. My other grandfather, also from Calabria, started working on the end of a shovel, literally digging ditches for the sewer system in South Bend, IN. He also eventually became a small businessman, starting his own construction company, retiring a very successful businessman.

My father received the first college education in our family’s history, becoming a Pharmacist, and he owned his own pharmacy for his entire career until he retired.

### **History as a Small Businessman**

With this family history, I started out as a small businessman with my older brother, who is now a Periodontist and a small businessman. At the ages of 16 and 17 respectively we started our own company building swimming pools. We paid for our college educations at the University of Notre Dame, graduating nearly debt free by working very hard every summer in high school and college. Upon graduation from college, my younger brother took our summer business and built a substantial swimming pool and construction company, which is the foundation of The Sergio Corporation, the business that I am the President of today.

I went on to receive an M.A. in Clinical Psychology, but when I discovered that I didn’t have the patience for the patients, I refocused on a Ph.D. in Organizational Behavior Management, conducting research in and working with small businesses. I graduated and worked for a national, top-tier accounting firm as a consultant, helping small businesses to grow and thrive, until I eventually returned to work with my brother and brother-in-law in The Sergio Corporation.

We later sold our pool company that had become the number one pool sales and service company in the region, and we put a business plan together that created First Response, a national award-winning disaster restoration company that has been involved in every major hurricane and storm disaster in the past decade or so. We were the first restoration company in America with a 24 hour base of operation in the 9<sup>th</sup> Ward of New Orleans after Hurricane Katrina, and responded to over 100 facilities in three states during that

response and recovery effort. We helped open the rails and repaired switching facilities in New Orleans, jumpstarting the commercial restoration efforts by allowing damaged materials to move out and building materials to come in. We responded to the flooding of the Kentucky Derby Museum in Kentucky, Mississippi River flooding in the Midwest and worked on a series of significant restoration projects after Super-storm Sandy hit the east coast.

In 2011, with the economy unstable and the business environment sluggish, and not wanting our future growth to depend on the unpredictable nature of natural disasters, we knew that we needed to change how we were doing business. We understood the wisdom in the statement that “you are either moving forward or you are moving backwards, and there is no such thing as treading water.” With this in mind, we utilized technology that we employed in our disaster business and started a new operating company based on engineered cleaning solutions, called Polar Clean America, to provide a green, environmentally friendly way of cleaning industrial applications. Today we blast dry ice to clean industrial equipment without water or chemicals to clean everything from nuclear plants, to food processing plants, to pharmaceutical and automotive facilities.

Even in economically challenging times there are great opportunities to grow and create jobs when you are willing to work hard and use a little ingenuity, that is, unless the opportunities are choked away by over-regulation and taxation as small business has so profoundly felt with the imposition of Obamacare – the Affordable Care Act – or as it is known among many small business entrepreneurs “The Unaffordable Care Act.”

### **Understanding the Chilling Impact of Obamacare on Small Business**

In order to understand how the attempt to overhaul the healthcare system ended up hurting small business, it is first necessary to understand what makes a job-creating small business succeed and last through time and strategic market changes.

To be successful in a small business you must be able to accurately identify, forecast and control your expenses in order to create profits – profits that you can in turn reinvest in growing your business. For us, our profits become the engine of our investment in building the right team with the proper training, and being able to utilize cutting edge technology to create world class service for our clients.

From the beginning, it has been clear that no one seemed to even read, much less understand, what was in the ACA. Small businesses, their advisors, tax professionals and even insurance companies are frustrated with the complications it has caused and all the unintended costs for the great amount of administrative time to evaluate options and process the invasive application for care. Job creators have been struggling to understand it, and interpret it, and therefore we cannot accurately predict or manage the costs associated with bringing in more employees. This unpredictable variation in our expenses can affect us profoundly in negative ways:

- If we let it, it could necessitate raising the price of our products and services and therefore change our value proposition, making us less competitive in the marketplace which puts our entire operation and current employees at risk by driving customers away.
- And if we let it, it could destroy our profitability, which eliminates our working capital to reinvest in our own business expansion and growth.
- So we have to grow without adding new full time employees, so we can protect our current full time employees.

Regardless of the current demonization of profits heard around the country, making a profit does not make one dishonest or evil. Without a profit there will be no growth in wages, no new benefits, no

training, no new equipment, no new vehicles and no new research & development to compete with the rest of the world. Profits create the opportunity for employee growth and development.

I think that it was best stated by Edmund Pendleton, President of the Convention Ratifying our Constitution, when he said, “When you take away someone’s profit, you not only remove their incentive to work hard, but you shut off the blessing of wealth that would have benefited the entire community.”

