

975 HU AN DAK ASSN SUNSET REVIEW FILE NO. 1

work done in the previous month, and must certify monthly as to compliance with the requirements of this subsection and (e) and (g) of this section.

(e) The examinations shall be written and not oral, and shall be answered by the clerk without research or assistance during the examination. The monthly certificate of compliance submitted by the tutor shall be accompanied by the originals of all written examinations and answers given during the period reported. If the certificates, together with the required attachments, are not filed timely with the university, no credit may be given for any period of the default.

(f) If a registered law clerk does not furnish evidence of completion of his law studies within a period of six years after registration, the university may cancel the registration.

(g) The course of study to be pursued by a registered law clerk shall cover subjects, text books, case books, and other material the university may from time to time require.

(h) A registered law clerk who has attended ~~any law school~~ a ~~law school~~ law school may, in the discretion of the university, receive credit for work done and obtain advanced standing. In no event will credit be given for fractional parts of semesters or terms, or for correspondence school work.

(i) As used in this section

(1) "law school" means a law school ^{whether or not} accredited, approved or meeting the standards of the Council of Legal Education of the American Bar Association or the Association of American Law Schools; or a school in Alaska offering a course of study which the university approves as the equivalent to a year's study in a law school under this section;

(2) "university" means the University of Alaska.

(am §§ 1 — 8 ch 119 SLA 1978)

Sec. 08.08.190. DISCIPLINARY PROCEEDINGS AND REVIEW.

a person licensed to practice law in the state

Upon finally determining any cause involving the discipline, disbarment, suspension, or reinstatement of ~~a member of the Alaska Bar~~, the board shall certify its findings and recommendations on the cause to the supreme court. Within 30 days after receiving the findings and recommendations, the court shall issue, in full accordance with the recommendations, an order of disbarment, suspension, reinstatement, dismissal, or otherwise, unless the accused ~~member~~ sooner petitions the court for review of the proceedings, findings, and recommendations of the board. If such a petition is made, the court shall promptly review the cause in the manner prescribed in the Administrative Procedure Act (AS 44.62). (§ 14 ch 196 SLA 1955; am § 6 ch 178 SLA 1960)

person ←

Sec. 08.08.200. CRIMINAL PENALTY FOR THE UNLAWFUL PRACTICE OF LAW.

(a) Any person not licensed to practice law in the state ^{*who engages in the practice of law*} as that term is defined in AS 08.08.140, or a person who is licensed to practice law in the state ^{*not licensed to practice law*} who wilfully employs ~~such~~ a person [↑] knowing that such person is engaging in the practice of law is guilty of a Class A misdemeanor.

(b) Nothing in this section prohibits the use of paralegal personnel as defined by the rules of the Alaska supreme court.

Sec. 08.08.150. CONDITIONS FOR THE RECEIPT OF STATE FUNDS. No state funds shall be provided to the Alaska Bar unless all records of the Alaska Bar are made available to either the legislative auditor or the state ombudsman as his official duties or responsibilities may require.

Sec.08.08.160. SHORT TITLE. This chapter may be cited as the Alaska Bar Act.

*Section 2. AS 45.50.495 is amended by adding a new subsection to read:

(c) The attorney general may investigate complaints of unlawful acts and practices of attorneys which constitute violations of AS 45.50.471 and bring actions under AS 45.50.501 to restrain the unlawful acts and practices notwithstanding AS 45.50.481(1).

*Section 3. ALASKA BAR RULE 7, SECTION 1 IS AMENDED TO READ:

SECTION 1. An applicant who has been denied an examination permit or who has been denied certification to the Supreme Court for admission to practice shall have the right within thirty days after notice of such denial to file with the Board a written verified statement of appeal. Failure timely to file an appeal statement shall constitute waiver of appeal rights. In his statement an applicant shall state all grounds upon which he intends to rely and may:

(a) object to the form of notice from which such appeal is taken on the ground that it is so indefinite or uncertain that he cannot reasonably prepare his statement;

(b) present new matter on which he relies to establish his eligibility for admission to practice.

An applicant who is denied an examination permit or who is denied certification shall allege facts which, if true, would establish an abuse of discretion or improper conduct on the part of the Board, the Executive Director, the Committee or a master. If the allegations [ALLEGATION] in the verified statement are found to be sufficient by the Board, a hearing shall be granted. A hearing shall be granted in all cases where the applicant requests it and the score of the applicant on the bar examination is within five points of the passing grade of the
bar examination.

*Section 4. ALASKA BAR RULE 2, SECTIONS 1,2, and 3, ARE AMENDED TO
READ:

Section 1. Every applicant for examination shall

(a) File an application in a form prescribed by the board and produce and file the evidence and documents prescribed by the Board in proof of eligibility for examination;

(b) Be a graduate of a law school [which was accredited or approved by the Council of Legal Education of the American Bar Association or the Association of American Law Schools when the applicant entered or graduated] or submit proof that the law course required for graduation from [such] a law school will be completed and that a degree will be received as a matter of course before the date of examination. Graduates of law schools in which the principles of English common law are taught but which are located outside the United States and beyond the jurisdiction of the American Bar Association and the Association of American Law Schools, may qualify for examination upon proof that the foreign law school from which they graduated meets the American Bar Association Council of Legal Education Standards for approval;

(c) Have attained the age of 19 years;

(d) Be of good moral character;

(e) Establish domicile in the State of Alaska at least 30 days prior to the first day upon which the bar examination is to be given. Domicile may be shown for purposes of taking the bar examination by physical presence in Alaska for the 30-day period prior to the first day of the examination.

Section 2. An applicant who meets the requirements (a) through (e) of Section 1 of this rule and

(a) Has passed a written examination required by another state, territory or the District of Columbia for admission to the practice of law, and

(b) Has engaged as a licensed attorney in the active practice of law in one or more states, territories or the District of Columbia for five of the seven years immediately preceding the date of his first or subsequent applications for admission to the practice of law, may on the date of filing the application request examination as an attorney applicant. An applicant qualified for examination as an attorney applicant shall

be required to pass the attorney bar examination prescribed by the Board.

[Section 3. An applicant who meets the requirements of (a) and (c) through (e) of Section 1 of this rule may qualify for admission if an application is filed on or before June 8, 1977 and the applicant:

(a) Is admitted to practice and is an attorney in good standing in the bar of another state;

(b) Graduated from law school after June 8, 1973 and was not eligible to apply for admission to practice in Alaska prior to that date;

(c) Enrolled in law school prior to June 8, 1973 with the intent to apply for admission to practice law in Alaska and in reliance on the Alaska admission rules in effect prior to the approval of this rule.](Added by Supreme Court Order 161 effective immediately; amended by Amendment No. 1 to Supreme Court Order 161 effective April 12, 1974; by Supreme Court Order 220 effective December 15, 1975; and by Supreme Court Order 347 effective April 1, 1979)



Alaska State Legislature

House of Representatives

Committee on Judiciary

Pouch V
State Capitol
Juneau, Alaska 99811

Official Business

MEMORANDUM

February 20, 1980

TO: Charlie Parr, Chairman, and Members of the House
Judiciary Committee

FROM: Margaret W. Berck, Staff

SUBJECT: Sunset Review of the Alaska Bar Association

Attached is a civil rule change proposed by the Alaska Bar Association to the Alaska Supreme Court. Currently this proposal is before the Supreme Court and has not been acted upon as of this date.

In essence, the proposal would preclude legal representation by lay persons in administrative agency proceedings or in arbitration proceedings. Both Alaska and Federal law frequently make provisions for individuals to obtain a lay person to represent them in an administrative agency hearing. The rationale for these provisions is clear. Most citizens are unable to bear the expenses of hiring an attorney to represent them in such matters.

For various reasons, it is unlikely that the Alaska Supreme Court will adopt the Bar's proposal. Most significant perhaps is the fact that the scope of the civil rules is limited to actions or proceedings in the courts. It seems clear that these rules may not be utilized by the Alaska Supreme Court to dictate to the executive branch how it will run its administrative hearings.

In my opinion this proposal by the Bar is noteworthy to the Committee not only because it reflects sloppy legal work, but also because it reflects a restraint of trade philosophy.

MWB:vc
Att.

CIVIL RULE 81

As proposed, Civil Rule 81 would read:

(a) Who May Practice.

(1) Members of the Alaska Bar Association. Subject to the provisions of paragraphs (2) and (3) of this subdivision, only attorneys who are members of the Alaska Bar Association shall be entitled to practice in the courts and before the administrative agencies of this state (.) or in any arbitration proceedings in Alaska.

(2) Other Attorneys (.) - Courts. A member in good standing of the bar of a court of the United States, or of the highest court of any state or any territory or insular possession of the United States, who is not a member of the Alaska Bar Association who is not otherwise disqualified from engaging in the practice of law in this state, may be permitted, upon motion, to appear and participate in a particular action or proceeding in a court of this state. The motion and notice of hearing thereon shall be served on the executive (SECRETARY) director of the Alaska Bar Association, the State Department of Revenue, the local municipal taxing authority and, unless the court directs otherwise by an order pursuant to Rule 5(c) of these Rules, on each of the parties to the action or proceeding. With his motion, the applicant must file with the court the following:

(a) The name, address and telephone number of a member of the Alaska Bar Association with whom the applicant will be associated (, WHO MAINTAINS AN OFFICE IN THE JUDICIAL DISTRICT WHERE THE ACTION OR PROCEEDING IS PENDING, and who is authorized to practice in the courts of this state.

(b) A written consent to the motion, signed by such member of the Alaska Bar Association.

(c) A certificate of the presiding judge or clerk of the court where he has been admitted to practice, executed not earlier than 60 days prior to the filing of the motion, showing that he has been so admitted in such court, that he is in good standing therein and that his professional character appears to be good.

(d) A list of each judicial, administrative or arbitration proceeding in Alaska in which he or any member of his firm is currently appearing as counsel or has appeared within the past 24 months.

(e) An affidavit in which he consents to be subject to the Disciplinary Rules of the Alaska Bar Association.

(f) Provide proof of payment of Alaska income taxes for all income earned within the preceding two years of the date of the motion and produce proof that he has paid all license taxes in the year in which the motion is made in accordance with AS and AS.

An attorney thus permitted to appear may participate in a particular action or proceeding in all respects, except that all documents requiring signature of counsel for a party may not be signed solely by such attorney, but must bear the signature also of local counsel with whom he is associated. Section (a)(3) is repealed and new subsection (3) is added to read:

(d) A list of each judicial, administrative or arbitration proceeding in Alaska in which he or any member of his firm is currently appearing as counsel or has appeared within the past 24 months.

(e) An affidavit in which he consents to be subject to the Disciplinary Rules of the Alaska Bar Association.

(f) Provide proof of payment of Alaska income taxes for all income earned within the preceding two years of the date of the motion and produce proof that he is in possession of a valid business license and that he has paid all license taxes in the year in which the motion is made in accordance with A.S. and A.S.

Any attorney thus permitted to appear may participate in a particular action or proceeding in all respects, except that all documents requiring signature of counsel for a party may not be signed solely by such attorney, but must bear the signature also of local counsel with whom he is associated.

Section (a)(3) is renumbered as Section (a)(4) and reenacted to read:

(4) Authority and Duties of Attorneys. Local counsel shall be primarily responsible to the court, administrative agency or arbitrator for the conduct of all stages of the proceedings, shall be presented during all proceedings before the court, administrative agency or arbitrator and their authority shall be superior to that of attorneys permitted to appear under paragraphs (2) and (3) of this subdivision.

(remainder of rule remains the same)



Alaska State Legislature

House of Representatives

Committee on Judiciary

Pouch V
State Capitol
Juneau, Alaska 99811

Official Business

TO: Charlie Parr, Chairman, and Members of the House Judiciary
Committee

FROM: Margaret W. Berck, Staff

DATE: February 14, 1980

Request number 34 asked the bar association the following: "Provide the source, purpose and amount of all state funds obtained by the Alaska Bar Association during 1976, 1977, 1978 and 1979."

