Sincerely,

Marina Angel,

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MA/teb
Enclosure

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October 17, 1995.

The Honorable Janet Reno,
Attorney General, Department of Justice, R. 4400, Tenth and Constitution Avenue, N.W., Washington, D.C. 20530

Dear Attorney General Reno: I am very disturbed that the consent judgment proposed in the matter involving the ABA Accreditation Standards and your antitrust division would eliminate the most important antidiscrimination provision of the ABA standards: review of salary and/or fringe benefits by race and gender.

The ability of the ABA Standards to put teeth in antidiscrimination policy is important. The ability of review teams to have access and to force disclosure of actual data is crucial. Last January, I testified before the ABA Special Commission to review accreditation standards. I have enclosed a copy of my testimony. I hope that it will help illuminate what an important role accreditation plays in the integration of law schools, and ultimately the profession.

I also am a member of the Board of Directors of the Society of American Law Teachers (SALT). SALT has long been concerned about the systematic salary discrimination against women and minorities. Indeed, SALT publishes an annual nationwide salary survey. That survey has been used by many women and minorities to address salary inequity in their own law school. SALT obtains the data from law school deans. The deans are generally willing to release it because it is released in any event in the ABA accreditation process. The deans also are unable to claim they do not have it—because the ABA process requires them to keep it.

I hope that the Clinton administration will take a second look at the proposed consent judgment. As so often happens, those who are most affected by certain provisions are outsiders to the power process that negotiated the proposed judgment. Please do not hesitate to call with any questions.

Sincerely,

Leslie G. Espinoza,

Professor of Law.

AALS Section on Minority Groups Newsletter

May 1995.

Testimony Before the Special Commission To Review the Substance and Process of the American Bar Association's Accreditation of American Law Schools

Professor Leslie G. Espinoza, Chair, AALS Section on Minority Groups, January 6, 1995

Good Afternoon, I would like to thank the Commission for affording the AALS Section on Minority Groups this opportunity to comment on the ABA/AALS Accreditation process. Within the time frame permitted by these hearings, I will make two points.

First, in addressing issues of accreditation the legal community, particularly those of us in the academy, should be mindful of the monopoly power we exercise. Our monopoly control is profound. Indeed, it is protected and perpetuated by us. Persons who engage in the unauthorized practice of law can be prosecuted—under the law.

And the ability to determine who is authorized to practice law is primarily controlled by the law school community. We are the gatekeepers to the profession. For admission to practice, nearly all state bars require graduation from an ABA accredited law school. Admission to law school is controlled by individual law schools through their admissions offices. Admission is also controlled nationally through the consortium of laws schools that forms the Law School Admissions Council. The LSAC is the organization that designs and administers the LSAT. At the other end of the process, law school curriculum largely drives the content of bar examinations—increasingly so since the universalization of the Multistate Bar Examination.

With the privilege of power comes responsibility. Access to law is fundamental for the protection of personal and public rights. Indeed it is often lawyers who are responsible for the recognition or creation of those rights. Lawyers dominate legislatures as both elected officials and legislative staff. It is the duty of law schools, encouraged and enforced through the accreditation process, to ensure that the future legal community is responsive to the society as a whole.

The need to be legally relevant and responsive to the whole community is the second point I will make today. Historically exclusion of persons of color from law was nearly complete. This was particularly true for women of color. Frankly, this is still largely the case. Richard Chused's study in 1986 documented the absence of outsiders in the academy. One third of law schools had no minority professors, one third had only one. In 1992, Professors Merrit and Reskin empirically documented the double standard in the hiring of minority women in the academy. The exclusion of persons of color from the academy continues.

The impact of those outsiders who have gained entry is significant given our small numbers. We have worked to increase the number of and to support minority law students. We have contributed to the legal literature, in theory, substance and method. We have changed the discourse by bringing our voice to the law. Despite these contributions, there is much more work to do.

Accreditation has been the foundation for our inclusion in the academy. It forces accountability. Importantly, accreditation requires law schools to have historic accountability. Self studies and site team reports view processes in the law school. The standards require scrutiny of admissions, placement, curriculum, hiring of faculty, tenuring process and results and administration. Thus the accreditation process has been the only forum for addressing issues of inclusion and discrimination in all aspects of the institution.

I will end with reference to the letter by the consortium of fourteen deans that gave rise to these hearings. The members of the Section on Minority Groups fear that what underlines the deans' challenge to accreditation. The letter questions the need for law schools to explain, ''any departure from the pattern that has been prescribed for all schools—why, for instance, the clinical faculty are treated differently than the research faculty in some respect, or what plans exist for increasing square footage in the library, or how the 'right' composition of the faculty will be achieved.'' The members of the Section on Minorities do not doubt that this is coded language for an attack on the ''diversity'' or ''multicultural'' requirements in the ABA standards.

Finally, the letter from the 14 deans indicates that there are some law schools at the apex of the pyramid of all law schools—''schools with unquestionably strong educational programs [that] are not quickly given the ABA's seal of approval * * *'' These law schools, the letter implies, should be beyond the review of accreditation. The Second on Minority Groups strongly disagrees. Indeed, the arrogance of many of the elite schools has too often blinded them to their own exclusionary practices in hiring and student composition. The accreditation process must apply uniformly to all law schools in order to ensure a diverse and relevant legal profession for the next century.

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Notice Pursuant to the National Cooperative Research and Production Act of 1993—Arrayed Primer Extension (APEX) Research Consortium

Notice is hereby given that, on September 26, 1995, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Arrayed Primer Extension (APEX) Research Consortium, a joint venture formed as a cooperative research consortium by the parties set forth in this notice (the ''Joint Venture''), has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties to the Joint Venture and (2) the nature and objectives of the Joint Venture. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiff to actual damages under specified circumstances. Pursuant to Section 6(b) of the Act, the identities of the parties are: Pharmacia Biotech, Inc., Piscataway, NJ; Baylor College of Medicine, Houston, TX; Duke University, Durham, NC; and