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THE ALASKA BAR ASSOCIATION



February 1980

Please Note: This booklet contains general information in summary form and is not intended to supercede the Alaska Bar Rules, or the Bylaws or Regulations of the Alaska Bar Association.. In the event any information contained herein conflicts, the Rules, Bylaws and Regulations shall control.

THE ALASKA BAR ASSOCIATION

** An Informative Summary **

Board of Governors

Donna C. Willard, President
William B. Rozell, President-Elect
Jonathan H. Link, Vice-President
Edward G. King, Secretary
Albert H. Branson
Stanley T. Fischer
Karen L. Hunt
Elizabeth P. Kennedy
Richard D. Savell

Staff

Randall P. Burns, Executive Director
William W. Garrison, Bar Counsel
Willetta T. Jones, Executive Assistant
Scarlett O. Watts, Discipline Secretary
Gary E. Martin, Investigator
Vickilee Goodrow, Bookkeeper
Vicki L. Moore, Lawyer Referral/Receptionist

February 1980

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FOREWORD

On November 4, 1884, some six months after the passage of the Organic Act, three attorneys were admitted to the practice of law in Alaska. In the next two years, the Bar -- practicing before the District Court of the United States in and for the District of Alaska -- increased to thirteen (13) members and, by 1896, there were fifty-nine (59) members. Of that number, approximately twenty-one (21) resided within the State either in Juneau, Nome, "Wrangle," Sitka, Valdez, "Skaguay," or Berners Bay.

It was those men who, in November of 1896, in Juneau, organized the Alaska Bar Association. The governing documents were a Constitution and Bylaws. Its object was "...to maintain the dignity of the legal profession, to secure proper legislation for Alaska, to promote the administration of justice, and to cultivate social intercourse among its members."

Membership was voluntary, annual fees were \$1.00, and six members constituted a quorum. The standing committees were legislation, judiciary, and grievances. The first President was John S. Bugbee.

In 1955, the structure changed somewhat with the passage of the Integrated Bar Act by the Territorial Legislature. Nevertheless, the essential functions and purposes continued, albeit on an expanded, more formal basis.

As of January 1, 1980, the Alaska Bar Association has 1,463 members in the following categories: Active, 1263; Inactive, 147; and Judicial, 53. Its affairs are governed by a nine (9) member Board comprised of the following persons:

Donna C. Willard, President
William B. Rozell, President-Elect
Jonathan H. Link, Vice-President
Edward G. King, Secretary
Albert H. Branson
Stanley T. Fischer
Karen L. Hunt
Elizabeth P. Kennedy
Richard D. Savell

Written guidelines for governance are contained in the Integrated Bar Act, the Alaska Bar Rules (promulgated by the Supreme Court of Alaska), the Code of Professional Responsibility, the Association's Bylaws and Regulations, the Board of Governors' Policy Manual, and a Personnel Manual.

The two most important functions of the Bar are admissions and discipline of its members, both of which are carried out under the supervision of the Supreme Court of Alaska.

There are presently twenty (20) standing committees, six (6) Bar Rule committees, and seven (7) special committees. In addition, the Bar Association participates in a number of adjunct organizations and administers special projects such as the State-wide Lawyer Referral Service. In excess of 300 attorneys participate, voluntarily and without remuneration, in the affairs of the Association.

The staff of the Alaska Bar has grown from a part-time, volunteer executive secretary in 1968, to the following seven, full-time professionals:

Randall P. Burns, Executive Director
William W. Garrison, Bar Counsel
Willetta T. Jones, Executive Assistant
Scarlett O. Watts, Discipline Secretary
Gary E. Martin, Investigator
Vickilee Goodrow, Bookkeeper
Vicki L. Moore, Lawyer Referral/Receptionist

The annual budget of the Association is in excess of \$400,000.00, monies largely garnered from its members through dues, continuing legal education programs, and conventions.

The foregoing is a thumbnail sketch of the history, organization, and operation of the Alaska Bar Association which will be expanded on in the materials which comprise this booklet. It is the expectation and desire of the Board of Governors that those who peruse these pages will gain a greater understanding of the nature and functions of one of this State's oldest organizations, the Alaska Bar Association.

I. THE BOARD OF GOVERNORS

Nine active members of the Alaska Bar are elected by their peers to govern the affairs of the Association. Serving three year staggered terms, two attorneys represent the First Judicial District, four are from the Third Judicial District, two serve the Second and Fourth Judicial Districts, and one member is elected at-large. Any vacancy is filled by the Board through appointment for the unexpired term.

The Board meets six times a year at the times and places designated by the President of the Association for a period of at least three days per meeting; special meetings may be called by the President or three members of the Board of Governors.

At its meeting, in addition to discipline and admissions, the Board is required to formulate, determine, and adopt matters of policy concerning the activities, affairs and organization of the Alaska Bar Association.

A. Officers

There are four officers (President, President-Elect, Vice-President and Secretary), all of whom are elected from among the members of the Board by the active Association members in attendance at the annual meeting held in June of each year.

There is currently one member of the Board charged with fiscal oversight. As of June 1980, this responsibility will be fulfilled by a fifth officer, the Treasurer of the Alaska Bar.

The President of the Bar Association presides at all meetings of the Board and of the Bar Association, and is designated as the official spokesman for the Association. The President-Elect of the Alaska Bar Association is required to assist the President in all of the President's endeavors and take the place of the President if the President is unable to perform the duties of that office. The Vice-President of the Association is in charge of all committee operations and the Secretary is obligated to record all of the proceedings at both Board meetings and the annual meeting of the Association. The Treasurer will be responsible for overseeing the fiscal affairs of the Association, including budget preparation, reports to the Board at each meeting, and the annual report to the membership.

B. Purposes, Policies, and Procedures

In order to understand the commitment that each member of the Board of Governors makes when his name is submitted to the election process, it is appropriate to review the Bylaws, policies, and Alaska Bar Rules. Article 2, Section 2, of the Bylaws of the Alaska Bar Association sets out the purposes of the Association. These are:

1. To cultivate and advance the science of jurisprudence;
2. To promote reform in the law and in judicial procedure;
3. To facilitate the administration of justice; and
4. To encourage higher and better education for the membership in the profession, and to increase the usefulness and efficiency of the Bar Association.

The workload undertaken by members of the Board of Governors includes admissions, discipline, fiscal responsibility, and service activities. Admissions and discipline are discussed in other sections of this booklet. Illustrative of the other activities of the Board are the following:

1. The Board of Governors is required to approve an annual budget, oversee investment of Association funds, and maintain control of expenditures.
2. In addition to attendance at six or more Board meetings, the Governors determine the sites and dates of the annual business and mid-winter C.L.E. meetings, plan the programs, and preside at the various functions.
3. The Board reviews, approves, and publishes all Ethics Opinions which respond to requests for rulings and give guidance to the membership in the ethical conduct of the profession.
4. The Board of Governors has overall responsibility for defining the powers, duties and functions of all of the committees of the Alaska Bar Association. These committees are designated as standing committees, as special committees, and as bar rule committees. The President appoints all members and designates a chairman and vice-chairman for each committee. In addition, a member of the Board serves on each committee as a liaison. The members of all committees serve at the pleasure of the Board and their reports and recommendations must be

adopted by the Board of Governors to be binding upon the Association. A committee chairman's handbook is currently being prepared by the Board.

5. The Board actively supports education and public relations, including programs in the schools with respect to the justice system, seminars for non-lawyers, institutional advertising, and a state-wide lawyer referral service.

6. The Board oversees the administration of the Bar office and its staff, and has developed a personnel manual and job descriptions to guide its employees in the performance of their duties.

7. The Board recommends to the Supreme Court revisions and additions to the Alaska Bar Rules, and continually reviews and revises the Bylaws and Regulations of the Association. In addition, the Board has promulgated a Policy Manual which sets forth the guidelines for the operation of the Board in all phases of Association activity.

8. In addition, the Board is directly responsible for all of the other projects, programs, and activities described in this booklet.

C. Admissions

The Alaska Bar Rules set forth the responsibilities of the Board of Governors with respect to admissions.

They include the following:

1. The Board of Governors shall examine or provide by contract for the examination of all applicants and determine or approve the time, place, scope, form and content of all Bar examinations.

2. The Board of Governors sets the standards for the examinations.

3. Under the Rules, the Board has the power to require the appearance of an applicant before the Board in an instance where there is concern on behalf of the applicant or the Board regarding the application procedure, or to refer the matter to a Master for the purpose of accumulating all of the facts and supplementing the record before a decision is made.

4. Both the Board members and the Master have the power to issue subpoenas, administer oaths and affirmations, and take testimony concerning any application for admission to the Alaska Bar Association.

5. The Board of Governors must develop an appropriate application form requiring the applicant to file the necessary evidence and documents in support of the applicant's eligibility for admission. The Board is required to determine all questions of residency.

6. The Board sets the fees and dates for filing of all documents with the Association, and is required to make a determination as to whether or not there has been a substantial change in circumstances when an applicant is applying to take the examination after the third time.

7. The Board is required to certify the results of each exam to the Supreme Court for the State of Alaska with its recommendation for admission.

8. In the event an applicant is denied an exam permit or is denied certification, the applicant is required to file a verified statement with the Board of Governors and, upon a review of the sufficiency of the verified statement, a hearing may be granted. The burden of proof is upon the applicant to prove material facts that constitute an abuse of discretion or improper conduct on the part of the Board of Governors, the Executive Director, the Law Examiners Committee, or the Master appointed by the President. Each decision must be supported by findings of fact and conclusions of law, with the Board having the power to adopt the decision of the Committee or Master in whole or in part, or reject the recommendation and draft its own findings and conclusions of law along with appropriate order. In each instance, the applicant may

appeal the decision of the Board of Governors to the Supreme Court.

D. Discipline

One of the most critical areas of responsibility for the Board of Governors is discipline of Association members.

Whenever a disciplinary matter is before the Board of Governors, the Board sits as the "Disciplinary Board of the Alaska Bar Association."

In that capacity, it appoints a Stat Disciplinary Administrator, supervises the Administrator and his staff, and appoints the area Hearing Committees of which there are currently four: one in Southeastern, two in Southcentral, and one in the Interior.

In addition, the Board is charged with the responsibility for investigating all complaints filed against lawyers, and for hearing appeals from the recommendations of the Hearing Committees. The Board administers private reprimands and, in the case of disbarment, suspension, or public censure, forwards its recommendations to the Supreme Court of Alaska for final action.

The Disciplinary Board meets at least six times a year, not including conference telephone calls. Five members constitute a quorum. Complete records of all disciplinary proceedings are permanently maintained.

II. ADMISSIONS PROCEDURES

In order to practice law in the State of Alaska, membership in the Alaska Bar Association is a necessary prerequisite. In other words, it is an integrated bar association.

A. Requirements for Admission

Applicants for admission to the practice of law must be graduates of an accredited law school or have completed an approved clerkship program, must pass the Alaska bar examination, be determined to be of good moral character, and be residents of the State of Alaska at the time of the examination and at the time of admission. Attorneys admitted in other jurisdictions may qualify to take the attorney bar examination rather than the general bar examination.

The Alaska bar examination is intended to assist in the determination of whether applicants possess minimal competence to practice law. This includes the ability to analyze facts, apply thereto the appropriate substantive and procedural law, and to effectively communicate the issues and the proposed solutions. In addition, a working knowledge of the Code of Professional Responsibility must be demonstrated.

B. Application Procedure

Information and application forms may be obtained from the Bar office. These include instructions and information on the examination; an affidavit of residence; fingerprint cards; and an application form which includes an affidavit of personal history and an authorization and release consenting to an investigation of moral character, professional reputation, and fitness for the practice of law. Applicants are also sent a report form that is to be returned separately and voluntarily to the Committee on Legal Educational Opportunities. The form is designed to provide voluntary statistical information for an on-going evaluation of the examination's effect on racial and ethnic minorities.

The Alaska Bar Association conducts a character investigation on each applicant for admission to the Bar based on information provided by the applicant, contacts initiated by the Bar office with individuals familiar with the applicant, and on other information which may be sought by or come to the attention of the Bar Association. No applicant is certified for admission, regardless of the applicant's score on the written examination, if he is determined not to be of good moral character. The Bar Association may require a formal hearing, with the introduction of sworn testimony and other evidence, where it

determines that procedure to be necessary or appropriate to assist in its investigation. An applicant may appeal from an adverse determination on character to the Board of Governors and, if necessary, to the Alaska Supreme Court.

C. Bar Examination

The Alaska bar examination is conducted twice each year in Anchorage, Fairbanks, Juneau and Ketchikan. It consists of: (1) one-half day of essay questions on Alaska law prepared by a permanent committee of the Association known as the Alaska Law Examiners; (2) two half-days of essay questions on general common law not limited to any particular jurisdiction prepared by the California Law Examiners; and (3) two half-days of objective, multiple choice questions (the Multi-State bar examination or "MBE") prepared by the National Conference of Bar Examiners and administered simultaneously in over forty states.

The Bar Examination Review Committee, a special committee of the Alaska Bar Association, is presently conducting an in-depth study of the bar examination to determine whether any examination at all is appropriate; whether it should be an all Alaska examination; whether the examination should be made up entirely of objective questions, written essays, or both; whether the examination should continue to utilize the Multi-State and California questions; the appropriate examination for attorney applicants,

if any; and to make any other recommendations it deems appropriate. The Board of Governors will then act, based on the recommendations of the Committee and the information gathered by the Committee.

D. Grading of Examinations

A composite score of 70% on the Alaska bar examination is a passing grade. Grades are rounded to the nearest one hundredth of a point, so a grade of 69.95 or above is considered to be a passing grade. All examinations are graded anonymously using a double number coding system. A law examiner who is able to identify a particular applicant's examination paper is required to disqualify himself from grading that paper.

The Alaska essay questions are graded by the Alaska Law Examiners and constitute 20% of the total score. Each answer is read by two separate examiners. If the grades assigned by the two examiners are within 10% of each other, the essay question is assigned the average of the two scores. If the two grades differ by more than 10%, the two examiners confer to determine the reasons for the different grades and decide between them on the appropriate score. If the two examiners are unable to agree, a third examiner reviews the answer and the scores assigned by the other two examiners, and decides on the appropriate score.

The Multi-State bar examination objective answer sheets are graded by machine by the National Conference of

Bar Examiners. These scores are scaled to compensate for any difference in difficulty of the examination from one administration to another, based on a detailed national statistical analysis, a comparison of performance on repeat questions, and other factors. Because of this, applicants who have taken the MBE within a year before the examination in question may substitute a passing MBE score from the prior examination, whether or not that prior MBE was taken in Alaska. A scaled score of 135 on the MBE has been determined to be the equivalent of a passing score of 70%. The MBE score constitutes 40% of the entire grade.

The general law essay questions are graded by the California Law Examiners. These scores make up 40% of the entire grade. When the examination scores of all three portions of the examination are combined, applicants with a composite score of 70% or more are determined to have passed. For applicants who receive a composite score of at least 65% but less than 70%, the California essays are re-read by the Alaska Law Examiners. If, upon re-reading, a higher grade is assigned to the California portion, the composite score is re-calculated and examinees obtaining a 70% or better are passed. If, upon re-reading, a lower score is assigned, the original composite score is maintained. The original composite score is never lowered. Three applicants on the July 1979 Alaska bar examination passed as a result of higher scores given on a re-reading of their California essays.

In reviewing the examination results before certification, the Board of Governors receives a report on the examination, including irregularities (if any), a compilation of scores by applicant number for each portion of the examination, a representative sampling of anonymous answer papers, and copies of the essay questions. Once the examination results are approved, the names of passing and failing applicants are disclosed and the names of passing applicants are published. Individual scores are not revealed to the applicants or to the Board unless a review of the examination is required by a failing applicant or a failing applicant files an appeal.

E. Appeals

An applicant will be granted a hearing in either of two circumstances: (1) denial of an examination permit, or (2) denial of certification to the Supreme Court for admission. The applicant has the burden of alleging and proving an abuse of discretion or improper conduct on the part of the Executive Director, the Law Examiners Committee or the Board of Governors. If the applicant is not satisfied with the action taken on his appeal by the Board of Governors, he can appeal to the Alaska Supreme Court.

A failing applicant is provided with copies of the essay questions, his answers, a representative sampling of answers of both passing and failing exam papers, and the graders' analyses of the Alaska questions. Release of copies of current Multi-State bar examination questions is prohibited by the National Conference of Bar Examiners.

When an appeal is filed which raises factual issues of whether the Association has abused its discretion or acted improperly, the appeal is assigned to a Master for a hearing. The Master hears testimony, considers other evidence, and then prepares in writing a proposed decision supported by findings of fact and conclusions of law. The Master's report is then submitted to both the applicant and the Board. Thereafter, either the applicant or Bar Counsel may file exceptions and briefs and, upon request, may appear and present oral argument to the Board of Governors. The Board may adopt the decision of the Master in whole or in part, or reject it in its entirety and adopt its own findings of fact, conclusions of law, and issue its decision.

On the other hand, if there are no factual matters in dispute, the Board may decide the appeal without assigning it to a Master. If there are questions concerning the applicable legal principles, the Board will consider written or oral argument from the applicant and from Bar Counsel and will issue a written decision.

The applicant may appeal any adverse decision by the Board of Governors to the Supreme Court, which is the final arbiter on admissions questions. The Supreme Court reviews the findings of fact, conclusions of law and questions concerning procedure, due process, or other matters that are raised by the applicant. The decision of the Supreme Court in admission matters is final and binding on the Association and in all future similar admission cases.

F. Assistance to Unsuccessful Applicants

The Committee on Legal Educational Opportunities provides assistance to any unsuccessful applicant requesting it in reviewing examination papers and analyzing individual performance. This Committee also reviews the examination itself in order to provide a continuing evaluation of the examination's effects on racial and ethnic minorities. The work and findings of the Committee on Legal Educational Opportunities will be coordinated with the study of the entire bar examination now being conducted by the special Bar Examination Review Committee.

G. Statistical Summary

Enclosed with the materials provided to applicants is a letter providing information on a number of subjects, including the number of past applicants, the number of

passing applicants, and the percentage of applicants passing the ten examinations between February 1975 and July 1979.

III. DISCIPLINE OF MEMBERS

The activities of attorneys admitted to practice within the State of Alaska are governed by the Rules of Disciplinary Enforcement promulgated by the Alaska Supreme Court. As will be seen below, the substance and procedure of the rules of the Bar Association and the Supreme Court in regulating the practice of law within Alaska are entirely different than those of agencies of the State of Alaska charged with the regulation of legislatively controlled businesses and professions. For example, a ruling as to a permit or license issued by the Alcoholic Beverage Control Board or the Alaska Transportation Commission is final and binding, subject only to the right of a party to appeal questions of law to the Superior Court and, thereafter, if desired, to the Supreme Court. In matters involving public censure, suspension, or disbarment of attorneys, however, the Supreme Court is the decision maker, acting not as an appellate body but as the sole forum with authority to make and enforce its ethical pronouncements.

A. The Supreme Court's Authority

The Supreme Court has held that an attorney's license to practice law is "a continuing proclamation by the Court that the holder is fit to be entrusted with professional and judicial matters...as an officer of the courts."

Attorneys are, therefore, bound to act in conformity with standards "adopted or recognized by the Supreme Court of Alaska." The Supreme Court has also declared that any attorney admitted to practice in Alaska, or who appears or participates in legal matters within this State, "is subject to the supervision of the Supreme Court of Alaska....and the Disciplinary Board" which the Court established.

Due to the vastness of the size of the State of Alaska and the great distance between population centers, the Supreme court has established three disciplinary areas: (1) the First Judicial District; (2) the Second and Fourth Judicial Districts; and (3) the Third Judicial District. Charges of misconduct on the part of a lawyer are heard by the hearing committee established for the district in which the attorney lives or practices. Such charges may be based upon violation of the Code of Professional Responsibility or misconduct within or arising from disciplinary proceedings themselves. Depending on the severity of the misconduct, it may result in disbarment, suspension, or public censure by the Court or, in less serious cases, in private reprimand or informal admonition by the Association.

B. The Disciplinary Board

As has been discussed above, the Board of Governors acts as the Disciplinary Board for the Supreme Court.

It is required by Rule that all proceedings involving allegations of misconduct be kept confidential with the exception of public results. The day-to-day workings of the disciplinary process have been delegated to the Disciplinary Administrator, an attorney, whose functions include assisting the public in the complaint process, maintaining records, investigating, processing, and prosecuting complaints and appeals.

The procedures for disciplinary enforcement begin upon the filing of a Request for Investigation by any person alleging misconduct on the part of any attorney. A preliminary investigation by the Administrator may result in notification to the complainant that the allegations, on their face, are inadequate, incomplete, or otherwise insufficient as a matter of law to warrant further action. However, whenever the allegations, if true, would constitute misconduct, the attorney is required to answer in writing within twenty (20) days. An investigation is thereafter conducted. After the investigation, the official hearing process is instituted by the filing of a Petition for Formal Hearing.

C. The Hearing Committee

Investigations which result in the issuance of a Petition for Formal Hearing by the Disciplinary Administrator are referred to a Hearing Committee in the relevant geographical area. The attorney may thereafter file a

written answer admitting or denying the charges, or setting forth a claim of mitigation. Hearings are then held before the Committee. At the hearing, the Disciplinary Administrator prosecutes the case on behalf of the complaining party. The responding attorney may be represented by counsel. Either party may call, examine, and cross examine witnesses and otherwise request the production of evidence. The burden of proving misconduct by a preponderance of the evidence is placed upon the Disciplinary Administrator. The Committee may direct the submission of briefs.

