position, I had mentioned the Consent Decree and the section dealing with allowing state accredited graduates into an ABA LL.M. program. Even after mentioning the Consent Decree, I was under the impression that she had no idea what she was talking about. Finally she told me that I would not be admitted to the LL.M. program regardless of any other credentials or qualifications that I may have. Her reason was that I did not graduate from an ABA school, and I was then told that was the policy at Miami and there was not now, nor would there be any intention or attempt to change that policy, Consent Decree or not. I believe that this is in direct contrast with the Decree that your department (DOJ) has worked so hard to achieve. I believe that this merits further investigation.

One final point; the reason I had to return to Florida from California is that as a graduate of a Non-ABA school there were no government or private lending programs available to me from the time of my graduation in May to the Bar Exam in late July. However several friends of mine at ABA schools were offered and had accepted this type of loan. Without this added financial support, my credit and ability to pay my bills was ruined and I had to return to Florida to live with my in-laws.

Now a resident of Florida, I will never be eligible to practice law (because of my being declared not eligible to sit for the Bar exam) and my three years in law school and the eighty-thousand dollars of debt to pay for it have been wasted. This is the greatest hardship of all, that is, not letting the Bar exam determine my competence to practice law, but letting that be determined by a group of individuals in the ABA who were not acting in the best interests of the legal profession, but rather for their own self-interests.

Respectfully submitted,

David White

David William White

3547 N.W. 35th Street, Coconut Creek, Florida 33066

August 18, 1995.

Executive Director,

Florida Board of Bar Examiners, 1300 East Park Avenue, Tallahassee, FL 32301–8051

Dear Board of Bar Examiners: I hereby petition for a waiver of the application of the Florida rule denying graduates from a non-ABA law school eligibility to sit for the Florida Bar Examination unless they have practiced law in another jurisdiction for ten years. I respectfully request permission to sit for the February 1996 Florida Bar examination.

After doing research on this rule and its application to graduates from non-ABA law schools, I am aware of its effect and its interpretation. In this letter I will present only the non-legal issues involved, saving the legal aspects of the application of the rule for judicial proceedings if necessary.

As you are well aware, the recent litigation and resulting consent decree arising from the Sherman Act/Anti-Trust action against the American Bar Association brought by the Massachusetts School of Law, has shed light on a problem that directly affects myself, and my ability to practice law in Florida.

I graduated from Western State University, College of Law in San Diego in May of this year, with a grade point average placing me in the top twenty-five percent of my graduating class. I have taken the California Bar Examination in July of this year and I am waiting for the results which are due in late November.

Some important facts about the school are as follows:

Western State University is not an ABA accredited law school.

Western State University (WSU) has been in existence since 1969.

WSU has been approved by the State of California since 1973.

WSU is a for-profit institution, one of the reasons that its application was recommended it be withdrawn when it applied for ABA approval in 1986. As part of the consent decree, this factor, a school's non-profit or for-profit status is now considered not proper in determining a schools' approval by the ABA.

A majority of the faculty of WSU are adjunct professors. Prior to the consent decree, this factor negatively affected the student teacher ratio as far as the ABA was concerned. As part of the consent decree, this factor, the full time or part time status of professors is no longer relevant for the basic computation of a student to faculty ratio.

WSU's three campuses in Southern California make it the largest law school in the United States. The fact that WSU has more than one campus also led to the belief that it would not receive ABA accreditation.

Results regarding the passage rate of the February 1994 California Bar Examination showed that graduates of WSU as first time bar examination takers had passage rate higher than that of every other California accredited school and a higher pass rate than several ABA accredited schools in California.

During the time that I was enrolled at WSU, the ABA did not allow ABA accredited schools to accept credits from a student who wanted to transfer from a non-ABA school to an ABA accredited school. As a result of the consent decree, this bar against transfer of credits is no longer permitted. Had this option been available to me at the time of my attendance at WSU, I would have, or at least could have had the opportunity to transfer to an ABA approved school in Florida.

Both the Dean and assistant Dean of WSU are Harvard Law school graduates and many of the full time faculty are nationally known scholars in their area of practice and teaching.

Based on the factors that the American Bar Association must now use, Western State University would now be in compliance for the guidelines regarding accreditation.

I understand that if I had practiced law in any jurisdiction for ten years I would be able to apply for permission to sit for the Florida Bar examination.

Unfortunately, after graduating law school, there were no lending institutions that would lend me money during my studies for the California Bar Examination, due to the non-ABA status of WSU. Given the high cost of living, stagnant economy of California, and facing bankruptcy, my wife and I had to return to Florida and live with her parents, where we now presently reside. Returning to California to practice law for ten years is not an option. Applying to an AB approved law school in Florida, transferring credits and incurring both more loans and spending more time in law school, in light of the fact that I have already graduated, is not an option.

Application of this rule will render my successful three years of quality legal education, eighty thousand dollars indebtedness to pay for it and my choice to be a lawyer absolutely null and void. As a tax paying American citizen and current resident of Florida, I stand firm in not allowing this outdated and arbitrary method of discrimination to ruin my life, professionally or financially.

With the ABA's settlement of the case against them and the involvement of the Department of Justice in their accreditation procedures and requirements, it is obvious to me that the time has come where a student of a non-ABA school that was directly and adversely affected by the ABA's discriminatory practices to have the opportunity to prove that the education they received was similar to that of an ABA school. This I can and will do at your request.

What I request is to be allowed to prove myself eligible and/or be declared eligible to take the Florida Bar Examination, it is the examination itself that determines an individuals' competency to practice law.

That is exactly what a bar examination is designed to test; an individuals' knowledge of the law, legal theory and their ability to apply it. What is most offensive, is the irrebuttable presumption that I am not competent to practice law. I request the same opportunity as an ABA student, being allowed to sit for the exam.

I also fully understand the states' interest in regulating who is allowed to practice law, but that interest can not be perceived as legitimate when a state chooses to continue to follow the ABA's past actions that were not in compliance with Federal law. As you can see, WSU is not the ''Fly-by-night'' operation that the ABA is so concerned about.

Notwithstanding the fact that twelve years have passed since the Florida Supreme Court issued their opinion in the *Hale* case, recent developments may or may not influence the court in re-examining their grant of authority to the ABA.

However, the Board of Bar examiners does have the authority to grant a waiver to the rule. In this letter I have attempted to show that the ABA's consent decree eliminated all of the irrelevant and irrational requirements of accreditation. It was those very requirements which prevented my school from ''achieving'' ABA status, which in turn rendered me a non-ABA graduate, giving rise to the need for this letter. I hope that the Board will be sympathetic to my cause, because they do have the power to rectify this unfortunate situation.

The purpose of this letter is not to advocate the repeal of the rule, or to challenge its'