

THE COMMITTEE ON THE JUDICIARY
A Hearing on, *The IRS Targeting Scandal: The Need for a Special Counsel*
Wednesday, July 30, 2014, 10:00 a.m.
Room 2141, Rayburn House Office Building.

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The Dale E. Fowler School of Law

We celebrate an anniversary today. On July 30, 1974 — 40 years ago to the day — President Nixon released the White House tape recordings to comply with an order of the U.S. Supreme Court. Just one day earlier, the House Judiciary Committee approved Articles of Impeachment against the President. Article 2 dealt with “abuse of power.” The first count complained that the President *attempted* to use the Internal Revenue Service to harass his enemies.

(1) He has, acting personally and through his subordinated and agents, *endeavored to obtain from the Internal Revenue Service*, in violation of the constitutional rights of citizens, confidential information contained in income tax returns for purposes not authorized by law, and to cause, in violation of the constitutional rights of citizens, *income tax audits or other income tax investigation to be initiated or conducted in a discriminatory manner*. [Emphasis added.]¹

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<http://www.historyplace.com/unitedstates/impeachments/nixon.htm>

I remember the incident quite well because I was then assistant majority counsel to the Senate Watergate Select Committee.² Note that the charge was not that the President had caused the IRS to engage in discriminatory enforcement of the tax laws. No, the claim was that the President had tried, *unsuccessfully*, to do so.³

We all will agree that any claim that a federal official has ever *tried* to use the IRS to attack or harass those perceived to be political opponents is very serious, because it undercuts the faith that we have in an honest IRS. Our tax system is, to a great extent, voluntary: we report our income and list our deductions. When the people lose faith in the IRS as a nonpartisan agency, we are all the worse for that. Thus, we should all be happy if the President is correct when he assured us that there is “not even a smidgen of corruption” regarding Lois G. Lerner and the IRS targeting of Tea Party groups.⁴

The problem is that there are many suggestions of much more than a smidgen of corruption. We would like to know what was the basis for the President’s assurance that there is not a smidgen of corruption. What did the Department of Justice tell him that allowed him to represent to the American people that there is not a smidgen of corruption? We would not expect the President to plead Executive Privilege to the information he received because the point of him receiving it was to pass it on to the people, to all of us.⁵

² For your information, I am attaching a copy of my latest resume at the end of this testimony.

³ See, e.g., the discussion, in JOHN W. DEAN, *BLIND AMBITION — UPDATED EDITION: THE END OF THE STORY* 22-24, 132-33 304 n. * (2009).

⁴ E.g., <http://www.forbes.com/sites/robertwood/2014/06/14/dear-mr-president-is-there-a-smidgen-of-corruption-in-irs-lost-lerner-emails/> ; <http://thehill.com/policy/finance/197224-obama-not-a-smidgen-of-corruption-behind-irs-targeting> ; <http://www.foxnews.com/politics/2014/02/03/not-even-smidgen-corruption-obama-downplays-irs-other-scandals/> . The President acknowledged that the then-IRS Commissioner Doug Shulman visited the White House more than 100 times but said he could not recall speaking to him on any of these occasions.

⁵ One cannot plead attorney client privilege when the client (the President) asks the lawyer (the Department of Justice) to evaluate information (the Lois Lerner controversy) so that the client can rely on that evaluation to assuage or satisfy the concerns of third parties (e.g. Congress, the American People). E.g., RONALD D. ROTUNDA & JOHN S. DZIENKOWSKI, *LEGAL Footnote continued on next page.*

