



NINTH JUDICIAL COMMITTEE

Box 70, Gedney Station  
White Plains, New York 10605-0070  
Tele: (914) 997-8105 / Fax: (914) 684-6554

By Fax: 694-5018

November 11, 1992

Mr. Ed Tagliaferri  
Gannett Suburban Newspapers  
One Gannett Drive  
White Plains, New York

RE: Your November 2nd story, "O'Rourke  
Listed Only 3 Cases for Senate"

Dear Mr. Tagliaferri:

This letter confirms your statements to me on October 27th and November 2nd as to the limited extent of your investigation relative to your story: "O'Rourke Listed Only 3 Cases for Senate". In the event you disagree with any of the statements below, please indicate same by return fax.

YOUR REVIEW OF FILES:

(a) You examined the files for only one case: Tappan v. Volvo. Your examination of the Westchester County Clerk's files confirmed the finding contained in our critique: Mr. O'Rourke's lower court victory was reversed on the facts and the law a year before he became County Executive (critique, p. 16-17).

(b) You did not review files for Surlak v. Surlak--which were available at the Westchester County Clerk's Office. Nor did you review the files for Pereira v. Homelite--available for review at the Federal Records Centers in Bayonne, New Jersey via the accession number we had obtained and provided to you (Exhibit "S").

(c) You did not follow up on our suggestion to you (10/2/92 ltr) that you request Mr. O'Rourke to show you his files--the ones upon which he stated he relied in response to the Senate Judiciary Committee's question calling for his "10 most significant litigated matters which [he] personally handled" (Exhibit "A": p. 8-9)

INTERVIEWS CONDUCTED:

(a) You did not call anyone connected with the Ninth Judicial Committee until October 27th--when you only sought to speak with me. I immediately offered to arrange a meeting and to update you on recent developments. You refused, saying that Mr. Beaupre told you to write only a "short story" about "the three cases" and that the story was almost done and would be printed in a day or two. Indeed, approximately an hour after our conversation, when I called you to add to my earlier comments, you told me the story was "already in".

You asked me precisely two questions:

- (1) "What is the significance of the question asking for 'ten most significant litigated matters'?"
- (2) "What is the status of your mother, Is she still suspended?"

(b) You made no attempt to speak with Doris L. Sassower, Director of the Ninth Judicial Committee, although you were told that: (1) she personally reviewed the files and conducted the interviews reflected in the critique; (2) she--not I--possessed legal expertise and background in the field of judicial selection; (3) she was willing to speak with you.

(c) You interviewed Mr. O'Rourke, but did not investigate the truth of his statements to you.

(d) You never contacted Mr. LoCascio, whose name is mentioned in your story--and whose White Plains telephone number was included in Exhibit "I" of our critique.

(e) You made no attempt to speak with Mr. Surlak--whose telephone number in Yonkers we provided to you in our October 2nd letter.

THE ARTICLE UNDER YOUR BY-LINE:

(a) You do not identify that the Ninth Judicial Committee's critique was the source for your story or that our critique focused on Mr. O'Rourke's responses to the Senate Judiciary Committee questionnaire--with the first 20 pages specifically devoted to the question of "the 10 most significant litigated matters".

(b) You did not include my response to your question as to the significance of the question calling for the "10 most significant litigated matters". Nor did you discuss its significance, apart from my comments to you.

(c) You report--without direct comment--Mr. O'Rourke's excuse for why he could only supply three cases. Ample refutation is contained at pp. 3-6 of our critique and Exhibits "G", "H", "I", "S".

(d) You report--without contradiction--Mr. O'Rourke's statement that the ABA and City Bar "understood the problems". Ample refutation that no "problem" existed is contained at pp. 3-6 of our critique.

(e) You state that Mr. LoCascio "moved to Florida and back to New York" without identifying that such statement--if made by Mr. O'Rourke--contradicts the inference created by him when he stated in his Senate Judiciary Committee questionnaire that Mr. LoCascio had "left for Florida" (Exhibit "A": p. 9; pp. 5-6 of our critique).

(f) You report--without verification--Mr. O'Rourke's statement that Mr. LoCascio had "lost, misplaced or thrown out" his records. Mr. LoCascio's White Plains address and telephone number was set forth at Exhibit "I" to our critique.

(g) You report--without contradiction--Mr. O'Rourke's statements that "he didn't recall that one of the three cases was overturned on appeal" and that "he did not handle appeals for his firm". Both statements are rebutted by the Exhibits to our critique: Exhibits "N-2", "P", "Q", "R".

(h) You identify my mother as "a lawyer appealing her suspension from practicing law" but do not mention any of her credentials relevant to the issues of judicial selection which are set forth in the Profile at the end of our critique--and which I discussed with you in our October 27th conversation.

In regard to my mother's suspension, you stated in our October 27th conversation that you were not interested in seeing any documents establishing the truth of my statements to you that her suspension was unjustified, retaliatory, unlawful, and unconstitutional.

It should be mentioned that in light of my expressed concern that reference to my mother's suspension would be needlessly prejudicial, you stated you would speak to your editor about omitting same--or omitting my mother's name entirely from the story. However, after the story appeared with such selectively included information, you refused to answer who your editor was and what he/she had said on that subject.

(i) You included no retraction of your erroneous September 20th article which reported that Mr. O'Rourke had submitted "briefs" to the Senate Judiciary Committee--although you confirmed to me that Mr. O'Rourke admitted to you that no briefs had been submitted by him.

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As reflected by your story, you had no interest in depicting the political background to Mr. O'Rourke's nomination, which we discussed--nor any interest in the failure of Senator D'Amato and President Bush to answer our documented queries as to Mr. O'Rourke's qualifications.

Although you told me that Mr. O'Rourke admitted that the only cases he supplied the ABA and City Bar were the same 3 cases that he submitted to the Senate Judiciary Committee, you did not report that fact--or the scandalous import of same. Indeed, you not only ignored our critique's demonstration as to the failure of the screening process, you permitted Mr. O'Rourke to deflect questioning by showing off the ABA/City Bar ratings which we documented as insupportable.

Finally, despite your reputation as a prize-winning investigative reporter, you expressed complete satisfaction with your November 2nd article when I explicitly asked you about its adequacy.

Yours for a quality judiciary,



ELENA RUTH SASSOWER  
Coordinator, Ninth Judicial Committee