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July 5, 2010

Robert E. O'Neill, Esq.  
Chief, Criminal Division  
Office of the United States Attorney  
for the Middle District of Florida  
400 N. Tampa Street, Suite 3200  
Tampa, FL 33202

Re: Misrepresentation in Florida Federal Judicial Nominating Commission  
Application Regarding Origin of District of Columbia Bar Counsel  
Investigation of Your Conduct in *United States v. Dean*

Dear Mr. O'Neill:

In an [application](#)<sup>1</sup> for the position of United States Attorney for the Middle District of Florida that you submitted to the Florida Federal Judicial Nominating Commission on June 5, 2009, in response to a request for information concerning disciplinary matters, you provided the following entry (at 43):

(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 you know, among other reasons, because the circumstances of the initiation of the District of Columbia Bar Counsel investigation of your conduct in *United States v. Deborah Gore Dean* is stated clearly on the first page of the June 27, 1996 letter you referenced in the above entry, the

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<sup>1</sup> Underlinings of references in this letter indicate that active links to the references are available in an electronic copy of this letter that may be found by its date on the Letters sub-page of the Prosecutorial Misconduct page of jpscanlan.com.

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District of Columbia Bar Counsel investigation was not initiated by Deborah Gore Dean or anyone associated with her.

I first brought the matter of your misrepresenting the origin of the District of Columbia Bar Counsel investigation in the United States Attorney application to your attention by copying you on my [June 20, 2009 letter](#) to the Florida Federal Judicial Nominating Commission. Recently, I brought the matter again to your attention by copying you on my letters of June 14, 2010, and June 22, 2010, to Wallace E. Shipp, Jr., Esq., Bar Counsel for the Board of Professional Responsibility of the District of Columbia Court of Appeals. Further, I have lately addressed the misrepresentation with a variety of persons or entities and have generally sought to publicize the matter (as reflected and discussed in [Addendum 7](#) to the [Robert E. O'Neill profile](#) that I maintain on [jpscanlan.com](#)). Notable among the instances of raising the issue is a [June 28, 2010 letter](#) to Attorney General Eric Holder, which also addresses the likelihood that that you may have violated 18 U.S.C. § 1001 by making the misrepresentation in circumstances covered by that statute (an issue also addressed in the June 22, 2010 Shipp letter) and a [June 16, 2010 letter](#) to members of the Senate Judiciary Committee (which letter is also mentioned in the June 22, 2010 Shipp letter). Places where the matter is publicly treated apart from my web site include a June 23, 2010 item by me styled "[Curious United States Attorney Nomination for One of Nation's Busiest Districts](#)" on the site [truthinjustice.org](#), and a July 4, 2010 item by Paul Mirengoff styled "[A Nomination That Should Be Scrutinized Closely](#)" on the site [powerlineblog.com](#).

I express no view here on the plausibility of any assertion you might make to the effect that (a) you were unaware that the District of Columbia Bar Counsel investigation was not initiated by Ms. Dean at the time you stated that Ms. Dean initiated the investigation on your Florida Nominating Commission application and/or at other times that you may have made the same statement; (b) that you did not intentionally misrepresent the origin of the Bar Counsel investigation; (c) that the making of the misrepresentation ought not to disqualify you for the position of United States Attorney or from continued employment as an Assistant United States Attorney; or (d) that you did not make the misrepresentation in circumstances where doing so violated 18 U.S.C. § 1001. Rather, I merely wish to again call to your attention the fact that the statement that the District of Columbia Bar Counsel investigation was initiated by Ms. Dean is false and to suggest to you that, whatever points you might make in defending yourself on the matter, you have an obligation to alert various persons or entities that the statement is false and advise them of the identity of the person or entity that actually initiated the investigation and of what you know as to why that person or entity initiated the investigation. In providing such information, you should also provide information as to any other instances where you made the same or similar misrepresentations as to the origin of the District of Columbia Bar Counsel investigation.

Persons or entities to which you would seem obligated to provide such information include President Barack Obama, who was presumably unaware of the misrepresentation at the time he nominated you for the position of United States Attorney for the Middle District of Florida, and all Department of Justice officials who may have been involved in providing the President advice concerning your nomination. Such persons or entities would also include all persons whose support you have sought for the United States Attorney nomination or whom you understand to

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have supported your nomination. And, even though the Florida Federal Judicial Nominating Commission would seem no longer to have a role in the nomination process, you should advise the members of the Commission of the misrepresentation. Further, inasmuch as the making of the misrepresentation in the circumstances in which you made it also calls into question the appropriateness of your continued employment as an Assistant United States Attorney, I suggest that you have an obligation to inform your immediate superiors within the Office of the United States Attorney of the fact of the misrepresentation and all related circumstances.<sup>2</sup>

As suggested in [Addendum 7](#), I may at any time decide to disclose the identity of the person or entity that in fact initiated the Bar Counsel investigation, very likely posting a redacted version of the first page of the above-mentioned June 27, 1996 Bar Counsel letter when doing so. Please let me know if you have any objection to such disclosure.

Sincerely,

**/s/ James P. Scanlan**

James P. Scanlan

cc: Lee Bentley, Esq.  
First Assistant United States Attorney  
Middle District of Florida

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<sup>2</sup> By email of [June 15, 2009](#) (with copy to your immediate superior Lee Bentley, Esq., First Assistant United States Attorney), I previously advised you of your responsibility to inform your superiors in the Office of the United States Attorney and the Department of Justice, as well as persons whose support you were seeking for the United States Attorney nomination, of the existence of my published materials addressing your conduct in the *Dean* case and to provide such persons with a candid assessment of the accuracy of my descriptions and interpretations. If you have not previously complied with that advice, I suggest that it would be appropriate to do so in the course of addressing the matter of your misrepresentation as to the origin of the District of Columbia Bar Counsel investigation.