

IN THE SUPREME COURT OF FLORIDA

CASE NO. 86,777

TFB FILE NO. 96-00016-02

FILED

GIB J. WHITE

OCT 15 1996

CLERK, SUPREME COURT

THE FLORIDA BAR

COMPLAINANT/APPELLEE

VS.

ARRON E. BUDNITZ

RESPONDENT/APPELLANT

APPEAL

OF THE

REPORT OF REFEREE

APPELLANT'S
AMENDED
REPLY BRIEF

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QUESTIONS RAISED

The questions raised herein are as follows:

AR-I. SHOULD COMPLAINANT/APPELLEE'S FAILURE TO FULLY OR ADEQUATELY REBUT ALLEGATIONS THAT THERE WERE ERRONEOUS, UNLAWFUL OR UNJUSTIFIED PROCEDURAL ERRORS IN PURSUING THE CASE NEGATE ADHERENCE TO THE REPORT OF THE REFEREE DERIVED THEREFROM?

AR-II. SHOULD COMPLAINANT/APPELLEE'S FAILURE TO FULLY OR ADEQUATELY REBUT ALLEGATIONS THAT THERE WERE ERRONEOUS, UNLAWFUL OR UNJUSTIFIED FINDINGS OR CONCLUSIONS IN THE REPORT OF THE REFEREE NEGATE ADHERENCE TO SAID REPORT OF REFEREE?

INTRODUCTION

NOW COMES THE UNDERSIGNED RESPONDENT/APPELLANT (APPELLANT, RESPONDENT or RESPONDENT/APPELLANT individually or in any combination thereof hereinafter), Arron E. Budnitz, pro se, and does as timely as possible and in good faith, pursuant to procedural instructions received by the Office of the Clerk of this COURT and the October 2, 1996 directive of the COURT directing that the RESPONDENT/APPELLANT file an Amended Reply Brief by October 14, 1996, reply to the undated ANSWER BRIEF OF THE FLORIDA BAR (ANSBREF) by submitting this APPELLANT'S AMENDED REPLY BRIEF (FLAMRPBR) in the above referenced matter. In the event that the materials submitted require modification pursuant to any local rules, RESPONDENT/APPELLANT requests the return of the materials with appropriate instructions as well as an appropriate extension of time of not less than 15 days to revise the same accordingly.

STATEMENT OF FACTS

1. **RESPONDENT/APPELLANT** hereby incorporates by reference thereto documents **FLBRIEF**, **FLABREF2** and **APLNTEXS** (and the EXHIBITS contained therein) which have been previously submitted in this matter.

2. **RESPONDENT/APPELLANT** reiterates the facts as set forth previously in **FLBRIEF** and/or **FLABREF2**. In addition to which facts the following has occurred:

a. By letter dated July 18, 1996 and received by **RESPONDENT/APPELLANT** on July 23, 1996, a Mr. Boggs implicitly indicated that **RESPONDENT/APPELLANT** prematurely commenced review in this matter.

b. While disagreeing with Mr. Boggs, **RESPONDENT/APPELLANT** nonetheless submitted an additional **PETITION FOR REVIEW (FLREVUE2)** and **APPELLANT'S BRIEF (FLABREF2)** in the matter on July 25, 1996.

c. On July 26, 1996 **RESPONDENT/APPELLANT** received a package from The Florida Bar postmarked July 23, 1996.

d. Said package contained within it one copy of an undated **ANSWER BRIEF OF THE FLORIDA BAR (ANSBREF)**.

e. Said **ANSBREF** being the only copy thereof received by **RESPONDENT/APPELLANT** to date, it, by **CERTIFICATE OF SERVICE** of Bar Counsel, certified that it had been sent to **APPELLANT/RESPONDENT** on the "2nd day of July, 1996".