Yet, information is not forthcoming. We know, for example, that —

- Ms. Lerner pled the Fifth Amendment and refused to testify before Congress, oddly enough just *after* assuring us, under oath, that she did nothing wrong and had no need to plead the Fifth Amendment.
- The Department of Justice (DOJ) interviewed her about these most serious allegations, but DOJ has, oddly enough, not disclosed the content of her interview — although doing so could support the President’s claim that there is not a “smidgen of corruption” if she really did nothing wrong.
- Since February of 2010 (about nine months before the elections of 2010), The IRS began targeting conservative nonprofit groups for enhanced scrutiny when they filed their routine application for tax-exempt status.
- The IRS focused on groups with “Tea Party” in their name, and on February 1, 2011, Lois G. Lerner wrote that the “Tea Party matter [was] very dangerous.”⁶
- Months *after* the President assured us that there is not a “smidgen of corruption,” the Inspector General for Tax Administration (IG) issued an audit report that concluded that the IRS “systematically” used “Inappropriate Criteria” to “Identify Tax-Exempt Applications for Review.”

ETHICS: THE LAWYER’S DESKBOOK ON PROFESSIONAL RESPONSIBILITY §§ 2.3-1, 2.3-2, & 2.3-3 (ABA, West-Reuters 2014-2014 edition); Proposed Federal Rule of Evidence 503(b)(4); RESTATEMENT OF THE LAW GOVERNING LAWYERS, Third §§ 70, 71, & Comment *d* (ALI 2000). By analogy, whatever the extent of Executive Privilege, it should not apply to information that the President has publicly disclosed. *See also, e.g.*, RONALD D. ROTUNDA & JOHN S. DZIENKOWSKI, *supra*, at § 1.6-2-2(a): “The client may inadvertently lose the attorney-client evidentiary privilege. For example, if the client voluntarily reveals a portion of his privileged communications, courts typically find that he may not withhold the remainder.”

⁶ I do not mean to suggest that the abuse of the IRS powers is limited to Tea Party groups. We recently learned, from an email, that Ms. Learner was also interested in using IRS powers against Senator Charles E. Grassley (Republican, Iowa). Any IRS investigation can be very onerous, although the targeted taxpayer has done nothing wrong. The IRS can demand records going back many years. The taxpayer may not respond to the IRS in the way that the IRS has responded, by announcing, belatedly, that it has “accidentally” destroyed relevant documents.

- Nonetheless, on March 22, 2012, IRS Commissioner Douglas Shulman assured the House Ways and Means Committee that “I can give you assurances * * * [t]here is absolutely no targeting” of Tea Party groups applying for tax-exempt status.
- On May 15, 2013, the President called the IRS’s targeting “inexcusable,” yet on February 2, 2014, he represented that there was “not even a smidgen of corruption” in connection with the IRS targeting activity, but did not explain what information caused him to change his mind.
- Many emails and other forms of electronic communication related to the Lois Lerner matter have disappeared, or perhaps not disappeared — the IRS has not been completely and promptly forthcoming on this issue. The emails that the IRS belatedly said are “lost” just happen to fall within the time frame from January 1, 2009 and April 2011, the period that is directly relevant.⁷
- Last month, the IRS agreed to pay \$50,000⁸ for the illegal disclosure of tax return information — “leaking” the 2008 tax return and list of major donors of the National Organization for Marriage [NOM] to an activist who turned over that tax data to NOM’s adversary, the Human Rights Campaign. The President of that organization just happened to be the national Co-Chair of President Obama’s Reelection Campaign.⁹ This

⁷ Of course, the Special Counsel would also want to subpoena all the most recent emails in order to determine how present IRS officials responded to the disclosure of the IRS illegal targeting.

⁸ *E.g., IRS Admits Wrongdoing, to Pay \$50,000 in Leaking of Marriage Group’s Tax Return*, <http://dailysignal.com/2014/06/24/irs-admits-wrongdoing-pay-50000-leaking-marriage-groups-tax-return/> (June 24, 2014).

