



December 31, 2009

Tom Griffin  
Actuarial Board for Counseling and Discipline  
1850 M Street, NW  
Suite 300  
Washington, DC 20036-5805

RE: General concern regarding ABCD processes with respect to complaints filed in matters involving the removal of Bruce Schobel as Academy President-Elect

Dear Mr. Griffin:

As you are well aware the circumstances surrounding the actions taken by Hartman et. al. directed at Bruce Schobel resulted in the ABCD receiving complaints from many sources. I, of course, filed complaints directed at Hartman and Anker. I know that Hartman and, perhaps, others filed complaints against Schobel. I know that Schobel filed complaints against Hartman and others. I have become aware of these matters in ways that did not violate any required confidentiality.

All of these complaints involved, in part, accusations made by Hartman, et. al. that Schobel **defamed** Sarah Sanford, former Executive Director of the SOA, and, therefore violated the Code. In addition, Hartman made claims that Schobel was a convicted felon.

I find it of interest that all of the disclosures of apparent, material violations of the Code made against Hartman et. al. have been dismissed and that all of the claims made against Schobel by Hartman continue to be investigated. This seems unreasonable based on my knowledge of these events, and I ask that the ABCD provide an explanation.

I have already expressed concern with the fact that disclosures I have made were dismissed as not being indicative of credible or probable violations of the Code. But, I find it absolutely incredible that the ABCD could have come to an exact opposite conclusion with respect to the disclosures made by Hartman. Note the following:

- Hartman disclosed that Schobel, in his opinion, defamed Sarah Sanford and, therefore, violated the Code because of what he read in the Award of Arbitration document which was part of the SOA – Sanford litigation.

In a 7/1/2009 letter John Parks, then President of the AAA, wrote on behalf of the AAA and with the obvious input from Mary Downs, as AAA General Counsel, this matter was addressed. It was stated that (emphasis in original):

**Arbitration Awards have no standing as judicial opinions, decisions, or precedents.**

To examine the truth of the findings of the arbitration, the Academy would have to substantively relitigate the Sarah Sanford termination. This is because, as a matter of law (we are told by our Counsel), that award **does not establish actionable facts and damages as to any one but a party to the binding arbitration**. There is no proper basis for further action by the Academy without that examination. Action without such an examination would be impetuous and unfair. Given the risk to the Academy of conducting such an investigation, it seems also inappropriate and unfair to ask the Academy to do so, and none of its business.

In other parts of this 7/1/09 Parks' letter other attacks on Schobel by Hartman were discredited.

It seems clear from this Academy opinion contributed to by AAA General Counsel (who also, I believe, provides legal services to the ABCD) that the ABCD would have absolutely no basis to proceed with an investigation as to whether or not Schobel's comments were defamation. They, clearly, were not.

- With respect to claims made by Hartman that Schobel was a convicted felon, the 7/1/09 Parks' letter provided the following legal comment (emphasis in original):

**Reference to a criminal conviction from 30+ years ago.** There are various reasons why we believe this isn't appropriate, fair, or relevant. Whatever did or did not happen at that time thirty years ago has been intentionally deleted, **by court order**, from criminal records in New Jersey, through a process called "expungement." As we have cautioned others as part of this process, **it is a criminal offence, a violation of the New Jersey Code of Criminal Justice (NJ Stat § 2C:52-30), to reveal the existence of an arrest, conviction or related legal proceeding with knowledge that those matters have been expunged**. Expungement is rarely available, and occurs only with good cause in the eyes of the court. It is a recognized judicial tool to provide relief. If we all choose to comply with the law, we think that is all that anyone must know.

This would seem to be a clear indication that Hartman, in persisting to make allegations of a felony conviction after he was in receipt of this 7/1/09 Park's letter, had violated the Code. Clearly, the text highlighted by Parks' letter indicates that by making such a claim in light of the expungement, AAA legal counsel believes Hartman committed a criminal offense.

It, therefore, seems incredible to me that my complaints which are substantiated, at least in part, by the AAA and ABCD General Counsel, Mary Downs, were dismissed, while complaints made by Hartman and others which were based on demonstrably false pretenses as confirmed by the AAA General Counsel have, so far, been sustained.

It would appear that the ABCD is acting unfairly and members or advisors to the ABCD may have conflicts that ought to have caused them to recuse themselves from participation in ABCD discussions and decision making on these matters.

So that I and other concerned members of the profession may better evaluate the ABCD's role in these disciplinary processes I ask that the ABCD provide its reasoning for making the decisions it has made in these matters.

I anticipate that you will respond for the ABCD that its deliberations are confidential and I would respect that policy if this matter involved only an individual member's possible misconduct with no possible substantial impact on the actuarial profession as a whole. However, I remind you that the matters I have discussed above are not now nor will they remain confidential and, in fact, they have already caused great disruption in the profession and substantial expense to the AAA.

Since this is a matter of great interest to and which may have a profound impact on the profession, I believe the ABCD ***must cooperate*** and explain to the members of the actuarial professional organizations, who rely on its disciplinary services, what they are thinking.

I look forward to a prompt reply from the ABCD.

Sincerely,

A handwritten signature in black ink that reads "Tom Bakos". The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

Tom bakos, FSA, MAAA