f. Said **ANSBREF** acknowledges on page 3 thereof that the Petition for Review filed by Respondent on or about May 10, 1996 was "timely filed". **NOTE that this appears to be inconsistent with the position of Mr. Boggs.**

g. Having not received a timely made answer brief as of July 12, 1996, **RESPONDENT/APPELLANT** filed a **MOTION FOR EXTRAORDINARY WRIT TO DEEM MATTERS ADMITTED, SUMMARY JUDGMENT, DISMISSAL AND REINSTATEMENT (FLSJDR)** on that date.

h. Following receipt of **ANSBREF**, **RESPONDENT/APPELLANT** timely filed an **APPELLANT'S REPLY BRIEF (FLREPBRF)** pursuant to instructions received from the **COURT**.

i. Said **FLREPBRF** argued, in part, that the Certificate of Service of **ANSBREF** was criminally backdated and fraudulent. (**RESPONDENT/APPELLANT** respectfully believes in good faith that the October 2, 1996 directive of this **COURT** does not preclude discussion of this matter in this manner or as otherwise done herein).

j. **RESPONDENT/APPELLANT** also sought to have this **COURT** order the proponent of **ANSBREF** to provide a proof of mailing of said **ANSBREF**.

k. **COMPLAINANT/APPELLEE** has made indication to **RESPONDENT/APPELLANT** that a Response (**RESPONSE**) to **FLSJDR** was filed.

l. **RESPONDENT/APPELLANT** has never received a copy of the aforesaid **RESPONSE** (though he did receive an envelope which was apparently intended to include the **RESPONSE**, but which did not include it) despite requests for the same.

m. **COMPLAINANT/APPELLEE** objected to the request to compel proof of mailing of **ANSBREF** and also sought to strike discussion in **FLREPBRF** of a question (R-III) as to whether this **COURT** should adhere to the decision of the **REFEREE** when it was apparently supported by an Answer Brief whose Certificate of Service appeared to be criminally backdated with an intent to defraud.

n. On October 2, 1996 the **COURT** rejected **FLSJDR** and directed that an Amended Reply Brief be filed by **RESPONDENT/APPELLANT**. The **COURT** further denied **RESPONDENT/APPELLANT'S** efforts to compel proof of mailing of **ANSBREF** and a separate motion to dismiss for lack of cooperation.

o. To date, **RESPONDENT/APPELLANT** has still not received any mailing postmarked July 2, 1996 which bears within it a copy of **ANSBREF** and, as a result, continues to believe that the Certificate of Service of the **ANSBREF** received is criminally backdated with an intent to defraud. Without any such receipt, **RESPONDENT/APPELLANT** is also unable to determine if the materials supposedly sent on July 2, 1996 are the same as the materials sent on July 23, 1996.

3. **ANSBREF** contains within it reference to various supporting items which are either not included in an **APPENDIX OF EXHIBITS** or are improperly referenced otherwise [for example reference to (Exh. X-TWO) in the context of discussing the Petition for Review on page 3 and the mislabeling of **RESPONDENT/APPELLANT'S** April 6, 1996 submittal on the same page] and is therefore believed to be incomplete or defective.

4. In the **STATEMENT OF THE CASE** as presented in **ANSBREF**, the **COMPLAINANT** attempts to make a point of having been improperly served. **RESPONDENT/APPELLEE**

has addressed this matter otherwise in part and believes that service provided has been adequate as evidenced by acknowledgment of the submittals in **ANSBREF** and otherwise and **COMPLAINANT'S** responses thereto.

5. In the **STATEMENT OF THE FACTS** as presented in **ANSBREF**, the **COMPLAINANT** ignores the issue of subject matter jurisdiction and falsely states that the various findings of the New Hampshire Supreme Court Committee on Professional Conduct were "affirmed... in the New Hampshire Supreme Court's (May 23, 1995) order....". [SEE **EXHIBIT X-THREE** as previously submitted wherein the New Hampshire Supreme Court says that it "need not address the other violations" other than the Rule 8.1(a) allegation.]