⁹ In testimony on June 4, 2013, John Eastman, who is Chairman of the Board, of the National Organization for Marriage and also Professor of Law at Chapman University’s Dale E. Fowler School of Law, testified:

March 30, 2012, NOM became aware that its confidential tax information—specifically, its 2008 Form 990 Schedule B—had been obtained by the Human Rights Campaign (“HRC”)—NOM’s principal opponent in the political battles over the redefinition of marriage—published on its website, and republished on numerous other websites such as the Huffington Post.

relationship shows an obvious conflict of interest, when lawyers supporting the President are ultimately in charge of the investigation that involves the national Co-Chair of President Obama's Reelection Campaign.

- When NOM deposed this activist who received the confidential IRS tax information, he (like Ms. Lerner) pled the Fifth Amendment. The DOJ indicated that it would not be filing any charges against this person. Hence, NOM asked the DOJ to give him immunity. That would force him to testify but not compromise any criminal investigation against him because the DOJ said it would not be filing charges. Inexplicably, the DOJ refused to grant him immunity.¹⁰ That decision appears to place the DOJ in a conflict between its job to find out what happened and a conflicting interest in not finding out what happened.

As we know, there is no longer a special statute that provides for a Special Prosecutor or Independent Counsel. However, the Attorney General does not need a statute in order to appoint a Special Counsel. There was a Special Counsel in the Teapot Dome scandal although there was no statutory authorization. Similarly, there was no statutory authorization for the appointment of a Special Counsel in the Watergate affair.

What we have now, as in the case of Watergate, is a regulation. We find the relevant regulations in Code of Federal Regulations, Title 28: Judicial Administration, Chapter VI. Offices of Independent Counsel, Department of Justice, Part 600, *General Powers of Special Counsel*. In particular, we look at 28 C.F.R. § 600.1. It provides:

The Attorney General, or in cases in which the Attorney General is recused, the Acting Attorney General, will appoint a Special Counsel when he or she determines *that criminal investigation of a person or matter is warranted* and--

- (a) That investigation or prosecution of that person or matter by a United States Attorney's Office or litigating Division of the

Committee on Ways and Means, U.S. House of Representatives, Hearing on Internal Revenue Service Targeting of Non-Profit Entities Because of their Political Views, June 4, 2013, testimony of Dr. John C. Eastman.

¹⁰ <http://www.powerlineblog.com/archives/2014/06/crimes-of-the-irs-john-eastman-comments.php>

Department of Justice would present *a conflict of interest* for the Department *or* other *extraordinary circumstances*; and

(b) That under the circumstances, it would be *in the public interest* to appoint an outside Special Counsel to assume responsibility for the matter.

The Attorney General has already determined that there should be a criminal investigation. We also know that the Department of Justice is in a *conflict of interest* in continuing that investigation, because the President has compromised it. That occurred when the President (the chief law enforcement officer of the United States) announced last February that there has not been a “smidgen of corruption” even though neither he nor the Department of Justice could have examined all the evidence, in particular the emails and other electronic information. The Attorney General and all top officials of the Department of Justice serve at the pleasure of the President. They are in a conflict because any impartial investigation could serve to undercut the representation and solemn assurance of the President that there is not a smidgen or hint of any IRS corruption in the Lois Lerner affair. The Department of Justice is also in a conflict because an impartial investigator will have to determine if DOJ lawyers were aiding Mr. Lerner in a cover-up of the IRS targeting scandal when they interviewed her after she pled the Fifth Amendment. We cannot expect the DOJ to impartially investigate itself.

We also know that the present circumstances are extraordinary. Emails disappear. IRS backup disks are destroyed, while the IRS is involved in litigation where those backup disks are relevant. The IRS does not appear to keep the records that the law requires it to keep. The President assures the American People that there this is no hint, “not a smidgen of corruption,” although the DOJ has not yet completed its purported investigation. The Attorney General and other lawyers in charge of the investigation are political supporters of the President, raising another conflict under the Washington, D.C. Rules of Professional Conduct governing lawyers.¹¹

¹¹ Washington D.C. Rules of Professional Conduct: Rule 1.7(b)(4), explaining that there is a conflict if —

