



NINTH JUDICIAL COMMITTEE

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November 11, 1992

President J. Michael McWilliams
American Bar Association
750 North Lake Shore Drive
Chicago, Illinois 60611

RE: Ninth Judicial Committee's Critique
of the Nomination of Andrew
O'Rourke to the District Court
(Second Circuit)

Dear President McWilliams:

Reference is made to your letter of October 21, 1992. Although you describe the Standing Committee's relationship with the Justice Department and with the Senate Judiciary Committee, you make no reference to its obligations to the public.

We refer you to the last paragraph of our October 6th letter to you, which stated:

"In the event you do not share our view that the ABA has an on-going obligation to the public to retract a rating when documentary evidence of a nominee's fraudulent conduct is presented to it, we wish a written statement to that effect."

Please articulate what--if any--are the ABA's on-going obligations when it receives irrefutable evidence as to the unfitness of a judicial candidate it has found qualified. Clearly, such policy statement is not "confidential".

We respectfully refer you to Rule 8.2(a) of the ABA's Model Rules of Professional Conduct:

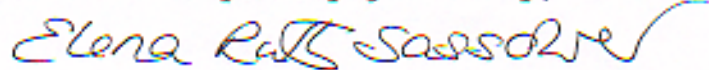
"A lawyer shall not make a statement that the lawyer knows to be false or with reckless disregard as to its truth or falsity concerning the qualifications or integrity...of a candidate for election or appointment to judicial or legal office."

The ABA, which articulates "Model Rules of Professional Conduct" for individual lawyers, must--as an organization--be the exemplar of those standards.

In the event the ABA leadership does not recognize its obligation to retract a rating it knows to be false, we ask that you, as ABA President, refer our critique and all correspondence relative thereto to the ABA's Standing Committee on Ethics and Professional Responsibility with a request for a formal opinion.

Your expeditious response would be greatly appreciated.

Yours for a quality judiciary,



ELENA RUTH SASSOWER
Coordinator, Ninth Judicial Committee

cc: Chairman Joseph Biden, Senate Judiciary Committee
Irene R. Emsellem, Staff Liaison, ABA Standing Committee
on Federal Judiciary

David Isbell, 202-662-5518