SUMMARY OF ARGUMENT

It is the objective of this **APPELLANT'S AMENDED REPLY BRIEF (FLAMRPBR)** to demonstrate that **COMPLAINANT/APPELLEE** has failed to fully or adequately rebut allegations that there were erroneous, unlawful or unjustified procedural errors, findings or conclusions in the **REPORT OF REFEREE** which should negate adherence to said **REPORT OF REFEREE**.

AMENDED REPLY ARGUMENT: QUESTION AR-I

AR-I. SHOULD COMPLAINANT/APPELLEE'S FAILURE TO FULLY OR ADEQUATELY REBUT ALLEGATIONS THAT THERE WERE ERRONEOUS, UNLAWFUL OR UNJUSTIFIED PROCEDURAL ERRORS IN PURSUING THE CASE NEGATE ADHERENCE TO THE REPORT OF THE REFEREE DERIVED THEREFROM?

COMPLAINANT/APPELLEE commences its presentation by arguing that the **REPORT OF REFEREE (REPORT)** was timely made. **RESPONDENT/APPELLANT** concurs that **REPORT** was filed within the time limits of the "extension" granted by the **COURT**. However, it is **RESPONDENT/APPELLANT'S** contention that said extension was improperly granted because it was petitioned for after the lapse of the

initial time period and because **RESPONDENT/APPELLANT** was not given adequate time to respond to the Extension Motion.

When a time period lapses, ends or expires and remains so for a certain period of time it cannot be extended it can only be renewed or reopened. A dead matter or person cannot be brought back to life, however while the matter or person remains alive, procedures can be attempted to extend the life. That is the point **RESPONDENT/APPELLANT** is respectfully making. With that in mind, because the **REFEREE** failed to meet the first deadline to file the **REPORT** it is believed to have been untimely filed - despite the "extension" and despite the additional provisions of Rule 3-5.2(f) of the Rules of Discipline, because though disciplinary action may still be taken after failure to issue a timely report of referee, there is no provision in the Rule for an alternative report of referee. The **REPORT** should therefore be rejected.

As to the matter of the "extension", **COMPLAINANT/APPELLEE** seeks to argue that it was not representing the **REFEREE** in seeking such "extension". The Motion filed by **COMPLAINANT/APPELLEE** was entitled **MOTION FOR EXTENSION OF TIME TO FILE REFEREE'S REPORT** (emphasis added). The beneficiary of the Motion was the **REFEREE**, the **COMPLAINANT/APPELLEE** has no obligation to file a report of referee. Having fully read Rule 3-5.2(f), **COMPLAINANT/APPELLEE** apparently could have proceeded alternatively though the Rule is unclear as to how. Given that the **REFEREE** was the beneficiary, the **COMPLAINANT/APPELLEE** deliberately or inadvertently improperly became counsel to and for the **REFEREE**. **RESPONDENT/APPELLANT** respectfully believes that proper procedure would have been for the **REFEREE** to have petitioned for the "extension". Not having done so, and having missed the initial deadline, the **REPORT** should be dismissed.

COMPLAINANT/APPELLEE next moves on to the Rule 3-7.6(k)(A) issue and argues that **RESPONDENT/APPELLEE** has based his argument on a lack of knowledge

that the Rule 4-3.3(a)(3) allegation was "withdrawn". In the first instance **RESPONDENT/APPELLANT** is unaware of any Rule which provides for such a "withdrawal" and, secondly, said "withdrawal" would constitute an admission that there were insufficient bases to have made a determination consistent with the **COMPLAINT** in the matter and, because of the conjunctive nature of the argument that had been made, a dismissal of the entire case should have been warranted because of the requirements, amongst other things, of due process notice. Alternatively, if there was an "amendment" then, pursuant to Rule 3-7.6(g)(6), a separate order was required to be issued and an opportunity to respond thereto had to be afforded to **RESPONDENT/APPELLANT**. No such order or opportunity to respond were afforded to **RESPOND/APPELLANT**. At various points throughout **ANSBREF** the **COMPLAINANT/APPELLEE** argues that the **RESPONDENT/APPELLANT** is simply arguing semantics. The difference between a withdrawal and amendment in the immediate case and in the fashion pursued is an argument of semantics by the **COMPLAINANT/APPELLEE**. The nature of the change effectuated was an amendment and the procedure for doing that was regulated by Rule 3-7.6(k)(A) which was not followed. Grant of a "withdrawal" in the immediate case of the matter "withdrawn" would simply be another cause to support arguments for judicial error and is hereby raised as such and as another reason to not follow the **REPORT** of the **REFEREE**.