At the conclusion of the hearing, the Committee must file a written report to the Board, together with the recorded transcript, briefs, findings, and a proposed order. If either party appeals from the Committee's recommendation, briefs may be filed with the Board. If desired, the matter may be orally argued to the Board. The Board must then conduct a review of the record and the briefs and enter its order.

D. The Recommendation

If the Board's order recommends either public censure, suspension, or disbarment, the order is filed immediately with the Supreme Court, which makes the final decision. The Board is powerless to enforce or effectuate such orders without Supreme Court review. The Board must submit

the entire record, including the hearing transcript, to the Supreme Court. The parties are required to file briefs in accordance with the Supreme Court rules for regular civil and criminal appeals; oral argument is available. It is only after review of this record by the Court that the order relating to the attorney's discipline is entered.

To insure the fairness of the proceedings, if any complaint is made against an attorney who is a member of the relevant Hearing Committee, the Board performs the duties of the Hearing Committee. Likewise, in proceedings against any member of the Board, the Supreme Court performs the duties of the Hearing Committee and the Board.

As with civil litigations, many of the above procedures may be lengthy or protracted before the issuance of a Hearing Committee report or a Board order. Thus, a need exists -- and a procedure has been formulated -- whereby either party can petition directly to the Supreme Court for review of the procedures and evidentiary rulings of the Hearing Committee.

E. Immediate Suspension

The Rules of Disciplinary Enforcement anticipate situations requiring immediate action against an attorney for protection of the public pending the completion of the full disciplinary process. One such situation exists when an attorney is convicted of a serious crime, such as a felony,

or when he is convicted of certain other crimes including those relating to interference with justice, false swearing, fraud, deceit, misappropriation or theft.

Conviction of such a crime is conclusive evidence that disciplinary action is necessary. The sole issue for determination is the nature of the final discipline to be imposed. Such a conviction also requires immediate suspension, regardless of whether the conviction is based on a jury verdict or a plea of guilty, and regardless of whether an appeal is pending. In the event the conviction is reversed, the suspension is lifted, but formal disciplinary proceedings must nevertheless continue to final disposition.

Can an attorney facing disciplinary charges avoid the consequences of his misdeeds by simply leaving the practice of law, thus leaving open the possibility of a future return to the profession? No! The Rules of Disciplinary Enforcement permit resignation of attorneys under disciplinary investigation only upon the free and voluntary admission by the attorney that he is guilty and has no defense to the charges. The attorney is then disbarred.

F. The Court's Order

When either disbarment or suspension is ordered by the Court, it is more than a mere order to that effect. The attorney must advise every client by registered mail that he cannot continue to represent him and the client must

immediately get new counsel. Opposing counsel must also be so advised, as must all state, federal or administrative jurisdictions in which the attorney is licensed to practice law. Sworn proof that these notification requirements have been met must be filed with the Supreme Court by the suspended or disbarred attorney. Proof of compliance with these requirements is a prerequisite to any subsequent reinstatement.

The Bar Rules, however, do not rely solely on notification by the disbarred or suspended attorney. They also require the Board to publish notice of disbarment and suspension in all legal journals and newspapers in the State. The Board must also advise all courts within the State and, through the Attorney General, all administrative agencies.

G. Reinstatement

Disbarred or suspended attorneys can, under certain circumstances and procedures, be reinstated to the practice of law. However, in cases of disbarment, a minimum of five years must pass before application for reinstatement can be accepted.

Petitions for reinstatement are filed with the Supreme Court, served upon the Board, and then referred for hearing. As with the imposition of discipline, the findings and recommendations of the Hearing Committee -- and thereafter the Board -- are only advisory, and the final determination on

on reinstatement is made by the Supreme Court. In order to be reinstated, the attorney has the burden of establishing that he possesses the moral qualifications and legal skills required for admission to practice and that his reinstatement will not be detrimental to the integrity of the Bar, the administration of justice, or the public interest.

H. Incapacity

The Rules of Disciplinary Enforcement also anticipate circumstances where the need for protection of the public arises from the incapacitating illness, addiction to drugs or intoxicants, senility, death, disappearance, or judicially declared incompetence of an attorney, rather than actual misconduct by the attorney. Upon a finding by the Supreme Court that such a disability exists, an order is entered transferring the attorney to inactive status for an indefinite period of time during which the attorney is prohibited from engaging in the practice of law. As with suspension or disbarment, notice of the Court's action must be published in all legal journals or publications within the State. Likewise, all courts and agencies are also notified.

Reinstatement of the right to practice can thereafter only be granted by the Supreme Court upon a showing by the attorney that the disability no longer exists and that he is fit to resume the practice of law.

While the above procedures are designed to remove the disabled attorney from active status, it is essential that the interests of the clients of the disabled attorney are also protected. Thus, the Bar Rules provide for appointment by the Superior Court of an attorney to represent the disabled attorney and his clients. The appointed attorney, on behalf of the suspended attorney, exercises powers similar to those of a personal representative of a deceased person, but does so only in those matters specifically related to the practice of law.

I. Alternative Proceedings

Some complaints do not rise to the level of professional misconduct warranting formal discipline. Nevertheless, two other forums are available to review the reasons for a client's dissatisfaction.

If the matter involves a dispute concerning the fee charged by an attorney, it is referred to a Fee Arbitration Panel. If the allegations involve a grievance which is not amenable to either discipline or fee arbitration, it is referred to a Conciliation Panel. Both are more fully discussed in Section IV of this booklet.

IV. THE COMMITTEES OF THE ALASKA BAR

A. The Bar Rule Committees

1. The Committee of Law Examiners

The President of the Alaska Bar appoints, subject to ratification by the Board, the twelve members who comprise the Committee of Law Examiners. The terms are staggered, with each person serving for three years.

The Committee is charged with the responsibility for preparing and grading the Alaska portion of the Alaska bar examination. It is also responsible for complying with the re-grading procedures which have been more fully described in Section II of this booklet.

Reports are made to the Board at least twice yearly with respect to the results of each examination. Included are a statistical analysis and any recommendations which the Committee might have with respect to the form and content of the examination. Regulations adopted by the Board govern the operation of the Committee.

2. The Disciplinary Hearing Committees

There are four area hearing committees, two in the Third Judicial District, one in the First Judicial District, and one serving the Second and Fourth Judicial Districts. Each consists of six Alaska Bar members together with three

non-attorney members. All serve for three year terms which are staggered.

Three members constitute a quorum. They may only act with the concurrence of a majority of the sitting members. One of those participating must be a non-attorney member. Members failing to attend two consecutive meetings are replaced by the President.

To insure the fairness of the disciplinary hearing process, committee members are prohibited from acting in matters where they have personal interest or knowledge, or otherwise cannot function objectively. The circumstances and procedures considered by the committee member are almost identical to those which a judge must follow in disqualifying himself in court proceedings. Possible conflict situations include where the member is a party or has an interest in the proceeding; where he was not present at the hearing of the case; where he is a material witness; where he is related either by blood or affinity to the charged attorney; where, within two years, he has professionally represented the charged attorney; or where, for any reason, he feels he cannot render a fair and impartial decision.

The hearing committee has the power and duty to swear witnesses and to issue subpoenas; at the conclusion of an evidentiary hearing, the committee may direct the submission of briefs.

Thereafter, the Committee is required to submit a written report to the Disciplinary Board, together with its

findings, recommendations, proposed order, and the record.

Once the Board has acted on the Committee's recommendation, each participating member is advised of the Board's decision.

3. The Conciliation Panels

There are three conciliation panels serving the First, Third and combined Second and Fourth Judicial Districts. Each panel consists of three active members of the Alaska Bar appointed by the President and subject to ratification by the Board. They serve staggered three year terms.

The conciliation procedure was recently created to deal with disputes which do not fall clearly within the area of fee disputes or charges of ethical misconduct. The conciliator's function is to resolve such disputes between attorneys and their clients in an informal manner.

Although the procedure is informal its "teeth" arise from the provision that failure by any attorney to participate in good faith in an effort to resolve disputes submitted to conciliation may constitute independent grounds for disciplinary action.

If a resolution is reached, the Conciliator reduces it to writing for signature by all parties. In any event, the Conciliator submits a written report to the Disciplinary Administrator, including a summary of the dispute, its outcome, and the Conciliator's opinion as to the merits and good faith or lack thereto of the attorney party.

4. The Attorney Fee Review Committee

The Bar Association, under the Alaska Bar Rules, maintains an Attorney Fee Review Committee to settle fee disputes between attorneys and clients where such disputes have not been settled by statute or court rule or decision. The Committee handles any fee dispute against an Alaskan lawyer or a non-Alaskan lawyer who renders legal services in the State of Alaska.

There are five panels comprising the Committee: two in Anchorage, one in Juneau, one in Fairbanks, and one in Ketchikan. Each Panel consists of three attorneys plus three attorney alternates, and one non-attorney plus a non-attorney alternate. A chairman for each panel is appointed from the panel members by the President of the Board of Governors. Each panel member serves for three years. Three panel members constitute a quorum, one of which must be a non-attorney.

The client initiates a proceeding by filing a petition showing the efforts made to resolve the matter, submitting the claim to the Committee, stating the dispute, and requesting a remedy. If the Disciplinary Administrator finds that reasonable efforts have been made to resolve the problem directly with the attorney, but without success, the petition will be accepted. Notification is sent to the client and the attorney that they have ten days to resolve the matter before it goes to the appropriate panel.

The hearing process requires full notice of time and place, and the right to present both written and oral evidence. The panel has the ability to subpoena witnesses. In the event the amount in dispute is \$500 or less, the chairman of the panel sitting alone may decide the issue. If it is more than \$500, a quorum of the hearing panel must hear the matter. If the client feels any member of the Committee can not be fair and impartial, he may request that that member not participate in the hearing. For similar reasons, a member may disqualify himself.

At the hearing, basic rights of due process are followed, with some relaxation of the rules of evidence. Any party may be called to testify. The hearings do not have to be recorded, but any party may request it be recorded, including the panel, the cost to be borne by the party making the request. The hearings are confidential unless the Superior Court orders the information released, although a summary of facts, without references by name, may be released by the Bar Association after the action has become final. A decision must be rendered by the panel within thirty days after the close of a hearing. An appeal may be taken from the decision to the Superior Court.

Forms and booklets explaining the Fee Review Committee's processes and procedures are provided to the clerks of court in every location in the State.

5. The Client Security Fund Committee

The Bar Association maintains a fund for the purpose of making reimbursement to clients of attorneys who have suffered non-insured losses of money, property, or other things of value as a result of a dishonest act by an attorney. A dishonest act means an act of embezzlement, wrongful taking, or conversion of money, property, or other things of value. The monies of the Fund come from the membership of the Bar Association, as it is mandated that a portion of the annual dues paid by each member be deposited to the Fund.

A client begins the procedure by filing a form with the office of the Alaska Bar Association. The client may not be a spouse, relative, partner, associate, employee or insurer of the lawyer, a surety or bonding agency, or a governmental entity or agency. The sworn application contains the name and address of the lawyer, the amount of the client's alleged loss, the dates of the loss and discovery of the loss, the name and address of the client, a statement as to the facts, an agreement that the client will be bound by the Alaska Bar Rules concerning the Fund, and a statement that the loss was not covered by insurance or bond.

The Committee of six members is appointed by the President, subject to ratification by the Board. Each member serves for three years, and the Chairman is appointed by the President. Once an application is filed, an attorney appointed to aid the Committee will determine if, on its face, a legitimate claim for loss has been made. The claim will be denied only if both the appointed attorney and a majority of the Committee agree that the claim is not valid on its face. Otherwise, the claim goes to the Committee for a final hearing.

The Committee hears evidence, administers oaths, issues subpoenas and, with prior approval, hires experts to aid in its investigation. Because the technical rules of evidence are relaxed, the Committee may consider any previous disciplinary proceedings against the attorney, any criminal

proceedings and any civil proceedings involving the lawyer. Testimony is recorded but is only transcribed in cases where the client's claim is approved by the Committee. The determination of the Committee is advisory to the Board. The Board makes the final decision as to whether and how payment will be made.

The loss to be paid any one claimant is the lesser of (a) \$10,000 or (b) 10% of the Fund at the time the award is made. The total amount of all claims paid in one year shall not exceed 50% of the total amount in the Fund as of January 1 of that calendar year.

Before funds are paid to the claimant, he must assign a small amount of the claim to the Bar Association so that the Bar may legally sue the attorney for recovery of all amounts paid to the client from the Fund. If the Bar Association chooses to sue the lawyer on this assigned claim, it must give written notice of the suit to the claimant in case the claimant wishes to join such an action to recover any loss in excess of the amount awarded to the client from the Fund.

6. Admission Waiver Programs

The Bar Association has three admission waiver programs allowing students and attorneys in special job classifications to perform certain legal services within the State of Alaska. These include:

a. Legal Intern Program

An applicant for the legal intern permit files for a permit on forms set forth in the Bar Rules, stating that he is either (1) a student enrolled in an accredited law school who has completed one-half of his course work or, (2) a law school graduate from an accredited law school who has never failed a bar examination or who has failed and then passed a bar examination. If an applicant has been admitted to another bar, the person must show that good standing has been maintained.

Once a permit is issued, the legal intern may do the following:

1. Appear in any District or Superior Court proceeding, to the extent permitted by the judge, if the lawyer of the client is present and able to supervise and has filed the necessary form with the court and the Bar Association;
2. Appear in District Court in a number of matters, both civil and criminal, without the supervising attorney present, provided the supervising attorney has filed a form and certifies the intern is competent, the client gives written consent, or a governmental body has granted approval, and the judge or magistrate agrees.

The permit is good until one of the following events occurs:

1. Six months have passed (the permit is renewable once for six more months);
2. The intern fails to take the first Alaska Bar examination for which he is eligible;

3. The intern fails to pass any bar examination.

b. Alaska Legal Services Corporation

A person employed by or associated with Alaska Legal Services Corporation may receive permission to practice law in Alaska, for not more than two years, if the attorney is admitted to practice law -- or is eligible to be admitted to practice law -- in another state, territory, or the District of Columbia, and has not failed the Alaska bar examination. The permission to practice shall be withdrawn if the person at any time fails the Alaska bar examination or leaves the services of the Alaska Legal Services Corporation. The permission is only good for representation of Legal Services clients, and the person is subject to the disciplinary rules of the Alaska Bar Association.

c. United States Armed Forces Expanded Legal Assistance Program

A person who is an active duty member of the United States Armed Forces assigned to the Judge Advocate General Program, or the United States Coast Guard, may receive permission to practice law in Alaska for not more than two years if the attorney is admitted to practice -- or is eligible to be admitted to practice law -- in another state, territory or the District of Columbia, has graduated

from an accredited law school, and has not failed the Alaska bar examination or does not leave military service.

There is an advisory council set up to establish rules and regulations for conducting the Expanded Legal Assistance Program in Alaska. It is made up of one representative from each participating military service and one representative from the Alaska Bar Association.

B. The Substantive Law Committees

There are ten standing committees of the Alaska Bar Association which focus on substantive law. They are:

- Administrative Law
- Business Law
- Criminal Law
- Environmental Law
- Family Law
- Natural Resources Law
- Probate Law
- Real Estate Law
- Taxation Law
- Tort Law

Each committee is responsible for monitoring the law, suggesting revisions, and reporting annually to the membership on legal developments in the area of law studied by the committee.

In addition, the committees are encouraged to submit articles in their fields of expertise to the Bar Rag, and to aid the Continuing Legal Education Committee in the presentation of seminars.

The committees, when necessary, are requested to

advise the Board on substantive issues, such as the tax status of the Alaska Bar Foundation.

While the committees cannot speak on behalf of the Alaska Bar Association without prior Board approval, several committees regularly monitor and testify concerning legislation both in Alaska and in Congress.

The Board of Governors has, on occasion, and at the request of some committees, taken positions and forwarded those views to the appropriate authorities. Recently, at the behest of the Criminal Law Committee, the Board supported the formation of a blue ribbon commission to study Alaska's drug laws. In response to a request from the Taxation Law Committee, the Board went on record supporting the carry-over basis repeal legislation now pending before Congress.

C. The Procedural and Service Committees

1. Bar-Bench Press Committee

There are nine members on the Bar-Bench Press Committee, three located in Southeastern, three in South-central, and three in the Interior. Its purpose is to prevent, where possible, and respond, where necessary, to unjust or inaccurate criticism of the courts, judges, or the system of justice in general.

The Committee is available to the news media as a

means of obtaining information concerning judicial activities, and court processes and other technical or legal information about the administration of justice. Furthermore, it has responsibility for encouraging broad dissemination of information about noteworthy achievements and improvements within the justice system, as well as suggesting means by which judges and lawyers can improve the public image of the legal system.

2. Bar Polls and Elections Committee

The function of this nine member committee is to prepare, at the direction of the Board, polls of the membership on any given number of subjects. Past work has included the evaluation of persons seeking judicial appointments, economic surveys, and subjects of priority interest to members of the Bar. Currently, a pro bono activity poll is being conducted.

In addition to formulation of requested polls, the Committee compiles the results of the poll and presents them to the Board.

The other major responsibility of this Committee is to tabulate the results of the yearly elections to membership on the Board of Governors and the Alaska Legal Services Corporation Board. In addition, it conducts advisory opinion polls for use by the Board in its appointment of lawyer

representatives to the Judicial Council, Judicial Qualifications Commission, and Ninth Circuit Judicial Conference.

3. Civil Rules Committee

The Alaska Rules of Civil Procedure, promulgated by the Supreme Court, are the central focus of this nine member committee. Working both independently and at the request of the Court System, the Committee recommends to the Supreme Court additions, deletions, and modifications to the rules by which law is practice in this State.

4. The Continuing Legal Education Committee

One of the most vital committees of the Alaska Bar is the Continuing Legal Education (C.L.E.) Committee, which is responsible for presenting substantive education programs in order to keep Alaskan lawyers abreast of new developments in the law.

The twelve member committee has three geographic locations, Southeastern, Southcentral and Interior, so that the types of programs desired by the various regions of the State can be developed.

Five to nine programs per year are offered. In the recent past, these have included estate planning, products liability litigation, estate management, the new rules of

evidence, the new criminal code, and the new bankruptcy act.

Some programs are given in only one major population center while others are "piggybacked" to two or more cities or video-taped for state-wide distribution. In addition, the C.L.E. Committee has responsibility for planning and executing a three day mid-winter meeting of the general membership devoted to legal education.

A tape library of significant programs is maintained for members and for the public. Both audio and video tapes can be rented by individuals or groups at a nominal cost. Also, written source materials on current programs are available to those unable to attend the live programs.

5. Ethics Committee

The nine member Ethics Committee issues opinions, based on actual circumstances but phrased in hypothetical terms, in order to give guidance to Association members in complying with the Code of Professional Responsibility.

An opinion may be requested by any member in good standing who is concerned with proposed conduct. Any other person desiring an ethics opinion can request one through the Board of Governors.

No ethics opinion is published without approval of the Board which thereafter directs its distribution by publication in the Alaska Bar Rag, circulation to all Law Libraries, and mailing to the Supreme Court.

6. Insurance Committee

The nine member Insurance Committee was recently established to monitor the status of malpractice insurance coverage within the State of Alaska, as well as to recommend to the Board any changes or additions in the group life, accident, and health plans which are offered to Association members and their employees.

7. Law Related Education Committee

The purpose of this nine member committee is to present programs and publications to the community at-large which will aid in an understanding of the law and the legal system. Its activities have included mock trials in the classrooms, as well as a series devoted to the education of the owners of small businesses as to their rights under the law.

Preparation of pamphlets on general areas of the law for distribution to the public is a project currently being considered.

8. Legal Educational Opportunities Committee

Another standing committee of the Alaska Bar is the Legal Educational Opportunities (L.E.O.) Committee. Its responsibilities include oversight of WICHE funds for legal education, administration of the recently established Bar

Association scholarship program, and tutoring assistance to failing bar examinees. In addition, the L.E.O. Committee is aiding a special committee to review the bar examination for any potential racial or ethnic bias. The Committee also makes recommendations to the Association as to how to encourage minority students to pursue a legal career in Alaska.

9. Paralegal Committee

After two surveys of the membership, the Paralegal Committee accumulated information for dissemination to interested persons with respect to skills required for paralegals. In addition, it offers continuing legal education for attorneys who work with paralegals. Associate membership in the Committee is offered to paralegals.

Perhaps this Committee's most important function is the liaison which it provides between the legal profession and the paralegals active within the State of Alaska. Also under investigation is a program for certification of paralegals.

10. Statutes, Bylaws and Rules Committee

This standing committee of nine persons is charged with responsibility for proposed revisions of the statutes, bylaws, and rules which govern the Alaska Bar. One of the most active committees, its major projects over the past

year or so have included full scale revision of the Disciplinary Rules, a comparison of those rules to the model rules of discipline, a study of the issues of solicitation and advertising, and a review of the Code of Professional Responsibility.

D. The Special Committees

1. Advertising Committee

At its October 1979 meeting, the Board authorized creation of a special committee to formulate regulations pursuant to which attorneys admitted to practice in Alaska may advertise their services.

The necessity for this seven member committee was generated by changes to the Code of Professional Responsibility which the Board of Governors recommended and which the Supreme Court adopted.

Those provisions allow an attorney to advertise in the print media, or on T.V. or radio, and to include such information as his name, address, phone number, the fields of law to which his practice is limited, and his professional memberships and associations, together with certain statements regarding fees.

