

December 2, 2003

BY HAND DELIVERY

The Honorable George V. Voinovich, Chairman
The Honorable Harry Reid, Vice Chairman
The Honorable Daniel Akaka
The Honorable Blanche Lincoln
The Honorable Pat Roberts
The Honorable Craig Thomas
United States Senate Select Committee on Ethics
220 Hart Senate Office Building
Washington, DC 20510

Re: Ethics Complaint Against Senator Richard Durbin of Illinois

Dear Senators:

Judicial Watch, Inc. (hereinafter “Judicial Watch”) is a nonprofit, nonpartisan public interest group that investigates and prosecutes government corruption. Judicial Watch, in the interests of the American public, hereby files this formal complaint, under the provisions of the Senate Ethics Manual, Appendix C (Rules of Procedure, Senate Ethics Committee), Part II (Supplementary Procedural Rules), Rule 2 (Procedures for Complaints, Allegations or Information), against Senator Richard Durbin of Illinois for improper conduct reflecting upon the U.S. Senate and the general principles of public service (See Senate Ethics Manual, Appendix E).

According to reports in *The Wall Street Journal* and *The Washington Times*, Senator Durbin and members of his staff, acting as Senator Durbin’s agents, improperly developed and engaged in a racially-motivated scheme to obstruct the confirmation of judges at the behest of political interest groups.

Senator Durbin and his agents coordinated a scheme with the leadership of political pressure groups such as: People For the American Way, NARAL, Alliance for Justice, Leadership Conference on Civil Rights, NAACP Legal Defense & Education Fund, American Association of University Women, National Women's Law Center, and the National Partnership. Senator Durbin, his agents and the pressure groups targeted judicial nominees that they felt were “vulnerable,” and whose confirmations could be

United States Senate Select Committee on Ethics

December 2, 2003

Page 2 of 3

stalled until a time when “the public will be more tolerant of partisan dissent.”¹ Senator Durbin took instructions from the political activists and then, together with his agents, manipulated the judicial confirmation process to achieve his racially-motivated and partisan political goals.

Senator Durbin’s memorandum identified Miguel Estrada (D.C. Circuit nominee) as “**especially dangerous, because** he has a minimal paper trail, **he is Latino**, and the White House seems to be grooming him for a Supreme Court appointment. They want to hold Estrada off as long as possible.”² [Emphasis added.] On September 4, 2003, Mr. Estrada withdrew his name from consideration for confirmation following two years of delaying tactics by Senator Durbin, his agents and their allies. Senator Durbin’s actions were ratification of his agents’ memorandum memorializing the racially-motivated scheme.

Denying confirmation to a judicial nominee because of his ethnicity is an outrageous act that brings enormous disgrace upon Senator Durbin and the U.S. Senate. Senator Trent Lott received much criticism and was forced to resign a Majority Leader for making remarks perceived as racially insensitive. The smoking gun memorandum shows Senator Durbin improperly denied a nominee access to the confirmation process based on that nominee’s ethnicity. Senator Durbin’s actions, and those of his agents must be investigated by the Committee and appropriate punishment must be meted out for this injustice.

Senator Durbin’s opposing Mr. Estrada because he is a Latino raises the specter of his also opposing California Supreme Court Justice Janice Rogers Brown because she is black.

Senator Durbin’s racially-motivated actions and those of his agents to prevent the confirmation of Mr. Estrada bring enormous discredit upon both the Senator and the U.S. Senate. Senator Durbin has compromised his integrity, violated his oath of office, may have violated the law, and undermined the trust and confidence of the American people in their government and the U.S. Senate.

Consequently, Judicial Watch hereby files this formal complaint against Senator Richard Durbin of Illinois for improper conduct reflecting upon the U.S. Senate and the general principles of public service. Further, we request that the U.S. Senate Select Committee on Ethics conduct an investigation of the matters presented in this complaint and, based upon its findings, take appropriate action under Senate rules.

¹ Review & Outlook, “‘He is Latino’,” *Wall Street Journal*, November 14, 2003.

² Id.

