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ATTORNEY GENERAL
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DEPARTMENT OF JUSTICE

Justice Building
Salem, Oregon 97310
Telephone: (503) 378-4400

November 27, 1990

Steven P. Coleman
P.O. Box 10872
Eugene, OR 97440

Re: **Petition for Public Records Disclosure Order; Oregon State Bar Records**

Dear Mr. Coleman:

This letter is the Attorney General's order on your petition for disclosure of records under the Oregon Public Records Law, ORS 192.410 to 192.505. Your petition, which we received on November 16, 1990,[1] asks the Attorney General to order the Oregon State Bar (OSB or Bar) to make available for your inspection the OSB's file on its investigation of you for the unauthorized practice of law. For the reasons that follow we respectfully deny your petition.

The Public Records Law confers a right to inspect public records of a public body in Oregon, subject to certain exceptions. ORS 192.420. We understand that, in compliance with this mandate, the Bar has provided you with all of the requested records, with minor exceptions. These exceptions fall into three categories.

(1) The Bar withheld portions of a June 4, 1990, memorandum from Ms. Martha Hicks, Assistant Disciplinary Counsel, to the Bar's Board of Governors. That memorandum discusses the Unlawful Practice of Law Committee's investigation of you. The Bar provided you the factual portions of that memorandum, but deleted the parts containing the staff's analysis and recommendation.

We discussed similar issues relating to internal Bar memoranda in our Public Records Order, March 30, 1989 (Howser/Riemer) (a copy of which is enclosed for your convenience). For the reasons discussed in that order, the portions withheld by the Bar are exempt from disclosure under

at least two provisions. First, they fall within ORS 192.502(1), the internal advisory communications exemption. Second, they fall within the attorney-client privilege, OEC 503, as incorporated in the Public Records Law through ORS 192.502(8).

(2) The Bar withheld Ms. Hicks' telephone notes. Those notes include her mental impressions formed during the investigation. As attorney work-product prepared in anticipation of litigation, those notes are exempt under ORCP 36B(3), as incorporated in the Public Records Law through ORS 192.502(8).

(3) The Bar withheld log sheets routinely kept by staff attorneys to keep track of their time spent on the investigation and to briefly summarize the status of each matter for internal Bar recordkeeping purposes. Those log sheets also contain the attorneys' mental impressions formed during the invesgitation. For the same reasons stated with respect to the second category of documents above, these log sheets are exempt from disclosure.

For these reasons, we respectfully deny your petition.

Sincerely,

James E. Mountain Jr.

for PAMELA L. ABERNETHY
Special Counsel to the
Attorney General

PLA:RDW/rdw/bjs/2963G
8916Y
enclosure
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[1] We appreciate your courtesy in allowing us to exceed the statutory seven-day deadline for issuing this order.