Statement of Rabbi Dale Polakoff,

President

Rabbinical Council of America

Mr. Chairman, Ranking Minority Member Leahy and other distinguished members of the Committee, good afternoon and thank you for inviting me to participate in this hearing. I represent before you the Rabbinical Council of America, an organization established in 1935 to advance the cause and the voice of Orthodox Judaism and the rabbinic tradition. Membership in the RCA is held by close to 1000 ordained rabbis, and includes congregational rabbis, teachers and academicians, military chaplains (some of whom serve today in Iraq, Afghanistan and other areas of the world), health-care chaplains, organizational professionals, and others.

I am here this afternoon to offer a statement of support for the nomination of Judge John G. Roberts to be Chief Justice of the United States. From everything of which the Rabbinical Council of America is currently aware, Judge Roberts has exemplary intellectual skills and superb legal training. He was a widely acclaimed appellate litigator and as a judge on the United States Court of Appeals for the District of Columbia Circuit has demonstrated a judicial temperament that is both thoughtful and principled. He has both a strong background and extensive experience in adjudicating cases before the Supreme Court. He has garnered the respect of his colleagues and the legal profession in general and possesses a fine moral character.

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My remarks about Judge Roberts begin this afternoon with broad brushstrokes because the desired qualities of judges within the Jewish tradition are defined in just such broad brushstrokes. We are enjoined to choose principled judges who refrain from showing favoritism to individuals or causes. We seek Judges who are people of truth, whose words and decisions inspire confidence in those who rely upon them. Our tradition recognizes the tremendous responsibility borne by those who judge others, and sees in their dispensing of truth and justice a Divine partnership insuring the continuation of a moral society.

At a time in which many in society seek moral moorings and spiritual strength, I am certain that these broad values are also the values embraced by this great country in which we are privileged to live. Values of principles, truth and responsibility are part of the foundation of religious ethics upon which our nation has been built, and I am confident that Judge Roberts represents the embodiment of such values.

Within the broad brushstrokes, though, are many hues of color, and it is the responsibility of this Judiciary committee to try to determine how Judge Roberts sees those colors. As a representative of the clergy of a minority faith community, I and my colleagues are also interested in an area of seminal importance to us, namely the relationship between religion and state in society. In an effort to gain insight into Judge Roberts understanding of that relationship, as defined by the Free Exercise and Establishment Clauses of the First Amendment, we were encouraged by a memorandum written to Counsel Fred

Fielding on August 20th, 1984. Regarding remarks to be made by President Reagan to an ecumenical prayer breakfast, then-counsel Roberts suggested that the references to "the Church or churches be changed to references to religion or religions." He noted that "many of our citizens do not worship in churches, but in temples and mosques." We believe that this comment demonstrates a sensitivity and appreciation for the diversity of religious faith in America, and, we hope, is a harbinger of Judge Roberts' views in this crucial area.

There are those who suggest that Mr. Robert's subsequent participation in presenting the view of the United States in several religion clause cases should be of concern. In this matter, the Rabbinical Council of America relies on the guidance of the Institute of Public Affairs of the Union of Orthodox Jewish Congregations of America, a sister non-partisan religious organization. Their research indicates that in each of the cases the positions advocated by the United States were neither extreme nor even unreasonable interpretations of the religion clauses' requirements.

As members of this committee are well aware, the contours of religious liberty in this nation are still being shaped by the Supreme Court. Should the Senate confirm Judge Roberts, he will be on the Court this term when, in the case of Gonzales v. O Centro Espirita, it will again examine the extent to which minority religions will have their religious liberty protected against government interference and Congress' ability to protect that liberty through laws like the Religious Freedom Restoration Act which many

of you championed a decade ago. While we cannot be certain, we are optimistic that a Justice Roberts will be supportive and solicitous of religious liberty in America.

The Rabbinical Council of America has taken this public position of support for the nomination of Judge Roberts in the spirit of this year's celebration of 350 years of American Jewish history. The Jewish community, like so many other faith communities, has greatly benefited from the religious liberty guaranteed by our Constitution. We have been able to build Houses of Worship and Study, and to create communities reflective of our values and traditions. We believe it thus appropriate, through our active participation in this process, that we acknowledge our debt of gratitude to America, to a nation that has pledged to uphold the conviction that liberty and justice are for all.