The bar association responded: "The Alaska Bar Association receives State funds from only one source (the Alaska Court System) for only one purpose (discipline). This contribution represents approximately only fifty percent (50%) of the discipline costs incurred by the Association."

The attached excerpts from my previous report to this Committee and also from information subsequently provided by Art Snowden more clearly set forth state financial involvement in the Alaska Bar Association.

Nels - the bar president
stated last Fri. that state funds
for this year = \$60,000 (of
which \$50,000 was for discipline and
\$10,000 was for office space)

fees defray the costs of regulating the profession is significant. If taxpayers support most of the costs of regulating all professions but for the legal profession, what justifies this differentiation. Furthermore, should it be determined that it is more expensive to regulate lawyers than doctors, the burden on the taxpayer can be reduced by increasing the license fees for lawyers.

Costs resulting from the admission function of the Alaska Bar Association are absorbed by current application fees. Individuals seeking admission to the bar are required to pay \$5 for the application form and a \$250 examination fee. Should application fees be structured to absorb admission costs, no additional financial burden falls on the taxpayer.

→ Furthermore, it should be noted that the Alaska Bar Association is not completely independent of state financial resources. For many years the Alaska Bar Association was furnished with free office space, use of equipment and supplies provided by the court system. Several years ago, when the Bar Association was required to vacate those offices, moving expenses were provided by the court system. Currently office space for the Bar Association is being subsidized by the Department of Law at the rate of \$10,000 per annum, raising a question of conflict of interest.³ [corrected by subsequent information from Art Snowden which is attached hereto.]

Additionally, for the past several years state funds have been provided to defray the association's expenses for disciplinary proceedings. In 1978 the Bar Association received \$58,600 from the state; in 1979, \$36,700, and the Allocation for 1980 is \$51,000.⁴ This state

³This information was disclosed by Richard Barrier, Manager, Fiscal Operations and Deputy Administrator, Alaska Court System.

⁴The reason disbursements in 1979 were lower than the previous year, and also lower than the 1980 allocation, was because the court system overpaid the Bar Association by some \$11,000 in 1978. It should be noted that the court system has never audited the Bar Association relative to these expenses.

QUESTION #5: Whether the Alaska Court System currently is providing any funds to the Alaska Bar Association to assist that association in its rental payments for office space. If such funds are or have been provided in the past, please list the amount of such funds for each of the following years: 1976, 1977, 1978, and 1979.

ANSWER: The Alaska Court System has provided free office space for the Alaska Bar Association for at least the past eight years. Prior to the building of the Boney Memorial Court Building, the Bar Association was housed in leased space in the basement of the Voyager Hotel, along with the Land Recording Office. This rent was included in the Court System budget. With the completion of the new court building, space was freed up in the old court building which was allocated to the Alaska Bar. This amounted to approximate 900 square feet. From 1973 to 1977 the Bar Association resided in the office on the third floor of the old Anchorage court building. In 1977 at the request of the District Attorney, arrangement was made to transfer the Bar Association off the third floor of the old court building and into Department of law space in the Australaska building, to permit the District Attorney to house a special prosecution unit in space on the third floor of the old court building. In effect what happened was that the Bar Association moved into space which was under lease to the Department of Law. There was a tradeoff of space between the Court System and the Department of Law. This situation remained through the end of FY 78. In FY 79 the Bar Association negotiated a new lease for space in the Australaska building which was an expansion over the previous space. At that point in time the Court System agreed to pay the Bar Association an amount for rent approximately equivalent to the amount of free rent that the Bar had previously been provided by the Court, or \$10,000 a year. In FY 79 the Bar Association was paid \$10,000 towards its office rent in the Australaska building.

1976 and 1977 Official Audits of the
Alaska Bar Association

ALASKA BAR ASSOCIATION

REPORT ON EXAMINATION OF FINANCIAL STATEMENTS

YEAR ENDED DECEMBER 31, 1977 AND 1976

CONTENTS

FINANCIAL STATEMENTS	PAGE
Accountants' Report	1
Balance Sheets - General Fund	2
Statement of Unrestricted Revenues and Expenses and Changes in Fund Balances - General Fund	3
Balance Sheets - Client Security Fund	4
Notes to Financial Statements	5-8

February 16, 1978

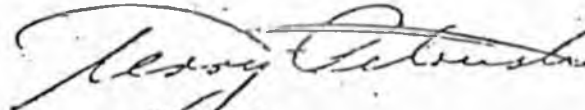
The Members

Alaska Bar Association

Anchorage, Alaska

We have examined the balance sheet of the Alaska Bar Association as of December 31, 1977, and the related statements of unrestricted revenues and expenses and changes in fund balances for the year then ended. Our examination was made in accordance with generally accepted auditing standards and, accordingly, included such tests of the accounting records and such other auditing procedures as we considered necessary in the circumstances:

In our opinion, the aforementioned financial statements present fairly the financial position of the Alaska Bar Association at December 31, 1977, and the results of its operations for the year then ended in conformity with generally accepted accounting principles applied on a basis consistent with that of the preceding year.



TERRY L. PETRUSKA, C.P.A.

ALASKA BAR ASSOCIATIONBALANCE SHEETSGENERAL FUND

December 31

	ASSETS	
	1977	1976
Current Assets:		
Cash	\$ 139,460	\$ 113,675
Accounts receivable (Note B)	9,307	4,338
Prepaid expenses	-	2,997
Total Current Assets	148,767	121,010
Library and Equipment (Note A)		
Video Tape library	4,830	4,830
Library	1,868	1,868
Office furniture and equipment	17,092	15,076
	23,790	21,774
Less accumulated depreciation	(13,513)	(10,848)
Total Library and Equity	10,477	10,926
	\$ 159,244	\$ 131,936

LIABILITIES AND FUND BALANCE

Current Liabilities:		
Accounts payable	\$ 9,208	\$ 6,525
Accrued and withheld payroll taxes	375	1,085
Unearned membership dues (Note A)	47,029	39,960
Unearned fees (Note A)	16,430	11,200
Note payable (Note C)	552	2,097
Payable to client security fund (Note D)	3,284	2,290
Total Current Liabilities	76,878	62,957
General Fund Balances:		
Reserve for working capital (Note E)	13,577	13,577
Unappropriated	68,789	55,402
Total Fund Balance	82,366	68,979
	\$ 159,244	\$ 131,936

See notes to financial statements.

ALASKA BAR ASSOCIATIONSTATEMENT OF UNRESTRICTED REVENUES AND EXPENSES
AND CHANGES IN FUND BALANCEGENERAL FUND

	<u>Year Ended</u>	
	<u>1977</u>	<u>1976</u>
REVENUES:		
Membership dues	\$ 166,294	\$ 143,993
Admission fees	48,000	40,213
Continuing legal education	14,484	8,956
Insurance fees	2,565	1,925
Convention revenues	3,747	16,754
News Letter revenues	-	660
Interest income	5,102	1,146
Lawyer referral and administrative services - Anchorage Bar Association	5,188	4,453
Alaska Court System contract for disciplinary services	37,301	21,766
Miscellaneous	694	769
	<u>283,375</u>	<u>240,635</u>
EXPENSES:		
Bar admission (Note F)	32,164	33,079
Board of Governors (Note F)	14,635	11,517
Discipline and unauthorized practice (Note F)	69,405	22,660
Continuing legal education	11,673	8,705
Committees	2,265	157
Legislative	9,376	9,952
News Letter	896	1,675
U.C.L.A. - Alaska Law Review	8,122	10,630
Convention	9,342	16,847
Lawyer referral	5,605	548
Administrative (Note F)	105,505	95,480
	<u>269,988</u>	<u>211,590</u>
Excess of unrestricted revenues over expenses	13,387	29,045
FUND BALANCE:		
Beginning of year	68,979	39,934
	<u>68,979</u>	<u>68,979</u>
End of year	<u>\$ 82,366</u>	<u>\$ 68,979</u>

See notes to financial statements.

ALASKA BAR ASSOCIATIONBALANCE SHEETCLIENT SECURITY FUND

	<u>December 31</u>	
	<u>1977</u>	<u>1976</u>
<u>ASSETS</u>		
Cash	\$ 17,729	\$ 8,138
Receivable from General Fund	3,285	2,290
	<u>\$ 21,014</u>	<u>\$ 10,428</u>

<u>FUND BALANCE</u>		
Beginning of year	\$ 10,428	\$ 7,480
Additional contributions	10,586	2,948
End of year	<u>\$ 21,014</u>	<u>\$ 10,428</u>

- See Note D -

See notes to financial statements.

ALASKA BAR ASSOCIATIONNOTES TO FINANCIAL STATEMENTSYEARS ENDED DECEMBER 31, 1977 AND 1976Note A. Summary of Significant Accounting Policies.(1) Accounting basis for reporting income.

The Association's accounting records are maintained on the accrual method. Receipts for membership dues are recognized as revenue in the period to which they apply. Administrative fees collected for the Alaska Bar Insurance Trust Fund are recognized as income by the General Fund when received. Fees collected from applicants for admission to the Association are recognized as follows:

- (a) Forms and charter investigation fee are recognized when received.
- (b) Application fee is recognized during the period in which the applicant sits for the examination.

(2) Library and Equipment.

Contributions of books are recorded at their estimated fair market values at time of receipt, and other items are recorded at cost. Depreciation expense is computed by the straight-line method over the estimated useful life of the asset.

(3) Income Taxes.

The Association is exempt from income taxes as a public agency of the State of Alaska.

Note B. Accounts Receivable.

Accounts receivable were due from the following:

	December 31	
	1977	1976
Alaska State Court	\$ 6,713	\$ 2,455
Idaho Bar Association	1,109	1,109
Alaska Bar Association Insurance Trust Fund	1,030	205
Anchorage Bar Association	455	569
	\$ 9,307	\$ 4,338

ALASKA BAR ASSOCIATION

NOTES TO FINANCIAL STATEMENTS

YEARS ENDED DECEMBER 31, 1977 AND 1976

Note C. Note Payable.

The Association is obligated on an installment note, dated April 3, 1975, payable in 36 equal installments of \$141 per month including interest. Collateralized by duplicating equipment.

Note D. Client Security Fund.

During 1975, the Board of Governors established a fund, pursuant to a rule promulgated by the Supreme Court of the State of Alaska, to provide amounts for settling claims related to members' client trust funds. The Client Security Fund is funded from membership dues.

Note E. Reserve for Working Capital.

The reserve was created by the Board of Governors as a segregation of the General Fund Balance. The fund is not restricted to any specific purpose.

Note F. Detail of Selected Expenses.