The lawyer’s professional judgment on behalf of the client will be or reasonably *may be* adversely affected by the lawyer’s responsibilities to or interests in a third party or the lawyer’s own financial, business, property, or *personal interests*. [Emphasis added]

We also know that there most certainly is the *appearance of a conflict* of interest¹² when lawyers within the Department of Justice who are supporters of the President are ultimately in charge of the investigation that involves the national Co-Chair of President Obama's Reelection Campaign. There is also a conflict because the President appears to have undermined any DOJ investigation by announcing the conclusion before the investigation was complete. Let me put the matter in another way: if the DOJ and the Attorney General wanted to hide the evidence that one or more Administration officials used the IRS to harass opponents, they would act exactly the way they are acting now.

The Attorney General can restore America's faith in the nonpartisanship of the Internal Revenue Service by fulfilling his duties under §600.1. He should appoint a Special Counsel. The Counsel should probably be a prominent Republican. Recall that during the Watergate controversy, the Attorney General appointed a prominent Democrat, first Archibald Cox and then Leon Jaworski. If a Democrat had given Nixon a clean bill of health, the people would have believed it. Similarly, if now, the Attorney General appoints a Republican to investigate the misuse of the IRS, and if that Republican finds not a smidgen of corruption, the people will believe that. If, on the other hand, the Special Counsel finds corruption and a cover-up, well, let the chips fall where they may.

Granted, this Special Counsel regulation is not a statute, but it is still the law. As the Supreme Court explained in *United States v. Nixon*, 418 U.S. 683, 695, 94 S. Ct. 3090, 3101, 41 L. Ed. 2d 1039 (1974),¹³ when referring to the regulations that governed the Attorney General's appointment of a Special Counsel: "So long as this regulation is extant it has the force of law." The Court went on to discuss the most analogous precedent:

In *United States ex rel. Accardi v. Shaughnessy*, 347 U.S. 260, 74 S.Ct. 499, 98 L.Ed. 681 (1954), regulations of the Attorney General delegated certain of his discretionary powers to the Board of Immigration Appeals and required that Board to exercise its own discretion on appeals in deportation cases. The Court held that **so long as the Attorney General's regulations remained operative, he denied himself the authority to exercise the**

¹² See also, Eliana Johnson, *Defending the IRS: A Man Who Once Worked for Lois Lerner Is Representing the Agency in Court*, <http://www.nationalreview.com/article/383336/defending-irs-eliana-johnson> (July 22, 2014).

¹³ See discussion in 2 RONALD D. ROTUNDA & JOHN E. NOWAK, TREATISE ON CONSTITUTIONAL LAW: SUBSTANCE AND PROCEDURE § 9.6(e) (West Thomson Reuters, 5th ed. 2012 (6-volume Treatise)).

discretion delegated to the Board even though the original authority was his and he could reassert it by amending the regulations. *Service v. Dulles*, 354 U.S. 363, 388, 77 S.Ct. 1152, 1165, 1 L.Ed.2d 1403 (1957), and *Vitarelli v. Seaton*, 359 U.S. 535, 79 S.Ct. 968, 3 L.Ed.2d 1012 (1959), reaffirmed the basic holding of *Accardi*.

United States v. Nixon, 418 U.S. 683, 695-96, 94 S. Ct. 3090, 3101, 41 L. Ed. 2d 1039 (1974) (bold emphasis added).

Government officials require us to turn square corners with dealing with them. They should turn square corners when they deal with us. The Attorney General should follow his own regulations, because by those regulations he denied himself the authority to exercise discretion to refuse to appoint a Special Counsel.