2. Alternative Disputes Resolution Committee

Two of the most serious problems facing the American system of justice are the cost of litigation and the delay in proceeding to trial. As a result, the Board authorized the creation of a committee to investigate and to recommend alternative means by which to resolve disputes. Its goal is a speedy, inexpensive system by which minor litigation can be handled outside the traditional system. Included in its study are such concepts as neighborhood dispute centers and the vehicle of arbitration.

The committee, which includes non-lawyers, will submit its recommendations to the Board by March 1980. It is anticipated that a pilot program will be in operation not later than July 1980.

3. Examination/Admission Review Committee

After approximately six years experience with the Alaska Bar examination as presently formulated, the Board of Governors decided that a thorough review was in order. As a result, in the spring of 1979, a three member committee was appointed to undertake the project.

Included within its mandate were studies with respect to use of the multi-state exam, the efficiency of the California essay exam, and potential cultural bias.

Also to be examined is the weight accorded the Alaska essay portion, any differences in the degree of difficulty of the various segments, and queries which have been raised as a result of appeals by failing applicants.

Also under consideration is the question of reciprocity, re-examination for attorneys after a long period of inactive status, and various statistical correlations.

4. Historians of the Alaska Bar

As one of the most unique bar associations, populated through the years by many colorful individuals, it was determined that before the incidents and events became lost, a group would be created to preserve the history of the Alaska Bar.

Judge James Hornaday chairs this group, which has representatives from all parts of Alaska. Besides gathering the information for future publication, the Committee will present programs at the annual meeting and contribute articles to the Alaska Bar Rag.

Another project in which it is engaged is the preparation and circulation of a questionnaire to obtain information about each attorney's professional and civic activities. This is being done so that a complete profile of each member can be obtained for placement in the permanent files.

5. Prepaid Legal Services Committee

This special committee is studying the possibility of starting a prepaid legal services plan which would be sponsored by the Alaska Bar Association. Its initial report is due to the Board in March, 1980.

As contemplated, the Bar Association would sponsor a plan where the public could purchase insurance under which future legal services would be provided. The Committee will make recommendations as to feasibility and structure, as well as investigate the possibility of obtaining the necessary underwriting.

6. Risk Management Committee

As a result of the growing nation-wide crisis in malpractice coverage, a special committee was appointed in March, 1978, to determine what alternatives were available to the Alaskan attorney to secure malpractice coverage adequate to protect both the lawyer and the public.

Pursuant to a resolution passed unanimously at its 1978 annual business meeting, the special committee collected loss data from all available sources, met with the State's Insurance Commissioner, contacted all carriers writing attorney coverage in the country, and consulted with the expert who assisted the Law Societies to set up self-insurance plans in Canada.

Aware that the number of malpractice carriers had decreased in 1975 from twelve (12) to two (2), and also aware that the number of carriers had increased to only five (5) by 1978, the Committee sought a comprehensive self-insuring alternative that might be competitive in cost and coverage with available market alternatives. A four page comparative explanation was published in the Bar Rag, and a report was given to the membership at the 1978 annual meeting. The Committee recommendation was for the Association to sponsor the INAX coverage for Alaska lawyers. The membership unanimously adopted the recommendation.

One advantageous feature of the INAX proposal was its recognition of, and efforts toward, loss prevention. In cooperation with the Association, INAX presents loss prevention seminars to lawyers, paralegals, and office administrators. Such seminars present information on current losses and on avoiding malpractice that may result from poor law office management. Additionally, the Continuing Legal Education Committee is incorporating loss prevention information into seminars on substantive law. The goal of the Association is to identify and to prevent errors and omissions that result in harm to the client.

7. Specialization Committee

The Bar Association's Specialization Committee has

been studying specialization and making annual reports to the Board of Governors since 1976. The task facing such a committee ranges from defining specialization to establishing criteria and procedures for identification of specialties, determining the skills and experience desirable to certify a specialist, and establishing procedures for recertification. Guidance is finally available from the American Bar Association, which has recently published a model plan for specialization procedures. The Alaska Bar Association's Committee on Specialization is charged with the task of presenting its proposed plan to the Board in March, 1980, and to the membership at its annual meeting in June, 1980.

Specialization requires procedures to identify, test, and certify those attorneys who devote substantial time to a specific area of law so that their experience, training, and continuing legal education can be relied upon by the public in its search for expertise to handle a specific legal problem. Specialization certification also permits the certified attorney to advertise his specialty to the public.

The difficulty with implementation of specialization in Alaska includes the fact that over 50% of the practicing attorneys in Alaska have been in practice five years or less. Thus, they lack the experience relied upon

by most jurisdictions to certify experts in any field of law. A second equally important factor is that the majority of lawyers in Alaska consider themselves general practitioners who do not specialize in any one field of law, but who are available to render legal services in almost every field of law, where their clients need legal services. In Alaska, as elsewhere, specialization will become a more realistic and meaningful way for the public to identify lawyer expertise.

8. Unauthorized Practice Committee

This committee was formed as the result of what many members believe to be the unauthorized practice of law in Alaska by non-admitted lawyers. It is charged with investigating the nature and extent of practice in Alaska by non-admitted attorneys and with recommending remedial action if necessary. The Committee will report to the Board in March of 1980.

V. SPECIAL PROJECTS

A. Competent Representation of Indigent Criminal Defendants Where the Public Defender Has A Conflict of Interest

Prior to establishment of the Public Defender Agency in 1969, indigent criminal defendants were represented by court-appointed counsel who were compensated at rates below those ordinarily charged paying clients. Even with establishment of the Public Defender Agency, in cases where two or more defendants were charged with criminal violations arising out of the same set of circumstances, private practitioners were appointed by the court to represent the defendants unable to be represented by the Public Defender because of a conflict of interest between the several defendants. The rate of compensation remained well-below the average rate paid by clients who had resources to pay their chosen attorney.

In fiscal year 1979, the vast number of defendants needing appointment of private counsel reached crisis proportions. Even though the rate of compensation was only \$40.00 per hour, a supplemental appropriation to meet costs was sufficient to pay only seventy-five (75) cents on every dollar owed to appointed counsel. Consequently, the Court

put into effect a maximum fee schedule. The Anchorage Superior Court issued an order placing each private practitioner on a mandatory appointment list similar to the list already utilized in Fairbanks, and appointments were considered on a similar basis for every major city in Alaska.

Because of wide-spread concern with the quality of representation that could result if attorneys were appointed to represent criminal defendants even when the attorneys lacked training and experience in criminal law, an ad hoc, voluntary committee was formed, with representatives from the Bar Association, Department of Law, Court System, and Public Defender Agency to study the problem and make recommendations.

The Court accepted the Committee's recommendation that contracts be let to represent conflict criminal defendants in all areas of the State. Bids were solicited from the entire State and contracts let for a lump sum price for competent representation from October, 1979, through January, 1980. In January, the contracts were re-let for the period through June 30, 1980.

As a result of the work of the Ad Hoc Committee, the Chief Justice has appointed a similar committee to study and to recommend to the Court, by June, 1980, procedures for all court-appointed counsel cases.

B. Institutional Advertising

In an effort to educate the public with respect to its legal rights, the Alaska Bar is sponsoring, state-wide, a series of public service announcements (PSA's) on television. The current group provided information with respect to wills, juvenile rights, and consumer complaints.

The tapes, which were provided free of charge by the Virginia Bar, will be replaced with others as sources are located.

C. State-wide Lawyer Referral Service

In May, 1978, a state-wide referral service was established by the Alaska Bar Association. Before that date, a similar service had been provided in Anchorage under contract with the Anchorage Bar Association. The service provides the names, addresses and telephone numbers of three attorneys practicing law in the subject area of the caller's legal problem. The caller is referred to three lawyers practicing in the geographical area where the caller resides or needs representation. The service is free to the public.

Approximately 4000 requests for lawyers are made to the service each year. This averages out to be over fifteen (15) calls per day. About one-third of the requests

are for problems in the family law area. The second largest number of requests concern commercial law problems. Representation is most often requested in the following areas: family law, commercial, negligence, criminal, traffic, consumer, administrative agencies, landlord/tenant, and wills/estates/trust.

Although the cost of the service is partially borne by all members of the Association through the annual dues, lawyers who participate in the referral service are charged an annual fee of \$35.00. Each lawyer may register in up to five areas of law in which referrals will be accepted. In addition, each lawyer may indicate areas in which pro bono clients will be accepted. The lawyer must agree to charge only \$25.00 for the first half hour consultation with the referred client and must agree to keep at least \$50,000 malpractice coverage in effect at all times.

The availability of the referral service continues to be advertised in the two Anchorage papers, the Fairbanks Daily News-Miner and the Tundra Times. The only area of the State not covered by advertising is Southeastern, which, to date, has shown little or no need for, or response to, the Lawyer Referral Service.

D. Mandatory Continuing Legal Education

A subject of recent examination in the legal profession is mandatory continuing legal education (CLE). In the few states in which bar associations have adopted mandatory CLE, the number of required hours range from three (3) hours per year to fifteen (15) hours over a three year period.

At its annual meeting in June, 1978, the Alaska Bar Association moved that a study of mandatory CLE be undertaken by the Association, with a report to be given to the membership at the 1979 annual meeting. As a part of that study, the CLE Committee surveyed the membership in the spring of 1979. The results of the poll indicated that a majority of the responding attorneys favored mandatory CLE in Alaska. In addition, the poll also revealed that while most law firms do not require their members to attend CLE courses, nearly all firms pay the cost of attendance at CLE programs. A vast majority of the attorney members have attended CLE programs during the past three years, with many of them going Outside for such programs. Most responding attorneys rejected the concept of granting a waiver of CLE requirements based on geographical location of the attorney, but do support giving CLE credit for attendance at video-taped CLE programs presented in various geographical areas.

In June, 1979, the membership in attendance at the annual meeting failed to pass a resolution that would have required fifteen (15) hours of continuing legal education per year. The floor discussion of the resolution indicated that rejection was based upon the lawyers' recognition that the majority of attorneys in Alaska do attend CLE seminars on a regular basis. Therefore, making such attendance mandatory was not necessary or desirable.

E. Pro Bono Activities of the Alaskan Lawyer

"Pro Bono" work by lawyers is the giving of legal services without compensation. It may also include the rendition of such services at substantially reduced rates. In Alaska, lawyers are required by their Code of Professional Ethics to perform pro bono work for their communities. This ethical obligation is typically performed not only by handling individual matters for indigent citizens at no cost, it is also performed for voluntary citizen groups; non-profit arts, music and theater groups; charitable groups, such as United Way or the YMCA; and church boards and religious organizations.

The Committee on Bar Polls and Elections is currently conducting a survey of lawyers in Alaska in order for the Association to update its information and to more concisely identify those areas of the community which receive

pro bono legal work and the amount of services received.

F. Typical Alaskan Lawyer and Law Firm

The results of a survey of the Bar Association in early 1978 reveal the following profile of the legal profession in Alaska:

The "typical" Alaska Lawyer has practiced law for 6 years in the Third Judicial District in a community of over 5000 population. He is probably a partner in a firm. If not a partner, then the typical lawyer is either a sole practitioner or an associate. His annual income, before taxes, is \$37,823. Twenty-two percent (22%) make \$25,000 or less, 33% make between \$25,000 and \$40,000, 36% make between \$40,000 and \$70,000; 9% make between \$70,000 and \$125,000, and 1% make over \$125,000. He is among the 62% of all attorneys who have professional insurance.

To earn income, the typical attorney works 47.5 hours per week, of which 70% is charge-time to clients. Twenty percent (20%) of his time is spent on administration or non-chargeable office activities; four percent (4%) is spent on pro bono legal work. Regardless of his working day, an average of 7 hours of work per day is charged to clients. If a salaried lawyer, 95% of his work hours are spent on work for his employer.

For the past five years, the typical lawyer has spent an average of forty-five (45) hours per year on community service. Thirty-five percent (35%) of his colleagues have spent from 100 to more than 200 hours on community service. During the same period, the typical lawyer -- and 60% of his colleagues -- spent up to 70 hours per year on non-paid community service. The other 40% devoted between seventy-one (71) and 200 hours per year on non-compensable community service. The typical lawyer spends twenty-nine (29) hours per year on professional activities, continuing legal education, and on professional boards, committees, and fee arbitration panels.

The typical lawyer charges \$60.00 per hour for his services. Fifty-six percent (56%) of his colleagues charge between \$40.00 and \$70.00 per hour, 20% charge between \$70.00 and \$80.00, 15% charge between \$80.00 and \$100.00, and .2% charge between \$100.00 and \$130.00 per hour. The attorney's highest percentage of income is most likely derived from general practice, as is that of 30% of his colleagues.

(Note: 34% of the responding attorneys did not indicate any field of law as representing a highest source of income.)

The typical lawyer is paid \$70.00 per hour by those clients who pay a fixed fee or retainer. (Note: 55% of the responding lawyers did not indicate that they were paid fixed fees or

retainers, and an additional 16% indicated they did not know how much per hour they received for work on a fixed fee or retainer basis.) If the typical lawyer charges a flat daily rate, he is paid \$59.00 per hour. (Note: 64% did not indicate they were ever paid on a daily basis, and 18% of those who said they were so paid did not know to how much per hour the daily fee worked out.)

The "typical" Alaskan Law Firm has only one principal office from which clients are served by two lawyers, .6 associates, and 2.5 secretaries/receptionists. A typical firm spends 48.5% of its gross income on overhead expenses. Fifteen percent (15%) of the firms spend between 10% and 30% on overhead, 39% spend between 31% and 50%, 43% spend between 51% and 70%, and 3% spend over 70% on overhead. In other words, 82% of the law firms in Alaska have overhead expenses which run between 31% and 70% of their gross annual income.

Forty-eight per cent (48%) of a typical firm's overhead is paid out for support of staff, with 23% being paid to secretaries/receptionists. Nine percent (9%) is paid to associates, 11% is paid to other employees, and 5% is paid for fringe benefits for employees. Office rent consumes 14% of the overhead expenditures, supplies and postage cost 6%, equipment rental costs 7%, telephone costs 6%, library and subscriptions costs 6%, and 13% is paid for other miscellaneous items.

Results of the survey demonstrate interesting comparisons between the typical lawyer who practices in the First, Third, and Second and Fourth Judicial Districts.

In the First District, the typical lawyer:

1. Earns \$35,000 - \$40,000 net per year
2. Works 41 - 45 hours per week
3. Charges \$71 - \$80 per hour
4. Pays 41% - 50% of income for overhead expenses: rent (10%-19%); salaries for secretaries/receptionists (31%-35%)
5. Devotes 61 - 70 hours per year to community service
6. Spends 21 - 30 hours per year on professional activities
7. Spends 41 - 50 hours per year on pro bono work

In the Third Judicial District, the typical lawyer:

1. Earns \$35,000 - \$40,000 net per year
2. Works 46 - 50 hours per week
3. Charges \$61 - \$70 per hour
4. Pays 51% - 70% of income for overhead expenses: rent (10%-19%); salaries for secretaries/receptionists (20%-25%)
5. Devotes 61 - 70 hours per year to community activities
6. Spends 21 - 30 hours per year on professional activities
7. Spends 81 - 90 hours per year on pro bono work

In the Second and Fourth Districts, the typical lawyer:

1. Earns \$40,000 - \$45,000 net per year

2. Works 46 - 50 hours per week
3. Charges \$71 - \$80 per hour
4. Pays 41% - 50% of income for overhead expenses: rent (less than 10%); salaries for secretaries/receptionists (10%-19%)
5. Devotes 41 - 50 hours per year to community activities
6. Spends 31 - 40 hours per year on professional activities
7. Spend 91 - 100 hours per year on pro bono work

VI. PUBLICATIONS

A. The Alaska Bar Rag

The official publication of the Alaska Bar is the Bar Rag, which appears on a monthly basis. Its purpose is to inform members of Association activities, to report trends and developments in the profession, and to entertain. It is provided to all active and judicial members of the Association at no cost. Responsibility for the publication rests with a seven member Board of Directors, appointed by the Association President for one year terms.

Actual production of the publication is carried out by the Editorial Board.

B. UCLA/Alaska Law Review

The Alaska Bar publishes, semi-annually, for the benefit of its members and at no additional cost, the UCLA/Alaska Law Review. Strong emphasis is placed on topics related to the laws of Alaska and contributions to the Review by members of the Bar are actively solicited.

The Law Review is edited by law students at U.C.L.A., and includes articles by practicing attorneys, law professors, and notes and comments by students.

Two members of the Alaska Bar serve as a liaison between the staff of the Law Review and the Board of Governors, which is charged with responsibility for the publication.

VII. ADJUNCT INVOLVEMENT

A. The Alaska Bar Association Insurance Trust

On March 11, 1976, the Board of Governors established an insurance trust fund for the benefit of Association members and employees. Its purpose is to offer group life, group accidental death and dismemberment, and group hospitalization, medical and surgical, disability, and related insurance benefits to any member who desires them.

The Fund is administered by three Trustees, who are elected annually. The trustees are also members of the Board.

At the present time, the Trust offers medical and life insurance plans to members of the Association. Attorneys and their employees are able to enroll in the group health insurance program. A \$50,000 group life insurance plan (with an optional term life plan) is offered to attorneys only.

B. The Alaska Bar Foundation

In October, 1972, the Board of Governors established the Alaska Bar Foundation for the purpose of fostering and maintaining the honor and integrity of the profession, improving and facilitating the administration of justice, promoting the study of law and continuing legal

education, administering loans and scholarships, and maintaining a law library and research center.

The Foundation was established, pursuant to Section 501(c)(3) of the Internal Revenue Code, as a Not for Profit Corporation, and was incorporated in accordance with the laws of the State of Alaska.

The Board of Governors of the Alaska Bar presently serves as the Board of Directors of the Foundation.

While it has been largely quiescent since formation, with insufficient funds to operate effectively, the program is currently being activated with its first objective being the establishment of a viable scholarship program. The first scholarships will be offered in 1980.

C. American Bar Association

Each state bar association has one representative in the House of Delegates of the American Bar Association. The delegate is elected by the active members of the Alaska Bar to serve a two year term. Alaska's current representative is Keith E. Brown, whose term expires at the end of the American Bar's annual meeting in 1980.

His function is to represent the views of the Alaska Bar on all matters which come before the House of Delegates for consideration.

D. Alaska Legal Services Corporation

Nine attorneys serve on the Board of Directors of Alaska Legal Services Corporation (ALSC), two from the First Judicial District, one from the Second Judicial District, three from the Third Judicial District, and one from the Fourth Judicial District. Each serves for a term of three years. The ninth attorney on the Board of Directors is the President of the Alaska Bar, who serves during his term as President. In addition, there are nine alternate members who serve when a regular member is unable to do so. All of the elections are administered by the Alaska Bar Association.

The Board carries out the purpose of the Corporation, which is to provide legal assistance to persons lacking the financial capability to obtain private counsel. It meets at least four times a year, supervises a staff of thirty-eight (38) professionals and forty-nine (49) support personnel, and administers a budget of \$1.7 million.

When necessary, the Bar Association provides state-wide mailing services to ALSC.

E. Alaska Code Revision Commission

The Alaska Code Revision Commission was established in 1976 to review and recommend revisions to the laws of Alaska. The Board of Governors appoints one attorney to the Commission. Since its inception, all appoint-

ing entities have appointed members of the Alaska Bar to the Commission.

F. Judicial Council

Three attorneys serve for six year terms on the Judicial Council. The Council's purpose is to recommend candidates for judicial office and to conduct studies for the improvement of the administration of justice.

The attorney members are appointed by the Board of Governors after nominating petitions have been circulated and advisory polls conducted.

In addition, the Bar Association has conducted polls evaluating judicial candidates and transmits the results to the Council for its consideration.

G. Judicial Qualifications Commission

After advisory polls, the Board of Governors appoints two attorney members, who serve four year terms, to the Judicial Qualifications Commission.

The Commission has the power to investigate malfeasance or misfeasance on the part of a member of the judiciary, and to recommend to the Supreme Court impeachment, suspension, removal from office, retirement or censure.

H. Ninth Circuit Judicial Conference

The Ninth Circuit Judicial Conference was estab-

lished by the Judicial Council of the Ninth Circuit Court of Appeals to consider the business of the courts in the circuit, advise means of improving the administration of justice, and implement decisions regarding administration of the courts.

All the judges in the Ninth Circuit, the President of each state bar association, the United States Attorney, Magistrates, law school representatives, and private practitioners comprise its membership.

In addition to the President of the Bar, Alaska has two other lawyer representatives who are appointed by the presiding judge of the Federal Court in Alaska to serve staggered three year terms. The Bar Association participates in the selection of these two attorney members by soliciting nominations, conducting an advisory poll, and thereafter recommending to the Chief Judge three persons for each vacancy.

The lawyer representatives serve without compensation and without reimbursement for expenses.

I. National Conference of Bar Presidents

At the time of their election to office, the President and President-Elect of the Alaska Bar become members of the National Conference of Bar Presidents, which meets twice a year in conjunction with the meetings of the American Bar Association. In addition, all past Presidents of the Alaska Bar are members.

Its purpose is to educate and train bar leaders, to keep them abreast of current events, to improve the quality of delivery of legal services, and to improve the administration of justice.

J. Western States Bar Conference

Fifteen (15) states are members of the Western States Bar Conference. The conference meets once a year to share the ideas and experiences of the member state bar associations.

The President and President-Elect of each state bar, as well as all past Presidents, are members of the Conference.

K. Rocky Mountain Mineral Law Foundation

The Rocky Mountain Mineral Law Foundation, one of the preeminent natural resources organizations in the United States, sponsors continuing legal education programs, publishes books and treatises, provides scholarships and, in general, encourages development of natural resources law.