	December 31	
	1977	1976
Bar admission:		
Rentals	\$ 1,739	\$ 1,349
Mailing and supplies	2,549	639
Salaries	8,573	9,118
Grading fees and per diem	14,462	10,103
Litigation costs	3,642	10,953
Telephone and miscellaneous	1,199	937
	<u>\$ 32,164</u>	<u>\$ 33,079</u>
Board of Governors:		
Travel and per diem	\$ 11,838	\$ 8,608
Telephone	1,469	1,524
Rent	370	1,130
Postage and supplies	488	291
Miscellaneous	470	164
	<u>\$ 14,635</u>	<u>\$ 11,517</u>

ALASKA BAR ASSOCIATION

NOTES TO FINANCIAL STATEMENTS

YEARS ENDED DECEMBER 31, 1977 AND 1976

Detail of Selected Expenses: (Continued)

	December 31	
	1977	1976
Discipline and unauthorized practice:		
Salaries	\$ 62,293	\$ 20,284
Supplies	3,028	464
Travel	3,188	176
Telephone	896	446
	<u>\$ 69,405</u>	<u>\$ 21,370</u>
Administrative:		
Telephone and telegraph	\$ 1,395	\$ 2,099
Salary of Executive Director	40,917	35,700
Expense allowance and travel, Executive Director	3,743	1,200
Secretarial and bookkeeping salaries	27,077	29,292
Office supplies	2,688	4,906
Postage	3,997	4,576
Office equipment rental	6,180	3,902
Audit and accounting	3,424	2,850
Library	804	633
Payroll taxes	7,547	5,357
Depreciation	2,465	2,335
Insurance, including employee medical	2,168	1,372
Reproduction and printing	1,525	478
Dues	255	125
Interest expense	147	314
Judicial poll	956	491
Miscellaneous	1,217	210
	<u>\$106,505</u>	<u>\$ 95,840</u>

Note G: Group Insurance Fund Transfer:

On March 31, 1976, the Association transferred the assets and liabilities of the Group Insurance Fund to the Alaska Bar Association Trust Fund. Below is a summary of the assets and liabilities transferred to the trust:

ALASKA BAR ASSOCIATIONNOTES TO FINANCIAL STATEMENTSYEARS ENDED DECEMBER 31, 1977 AND 1976Note G. Group Insurance Fund Transfer. (Continued)

Cash	\$ 3,616
Premiums and administrative fees receivable	<u>469</u>
Assets transferred	<u>\$ 4,085</u>
Insurance premiums received in advance	\$ 3,716
Administrative fees collected for the Alaska Bar Association	<u>369</u>
Total liabilities transferred	<u>\$ 4,085</u>

1977 and 1978 Official Audits of the
Alaska Bar Association

ALASKA BAR ASSOCIATION

REPORT ON EXAMINATION OF FINANCIAL STATEMENTS

YEAR ENDED DECEMBER 31, 1978 AND 1977

CONTENTS

<u>FINANCIAL STATEMENTS</u>	<u>PAGE</u>
Accountants' Report	1
Balance Sheets - General Fund	2
Statement of Unrestricted Revenues and Expenses and Changes in Fund Balances - General Fund	3
Balance Sheets - Client Security Fund	4
Notes to Financial Statements	5-7

February 1, 1979

The Members
Alaska Bar Association
Anchorage, Alaska

We have examined the balance sheet of the Alaska Bar Association as of December 31, 1978, and the related statements of unrestricted revenues and expenses and changes in fund balances for the year then ended. Our examination was made in accordance with generally accepted auditing standards and, accordingly, included such tests of the accounting records and such other auditing procedures as we considered necessary in the circumstances.

In our opinion, the aforementioned financial statements present fairly the financial position of the Alaska Bar Association at December 31, 1978 and the results of its operations for the year then ended in conformity with generally accepted accounting principles applied on a basis consistent with that of the preceding year.

TERRY L. PETRUSKA, C.P.A.

ALASKA BAR ASSOCIATION

BALANCE SHEETS

GENERAL FUND

	<u>ASSETS</u>	<u>December 31</u>	
		<u>1978</u>	<u>1977</u>
Current Assets:			
Cash		\$ 140,925	\$ 139,460
Accounts receivable (Note B)		14,872	9,307
Prepaid expenses		2,120	-
Total Current Assets		<u>157,917</u>	<u>148,767</u>
Library and Equipment (Note A)			
Video Tape library		4,830	4,830
Library		1,868	1,868
Office furniture and equipment		24,926	17,092
		<u>31,624</u>	<u>23,790</u>
Less accumulated depreciation		<u>(15,334)</u>	<u>(13,313)</u>
Total Library and Equity		<u>16,290</u>	<u>10,477</u>
		<u>\$ 174,207</u>	<u>\$ 159,244</u>

LIABILITIES AND FUND BALANCE

Current Liabilities:			
Accounts payable and accrued expenses		\$ 2,302	\$ 9,583
Advanced fees for Hawaii convention		20,478	-
Unearned membership dues (Note A)		62,028	47,029
Unearned fees (Note A)		11,700	16,430
Note payable		10,000	552
Payable to client security fund (Note C)		3,453	3,284
Total Current Liabilities		<u>109,961</u>	<u>76,878</u>
General Fund Balances:			
Reserve for working capital (Noted)		13,577	13,577
Unappropriated		50,669	68,789
Total Fund Balance		<u>64,246</u>	<u>82,366</u>
		<u>\$ 174,207</u>	<u>\$ 159,244</u>

See notes to financial statements.

ALASKA BAR ASSOCIATION

STATEMENT OF UNRESTRICTED REVENUES AND EXPENSES
AND CHANGES IN FUND BALANCE

GENERAL FUND

	Year Ended	
	December 31	
	<u>1978</u>	<u>1977</u>
REVENUES:		
Membership dues	\$ 191,266	\$ 166,294
Admission fees	48,686	48,000
Continuing legal education	11,687	14,484
Insurance fees	1,392	2,565
Convention revenues-Hawaii	16,080	-
Convention revenues-Other	13,621	3,747
Interest income	7,433	5,102
Lawyer referral	3,125	960
Administrative services-Anchorage Bar	975	4,228
Alaska Court System contract for disciplinary services	54,620	37,301
Miscellaneous	2,482	694
	<u>351,367</u>	<u>283,375</u>
EXPENSES:		
Bar admission (Note E)	29,875	32,164
Board of Governors (Note E)	34,217	14,635
Discipline and unauthorized practice (Note E)	74,351	69,405
Continuing legal education	16,996	11,673
Committees	932	2,265
Legislative	8,762	9,376
News Letter	1,213	896
U.C.L.A. - Alaska Law Review	6,672	8,122
Convention-Hawaii	16,515	-
Convention-Other	14,223	9,342
Lawyer referral	12,200	5,605
Contractual service-self insurance	11,642	-
Administrative (Note E)	142,689	106,505
	<u>369,487</u>	<u>269,988</u>
Excess (deficit) of unrestricted revenues over expenses	(18,120)	13,387
FUND BALANCE:		
Beginning of year	<u>82,366</u>	<u>68,979</u>
End of year	<u>\$ 64,246</u>	<u>\$ 82,366</u>

See notes to financial statements.

ALASKA BAR ASSOCIATION

BALANCE SHEET

CLIENT SECURITY FUND

	<u>ASSETS</u>	<u>December 31</u>	
		<u>1978</u>	<u>1977</u>
Cash		\$ 29,591	\$ 17,729
Receivable from General Fund		<u>3,453</u>	<u>3,285</u>
		<u>\$ 33,044</u>	<u>\$ 21,014</u>
<u>FUND BALANCE</u>			
Beginning of year		\$ 21,014	\$ 10,428
Additional contributions		<u>12,030</u>	<u>10,585</u>
End of year		<u>\$ 33,044</u>	<u>\$ 21,014</u>

- See Note C -

See notes to financial statements.

ALASKA BAR ASSOCIATION

NOTES TO FINANCIAL STATEMENTS

YEARS ENDED DECEMBER 31, 1978 AND 1977

Note A. Summary of Significant Accounting Policies

(1) Accounting basis for reporting income.

The Association's accounting records are maintained on the accrual method. Receipts for membership dues are recognized as revenue in the period to which they apply. Administrative fees collected for the Alaska Bar Insurance Trust Fund are recognized as income by the General Fund when received. Fees collected from applicants for admission to the Association are recognized as follows:

- (a) Forms and charter investigation fee are recognized when received.
- (b) Application fee is recognized during the period in which the applicant sits for the examination.

(2) Library and Equipment.

Contributions of books are recorded at their estimated fair market values at time of receipt, and other items are recorded at cost. Depreciation expense is computed by the straight-line method over the estimated useful life of the assets.

(3) Income Taxes.

The Association is exempt from income taxes as a public agency of the State of Alaska.

Note B. Accounts Receivable

Accounts receivable were due from the following:

	<u>December 31</u>	
	<u>1978</u>	<u>1977</u>
Alaska State Court	\$ 10,200	\$ 6,713
Idaho Bar Association	-0-	1,109
Alaska Bar Association Insurance Trust Fund	1,409	1,030
Bar Rag	3,000	-0-
Others	263	455
	<u>\$ 14,872</u>	<u>\$ 9,307</u>

ALASKA BAR ASSOCIATION

NOTES TO FINANCIAL STATEMENTS

YEARS ENDED DECEMBER 31, 1978 AND 1977

Note C. Client Security Fund

During 1975, the Board of Governors established a fund, pursuant to a rule promulgated by the Supreme Court of the State of Alaska, to provide amounts for settling claims related to members' client trust funds. The Client Security Fund is funded from membership dues.

Note D. Reserve for Working Capital

The reserve was created by the Board of Governors as a segregation of the General Fund Balance. The fund is not restricted to any specific purpose.

Note E. Detail of Selected Expenses

	December 31	
	1978	1977
Bar admission:		
Rentals	\$ 2,489	\$ 1,739
Mailing and supplies	1,748	2,549
Salaries	9,118	8,573
Grading fees and per diem	14,006	14,462
Litigation costs	82	3,642
Telephone and miscellaneous	2,432	1,199
	\$ 29,875	\$ 32,164
Board of Governors:		
Travel and per diem-Other	\$ 26,200	\$ 11,838
Travel and per diem-Hawaii	4,780	-
Telephone	1,544	1,469
Rent	-	370
Postage and supplies	753	488
Miscellaneous	940	470
	\$ 34,217	\$ 14,635
Discipline and unauthorized practice:		
Salaries	\$ 62,684	\$ 62,293
Supplies	1,733	3,028
Travel	2,601	3,188
Telephone	988	896
Rent	5,522	-
Litigation	823	-
	\$ 74,351	\$ 69,405

ALASKA BAR ASSOCIATION

NOTES TO FINANCIAL STATEMENTS

YEARS ENDED DECEMBER 31, 1978 AND 1977

Note E. Detail of Selected Expenses (Continued)

	December 31	
	1978	1977
Administrative:		
Salary of Executive Director	\$ 40,455	\$ 40,917
Expense allowance and travel, Executive Director	5,797	3,743
Secretarial and bookkeeping salaries	25,452	27,077
Payroll taxes	11,596	7,547
Office supplies	6,019	2,688
Postage	4,047	3,997
Office equipment rental	7,141	6,180
Office rent	8,281	-
Staff parking	675	-
Telephone and telegraph	3,272	1,395
Audit and accounting	10,554	3,424
Library	1,627	804
Depreciation	2,022	2,465
↳ Litigation-Horowitz, et al. v. ABA	7,092	-
Insurance, including employee medical	5,243	2,168
Reproduction and printing	1,035	1,525
Dues	230	255
Interest expense	12	147
Judicial poll	458	956
Miscellaneous	1,481	1,217
	\$142,689	\$106,505

February 1, 1979

The Trustees
Alaska Bar Association Trust Fund
Anchorage, Alaska

We have examined the balance sheet of the Alaska Bar Association Trust Fund as of December 31, 1978, and the related statement of operations and changes in fund balance for the year ended December 31, 1978. Our examination was made in accordance with generally accepted auditing standards and, accordingly, included such tests of the accounting records and such other auditing procedures as we considered necessary in the circumstances.

In our opinion, the aforementioned financial statements present fairly the financial position of the Alaska Bar Association Trust Fund at December 31, 1978, and the results of its operations for the year then ended in conformity with generally accepted accounting principles.

TERRY L. PETRUSKA, C.P.A.

February 1, 1979

The Board of Directors
Alaska Bar Foundation, Inc.

I have verified the activity of the Alaska Bar Foundation, Inc. for the year ended December 31, 1978. In addition, cash bank balances were confirmed and verified as of December 31, 1978.

As such, the following balance sheet as of December 31, 1978 and statement of revenues and expenses and changes in fund balance for the year ended December 31, 1978 accurately reflect the financial position of the Alaska Bar Foundation, Inc. as of December 31, 1978.

Sincerely,

Terry L. Petruska, C. P. A.

