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CINCINNATI, OH

TESTIMONY BEFORE THE HOUSE COMMITTEE ON SMALL BUSINESS

HEARING ON "CHALLENGES AND BENEFITS OF EMPLOYEE-OWNED SMALL BUSINESSES"

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Chairwoman Velázquez, Ranking Member Chabot, and distinguished members of the Committee, thank you for inviting me to testify before you today to share my story of as our retired CEO phrased it, "inclusive capitalism", and the impact it has had upon hundreds of my fellow employees at Messer Construction. Thank you for holding this hearing to learn more about ESOPs and legislation that can encourage more small businesses to become employee-owned.

My name is Mark Gillming; When I began working at Messer Construction it was a Cincinnati based, medium size, family-owned construction company with a long history and a good reputation; but like most companies in construction it had little in the way of employee benefits. By 1990 company-funded retirement benefits totaled only $1,500,000 on behalf of about ninety-nine participants.

In 1988 the last son of the company founder died and we found ourselves with an uncertain future. The grandchildren of the founder wanted access to their wealth and, having no connection with the employees, were not committed to maintaining employment at the company. In 1990 the Messer employees were able to buy their future from the Messer family, using the ESOP structure, I was one of the employees that participated in that purchase and we could not have purchased the company if not for the important tax advantages that the ESOP model afforded us.

Our country's investment in ESOPs allowed ninety-nine Messer employees to purchase their future; and the engagement that opportunity created, has resulted in growth. Today, operating from 10 regional offices, Messer performs more than a billion dollars in construction annually. And, here is the measure of the change that our ESOP brought to our retirement savings. Messer now provides quality jobs and predictable retirement for over 1200 individuals, and has company-funded retirement assets for those employees totaling more than $400,000,000.

Through our engagement with the Employee-owned S Corporations of America we have come to know of hundreds of companies with stories similar to ours; and the data from ESCA's quality research shows that ESOP companies are more robust, more sustainable and provide higher levels of diversified retirement benefits than non-ESOP companies. The Messer ESOP is in-place and working well for us; however, Messer manages a vendor supply chain of small local subcontractors who are increasingly at risk from forces both external and internal. For that reason, Messer supports ESCA's work to promote bipartisan legislation - H.R. 2258 - that would encourage more employee ownership by providing incentives to S Corporation business owners to sell to an ESOP when they are looking to transition out of the business. This will allow more American workers to build meaningful retirement savings that those of us at Messer have realized through employee ownership.

It was more than 20 years ago that Congress passed legislation creating S ESOPs and, in addition to what I have shared with you about Messer, data shared by ESCA continues to show that S ESOPs are a remarkable success story from young workers to retirees. Just a few highlights from recent surveys that Committee members will find of interest:

- Close to 90 percent of ESOP retirees said their savings and ESOP benefits are enough to meet their retirement needs. Less than half of non-ESOP retirees said the same.

- 56 percent of millennial workers at ESOP companies said they had at least six months' salary saved for retirement, while 66 percent of their non-ESOP counterparts said they had no savings at all.

The opportunity to become an employee owner has helped Messer Construction recruit and retain millennial workers in a tight labor market. These individuals share the vision of working as an owner and not just an employee and embrace the challenges and opportunities that come with being an employee owner. Messer is a clear example of the power of inclusive capitalism that results from supporting S ESOPs. I invite you to visit us or an employee-owned company in your district or state; so you can see first-hand the pride employee-owners take in their work, and the confidence that employee-owners have in their future.

CONCLUSION

Ms. Chairwoman and committee members, I thank you for this opportunity to address the committee and share Messer's story, and for your consideration of legislation that will allow more hardworking Americans to share in the American Dream at work.

Addendum 1 to the Testimony of Mark R. Gillming

February 12, 2020

Direct Impact of the Messer ESOP upon individual Retirement Savings

The measure of success of any retirement strategy is the replacement income that an individual employee can expect between the age of retirement and the age of death. Peter Strange, who retired from Messer several years ago put together this example in early 2016 and I feel it is worth sharing again. Mr. Strange joined Messer in 1968 as a project engineer and advanced through the company to the position of Vice President, Operations, in 1984. At the end of 1989, after 23 years of service, Mr. Strange's company-funded retirement savings would have provided an estimated monthly income (at a 6% annuity rate) of approximately $250 dollars per month.

