



## ***NEWS RELEASE*** **FOR IMMEDIATE RELEASE**

### **ROBERT L. JOHNSON URGES U.S. SENATE COMMITTEE TO ADDRESS POLITICAL ISSUES THAT RESTRICT ACCESS TO CAPITAL FOR MINORITY BUSINESSES**

*Testifies before the U.S. Senate Committee on Small Business & Entrepreneurship*

**BETHESDA, MD//APRIL 15, 2010//** Robert L. Johnson, founder and chairman of The RLJ Companies testified today before the U.S. Senate Committee on Small Business & Entrepreneurship. Addressing the obstacles and opportunities that face minority small business owners in today's economy, Johnson called upon the Committee to address two philosophical issues that must be addressed before capital can be directed effectively to minority businesses.

The first issue poses the question why the Federal government, state governments, and corporations define minority ownership as owning or holding a fifty-one percent equity ownership in a company; and the second issue asks is there a compelling national interest for helping minority business and what are its limitations?

In his testimony, Johnson stated, "Without question, the lack of access to capital and capital formation are the principal factors holding back opportunities for minority businesses and as a consequence wealth and job creation in the minority community. The fifty-one percent ownership provision is a true contradiction. Placing a fifty-one percent equity requirement on minority companies fail to recognize that minority Americans are significantly and disproportionately under-represented in access to capital to start and fund entrepreneurial enterprises."

Johnson further stated that "a recent Supreme Court decision ruled that any government preferences for minority companies must be narrowly tailored to prevent reverse discrimination; however, if minority companies can't compete on capital formation, on experience or scale without capital, they are therefore unlikely to win competitive bids where there are no advantages or preferences given to a minority enterprise." He went on to say, "If this Court precedent dictates our approach to minority business development it will, in my opinion, restrict access to government sponsored business opportunities."

He concluded his testimony stating, "I hope that I have provided some framework for a debate and I know I am committed to work with this Committee to achieve a viable consensus on how to grow and expand minority business ownership and opportunities in America."

**Editors Note:** Mr. Johnson's oral testimony "Assessing Access: Obstacles and Opportunities for Minority Small Business Owners in Today's Capital Markets" will be available online at [www.rljcompanies.com/news](http://www.rljcompanies.com/news).

#### **About The RLJ Companies**

*The RLJ Companies, founded by Robert L. Johnson, is an innovative business network that provides strategic investments in a diverse portfolio of companies. The RLJ Companies seeks to target undiscovered or underserved markets then exercise solid management to achieve results. Within The RLJ Companies portfolio, Johnson owns or holds interests in businesses operating in banking, private equity, hospitality, automobile dealerships, entertainment, professional sports and video lottery terminal (VLT) gaming. The RLJ Companies is headquartered in Bethesda, MD, with operations in Charlotte, NC; Orlando, FL; Little Rock, AR; Los Angeles, CA; San Juan, PR; and Monrovia, Liberia.*

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***Assessing Access: Obstacles and Opportunities for Minority Small Business Owners in Today's Capital Markets***

Testimony before the U.S. Senate  
Committee on Small Business & Entrepreneurship  
April 15, 2010

Robert L. Johnson  
Founder & Chairman, The RLJ Companies

Good Morning Madam Chairwoman Landrieu, ranking minority member Snowe and distinguished members of the Committee, my name is Robert Johnson and I appreciate the opportunity to appear before the Committee to discuss the challenges and opportunities minority small business owners face in today's economic climate.

As an entrepreneur, I know first-hand the challenges minority entrepreneurs face. I also know the talent, dedication, determination and vision that minority entrepreneurs possess in their desire to become a part of and a contributor to the *American Dream*. But the simple fact of economic reality in America is that minority Americans are significantly and disproportionately underrepresented in access to capital to start and fund entrepreneurial enterprises due to years of racial and economic discrimination.

This Committee should make note of a recent study by the *Economic Policy Institute* which found that the median net worth for African Americans was \$11,800 compared with \$118,000 for whites. When home equity was subtracted, African Americans had \$300 in net assets while whites had \$36,000. This gap is likely to widen as employment stagnates and as the mortgage crisis costs some black families their homes.

Without question the lack of access to capital and capital formation are the principal factors holding back opportunities for minority businesses and as a consequence wealth and job creation within the minority community. In my opinion, there are two crucial political and philosophical issues that first must be confronted and resolved before capital can be effectively directed to minority Americans in this society.

**The first question is: Why do Federal, state governments and major U.S. corporations define minority ownership as owning or holding 51% equity?**

The answer usually offered is a 51% equity requirement prohibits so-called minority "front companies or shams" from gaining access to government preferences. But why do we assume minority companies are fronts? The answer is painfully obvious and it is partially why we are all here today. We *know* that minorities as a whole lack access to capital and therefore are unlikely to raise sufficient equity capital to control a company without outside financial assistance. But whose fault is that?

Think about this for a moment: As a business person your goal is to grow in scale and value. How do you accomplish this if your company cannot raise outside equity if it exceeds your 51% ownership requirement? Why not the debt market you might ask?

Lenders have only one goal, a repayment of debt with interest as quickly as possible. On the other hand, and I know this to be a fact, strategic equity partners seek to combine investment and operational synergies with the minority company to maximize long-term growth and value. I suggest we let market relationships decide and base ownership not only on equity control but other factors. Such factors could be: Is the minority the founder of the company? Is the minority the key revenue driver in the company based on his or her intellectual capital, *i.e.* Oprah Winfrey?

What about considering voting control in different classes of stock that give more votes to the minority or board control where the minority has the right to appoint the board majority. Or simply drop the equity requirement from 51% to 10% to recognize what we all agree is the *true* problem, the disparity in capital access that minorities face when launching a business.

This leads me to my second point. **Is there a compelling national interest for helping minority businesses and what are its limitations?**

If the goal is to foster minority businesses as opposed to small businesses, how do we address the Supreme Court's compelling national interest test? The Court ruled that any government-sponsored economic preference to minority businesses should be "narrowly tailored" so as not to cause reverse discrimination. Justice O'Connor, writing for the majority, in the *Adarand*<sup>1</sup> case, stated that there was no compelling national interest in favoring a minority contractor for a highway construction job over a majority company.

If this precedent dictates our approach to minority business development it will forever, in my opinion, restrict minority access to government-sponsored business opportunities.

We agree that due to past discrimination minorities can't compete on capital formation, on experience or scale without capital, and are unlikely to win most competitive bids without an advantage or preference.

In conclusion, let me state that I don't have a ready politically acceptable answer to these philosophical quandaries, but I am enough of a business person to know that the free market place, left to its own devices, will not solve this problem.

I don't believe the government can promote minority ownership by placing restrictions on their start up potential by requiring an "unconditional 51% ownership." I don't believe the government can say it's critically important to have minority businesses succeed in the marketplace and on the other hand declare there is no compelling national interest to favor these businesses.

I hope that I have provided some framework for a debate and I *know* I am committed to work with this Committee to achieve a viable consensus on how to grow and expand minority business ownership and opportunities in America.

Thank you.

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<sup>1</sup> [*Adarand Constructors, Inc. v. Peña*, 63 U.S.L.W. 4523 (U.S. June 12, 1995)] - under strict scrutiny, a racial or ethnic classification must serve a "compelling interest" and must be "narrowly tailored" to serve that interest.