BALANCE SHEET AT DECEMBER 31, 1978

Cash in savings and savings certificates	\$ 6,102
	<u>\$ 6,102</u>
Accounts payable - Alaska Bar Association	\$ 263
George F. Boney Memorial Fund Balance-Unappropriated	<u>5,739</u>
	<u>\$ 6,102</u>

STATEMENT OF REVENUE AND EXPENSE AND CHANGES IN
FUND BALANCE FOR THE YEAR ENDED DECEMBER 31, 1978

Interest income	\$ 332
Excess of revenue over expenses	332
Fund balance - beginning of year	<u>5,407</u>
Fund balance - end of year	<u>\$ 5,739</u>

ALASKA BAR ASSOCIATION TRUST FUND

BALANCE SHEET

December 31, 1978

ASSETS

Cash \$ 4,706

LIABILITIES AND FUND BALANCE

Insurance premiums received in advance \$ 3,297

Administrative fees payable to Alaska
Bar Association 1,409

Total Liabilities 4,706

Fund balance -
\$ 4,706

See notes to financial statements.

ALASKA BAR ASSOCIATION TRUST FUND

STATEMENT OF OPERATIONS AND CHANGES IN FUND BALANCE

Year Ended December 31, 1978

Revenues (Note 2):	
Insurance premiums	\$ 16,380
Administrative fees	<u>1,429</u>
	<u>17,809</u>
Expenses (Note 2):	
Insurance premiums	16,380
Administrative fees	<u>1,429</u>
	<u>17,809</u>
Excess of revenues over expenses	<u>\$ -0-</u>

See notes to financial statements.

ALASKA BAR ASSOCIATION TRUST FUND

NOTES TO FINANCIAL STATEMENTS

Year Ended December 31, 1978

1. Organization:

The Trust Fund was organized March 11, 1976 pursuant to a trust indenture entered into by the Alaska Bar Association and its members. Operations began April 1, 1976.

The purpose of the Trust is to provide and maintain a broad range of health and welfare benefits for the Association's members, their employees and families through insurance policies issued by licensed insurance carriers. These benefits were available to the Association's members through the Association's Group Insurance Fund prior to the organization of the Trust Fund.

2. Significant Accounting Policies:

The following is a summary of the Trust Fund's significant accounting policies:

Insurance Premiums

Insurance premiums are recognized as revenues at the time the premiums are due and payable to the insurance carriers. Amounts received from subscribers in excess of amounts immediately due and payable to the carriers are deferred until the premium due date.

Administrative Fees

Administrative fees collected from subscribers are recognized as income when collected. At the time the fees are collected an expense is recorded to recognize the administrative support provided by the Alaska Bar Association.

Income Taxes

The Alaska Bar Association Trust Fund is subject to income taxation as a complex trust as defined by the Internal Revenue Code. A provision for income taxes will be provided should the Trust have taxable income in the future.



Alaska State Legislature

House of Representatives

Committee on Judiciary

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

TO: Charlie Parr, Chairman, and Members of the House Judiciary
Committee

FROM: Margaret W. Berck, Staff

DATE: February 14, 1980

Attached hereto is an internal report prepared by the Board of
Governors of the Alaska Bar Association which indicates the
length of time involved in the disposition of disciplinary
matters.

DOCKET #	OPENED	ACTION		
1	11/71	Informal adm 12/9/77	12/9/77	7 years
7	5/17/73	Dismissed 12/12/77 (HC)	12/12/77	7
8	6/4/73	Dismissed 10/15/77	10/15/77	52
13	9/14/73	Informal adm 12/6/77	12/6/77	51
23	1/8/74	Combined with #234 12/31/77; before hearing comm by 9/30/78		
35	4/8/74	Ready for Brd 1/21/78; to be informally adm 3/31/78; private reprimand 8/24/78	8/24/78	52
46	10/7/76	On Brd agenda 10/78; S.C. decision pending 3/3/79		
48	8/2/74	Ready for Brd 1/21/78; to be informally adm 3/31/78; private reprimand 8/24/78	8/24/78	48
57	10/17/74	Dismissed 10/26/77	10/26/77	3 years
59	11/9/74	Argument before S.C. 2/78; public censure 9/5/78	9/5/78	46
70	2/18/74	Informal adm 10/15/77	10/15/77	44
87	5/9/75	Dismissed 11/1/77	11/1/77	28
93	5/29/75	Dismissed 12/30/77	12/30/77	29
94	6/2/75	To rev comm member 8/9/77; informal adm 2/15/78	2/15/78	32
102	7/?/75	Before hearing comm 12/31/77; S.C. decision pending 3/31/79		
104	7/ /75	10 of 12 original charges dismissed in 1977 (RCMR); 2 charges to review comm 3/28/78; dismissed 4/5/78 (RCMR)	4/5/78	33
123	10/10/75	Abeyance before hearing comm; pending matters before S.C. 12/31/77		
130	10/25/75	Brd ordered abeyance 10/15/77 pending dispo of civil lit		
133	11/25/75	Ready for hearing 12/31/77; dismissed 11/24/78	11/24/78	36
139	12/12/75	Dismissed 3/8/78 (RCMR)	3/8/78	27
147	3/10/76	To rev comm member 9/9/77; returned from rev comm 3/31/78; dismissed 9/11/78 (RCMR)	9/11/78	30
148	3/5/76	In abeyance until <u>Bates</u> interpretation; dismissed 5/9/78 (RCMR)	5/9/78	26

DOCKET #	OPENED	ACTION		
151	4/5/76	Brd held in abeyance 12/11/78; combined with #178; ready for hearing 12/31/78		
154	4/10/76	Ready for Brd 1/21/78; to be informally adm 3/31/78; informal adm by Pres. 5/78	5/?/78	25
156	5/25/76	Informal adm 10/15/77	10/15/77	17
163	8/4/76	Informal adm 10/15/77	10/15/77	14
178	9/21/76	Ready for hearing 12/31/77; combined with #220 12/31/78		
187	11/9/76	Dismissed 10/4/77	10/4/77	11
196	11/30/76	To rev comm member 11/15/77; dismissed 3/31/78 (RCMR)	3/31/78	16
198	11/30/76	Held in abeyance; under invest by 3/31/78; dismissed 6/2/78 (RCMR)	6/2/78	19
199	10/30/76	S.C. ordered suspension	?	
200	12/8/76	Informal adm (RCMR) date ?	?	
203	1/10/77	Informal adm w/stip to conditions by respondent as of 10/31/77; dismissed 1/20/78	1/20/78	12
204	1/17/77	Dismissed 11/1/77	11/1/77	10
205	1/19/77	Dismissed 12/1/77	12/1/77	11
206	1/24/77	Informal adm 11/1/77	11/1/77	10
208	2/25/77	Abeyance pending therapy outcome; petition inactive status to SC 3/31/78; inactive status SC 4/20/78	4/20/78	14
215	3/8/77	Dismissed 3/29/78 (RCMR)	3/29/78	12
216	3/9/77	Informal adm 11/16/77	11/16/77	8
217	3/9/77	To rev comm member 9/28/78; informal adm 11/24/78 (RCMR); reopened by respondent 1/19/79		
218	3/11/77	Dismissed 9/28/78 (RCMR)	9/28/78	18
219	3/14/77	To rev comm member 3/10/78; dismissed 4/13/78 (RCMR)	4/13/78	13
220	3/22/77	Ready for hearing 9/30/78; combined with #178 on _____		
221	4/18/77	Dismissed 11/1/77 (RCMR)	11/1/77	7

222	?	In abeyance 12/31/77 pending civil lit		
223	5/17/77	Dismissed 5/9/78 (RCMR)	5/9/78	12
225	5/17/77	To rev comm member 9/17/78; informal adm 10/25/78 (RCMR); reopened by respondent 1/19/79		
226	5/20/77	To rev comm member 5/30/78; dismissed 9/18/78 (RCMR)	9/18/78	16
227	6/2/77	Dismissed 9/11/78 (RCMR)	9/11/78	15
228	6/28/77	To review comm member 5/9/78; ready for hearing 9/30/78		
229	6/28/77	To review comm member 9/29/78; dismissed 12/18/78 (RCMR)	12/18/78	18
230	?	Dismissed 8/25/78 (RCMR)	8/25/78	?
231	6/30/77	Under investigation		
233	7/5/77	Dismissed 12/30/77 (RCMR)	12/30/77	5
234	7/11/77	Combined with #26 3/31/78; to rev comm member 9/30/78; combined with #23 12/31/78; ready for hearing comm 9/30/78		
235	8/1/77	Dismissed 9/5/78 (RCMR)	9/5/78	13
236	7/28/77	Dismissed 5/22/78 (RCMR)	5/22/78	10
237	8/3/77	To rev comm member 9/25/78; dismissed 10/28/78 (RCMR)	10/28/78	14
238	7/26/77	Brd held in abeyance 1/21/78 crim; dismissed 9/28/78 (RCMR)	9/28/78	
239	7/26/77	Brd held in abeyance 1/21/78 crim; dismissed 9/28/78 (RCMR)	9/28/78	14
240	8/24/77	Dismissed 8/28/78 (RCMR)	8/28/78	12
241	9/16/77	Dismissed 9/22/78 (RCMR)	9/22/78	12
242	9/28/77	Dismissed 9/15/78 (RCMR)	9/15/78	12
243	10/10/77	Dismissed 12/6/77 (RCMR)	12/6/77	2
244	10/21/77	Dismissed 12/12/77 (RCMR)	12/12/77	2
245	10/21/77	Brd held in abeyance 1/21/78		

246	11/8/77	To rev comm member 9/28/78		
248	11/18/77	Dismissed 7/21/78 (RCMR)	7/21/78	8
249	2/15/78	Under investigation		
250	2/15/78	Under investigation		
251	3/8/78	Dismissed 8/28/78 (RCMR)	8/28/78	5
252	3/8/78	Under investigation		
253	3/24/78	Dismissed 12/11/78 (RCMR)	12/11/78	9
254	3/30/78	Under investigation		
255	4/4/78	Dismissed 12/4/78 (RCMR)	12/4/78	8
256	4/5/78	Under investigation		
257	4/24/78	Under investigation		
258	4/25/78	Under investigation		
259	5/23/78	Under investigation		
260	6/2/78	Reinstatement petition; S.C. reinstatement 7/25/78	7/25/78	1
261	6/2/78	Under investigation		
262	6/2/78	Dismissed by 9/30/78 (RCMR)	9/30/78	3
263	6/19/78	Under investigation		
264	7/5/78	Dismissed 12/26/78 (RCMR)	12/26/78	5
265	7/5/78	Dismissed 12/26/78 (RCMR)	12/26/78	5
266	7/18/78	Dismissed 8/16/78 (RCMR)	8/16/78	1
267	7/24/78	Under investigation		
268	7/19/78	To rev comm member 9/27/78; ready for hearing 12/31/78		
269	7/24/78	Dismissed 12/18/78 (RCMR)	12/18/78	5

DOC#	DATE	STATUS	
270	8/3/78	Under investigation	
271	8/9/78	Dismissed 12/20/78 (RCMR)	12/20/78 4
272	8/28/78	Under investigation	
273	10/4/78	Under investigation	
274	11/6/78	Under investigation	
275	4/28/78	Under investigation	
276	11/20/78	Under investigation	
277	11/20/78	Under investigation	
278	11/14/78	Under investigation	
279	2/9/79	Under investigation	
280	3/6/79	Under investigation	
281	1/25/79	Informal adm 3/20/79 (RCMR)	3/20/79 2



Alaska State Legislature

House of Representatives

Committee on Judiciary

Official Business

Fouch V
State Capitol
Juneau, Alaska 99811

November 7, 1979

Donna C. Willard
President
Alaska Bar Association
P.O. Box 279
Anchorage, Ak. 99510

Dear Ms. Willard;

The House Judiciary Committee, pursuant to its obligations under the sunset law, AS 44.66.010, et. seq., and pursuant to its general authorities and powers as a standing committee of the Alaska State Legislature, requests the following information from the Board of Governors of the Alaska Bar Association:

1. How many attorneys are admitted to practice law in the State of Alaska, excluding those who are practicing on a waiver?
2. How many attorneys are practicing law on a waiver for Alaska Legal Services Corporation?
3. How many attorneys are practicing law on a waiver for the United States Armed Forces Expanded Legal Assistance Program?
4. What is the total number of attorneys practicing law in the state pursuant to a waiver?
5. How many legal interns are certified in the State of Alaska?
6. How many active members of the Alaska Bar Association are there?
7. How many inactive members of the Alaska Bar Association are there?
8. How many judicial members of the Alaska Bar Association are there?
9. How many honorary members of the Alaska Bar Association are there?