RESUME

July 25, 2014

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Experience:

Since August, 2008	DOY & DEE HENLEY CHAIR AND DISTINGUISHED PROFESSOR OF JURISPRUDENCE, CHAPMAN UNIVERSITY
June 17, 2009 – Jan. 31, 2013	COMMISSIONER, Fair Political Practices Commission a regulatory body of the State of California,
2006- August 2008	UNIVERSITY PROFESSOR AND PROFESSOR OF LAW, George Mason University
2002-2006	THE GEORGE MASON UNIVERSITY FOUNDATION PROFESSOR OF LAW, George Mason University School of Law
Nov. to Dec. 2002	Visiting Scholar, Katholieke Universiteit Leuven, Faculty of Law, Leuven, Belgium
May 2004	Visiting Lecturer, The Institute for Law and Economics, Institut für Recht und Ökonomik, The University of Hamburg, Germany
June 2004-May 2005	Special Counsel to Department of Defense, The Pentagon
December 2005	Visiting Lecturer, The Institute for Law and Economics, Institut für Recht und Ökonomik, The University of Hamburg, Germany

1993 - 2002	THE ALBERT E. JENNER, JR. PROFESSOR OF LAW, University of Illinois College of Law
Since 2002	THE ALBERT E. JENNER, JR. PROFESSOR OF LAW, EMERITUS, University of Illinois College of Law
Fall, 2001	Visiting Professor, George Mason University School of Law
Spring & Fall 2000	Cato Institute, Washington, D.C.; Senior Fellow in Constitutional Studies [Senior Fellow in Constitutional Studies, 2001-2009]
Spring, 1999	Visiting Professor, holding the JOHN S. STONE ENDOWED CHAIR OF LAW, University of Alabama School of Law
August 1980 - 1992	Professor of Law, University of Illinois College of Law
March 1986	Fulbright Professor, Maracaibo and Caracas, Venezuela, under the auspices of the Embassy of the United States and the Catholic University Andres Bello
January – June, 1981	Fulbright Research Scholar, Italy
Spring 1981	Visiting Professor of Law, European University Institute, Florence, Italy
August 1977 – August, 1980	Associate Professor of Law, University of Illinois College of Law
August 1974 – August 1977	Assistant Professor of Law, University of Illinois College of Law
April 1973 - July 1974	Assistant Counsel, U.S. Senate Select Committee on Presidential Campaign Activities
July 1971 - April, 1973	Associate, Wilmer, Cutler & Pickering Washington, DC
August 1970 – July 1971	Law Clerk to Judge Walter R. Mansfield, Second Circuit, New York, N.Y.

Education:

Legal: HARVARD LAW SCHOOL (1967- 1970)
Harvard Law Review, volumes 82 & 83
J.D., 1970 Magna Cum Laude

College: HARVARD COLLEGE (1963- 1967)

A.B., 1967 Magna Cum Laude in Government

Member:

American Law Institute (since 1977); Life Fellow of the American Bar Foundation (since 1989); Life Fellow of the Illinois Bar Foundation (since 1991); The Board of Editors, The Corporation Law Review (1978-1985); New York Bar (since 1971); Washington, D.C. Bar and D.C. District Court Bar (since 1971); Illinois Bar (since 1975); 2nd Circuit Bar (since 1971); Central District of Illinois (since 1990); 7th Circuit (since 1990); U.S. Supreme Court Bar (since 1974); 4th Circuit, since 2009. Member: American Bar Association, Washington, D.C. Bar Association, Illinois State Bar Association, Seventh Circuit Bar Association; The Multistate Professional Responsibility Examination Committee of the National Conference of Bar Examiners (1980-1987); AALS, Section on Professional Responsibility, Chairman Elect (1984-85), Chairman (1985-86); Who's Who In America (since 44th Ed.) and various other Who's Who; American Lawyer Media, L.P., National Board of Contributors (1990-2000). Best teacher selected by George Mason U. Law School Graduating Class of 2003.

Scholarly Influence and Honors:

Symposium, *Interpreting Legal Citations*, 29 JOURNAL OF LEGAL STUDIES (part 2) (U. Chicago Press, Jan. 2000), sought to determine the influence, productivity, and reputation of law professors. Under various measures, Professor Rotunda scored among the highest in the nation. *E.g.*, scholarly impact, most-cited law faculty in the United States, 17th (p. 470); reputation of judges, legal scholars, etc. on Internet, 34th (p. 331); scholar's non-scholarly reputation, 27th (p. 334); most influential legal treatises since 1978, 7th (p. 405).

