for the Bar, and the Judge Advocate General branches of the armed forces have enforced an ABA-only rule. Given the DOJ findings, these states and agencies in effect require adherence to standards which are the product of anti-competitive actions by the ABA.

The Law School Admission Council, which is responsible for producing and administering the LSAT, restricts membership to ABA schools, despite the use of the LSAT by non-ABA institutions. As a result, non-ABA schools are denied access to important seminars and information about the LSAT.

The DOJ should examine the ABA's possible role in seeking ABA-accreditation exclusivity, and deal with it by enjoining such activities or by requiring remedial action.

2. FACILITIES: The ABA standards on physical facilities, and the interpretation thereof, raise serious concerns. The Competitive Impact Statement implies that the standard on physical facilities has been improperly applied, pointing out that a substantial percentage of schools have been criticized by Site Visitation Teams despite new or renovated facilities. The Judgment leaves this and other topics to a Special Commission previously formed by the ABA. That Commission (the Wahl Commission) has generated a lengthy report which rewords the physical facility standards but leaves the mechanism of interpretive abuses unchecked.

It is through the Interpretations that the Standards become reality for an institution seeking accreditation. For instance, the Interpretation to Standard 701 states that leased facilities are not in compliance. There may be a number of reasons a developing school may wish to occupy leased facilities in either the short or long term, including the economy, regional growth patterns and institutional needs. The only rational basis for the ABA's blanket restriction would seem to be the promotion of locational stability, which may itself have anti-competition ramifications. Ownership offers no guarantee that a school will not change locations. Indeed, selling a building in order to relocate may well be less difficult than early termination of a lease. In any event, the decision of whether to lease or own should be left to the institution. Students are well-taught in either kind of facility. If non-owned facilities meet the reasonable needs of the educational program, and taken together with the school's history promise reasonable locational stability, they should not be the subject of a blanket prohibition.

The cost of facilities meeting the ABA's ever-evolving and ever more expensive demands is one of the factors putting ABA accreditation out of the reach of institutions willing and able to meet reasonable educational standards but unable to afford the millions needed for state-of-the-art buildings.

3. LIBRARY: Another Interpretation, dealing with library facilities, requires seating capacity for half the school's largest division. In an era when computers allow students to access WESTLAW, LEXIS and the informational world of on-line services and the Internet from their homes, the ABA requires the allocation of precious fiscal and physical resources for empty seating. In fact, most students are provided with WESTLAW access from their personal computers as part of the school's subscription with West. Although the library provides a study hub for a law school, the facts of life for today's adult student, particularly a working adult attending school part-time, increase the likelihood of more home study than when the Interpretation was written, and decrease the need for added seats in the library.

The facts of modern electronic research also impact the ABA standards on library holdings, which generally increase the need for larger library staffs and hardcover holdings, and thereby the cost of education to students.

4. FACULTY: The Judgment leaves the calculation of the faculty component of student-faculty ratios to the Special Commission. The Wahl Commission Report acknowledges the role of teachers with administrative posts and adjunct faculty in the academic program of a law school, and this is an important development. It remains to be seen what effect this, and the DOJ action, will have on the resulting Standards and particularly on the Interpretations. The DOJ and the court should carefully review the final form and application of new standards and interpretations to assure compliance with the spirit of the Judgment.

A further concern is raised by the Judgment's language concerning the use of salary and benefits data as part of the accreditation process. Such data is gathered by organizations and subject to the Judgment, such as SALT and AALL, and is therefore available to inspection teams. The Judgment should more clearly and forcefully forbid the use of such data whatever the source.

5. OUTCOME MEASUREMENT: Ultimately, the quality of a law school's program is measured by the results it obtains with its students. The ABA Standards and the Judgment do not address outcome measurement. Although it may be difficult to measure academic outcomes, law schools have the Bar passage rate as one indicator. A high passage rate may perhaps be obtained by ''teaching to the Bar,'' and such a practice would be rightly criticized. But some state-accredited institutions in California, clearly *not* engaging in such a practice, have on occasion attained higher Bar passage rates than some ABA-accredited schools. At least with regard to that one measurement, the lack of relationship between the Standards and educational outcomes is apparent. The alumni of state-accredited schools who daily demonstrate the quality of their education on the bench, in their work in Bar Associations and in law practice, further prove the point.

The success of a law school in producing competent practitioners should be a critical component of the accreditation process. New measurement methods need to be developed and utilized as part of the accreditation process.

We are thankful for the opportunity to present these points.

Sincerely,

Kenneth Held,

*Dean.*

Normal Daniel Frank II

Attorney and Counselor at Law

1605 East Expressway 83, Mission, Texas 78572, 210 585–2764

September 11, 1995.

John F. Greaney,

*Chief, Computers and Finance Section, U.S. Department of Justice, Antitrust Division, 555 4th Street NW., Room 9903, Washington, DC 20001*

RE: United States of America, Plaintiff v. American Bar Association, Defendant, Civil Action No. 95–1211 (CR), Filed: June 27, 1995

Dear Mr. Greaney: Enclosed are the comments of the Reynaldo G. Garza School of Law concerning the above referenced antitrust suit. I understand that you are the proper person to send these comments to in order for them to be filed with the U.S. District Court and published in the Federal Register.

Should you wish to contact me please do so at my above address or phone number.

We are very grateful that the Department of Justice has taken this course of action. This was something that was sorely needed.

Sincerely,

Norman Daniel Frank, II,

*President, Reynaldo G. Garza School of Law.*

Reynaldo G. Garza School of Law

905 North Shore Drive, San Benito, Texas 78586, (210) 399–1800

September 11, 1995

John F. Greaney,

*Chief, Computers and Finance Section, U.S. Department of Justice, Antitrust Division, 555 4th Street NW., Room 9903, Washington, DC 20001*

RE: United States of America, Plaintiff v. American Bar Association, Defendant, Civil Action No. 95–1211 (CR), Filed: June 27, 1995

The Reynaldo G. Garza School of Law, hereinafter also called Garza Law School, is a Texas non profit corporation incorporated under the laws of the State of Texas. The Garza Law School would like to submit the following comments believing that the above referenced civil action final judgment should be modified to more satisfactorily cover the following issues:

(1) The proposed final judgment does not go far enough to rectify the great injustice that the American Bar Association (ABA) has perpetrated on victims of its illegal policies. The victims are not only the law Schools, including the Garza Law School, who have had to deal with the ABA abuse of the accreditation process they are the students who have been denied access to take bar exams and become licensed as attorneys. These students have been denied student loans, have had to make unfair sacrifices, and are to this day denied an opportunity to earn a living practicing law.

(2) The proposed final judgment does not specifically address the issue of Library collections. This is an important issue due to ABA Standard 602 which requires an ABA approved core collection. The interpretation of this requirement in the past has meant that law schools must have physical possession of paper books printed and published by a