10. How many active members of the Alaska Bar Association are women and how many women were active members in 1976, 1977 and 1978?

11. How many active members of the Alaska Bar Association are Natives and how many Natives were active members in 1976, 1977 and 1978?

12. How many members of the Alaska Bar Association are black and how many blacks were active members in 1976, 1977, and 1978?

13. How many active members of the Alaska Bar Association are Hispanic and how many hispanics were active members in 1976, 1977 and 1978?

14. How many active members of the Alaska Bar Association are Asian and how many Asians were active members in 1976, 1977 and 1978?

15. What steps has the Alaska Bar Association taken to increase membership of women and minorities?

16. What steps has the Alaska Bar Association taken to implement any of the recommendations contained in the 1979 report from the association's Committee on Legal Educational Opportunities?

17. List all standing committees of the Alaska Bar Association?

18. What are the powers, duties and functions of the Alaska Bar Association's standing committees?

19. Furnish all annual reports from the Alaska Bar Association's standing committees for the years 1976, 1977 and 1978.

20. Furnish all reports issued by the special committee established by the Alaska Bar Association to study and evaluate the Alaska bar exam.

21. Briefly describe all continuing legal education programs in 1976, 1977, 1978 and 1979.

22. How many ethics opinions did the Alaska Bar Association render in 1976, 1977, 1978 and 1979?

23. Briefly describe the legislative programs of the Alaska Bar Association in 1976, 1977, 1978 and 1979.

24. Briefly describe the Alaska Bar Association's lawyer referral system.

25. List the dates and locations of all meetings of the Board of Governors of the Alaska Bar Association for 1976, 1977, 1978 and 1979.

26. What type of public notice is provided for meetings of the Board of Governors of the Alaska Bar Association?

27. How many non-attorney agencies or groups were notified by the Alaska Bar Association of its consideration of a proposed rule amendment to define the practice of law?

28. How many non-attorney individuals were notified by the Alaska Bar Association of its consideration of a proposed bar rule amendment to define the practice of law?

29. Provide the position title, duties and powers as well as salaries and fringe benefits of all paid staff positions within the Alaska Bar Association for 1976, 1977, 1978 and 1979.

30. What is the turn-over rate for each of the positions?

31. Furnish copies of the Alaska Bar Association's budgets for 1976, 1977, 1978 and 1979.

32. Furnish copies of all financial audits of the Alaska Bar Association conducted in 1976, 1977, 1978 and 1979.

33. Furnish a copy of the budgets for the Bar Rag for 1978 and 1979.

34. Provide the source, purpose and amount of all state funds obtained by the Alaska Bar Association during 1976, 1977, 1978 and 1979.

35. Provide the total travel and per diem expenses paid by the Alaska Bar Association to members of the Board of Governors in 1976, 1977, 1978 and 1979.

36. Provide the total travel and per diem expenses paid by the Alaska Bar Association to individuals, other than members of the Board of Governors, for 1976, 1977, 1978 and 1979.

37. Furnish a copy of the profit and loss statement for the mid-winter Hawaii Convention prepared by V. Goodrow on August 27, 1979.

38. Provide the total income derived from applications for admissions to the Alaska Bar Association in 1976, 1977, 1978 and 1979.

39. What was the total expense of the admission procedures of the Alaska Bar Association, excluding the cost of any court litigation arising therefrom, for 1976, 1977, 1978 and 1979?

40. What was the total cost of the admission procedures of the Alaska Bar Association, including the cost of any court litigation arising therefrom, for 1976, 1977, 1978 and 1979?

41.. Provide the total amount of funds expended by the Alaska Bar Association for court litigation in 1976, 1977, 1978 and 1979, including the case name, docket number, brief description of the issues involved, whether the case was appealed to the Supreme Court and the final disposition. Additionally, it should be noted if the Alaska Bar Association was assessed attorney's fees and costs pursuant to Rule 82 or if the Alaska Bar Association was able to recover a portion of its attorney's fees and costs pursuant to that rule.

42. Furnish a copy of the application form which the Alaska Bar Association requires all applicants for admission to complete.

43. Briefly describe what comprises the Alaska Bar Association examination for attorney applicants.

44. Briefly describe what comprises the Alaska Bar Association examination for general applicants.

45. What was the total number of general applicants who took the spring Alaska Bar examination in 1976, 1977, 1978 and 1979?

46. What was the total number of general applicants who passed the spring Alaska Bar examination for 1976, 1977, 1978 and 1979?

47. What was the total number of general applicants who took the summer Alaska Bar examination in 1976, 1977, 1978 and 1979?

48. What was the total number of general applicants who passed the summer Alaska Bar examination in 1976, 1977, 1978 and 1979?

49. What was the total number of attorney applicants who took the spring Alaska Bar examination in 1976, 1977, 1978 and 1979?

50. What was the total number of attorney applicants who passed the spring Alaska Bar examination in 1976, 1977, 1978 and 1979?

51. What was the total number of attorney applicants who took the summer Alaska Bar examination in 1976, 1977, 1978 and 1979?

52. What was the total number of attorney applicants who passed the summer Alaska Bar examination in 1976, 1977, 1978 and 1979?

53. What was the total number of females, Alaska Natives, blacks, Hispanics and Asians who as general applicants took the spring Alaska Bar examination for the years 1976, 1977, 1978 and 1979?

54. What was the total number of females, Alaska Natives, blacks, Hispanics and Asians who as general applicants passed the spring Alaska Bar examination for the years 1976, 1977, 1978 and 1979?

55. What was the total number of females, Alaska Natives, blacks, Hispanics and Asians who as general applicants took the summer Alaska Bar examination for the years 1976, 1977, 1978 and 1979?

56. What was the total number of Alaska Natives, females, blacks, Hispanics and Asians who as general applicants passed the summer Alaska Bar examination for the years 1976, 1977, 1978 and 1979?

57. What was the total number of females, Alaska Natives, blacks, Hispanics and Asians who as attorney applicants took the spring Alaska Bar examination for the years 1976, 1977, 1978 and 1979?

58. What was the total number of females, Alaska Natives, blacks, Hispanics and Asians who as attorney applicants passed the spring Alaska Bar examination for the years 1976, 1977, 1978 and 1979?

59. What was the total number of females, Alaska Natives, blacks, Hispanics and Asians who as attorney applicants took the summer Alaska Bar examination for the years 1976, 1977, 1978 and 1979?

60. What was the total number of females, Alaska Natives, blacks, Hispanics and Asians who as attorney applicants passed the summer Alaska Bar examination for the years 1976, 1977, 1978 and 1979?

61. Who is the Alaska Bar Association disciplinary administrator?

62. Distinguish between the type of complaints which are referred to a hearing committee as opposed to those complaints which are referred to a conciliator.

63. Provide a copy of the "Request for Investigation" form which is currently utilized by the Alaska Bar Association as well as copies of any previous forms used for this purpose.

64. Furnish copies of all original disciplinary reports prepared for the Alaska Supreme Court during the years 1976, 1977, 1978 and 1979.

65. Furnish copies of any revised disciplinary reports prepared for the Alaska Supreme Court during the years 1976, 1977, 1978 and 1979.

66. Provide an explanation for any revision of a disciplinary report prepared for the Alaska Supreme Court for the years 1976, 1977, 1978 and 1979.

67. Provide a copy of the card index on discipline, indicating the type of case, disposition, whether or not appealed, the disposition if appealed to the Alaska Supreme Court.

68. For the years 1976, 1977, 1978 and 1979, furnish statistical data reflecting:

a. The types of complaints against attorneys received and acted upon;

b. The types of investigations conducted and the results thereof;

c. The procedural steps taken with respect to each type of complaint processed and the ultimate disposition of each such action;

d. The number of times any member of the Alaska Bar Association subject to the Alaska Bar rules has been the subject of a complaint or investigation, the type of complaint or investigation in which each such attorney was the subject, the dates on which each procedural step was taken with respect to each such complaint or investigation and the ultimate disposition of each such action with respect to each such attorney.

69. Provide the total number of complaints against attorneys received by the Alaska Bar Association for the years 1976, 1977, 1978 and 1979.

70. Provide the total number of attorneys who were disciplined for the years 1976, 1977, 1978 and 1979.

71. What was the total number of attorneys who were the subject of a private admonition by the Alaska Bar Association disciplinary administrator for the years 1976, 1977, 1978 and 1979?

72. What was the total number of attorneys who were the subject of a private reprimand during the years 1976, 1977, 1978 and 1979?

73. What was the total number of attorneys who were the subject of a public censure during the years 1976, 1977, 1978 and 1979?

74. What was the total number of attorneys who were suspended from the practice of law during the years 1976, 1977, 1978 and 1979?

75. What was the total number of attorneys who were disbarred from the practice of law during the years 1976, 1977, 1978 and 1979?

76. From the date of the initiation of the complaint, how long did it take the Alaska Bar Association to resolve disciplinary actions filed in 1976, 1977 and 1978?

77. Are records maintained on previous disciplinary complaints against an attorney regardless of whether such complaints are ultimately dismissed?

78. What percentage of disciplinary complaints were filed against an attorney by a client of such attorney during the years 1976, 1977, 1978 and 1979?

79. What percentage of disciplinary complaints were filed by the Alaska State Bar Association disciplinary administrator during the years 1976, 1977, 1978 and 1979?

80. What percentage of disciplinary complaints were filed against an attorney by an individual living in Alaska, but not within Anchorage, Fairbanks, Ketchikan, Sitka or Juneau, for the years 1976, 1977, 1978 and 1979?

81. What was the total number of attorneys who have been disciplined for observing misconduct on behalf of another attorney and failing to report such conduct during the years 1976, 1977, 1978 and 1979?

82. What was the total number of judges who have been disciplined for observing misconduct on behalf of a lawyer and failing to report such during the years 1976, 1977, 1978 and 1979?

83. What percentage of requests for investigation were determined to be inadequate, incomplete or insufficient to warrant further attention of the Board of Governors during the years 1976, 1977, 1978 and 1979?

84. What percentage of disciplinary complaints were filed against an attorney by another attorney for the years 1976, 1977, 1978 and 1979?

85. What percentage of disciplinary complaints were filed against an attorney by a judge or magistrate during the years 1976, 1977, 1978 and 1979?

86. What was the total number of requests for investigation which were referred to the fee arbitration panel for the years 1976, 1977, 1978 and 1979?

87. Furnish factual summaries, without reference to either parties by name, of each fee arbitration dispute which was concluded in 1976, 1977, 1978 and 1979.



Alaska State Legislature

House of Representatives

Committee on Judiciary

Official Business

Fench V
State Capitol
Juneau, Alaska 99811

1016 W. 6th, Suite 201
Anchorage, Ak. 99501.

Telephone 277-7548

November 7, 1979

Donna C. Willard
President
Alaska Bar Association
P.O. Box 279
Anchorage, Ak. 99510

Dear Ms. Willard;

Upon receipt of your letter of September 17, 1979, the House Judiciary Committee requested the Legal Division of the Legislative Affairs Agency to provide a legal opinion as to the current status of the Alaska Bar Association. A copy of that legal opinion will be furnished to the Alaska Bar Association for its response.

However, pursuing your offer of cooperation, the House Judiciary Committee is submitting the enclosed informational requests pursuant to its obligations under the sunset law, AS 44.66.010, et. seq., and pursuant to its general authority and powers as a standing legislative committee.

The purpose of the informational request is to familiarize the House Judiciary Committee with the organization, operation and programs of the Alaska Bar Association as well as its regulation and control of the legal profession in Alaska. Obtainment of this information in advance of the upcoming public hearings required by the sunset law will greatly enhance the effectiveness of those hearings.