In the course of **COMPLAINANT/APPELLEE'S** argument on page 13, he alludes to **RESPONDENT/APPELLANT'S** "attempted scam in New Hampshire". This statement is reckless, irresponsible, fraudulent and libelous. **RESPONDENT/APPELLANT** represented an organization whose principal was eventually successfully prosecuted for fraud. Extensive investigation of the matter proved no wrongdoing in the fraudulent conduct by **RESPONDENT/APPELLANT**. **COMPLAINANT/APPELLEE'S** discussion here further evidences a profound ignorance

of the facts in the case. Ignorance of such fundamental facts raises serious questions as to the credibility of representations made by **COMPLAINANT/APPELLEE** and gives further reason to not support the **REPORT** of the **REFEREE** because where such misrepresentations exist in **ANSBREF** it is impossible to tell what misrepresentations, if any, may have been made to the **REFEREE**.

COMPLAINANT/APPELLEE next seeks to address the Statute of Limitations arguments presented pursuant to Rule 3-7.16(a) and (c) of the Rules of Discipline and argues that those Rules did not apply because "the Bar [was not] privy to the happenings..." . Tolling of the Statute of Limitation is governed by Rule 3-7.16(c). That Rule makes no provision for tolling because the Bar is or is not in "privy" with anything. In fact neither the word "Bar" or "privy" are included in Rule 3-7.16(c) at all. Rule 3-7.16(a) looks to the "underlying matters" themselves - it does not look to any determination on those underlying matters. Therefore the lack of privity argument fails and decisions based on it are cause for additional judicial error which argues against adherence to the **REPORT** of the **REFEREE**.

Note should be further made that the **COMPLAINANT/APPELLEE** has not addressed the lack of subject matter jurisdiction issue raised by **RESPONDENT/APPELLANT** as to certain issues and therefore that issue should be deemed to be admitted to by **COMPLAINANT/APPELLEE**.

Page 14 of **ANSBREF** seems to be an effort to address the Rule 3-7.2(j)(2) issue. However it fails to adequately do so because it does not appear to address the "final adjudication" requirement which was a condition precedent to the **COMPLAINT** itself. Therefore, the argument presented by **RESPONDENT/APPELLANT** should be deemed to be agreed to by **COMPLAINANT/APPELLEE**

and should be regarded as another reason to not adhere to the **REPORT** of the **REFEREE**.

WHEREFORE, **COMPLAINANT/APPELLEE'S** FAILURE TO FULLY OR ADEQUATELY REBUT ALLEGATIONS THAT THERE WERE ERRONEOUS, UNLAWFUL OR UNJUSTIFIED PROCEDURAL ERRORS IN PURSUING THE CASE SHOULD NEGATE ADHERENCE TO THE REPORT OF THE REFEREE DERIVED THEREFROM.

AMENDED REPLY ARGUMENT: QUESTION AR-II

AR-II. SHOULD **COMPLAINANT/APPELLEE'S** FAILURE TO FULLY OR ADEQUATELY REBUT ALLEGATIONS THAT THERE WERE ERRONEOUS, UNLAWFUL OR UNJUSTIFIED FINDINGS OR CONCLUSIONS IN THE REPORT OF THE REFEREE NEGATE ADHERENCE TO SAID REPORT OF REFEREE?