Our businesses have exhausted many options in dealing with the requirements of the Act. We had to drop a traditional PPO plan for a high-deductible Obamacare compliant program. As a result, our employees and our company are paying more for an inferior policy.

In short, the ACA has made building a small business more stressful, and has caused many businesses like ours to pull back and stop growing.

Why is this so stressful? Because this burden has been added on top of the already overwhelming demands on business owners:

- Long 12 and 14 hour days, six days a week.
- Rare vacations, intense and competitive business environment.
- Multiple responsibilities: managing people, managing risks, managing sales, managing marketing and managing compliance.
- Cost of highly skilled overhead staff to simply help keep the company compliant with all of the Federal, State and Local government requirements. American entrepreneurs are spending their time and money doing meaningless paperwork, while other countries have workforces that can focus on creating value.
- We are striving to keep the work coming in and guaranteeing the consistent quality of work being done for clients and customers.
- The responsibility we carry is not only to our families, and our children, but also to all of the employees who chose to work together on our team, their spouses and their kids, as well.
- Making payroll each week, which we have done for 36 years, without ever once missing a single payroll.

Most job creators have done without a paycheck to make sure their employees have not missed one. Why punish those who have worked so hard and risked so much to create a business and make a profit?

### **Frustration & Anger**

Most small businesses and insurance professionals as well as employees and families, are quite frustrated and angry. And with the failure of the promise to lower costs for the average family by \$2,500, and the fact that the price of insurance has increased significantly due to one-size-fits-all plans that require grandmothers to have maternity coverage and everyone to have higher deductibles or pay a penalty for having what used to be a ‘normal plan’ but is now considered a ‘premium plan,’ the anger is growing.

- Bureaucrats who in some cases have never had to start or operate a business, or make weekly payroll, are dictating how money should be spent and how to manage employee benefits.
- Businesses have a certain amount of money to spend on labor compensation and benefits and it is all being expended on the benefits.
- The insurance in Obamacare is often not as good as what was in place and it is expensive and Un-Affordable.
- Groups with 50 full-time equivalent (FTE) employees have even more costs. Things will continue to escalate, as the onerous new tracking and reporting requirements are dumped on

employers in 2016 by the IRS (Forms 1094-C and 1095-C). There will be a big additional burden on employers with more than 49 FTE employees; to report the lowest wage employee each month in order to comply with the ACA; where the employee cannot contribute more than 9.5% of their income to insurance. And the penalties continue to rise every year.

- This is necessitating a strategy in many small businesses to control costs by not rising above 50 employees. Therefore, the effort is toward fewer full-time employees, fewer 30-hour/week employees, more subcontract work, and more use of temporary services. This is not how to build quality and consistency in a workforce and to create oneness of purpose. I know of one small business personally that closed two of its multiple retail stores, because it was the only way that they could keep under 50 employees. This is a very real concern to small business and someone needs to listen.
- Additionally, many employers disdain the mandate that requires them to cover abortions. This is viewed as Un-American, and steps on our right to practice our faith unencumbered by the government.
- Employers can send employees to the Government Exchange, but only the lowest income brackets receive the full subsidies and benefit from the cost structure, and families just cannot afford to pay \$15,000 to \$20,000 per year for a family of 4.
- Those companies that were able to Grandfather their plans are finding that the premiums are skyrocketing as well.

Common sense and a basic understanding of human nature tells you: You will always get what you incentivize. You get more of what you reward and less of what you punish. The ACA punishes employment growth. The incentive is to not grow.

**I believe that the ACA has damaged the best healthcare system in the world, damaged the American family, and hurt employees and employers with huge deductibles now that the average person cannot afford.**

- ACA is Suppressing Growth for Employees' income: I have had business owners tell me that they have had employees who do not want raises, because it puts them above-the-line of receiving health insurance subsidies. You cannot live on health insurance alone.
- The more your income goes up, the greater your tax liability is under Obamacare if you are receiving the subsidy. Every time you get a bonus or increase in pay, your subsidy calculation changes. So if you get a bonus and your income has now changed you may have to pay back part of the subsidy you already received, because it based on an estimated income at the beginning of the year.
- Employees are spending more of their own money to buy Voluntary Supplemental Insurance, like AFLAC, to help fill the gaps for the poor coverage of ACA plans.
- With the ACA, our employees are facing larger co-pays and larger deductibles.
- Young and healthy employees cannot afford ACA and would rather pay the penalty tax, which will ultimately end up putting more people out of insurance coverage who might have at least considered and purchased a major medical policy in the past. Their mistrust of the whole system could be catastrophic if they come to the conclusion that all government is oppressive. We were told getting the young people on board was key to the success of Obamacare. Just the opposite is happening.