Its Board of Trustees is comprised of law school representatives, private practitioners, and one appointee from each bar association in the Western states. Harris Saxon, the Alaska Bar's current representative, serves at the pleasure of the Board of Governors.

L. Bankruptcy Judge Merit Screening Committee

Three members of the Alaska Bar served, pursuant to federal statutes, on the Ninth Circuit Bankruptcy Judge Merit Screening Committee.

Its purpose was to determine whether the current bankruptcy judge was qualified to continue to serve in his position, and to make recommendations to the Chief Judge of the Ninth Circuit.

During the process, the Committee reviewed answers to comprehensive questionnaires solicited from attorneys practicing in bankruptcy court, heard testimony from interested persons, and interviewed the judge.

by THE JUDICIARY COMMITTEE

SENATE BILL

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

* Section 1. AS 08.03.010(c) is amended by adding a new paragraph to read:

(19) Board of Governors of the Alaska Bar Association (AS 08.08.040) - June 30, 1984.

* Sec. 2. ~~AS 08.03.010(c) is amended to read:~~
AS 08.03.010(b)(1) IS REPEALED.

Sec 3 AS 08.08.040 is amended to read:

Sec. 08.08.040. BOARD OF GOVERNORS OF THE ALASKA BAR. (a) There is [HEREBY] constituted a Board of Governors of the Alaska Bar to be elected under bylaws and regulations adopted [PROMULGATED] by the board.

(b) The board consists of ^{NINE} ~~SIX~~ active members elected by the active members of the Alaska Bar and three persons who are appointed by the governor and who are not attorneys.

* Sec. ~~33~~ 34 AS 08.08.050(a) is amended to read:

Sec. 08.08.050. SELECTION [ELECTION] OF THE BOARD. (a) Two members of the board shall be elected by and from among the members of the association resident in the first judicial district; four members of the board shall be elected by and from among the members of the association resident in the third judicial district; two members by and from among the members of the association resident in the combined area of the second and fourth judicial districts; ONE MEMBER AT LARGE FROM THE ENTIRE STATE; ~~Three members who are not attorneys shall be appointed by the governor and are subject to confirmation by the legislature in joint session [AND ONE MEMBER AT LARGE FROM THE ENTIRE STATE]~~

* Sec. ~~35~~ 5 AS 08.08.050(b) is amended to read:

(b) Members of the Board of Governors shall hold office for three years and until their successors are elected or appointed and qualified.

* Sec. ~~6~~ 6 AS 08.08.050(c) is repealed and reenacted to read:

(c) Board members shall be selected annually, on the following triennial rotation:

(1) in the first year, one member shall be appointed; one member shall be elected from the first judicial district, one member from the combined second and fourth judicial district, and one member from the third judicial district, AND ONE MEMBER AT LARGE FOR THE ENTIRE STATE.

(2) in the second year, one member shall be appointed; one member shall be elected from the first judicial district, one member

from the combined second and fourth judicial district, and one member from the third judicial district;

(3) in the third year, one member shall be appointed and two members shall be elected from the third judicial district.

Sec. 7 AS 08.08.070 is repealed and reenacted to read:

Sec. 08.08.070. VACANCIES ON THE BOARD. (a) The board shall fill a vacancy in the elected membership of the board until the next annual election.

(b) The governor shall appoint a member to fill a vacancy in the appointed membership of the board for the unexpired term.

Sec. 8 AS 08.08 is amended by adding a new section to read:

Sec. 08.08.075. MEETINGS OF THE BOARD. AS 44.62.310 and 44.62.312 apply to the meetings of the board. Members of the Alaska Bar and the public shall be given 30 days notice of meetings of the board except for emergency meetings dealing with the executive administration of the bar examination. ~~Meetings of the board shall take place in the state.~~

Sec. 9 AS 08.08.080 is amended to read:

Sec. 08.08.080. POWERS OF BOARD. (a) Except as may be otherwise provided in this chapter or the Alaska Bar Rules, the board may adopt reasonable provisions

(1) concerning membership and the classification of membership in the Alaska Bar;

(2) providing for employees of the Alaska Bar, the time, place and method of their selection, and their respective powers,

duties, terms of office, and compensation;

(3) concerning annual and special meetings;

(4) concerning the establishment, collection, deposit, investment, and disbursement of membership and admission fees, penalties, and all other funds;

[(5) PROVIDING FOR THE ORGANIZATION AND GOVERNMENT OF LOCAL SUBDIVISIONS OF THE ALASKA BAR;]

(6) providing for all other matters affecting in any way the organization and functioning of the Alaska Bar;

(7) providing for continuing legal education and for certification of a continuing legal education program;

(8) establishing and maintaining a program for the certification of attorneys as specialists.

(b) The board may

(1) approve and recommend to the state supreme court [ADDITIONAL] rules for promulgation by the court including rules concerning admission, [AND] discipline, licensing and continuing legal education ~~AND DEFINING THE PRACTICE OF LAW~~

(2) adopt reasonable bylaws and regulations consistent with this chapter and the Alaska Bar Rules;

(3) sue in the name of the Alaska Bar in a court of competent jurisdiction to enjoin a person from doing an act constituting a violation of this chapter;

(4) fix the annual membership fee for active ~~[AND] inactive~~ and judicial ~~members~~

(5) recommend to the legislature changes to this chapter and to the provisions of state law generally.

* Sec. ~~10~~ AS 08.08.085 is amended to read:

Sec. 08.08.085. ANNUAL REPORT TO LEGISLATURE. (a) The Board of

CLASSIFICATIONS OF MEMBERS

Governors shall report annually to the ~~Board of Governors of the~~ legislature on all matters concerning admissions, discipline of members, and disbarment proceedings, except for those matters defined as confidential by court rule.

(b) The report of the Board of Governors shall note

(1) each addition, modification, or repeal of a bylaw or regulation of the Alaska Bar;

(2) each addition, modification, or repeal of the Alaska Bar Rules proposed to or adopted by the state supreme court.

SEC. 11. THIS ACT TAKES PLACE IMMEDIATELY IN ACCORDANCE WITH AS. 01.10.070(C).

BOARD OF GOVERNORS

ALASKA BAR ASSOCIATION

PO BOX 279

ANCHORAGE, ALASKA 99510

AREA CODE 907/272-7469

RANDALL P. BURNS EXECUTIVE DIRECTOR

MARVIN S. FRANKEL DISCIPLINARY ADMINISTRATOR AND BAR COUNSEL



OFFICERS

WILLIAM B. ROZELL
PRESIDENT
JUNEAU

KAREN L. HUNT
PRESIDENT-ELECT
ANCHORAGE

STANLEY T. FISCHER
VICE PRESIDENT
KODIAK

HUGH G. WADE
SECRETARY
ANCHORAGE

BOARD MEMBERS

WILLIAM P. BRYSON
STANLEY T. FISCHER
KAREN L. HUNT
ELIZABETH P. KENNEDY
EDWARD G. KING
JONATHAN H. LINK
WILLIAM B. ROZELL
RICHARD D. SAVELL
HUGH G. WADE

January 19, 1981

Senator Jalmer M. Kerttula
Senate President
State of Alaska
Pouch V
Juneau, AK 99811

Representative Mike Miller
Acting Speaker of the House
State of Alaska
Pouch V
Juneau, AK 99811

Dear Mr. President and Mr. Speaker:

On behalf of the Board of Governors of the Alaska Bar Association, pursuant to AS 08.08.085, I make the following report to you and the members of the Alaska Legislature concerning admissions, discipline of members and disbarment proceedings.

Admissions and discipline, including disbarment proceedings, are conducted by the Alaska Bar Association pursuant to bar rules promulgated by the Alaska Supreme Court. The Alaska Bar Association reports to the Supreme Court on its activities after each bar examination (twice a year) for admissions and after each quarter for discipline. Disbarment proceedings are a part of disciplinary activities. Final action on all admissions applications and on all serious disciplinary matters is taken by the Alaska Supreme Court and not by the Alaska Bar Association. Copies of the petitions for admissions and quarterly discipline reports submitted to the Alaska Supreme Court are enclosed for your information.

Also enclosed are copies of reports on fee arbitration which have been provided to the Supreme Court.

Senator Jalmer M. Kerttula
Representative Mike Miller
January 19, 1981
Page Two

Decisions of the Board of Governors on discipline and admission matters may be appealed to the Alaska Supreme Court. The court's opinions in such cases are published. During 1980 the Alaska Supreme Court struck down the requirement that applicants be residents of the state for 30 days before taking the bar examination (Sheley v. Alaska Bar Association, Opinion #2156, August 29, 1980); affirmed the decision of the Board of Governors which increased the six month suspension recommended by the hearing committee made up of attorneys and lay persons to a two year suspension (In the Matter of Preston, Opinion #2156, August 29, 1980); affirmed the decision of the Board of Governors which similarly increased the suspension recommended for W. Clark Stump from one to five years (In the Matter of Stump, Opinion #2237, December 5, 1980); and upheld as fair, reasonable and constitutionally valid the requirement that applicants for admission be graduates of an accredited law school (Application of Urie, Opinion #2172, Sept. 26, 1980). The Urie opinion concluded:

The ABA system of accreditation is sophisticated and time-consuming. We can think of no effective substitute which could be developed at the state level without diverting impractical amounts of manpower and money into such an inquiry. Given the strong state interest in assuring that those entering the practice of law have had suitable training in adequate institutions, and considering the precedent from other jurisdictions, we are of the opinion that the Alaska bar rule requirement is valid and does not violate the due process clause of either the Alaska Constitution or the United States Constitution.

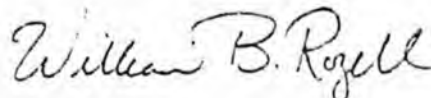
In this connection, we note that requiring attendance at an ABA accredited law school is not a severe impediment to entry into the legal profession. According to the brief of the ABA as amicus curiae, in the last decade the number of approved schools increased from 137 to 168. The number of students therein increased from 63,000 to 121,600, which included 36,808 women. There are 16 ABA approved schools in California, with a total enrollment of over 14,600 students. (Footnotes omitted.)

Senator Jalmer M. Kerttula
Representative Mike Miller
January 19, 1981
Page Three

In a separate challenge in the federal courts the Ninth Circuit Court of Appeals affirmed the United States District Court and held that the requirement of graduation from an accredited law school was rationally related to the fitness or capacity to practice law and did not violate the Fourteenth Amendment of the United States Constitution. The court followed earlier decisions upholding such requirements in other states. (Santos v. Alaska Bar Association and the Justices of the Supreme Court of Alaska, 618 F.2d 575 (9th Cir. 1980)).

Very truly yours,

ALASKA BAR ASSOCIATION



William B. Rozell
President

FAULKNER, BANFIELD DOCCAN & HOLMES
311 Franklin, Suite 201
Juneau, AK 99801
(907) 586-2210

WBR/slb

cc: Randall Burns
Board of Governors

The Board of Governors of the Alaska Bar Association, by its Executive Director, Randall P. Burns, in accordance with Part I, Rule 4, Section 4, Alaska Bar Rules, certifies to this Court the following results of the July, 1980 Bar Examination and respectfully petitions the Court to grant the admission of the applicants herein recommended as qualified for admission:

1. The Alaska Bar Association conducted a Bar Examination on July 28, 29, and 30, 1980 in which a total of 106 applicants were examined. Thirteen (13) of the applicants qualified for the attorney examination.

2. The examination consisted of three parts. The Alaska portion consisting of four essay questions was given on the first afternoon. The California portion consisting of six essay questions was given on the first morning and the second day. The third day consisted of the multi-state examination. Thirteen attorney applicants took only Alaska essay examination. Some of the general applicants were permitted to transfer their scores from prior multi-state exams in lieu of taking the multi-state portion of the July, 1980 exam.

3. The Committee of Law Examiners certified its written report of examination to the Board of Governors on October 24, 1980. The Committee followed Rule 4, Section 6 of the Alaska Bar Rules. A composite score of 70% was the passing score on the examination, a scaled score of 135 on the multi-state having been considered the equivalent of 70% of the highest possible score on that portion of the examination. The different parts of the general examination were weighted as follows: 40% California, 40% Multi-state and 20% Alaska. After the initial grading, the Committee of Law Examiners re-read the California essay answers of applicants whose initial composite scores were between 65% and 70%. Fifty-eight (58) general applicants and seven (7) attorney applicants were certified by the Committee as having received a composite score of 70% or above. Thirty-five (35) general applicants and six (6) attorney applicants were certified as having received composite scores below 70%.

ALASKA BAR
ASSOCIATION

BOX 279

ANCHORAGE, ALASKA

99510

272-7469

Committee's report of examination, the recommendations of the Executive Director and such other matters as it considered pertinent, determined that the following 65 applicants receiving composite scores of 70% or above were qualified for admission to practice law in Alaska:

Mary Ellen Ashton	Marc W. June
Marilyn E. Bain	James F. Klasen
Susan P. Behlke	Gerard R. LaParle
Wilfred D. Bennett	Carolyn D. Lathrop
Joan E. Blades	Stanley T. Lewis
Douglas L. Blankenship	Charlene A. Lichtmann
Daniel L. Callahan	Nicholas G. Maroules
Larry D. Card	Philip J. Matricardi
Larry L. Caudle	Peggy M. Mentele
Mark C. Choate	Robert J. Molloy
Jeffrey W. Cole	Richard D. Monkman
Theron J. Cole	John M. Moxness
Kathryn J. Coleman	Myra M. Murson
Patrick W. Conheady	Deanna C. Myers
Joel D. DiGangi	Michael S. McLaughlin
Walter T. Featherly, III	Jonathan B. Noll
Maryann E. Foley	Gregory L. Peters
William R. Fossey	Holli I. Ploog
Joseph H. Franich	Mary L. Poteet
Raymond M. Funk	Colleen A. Ray
Deidre S. Ganopole	Kenneth P. Ringstad
Dianna R. Gentry	Eleanor C. River
Peter W. Giannini	Linda Scoccia
David E. Grashin	Elizabeth L. Shaw
Mitchell D. Gravo	John M. Skrhak, Jr.
Carmen L. Gutierrez	Richard J. Todd
Theresa R. Hebert	Fred H. Valdez
Theresa Hillhouse	Richard L. Wagg
Robert C. Holmes	Stephen M. Williams
Alan J. Hooper	Marl T. Woelber
Donald P. Hopwood	Clark L. Young
Thomas G. Johnson	Durwood J. Zaelke, Jr.

Carol A. Zamarello

5. The Board of Governors, based upon the Committee's report of examination, the recommendations of the Executive Director and such other matters as it considered pertinent, determined that the following forty-one (41) applicants who received composite scores below 70% have failed to demonstrate their qualifications for admission to practice law in Alaska:

David L. Allison	John P. McDonald
James D. Babb, Jr.	Kathleen I. McGuire
Dennis P. Cummings	William F. Meese
Dale O. Curda	Michael K. Murray
Joseph D. Darnell	Lou Anne S. Nelson
Michael P. Dixon	Margarett L. Oberly
Robert L. Doss, Jr.	David W. Oesting
Helga Eakon	Penny R. Potter
John M. Eberhart	John M. Richard

ALASKA BAR
ASSOCIATION

BOX 279

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99510

272-7469

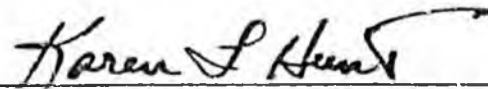
Peter B. Foor
D. Monita Fontaine
Peter C. Gamache
Gayle Garrigues
Joseph W. Geldhof
Stephen L. Hale
Edward H. Hein
Jaime P. Hidalgo
Carol Barclay Jones
David G. Koivuniemi

Henry C. Schmidt
Susan R. Sharrock
Donald R. Sherer
Robert D. Sinkey
Michael Stepovich, Jr.
Walter Stillner
Anthony L. Strong
Harvey P. Sullivan
Laurence M. Sylvester
John M. Talley

Walter P. Zulkoski

WHEREFORE, the Board of Governors of the Alaska Bar Association recommends that upon the filing of proof of compliance with the provisions of Part I, Rule 6 of the Alaska Bar Rules, the applicants listed in paragraph four (4) above be admitted to practice in Alaska and that the applications of the forty-one (41) applicants listed in paragraph five (5) above be denied.

DATED this 13th day of November, 1980.



BY: Karen L. Hunt, President-Elect
ALASKA BAR ASSOCIATION

FOR: Randall P. Burns, Executive Director
ALASKA BAR ASSOCIATION

IN THE SUPREME COURT OF THE STATE OF ALASKA

In the Matter of the Applications of:

STEPHEN M. AGNI, DAVID L. ALLISON, ELLA)
ANAGICK, KATHLEEN C. BARRON, CONSTANCE A.)
BASTIAN, WILLIAM BIXBY, KATHRYN A. BLACK,))
RICHARDO BRAVO, JR., JULIENNE E. BRYANT,)
LARRY D. CARD, JACQUELINE K. CARR,)
MARK C. CHOAT, ALICEMARY L. CLOSUIT,)
PATRICK W. CONHEADY, TERRY-LYNN COONS,)
PATRICK J. COUGHLIN, DAN E. DENNIS, PAUL)
L. DILLON, DAN D. DIXON, GEORGE DUKE,)
DAVID G. DYE, SHARON J. EMLEY, RONALD D.)
FLANSBURG, PETER C. GAMACHE, RENE J.)
GONZALEZ, LEWIS F. GORDON, DAVID E.)
GRASHIN, NANCY J. GROSZEK, PARRY GROVER,)
GLORIA HANSSSEN, WILLIAM C. HARPIN, SUSAN)
HENOCH, TERESA HILLHOUSE, KARLA F.)
HUNTINGTON, JAMES E. HUTCHINS, DAVID A.)
INGRAM, JAMES H. ISHERWOOD, III, RICHARD)
D. KIBBY, RICHARD J. KORECKI, HENRY M.)
LANCASTER, KATHERYN LYNCH, GARY L.)
MARSHALL, FRED A. MATSUNO, KATHLEEN I.)
McGUIRE, JAMES Q. MERY, WALLACE W. MILLS,))
EDWARD L. MINER, MILTON L. MOSS, DIANNE)
E. OLSEN, RUTH E. O'ROURKE, LAURIE OTTO,,)
STEFFANIE D. PARKER, STEPHANIE PATEL,)
MATTHEW K. PETERSON, BETTY RAMAGE, MARK)
RINDNER, BARBARA D. L. ROBERTS, LOWELL A.)
ROBINSON, LESLIE D. ROMO, PATRICK RUMLEY,))
JEAN S. SCHANEN, BRYAN E. SCHULER,)
ELIZABETH H. SHELEY, BRUCE F. SHERMAN,)
THOMAS G. SMITH, MICHAEL A. D. STANLEY,)
GERALD E. STINSON, HARVEY P. SULLIVAN,)
JOHN M. TALLEY, H. CONNOR THOMAS, RICHARD)
J. TODD, LANCE P. WELLS, RAYMOND G.)
WHELESS, L. VAN WHITEHEAD, ROY V.)
WILLIAMS, CARL WINNER, MICHAEL L.)
WOLVERTON, RONALD M. ZOBEL)
)
)
)

PETITION

For Admission to the Practice of Law in)
Alaska and Membership in the Alaska Bar)
Association)

ALASKA BAR
ASSOCIATION

BOX 278

ANCHORAGE, ALASKA
99510

2-7488

The Board of Governors of the Alaska Bar Association, by its Executive Director, Randall P. Burns, in accordance with Part I, Rule 4, Section 4, Alaska Bar Rules, certified to this Court the following results of the February, 1980 Bar Examination and respectfully petitions the Court to grant the admission of the applicants herein recommended as qualified for admission:

1. The Alaska Bar Association conducted a Bar Examination on February 26, 27, and 28, 1980 in which a total of 78 applicants were examined. Ten (10) of the applicants qualified for the attorney examination.

2. The examination consisted of three parts. The Alaska portion consisting of four essay questions was given on the first afternoon. The California portion consisting of six essay questions was given on the first morning and the third day. The second day consisted of the multi-state examination. Nine (9) attorney applicants took only the multi-state examination. Some of the general applicants were permitted to transfer their scores from prior multi-state exams in lieu of taking the multi-state portion of the February, 1980 exam.

3. The Committee of Law Examiners certified its written report of examination to the Board of Governors on May 22, 1980. The Committee followed Rule 4, Section 6 of the Alaska Bar Rules. A composite score of 70% was the passing score on the examination, a scaled score of 135 on the multi-state having been considered the equivalent of 70% of the highest possible score on that portion of the examination. The different parts of the general examination were weighted as follows: 40% California, 40% Multi-state and 20% Alaska. After the initial grading, the Committee of Law Examiners re-read the California essay answers of applicants whose initial composite scores were between 65% and 70%. Forty-seven (47) general applicants and nine (9) attorney applicants were certified by the Committee as having received a composite score of 70% or above. Twenty-one (21) general applicants were, and one (1) attorney applicant was certified as having received composite scores below 70%.

