

**II. FINANCIAL DATA AND CONFLICT OF INTEREST (PUBLIC)**

1. List sources, amounts and dates of all anticipated receipts from deferred income arrangements, stock, options, uncompleted contracts and other future benefits which you expect to derive from previous business relationships, professional services, firm memberships, former employers, clients, or customers. Please describe the arrangements you have made to be compensated in the future for any financial or business interest.

None.

2. Explain how you will resolve any potential conflict of interest, including the procedure you will follow in determining these areas of concern. Identify the categories of litigation and financial arrangements that are likely to present potential conflicts-of-interest during your initial service in the position to which you have been nominated.

I would adhere to the applicable standards for disqualifications, including Canon 3C of the Code of Judicial Conduct, 18 U.S.C. 207, and related regulations. I would adhere to Canon 5 to minimize the risk of future conflicts.

I do not believe that conflicts of interest relating to my financial interests are likely to arise. I would, however, disqualify myself from any cases involving the Vanguard companies, the brokerage firm of Smith Barney, or the First Federal Savings & Loan of Rochester, New York.

I would disqualify myself from any case involving my sister's law firm, Carpenter, Bennett & Morrissey, of Newark, New Jersey.

I would disqualify myself from any case in which I participated or that was under my supervision in the United States Attorney's Office or in any prior position.

3. Do you have any plans, commitments, or agreements to pursue outside employment, with or without compensation, during your service with the court? If so, explain.

None.

4. List sources and amounts of all income received during the calendar year preceding your nomination and for the current calendar year, including all salaries, fees, dividends, interest, gifts, rents, royalties, patents, honoraria, and other items exceeding \$500 or more (If you prefer to do so, copies of the financial disclosure report, required by the Ethics in Government Act of 1978, may be substituted here.)

Copies of my financial disclosure reports filed in 1989 and 1988 are attached.

5. Please complete the attached financial net worth statement in detail (Add schedules as called for).

Statement attached.

6. Have you ever held a position or played a role in a political campaign? If so, please identify the particulars of the campaign, including the candidate, dates of the campaign, your title and responsibilities.

No.

### III. GENERAL (PUBLIC)

1. An ethical consideration under Canon 2 of the American Bar Association's Code of Professional Responsibility calls for "every lawyer, regardless of professional prominence or professional workload, to find some time to participate in serving the disadvantaged." Describe what you have done to fulfill these responsibilities, listing specific instances and the amount of time devoted to each.

Because I have been a Department of Justice attorney for virtually my entire professional career, I have been restricted by federal regulation (28 C.F.R. 45.735-9) with respect to outside pro bono work. I believe, however, that employment as a government attorney is a form of public service.

While in law school, I worked one summer for the New Jersey Public Defender in Trenton.

2. The American Bar Association's Commentary to its Code of Judicial Conduct states that it is inappropriate for a judge to hold membership in any organization that invidiously discriminates on the basis of race, sex, or religion. Do you currently belong, or have you belonged, to any organization which discriminates -- through either formal membership requirements or the practical implementation of membership policies? If so, list, with dates of membership. What have you done to try to change these policies?

I have never belonged to any such organization.

3. Is there a selection commission in your jurisdiction to recommend candidates for nomination to the federal courts? If so, did it recommend your nomination? Please describe your experience in the entire judicial selection process, from beginning to end (including the circumstances which led to your nomination and interviews in which you participated).

To my knowledge, there is no selection commission in New Jersey.

I believe that I was recommended to the Justice Department by attorneys familiar with my work. I also personally discussed my interest in a judgeship with Department officials. I was interviewed by officials from the Department of Justice, and I completed documents for the Federal Bureau of Investigation and the American Bar Association.

4. Has anyone involved in the process of selecting you as a judicial nominee discussed with you any specific case, legal issue or question in a manner that could reasonably be interpreted as asking how you would rule on such case, issue, or question? If so, please explain fully.

No such discussion occurred.

5. Please discuss your views on the following criticism involving "judicial activism."

The role of the Federal judiciary within the Federal government, and within society generally, has become the subject of increasing controversy in recent years. It has become the target of both popular and academic criticism that alleges that the judicial branch has usurped many of the prerogatives of other branches and levels of government.

Some of the characteristics of this "judicial activism" have been said to include:

- a. A tendency by the judiciary toward problem-solution rather than grievance-resolution;
- b. A tendency by the judiciary to employ the individual plaintiff as a vehicle for the imposition of far-reaching orders extending to broad classes of individuals;
- c. A tendency by the judiciary to impose broad, affirmative duties upon governments and society;
- d. A tendency by the judiciary toward loosening jurisdictional requirements such as standing and ripeness; and
- e. A tendency by the judiciary to impose itself upon other institutions in the manner of an administrator with continuing oversight responsibilities.

Under our constitutional system, the federal judiciary has critical responsibilities, including the preservation of individual rights, which it must not hesitate to discharge despite popular or academic criticism. In fulfilling these responsibilities in cases properly brought in the federal courts, the judiciary should make appropriate use of sanctioned remedies.

At the same time, however, the judiciary should be careful not to usurp the rightful powers of the other branches of the federal government or those of the states and their subdivisions, for ultimately the separation and distribution of government powers is one of the most important safeguards of freedom under our Constitution. One of the ways in which the Constitution seeks to confine federal courts to their proper sphere is by limiting their jurisdiction and by restricting the judicial power to actual "cases" and "controversies" (Art. III, sec. 2). Accordingly, as the Supreme Court has pointed out, federal courts must faithfully respect the limits of their jurisdiction and must heed the doctrines of standing and ripeness, which are rooted in vital Article III concerns.

While courts should use all proper judicial remedies to correct violations of law, the courts must ensure that they do not step over the line into the fields of lawmaking or governmental administration, where the judiciary generally lacks both authority and expertise. Courts are well suited to decide the particular cases that come before them, but they cannot match the ability of legislative bodies to gather facts or frame comprehensive rules of law regulating complex activities. Similarly, courts cannot equal the resources or expertise generally employed by executive agencies in administering large governmental facilities or programs for extended periods of time.

In sum, our system of government works best when the federal judiciary -- and indeed, all three branches -- resist the temptation to extend their powers beyond their intended spheres.

**AFFIDAVIT**

I, SAMUEL A. ALITO, JR., do swear that the information provided in this statement is, to the best of my knowledge, true and accurate.

Feb. 21, 1990

(DATE)

Sam A Alito, Jr

(NAME)

Elvira Sisto

(NOTARY)

**ELVIRA SISTO**  
NOTARY PUBLIC OF NEW JERSEY  
My Commission Expires Dec. 7, 1991



SCHEDULES

U.S. Govt. Securities Series EE Bonds	\$ 40,300.
Listed securities	
N.J. Health Care Facilities Bonds	\$ 10,100.
N.J. Housing Finance Authority Bonds	10,100.
Real estate	
Residence at 14 Seymour Street Caldwell, N.J.	\$ 305,000.
Other assets	
Tax Exempt Sec. Trust Series 108	\$ 13,700.
Vanguard Municipal Bond Funds	
Money Market	\$ 34,300.
Intermediate Term	\$ 4,700.
Insured Long Term	\$ 17,100.
Vanguard Wellington Mutual Fund	\$ 20,100.
Vanguard Star Fund	\$ 5,500.
National Liquid Reserves Cash Portfolio	\$ 1,900.
Real estate mortgage	
On residence; held by First Federal Savings and Loan of Rochester, N.Y.	\$ 202,400.