In May 2000, *American Law Media*, publisher of *The American Lawyer*, the *National Law Journal*, and the *Legal Times*, picked Professor Rotunda as one of the ten most influential Illinois Lawyers. He was the only academic on the list. He was rated, in 2014, as one of ["The 30 Most Influential Constitutional Law Professors" in the United States](#).

- 2012, Honored with, THE CHAPMAN UNIVERSITY EXCELLENCE IN SCHOLARLY/CREATIVE WORK AWARD, 2011-2012.
- Appointed UNIVERSITY PROFESSOR, 2006, George Mason University; Appointed 2008, DOY & DEE HENLEY CHAIR AND DISTINGUISHED PROFESSOR OF JURISPRUDENCE, Chapman University.

- The 2002-2003 *New Educational Quality Ranking* of U.S. Law Schools (EQR) ranks Professor Rotunda as the eleventh most cited of all law faculty in the United States. See http://www.leiterrankings.com/faculty/2002faculty_impact_cites.shtml

- Selected UNIVERSITY SCHOLAR for 1996-1999, University of Illinois.
- 1989, Ross and Helen Workman Research Award.
- 1984, David C. Baum Memorial Research Award.
- 1984, National Institute for Dispute Resolution Award.
- Fall, 1980, appointed Associate, in the Center for Advanced Study, University of Illinois.

LIST OF PUBLICATIONS:

BOOKS:

PROBLEMS AND MATERIALS ON PROFESSIONAL RESPONSIBILITY (Foundation Press, Mineola, N.Y., 1976) (with Thomas D. Morgan).

CALIFORNIA SUPPLEMENT TO PROBLEMS AND MATERIALS ON PROFESSIONAL RESPONSIBILITY (Foundation Press, Mineola, N.Y., 1976) (with Thomas D. Morgan).

1978 SUPPLEMENT TO PROBLEMS AND MATERIALS ON PROFESSIONAL RESPONSIBILITY (Foundation Press, Mineola, N.Y., 1978) (with Thomas D. Morgan).

1979 PROBLEMS, CASES AND READINGS SUPPLEMENT TO PROBLEMS AND MATERIALS ON PROFESSIONAL RESPONSIBILITY (Foundation Press, Mineola, N.Y., 1979) (with Thomas D. Morgan).

1979 CALIFORNIA RULES SUPPLEMENT TO PROBLEMS AND MATERIALS ON PROFESSIONAL RESPONSIBILITY (Foundation Press, Mineola, N.Y., 1979) (with Thomas D. Morgan).

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CONSTITUTIONAL LAW (West Publishing Co., St. Paul, Minnesota, 1978) (a one volume treatise on Constitutional Law) (with John E. Nowak and J. Nelson Young).

1978 SUPPLEMENT TO CONSTITUTIONAL LAW (West Publishing Co., St. Paul, Minnesota, 1978) (with John E. Nowak and J. Nelson Young).

1979-1980 SUPPLEMENT TO CONSTITUTIONAL LAW (West Publishing Co., St. Paul, Minnesota, 1979) (with John E. Nowak and J. Nelson Young).

1982 SUPPLEMENT TO CONSTITUTIONAL LAW (West Publishing Co., St. Paul, Minnesota, 1982) (with John E. Nowak and J. Nelson Young).

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1983 STANDARDS SUPPLEMENT TO PROBLEMS AND MATERIALS ON PROFESSIONAL RESPONSIBILITY (Foundation Press, Mineola, N.Y., 1983) (with Thomas D. Morgan).

THE UNITED STATES FEDERAL SYSTEM: LEGAL INTEGRATION IN THE AMERICAN EXPERIENCE (Giuffrè, Milan, 1982) (with Peter Hay).