(4) On May 22, 1980, the Board of Governors, based upon the Committee's report of examination, the recommendations of the Executive director and such other matters as it considered pertinent, determined that the following 56 applicants receiving composite scores of 70% or above were qualified for admission to practice law in Alaska:

Stephen M. Agni	Wallace W. Mills
Kathleen Barron	Edward L. Miner
Constance A. Bastian	Milton L. Moss
William Bixby	Ruth E. O'Rourke
Kathryn A. Black	Laurie H. Otto
Julienne E. Bryant	Dianne Olsen
Jacqueline K. Carr	Steffanie D. Parker
Alicemary L. Closuit	Stephanie Patel
Terry-Lynn Coons	Matthew K. Peterson
Patrick J. Coughlin	Betty Ramage
Dan E. Dennis	Mark Rindner
Paul L. Dillon	Barbara D. L. Roberts
David Dye	Lowell A. Robinson
Sharon J. Emley	Patrick Rumley
Ronald D. Flansburg	Jean S. Schanen
Parry Grover	Bryan E. Schuler
Lewis F. Gordon	Bruce F. Sherman, Jr.
Rene J. Gonzalez	Gerald E. Stinson
Gloria Hanssen	Elizabeth H. Sheley
William C. Harpin	Michael A. D. Stanley
Karla F. Huntington	H. Connor Thomas
James E. Hutchins	Lance P. Wells
David A. Ingram	Carl Winner
James H. Isherwood, III	Roy V. Williams
Richard D. Kibby	Raymond G. Wneless
Richard J. Korecki	Michael L. Wolverton
Kathryn D. Lynch	Ronald M. Zobel
Gary L. Marshall	
James Q. Mery	

5. The Board of Governors, based upon the Committee's report of examination, the recommendations of the Executive Director and such other matters as it considered pertinent, determined that the following twenty-two (22) applicants who received composite scores below 70% have failed to demonstrate their qualifications for admission to practice law in Alaska:

David L. Allison	Susan Henoeh
Ella Anagick	Teresa Hillhouse
Ricardo Bravo, Jr.	Henry M. Lancaster
Larry D. Card	Kathleen I. McGuire
Mark C. Choat	Fred A. Matsuno
Patrick W. Conheady	Leslie D. Romo
Danny D. Dixon	Harvey P. Sullivan
George Duke	Thomas G. Smith
Nancy J. Groszek	John M. Talley
David E. Grashin	Richard J. Todd
Peter C. Gamache	L. Van Whitehead

ALASKA BAR
ASSOCIATION

BOX 279

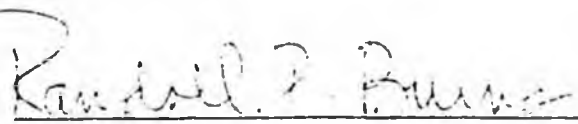
ANCHORAGE, ALASKA

99510

272-7409

WHEREFORE, the Board of Governors of the Alaska Bar Association recommends that upon the filing of proof of compliance with the provisions of Part I, Rule 6 of the Alaska Bar Rules, the applicants listed in paragraph four (4) above be admitted to practice in Alaska and that the twenty-two (22) applicants listed in paragraph five (5) above be denied.

DATED this _____ day of June, 1980.



Randall P. Burns
Randall P. Burns
Executive Director
ALASKA BAR ASSOCIATION

BOARD OF GOVERNORS

ALASKA BAR ASSOCIATION

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ANCHORAGE
WILLIAM B ROZELL
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JUNEAU
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P.O. BOX 279
ANCHORAGE, ALASKA 99510
AREA CODE 907/272-7469

RANDALL P. BURNS, EXECUTIVE DIRECTOR
WILLIAM GARRISON, BAR COUNSEL

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RICHARD D. SAVELL
DONNA C. WILLARD



July 16, 1980

Hon. Jay A. Rabinowitz
Chief Justice
Alaska Supreme Court
604 Barnette Street
Fairbanks, Alaska 99701

Dear Chief Justice Rabinowitz:

Please find enclosed the discipline and fee arbitration figures for the second quarter of 1980. I believe that we are managing to maintain the case load at a workable level.

Mr. Marvin Frankel will assume the duties of Disciplinary Administrator as of this date. I am confident that he will prove to be an asset to the office.

I would like to take this opportunity to express my appreciation to you and the other Justices for the courtesy which has been extended to me during the past three years.

Regarding the report, I would like to clarify an error in reporting. Please note the data sheet for the first quarter, which I have included and marked Exhibit A. Due to an oversight, the final tally for the number of cases closed last quarter was miscounted. A count of the data sheet setting forth the individual cases will indicate that twenty (20), rather than nineteen (19) cases, were dismissed. I have indicated the corrected data on Exhibit A. As a practical matter this simply means that we ended the

Hon. Jay A. Rabinowitz
July 16, 1980
Page 2

quarter, and began the second quarter, with
a case load of twentyseven (27) rather than
twentyeight (28). I remain,

Respectfully,



William W. Garrison
Bar Counsel

WWG/cc

CC: Board of Governors
Justice Robert Boochever
Justice Roger G. Connor
Justice Warren W. Matthews
Justice Edmond W. Burke

EXHIBIT A
DISCIPLINE REPORT

January 1, 1980 - March 31, 1980

I. CASELOAD

1. Cases pending & carried forward on January 1, 1980	38
2. Cases filed or reactivated since January 1, 1980	10
TOTAL CASELOAD FOR PERIOD	48
3. Cases closed since January 1, 1980	
(a) Dismissed by Bar Counsel	19
(b) Informal Admonitions.....	1
(c) Disbarred	0
TOTAL	20
4. Total Pending Cases on March 31, 1980	28

II. STATUS OF PENDING ACTIVE CASES:

1. Investigative Stage:	
(a) To Committee Member for Advisory Opinion ..	0
(b) Bar Counsel	25
(c) Special Prosecutor	1
(d) Matters held in abeyance	0
(e) Conciliation Panel	0
TOTAL	0
2. Before Board of Governors	0
3. Before Supreme Court	2
TOTAL PENDING ACTIVE CASES ON MARCH 31, 1980	28

III. REQUESTS FOR ASSISTANCE OR COMPLAINTS FOUND NOT TO BE VIOLATIONS OF THE CODE OF PROFESSIONAL RESPONSIBILITY

Number disposed of during this quarter 76

DISCIPLINE REPORT

APRIL 1, 1980 - JUNE 30, 1980

I. CASELOAD

1. Cases pending & carried forward on April 1, 1980. . .	27
2. Cases filed or reactivated since April 1, 1980. . . .	9
TOTAL CASELOAD FOR PERIOD	36
3. Cases closed since April 1, 1980	
(a) Dismissed by Bar Counsel	12
(b) Informal Admonitions	1
(c) Disbarred	0
TOTAL	13
4. Total Pending Cases on June 30, 1980	23

II. STATUS OF PENDING ACTIVE CASES

1. Investigative Stage:	
(a) To Committee Member for Advisory Opinion	0
(b) Bar Counsel	17
(c) Special Prosecutor	1
(d) Matters held in abeyance	3
(e) Conciliation Panel	0
2. Before Board of Governors	0
3. Before Supreme Court	2
TOTAL PENDING ACTIVE CASES ON JUNE 30, 1980	23

III. REQUESTS FOR ASSISTANCE OR COMPLAINTS FOUND NOT TO BE VIOLATIONS OF THE CODE OF PROFESSIONAL RESPONSIBILITY

Number disposed of during this quarter	86
--	----

FEE ARBITRATION REPORT
APRIL 1, 1980 - JUNE 30, 1980

CASELOAD

1. Cases pending & carried forward on April 1, 1980.	20
Cases filed since April 1, 1980	14
3. Cases Reactivated since April 1, 1980	0
TOTAL CASELOAD FOR PERIOD.	34
4. Cases Closed since April 1, 1980.	10
TOTAL PENDING CASES ON JUNE 30, 1980	24

ALASKA BAR ASSOCIATION
SURVEY OF GRIEVANCES

In an effort to better inform the court, bar and public of the source and nature of grievances, and the areas of practice from which grievances arise, the following is a sample based on the files closed in the Bar Association office from April 1, to June 30, 1980.

In describing the nature of the grievance, only the most serious allegation is reflected. In fact, more grievances allege various acts of misconduct. It is not practical to attempt to reflect all allegations.

I. NATURE OF GRIEVANCE	#	%
1. Trust violations (embezzlement/ conversion/withholding client's property)	1	7.5
2. Conflict of Interest	1	7.5
3. Neglect (Failure to perform, delay abandonment)	0	0
4. Relationship with client	4	31
5. Misrepresentation/Fraud	1	7.5
6. Excessive Fees	0	0
7. Interference with justice	5	39
8. Improper advertising & solicitation	1	7.5
9. Criminal conviction	0	0
10. Personal Behavior	0	0
11. Failure to cooperate with investigation	0	0
12. Medical incapacity	0	0
13. Incompetence	0	0
14. Other	0	0
TOTAL	13	100.0

An additional 86 matters were handled which did not involve violations of the Code of Professional Responsibility, but did involve an interview, require a response on the rendering of assistance to resolve the matter.

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DISCIPLINARY REPORT
SECOND QUARTER

APRIL 1, 1980 - JUNE 30, 1980

FILE NO.	DATE FILED	COMPLAINANT'S RELATIONSHIP TO RESPONDENT	MOST SERIOUS CHARGE	STATUS	DISPOSITION	DATE CLOSED
77-18	3/22/77	Third Party	Neglect--3 A & E	Petition for formal Hrg. held pending malpractice action.	Investigation delayed because of absence of witness	
78-13	6/2/78	ABA	Interference w/justice 7-B-1-f	Criminal Prosecution dismissed D.A. Records forwarded to Discipline Under investigation.		
78-20	7/11/78	ABA	Misrep./fraud 5-B	To Review Committee Member 9/27/78--To Hearing Committee 6/12/79--To ROC 10/10/79 To Supreme Court 10/31/79 Brief Submitted--Oral Argument before Supreme Ct 6/24/80		
78-29	11/20/78	Client	Incompetence 13	Investigation pending resolution of civil mal- practice suit		
79-1	2/9/79	Opposing Counsel	Interference w/justice 7-D-1--Personal Behavior 10-B Failure to co-operate with Disciplinary Authorities 11-C-2	Petition for formal Hearing sent to Resp. 9/20/79. Answer received. Investigation continuing on affirmative defenses Respondent indicted on un- related criminal charges. (See 80-16) Trial Set for Sept. 1980.		
79-2	3/6/79	ABA	Trust Violation 1-A 1,2c	Petition for Formal Hearing served on Respondent Attorney		

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PAGE 2

FILE NO.	DATE FILED	COMPLAINANT'S RELATIONSHIP TO RESPONDENT	MOST SERIOUS CHARGE	STATUS	DISPOSITION	DATE CLOSED
79-4	3/22/79	ABA	Criminal Conviction 9	Pet. for Formal Hrg. 4/24/79--Set for formal hrg. 6/12/79--Rescheduled 7/12/79--To BOG 9/8/79-- To Supreme Court 9/17/79 Briefs submitted--Oral Argument 3/24/80--Pending Decision by Court.		
79-6	5/3/79	ABA	Criminal Conviction 9	Supreme Court order Suspending Resp. issued 6/18/79--Resp. previously suspended for non- payment of dues--Present address unknown.		
79-7	5/6/79	ABA	Interference w/justice 7-T-1	BOG assigned matter to special prosecutor--Hearing before master held--Findings and recommendation of Master issued. BOG considered same 6/10/80. Matter referred back to Master for additional findings.		
79-8	5/18/79	ABA	Relationship w/client 4-B-2,3 12 Complaints	ABR-29 Petition filed and granted--9/28/79--Attorney appointed--9/28-79--Motion to suspend for failure to pay dues filed 9/28/79. Disability Proceedings pending. Receipt of Affidavits from Psychiatrist.		
79-9	7/17/79	ABA	Conflict of Interest	Informal Admonition	Closed	6/6/80

PAGE 3

FILE NO.	DATE FILED	COMPLAINANT'S RELATIONSHIP TO RESPONDENT	MOST SERIOUS CHARGE	STATUS	DISPOSITION	DATE CLOSED
79-17	9/5/79	Third Party	Interference w/justice	Dismissed	Closed	4/17/80
79-18	9/4/79	Opposing Counsel	Conflict of Interest 2-A-5b	Investigation delayed pending resolution of Civil action		
79-26	9/24/79	Client	Relationship w/client 4-B-2,3	See 79-8- Consolidated		
79-34	10/11/79	Opposing Counsel	Interference w/justice 7H	Dismissed	Closed	6/3/80
79-36	10/30/79	Third Party	Misrepresentation/fraud 5B	Under investigation		
79-39	11/2, 79	ABA	Improper advertising B A 2	Under investigation		
79-40	11/6/79	Client	Relationship w/client 4 B 2	Dismissed	Closed	6/30/80
79-41	11/8/79	Client	Relationship w/client 4 B 1	Dismissed	Closed	6/29/80
80-1	11/15/79	Client	Relationship w/client 4 B 2	Dismissed	Closed	5/7/80
80-3	2/20/80	ABA	Medical Incapacity	Attorney placed on inactive status by court order--dated 2/21/80--Atty appointed pursuant to ABR 11-29--Practice in process of termination		

FILE NO.	DATE FILED	COMPLAINANT'S RELATIONSHIP TO RESPONDENT	MOST SERIOUS CHARGE	STATUS	DISPOSITION	DATE CLOSED
80-6	1/30/80	Clients	Relationship w/client 4, B; Neglect 3, A	Under investigation		
80-5	2/11/80	Third Party	Interference w/justice	Petition for formal hearing filed, consolidated with 79-2.		
80-6	2/26/80	Third Party	Solicitation B-C-1	Dismissed		6/29/80
80-8	2/28/80	Magistrate	Interference w/justice 7-B-B	Dismissed		6/30/80
80-9	3/14/80	Third Party	Interference w/justice 7-D-2	Dismissed		4/22/80
80-10	3/31/80	ABA	Interference w/justice 7-B-(c) (e)	Dismissed		6/4/80
80-11	4/12/80	Third Party	Representation/Trade 5-B	Under investigation		
80-12	4/21/80	Attorney	Trust violations 1 B & C	Advance Under investigation by District Attorney-Civil Action in progress		
80-13	4/25/80	Client	Relationship w/client 4-F	Unable to locate Resp.		
80-14	4/21/80	Client	Relationship w/client 4-B 1, 2, 3	Dismissed		6/30/80
80-15	5/1/80	Attorney/client	Trust violation 1-A2(D)	Dismissed		6/1/80

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FILE NO.	DATE FILED	COMPLAINANT'S RELATIONSHIP TO RESPONDENT	MOST SERIOUS CHARGE	STATUS	DISPOSITION	DATE CLOSED
80-16	5/14/80	ABA	Trust Violation 1-B & C	Abeyance, Criminal proceedings in progress. See 79-1.		
80-17	5/15/80	Attorney	Solicitation C-1	Under investigation		
80-18	5/15/80	ABA	Trust Violation 1A2,C	Investigation delayed. Civil action in progress.		
80-19	6/5/80	Wife	Misrepresentation/fraud 5-B	Dismissed	Closed	6/30/80

DISCIPLINE REPORT

January 1, 1980 - March 31, 1980

I. CASELOAD

1. Cases pending & carried forward on January 1, 1980	38
2. Cases filed or reactivated since January 1, 1980	10
TOTAL CASELOAD FOR PERIOD	48
3. Cases closed since January 1, 1980	
(a) Dismissed by Bar Counsel	19
(b) Informal Admonitions	1
(c) Disbarred	0
TOTAL	20
4. Total Pending Cases on March 31, 1980	28

II. STATUS OF PENDING ACTIVE CASES:

1. Investigative Stage:	
(a) To Committee Member for Advisory Opinion ..	0
(b) Bar Counsel	25
(c) Special Procedutor	1
(d) Matters held in abeyance	0
(e) Conciliation Panel	0
TOTAL	0
2. Before Board of Governors	0
3. Before Supreme Court	2
TOTAL PENDING ACTIVE CASES ON MARCH 31, 1980	28

III. REQUESTS FOR ASSISTANCE OR COMPLAINTS FOUND NOT TO BE VIOLATIONS OF THE CODE OF PROFESSIONAL RESPONSIBILITY

Number disposed of during this quarter	76
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FEE ARBITRATION REPORT

January 1, 1980 - March 31, 1980

CASELOAD

1. Cases pending & carried forward on January 1, 1980	15
2. Cases filed since January 1, 1980	12
3. Cases Reactivated since January 1, 1980	1
TOTAL CASELOAD FOR PERIOD	28
4. Cases Closed since January 1, 1980	8
TOTAL PENDING CASES ON March 31, 1980	20

ALASKA BAR ASSOCIATION
SURVEY OF GRIEVANCES

In an effort to better inform the court, bar and public of the source and nature of grievances, and the areas of practice from which grievances arise, the following is a sample based on the files closed in the Bar Association office from January 1 to March 31, 1980.

In describing the nature of the grievance, only the most serious allegation is reflected. In fact, more grievances allege various acts of misconduct. It is not practical to attempt to reflect all allegations.

I. NATURE OF GRIEVANCE	#	%
1. Trust violations (embezzlement/ conversion/withholding client's property)	0	0
2. Conflict of Interest	1	5
3. Neglect (Failure to perform, delay abandonment)	2	10
4. Relationship with client	4	20
5. Misrepresentation/Fraud	1	5
6. Excessive Fees	0	0
7. Interference with justice	9	15
8. Improper advertising & solicitation	2	10
9. Criminal conviction	0	0
10. Personal Behavior	0	0
11. Failure to cooperate with investigation	0	0
12. Medical incapacity	0	5
13. Incompetence	1	0
14. Other	0	0
TOTAL	20	100%

An additional 76 matters were handled which did not involve violations of the Code of Professional Responsibility, but did involve an interview, require a response on the rendering of assistance to resolve the matter.

DISCIPLINARY REPORT
FIRST QUARTER

January 1, 1980 - March 31, 1980

FILE NO.	DATE FILED	COMPLAINANT'S RELATIONSHIP TO RESPONDENT	MOST SERIOUS CHARGE	STATUS	DISPOSITION	DATE CLOSED
73/74-33	1/18/74	Client	Conflict of Interest 2A -3a	Informal Admonition	Closed	3/19/80
77-18	3/22/77	Third Party	Neglect--3 A & E	Petition for formal Hrg. held pending malpractice action	Investigation initially delayed because of absence of witness	
77-25	6/28/77	Client	Misrepresentation, Fraud 5-B	Dismissed Witnesses Unavailable	Closed	2/28/80
78-4	3/8/78	Fee Arb. Panel	Interference with Justice 7-T-1	Dismissed	Closed	3/18/80
78-13	6/2/78	Alaska Bar Assn.	Interference w/justice 7-B-1-f	Criminal Prosecution Dismissed Under Investigation		
78-15	6/19/78	Opposing Counsel	Interference w/justice 7-B-1-h	Dismissed	Closed	3/18/80
78-20	7/11/78	Alaska Bar Assn.	Misrep./Fraud 5-B	To Review Committee Member 9/27/78--To Hearing Committee 6/12/79--To BOG 10/10/79 To Supreme Court 10/11/79 Brief Submitted - Oral Argument Requested		
78-22	8/3/78	Opposing Counsel	Relationship w/client 4-A-2	Dismissed	Closed	3/28/80
78-25	10/4/78	Opposing Counsel	Interference w/justice 7-D-1	Dismissed	Closed	3/13/80

FILE NO.	DATE FILED	COMPLAINANT'S RELATIONSHIP TO RESPONDENT	MOST SERIOUS CHARGE	STATUS	DISPOSITION	DATE CLOSED
78-29	11/20/78	Client	Incompetence 13		Investigation pending resolution of civil malpractice suit	
79-1	2/9/79	Opposing Counsel	interference w/justice 7-D-1--Personal Behavior 10-B Failure to co-operate with Disciplinary Authorities 11-C-2		Petition for formal Hearing sent to Resp. 9/20/79. Answer received Investigation continuing on affirmative defenses	
79-2	3/6/79	Alaska Bar Assn.	Trust Violation 1-A 1,2c		Accounting in Process	
79-4	3/22/79	Alaska Bar Assn.	Criminal Conviction 9		Pet. for Formal Hrg. 4/24/79--Set for formal Hrg. 6/12/79-Rescheduled 7/12/79-- To BOG 9/9/79-- To Supreme Court 9/17/79 Briefs submitted-- Oral Argument 3/24/80	
79-6	5/3/79	Alaska Bar Assn.	Criminal Conviction 9		Supreme Court order Suspending Resp. Issued 6/18/79--Resp. previously suspended for non-payment of dues--Present address unknown	

FILE NO.	DATE FILED	COMPLAINANT'S RELATIONSHIP TO RESPONDENT	MOST SERIOUS CHARGE	STATUS	DISPOSITION	DATE CLOSED
79-7	5/6/79	Alaska Bar Assn.	Interference w/justice 7-T-1	BOG assigned matter to special prosecutor-- Hearing before master held		
79-8	5/18/79	Alaska Bar Assn. Client	Relationship w/client 4-B-2,3 12 Complaints	ABR-29 Petition filed and granted--9/28/79--Attorney appointed--9/28/79--Motion to suspend for failure to pay dues filed 9/28/79 Respondent's address unknown		
79-9	7/17/79	Fee Arb. Panel	Conflict of Interest 2-A-1	Under Investigation		
79-13	5/19/79	Client	Neglect 3A,E	Dismissed	Closed	1/80
79-16	6/13/79	Judge	Incompetence 13	Dismissed	Closed	3/18/80
79-17	9/5/79	Third Party	Interference w/justice	Under Investigation		
79-18	9/4/79	Opposing Counsel	Conflict of Interest 2-A-5b	Investigation delayed pending resolution of civil action		
79-20	9/6/79	Opposing Counsel	Interference w/justice T-2	Dismissed	Closed	1/17/79
79-23	9/12/79	Client	Neglect--3 A,B	Dismissed	Closed	3/18/80
79-25	9/24/79	Alaska Bar Assn.	Improper Advertising 8-2	Dismissed	Closed	3/17/80
79-26	9/24/79	Client	Relationship w/ client 4-B-2,3	See 79-8 Consolidated		

