

United States shall, upon written request of the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to the ABA, be permitted:

(1) access during the ABA's office hours to inspect and copy all records and documents in its possession or control relating to any matters contained in this Final Judgment; and

(2) to interview the ABA's officers, employees, or agents, who may have counsel present, regarding such matters. The interviews shall be subject to the ABA's reasonable convenience and without restraint or interference by the ABA.

(B) Upon the written request of the Assistant Attorney General in charge of the Antitrust Division, the ABA shall submit such written reports, under oath if requested, relating to any of the matters contained in this Final Judgment as may be requested.

(C) No information or documents obtained by the means provided in this Section X shall be divulged by the United States to any person other than a duly-authorized representative of the executive branch of the United States, except in the course of legal proceedings to which the United States is a party, or for the purpose of securing compliance with this Final Judgment, or as otherwise required by law.

## XI

### *Further Elements of Decree*

(A) This Final Judgment shall expire 10 years from the date of entry.

(B) Jurisdiction is retained by this Court for the purpose of enabling either of the parties to this Final Judgment to apply to this Court at any time for further orders and directions as may be necessary or appropriate to carry out or construe this Final Judgment, to modify or terminate any of its provisions, to enforce compliance, and to punish violations of its provisions.

(C) Entry of this Final Judgment is in the public interest.

DATE: \_\_\_\_\_

UNITED STATES DISTRICT JUDGE

### **Certificate of Service**

On June 27, 1995, I caused a copy of the foregoing Proposed Final Judgment to be served by facsimile and first-class mail upon:

David T. Pritikin,

*Esqurie Sidley & Austin One First National Plaza Chicago, Illinois 60603.*

Jessica N. Cohen

United States of America, Plaintiff, v.  
American Bar Association, Defendant.

Civil Action NO. 95-1211 (CR)  
Filed: June 27, 1995

### **Competitive Impact Statement**

Pursuant to Section 2(b) of the Antitrust Procedures and Penalties Act, 15 U.S.C. § 16(b), the United States submits this Competitive Impact Statement relating to the proposed Final Judgment submitted for entry with the consent of defendant American Bar Association ("ABA") in this civil antitrust action.

## I

### *Nature and Purpose of the Proceeding*

#### A. The Complaint

On June 27, 1995, the United States filed a civil antitrust suit alleging that the ABA violated Section 1 of the Sherman Act in its accreditation of law schools. The Complaint alleges that the ABA restrained competition among professional personnel at ABA-approved law schools by fixing their compensation levels and working conditions, and by limiting competition from non-ABA-approved schools. The Complaint also alleges that the ABA allowed its law school accreditation process to be captured by those with a direct interest in its outcome. Consequently, rather than setting minimum standards for law school quality and thus providing valuable information to consumers, the legitimate purposes of accreditation, the ABA at times acted as a guild that protected the interests of professional law school personnel.

The United States and the ABA have agreed that the proposed Final Judgment may be entered after compliance with the Antitrust Procedures and Penalties Act. Entry of the Final Judgment will terminate this civil action, except that the Court will retain jurisdiction for further proceedings that may be required to enforce or modify the Judgment, or to punish violations of any of its provisions.

#### B. Law School Accreditation

The Section of Legal Education and Admissions to the Bar ("Section of Legal Education") administers law school accreditation. It was created in 1883 as the first Section of the ABA and assumed the role of an accrediting agency in 1921.

ABA approval is critical to the successful operation of a law school. The bar admission rules in over 40 States require graduation from an ABA-approved law school in order to satisfy the legal education requirement for taking the bar examination. In addition, the ABA is the only agency recognized

by the United States Department of Education as a law school accrediting agency.

In 1973, the ABA adopted its current Standards for the Approval of Law Schools ("Standards"), setting forth the minimum requirements for legal education that must be met to obtain and maintain ABA approval. Law schools were required to be in full compliance with the Standards commencing with the 1975-76 academic year. The Standards and their Interpretations covered many aspects of the operation of a law school, including its salary structure, student-faculty ratios, faculty leave policies, faculty workloads, and physical facilities.

The Section of Legal Education is governed by its Council, which has supervisory authority on all accreditation matters. The Council has established a Standards Review Committee that reviews the Standards and their "Interpretations" and recommends changes to the Council. The Council has also established an Accreditation Committee, which closely oversees the inspection of new law schools and the sabbatical reinspections of previously approved law schools, and make the initial recommendations regarding ABA approval.

The Accreditation Committee enforces the Standards through extensive on-site inspections of law schools. Provisionally approved law schools are inspected every year until receiving full approval, and fully approved law schools are inspected every seven years, except for an initial visit three years after first gaining full approval. Site inspection teams prepare detailed reports for the Accreditation Committee. The Accreditation Committee may "continue" the accreditation of an approved law school, require additional information from a law school in actual or apparent non-compliance with the Standards or about whom the Accreditation Committee has "concerns," or require a show cause hearing for law schools in apparent non-compliance with the Standards or their Interpretations.

The day-to-day operation of the ABA's accreditation process is directed by the ABA's Consultant on Legal Education. The Consultant prepares "Action Letters" that inform the law school deans and university presidents of the Accreditation Committee's findings and conclusions.