SIX JUSTICES ON CIVIL RIGHTS (Oceana Publications, Inc., Dobbs Ferry, N.Y., 1983) (edited and with introduction).

CONSTITUTIONAL LAW (West Publishing Co., St. Paul, Minnesota, 2d ed. 1983) (with John E. Nowak and J. Nelson Young) (a one volume treatise on Constitutional Law).

PROFESSIONAL RESPONSIBILITY (West Publishing Co., 1984, Black Letter Series).

PROBLEMS AND MATERIALS ON PROFESSIONAL RESPONSIBILITY (Foundation Press, Mineola, N.Y., 3d ed. 1984) (with Thomas D. Morgan).

1984 SELECTED STANDARDS ON PROFESSIONAL RESPONSIBILITY (Foundation Press, Mineola, N.Y. 1984) (with Thomas D. Morgan).

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THE POLITICS OF LANGUAGE: LIBERALISM AS WORD AND SYMBOL (University of Iowa Press, 1986) (with an Introduction by Daniel Schorr).

TREATISE ON CONSTITUTIONAL LAW: SUBSTANCE AND PROCEDURE (West Publishing Co., St. Paul, Minnesota, 1986) (*three volume treatise*) (with John E. Nowak and J. Nelson Young).

1987 POCKET PART TO TREATISE ON CONSTITUTIONAL LAW (West Publishing Co., 1987) (with John E. Nowak).

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Banning the Export of American Oil, VERDICT: LEGAL ANALYSIS AND COMMENTARY FROM JUSTIA, July 21, 2014, <http://verdict.justia.com/2014/07/21/banning-export-american-oil>

Other Activities:

March-April, 1984, Expert Witness for State of Nebraska on Legal Ethics at the Impeachment Trial of Nebraska Attorney General Paul L. Douglas (tried before the State Supreme Court; the first impeachment trial in nearly a century).

July 1985, Assistant Chief Counsel, State of Alaska, Senate Impeachment Inquiry of Governor William Sheffield, (presented before the Alaskan Senate).

Speaker at various ABA sponsored conferences on Legal Ethics; Speaker at AALS workshop on Legal Ethics; Speaker on ABA videotape series, "Dilemmas in Legal Ethics."

Interviewed at various times on Radio and Television shows, such as MacNeil/Lehrer News Hour, Firing Line, CNN News, CNN Burden of Proof, ABC's Nightline, National Public Radio, News Hour with Jim Lehrer, Fox News, etc.

1985--1986, Reporter for Illinois Judicial Conference, Committee on Judicial Ethics.

1981-1986, Radio commentator (weekly comments on legal issues in the news), WILL-AM Public Radio.

1986-87, Reporter of Illinois State Bar Association Committee on Professionalism.

1987-2000, Member of Consultant Group of American Law Institute's RESTATEMENT OF THE LAW GOVERNING LAWYERS.

1986-1994, Consultant, Administrative Conference of the United States (on various issues relating to conflicts of interest and legal ethics).

1989-1992, Member, Bar Admissions Committee of the Association of American Law Schools.

1990-1991, Member, Joint Illinois State Bar Association & Chicago Bar Association Committee on Professional Conduct.

1991-1997, Member, American Bar Association Standing Committee on Professional Discipline.

CHAIR, Subcommittee on Model Rules Review (1992-1997). [The subcommittee that I chaired drafted the MODEL RULES FOR LAWYER DISCIPLINARY ENFORCEMENT that the ABA House of Delegates approved on August 11, 1993.]

1992, Member, Illinois State Bar Association [ISBA] Special Committee on Professionalism; CHAIR, Subcommittee on Celebration of the Legal Profession.

Spring 1993, Constitutional Law Adviser, SUPREME NATIONAL COUNCIL OF CAMBODIA. I

traveled to Cambodia and worked with officials of UNTAC (the United Nations Transitional Authority in Cambodia) and Cambodian political leaders, who were charged with drafting a new Constitution to govern that nation after the United Nations troop withdrawal.