FILE NO.	DATE FILED	COMPLAINANT'S RELATIONSHIP TO RESPONDENT	MOST SERIOUS CHARGE	STATUS	DISPOSITION	DATE CLOSED
79-31	6/1/79	Judge	Interference w/justice 7-D-1	Dismissed	Closed	2/28/80
79-32	10/11/79	Client	Relationship w/Client 4 B 2	Dismissed	Closed	3/17/80
79-33	9/27/79	Third Party	Interference w/justice 7 G 2	Dismissed	Closed	2/22/80
79-34	10/11/79	Opposing Counsel	Interference w/justice 7N	Under Investigation		
79-36	11/30/79	Third Party	Misrepresentation/Fraud 5B	Under investigation		
79-38	10/30/79	Client	Relationship w/client 4E	Dismissed	Closed	3/17/80
79-39	11/2/78	Alaska Bar Assn.	Improper advertising 8 A 2	Under investigation		
79-40	11/6/79	Client	Relationship w/client 4 B 2	Under investigation		
79-41	11/8/79	Client	Relationship w/client 4 B 1	Under investigation		
79-42	9/26/79	Third Party	Solicitation B C 1	Dismissed	Closed	3/17/80
79-43	11/28/79	Attorney	Relationship w/client 4 B 3	Dismissed	Closed	1/14/80
79-44	11/29/79	Opposing Counsel	Interference w/justice 7 J 1	Dismissed	Closed	3/17/80

DISCIPLINARY REPORT

FILE NO.	DATE FILED	COMPLAINANT'S RELATIONSHIP TO RESPONDENT	MOST SERIOUS CHARGE	STATUS	DISPOSITION	DATE CLOSED
79-45	12/10/79	Third Party	Interference w/justice 7-0	Dismissed	Closed	3/19/80
80-1	11/15/79	Client	Relationship w/client 4-B-2	Under investigation		
80-2	9/27/79	Third Party	Interference w/justice 5-G-2	Dismissed	Closed	2/22/80
80-3	2/20/80	Alaska Bar Assn.	Medical Incapacity	Attorney placed on inactive status by court order-dated 2/28/80--Atty appointed pursuant to ABR II-29		
80-4	10/30/80	Clients	Relationship w/client 4,B; Neglect 3,A	Under Investigation		
80-5	2/21/80	Third Party	Interference w/justice	Under investigation		
80-6	2/26/80	Third Party	Solicitation 8-C-1	Under investigation		
80-7	2/28/80	Judge	Interference w/justice 7-B-g	Dismissed	Closed	3/25/80
80-8	2/28/80	Magistrate	Interference w/justice 7-B-g	Under investigation		
80-9	3/14/80	Third Party	Interference w/justice 7-D-2	Under investigation		
80-10	3/3/80	Alaska Bar Assn.	Interference w/justice 7-B-(c) (a)	Under investigation		

ALASKA BAR ASSOCIATION

PO BOX 279
ANCHORAGE, ALASKA 99510
AREA CODE 907/272-7469

RANDALL P. BURNS EXECUTIVE DIRECTOR
MARVIN S. FRANKEL DISCIPLINARY ADMINISTRATOR AND BAR COUNSEL

BOARD MEMBERS

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STANLEY T. FISCHER
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ELIZABETH P. KENNEDY
EDWARD G. KING
JONATHAN M. LINK
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RICHARD D. SAVELL
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VICE PRESIDENT
KODIAK

HUGH G. WADE
SECRETARY
ANCHORAGE

ELIZABETH P. KENNEDY
TREASURER
ANCHORAGE

October 14, 1980



Hon. Jay A. Rabinowitz
Chief Justice
Alaska Supreme Court
604 Barnette Street
Fairbanks, Alaska 99701

Dear Chief Justice Rabinowitz:

RE: QUARTERLY REPORT OF DISCIPLINE ADMINISTRATOR

Enclosed, please find my report for the quarter ending September 30, 1980.

At the request of the Board of Governors, this report reflects some changes which I have instituted concerning the record keeping of this office.

The changes are in an interim stage and may or may not reflect the final decision on the manner of keeping the records of this office. Your indulgence would be appreciated.

Very truly yours,

ALASKA BAR ASSOCIATION

Marvin S. Frankel
State Bar Counsel

MSF/cc

Enclosures

cc: Justice Roger G. Connor
Justice Warren W. Matthews
Justice Edmond W. Burke
Randall P. Burns (for distribution to
the Board of Governors)

ALASKA BAR ASSOCIATION
SURVEY OF GRIEVANCES

In an effort to better inform the court, and the Bar of the source and nature of grievances, and the areas of practice from which grievances arise, the following is furnished based on the files of the Bar Association office.

In describing the nature of the grievance, only the most serious allegation is reflected. In fact, most grievances allege various acts of misconduct. It is not practical to attempt to reflect all allegations.

I. NATURE OF GRIEVANCE	#	%
1. Trust violations (embezzlement/ conversion/withholding client's property)	5	4.4
2. Conflict of interest	4	3.5
3. Neglect (failure to perform, delay, abandonment)	48	41.6
4. Relationship with client	12	10.4
5. Misrepresentation/fraud	7	6.1
6. Excessive Fees	7	6.1
7. Interference with justice	14	12.2
8. Improper advertising & solicitation	5	4.4
9. Criminal conviction	4	3.5
10. Personal Behavior	6	5.2
11. Wilful failure to cooperate with Discipline Authorities	0	0
12. Medical incapacity	2	1.7
13. Incompetence	1	.9
TOTAL	115	100%

FEE ARBITRATION REPORT

JULY 1, 1980 - SEPTEMBER 30, 1980

CASELOAD

1. Cases pending & carried forward on July 1, 1980 .	26
2. Cases filed since July 1, 1980	22
3. Cases Reactivated since July 1, 1980	3
TOTAL CASELOAD FOR PERIOD	51
4. Cases Closed since July 1, 1980	18
TOTAL PENDING CASES ON SEPTEMBER 30, 1980	33

DISCIPLINE REPORT

JULY 1, 1980 - SEPTEMBER 30, 1980

I. CASELOAD

1. Cases pending & carried forward on July 1, 1980.	22
2. Cases filed or reactivated since July 1, 1980.	79
TOTAL CASELOAD FOR PERIOD.	101
3. Cases closed since July 1, 1980.	60
(a) Dismissed by Bar Counsel	55
(b) Informal Admonitions.	3
(c) Disbarred	0
(d) Suspensions	2
TOTAL	60
4. Total Pending Cases on September 30, 1980.	43

II. STATUS OF PENDING ACTIVE CASES

1. Investigative State:	
(a) To Committee Member for Advisory Opinion.	2
(b) Bar Counsel	30
(c) Special Prosecutor	0
(d) Matters held in abeyance	8
(3) Conciliation Panel	0
2. Before Board of Governors	1
3. Before Supreme Court	2
TOTAL PENDING ACTIVE CASES ON SEPTEMBER 30, 1980	43

DISCIPLINARY REPORT

JULY 1, 1980 - SEPTEMBER 30, 1980

FILE NO.	DATE FILED	COMPLAINANT'S RELATIONSHIP TO RESPONDENT	MOST SERIOUS CHARGE	STATUS	DISPOSITION	DATE CLOSED
77-18	3/22/77	Third Party	Neglect	Complaint filed 7/25/80 - Time to answer extended 10/5/80		
78-13	6/2/78	ABA	Interference w/justice	Complaint filed 8/5/80 - Time to answer extended 10/10/80		
78-20	7/11/78	ABA	Misrep./fraud	Oral Argument before Supreme Court 6/24/80		
78-29	11/20/78	Client	Incompetence	Abejance pending resolution of civil malpractice suit		
79-1	2/9/79	Opposing Counsel	Interference w/justice Personal Behavior Failure to co-op with Disciplinary Authorities	Complaint sent to Resp. 9/20/79. Answer received. Investigation cont'g on affirmative defenses. Resp. indicted on unrelated criminal charges. (See 80-16) Trial Set for 11/3/80		
79-2	3/6/79	ABA	Trust Violation	Complaint filed 7/14/80 - Hrg. set 10/6/80 - Guetschow, Chrm. Consolidated with 80-5.		
79-4	3/22/79	ABA	Criminal conviction	Supreme Court Decision 8/29/80 -	Suspension 4/5/79 To 4/5/81	8/29/80
79-6	5/3/79	ABA	Criminal Conviction	Supreme Court order Suspend Resp. issued 6/18/79	Suspension	8/30/80
79-7	5/6/79	ABA	Interference w/justice	Referred back to BOG from Master		
79-8	5/18/79	ABA	Relationship w/client	ABR-29 Pet. filed and granted 9/28/79 - Attorney appointed 9/28/79 - Motion to suspend for failure to pay dues filed 9/28/79. Disability Investigation pending.		

FILE NO.	DATE FILED	COMPLAINANT'S RELATIONSHIP TO RESPONDENT	MOST SERIOUS CHARGE	STATUS	DISPOSITION	DATE CLOSED
79-9	7/17/79	ABA	Conflict of Int.	Informal Admonition	CLOSED	6/6/80
79-17	9/5/79	Third Party	Inter w/justice	No merit	DISMISSED	4/17/80
79-18	9/4/79	Opposing Counsel	Conflict of Int.	Abeyance pending resolution of Civil action.		
79-26	9/24/79	Client	Relationship w/client	See 79-8 -- Consolidated		
79-34	10/11/79	Opposing Counsel	Interference w/justice	No Merit	DISMISSED	6/3/80
79-36	10/30/79	Third Party	Misrep/fraud	Informal Admonition	CLOSED	7/16/80
79-39	11/2/79	ABA	Improper Adver.	Informal Admonition	CLOSED	9/17/80
79-40	11/6/79	Client	Relationship w/client	No Merit	DISMISSED	6/30/80
79-41	11/8/79	Client	Relationship w/client	No Merit	DISMISSED	6/29/80
80-1	11/15/79	Client	Relationship w/client	No Merit	DISMISSED	5/7/80
80-3	2/20/80	ABA	Medical Incapacity	Attorney placed on inactive status by Court Order dated 2/28/80 - Atty appointed pursuant to ABR 11-29 - Practice in process of termination.		
80-4	1/30/80	Clients	Relationship w/client & Neglect	No Merit	DISMISSED	7/16/80

FILE NO.	DATE FILED	COMPLAINANT'S RELATIONSHIP TO RESPONDENT	MOST SERIOUS CHARGE	STATUS	DISPOSITION	DATE CLOSED
80-5	2/11/80	Third Party	Interference w/justice	Hrg. set 10/6/80 Consolidated with (79-2)		
80-6	2/26/80	Third Party	Solicitation	No Merit	DISMISSED	6/29/80
80-8	2/28/80	Magistrate	Interference w/justice	No Merit	DISMISSED	6/30/80
80-9	3/14/80	Third Party	Interference w/justice	No Merit	DISMISSED	4/22/80
80-10	3/3/80	ABA	Interference w/justice	No Merit	DISMISSED	6/4/80
80-11	4/12/80	Third Party	Misrep/fraud	Abeyanee pending resolution of Civil Action		
80-12	4/21/80	Attorney	Trust violation	Abeyanee pending resolution of Civil Action		
80-13	4/25/80	Client	Relationship w/client	Under investigation.		
80-14	4/21/80	Client	Relationship w/client	No Merit	DISMISSED	6/30/80
80-15	5/7/80	Attorney/client	Trust violation	No Merit	DISMISSED	6/3/80
80-16	5/14/80	ABA	Trust violation	Abeyanee; Pending unrelated criminal trial		
80-17	5/15/80	Attorney	Solicitation	No Merit	DISMISSED	7/15/80
80-18	5/15/80	ABA	Trust violation	Abeyanee pending resolution of Civil Action		

FILE NO.	DATE FILED	COMPLAINANT'S RELATIONSHIP TO RESPONDENT	MOST SERIOUS CHARGE		STATUS	DISPOSITION	DATE CLOSED
80-19	6/5/80	Wife	Misrep/fraud	No Merit		DISMISSED	6/30/80
80-20	7/16/80	ABA	Criminal conviction	Informal Admonition		CLOSED	7/22/80
80-21	7/17/80	ABA	Relationship w/client	Under investigation (See 80-13)			
80-22	8/7/80	ABA	Solicitation	Under investigation			
80-23	5/3/80	Client	Personal Behavior	No Merit		DISMISSED	7/14/80
80-24	8/20/80	Client	Neglect	No Merit		CLOSED <i>WSS</i>	4/3/80
80-25	3/12/80	Client	Neglect (3 charges)	No Merit		DISMISSED	7/9/80
80-26	7/30/80	Client	Neglect	Under Investigation			
80-27	7/24/80	Third Party	Neglect	No Merit		DISMISSED	7/30/80
80-28	2/23/80	Client	Neglect	No Merit		DISMISSED	7/17/80
80-29	7/30/80	Client	Neglect	No Merit		DISMISSED	8/27/80
80-30	5/3/80	ABA	Criminal	No Merit		DISMISSED	9/3/80
80-31	7/31/80	Client	Neglect	No Merit		DISMISSED	8/27/80
80-32	8/27/80	Client	Neglect	Under Investigation			
80-33	7/11/80	Client	Relationship w/client	No Merit		DISMISSED	7/22/80
80-34	7/22/80	Client	Neglect	No Merit		DISMISSED	8/29/80
80-35	6/26/80	Client	Neglect	No Merit		DISMISSED	7/31/80

FILE NO.	DATE FILED	COMPLAINANT'S RELATIONSHIP TO RESPONDENT	MOST SERIOUS CHARGE	STATUS	DISPOSITION	DATE CLOSED
80-36	6/23/80	Client	Neglect	No Merit	DISMISSED	7/31/80
80-37	8/5/80	Client	Neglect	Abeyance pending Criminal Proceeding in progress (See 80-16)		
80-38	7/29/80	Client	Neglect	No Merit	DISMISSED	7/29/80
80-39	4/25/80	Client	Neglect	No Merit	DISMISSED	7/1/80
80-40	8/6/80	Client	Neglect	No Merit	DISMISSED	8/7/80
80-41	8/18/80	ABA	Neglect	No Merit	DISMISSED	9/18/80
80-42	7/5/80	Client	Misrepresentation	No Merit	DISMISSED	7/18/80
80-43	7/14/80	Third Party	Neglect	No Merit	DISMISSED	8/8/80
80-44	8/12/80	Client	Neglect	No Merit	DISMISSED	9/9/80
80-45	5/27/80	Client	Neglect	No Merit	DISMISSED	5/28/80
80-46	4/8/80	Client	Relationship w/client	No Merit	DISMISSED	6/9/80
80-47	6/2/80	Client	Personal Behavior	No Merit	DISMISSED	6/17/80
80-48	3/26/80	Client	Interference w/justice	No Merit	DISMISSED	4/11/80
80-49	4/24/80	Client	Neglect	No Merit	DISMISSED	4/30/80
80-50	1/16/80	Client	Personal Behavior	No Merit	CLOSED - Dismissed	4/11/80
80-51	5/9/80	Client	Personal Behavior	No Merit	DISMISSED	6/3/80
80-52	3/3/80	Attorney	Interference w/justice	No Merit	CLOSED - Dismissed	9/18/80

FILE NO.	DATE FILED	COMPLAINANT'S RELATIONSHIP TO RESPONDENT	MOST SERIOUS CHARGE		STATUS	DISPOSITION	DATE CLOSED
80-53	12/1/79	Client	Excassive fee	No Merit		CLOSED <i>Dismissed</i>	9/3/80
80-54	1/22/80	Client	Personal Behavior	No Merit		CLOSED <i>Dismissed</i>	4/11/80
80-55	4/1/80	Client	Relationship w/client	Under investigation			
80-56	4/10/80	Attorney	Excessive fee	No Merit		DISMISSED	4/11/80
80-57	4/17/80	Attorney	Solicitation	Under investigation			
80-58	3/15/80	Client	Neglect	No Merit		DISMISSED	4/4/80
80-59	3/11/80	Client	Neglect	No Merit		CLOSED <i>Dismissed</i>	5/9/80
80-60	2/26/80	Client	Interference w/justice	No Merit		CLOSED <i>Dismissed</i>	9/4/80
80-61	9/4/80	Client	Neglect	Under investigation			
80-62	2/25/80	Client	Neglect	Under investigation			
80-63	4/25/80	Client	Neglect	No Merit		DISMISSED	9/18/80
80-64	5/27/80	Client	Neglect	Under investigation			
80-65	5/24/80	Client	Neglect	No Merit		DISMISSED	9/4/80
80-66	8/8/80	Client	Neglect	Under investigation			
80-67	7/11/80	Client	Neglect	No Merit		DISMISSED	8/29/80
80-68	5/21/80	Client	Neglect	No Merit		DISMISSED	9/16/80
80-69	7/1/80	Client	Neglect	No Merit		DISMISSED	9/23/80
80-70	8/5/80	Client	Neglect	Under investigation			

FILE NO.	DATE FILED	COMPLAINANT'S RELATIONSHIP TO RESPONDENT	MOST SERIOUS CHARGE	STATUS	DISPOSITION	DATE CLOSED
80-71	5/14/80	Client	Conflict of Interest	Under Investigation		
80-72	4/7/80	Client	Misrepresentation	No Merit	DISMISSED	9/10/80
80-73	9/9/80	Client	Misrepresentation	No Merit	DISMISSED	9/10/80
80-74	9/9/80	Client	Neglect	Abeyance pending Fee Arb FA 38-80		
80-75	3/25/80	Client	Neglect	No Merit	DISMISSED	9/29/80
80-76	6/27/80	Client	Neglect	No Merit	DISMISSED	9/29/80
80-77	9/4/80	Client	Neglect	Under investigation		
80-78	9/4/80	Client	Neglect	Under investigation		
80-79	2/14/80	ADA	Medical Incapacity	Under Investigation		
80-80	9/11/80	Third Party	Personal Behavior	No Merit	DISMISSED	9/18/80
80-81	9/18/80	Client	Neglect	Under investigation		
80-82	3/10/80	Client	Neglect	No Merit	DISMISSED	9/16/80
80-83	4/4/80	Client	Excessive fee	Under investigation		
80-84	8/25/80	Client	Neglect	No Merit	DISMISSED	9/18/80
80-85	4/16/80	Client	Neglect	No Merit	DISMISSED	9/18/80
80-86	4/22/80	Client	Excessive fee	No Merit	DISMISSED	9/29/80
80-87	6/3/80	Client	Excessive fee	Under investigation		
80-88	5/18/80	Client	Neglect	No Merit	DISMISSED	8/29/80

FILE NO.	DATE FILED	COMPLAINANT'S RELATIONSHIP TO RESPONDENT	MOST SERIOUS CHARGE		STATUS	DISPOSITION	DATE CLOSED
80-89	3/21/80	Client	Neglect	No Merit		DISMISSED	9/8/80
80-90	4/7/80	Client	Neg'	Under investigation			
80-91	9/19/80	Client	Excessive fee	Under investigation			
80-92	9/19/80	Attorney	Interference w/justice	Under investigation			
80-93	5/13/80	Client	Neglect	No Merit		DISMISSED	9/23/80
80-94	9/22/80	Attorney	Neglect	Under investigation			
80-95	9/23/80	ABA	Conflict of Interest	Under investigation			
80-96	9/23/80	Client	Interference w/justice	Under investigation			
80-97	9/16/80	Client	Excessive fee	No Merit		DISMISSED	9/24/80
80-98	9/23/80	Client	Neglect	No Merit		DISMISSED	9/25/80

BOARD OF GOVERNORS

ALASKA BAR ASSOCIATION

P O BOX 279
ANCHORAGE, ALASKA 99510
AREA CODE 907/272-7469

RANDALL P. BURNS EXECUTIVE DIRECTOR

MARVIN S. FRANKEL DISCIPLINARY ADMINISTRATOR AND BAR COUNSEL



January 8, 1981

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Hon. Jay A. Rabinowitz
Chief Justice
Alaska Supreme Court
604 Barnette Street
Fairbanks, Alaska 99701

RE: QUARTERLY REPORT OF DISCIPLINE ADMINISTRATOR

Dear Chief Justice Rabinowitz:

Enclosed, please find my report for the quarter ending December 31, 1980.

I have added statistics on Fee Arbitration files which may be of interest to you.

