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CENTER *for* JUDICIAL ACCOUNTABILITY, INC.

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May 22, 1996

Kolan Davis, Chief Counsel
Senate Judiciary Committee
Subcommittee on Administrative Oversight
and the Courts
308 Hart Senate Office Building
Washington, D.C. 20510

RE: ABA Role in Judicial Nominations

Dear Mr. Davis:

Following up our telephone conversation this morning, I enclose a copy of the informational brochure of the Center for Judicial Accountability, Inc., a national, non-partisan, not-for-profit citizens' organization, which focuses on the twin issues of judicial selection and discipline--on the federal, state, and local levels.

As discussed, we have a tremendous amount of documentary information to contribute to the Senate Judiciary Committee about the American Bar Association's behind-closed-doors screening of judicial candidates. We were, therefore, most distressed that we were not informed of its hearing yesterday on the subject of the American Bar Association's role in judicial nominations.

More than four years ago, the local citizens' group from which the Center emerged undertook a six-month investigative study of the federal judicial nominations process. That study effectively pierced the "veil of secrecy" that shrouds the ABA's so-called screening of judicial candidates.

What we documentarily established, through a case study of a particular nominee, was not the publicly-perceived partisan issue of whether the ratings of the ABA's Standing Committee on Federal Judiciary are contaminated by a "liberal" agenda. Rather, we established the issue that must concern all Americans: the gross deficiency of the ABA's judicial screening in failing to make threshold determinations of "competence", "integrity" and "temperament".

Those findings were presented to the Senate Judiciary Committee as our "Law Day" contribution in May 1992, as part of a 50-page critique, supported by a Compendium of over 60 documentary exhibits. We also presented our critique to former Senate

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Majority Leader Mitchell, under a May 18, 1992 coverletter, which was sent to every member of the Senate Judiciary Committee. A copy of that coverletter, calling for a moratorium of all judicial nominations, pending official investigation of the deficient judicial screening process, is enclosed.

Also enclosed is a copy of our Letter to the Editor about the ABA's insupportable ratings, which was published in the July 17, 1992 New York Times under the title "Untrustworthy Ratings?".

Ironically, the ABA member who was most directly responsible for the incompetent investigation of the judicial nominee we studied was William Willis, Esq., then the Second Circuit representative on the ABA's Standing Committee on Federal Judiciary. Immediately thereafter, Mr. Willis became its Chairman. We understand that Mr. Willis testified at yesterday's Senate Judiciary Committee hearing.

Following submission of our Critique, we engaged in a voluminous correspondence with the Senate Judiciary Committee and the ABA--among others. Copies of our letters to the ABA were all sent to the Senate Judiciary Committee. Consequently, the Senate Judiciary Committee file relating to this matter--which you indicated probably had been archived--should be quite thick.

The file of that correspondence--spanning to November 1993--dispositively shows that the ABA turned its back on its ethical and professional duty to take corrective steps. In the face of our documented showing of deficiencies of the Standing Committee's judicial screening, the ABA refused to retract its indefensible rating or to address the deficiencies of its screening process.

Such evidentiary showing leaves no doubt but that the ABA is unworthy of the public trust--and of the trust of its elected officials who nominate and confirm our life-time federal court judges largely based on its bare-bones ratings.

The Center's more recent contacts with the ABA's Standing Committee on Federal Judiciary, this year and last, show this even more glaringly. Such contacts have related to its screening of a judicial candidate--thereafter nominated by President Clinton. They reveal that the problem with the ABA goes beyond incompetent screening. The problem is that the ABA is knowingly and deliberately screening out information adverse to the judicial candidate whose qualifications it purports to review.

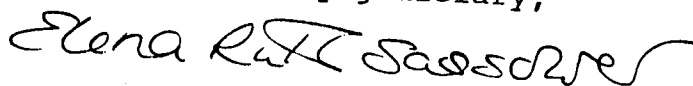
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Since you indicated that the partisan nature of the Senate Judiciary Committee requires that communications be with both the majority and minority sides, copies of this letter are being sent to the Subcommittee's Minority Counsel, Winston Lett. Copies are also being sent to John Yoo, General Counsel to the full Senate Judiciary Committee--who, I understand, was most directly involved in yesterday's hearing on the ABA's role in judicial nominations, as well as his minority counterpart, Demetra Lambros.

A copy of this letter will be addressed to Senate Judiciary Committee Chairman Hatch, with a request that it be included in the record of yesterday's hearings. Copies will also be sent to each of the members of the Senate Judiciary Committee. Based upon what is herein set forth, we expect the Senate Judiciary Committee will want to provide us with an opportunity to present it with the documentary proof--which we would have presented at the hearing--as to how the ABA fails the public, which is utterly disserved and endangered by its behind-closed-doors role in the judicial screening process.

Finally, we ask that this letter serve as the Center's standing request to be placed on a "notifications" list so that, in the future, we are immediately contacted when matters bearing specifically on judicial selection, discipline, and judicial performance are being considered by the Senate Judiciary Committee or any of its subcommittees.

Yours for a quality judiciary,



ELENA RUTH SASSOWER, Coordinator
Center for Judicial Accountability, Inc.

Enclosures

cc: Winston Lett, Esq.
John Yoo, Esq.
Demetra Lambros, Esq.
Eleanor D. Acheson, Assistant Attorney General
U.S. Department of Justice

TRANSMISSION VERIFICATION REPORT

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