The following questions are intended to illicit non-confidential information in accordance with your letter of September 17, 1979. All the requests are made for information not contained in statutes, Alaska Bar rules or ethical codes. Since the Alaska Bar Association is scheduled for sunset review every four years, unless an earlier review is mandated, data spanning the last four years is relevant.

As the 1980 legislative session commences on January 14, 1980, the House Judiciary Committee requests that the information solicited be provided on or before that date.

Should you desire to meet with me concerning any specific request or to discuss the issue in general, please feel free to contact our Anchorage office. Our office in Anchorage will be maintained throughout the month of November.

Sincerely yours,

Margaret W. Berck

Margaret W. Berck,

Counsel to the House Judiciary Committee



Alaska State Legislature

House of Representatives

Committee on Judiciary

Pouch V
State Capitol
Juneau, Alaska 99811

Official Business

MEMORANDUM

February 19, 1980

TO: Charlie Parr, Chairman, and Members of the House
Judiciary Committee

FROM: Margaret W. Berck, Staff

SUBJECT: Sunset Review of the Bar Association

1. There is no audit by the State Auditor on the Bar Association. The State Auditor is awaiting the results of forthcoming litigation against the Bar Association regarding his access to confidential records maintained by the Bar Association.

2. Bart Rozell testified that the State Auditor does not have access to individual tax returns in the Department of Revenue. The State Auditor told me that that is not true. He stated that he has a signed agreement with the Department of Revenue which allows him access to those materials under various conditions that protect the privacy rights of the taxpayers involved. Similarly, the State Auditor has access to other confidential records maintained by the State such as juvenile records and welfare records in the Department of Health and Social Services. The State Auditor stated that the Bar Association's resistance to permitting a review of their confidential records is the first time in the history of the State Auditor's office that they have been denied access.

3. According to responses submitted by the Bar Association, the Board of Governors has held two meetings out of the State since 1976. Both of these meetings occurred in Hawaii, one in February 1978 and one in January 1979. As a result of the 1978 meeting, several members of the Bar filed suit against the Association contending that such an out-of-state meeting violated the public meeting law. This case is currently before the Alaska Supreme Court. The Bar Association has expended some \$7,292.00 defending this litigation. (See Report on Examination of Financial Statements, Year Ended December 31, 1978 and 1977, page 7, which is included in your packets.) In assessing the costs of individual

members for the Hawaii meetings, the Bar representatives only mentioned travel and per diem expenses of the Board of Governors. I believe that the costs of litigation resulting from such action should also be included in any cost assessment to individual members.

4. The Committee should note that the Continuing Legal Education programs offered by the Bar Association are not free to the members. Individual members seeking to take such a course, must pay for it. Ms. Williard stated that the Bar Association generates income as a result of these programs. For that reason it appears that the dues paid by individual members do not support these programs.

LOUISIANA BAR
JOURNAL

JUNE 1979/VOL. 27 No. 1



JOHN C. COMBE, JR.
PRESIDENT, 1979-80

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Features:

Photo Highlights of the 1979 Annual Meeting	6-7
Annual Report of the Immediate Past President by Bob F. Wright	11
New Fifth Circuit Practice in Habeas Corpus Cases by Robert S. Abdalian and Roy E. Lachman	17
Simplified Employee Pensions by Allen L. Durand	21
Contributory Negligence of a Decedent as a Defense in a Wrongful Death Action by James A. Watson	26
Advertising by Professionals An Essay by Lory A. Moser	31
Audited Financial Statement	60

Departments:

President's Message	5
Report by Committee on Professional Responsibility	9
Calendar of Events	34
UPDATE	35
Section and Committee Reports	37
Young Lawyers News	48
New Developments in the Law	49
Consumers Corner	52
Federal Tax Developments	55
Heard Around the District	57
Classified Notices	64



ON THE COVER

John C. Combe, Jr., New Orleans, President 1979-80

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PRESIDENTS MESSAGE



John C. Combe, Jr.

The office of President-Elect of the Louisiana State Bar Association provides the nominee with a wonderful opportunity to listen and learn — to be seen and not heard.

It offers him the chance to experience the total breadth and scope of State Bar activity through contact with and participation in all section and committee functions and attendance at meetings of the Board of Governors and House of Delegates. Learning the interrelationship and interaction of these branches of the Association is vital to the incoming President before he assumes the duties of office.

On the regional and national levels through the Southern Regional Conference of Bar Presidents and the National Conference of Bar Presidents your President-Elect joins with his contemporaries from sister states to discuss and attempt to resolve common issues affecting the practice of law and the activities of the organized Bar in general. In this process, the prior experience of other Bar Associations may be exchanged, successful projects fostered, and pitfalls avoided.

My year of listening and learning has been a particularly rewarding experience since I was privileged to listen and learn from our outgoing President, Bob Wright who has

served our Association admirably during the past year and our Executive Counsel, Tom Collins, whose foresight, organization and dedication to the Bar deliver "more miles per gallon" to our Association than other comparable Associations with significantly higher dues structures. The inexorable financial crunch continues, however, and a realistic dues increase must be implemented in the near future if the Association is to maintain its present level of activities and services to the Bar.

The primary goal of my administration will be to open lines of communication between the State and local Bar Associations and to seek and to encourage more input from individual lawyers and local Bar Associations as to the direction and focus of State Bar activities. To this end each Governor on the Board for the coming year will be asked to maintain close personal contact with all local Associations within his district and to report to the Board of Governors all suggestions, recommendations and criticisms relating to State Bar activities. Similarly, each Governor in his district and your elected officers and Executive Counsel will make themselves available, whenever possible, to meet with local Associations for discussion of any areas of interest to the

local Bars to keep you informed of the activities of your State Bar and to advise you of current issues affecting the legal profession.

I also intend to harness the energy, enthusiasm, and effort of the young lawyers of the State by involving their membership in the workings of all State Bar Committees.

These goals are modest in the sense that they do not involve serious controversy or significant financial outlay, nor do they require that the Association set sail on an uncharted course. In another sense, however, these goals may be Utopian and beyond reach for their realization depends upon a corresponding commitment on your part to participate, to assist, and to get involved with the activities of your Association.

It is a humbling experience to realize the great honor you have bestowed upon me and the myriad responsibilities of this office. I pledge to you my best efforts on behalf of the lawyers of Louisiana to fulfill this trust. I ask your cooperation in the coming year. If together we succeed the legal profession and the public we serve will profit by our combined efforts.



LOUISIANA STATE BAR ASSOCIATION

1979 ANNUAL MEETING



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Jones Apparel Group, Inc.
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the Apparel Division of
W.R. Grace & Co.
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The fibers and textile business of
Beaunit Corporation
a subsidiary of
El Paso Natural Gas Co.
has been acquired by private investors
with the assistance of
financing provided by
Walter E. Heller & Company

Illkon Corporation
has acquired
the Thermoplastic Division of
Ansanto Company
with the assistance of
financing provided by
Walter E. Heller & Company

Baker Laboratories, Inc.
has acquired the baby food business of
Beach-Nut, Inc.
a subsidiary of Squibb Corporation
with the assistance of
financing provided by
Walter E. Heller & Company

J. Josephson, Inc.
the wall covering business of
Coronet Industries, Inc.
a subsidiary of RCA Corporation,
has been acquired by its founder
with the assistance of
financing provided by
Walter E. Heller & Company

Amy Industries, Inc.
has acquired
Cuba Block, Inc. a subsidiary of
Ashland Oil, Inc.
with the assistance of
financing provided by
Walter E. Heller & Company

MKT Corporation
has acquired
the MKT Division of
Koehring Company
with the assistance of
financing provided by
Walter E. Heller & Company

Helbros Watches, Inc.
has acquired
the Helbros Watch Division of
Elgin National Industries, Inc.
with the assistance of
financing provided by
Walter E. Heller & Company

Avtex Fibers, Inc.
has acquired
the Fiber Division
of
FMC Corporation
with the assistance of
financing provided by
Walter E. Heller & Company

Bainbridge Plastics Corp.
has acquired
the American Plastics Division of
Tenneco Chemicals, Inc.
with the assistance of
financing provided by
Walter E. Heller & Company

Refinemet International Company
has acquired
the Refinemet International Company
of
Whittaker Corporation
with the assistance of
financing provided by
Walter E. Heller & Company

Smith Jones, Inc.
has acquired
Frigiking, Inc.
with the assistance of
financing provided by
Walter E. Heller & Company

Cummins Engine Company, Inc.
has acquired
the Cummins Engine Company, Inc.
with the assistance of
financing provided by
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Whitewater, Inc.
has acquired the
Tennessee hardwood lumber producing properties of
Fibreboard Corporation
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In keeping with the established policy of the Committee on Professional Responsibility there are listed below disciplinary proceedings now pending before the Supreme Court of Louisiana. This practice does not violate the confidential nature of this Committee's proceedings. Such proceedings prior to the actual filing with the Supreme Court remain confidential. Once filed with the Court such proceedings become part of the public records.

On September 1, 1971, the new rules of procedure went into effect. These rules became Article XV, of the Articles of Incorporation of the Association. Under Section 5 of Article XV the Committee may issue public reprimands and such action may be published in the LOUISIANA BAR JOURNAL.

DISCIPLINARY PROCEEDINGS FILED AND PENDING IN LOUISIANA
SUPREME COURT AND PUBLIC REPRIMANDS ISSUED BY THE COMMITTEE

Report By Committee On Professional Responsibility

DATE FILED	DOCKET NO.	RESPONDENT	DISPOSITION AND DATE
3/23/76	57,734	Roger W. Jordan Metairie	Petition for Disciplinary Action. Commissioner's Report filed 1/22/79. Set on Court's Docket for argument on 6/22/79.
6/29/76	58,273	O. Romaine Russell Baton Rouge	Suspended by Order of Court dated 7/24/76. Petition for further Disciplinary Action filed 1/8/76. Further proceedings awaiting final judgment of federal court.
8/26/76	58,520	James F. Quaid, Jr. Metairie	Disbarred by Judgment of Court dated 3/5/79, effective 9/30/76. Judgment now final.
12/15/76	59,001	Earl J. Schmitt, Jr. New Orleans	Suspended by Order of Court dated 1/18/77. Petition for further Disciplinary Action filed 7/8/77. Proceedings awaiting final judgment on appeal from Criminal District Court.
1/18/77	59,169	W. D. Atkins, Jr. Lafayette	Petition for Disciplinary Action. Commissioner appointed. Awaiting hearing date.