Very truly yours,
ALASKA BAR ASSOCIATION

Marvin S. Frankel
State Bar Counsel

MSF/cc

Enclosures

cc: Justice Roger G. Connor
Justice Warren W. Matthews
Justice Edmond W. Burke
Randall P. Burns (for distribution to the Board of Governors)

FEE ARBITRATION REPORT

OCTOBER 1, 1980 - DECEMBER 31, 1980

CASELOAD

1.	Cases pending & carried forward on October 1, 1980	33
2.	Cases filed since October 1, 1980.	12
3.	Cases reactivated since October 1, 1980.	0
	TOTAL CASELOAD FOR PERIOD	45
4.	Cases Closed since October 1, 1980	<u>17</u>
	TOTAL PENDING CASES ON DECEMBER 31, 1980	28

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FEE ARBITRATION

4th QUARTER 1980

FILE NO.	DATE FILED	AMOUNT	STATUS	DISPOSITION	DATE CLOSED
FA 16-79	8/28/79	(\$500.00)	Reopened 3/18/80 See discipline 78-1	Absence - Medical Dis.	
FA 34-79	12/21/79	(\$2,973.59)	Turned back to Discipline Administrator	CLOSED	11/24/80
FA 5-80	2/8/80	(\$6,850.00)	File in Ketchikan - Awaiting Decision Decision requested 12/3/80		
FA 9-80	3/5/80	(\$5,000.00)	\$4,400.00 awarded to Respondent	CLOSED	11/26/80
FA 13-80	4/15/80	(\$9,000.00)	File in Juneau - Awaiting decision Decision requested 12/2/80		
FA 15-80	4/28/80	(\$2,900.00)	Mr. Day died 6/23/80	CLOSED	11/6/80
FA 18-80	5/28/80	(\$1,000.00)	See FA 16-79. See discipline 78-1	Absence - Medical Dis.	
FA 19-80	5/30/80	(\$1,500.00+)	File in Ketchikan - Awaiting Decision Decision requested 12/2/80		
FA 20-80	6/2/80	(\$9,920.73)	Panel Decision referred back to Discipline Action. See 80-95.	CLOSED	11/7/80
FA 25-80	6/16/80	(\$3,750.00)	\$3,750.00 awarded to Respondent	CLOSED	11/13/80
FA 27-80	7/14/80	(\$1,200.00)	Awaiting Decision from Panel 12/15/80		
FA 29-80	8/4/80	(\$3,000.00)	\$2,657.50 awarded to Respondent	CLOSED	10/30/80
FA 30-80	8/6/80	(4,000.00)	Awaiting Decision from Panel 9/30/80		
FA 31-80	8/26/80	(\$1,200.00)	Settled by parties	CLOSED	10/27/80
FA 32-80	8/26/80	(\$20,000.00)	To be scheduled after Jan. 15, 1981		

FILE NO.	DATE FILED	AMOUNT	STATUS	DISPOSITION	DATE CLOSED
FA 33-80	9/3/80	(\$70,800.00)	Schedule for cont'd hearing Jan. 27, 1981		
FA 34-80	9/3/80	(\$?)	File in Fairbanks - Awaiting Decision Decision requested 12/3/80		
FA 35-80	9/4/80	(\$45,693.75)	Settled between parties	CLOSED	11/13/80
FA 37-80	9/11/80	(\$2,500.00)	Complaint withdrawn	CLOSED	11/25/80
FA 38-80	9/12/80	(\$1,900.00)	Complaint withdrawn	CLOSED	11/4/80
FA 39-80	9/17/80	(\$618.70)	\$618.70 awarded to Respondent	CLOSED	11/24/80
FA 40-80	4/23/80	(\$1,000.00)	Complaint withdrawn	CLOSED	11/6/80
FA 41-80	4/14/80	(\$1,450.00)	Awaiting further notice from Complainant 12/23/80		
FA 42-80	9/8/80	(\$598.00)	File in Sitka - Awaiting hearing File sent 11/5/80		
FA 43-80	4/2/80	(\$600.00)	Unable to locate complainant		
FA 44-80	9/15/80	(\$?)	File in Fairbanks - Awaiting hearing File sent 12/2/80		
FA 45-80	9/9/80	(\$?)	Complaint withdrawn	CLOSED	11/6/80
FA 46-80	9/18/80	(\$168.00)	Settled between parties	CLOSED	12/3/80
FA 47-80	9/22/80	(\$13,530.70)	To be scheduled after March 1, 1981		
FA 48-80	9/23/80	(\$971.50)	Awaiting response from complainant		
FA 49-80	9/26/80	(\$1,500.00)	Complaint withdrawn	CLOSED	11/18/80
FA 50-80	9/29/80	(\$?)	Complaint withdrawn	CLOSED	10/9/80

FILE NO.	DATE FILED	AMOUNT	STATUS	DISPOSITION	DATE CLOSED
FA 51-80	9/29/80	(\$4,538.48)	Complaint withdrawn	CLOSED	10/20/80
FA 52-80	10/3/80	(\$400.00)	To be scheduled after Jan 15, 1981		
FA 53-80	10/22/80	(\$4,781.74)	No response from complainant		
FA 54-80	11/5/80	(\$24,589.94)	No response from complainant since 12/3/80		
FA 55-80	11/10/80	(\$1,000.00)	Complainant and Respondent to have meeting - Awaiting results of same.		
FA 56-80	10/29/80	(\$170.00)	Awaiting response from complainant		
FA 57-80	11/20/80	(\$194.00)	Awaiting response from complainant		
FA 58-80	11/24/80	(\$1,337.27)	Abejance until Jan. 12, 1981		
FA 59-80	11/24/80	(\$500.00)	Awaiting response from Respondent		
FA 60-80	12/4/80	(\$?)	Awaiting Fee Arb forms from complainant		
FA 61-80	12/8/80	(\$33,333.33)	Hearing scheduled Jan. 20, 1981 - See 80-133.		
FA 62-80	12/18/80	(\$3,673.00)	To be set for hearing after Jan 12, 1981		
FA 63-80	12/17/80	(\$94,000.00)	File to be sent to Fairbanks for hearing - 1/8/81		

ALASKA BAR ASSOCIATION
SURVEY OF GRIEVANCES

In an effort to better inform the Court, and the Bar of the source and nature of grievances, and the areas of practice from which grievances arise, the following is furnished based on the files of the Bar Association office.

In describing the nature of the grievance, only the most serious allegation is reflected. In fact, most grievances allege various acts of misconduct. It is not practical to attempt to reflect all allegations.

I. NATURE OF GRIEVANCE	#	%
1. Trust violations (embezzlement/ conversion/withholding client's property)	4	4.65
2. Conflict of Interest	8	9.30
3. Neglect (Failure to perform, delay, abandonment)	32	37.21
4. Relationship with client	6	6.98
5. Misrepresentation/fraud	6	6.98
6. Excessive Fees	6	6.98
7. Interference with justice	16	18.60
8. Improper advertising & solicitation	3	3.49
9. Criminal conviction	1	1.16
10. Personal Behavior	1	1.16
11. Wilful failure to cooperate with Discipline Authorities	0	0
12. Medical incapacity	2	2.33
13. Incompetence	1	1.16
TOTAL	86	100%

DISCIPLINE REPORT

OCTOBER 1, 1980 - DECEMBER 31, 1980

I. CASELOAD

1.	Cases pending & carried forward on October 1, 1980.	43
2.	Cases filed or reactivated since October 1, 1980.	43
	TOTAL CASELOAD FOR PERIOD	86
3.	Cases closed since October 1, 1980.	31
	(a) Dismissed by Bar Counsel	26
	(b) Informal Admonitions	4
	(c) Disbarred.	-0-
	(d) Suspensions.	1
	TOTAL.	31
4.	Total Pending Cases on December 31, 1980.	55

II. STATUS OF PENDING ACTIVE CASES

1.	Investigative State:	
	(a) To Committee Member for Advisory Opinion	-0-
	(b) Bar Counsel.	42
	(c) Special Prosecutor	1
	(d) Matters held in abeyance	7
	(e) Hearing Committee	2
2.	Before Board of Governors	2
3.	Before Supreme Court.	1
	TOTAL PENDING ACTIVE CASES ON DECEMBER 31, 1980	55

DISCIPLINARY REPORT

OCTOBER 1, 1980 - DECEMBER 31, 1980

FILE NO.	DATE FILED	COMPLAINANT'S RELATIONSHIP TO RESPONDENT	MOST SERIOUS CHARGE	STATUS	DISPOSITION	DATE CLOSED
77-18	3/22/77	Third Party	Neglect	Hearing Continued to 2/6/81		
78-13	6/2/78	ABA	Interference w/justice	Hearing scheduled on or about 4/15/81		
78-20	7/11/78	ABA	Misrep./fraud	Supreme Court Decision 12/3/80	Five year suspension 10/31/79 to 10/31/84	12/10/80
78-29	11/20/78	Client	Incompetence	Abeynce pending resolution of Civil malpractice suit		
79-1	2/9/79	Opposing Counsel	Interference w/justice Personal Behavior Failure to co-op with Disciplinary Authorities	Defendant acquitted of Criminal Charges. Under Investigation. (80-16, 80-37)		
79-2	3/6/79	ABA	Trust Violation	To Board of Governors 1/26/81		
79-7	5/6/79	ABA	Interference w/justice	Under Investigation		
79-8	5/18/79	ABA	Relationship w/client	ABR-29 Pet. filed and granted 9/28/79 - Attorney appointed 9/28/79 - Motion to suspend for failure to pay dues filed 9/28/79. Disability investigation pending.		
79-18	9/4/79	Opposing Counsel	Conflict of Interest	Abeynce pending resolution of Civil action.		
79-26	9/24/79	Client	Relationship w/client	See 79-8 -- Consolidated		
80-3	2/20/80	ABA	Medical Incapacity	12/2/80 - Application for Reinstatement		
80-5	2/11/80	Third Party	Interference w/justice	See 79-2 - To BOG 1/26/81		
80-11	4/11/80	Third Party	Misrep/fraud	Abeynce pending resolution of Civil action.		
80-12	4/21/80	Attorney	Trust violation	Abeynce pending resolution of Civil action.		

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FILE NO.	DATE FILED	COMPLAINANT'S RELATIONSHIP TO RESPONDENT	MOST SERIOUS CHARGE	STATUS	DISPOSITION	DATE CLOSED
80-13	4/25/80	Client	Relationship w/client	Informal Admonition	CLOSED	10/31/80
80-16	5/14/80	ABA	Trust violation	See 79-1.		
80-18	5/15/80	ABA	Trust violation	Abeysance pending resolution of Civil action.		
80-21	7/17/80	ABA	Relationship w/client	Informal Admonition (See 80-13)	CLOSED	10/31/80
80-22	8/7/80	ABA	Solicitation	Informal Admonition	CLOSED	10/31/80
80-26	7/30/80	Client	Neglect	Under Investigation		
80-32	8/27/80	Client	Neglect	Under Investigation		
80-37	8/5/80	Client	Neglect	See 79-1, 80-16.		
80-55	4/1/80	Client	Relationship w/client	No Merit	DISMISSED	10/2/80
80-57	4/17/80	Attorney	Solicitation	Under Investigation		
80-61	9/4/80	Client	Neglect	No Merit	DISMISSED	11/11/80
80-62	2/25/80	Client	Neglect	No Merit	DISMISSED	10/9/80
80-64	5/27/80	Client	Neglect	No Merit	DISMISSED	10/9/80
80-66	8/8/80	Client	Neglect	No Merit	DISMISSED	10/11/80
80-70	8/5/80	Client	Neglect	No Merit	DISMISSED	10/16/80
80-71	5/14/80	Client	Conflict of Interest	Pending Civil Litigation 8/1/81.	Abeysance	
80-74	9/9/80	Client	Neglect	No Merit	DISMISSED	11/4/80

FILE NO.	DATE FILED	COMPLAINANT'S RELATIONSHIP TO RESPONDENT	MOST SERIOUS CHARGE	STATUS	DISPOSITION	DATE CLOSED
80-77	9/4/80	Client	Neglect	No Merit	DISMISSED	10/29/80
80-78	9/4/80	Client	Neglect	Under Investigation		
80-79	2/14/80	ABA	Medical Incapacity	No Merit	DISMISSED	11/11/80
80-81	9/18/80	Client	Neglect	No Merit	DISMISSED	11/13/80
80-83	4/4/80	Client	Excessive fee	No Merit	DISMISSED	10/9/80
80-87	6/3/80	Client	Excessive fee	No Merit	DISMISSED	10/9/80
80-90	4/7/80	Client	Neglect	No Merit	DISMISSED	10/9/80
80-91	9/19/80	Client	Excessive fee	Under Investigation		
80-92	9/19/80	Attorney	Interference w/justice	No Merit	DISMISSED	12/22/80
80-94	9/22/80	Client	Neglect	Informal Admonition	CLOSED	11/19/80
80-95	9/23/80	ABA	Conflict of Interest	Under Investigation		
80-96	9/23/80	Client	Interference w/justice	Under Investigation		
80-99	10/2/80	Client	Neglect	No Merit	DISMISSED	11/18/80
80-100	10/9/80	Client	Interference w/justice	Absence pending adjudication by Court		
80-101	10/9/80	Client	Neglect	No Merit	DISMISSED	10/9/80
80-102	10/9/80	Client	Conflict of Interest	No Merit	DISMISSED	11/3/80
80-103	10/9/80	Client	Interference w/justice	Under Investigation		

FILE NO.	DATE FILED	COMPLAINANT'S RELATIONSHIP TO RESPONDENT	MOST SERIOUS CHARGE	STATUS	DISPOSITION	DATE CLOSED
80-104	10/20/80	ABA	Criminal Conviction	Awaiting Supreme Court Order		
80-105	10/16/80	Client	Neglect	No Merit	DISMISSED	10/20/80
80-106	10/17/80	Attorney	Neglect	Under Investigation		
80-107	10/20/80	Client	Excessive Fees	No Merit	DISMISSED	10/31/80
80-108	10/20/80	Client	Interference w/justice	No Merit	DISMISSED	12/22/80
80-109	10/20/80	Client	Conflict of Interest	Under Investigation		
80-110	10/29/80	Client	Neglect	Under Investigation		
80-111	11/3/80	Client	Personal Behavior	No Merit	DISMISSED	11/14/80
80-112	11/4/80	Client	Neglect	No Merit	DISMISSED	11/4/80
80-113	11/4/80	Client	Neglect	Under Investigation		
80-114	11/4/80	Client	Conflict of Interest	Under Investigation		
80-115	11/4/80	Client	Neglect	Under Investigation		
80-116	11/7/80	ABA	Interference w/justice	Under Investigation		
80-117	11/10/80	Client	Neglect	No Merit	DISMISSED	11/10/80
80-118	11/10/80	Client	Neglect	No Merit	DISMISSED	11/10/80
80-119	11/14/80	Client	Neglect	No Merit	DISMISSED	12/16/80
80-120	11/14/80	Client	Conflict of Interest	Under Investigation		
80-121	11/14/80	Client	Misrepresentation	Under Investigation		

FILE NO.	DATE FILED	COMPLAINANT'S RELATIONSHIP TO RESPONDENT	MOST SERIOUS CHARGE	STATUS	DISPOSITION	DATE CLOSED
80-122	11/17/80	ABA	Advertising	Under Investigation		
80-123	11/19/80	Client	Relationship w/client	Under Investigation		
80-124	11/24/80	Client	Interference w/justice	Under Investigation		
80-125	11/25/80	Client	Neglect	Investigation by H. Berkowitz		
80-126	11/25/80	Client	Neglect	Under Investigation		
80-127	12/2/80	Client	Misrepresentation	Under Investigation		
80-128	12/3/80	Client	Interference w/justice	Under Investigation		
80-129	12/3/80	Client	Interference w/justice	Under Investigation		
80-130	12/5/80	Client	Misrepresentation	Under Investigation		
80-131	12-5-80	Client	Neglect	Under Investigation		
80-132	12/8/80	Client	Neglect	No Merit	DISMISSED	12/9/80
80-133	12/9/80	Client	Excessive fees	Under Investigation		
80-134	12/9/80	Client	Conflict of Interest	Under Investigation		
80-135	12/9/80	Client	Interference w/justice	Under Investigation		
80-136	12/9/80	Client	Interference w/justice	Under Investigation		
80-137	12/17/80	Client	Neglect	Under Investigation		
80-138	12/19/80	Client	Excessive fees	Under Investigation		
80-139	12/22/80	Client	Neglect	Under Investigation		
80-140	12/23/80	Client	Interference w/justice	Under Investigation		
80-141	12/29/80	Client	Fraud and deceit	Under Investigation		

MISCELLANEOUS MATTERS

<u>PETITIONER</u>	<u>NATURE OF CASE</u>	<u>STATUS</u>
1. Eyerly	Admissions - ABA approved Law School	Pending Supreme Court Oral Argument.
2. (Confidential)	Admissions - Method of Grading Bar Exam	Petition denied by B.O.G. 9-6-80.
3. Santos	Admissions - ABA approved Law School	Petition for certification - U.S. Supreme Court 7-10-80.
4. Sheley	Admissions - 30 day residency requirement	Awaiting Supreme Court Decision on Petitioner's Motion for Attorney Fees and Costs.
5. Schroeter	Rule 81 Opposition - Superior Court	Decision favorable to Petitioner - Case closed.
6. Urie Pond Craviotto	Admissions - ABA approved Law School	Supreme Court Decision Upholding Alaska Bar Rule - 9-26-80 Case closed.
7. (Confidential)	Petition for Reinstatement	Pending action by Supreme Court.
8. (Confidential)	Admissions - Notified passed bar, then notified to contrary.	Assigned to Master - Case closed 9-18-80.
9. (Confidential)	Admissions - Unlawful practice of Law	B.O.G. denied approval 9-6-80.

Will the Bar Association See "Sunset"—This Year?

2/20/81
By JOE La ROCCA

JUNEAU — The Alaska Bar Assn. has agreed to try to resolve its widely-publicized differences with the legislature over the controversial question of whether the lawyers' group is a state agency subject to the state's so-called "Sunset" law. It sets up a process under which the legislature determines whether state agencies should be abolished for unsatisfactory performance, or allowed to continue to exist based on its usefulness.

Bart Rozelle of Juneau, president of the 1,300 member state bar association, told a joint meeting of the House and Senate Judiciary Committees Monday that a majority of the bar's members, has voted to cooperate with the legislature this year rather than continue to defy what some legislators see as the state's authority to oversee and regulate certain aspects of the bar association's activities.

Rozelle said the bar association hopes to avoid what he

termed the "unfortunately acrimonious" atmosphere which characterized the discussions last year between the bar association and the legislature over whether the attorneys' organization is subject to legislative review under the sunset statute adopted by the legislature in 1978. That acrimony, Rozelle said, "tended to undermine what can be the constructive results of the sunset process."

Under the sunset process, the Legislative Budget and Audit Committee is charged with the responsibility for auditing the records and performance of state agencies, and reporting its findings to the legislature and its appropriate legislative committees.

Last year, the House Judiciary Committee, chaired by Rep. Charlie Parr, D-Fairbanks advised the Speaker of the House that the bar association had taken the position that "it is not a state agency, and that it is not subject to the Sunset review process." The committee report said that the

association "refused the legislative Auditor access to some of its records, there," the report said, "no performance audit has been conducted."

The report noted that, in a letter to the association, the committee had requested information on 87 points, 73 of which were "answered completely." On one point, a request for a copy of disciplinary records, the bar association said that the information was confidential, and could not be released.

The Legislative Budget and Audit Committee took the Bar Assn. to court over the dispute. The State Supreme Court decided that the records were classified confidential by court rule, and that the bar association had no authority to release them.

The House Judiciary Committee proposed legislation last year extending the existence of the bar association only until June 30th of this year, and making statutory changes which it said were needed to serve the public

interest.

But the legislation died in the Senate Judiciary Committee triggering an automatic termination of the bar association under the sunset statute, effective June 30th of this year.

In what was clearly a conciliatory statement designed to avert a continuation of the dispute, Rozelle told the Joint Judiciary Committees that the bar association has voted to seek the Supreme Court's permission to submit its records to the Legislative Auditor this year.

As a result of last year's controversy, the bar assn. president said, "we took a pretty hard look at ourselves on a number of questions that were raised." He added: "We think it's constructive to meet with the legislature and rather than fight with the legislature, participate in the process."

He pointed out that the decision to do was controversial within the bar association. Two member groups, the Tanana Valley and the Ketchikan bar associations, opposed the de-

cision, and may file a suit against any attempt to release the association's confidential records to the Legislative Auditor. However, Rozelle said, that hasn't changed the state bar association's position.

Still unresolved by Rozelle's comments to the Judiciary Committees, however, was the basic question of whether the bar association considers itself a state agency subject to the state's sunset process.

Rozelle was pressed on the question by Rep. Parr, who pointed out that the association is still on record as stating that it is not. Rozelle replied that the group has not taken another vote on the question.

Both Parr and Senator Bill Ray (D-Juneau) argued that the Bar Association plays a decisive role in the selection and retention of state judges and justices because attorneys dominate the Alaska Judicial Council, pursuant to a section of the State Constitution which was drafted largely by lawyer delegates. The Governor appoints judges from a list of nominees chosen by the seven-member council which consists of three attorneys, the chief justice, and three lay members.

The council also sponsors a poll of attorneys in the state to evaluate the performance of judges and justices and makes public recommendations on whether they should be retained for subsequent terms by the voters when their terms have expired.

Senator Ray says he thinks the simplest way for the legislature to resolve the dispute is to determine the Bar Association this year under the sunset statute. That would compel the State Supreme Court to decide whether or not the Bar Association is subject to the state's sunset law.



Official Business

Alaska State Legislature

Senate

Committee on Judiciary

Pouch V
State Capitol
Juneau, Alaska 99811

SUMMARY OF JOINT SENATE-HOUSE HEARING
OF
FEBRUARY 16, 1981

Room 116, State Capitol - Juneau, Alaska

Legislation before Committee:

SB 11 "An Act continuing the existence of the Board of Governors of the Alaska Bar Association; and providing for an effective date."

CSSB 29 "An Act relating to nuclear materials."

The joint meeting of the House and Senate Judiciary Committees was called to order by Chairman Rodey at 2:05 p.m., and was co-chaired by Representative Miller.

Senate members present were: Senators Rodey, Ray, Parr, and Hohman. Senator Bennett was absent.

An overview of the Alaska Bar Association was presented by William B. Rozell, President, Alaska Bar Association. Among those items discussed were the Fee Arbitration Committee, Conciliation Panels, Continuing Legal Education Commission, and the Sunset Review.

