Dear Chairman Graham and Ranking Member Feinstein:

I write to offer a brief explanation of the ABA Standing Committee on the Federal Judiciary’s “Not Qualified” rating for Justin R. Walker. Our rating is based on the Standing Committee’s criteria as set forth in the Backgrounder. The Standing Committee believes that Mr. Walker does not presently have the requisite trial or litigation experience or its equivalent. I would like to point out that based on its peer review, the Standing Committee does not have any questions about Mr. Walker’s temperament or integrity. There were no issues raised by any of his peers with respect to these two criteria. Further, although Mr. Walker does not at this point have the requisite experience, the Standing Committee believes Mr. Walker has great potential to serve as a federal judge.

The Backgrounder explains that a nominee to the federal bench ordinarily should have at least 12 years’ experience in the practice of law. This 12-year experience guideline is neither a hard-and-fast rule nor an automatic disqualifier. The Standing Committee’s criteria provide that a nominee’s limited experience may be offset by the breadth and depth of the nominee’s experience over the course of his or her career. Nominees with less than 12 years at the bar, but with substantial trial or courtroom experience and/or compensating accomplishments in the field of law, can and have been found qualified by our Committee. However, Mr. Walker’s experience to date has a very substantial gap, namely the absence of any significant trial experience. Mr. Walker has never tried a case as lead or co-counsel, whether civil or criminal. His recent co-counsel experience in a criminal pro bono case tried in the Western District of Kentucky did not include performance of any duties in the courtroom due to the Court’s rules prohibiting the appointment of two attorneys to try the case. In addition, based on review of his biographical information and conversations with Mr. Walker, it was challenging to determine how much of his ten years since graduation from law school has been spent in the practice of law. Even crediting the time spent in judicial clerkships, Mr. Walker’s practice experience is less than his 10 years since graduation and significantly less than the 12 years of legal practice experience stated in our criteria.
The Standing Committee believes that a nominee should be professionally competent to manage and resolve the many diverse matters facing a federal judge on a daily basis. The accumulation of experience and legal knowledge that is acquired by a practicing lawyer both inside and outside of the courtroom prepares a lawyer over time to handle a broad spectrum of legal issues in a wide variety of subject matters and to manage a courtroom over which he or she will preside as a judge. The judicial system, the public, the trial bar, and the nominee are not well served by appointing to the bench a lawyer who lacks adequate experience.

While we respect the distinguished clerkships for which Mr. Walker was selected following graduation from law school and his current academic experience, his legal practice to date does not compensate for the short time the nominee has practiced law and/or his lack of substantial courtroom experience. It is the Standing Committee’s judgment at the present time that Mr. Walker does not meet the minimum professional competence standard necessary to perform the responsibilities required by the high office of a federal district court judge.

Thank you for the opportunity to provide this explanation of the Standing Committee’s rating of Mr. Walker.

Sincerely,

Paul T. Moxley

PTM/mc

cc: Justin R. Walker, Esq. (via e-mail and U.S. Mail)  
Pat A. Cipollone, Esq. (via e-mail only)  
Lola A. Kingo, Chief Nominations Counsel, Office of Legal Policy, U.S. Department of Justice (via e-mail only)  
ABA Standing Committee on the Federal Judiciary (via e-mail only)  
Denise A. Cardman, ABA Standing Committee on the Federal Judiciary, Staff Counsel (via e-mail only)