cc: George Chin

Robert A. Reilly

P.O. Box 309, Phoenix, AZ 85003–0309

July 4, 1995.

Mr. Joel Klein,

Deputy Assistant Attorney General, U.S. Department of Justice, Washington, DC.

Re: U.S. Justice Department/American Bar Association

Dear Mr. Klein: I wish to make a few comments on the Justice Department's proposed settlement with the American Bar Association (ABA) regarding the accreditation standards of the nation's law schools.

Although many of the recommendations are excellent and long overdue the tentative agreement, as reported in The Wall Street Journal on June 28, 1995, did not go far enough.

State Supreme Courts and State Legislatures should not be permitted to deny an attorney with good moral character who passed a bar exam in another state from taking its bar exam, a situation that currently exists in 42 or 43 states.

This ABA accrediting rule requirement is Jim Crowism at its worst, a throwback to a time when the ABA was a racist professional organization. A person who passes the bar exam in a state is a licensed attorney and should be allowed the opportunity to take the bar exam in other states unless there is a compelling reason backed by sufficient evidence that the applicant is unfit to practice law. Law schools, whether they are accredited by the ABA or not, have basically the same curriculum. Furthermore, the practice of law is learned on the job, particularly since most collegiate law programs decry the ''trade school'' approach.

Second, the main reason Arizona and other states with a similar rule prohibit non-ABA graduates from taking its bar exam is to limit competition. It's that simple.

In addition, denying bar certified attorneys from taking the bar exam in another state may be an impeachable offense by the public body that enforces the rule.

Public entities such as the various State Supreme Courts and State Legislatures are required to act in the public's interest. By limiting competition, denying qualified individuals from earning a living, by unjustly preventing individuals from practicing their profession in a place they want to live, simply defies the principles of freedom and justice our public officials are bound by office to uphold.

Frankly, the State Supreme Courts and State Legislators do not understand what accreditation is all about and what it is suppose to accomplish. If you don't believe this have some members of your staff check around. I did. The responses were ludicrous. Accreditation is not a Good Housekeeping Seal of Approval. It shouldn't imply non-accredited schools are diploma mills. Accreditation isn't mandatory, it's voluntary, a self-evaluation process that's been distorted by those in authority to suit their own vested interests.

Now is the appropriate time to bring this issue before the American people because the current status have far-reaching ramifications that are too many to include in this letter.

The burden of proof is on the State Supreme Courts and the State Legislatures to justify the current policy. I can furnish plenty of information showing the policy is a sham.

Enclosed are three news articles I've written on this issue. I'm not an attorney; I'm writing a book that includes the law school accrediting issue. I would be delighted to debate this issue in a public forum with anyone with the courage to do so.

Please let me know if you need additional information. I'm looking forward to your response.

Sincerely,

Robert Reilly,

(602) 252–5352.

Exhibit 38, Robert Reilly's letter, included three news articles. They cannot be published in the Federal Register. A copy of these articles can be obtained from our Legal Procedures Office.

Hawaii Institute for Biosocial Research

Private Carrier Address: Century Center, 1750 Kalakaua Avenue, Suite 3303, Honolulu, Hawaii 96826

Address all Mail to: P.O. Box 4124, Honolulu, Hawaii 96812–4124, Tel: (808) 943–7910 or 949–3200 (Messages Only), FAX: (808) 943–6912

July 30, 1995.

Mr. 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 vs. American Bar Association, Cv. No. 95–1211, Request for modification of proposed Final Judgment.

Dear Mr. Greaney: The enclosed letter dated July 30, 1995 amends and replaces my letter of July 18, 1995.

Sincerely yours,

Robert W. Hall,

President and Director.

July 30, 1995.

Mr. John F. Greaney,

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

Re: United States of America vs. American Bar Association, Cv. No. 95–1211, Request for modification of proposed Final Judgment.

Dear Mr. Greaney: We comment and object to the following omissions and deficiencies in the proposed Final Judgment. The proposed Final Judgment is seriously flawed and will result in injustice to the group that matters the most in any antitrust action, *consumers.* No group needs government anti-trust assistance more than law school applicants who are powerless in the accreditation and application process.

The issue is the American Bar Association's (ABA) involvement in the law school admissions process. The ABA is no disinterested, academic group. The ABA is a guild, a cartel with an economic ax to grind. The fox is in the hen house.

With ABA knowledge, sanction and support, one of the many ''services'' provided by Law Services includes the LSAT. LSAC members and many non-member law schools in the United States require applicants to (1) subscribe to the Law School Data Assembly Service (LSDAS) service and (2) take the LSAT as a part of the application process, self-serving disclaimers to avoid antitrust scrutiny notwithstanding.

The Law School Admission Council (LSAC) is an association of 191 law schools in the United States and Canada founded in 1947 to ''coordinate, facilitate and enhance the admissions process.'' During 1992, the Law School Admission Council administered 150,000 LSAT's, supported 477,000 law school applications, and processed 198,000 transcripts. As owners of the LSAC, the same legal educators that control the accreditation office control the LSAC. All law schools accredited by the ABA are LSAC members. That is a classic definition of a cartel. In most states, the practice of law is controlled by this cartel. An analogy would be a teachers' union controlling accreditation and applicant selection requirements at college level teacher training programs.

Taking the most conservative line and following Judge Bork's anti-trust positions, the goal of antitrust law should focus on the *maximization of consumer welfare.* The proposed Final Judgment fails by that measure or the more liberal measures in effect today. The proposed Final Judgment is deficient for all of the antitrust reasons listed in the initial Complaint.

The ''settlement'' and proposed Final Judgment omits mention of the most egregious American Bar Association (ABA) accreditation requirements from the consumer antitrust point-of-view which are that the fact of the ABA being involved in admissions requirements at all is simply for the purpose of restricting law school output which in turn, limits competition among licensed attorneys. Competition is directly controlled by the ABA accreditation (filtration) process.

The complaint in this action states that it is the view of the United States that during the past 20 years, the law school accreditation process has been captured by legal educators who have a direct interest in the outcome of the process. The government also noted in its Competitive Impact Statement that it has learned more about the ABA's practices and their competitive effects as the investigation proceeded.

In the process of that investigation, the government appears to have missed, not fully understood, or ignored other ABA accreditation standards and interpretations that limit competition and permit competitor law schools to limit rivalry among themselves. The government appears to have spent so much time looking at trees that it did not see the forest. The government first should have questioned the role of the ABA in the accreditation process at all.

The ABA walks, talks and acts like a cartel. The subject of cartels lies at the center of antitrust policy. ABA admissions standards and interpretations constitute one threat of a