COMPLAINANT/APPELLEE commences his ARGUMENT II by apparently agreeing with everything that **RESPONDENT/APPELLANT** has stated in his Question I Argument. He appears to do so with the words "and fully agreed". If that be the case, then the **REPORT** of the **REFEREE** should not be adhered to.

COMPLAINANT/APPELLEE'S argument that the facts found by the New Hampshire Supreme Court supported the Florida allegations made, ignores the fact that the New Hampshire Supreme Court made no determination that the New Hampshire grand jury was a "tribunal" nor did it address the issue of whether **RESPONDENT/APPELLEE** was an "advocate" before the grand jury. Therefore there were inadequate bases for the Rule 4-3.3(a)(1) allegation. It should be further noted that the New Hampshire Supreme Court did not sustain or address the New Hampshire equivalent to Rule 4-3.3(a)(1) which provides additional cause for this **COURT** not to support the **REPORT** of the **REFEREE** in its finding of a Rule 4-3.3(a)(1) finding and otherwise.

COMPLAINANT/APPELLEE moves on to discuss that under case law cited a grand jury is considered to be a "judicial proceeding". **RESPONDENT/APPELLANT** fully agrees with this statement and holding, but hastens to point out that

all "judicial proceedings" are not "tribunals". This argument again asserts that there were inadequate bases for the Rule 4-3.3(a)(1) allegation and that the **REPORT** of the **REFEREE** which makes such a finding should not be adhered to.

COMPLAINANT/APPELLEE again ignores the "subject matter jurisdiction" issue concerning certain aspects of the case such as the need to determine whether the New Hampshire grand jury was a tribunal and, as before, should be deemed to admit to this error in the case and which should deny adherence to the **REPORT** of the **REFEREE**.

COMPLAINANT/APPELLEE moves on to discuss aggravating factors and commences his discussion by arguing that "Respondent's desire to have a document notarized in a misleading manner is contrary to honesty" and therefore is evidence of a dishonest motive. The manner in which the underlying document was notarized was not misleading at all - many documents are notarized subsequent to execution. The document was in no way backdated nor was any request made of the notary to backdate it. Furthermore the manner or date of notarization bore no consequence to any third party nor was it essential to the document itself. **COMPLAINANT/APPELLEE'S** comments to the contrary once again evidence a profound ignorance of the facts and are unwarranted, reckless, fraudulent and libelous. The comments also evidence an inconsistency of reasoning because there was no motivational finding by the New Hampshire Referee. As before, ignorance of such fundamental facts raises serious questions as to the credibility of representations made by **COMPLAINANT/APPELLEE** and gives further reason to not support the **REPORT** of the **REFEREE**.

As to factors concerning "a pattern of misconduct and multiple offenses" it should be noted, once again, that only the Rule 8-1(a) allegation was sustained in New Hampshire therefore there is believed to be no basis for

finding a pattern of misconduct or multiple offenses. Therefore the **REPORT** of the **REFEREE** which suggests otherwise should not be adhered to.

As to factors 4 and 5, once again, the statements identified by New Hampshire Bar Counsel were made prior to the commencement of the New Hampshire disciplinary process and cannot be regarded as a part thereof. Note that the challenge to produce the allegedly offensive language has gone unanswered and, as such, it should be deemed to be an agreement with **RESPONDENT/APPELLANT'S** argument.

COMPLAINANT/APPELLEE'S argument as to factor 6 and 7 that **RESPONDENT/APPELLANT** has failed to acknowledge that "his conduct violated the Rules of Professional Conduct" is a chilling argument which would result in dire consequences. It essentially would deny any attorney accused of a disciplinary violation an opportunity to defend because, without admitting, the attorney would be subject to factor 6 consequences. Factor 6 which is Standard 9.22(g) does not require that acknowledgment of a wrongful act be as to the disciplinary rules. **RESPONDENT/APPELLANT'S** arguments have been presented in good faith and no attempt is being made to play semantic or word "games".

