

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
KNOXVILLE DIVISION**

LINCOLN MEMORIAL UNIVERSITY)	
DUNCAN SCHOOL OF LAW,)	
)	Case No. 3:11-CV-608
Plaintiff,)	Hon. Thomas A. Varlan
)	Magistrate Judge C. Clifford Shirley
v.)	
)	
THE AMERICAN BAR ASSOCIATION,)	
)	
Defendant.)	
)	

DEFENDANT AMERICAN BAR ASSOCIATION’S STATUS REPORT

Pursuant to this Court’s order of May 9, 2012 (Doc. 59), defendant American Bar Association (“ABA”) submits this status report regarding the decision by the Council of the ABA Section of Legal Education and Admissions to the Bar (the “Section”) following the remand by the Appeals Panel of certain issues in connection with the application for provisional approval filed by plaintiff Lincoln Memorial University Duncan School of Law (the “School”).

On July 5, 2012, the Council informed the School by letter (“July 5 Letter”) that, after consideration consistent with the Appeals Panel’s instructions, the Council affirmed its decision to deny the School’s application for provisional approval. A notice of the Council’s action was made public on that date pursuant to ABA Internal Operating Practice 5,¹ but the July 5 Letter itself remains confidential under ABA Rule of Procedure 25.

¹ The required notice to the public is located at www.americanbar.org/groups/legal_education.html.

In accordance with ABA Rule of Procedure 10(a), the School has the right of appeal to the Appeals Panel of an adverse decision of the Council denying provisional approval. Although Rule 10(a) does not specify that this right includes a subsequent appeal following an adverse decision on remand, neither does it specifically preclude such an appeal. The Council therefore concluded that the present decision on remand is an adverse decision of the Council within the meaning of Rule 10(a), and the School may appeal the Council's present decision to the Appeals Panel, with such appeal limited to the basis for the Council's present decision, as set forth in the Council's July 5 Letter. Under ABA Rule of Procedure 10(b), the School's written appeal, if any, must be filed with the Consultant within 30 days after the date of the Council's July 5 Letter and must conform to the requirements of Rule 10. Unless such an appeal is filed by the School with the Consultant no later than Monday, August 6, 2012 (since the thirtieth day is on a Saturday), the Council's present decision on remand will become effective on that date, or on such earlier date that the Consultant receives written notification from the School that the School will not file an appeal. Should the School elect to file such an appeal, the Council's decision on remand will be stayed pending the outcome of the specific procedures for Appeals Panel review, as outlined in Rule 10.

In its order dated April 2, 2012 (Doc. 56), this Court stayed the above-captioned litigation pending the Appeals Panel's decision, and in its order dated May 9, 2012, the Court continued that stay pending resolution of the remanded issues by the Council. The Court further ordered the ABA to file this updated status report with the Court on or before July 15, 2012, addressing the status of the remand.

At this time, the ABA believes that continuing the stay of the litigation is appropriate

because the administrative process remains ongoing, with the School having the option to appeal the Council's decision on remand to the Appeals Panel on or before August 6, 2012. The ABA therefore suggests that the ABA file an updated status report with the Court on or before August 15, 2012.

Dated: July 5, 2012

Respectfully submitted,

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CERTIFICATE OF SERVICE

I certify that on July 5, 2012, I properly served all parties by operation of the Court's electronic filing system to all parties indicated on the electronic filing receipt and U.S. Mail.

By: s/ Howard H. Vogel (0001015) _____