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July 5, 2010

Jay Macklin, Esq.  
General Counsel  
Executive Office for United States Attorneys  
U.S Department of Justice  
950 Pennsylvania Avenue, NW  
Washington, DC 20530

Re: Violation of 18 U.S.C. § 1001 by Robert E. O'Neill, Assistant United States Attorney and Nominee for United States Attorney for the Middle District of Florida

Dear Mr. Macklin:

By [letter to you dated June 10, 2010](#),<sup>1</sup> I addressed, *inter alia*, the responsibility of the Executive Office for United States Attorneys both to oversee the conduct of Robert E. O'Neill in his current position as Assistant United States Attorney in the Middle District of Florida and to provide candid assessments to the President and the Senate Judiciary Committee of the suitability of Mr. O'Neill for the position of United States Attorney for the Middle District of Florida.

By [letter to Attorney General Eric Holder dated June 28, 2010](#), I brought to Attorney General Holder's attention information that Mr. O'Neill made a false statement in an [application](#) for the United States Attorney position submitted to the Florida Federal Judicial Nominating Commission and the possibility that Mr. O'Neill made the same false statement in circumstances whereby he violated 18 U.S.C. § 1001.

In the application, in response to a request for information concerning disciplinary matters, Mr. O'Neill provided the following entry (at 43):

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<sup>1</sup> As with my June 10, 2010 letter to you, the underlinings of words or phrases in this letter indicate links to referenced documents in an online electronic copy of this letter that may be found by its date on the Letters (Misconduct) sub-page of the Prosecutorial Misconduct page of [jpscanlan.com](http://jpscanlan.com).

Jay Macklin, Esq.

July 5, 2010

Page 2

(b) Deborah Gore Dean, Office of Bar Counsel, The Board on Professional responsibility, District of Columbia Court of Appeals (1995):

I prosecuted Deborah Gore Dean on behalf of the Office of Independent Counsel. The trial occurred in Washington, D.C. After her conviction on all counts, Ms. Dean filed a bar complaint alleging a number of instances of prosecutorial misconduct during the trial. On June 27, 1996, Bar Counsel sent a letter stating that there was "insufficient evidence of professional misconduct" and Bar Counsel terminated the investigation.

As discussed in the June 28, 2010 letter to Attorney General Holder, the District of Columbia Bar Counsel investigation of Mr. O'Neill's conduct in the *Dean* case, which commenced shortly after the Court of Appeals for the District of Columbia Circuit issued its May 26, 1995 [decision](#) "deplor[ing]" certain conduct of prosecutors in the case, was not initiated by Deborah Gore Dean or anyone associated with her, as is made crystal clear on the first page of the June 27, 1996 letter cited by Mr. O'Neill. Thus, while Rules Governing the Bar of the District of Columbia may preclude my stating what person or entity initiated the Bar Counsel investigation, there is no doubt whatever that Mr. O'Neill's statement that Ms. Dean initiated the investigation is false, as I assume Mr. O'Neill will now himself acknowledge. Further, the inference is inescapable that Mr. O'Neill made the false statement because he believed that a Bar Counsel investigation initiated by a convicted defendant would raise fewer concerns with the Nominating Commission than an investigation initiated by the person or entity that actually initiated it. Thus, whether or not Mr. O'Neill violated any federal law, I suggest that the making of the statement in the circumstances in which Mr. O'Neill made it calls into question the appropriateness of Mr. O'Neill's continued employment as an Assistant United States Attorney.

For a fuller discussion of this matter, including the likelihood that the fact that Mr. O'Neill made the false statement will become widely known, see [Addendum 7](#) to the [Robert E. O'Neill](#) profile. Addendum 6 to that item discusses my prior letter to you.<sup>2</sup>

Sincerely,

/s/ **James P. Scanlan**

James P. Scanlan

cc: The Honorable Eric Holder  
Attorney General

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<sup>2</sup> Because of the attention the issue it addresses is likely to receive, Addendum 7 is made directly accessible through the indicated link. Addendum 6 must be accessed in the larger profile document.