The Messer ESOP was implemented in 1990. By comparison, employees who entered Messer as Project Engineers in 1990 and remained with the company through 2015 (twenty-five years) have company-funded retirement savings that would, on the same basis, provide an estimated monthly income of $5,500 per month.

Three footnotes:

1. Both calculations are performed as if the employee retired on the calculation date; while in fact both Mr. Strange and the employees joining in 1990 had/have substantial periods of time remaining in their careers, allowing for further growth in their retirement savings. As a result of increased company growth and profitability following the implementation of the Messer ESOP, those additional years would result in a widening of the retirement savings gap.
2. The estimated cost of repurchasing retirees' shares is projected into the Messer annual valuation model, assuring that sufficient liquidity will be available when required.
3. As a result of the Messer board of directors' actions with regard to dividends, at the end of 2015 the Messer ESOP trust assets include a balanced portfolio investment equaling more than 25% of the value of the allocated Messer shares; providing diversification for the participants and liquidity for share repurchase.

Addendum 2 to the Testimony of Mark R. Gillming

February 12, 2020
Return on Investment

The Positive Economic Impact of America's Support for Employee Ownership

The example below was presented in Testimony Peter Strange presented in 2016. While some things have changed slightly by 2020, the basic premise is still valid and worth sharing. For decades, the US tax code has contained significant support for the creation and success of employee stock ownership plans. In 1998, the tax code was modified to allow ESOPs to own stock in Subchapter S corporations – a significant benefit to further creation and growth of ESOPs. A number of studies have validated and quantified the big picture benefits of ESOPs and compared ESOPs to alternative organization structures. The results of these studies include:

- ESOP companies grow faster, providing higher levels of employment.
- ESOP companies are more resilient, retaining that employment through economic downturns.
- ESOP companies provide company-funded retirement benefits that result in retiree account balances that are materially greater than competing models.
- ESOP companies have a lower failure rate than non-ESOP, private companies, resulting in lower risk to employer backed benefit plans.
- ESOP companies now represent a high level of economic critical mass, driving our national economy forward.

The question remains, "What is the direct return in tax dollars for the investment that our country makes in an ESOP?" This simple study of one ESOP company, Messer Construction, quantifies that positive return.

Messer's ESOP was created in 1990 and Messer became an S Corporation taxpayer in 1998. While there are dozens of variables that might be studied, we have elected to focus upon two straightforward questions:

1. What is the level of investment that our fellow taxpayers made in support of the Messer ESOP?
2. What is the direct return in tax dollars resulting from that investment?

OUR APPROACH:

We studied the following data over the fifteen year period prior to creation of our ESOP and the fifteen year period following creation of our ESOP:

- Average growth rate as measured by dollars of revenue.
- Average profitability per revenue dollar.
- Average annual employee count, based upon average revenue dollars per employee.
- Average salary per employee.
- Actual retirement account balances in the company-funded retirement plans as of 2004.

After we gathered the data for the two study periods we applied appropriate inflationary adjustments so that all dollars were measured as of 2004, the end point of the study.

We used the following assumptions:

- A corporate federal tax rate of 35% (Based on 2004 data).
- A personal federal tax rate of 25% (Based on 2004 data).
- That, absent the creation of the ESOP, Messer would continue to grow at its historical growth rate during the period between 1990 and 2004.
- That, being an excellent company, Messer would adopt a generous 401k program – 100% company match of the first 2.5% of employee savings, resulting in a total 401k contribution of 7.5% per year, per employee.
- That the employer and employee contributions to a 401k would be tax deductible.
- That funds held in trust, whether in the ESOP or the 401k plan would grow at at-least the rate of inflation, after 2004.

OUR RESULTS

Investment received through tax deferral:	**($14,203,345)**
Additional taxes paid:	**$41,807,481**
Net benefit in federal taxes:	**$27,604,136**

A multiplier of 2.94 in same year dollars!

THE MATH:

Question 1. The tax investment:

For the sake of consistency, we have analyzed the data as if Messer and the Messer ESOP had been the beneficiaries of the full ESOP benefits, including the S Corporation tax deferral, beginning in 1990. All calculations have been normalized to 2004 dollars – the end of the study period.