1994-1997, LIAISON, ABA Standing Committee on Ethics and Professional Responsibility.

1994-1996, Member, Illinois State Bar Association [ISBA] Standing Committee on the Attorney Registration and Disciplinary Commission.

Winter 1996, Constitutional Law Adviser, SUPREME CONSTITUTIONAL COURT OF MOLDOVA.

Under the auspices of the United States Agency for International Development, I consulted with the six-member Supreme Constitutional Court of Moldova in connection with that Court's efforts to create an independent judiciary. The Court came into existence on January 1, 1996.

Spring 1996, Consultant, CHAMBER OF ADVOCATES, of the CZECH REPUBLIC.

Under the auspices of the United States Agency for International Development, I spent the month of May 1996, in Prague, drafting Rules of Professional Responsibility for all lawyers in the Czech Republic. I also drafted the first Bar Examination on Professional Responsibility, and consulted with the Czech Supreme Court in connection with the Court's proposed Rules of Judicial Ethics and the efforts of the Court to create an independent judiciary.

Consulted with (and traveled to) various countries on constitutional and judicial issues (*e.g.*, Romania, Moldova, Ukraine, Cambodia) in connection with their move to democracy.

1997-1999, Special Counsel, Office of Independent Counsel (Whitewater Investigation).

Lecturer on issues relating to Constitutional Law, Federalism, Nation-Building, and the Legal Profession, throughout the United States as well as Canada, Cambodia, Czech Republic, England, Italy, Mexico, Moldova, Romania, Scotland, Turkey, Ukraine, and Venezuela.

1998-2002, Member, ADVISORY COUNCIL TO ETHICS 2000, the ABA Commission considering revisions to the ABA Model Rules of Professional Conduct.

2000-2002, Member, ADVISORY BOARD TO THE INTERNATIONAL BROTHERHOOD OF TEAMSTERS (This Board was charged with removing any remaining vestiges of organized crime to influence the Union, its officers, or its members.) This Board was part of "Project RISE" ("Respect, Integrity, Strength, Ethics").

2001-2008, Member, Editorial Board, CATO SUPREME COURT REVIEW.

2005-2006, Member of the Task Force on Judicial Functions of the Commission on Virginia Courts in the 21st Century: To Benefit All, to Exclude None

July, 2007, Riga, Latvia, International Judicial Conference hosted by the United States Embassy, the Supreme Court of Latvia, and the Latvian Ministry of Justice. I was one of the main speakers along with Justice Samuel Alito, the President of Latvia, the Prime Minister of Latvia, the Chief Justice of Latvia, and the Minister of Justice of Latvia

Since 1994, Member, Publications Board of the ABA Center for Professional Responsibility; vice chair, 1997-2001.

Since 1996, Member, Executive Committee of the Professional Responsibility, Legal Ethics & Legal Education Practice Group of the Federalist Society; Chair-elect, 1999; Chair, 2000

Since 2003, Member, Advisory Board, the Center for Judicial Process, an interdisciplinary research center (an interdisciplinary research center connected to Albany Law School studying courts and judges)

Since 2012, *Distinguished International Research Fellow* at the World Engagement Institute, a non-profit, multidisciplinary and academically-based non-governmental organization with the mission to facilitate professional global engagement for international development and poverty reduction, <http://www.weinstitute.org/fellows.html>

Since 2014, *Associate Editor* of the Editorial Board, THE INTERNATIONAL JOURNAL OF SUSTAINABLE HUMAN SECURITY (IJSHS), a peer-reviewed publication of the World Engagement Institute (WEI)

Since 2014, Member, Board of Directors of the Harvard Law School Association of Orange County

Since 2014, Member, Editorial Board of THE JOURNAL OF LEGAL EDUCATION (2014 to 2016).