The Chair then heard questions from the floor and general discussion concerning Bar Association activities.

CSSB 29, scheduled for hearing, was deferred until a future date.

Hearing no objections, Chairman Rodey adjourned the meeting at 3:15 p.m.



Official Business

Alaska State Legislature

Senate

Committee on Judiciary

Pouch V
State Capitol
Juneau, Alaska 99811

A G E N D A

Monday, February 23, 1981
JOINT SENATE-HOUSE JUDICIARY COMMITTEE MEETING

CALL TO ORDER

SB 11 "An Act continuing the existence of the Board of Governors of the Alaska Bar Association; and providing for an effective date."

- William B. Rozeli, President
Alaska Bar Association

RECESS



Official Business

Alaska State Legislature

Senate

Committee on Judiciary

Fourth V
State Capitol
Juneau, Alaska 99801

JOINT MEETING OF SENATE & HOUSE JUDICIARY COMMITTEES

Monday, February 16, 1981

A G E N D A

CALL TO ORDER

SB 11 "An Act continuing the existence of the Board of Governors of the Alaska Bar Association; and providing for an effective date."

- William B. Rozell, President
Alaska Bar Association

Brief overview of the Alaska Bar Association Board of Governors' activities.

SB 29 "An Act relating to nuclear materials."

Adoption of Committee Substitute.

RECESS

SENATE JUDICIARY COMMITTEE

Bill Number SB 11 Original Sponser(s) ZIEGLER
Title CONTINUING THE EXISTENCE OF THE BOARD OF GOVERNORS OF THE AMERICAN
BAR ASSOCIATION; EFFECTIVE DATE
Originally Received From KERTTULA
Contact ZIEGLER / BURNS Date 1-13-81

Committee Recommendation (MAJORITY) _____

Report Attached yes no) Supporters _____

MINORITY _____

Report Attached yes no) Supporters _____

Object of Bill ~~Renew~~ EXTEND EXISTENCE OF BOARD

Committee Amendments _____

Fiscal Impact _____

LAA Legal/Research Contact _____ Research/Information ON FILE

Concerned Parties:	
Supporting	Opposing
<u>BAR ASSOCIATION - RANDALL BURNS</u> 506-3710 NLRM/COV/204	

Supporting

Opposing

--	--

Additional Remarks:

1-26-91 Concern - Govt. Information (AKA 17600-205) 286-6125



Alaska State Legislature

House of Representatives

Committee on Judiciary

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

February 20, 1981

TO: Rep. Clocksin, Rep. Miller, Rep. Chuckwuk, Rep. Anderson,
Rep. Phillips, Rep. O'Connell, Rep. Hurlbert

Sen. Rodey, Senate Judiciary Chairman

FROM: Rep. Brown

SUBJ: Committee schedule for week of February 22-28

* * * * *

February 23, Monday: AT 1:30 p.m.

SB 11

House and Senate Judiciary joint review of the
Alaska Bar Association "Sunset"

February 24, Tuesday: AT 1:15 p.m.

HB 160: An Act annulling 15 AAC 05.410(4);
pertaining to raffles and lotteries

February 25, Wednesday: AT 8:30 a.m.

Joint hearing with Labor/Commerce Committee on
HB 138: Appropriations to Telecommunications

February 25, Wednesday: AT 1:15 p.m.

Continued review of the Alaska Bar Association
"Sunset"

February 26, Thursday: AT 8:30 a.m.

Joint hearing with Labor/Commerce Committee on
HB 138; ONLY IF NEEDED

February 26, Thursday: AT 1:15 p.m.

Division of Corrections overview of the Parole
Board "Sunset"

February 27, Friday: AT 1:15 p.m.

Continued review of HB 158: An Act relating to
state regulation of fireworks

HB - INTEGRATED BILL FROM
COMMITTEE - NOT FROM FLOOR

DATE —

REG. - OR NOT REG.
LEGISLATIVE QUESTION

WHAT LEGISLATION TO CHANGE FLOWERS OF EAC?
BROWN - DIVISION AUTHORITY

JAY S. HAMMOND
GOVERNOR



STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

January 28, 1981

The Honorable Patrick Rodey
Alaska State Senate
Pouch V
Juneau, AK 99811

Dear Senator ^{Pat}Rodey:

In reply to your letter concerning sunset of several regulatory boards, I'd like to furnish you the following information.

From the Governor's perspective, the Collection Agency Board (AS 08.24.011) is a board that might well be terminated, and the Governor does not intend to introduce legislation or take any effort to see that that particular board is continued in force after June 30, 1980. As for the Guide Licensing and Control Board (AS 08.54.010), the Governor is very much interested in seeing that this board is continued and has drafted legislation making some amendments to the statutes relating to the Guide Licensing and Control Board. This particular piece of legislation should be in completed form relatively soon and will be ready for introduction. As to the Board of Governors of the Alaska Bar Association (AS 08.08.040), the Governor believes that it is appropriate that this board be continued. As you may be aware, there has been some discussion in the past as to whether or not there should be a lay person on the board; this is for the Legislature to determine. Certainly it is appropriate that the board be continued. As to the Board of Welding Examiners (AS 08.99.010), the Governor will not be submitting legislation for the continuation of this board.

I would be pleased to discuss this with further, should you wish.

Sincerely,

A handwritten signature in cursive script that reads "Keith".

Keith W. Specking
Legislative Assistant
to the Governor

JAY S. HAMMOND
GOVERNOR



STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

January 28, 1981

The Honorable Patrick Rodey
Alaska State Senate
Pouch V
Juneau, AK 99811


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I would be pleased to discuss this with further, should you wish.

Sincerely,


Keith W. Specking
Legislative Assistant
to the Governor

ALASKA BAR ASSOCIATION

PO BOX 279

ANCHORAGE, ALASKA 99510

AREA CODE 907.272-7469

RANDALL P. BURNS EXECUTIVE DIRECTOR

MARVIN S. FRANKEL DISCIPLINARY ADMINISTRATOR AND BAR COUNSEL

OFFICERS

WILLIAM B. ROZELL
PRESIDENT
JUNEAU

KAREN L. HUNT
PRESIDENT-ELECT
ANCHORAGE

STANLEY T. FISCHER
VICE PRESIDENT
KODIAK

HUGH G. WADE
SECRETARY
ANCHORAGE

ELIZABETH P. KENNEDY
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BOARD MEMBERS

WILLIAM P. BRYSON

STANLEY T. FISCHER

KAREN L. HUNT

ELIZABETH P. KENNEDY

EDWARD G. KING

JONATHAN H. LINK

WILLIAM B. ROZELL

RICHARD D. SAVELL

HUGH G. WADE

January 7, 1981

The Honorable
Patrick M. Rodey
Alaska State Senate
State Capitol Building
Pouch V
Juneau, Alaska 99811

Dear Senator Rodey:

The enclosed is the material the Alaska Bar Association prepared last year in response to the House Judiciary Committee's request for information concerning the Bar's functions and activities. Kevin Bruce, who has seen this material, asked that you be provided with a copy. While the majority of the information provided is still useful, please realize that the Association has undergone a number of substantial changes over the last year and the information does not clearly reflect what I would characterize as the recent advances made by the Association.

Specifically, the Board of Governors of the Alaska Bar Association worked to guarantee that complaints against attorneys are, whenever possible, much more quickly processed. In addition, the Board has gone on record as not opposing a controlled audit of its confidential records by the Legislature. Further, the Board is continually refining its admissions processes and, in light of recent "liberalizing" decisions by the Alaska Supreme Court in this area, the Board is reviewing a number of residency issues that are integral to the Bar as we know it. These are matters which the Association dealt with throughout 1980, and the impact of those decisions and changes are not reflected in the statistics compiled by the Bar staff for the House Judiciary's sunset review of the Association.

Patrick M. Rodey

- 2 -

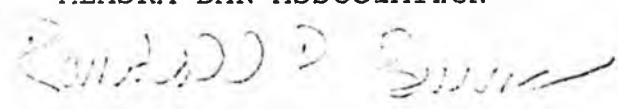
January 7, 1981

I enjoyed meeting Mr. Bruce, and look forward to assisting you and your staff during the upcoming legislative session.

On behalf of the Board of Governors, I would like to thank you for the time you took to meet with some of the Board members in early December, and I know that your words have left the Board feeling confident that the Association shall emerge from this session with the sun overhead.

Respectfully,

ALASKA BAR ASSOCIATION



Randall P. Burns
Executive Director

wj

Enclosure

CC: Board of Governors
Marvin S. Frankel, Bar Counsel



Official Business

Alaska State Legislature

Senate

Committee on Judiciary

Pouch V
State Capitol
Juneau, Alaska 99811

January 19, 1981

Mr. Randall P. Burns
Executive Director
Alaska Bar Association
P.O. Box 279
Anchorage, AK 99510

Dear Randall;

Thank you for forwarding the material previously prepared for the 1980 House Judiciary Committee. I'm sure it will be helpful to the committee in its deliberations.

Senator Rodey has assured me that Senate Bill 11 will be a priority item in his committee, so I'm sure we will be speaking soon.

Thanks again.

Sincerely,

A handwritten signature in cursive script, appearing to read "K. Bruce".

Kevin Bruce
Committee Aid

KB/ds



Alaska State Legislature

House of Representatives

Committee on Judiciary

Judiciary Comm
Pouch V
State Capitol
Juneau, Alaska 99811

Official Business

March 12, 1980

The Honorable Terry Gardiner
Speaker of the House
Alaska State Legislature
Pouch Y, State Capitol
Juneau, Alaska 99811

Dear Mr. Speaker:

In compliance with AS 44.66.010 - 060 and referral by the Speaker of the House on January 15, 1980, the House Judiciary Committee has conducted a review of the Alaska Bar Association. By letter of July 31, 1979, the Speaker had notified the Committee of the forthcoming referral, thereby permitting advance work to be done during the interim between legislative sessions.

The Alaska Bar Association has taken the position "that it is not a State agency, and that it is not subject to the Sunset review process." The Association refused the Legislative Auditor access to some of its records; therefore, no performance audit has been conducted.

On November 7, 1979 the Committee requested information on 87 points; by letter of January 30, 1980 and a 71-page booklet, The Alaska Bar Association, February 1980, the Association answered completely 73 of the 87 points. Another 13 points were addressed by the Alaska Bar Association, but were not answered completely because of stated lack of adequate or feasibly retrievable information. On one point, a request for a copy of the card index on discipline, the Alaska Bar Association refused to reply, stating that it could not release this confidential information to the House Judiciary Committee.

In addition to receiving testimony during interim hearings, the Committee held 2 hearings to receive public testimony in Juneau. Also, 2 teleconference hearings were held to obtain testimony from Anchorage, Fairbanks, Kodiak, Valdez, Ketchikan, Sitka and Nome. Written testimony was received from 6 persons and the Kenai Peninsula

Bar Association. Oral testimony was received from about 15 persons. Witnesses included the president, president-elect, two former presidents, and three members of the present Board of Governors of the Association; the Ombudsman, and a number of attorneys.

The Alaska Supreme Court has delegated to the Association the responsibility for admissions and discipline, and by statute the Association may propose court rules or rule changes. All attorneys practicing in Alaska are required to be members of the Association, and to pay dues (now \$130.00 per year). Statutory authority is AS 08.08.010 - 250, commonly called the Integrated Bar Act, and some members of the Bar seem to feel that authority also resides in the inherent power of the Alaska Supreme Court.

The Committee found that the Association is conducting a number of worthwhile activities. Unfortunately, it is not clear that most of these are benefiting the general public, as opposed to Association members. (If, as it claims, the Association is not a State agency, it would be under no obligation to benefit the general public.)

In some ways one of the most disturbing revelations was the extent to which attorneys form a closed corporation. The Association comprises all attorneys in the State, ^{NO} only its members may practice law, it is in charge of admissions to the Bar and of discipline of its members, it nominates the three attorneys who sit on the Judicial Council, which in turn sends judgeship nominees to the Governor, judges must themselves be attorneys, and the Association furnishes nine members of the Board of Directors of Alaska Legal Services Corporation. Only in the disciplinary hearing and attorney fee review committees is there any lay presence. There seems to be at present no provision for the exercise of supervisory responsibility by the elected representatives of the people. The position of the Court System on the Alaska Bar Association sunset is included as an appendix to this report.

The Committee received more complaints and more testimony on the subject of Bar examinations than on any other subject related to the Alaska Bar Association. A major defect in the administration of the Alaska examination is that it is prepared and graded by persons who, while skilled attorneys, are amateurs in testing. Professionalism is needed in both the preparation and grading of the

examination to ensure that the examination will score persons only on relevant factors. The training of the preparers and graders should be financed by the income derived each year from the administration of the bar examination (about \$16,000 anticipated in 1980, not including the costs of any litigation which may arise from the examination).

There appears to be no discrimination against women in the Alaska Bar Association. Alaska has one of the highest percentages of women lawyers in the United States and, specifically, the highest percentage of women on its Board of Governors. In fact, the president of the Alaska Bar Association is a woman.

Although no apparent preference for non-minorities is shown, there is a disparity in the numbers of minorities versus non-minorities in the Alaska Bar Association. Ethnic minorities are poorly represented in the Alaska Bar Association. Present membership from these ethnic groups is as follows:

Alaska Native	5
Black	4
Asian-American	2
Hispanic	1

To the best of our knowledge, 12 Native people have been admitted to the Alaska Bar since Statehood. The only reliable statistics available are those reflecting current membership. Because the problem of low representation of minorities in the Alaska Bar Association has not been addressed adequately in the past, reasons for this situation cannot be determined at this time.

The Judiciary Committee recognizes that the percentage of minorities failing the Alaska bar examination, compared with the percentage of non-minority persons failing, is disproportionately high. The Committee believes that this disparity may be caused in part by cultural factors.

The Committee does not believe that the Alaska Bar Association intends to discriminate against minorities. The Committee commends the Board of Governors' Legal Educational Opportunities Committee for its work in gathering statistics regarding minorities in the Alaska Bar Association. The Committee urges the Board of Governors to

continue this work so that accurate minority pass rates may be established.

The Committee urges the Board of Governors to develop a program which will speak to the statistics reflecting minority representation in the Alaska Bar Association and the apparently low percentage of minority and non-minority individuals who pass the bar examination.

The Committee urges the Board of Governors to be aware of the disparity in minority participation in the bar and to direct its Committee of Bar Examiners to continually scrutinize the preparation and grading of the examination for possible cultural biases.

The Committee urges the Board of Governors to look into establishing some other criteria for evaluating an individual's competency to practice law in the State.

When, after completion of testimony, the Committee began its deliberations, the diversity of opinion was clearly evident. Apparently no one believed that the Alaska Bar Association should be extended for the maximum four years. Some members wanted to treat attorneys like other professionals, with a board to handle admissions and discipline; others preferred to make the Supreme Court directly responsible for those functions; and a third group preferred a short extension together with appropriate statute changes. The last viewpoint was finally adopted.

Findings required by AS 44.66.050(d) follow:

(1) an identification of the problems or the needs that the programs and activities of the board, commission or agency are intended to address;

Finding: The Alaska Bar Association is intended to address the need for admission and discipline of attorneys in the State.

(2) a statement, to the extent practicable, of the objectives of the program of the board, commission, or agency program, and its anticipated accomplishments;

Finding: The objectives are to upgrade the Bar in terms of education, competence, and

professionalism of its members, and to perform some services for the general public.

(3) an identification of any other programs having similar, conflicting or duplicate objectives;

Finding: There are no other programs having similar or conflicting objectives.

(4) an assessment of alternative methods of achieving the purposes of the program;

Finding: The responsibilities could be turned over to the Supreme Court or to a professional board in the Division of Occupational Licensing. The Committee has considered these alternatives but believes that they are not feasible at this time.

(5) an assessment of the consequences of eliminating the board, commission or program and consolidating its activities with another program, or of funding it at a lower level;

Finding: The Association could not be eliminated unless some other agency were responsible for the functions.

(6) a justification for the recommended continuation or extension of the board, commission or program, and an explanation of the manner in which it avoids duplication of or conflict with other efforts;

Finding: The extension of the Association for one year will permit time for a more thorough review and there is no duplication of other efforts.

(7) any other information which, in the opinion of the committee, would improve the performance of the board, commission or agency with respect to its representation of and responsiveness to the public interest;

Finding: Information which would improve the performance of the Association is included in

other portions of this report or in legislation to be introduced by the House Judiciary Committee.

The House Judiciary Committee finds that:

- (1) The Alaska Bar Association should be extended until June 30, 1981.
- (2) Statutory changes are needed in the public interest. The Committee will propose a bill incorporating these changes.

Charles H. Parr, Chairman

Nels A. Anderson, Jr.

Ramona L. Barnes

Fred E. Brown

Thelma Bucoldt

Hugh Malone

Terry Martin

Patrick M. O'Connell

Randy Phillips



Official Business

Alaska State Legislature

Senate

Committee on Judiciary

Pouch V
State Capitol
Juneau, Alaska 99811

JOINT MEETING OF SENATE & HOUSE JUDICIARY COMMITTEES

Monday, February 16, 1981

A G E N D A

CALL TO ORDER

SB 11 "An Act continuing the existence of the Board of Governors of the Alaska Bar Association; and providing for an effective date."

- William B. Rozell, President
Alaska Bar Association

Brief overview of the Alaska Bar Association Board of Governors' activities.

SB 29 "An Act relating to nuclear materials."

Adoption of Committee Substitute.

RECESS

DISCIPLINARY BOARDS

Pres
Pres elect } SUPERVISES BAR COUNCIL

FEE ARBITRATION COMMITTEE
COMMITTEE MAKE-UP?

CONCILIATION BOARD

LEGISLATIVE AUDIT

- Bar Council
Background
- Fees Brown
BAR HISTORY

OMBUDSMAN
"STATE INSTRUMENTALITY"

LIKENSE FEES

down

owers. Most importantly, it sets out who may practice law in Alaska (A.S. 08.08.210), makes unlawful practice a misdemeanor (A.S. 08.08.230) and provides for Supreme Court review of disciplinary proceedings of the Alaska Bar Association. (A.S. 08.08.220) A.S. 08.08.205 and .207 is an attempt by the legislature to allow certain persons who have not graduated from an accredited law school to take the bar examination and be admitted to practice in Alaska. These particular sections, lowering bar admission standards, have never been approved by the Supreme Court, and are probably an invalid attempt by the legislature to invade the matter of bar admissions - a matter which is within the jurisdiction of the Alaska Supreme Court.

I. A. ALASKA SUPREME COURT:

The Alaska Supreme Court has the inherent power over the practice of law, and the suspension and disbarment of attorneys. In re McKay, 416 P.2d 823 (Alaska 1964) was the vehicle for the court to set forth its inherent power and displace the legislature's power over the practice of law in Alaska. Until McKay, the legislature controlled the practice of law and the Board of Governors had jurisdiction over attorney activities. (See 08.08.220) The Supreme Court now makes all determinations relevant to qualifications of attorney practice.

From time to time, the legislature interferes in the practice of law in Alaska. Attempts are made from time to time to enact legislation amending the Bar Act, requiring that non-lawyers be on the Board of Governors, or admitting the wife of one of the legislators to the practice of law. These generally do not succeed, although in 1976, the legislature enacted a law allowing substituted education in lieu of graduation from an ABA-approved law school. (A.S. 08.08.205-207) This law has never been implemented.

Over the years, the Bar Rules have been developed to set forth the relationship between the Court and the Bar Association. In 1976, a severe confrontation occurred over the right to take the bar exam. In Application of Sullivan, 551 P.2d 531 (June 14, 1976), the Court (in a 3-2 decision with a strong dissent) allowed an applicant who had filed late to take the bar examination, reasoning that the court had the inherent power to do so, and there were special circumstances in the case. As recognized by the dissent, the decision was directly contrary to a previous decision of the court two years before with respect to another applicant, and, more importantly, was directly contrary to the Bar Rules, and the relationship between the Bar Association and the Court as set forth in Bar Rule 60(b), which requires rule amendments to be approved by the Board of Governors prior to being adopted by the Supreme Court.

B. TRIAL COURTS:

The Superior Court is the trial court of general jurisdiction. It, and the Supreme Court, are created by the Alaska Constitution,

JAY S. HAMMOND
GOVERNOR



STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

January 28, 1981

The Honorable Patrick Rodey
Alaska State Senate
Pouch V
Juneau, AK 99811

Dear ^{Pat:} ~~Senator~~ Rodey:

In reply to your letter concerning sunset of several regulatory boards, I'd like to furnish you the following information.

From the Governor's perspective, the Collection Agency Board (AS 08.24.011) is a board that might well be terminated, and the Governor does not intend to introduce legislation or take any effort to see that that particular board is continued in force after June 30, 1980. As for the Guide Licensing and Control Board (AS 08.54.010), the Governor is very much interested in seeing that this board is continued and has drafted legislation making some amendments to the statutes relating to the Guide Licensing and Control Board. This particular piece of legislation should be in completed form relatively soon and will be ready for introduction. As to the Board of Governors of the Alaska Bar Association (AS 08.08.040), the Governor believes that it is appropriate that this board be continued. As you may be aware, there has been some discussion in the past as to whether or not there should be a lay person on the board; this is ~~is~~ the Legislature to determine. Certainly it is appropriate that the board be continued. As to the Board of Welding Examiners (AS 08.99.010), the Governor will not be submitting legislation for the continuation of this board.

I would be pleased to discuss this with further, should you wish.

Sincerely,

A handwritten signature in cursive script that reads "Keith".

Keith W. Specking
Legislative Assistant
to the Governor