DATE FILED	DOCKET NO.	RESPONDENT	DISPOSITION AND DATE
5/10/77	59,855	Ford E. Stinson Benton	Suspended 3 years by Judgment of Louisiana Supreme Court dated 3/5/79. Rehearing denied 4/9/79. Execution of SUSPENSION STAYED by Order of Louisiana Supreme Court dated 4/17/79 to allow Respondent to perfect appeal and/or writ to United States Supreme Court.
7/8/77	60,211	Robert D. Edwards Jefferson Parish	Petition for Disciplinary Action. Motion to dismiss denied; defenses urged in said motion; referred to merits by Court 7/3/78. Commissioner's Hearing on Merits held 9/25/78. Awaiting Report of Commissioner.
7/25/77	60,354	Ronald L. Causey Baton Rouge	Petition for Disciplinary Action. Commissioner appointed. Commissioner's hearings held 8/18/78, 9/13/78, 9/21/78, and 10/4/78. Awaiting Commissioner's Report.
8/15/77	60,462	Caliste Beard, Jr. Lafayette	Petition for Disciplinary Action. Commissioner's Report filed 1/3/79. Set on Court's Docket for argument on 6/22/79.
8/15/77	60,463	William A. Summers, III Metairie	Petition for Disciplinary Action. Commissioner's Report filed 1/3/79. Set on Court's Docket for argument on 6/22/79.
8/15/77	60,465	Albert A. Bensabat, III New Orleans	Suspended by Order of Court dated 9/1/77. Further proceedings filed on 6/27/78. Awaiting answer of Respondent.
7/25/77	60,881	W. D. Atkins, Jr. Lafayette	Suspended by Order of Court dated 11/11/77. Further proceedings awaiting appeal from criminal conviction.
10/26/77	60,906	J. Daniel Rivette New Orleans	Suspended one year from practice of law and reprimanded by Court by Order dated 3/5/79. Judgment now final.
10/28/77	60,922	Alfred E. Mitchell Plaquemine	Petition for Disciplinary Action. Commissioner appointed. Commissioner's Hearing held 11/28/78. Commissioner's Report filed 4/6/79. To be set on Court's Docket for argument.
12/20/77	61,252	James T. Adams Shreveport	Suspended one year from practice of law by Order dated 3/5/79. Judgment now final.
3/3/78	61,716	Ford E. Stinson Benton	Suspended 3 years by Judgment of Louisiana Supreme Court dated 3/5/79. Rehearing denied 4/9/79. Execution of SUSPENSION STAYED by Order of Louisiana Supreme Court dated 4/17/79 to allow Respondent to perfect appeal and/or writ to United States Supreme Court.
3/13/78	61,799	Johnnie A. Jones Baton Rouge	Petition for Disciplinary Action. Commissioner appointed. Commissioner's Hearing held 8/1/78. Commissioner's Report filed 12/20/78. Argument before Court held 4/9/79 and matter submitted.
3/28/78	61,905	William A. Summers, III Metairie	Petition for Disciplinary Action. Commissioner appointed. Commissioner's hearing held 11/15/78. Awaiting Commissioner's Report.
6/27/78	62,547	G. Emitte Core Baton Rouge	Petition for Disciplinary Action. Commissioner appointed. Commissioner's hearing held 2/1/79. Awaiting Commissioner's Report.
10/12/78	63,242	John E. Miller Baton Rouge	Petition for Disciplinary Action. Commissioner appointed. Commissioner's hearing held 4/25/79. Awaiting Commissioner's Report.
11/29/78	63,509	Donald J. Robinson Dallas, Texas	Suspended by Order of Court dated 12/7/78. Further proceedings awaiting final judgment on appeal from Criminal District Court.

Annual Report of the Immediate Past President



BOB F. WRIGHT

It has been the custom that at the end of his term, the President of the Louisiana State Bar Association give to the membership his annual report. And such it should be, in keeping with the fact that any man upon whom is bestowed the honor and responsibility of leading a group of professionals such as make up the membership of the Louisiana State Bar Association should render an accounting for his stewardship.

I have attempted through the year to cover current topics by way of the President's Letter in each of the Bar Journals and would, as is customary of attorneys make same a part of my report by reference rather than by repetition. I will, however, attempt to indicate some of the areas of development and evolution that have taken place during the past twelve months and what your Bar Association has attempted to do through its officers, Board of Governors, House of Delegates, Committee and Section volunteers, and our staff.

One of the primary areas of interest to bar associations commencing with the American Bar Association and all of the states are the efforts made to improve the delivery of competent legal services. This is an area that actually benefits both the public and the bar in view of the fact that the public gets the competent legal services and the attorneys have avenues through which they can pursue their chosen profession and, at

the same time, of course, obtain some degree of success in doing so. With this premise, I will make a few brief remarks with reference to the activities of certain committees of your bar association, with the full knowledge that it being impossible to cover all that there will be some, of necessity, not mentioned, which is by no way an indication as to the degree of importance.

Bar Admissions—An area often overlooked by the public is the involvement of the Bar Association in assuring that only those who appear to be competent are admitted to the practice of law in the State of Louisiana. This involves a Committee of the Supreme Court composed of ten individuals who give much of their time to the preparation and grading of the Bar Examination twice each year and, in addition thereto, to defending on many fronts the proliferation of law suits by individuals attempting to set aside the rules for admission as they now exist. It is noted that at the present time the Louisiana State Bar Association is admitting somewhere around 600 to 700 lawyers each year.

Continuing Legal Education Committee—Under the chairmanship of James Wysocki, was once again successful in holding seminars in the seven metropolitan areas. Invitations were so distributed so that

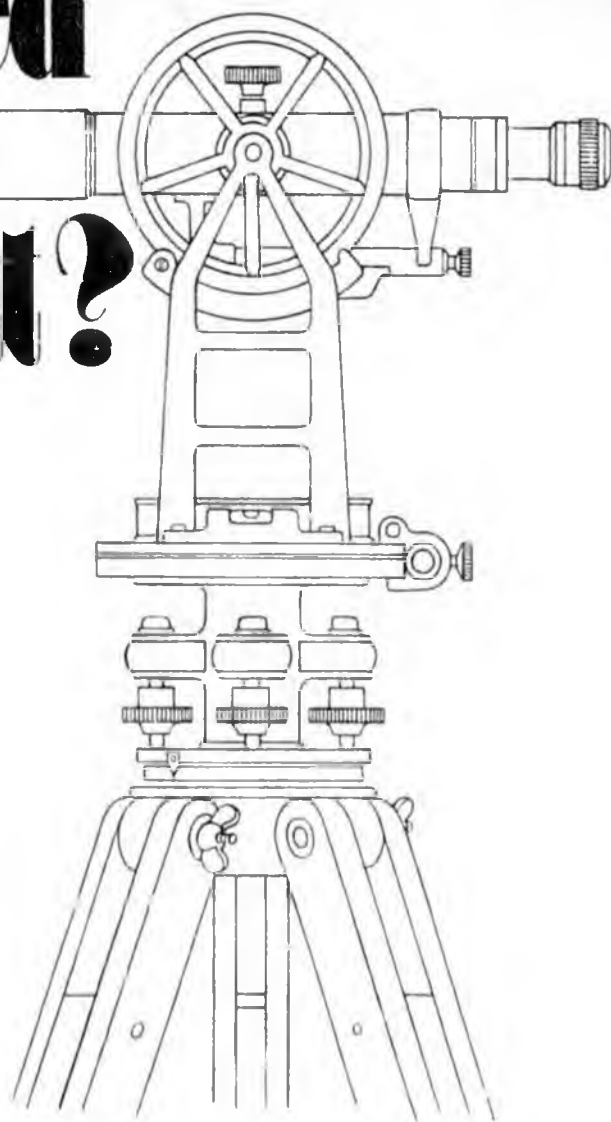
all members of the Association were given at least one and perhaps two opportunities to attend these well-received seminars. This year, we have been able to arrange one additional feature, namely, the taping of the programs and being able to offer the cassettes to those who attend as well as those that are unable to attend. There is hope that in the future the CLE programs will continue to grow and thereby add additional benefits and increase the number of seminars and perhaps go into in-depth programs, especially in the area of trial competency. This increase will definitely be required should designation become a reality.

Designation. As many members will recall, at the meeting of the House of Delegates at the Annual Meeting in 1978, there was presented to the House of Delegates for approval a designation plan. This plan was not accepted at that time and subsequent to the meeting of that House of Delegates, the Committee on Designation, under Phillip Wittman of New Orleans, continued its efforts with reference to preparation of a plan that would be acceptable to the members of this State and, at the same time, attempted to educate the membership concerning the importance of such a program. It would appear that not only would this program answer what appears to

(Continued on page 13)

Who Owned it Before That?

Compiling title evidence can be a complex task! Back in the thirties, a title report was required by the federal government's Reconstruction Finance Corporation before approval of a loan. One loan applicant, New Orleans Attorney N. R. Howard, had supplied title information dating back to 1803, but R.F.C. then asked, "Who owned the land before that?" Howard replied, "I note you wish titles to extend further than I have presented. I was unaware that any educated person did not know that Louisiana was purchased from France in 1803. France acquired title by conquest from Spain, who acquired it by right of discovery in 1492 by a Genoese sailor named Columbus, who had been granted the privilege of seeking a new route to India by the Spanish Queen, Isabella. The Queen, being a pious woman and careful about titles (almost as careful, I might say, as the R.F.C.), took the precaution of securing the Pope's blessing on the voyage before she financed Columbus.



Now the Pope, as you know, is the emissary of Christ, who is the Son of God, who, it is commonly accepted, made the world. Therefore, I believe it is safe to assume that He also made that part of the world called Louisiana." It seems safe to assume that the R.F.C. granted the loan!

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Annual Report of the Immediate Past President

(Continued from page 11)

be a need for information to the public and an area of possible increased competency amongst the members, but that it would as well serve as a source of possible income to the Association based upon the charges that would be made with reference to designation. Thus, the plan itself would become self-supporting, in addition to offering funds for possible other areas of activity by the Association to benefit both the profession and the public. It is hoped that in the coming year that the Committee will complete its work and it is anticipated that the membership will be, in advance of the next mid-winter meeting, furnished a copy of the plan in order that each member may be fully apprised of its contents and each member may contact his representative on the House of Delegates so that the House may make its vote at the mid-winter meeting in connection with the adoption of such a plan.

Lawyer Referral—After a successful pilot program in Baton Rouge, the State Lawyer Referral Committee has been most active in encouraging and assisting other local bar associations in adopting lawyer referral programs. Michael Rubin of Baton Rouge has been most instrumental in having Lawyer Referral Programs commenced in other areas of the State, as well as increasing the activities of lawyer referral in Baton Rouge and other areas, including use of various elements of the media in connection with lawyer referral education and services to the public. This has resulted in a great improvement in the dissemination of information with reference to the law and, especially with reference to lawyer referral. At the present time, the Lawyer Referral Committee has

not adopted a plan in an attempt to establish a statewide lawyer referral program with a centralized number but is working toward the establishment of lawyer referral programs in the areas throughout the State. It is anticipated that the Committee will continue considering centralization of lawyer referral as individual programs multiply and the need may become more apparent.

Advertising—There continues to be developments in the area of advertising by attorneys. On December 1, 1977, our Supreme Court adopted by Order amendments to the Code of Professional Responsibility in an attempt to bring our rules in keeping with the decision of *Bates and O'Steen versus State Bar of Arizona*. Experience has been gained over the months since that time and it is anticipated that your new President, John C. Combe, Jr., will be appointing a second task force to go back into the subject of advertising in order to update the Association's position, especially with reference to the desires of the membership and the needs of the public. It is suggested that all members interested in this area of advertising communicate their feelings in connection with this subject and the limitations that they feel should or should not be placed thereon by writing to the Association's office in New Orleans, which information will be filtered to the new task force on advertising.

Public Relations—In addition to adding to the staff a full-time person, your Public Relations Committee, under Raymond Salassi, has been working very diligently in many areas. It has published a great number of updated pamphlets which have proven of great benefit, both to the profession and to the consumer. These brochures may be obtained on an individual basis at no charge and in quantities at the cost of printing. In addition, Speaker Kits have been prepared and a Speakers Bureau is

being formulated. For the first time in many years, the professional handling of public relations is starting to have its anticipated results.

Consumer Protection—Consumer Protection Committee formulated for the purposes of ascertaining whether or not there was a need for a Section on Consumer Law, has almost completed its task. James Gelpi, Chairman, anticipates that there will be a resolution filed at the mid-year meeting in 1979 requesting that the House of Delegates approve the formation of a Consumer Law Section. In connection with the establishment of new sections, there was also a committee studying whether or not there was a need for an antitrust law section and this committee, under Dando Cellini, has likewise completed its task and it is also anticipated that a resolution will be presented to the House of Delegates at the mid-winter meeting in 1979 requesting that a Section on Antitrust be formulated and approved.

Committee on Professional Responsibility—Unknown to many of the public and even to some members, the Association expends significant amounts of money and man hours through volunteers and staff, in policing itself. A reading of the Bar Journal will indicate the number of cases pending and active in the Supreme Court in this most important area. Despite the amounts of money being expended, the long hours put in by volunteers who serve as members of the Committee, and by staff time, there is still a need for further development in this area which can only be realized through some type of funding. The Board of Governors continues to look for sources of income for the use of the Committee in order that it may expand its operations and more fully carry out its functions both to the bar and to the public.