- The Sergio Corporation pays for 50% of our employees' and dependents' health insurance and our plans have been stronger than most.
- We offer a Health Savings Account and contribute annually per employee.
- Our employees' insurance costs now range from 6% of their pay to 19.7% for a family.
- Some employees avoid using the plan because they cannot afford to spend more money. One told me, "I can afford to pay out of pocket costs and my meds but not the premiums. Or I can pay the premiums and meds but have no money for the deductibles and therefore cannot use it for healthcare." So now they have decided not to buy an ACA plan, pay the penalty and pay out of pocket costs so they can afford their meds. But now they have no catastrophic coverage! In the past, they were always fully insured.
- Another long-term structural problem of Obamacare is the lower reimbursement payments to physicians and complex compliance costs for medical practices. Many physicians are reportedly not accepting ACA plans.
- Last week it was reported in USA Today that in Kentucky, the percentage of uninsured individuals went down but now hospitals were on the verge of closing due to reimbursement cuts. What good will a piece of paper saying you have Obamacare do if your doctor opts out and the hospital closes? This is especially problematic in rural communities.
- Our health insurance in 2015 will be our largest single vendor, even higher than construction material costs, and we are a construction company. How do we adjust for 24% increase in costs in one year which was largely due to the increase in the number of ACA requirements and regulations that had to be incorporated into the plan?
- In addition the imbedded small business health insurance tax is directly causing premiums to go up at the very time when everyone needs premium relief. This makes no sense at all.

Beginning in 2014, the health reform law imposed a new sales tax on health insurance that increased the cost of healthcare coverage directly. The amount of the tax was forecast to be \$8 billion in 2014, increasing to \$14.3 billion in 2018, and increased based on premium trend thereafter. The Joint Committee on Taxation estimates that the health insurance tax will exceed \$140 billion in its first ten years. The Congressional Budget Office (CBO) has said that this tax will be "largely passed through to consumers in the form of higher premiums." A 2011 analysis by Oliver Wyman estimated that this tax "will increase premiums in the insured market on average by 1.9% to 2.3% in 2014," and by 2023 "will increase premiums 2.8% to 3.7%."

The Oliver Wyman analysis also estimates the effect of the new tax on insurance market segments and public programs:

- Impact on individual market consumers: Increase premiums over a ten-year period for single coverage by an average \$2,150, and for family coverage an average \$5,080.
- Impact on small employers: Increase premiums over a ten-year period for single coverage by an average \$2,760, and for family coverage an average \$6,830.
- Impact on large employers: Increase premiums over a ten-year period for single coverage by an average \$2,610, and for family coverage an average \$7,130.
- The National Federation of Independent Business Research Foundation released a study examining the private-sector job loss that will result from the health insurance premium tax.

As you can see, whatever the intention was when Obamacare and the small business health insurance tax was passed, it will harm job creation and increase premiums at the precise time when families, small businesses and the economy are sorely in need of job growth and tax relief.

With all the complexity, confusion and costs, many businesses are simply dropping health insurance since they don't have to offer it. On one hand they are protecting their business and in so doing protecting the livelihoods of their current employees. But then the same employees are then left on their own to deal with the more expensive policies of Obamacare.

Small business is the backbone of American growth. Small companies with fewer than 500 employees represent 99.9% of the 26.8 million businesses in the country, both large and small. If America's small businesses were a separate economy, it would be one of the largest in the world, trailing only the U.S. economy as a whole, China and Japan. According to the U.S. Small Business Administration, small businesses account for about two-thirds of all net new jobs created in recent years.

Small businesses everywhere are speaking with a common plea: "Get the government off of our backs and let us grow!"

I have tremendous respect for the millions of Americans who struggle each week to meet payroll and grow their dreams. For this reason, I have served for over 25 years with NFIB to promote and protect the rights of small business people to own, operate and grow their businesses.

As a small business entrepreneur and job creator, I urge you to repeal Obamacare and allow for creating group plans that can create risk pools across state lines so that we could have the best of both worlds of market competition and the advantage of the old system which was not perfect but absolutely should not have been replaced with the oppressive requirements, confusion, fees, high costs, penalties, injustices and extensive policing of every man woman and child in America through the expanded IRS now regulating every individual insurance policy.

ACA has and will continue to displace millions of American workers from the security of the healthcare they once had. Undo the vast harms ACA has and is causing to the middle class and start over. Address the essential issue of unleashing small business to create millions of new jobs which could raise most citizens out of being at risk and into truly affordable plans.

When we are dead and gone, none of us are taking any of our power or position or our money or anything else with us, so let us leave a legacy of life, liberty and the unfettered pursuit of happiness through the dignity of honest work and the ability to earn the rightful reward for the risks we have taken to live, work and create jobs and wealth in America.