Messer was a profitable, growing company over the fifteen years prior to forming its ESOP. The result of the positive tax code benefits for ESOPs is that Messer's income tax payments would be deferred until participant retirement. Over the fifteen years prior to 1990, Messer revenue grew at an average annual rate of 2.26% over inflation. Projecting continued growth and profitability at that rate for the fifteen years following formation of its ESOP, and assuming that Messer implemented a strong 401k retirement plan, the calculated tax deferral would have resulted in an investment by US taxpayers of $14,203,345 in 2004 dollars.

Question 2. Direct return in federal taxes paid – or to be paid.

With the implementation of our ESOP Messer's growth trajectory changed. Over the fifteen years following creation of the ESOP Messer grew at 5.76% over inflation. The marginal growth driven by our ESOP resulted in employment growth of an additional 233 employees over the fifteen year period. Applying the calculated average gross pay to those employees as they entered the payroll, and applying the assumed individual tax rate to those marginal employee earnings results in additional federal tax payments of $38,719,967 in 2004 dollars.

The actual account balances for the Messer retirement plans at the end of 2004 totaled $71,036,326. The calculated total balances in 2004 for a 401k plan that would have resulted from the pre-ESOP growth rate in employment and the assumed total annual contributions of 2.5% from the company and 5% from the employee would be $58,686,273. With the assumption that the funds held in either trust would grow until retirement and mandatory withdrawal at at-least the rate of inflation, the federal government will receive tax at the assumed personal rate on the difference between the two trust funds, or $12,350,053. At 25% personal tax rate the result is additional federal tax payments of $3,087,513 in 2004 dollars.

Adding the two sources together results in total calculated additional federal taxes resulting from the Messer ESOP of $41,807,481 in 2004 dollars.

CONSERVATISM IN THE CALCULATIONS:

The two direct tax sources calculated above materially understate the actual benefits of the ESOP to our local, state and national economies. Additional metrics that **could be added** include:

- The multiplier effect of the added spending by the additional employees, resulting in additional federal tax from the profit on their purchases.
- The savings in federal benefit costs post-retirement resulting from the more robust ESOP retirement accounts.
- The taxes received at the state and local level as a result of the additional employees and their post-retirement spending.
- The fact that hundreds of employees who receive robust retirement benefits will spend far more post-retirement as compared to receiving the 401k level benefits.
- The fact that the ESOP is fully funded by the company, resulting in all Messer employees, at every income level, having a marginal 5% (the employee contribution to the 401k) to spend during each year of employment.
- The fact that Messer has continued to grow, resulting in ever more employment, ever more retirement benefits – and ever more federal income tax payments.
- The fact that, since 2004, the Messer ESOP has actually grown at a rate more than double the rate of inflation, which will lead to tax payments by participants at withdrawal far greater than those indicated in 2004.
- The fact that Messer has in place, alongside its ESOP, a substantial, voluntary 401k retirement plan, not included in our retirement savings calculations.
- And many more benefits at both the enterprise level and at the employee level.

Addendum 3 to the Testimony of Mark R. Gillming

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ESCA Survey Results

John Zogby Strategies has conducted two surveys related to employees at ESOP firms versus non-ESOP firms.

In the first survey, questions regarding retirement and financial security were asked of retirees from ESOP companies as well as Non-ESOP companies. The survey found:

- Non-ESOP retirees were three times more likely to say they have major financial concerns about retirement than ESOP retirees.

In the second survey, millennials were asked questions regarding preparation for retirement, retirement savings and expecting to be financially better off than their parents. The survey found:

- 91% of millennial employee-owners at S ESOP companies felt they had enough information to prepare for retirement compared to only 44% of employees at Non-ESOP companies.

- 67% of millennial employee-owners expect to retire by the age of 65, if not earlier. In comparison, only 37% of young workers at Non-ESOP companies expect the same.

- 72% of surveyed millennial employee-owners feel there is room for them to grow at their current companies.

- 56% of surveyed millennial employee-owners had at least six months salary saved for retirement while 66% of millennials at Non-ESOP companies had nothing saved for retirement.

- 66% of millennial workers at S ESOP companies expect to be better off than their parents, compared to 41% of their peers at Non-ESOP companies.