Special Committee on Insurance—It goes without saying that all

attorneys have felt the press of increased cost for professional liability insurance in addition to the difficulty in obtaining such coverage. This is especially true with reference to the unavailability of occurrence type insurance which has now been practically totally substituted by what is referred to as claims made. This changeover has caused quite a bit of concern to attorneys, especially to those who may have retired and/or entered the judiciary. I am happy to report that your committee, under Louis D. Smith, has extended itself to the utmost and has been able to continue offering to the membership coverage. There is also signs that the market for professional liability insurance is on an improvement course and we do hope that in the future that we will be in a position to assist our members more in this particularly important area.

Law Reform Committee—A special note must be made of the work of our Committee on Law Reform. Under the chairmanship of David Conroy, this Committee continues to monitor legislative developments as well as to consider needed legislative change. With now full LSBA staff involvement, this Committee reviews and prepares for consideration and action of the House of Delegates the Annual Report and Recommendations on legislation pending in the Louisiana House and Senate. For the second year the Committee has, through Edward F. Glusman acting as legislative liaison, been able to follow up on the Association's recommendations and vocally make these known. Many members of the Committee and other volunteers join in these follow up procedures.

Some of the other benefits that we were able to realize during the past year through the efforts of volunteers and staff have been an arrangement with Avis Car Rental for a discount program to all members of the Louisiana State Bar Association,

a discount program with the Monteleone Hotel in New Orleans, in which city many of the meetings of the Association are held, and an arrangement with the publishers of the Arkansas, Louisiana and Mississippi Legal Directory who will commence in 1979 the publishing of a Louisiana Legal Directory in which the Association will participate with reference to some financial return. Also of note is the fact that we have been able to arrange and procure permanent membership cards of a much better quality than those formerly issued on an annual basis. Although annual dues notices will be sent out and dues collected, each member will now have a permanent card. Arrangements are available through the Association's office in the event your card becomes lost, stolen and/or otherwise misplaced.

During this year, I have attempted to represent your Association both at the national meetings of the American Bar Association, at meetings of the Southern Conference of Bar Presidents, and at the meetings of the State Bars of our Sister States. When assuming this position, I had been forewarned by my predecessors that I would find some difficulty in connection with continuing to practice law and to fulfill my obligations as President. It goes without saying that the forewarnings were not overly exaggerated. I owe a great deal of thanks to my partners who have been in a position to give me the time to fulfill my duties as your President and I must thank the hundreds of volunteers of the Louisiana State Bar Association who have unstintingly and unselfishly given of their time and advice to make this year as effective as it appears to have been. Although I had anticipated cooperation, it was certainly astounding to me the number of busy attorneys who are so willing to give of their time and effort to serve the Association, the Courts, and the Public. Often, much of this time and effort goes unnoticed and receives very

little recognition. I can assure you, however, that absent the hundreds of persons involved, your Bar Association would not accomplish what it hopes it has on your behalf, not only in this year, but in the years past.

I wish to take this opportunity to thank the entire membership for the honor it bestowed upon me by allowing me to serve as its President during these past twelve months. I have already thanked some persons individually and wish I could thank all individually but we know that such is impossible. Special thanks are due to the officers and Board of Governors who have unselfishly supported all my efforts on your behalf and have furnished to me the benefit of their expertise and advice.

As stated before, the Louisiana State Bar Association has been fortunate to have had the services of a dedicated staff, led by Tom Collins, the Executive Counsel, who has now served the Association for some fifteen years. Since the President cannot work alone, neither could the Executive Counsel perform his task without the backup of a stable and loyal staff such as the Association has the good fortune of having. Special thanks are due to Bob Young who has done so much with reference to the improvement of the Bar Journal and has increased the efficiency of the Association in the area of communications and programming. Last, but not least, I would like to add to that, thanks to my wife, Gay, who likewise exhibited patience with a husband upon whose time there seems to have been so many demands.

There is no doubt that it is a singular honor for any individual to be chosen by his professional peers to be their leader. It is even a greater honor and a greater compliment to be able to say after twelve months that those who have chosen you to lead have also chosen to follow. Such has been my happy lot and for this I thank you.

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QUERY Court (La) - Can adjacent* adjoining* abutting* landowner* owner* maintain dam flooding neighbor interfere natural drainage
351 So 2d 1326 Case Ranking # 1

Andrew COLE et al., Plaintiffs Appellees.

v.

Joe MOTT et al., Defendants-Appellants

No. 13370

Court of Appeal of Louisiana, Second Circuit

Oct. 31, 1977

Action was instituted for monetary and injunctive relief against loss of plaintiffs' soybean crops due to flooding that was allegedly caused by defendant's levees. The Fifth Judicial District Court, Parish of Richland, B. I. Berry, J., awarded plaintiffs judgment for damages to crops, but denied injunctive relief, and defendant appealed and plaintiffs answered. The Court of Appeal, Jones, J., held that: (1) record supported findings that defendant's servient or lower estate owed plaintiffs' higher or dominant estates a servitude of drainage and that plaintiffs' soybean crops were damaged because levee's construction by defendant impeded natural drainage; (2) levees which obstructed natural drain and prevented plaintiffs from successfully raising soybeans or other crops on portions of their lands adjacent to levees should have been enjoined despite whether plaintiffs could adequately be compensated in money for any future crop losses attributable to defendant's levees, and (3) award of an expert witness fee of \$600 was not an abuse of discretion.

Amended and affirmed.

352 So 2d 426

Case Ranking # 2

Paul LAFLEUR, Plaintiff and Appellee,

v.

Offert W. TOPP, Defendant and Appellant

No. 6190

Court of Appeal of Louisiana, Third Circuit

Nov. 17, 1977

Landowner brought action against adjoining owner seeking injunction prohibiting the latter from maintaining a dam on his property which flooded plaintiff's property by interfering with a natural drain and to order defendant to lower the dam to the level which existed before defendant raised it in 1974. The 33rd Judicial Court, Allen Parish, Edward M. Mouser, J. granted injunctive relief, and defendant appealed. The Court of Appeal, Culpepper, J., held that plaintiff's right to the unimpeded natural servitude of drainage of waters from his estate through defendant's was violated where raising of the levee resulted in permanent impoundment of water on plaintiff's land.

Amended and affirmed.

Fee Schedule Upon Request.

New Fifth Circuit Practice In Habeas Corpus Cases

by Robert S. Abdalian and Roy E. Lachman



Robert S. Abdalian is a Staff Attorney at the U.S. Court of Appeals for the Fifth Circuit. He received his B.A. from Hiram College and his J.D. from Case Western Reserve. He is a member of the Louisiana State Bar.



Roy E. Lachman is a Staff Attorney at the U.S. Court of Appeals for the Fifth Circuit. He received his B.A. from the University of Pennsylvania, his M.A. and Ph.D. from the University of Michigan, and his J.D. from Boston University. He is a member of the Massachusetts Bar.

In *Galtieri v. Wainwright*¹ the United States Court of Appeals for the Fifth Circuit diverged from all other federal circuits² except the Ninth,³ by requiring that a petitioner for habeas corpus relief under 28 U.S.C. §2254 exhaust available state remedies on every claim in his petition before he could obtain federal relief.⁴ While the federal habeas statute requires exhaustion,⁵ the meaning of "exhaustion" is not statutorily defined. Furthermore, exhaustion exists as a matter of comity and not as a jurisdictional prerequisite to habeas corpus relief.⁶ *Galtieri* may be viewed as a welcome clarification of the Fifth Circuit's policy toward "mixed petitions" — habeas petitions containing both exhausted and unexhausted claims. Prior to *Galtieri*, as will be shown, Fifth Circuit treatment of mixed petitions was not uniform. After *Galtieri*, greater uniformity may be expected, but important questions on the application of *Galtieri* remain to be settled.

Prior Law

The Fifth Circuit appellate practice concerning habeas corpus petitions containing both exhausted and unexhausted claims was to review the exhausted claims and dismiss, without prejudice, the unexhausted claims.⁷ In 1969 the Fifth Circuit decided *Wheeler v. Beto*⁸ and charted a new course for mixed petitions.

In *Wheeler* the Fifth Circuit was presented with a habeas petition that contained four claims for relief. The district court had dismissed the peti-

tion *in toto*. The Fifth Circuit affirmed and, in so doing, announced a new rule requiring exhaustion of *all* claims before a federal court would hear any claim. The *Wheeler* ruling is based on federal/state comity and judicial efficiency. Comity is preserved under the *Wheeler* rule, since the state is given the power to correct any alleged error before federal intervention. Judicial efficiency is encouraged, since the federal courts are not presented with piecemeal petitions. If a federal court were to rule on exhausted claims but not unexhausted ones, the unsuccessful petitioner would be likely later to return to federal court to seek relief on unexhausted claims. *Wheeler* sent a clear message to the habeas corpus petitioner: present all claims to the state courts first or else suffer dismissal in federal court for failure to exhaust all claims. The *Wheeler* rule was often followed,⁹ but not invariably.¹⁰

In *Pebworth v. Beto*¹¹ a prisoner presented a petition containing both exhausted and unexhausted issues. The district court ruled on the exhausted issues, denying relief, but found that four of the six issues presented had not been exhausted. The district court dismissed the four unexhausted issues. The Fifth Circuit affirmed by denying the claims for relief on the exhausted issues and dismissing the unexhausted issues. *Wheeler* and its progeny would have dismissed the entire petition for failure to exhaust. The *Pebworth* approach also was followed in a series of Fifth Circuit decisions decided after *Wheeler*.¹²

The *Wheeler* line of decision and

the *Pebworth* one indicated to some that the Fifth Circuit was not following a steady course, but an anfractuous one;¹³ or that the Fifth Circuit was formulating a more flexible rule.¹⁴ "Pebworth practice" permitted the court to affirm the granting of relief in *Moye v. Highsmith*¹⁵ on the basis of a meritorious exhausted claim, even though the petition also included unexhausted issues. However, in *Galtieri* the panel decision¹⁶ refused to review a mixed petition on the merits, though the district court had found that an exhausted issue merited granting habeas corpus relief. The Court agreed to hear *Galtieri* en banc to formulate a uniform approach to mixed petitions.

Rule of Galtieri

In *Galtieri v. Wainwright* the Fifth Circuit was faced with the habeas corpus petitions of two state prisoners, which contained both exhausted and unexhausted claims. The district court had granted relief on one of the exhausted claims, but a panel of the Fifth Circuit reversed on the ground that *all* claims in the petition had not been exhausted.¹⁷ The Fifth Circuit, en banc, addressed the exhausted claims and denied relief, but only after enunciating the Circuit's rule for mixed petitions.

The Court held that when a district court is faced with a mixed petition it must dismiss it without prejudice, unless an exception to the exhaustion doctrine is present.¹⁸ This holding was based on "[c]onsiderations of comity, avoidance of piecemeal litigation, and the fullest consideration of a petitioner's claims"¹⁹ along with Rule 9(b) of the Rules Governing Section 2254 Cases.²⁰

However, the Court adopted a different rule for appellate consideration of mixed petitions: "In the rare event, however, that a district court erroneously reaches the merits of an exhausted claim in a mixed petition

and an appeal is taken from its dispositive order, we shall review the merits of the claim."²¹ The Court based this result on its desire to avoid federal/state conflict: if a district court addressed exhausted claims in a mixed petition but the appeals court then dismissed the petition for want of complete state exhaustion, a subsequent state ruling could easily conflict with the initial district court ruling.²² In addition, there would be a potential for conflict between the initial and later district court rulings on the exhausted claims.²³

Following discussion of these points, the Court addressed the merits of the exhausted claims, found that they lacked merit, and

remanded the case, presumably for dismissal of the unexhausted claims. One judge, concurring with the majority, suggested that *Galtieri* permitted district court judges some latitude in addressing mixed petitions.²⁴ The six dissenting judges agreed with the majority's appellate disposition of mixed petitions when the district court had reached the merits of the exhausted claims, but sharply criticized the Court's mandate that district courts dismiss without prejudice mixed petitions.²⁵

After Galtieri

The rule of *Galtieri* is simple to state, but may pose difficulties in its

Gilbert J. Fortier, Jr.

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