COMPLAINANT/APPELLEE fails to address the mitigating factors presented by **RESPONDENT/APPELLEE** and should be deemed to admit to the same. **RESPONDENT/APPELLANT** reiterates the mitigating factors of Standards 9.32(a) - absence of a prior disciplinary record (other than that deriving from the facts of the instant case), 9.32(b) - absence of a dishonest or selfish motive and lack of impact on any client and adds the following: 9.32(e) - cooperative attitude towards proceedings, and 9.32(i) - unreasonable delay with prejudice resulting therefrom, to which others may pertain as well.

In arguing the paragraph 9. Standards applied by the **REFEREE** it should be further noted that Standard 5.11(b) requires "serious criminal conduct" which is not the instant case and is therefore inapplicable; Standard 6.1 requires conduct that is prejudicial to the administration of justice or that involves dishonesty...to a court". **RESPONDENT/APPELLANT'S** conduct which was determined to be violative of Rule 8.1(a) was not before a court and therefore the Standard is believed to be inapplicable. Furthermore, if **RESPONDENT/APPELLANT'S** conduct was prejudicial to the administration of justice then it would have warranted a Rule 4-8.4(d) allegation (which is mentioned in passing only). No such allegation or comparable allegation has been made against the **RESPONDENT/APPELLANT** in either Florida or New Hampshire. By the same token Standard 6.11 looks to deception of "the court" which is likewise inapplicable. **RESPONDENT/APPELLANT** continues to believe as well that the **REPORT OF REFEREE** is substantially erroneous and that the application of all Standards cited and, in particular those discussed herein, is erroneous, unwarranted and unjustified and should warrant dismissal of the **REPORT OF REFEREE**.

COMPLAINANT/APPELLEE next addresses **RIGHTMYER** and seeks to modify the quote of the **REFEREE** by referring to language of another case that is cited in **RIGHTMYER**. The cited case is not the basis of the **REFEREE'S** holdings and **RESPONDENT/APPELLANT** is justified in relying on the language that was quoted as the basis of the holding. Furthermore **COMPLAINANT/APPELLEE'S** argument that the importance of the **REFEREE'S** quotation lies in the consequences ignores the fact that consequences are as a result of something and, in **RIGHTMYER**, it appears to be as a result of "lying under oath" - which does not appear to pertain to the immediate case because only the New Hampshire Rule 8.1(a) allegation was sustained.

As argued before regarding TUMINI and otherwise, all "judicial proceedings" are not necessarily "tribunals". **COMPLAINANT/APPELLEE** apparently ignores the language cited by the **REFEREE** which states "False swearing in a judicial proceeding (emphasis added) is ...". The locational reference does not limit the alleged offense of TUMINI, it seeks to clarify and emphasize it. Wherefore, TUMINI is believed to be inappropriate to the immediate case and reliance on it should require dismissal of the case and non-adherence to the **REPORT** of the **REFEREE**.

Prior to addressing IBANEZ and BAIRD the **COMPLAINANT/APPELLEE** points out that part of the attorney oath in which "false statement of fact or law" is addressed. As will be discussed and as **RESPONDENT/APPELLANT** has repeatedly testified, his statements of belief were not intended as statements of fact or law they were only intended as a statement of opinion based on an uncertain recollection of aged events.

COMPLAINANT/APPELLEE'S individual arguments concerning IBANEZ and BAIRD focus on the individual natures of the beliefs held by the parties therein which in the one instance is a commercial belief and in the other a political belief. It is argued that **RESPONDENT/APPELLANT'S** beliefs do not fall into either of these categories. However, this argument misses the point that just as the beliefs of IBANEZ are different than the beliefs of BAIRD, nonetheless BAIRD is cited in IBANEZ as previously indicated, therefore the nature of one's beliefs is not the issue. It must be something else. **RESPONDENT/APPELLANT** respectfully believes that the cases deal with "opinion" testimony (such as **RESPONDENT/APPELLANT'S**) and the treatment to be afforded such which is generally governed by rules of evidence and which opinion testimony is generally discounted or ignored. **RESPONDENT/APPELLANT** respectfully therefore believes that the holdings of IBANEZ and BAIRD are

applicable to the immediate case and that failure to follow their holding was erroneous and unjustified and warrants no adherence to the **REPORT** of the **REFEREE**.

COMPLAINANT/APPELLEE also ignores the federal question and federal jurisdiction issues raised and should be deemed to admit to the same requiring dismissal of the case and no adherence to the **REPORT** of the **REFEREE**.

WHEREFORE, COMPLAINANT/APPELLEE'S FAILURE TO FULLY OR ADEQUATELY REBUT ALLEGATIONS THAT THERE WERE ERRONEOUS, UNLAWFUL OR UNJUSTIFIED FINDINGS OR CONCLUSIONS IN THE REPORT OF THE REFEREE SHOULD NEGATE ADHERENCE TO SAID REPORT OF REFEREE.

CONCLUSION

WHEREAS, COMPLAINANT/APPELLEE has failed to fully or adequately rebut allegations that there were erroneous, unlawful or unjustified procedural errors in pursuing the case;

WHEREAS, COMPLAINANT/APPELLEE has failed to fully or adequately rebut allegations that there were erroneous, unlawful or unjustified findings or conclusions in the REPORT OF REFEREE;

WHEREAS, the July 18, 1996 letter from Mr. Boggs appears to be erroneous and possibly fraudulent;

WHEREAS, the ANSWER BRIEF OF THE FLORIDA BAR in support of the **REPORT** of the **REFEREE** appears to contain a CERTIFICATE OF SERVICE which appears to be criminally backdated with an intent to defraud; and

WHEREAS, the **COMPLAINANT/APPELLEE** has not rebutted lack of jurisdiction arguments:

Said May 2, 1996 REPORT OF REFEREE (FLREFREP) as amended on May 9, 1996 should not be followed by this **COURT**.

WHEREFORE. RESPONDENT/APPELLANT requests that this **COURT**:

A. Reject the May 2, 1996 **REPORT OF REFEREE (FLREFREP)** as amended on May 9, 1996;

B. Dismiss the matter for lack of subject matter jurisdiction (concerning the existence of certain Federal and New Hampshire questions);

C. Grant such other relief as has been previously requested by and for the benefit of **RESPONDENT/APPELLANT**; and

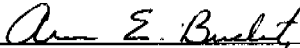
D. Grant such other relief for the benefit of the **RESPONDENT/APPELLANT** as it deems just.

WAIVER OF ORAL ARGUMENT

RESPONDENT/APPELLANT hereby waives personal appearance and oral argument on the review of this matter and rests upon the materials submitted by him in this matter which are incorporated herein by reference thereto.

Respectfully submitted

DATED: October 11, 1996

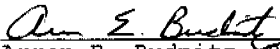


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CERTIFICATE OF SERVICE

The undersigned respectfully submits the foregoing and certifies on the date below that he did timely mail an original and seven copies of the attached **APPELLANT'S AMENDED REPLY BRIEF (FLAMPBR)** to the Office of The Clerk, The Supreme Court of Florida, 500 South Duval Street, Tallahassee, Florida 32399-1927, by Certified Mail: P-228-939-661 along with seven stamped #10 envelopes (submitted to facilitate distribution to relevant interested parties); 2. that he did mail an original of the attached **APPELLANT'S AMENDED REPLY BRIEF (FLAMPBR)** to The Honorable N. Sanders Sauls, Gadsden County Courthouse, 10 Jefferson Street, Quincy, Florida 32351, by Certified Mail: P-228-939-662; and 3. that he did mail two (2) copies (for appropriate distribution) to staff counsel at The Office of Bar Counsel, The Florida Bar, 650 Apalachee Parkway, Tallahassee Florida 32399-2300 (Attention: Attorney James N. Watson, Jr.) by Certified Mail: P-228-939-663 on the same date, and 4. that he is uncertain as to the identity of any other interested parties.

DATED: October 11, 1996



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