



**OPEN SESSION
AGENDA ITEM O-407
AUGUST 2022
COMMITTEE OF BAR EXAMINERS**

DATE: August 19, 2022

TO: Members, Committee of Bar Examiners

FROM: Natalie Leonard, Principal Program Analyst, Office of Admissions

Subject: Action on Inspection Related to Notice of Noncompliance—American Heritage University School of Law

EXECUTIVE SUMMARY

American Heritage University School of Law (American Heritage SOL) was inspected on July 21, 2022, related to the Notice of Noncompliance that the Committee issued to the law school in April 2022; the inspection report is set forth in Attachment A. Based on the findings from the inspection, taken together with the information provided by the law school, the Committee must determine whether the report is satisfactory or notify the law school that the Committee intends to pursue probation or withdrawal of registration pursuant to Rule 4.263.

BACKGROUND

American Heritage SOL is a for-profit registered, unaccredited distance-learning law school headquartered in Rancho Cucamonga, California. According to its 2021 Annual Report, the law school enrolled 11 students in its JD program as of September 15, 2021, down from 18 in the prior year. During a conference call on May 25, 2022, the law school indicated that it currently enrolls 20 law students. The law school's most recent pass rates on the First-Year Law Students' Examination were 0 percent in October 2020, 0 percent in June 2021, and 12 percent in October 2021. Its most recent cumulative five-year bar exam pass rate according to its 2021 disclosure is 12.5 percent. The law school has also experienced significant student attrition, with the fourth-year classes in 2020 and 2021 containing only one student each at the law school.

American Heritage SOL was initially inspected in December 2020. Despite significant additional time to prepare, the law school's self-study was materially incomplete. The law school was also given six months to produce follow-up documentation.

After considering the progress made after the inspection, the team's report still contained 29 recommendations necessary for the law school to demonstrate compliance. The Committee reviewed the report and issued a warning letter to the law school directing it to demonstrate compliance or take action to address these recommendations. (Rule 4.244(G)(4); [Item O-401, Committee of Bar Examiners' Meeting, Dec. 3, 2021](#)).

At its next meeting, the Committee reviewed the law school's response, found it unsatisfactory, and issued a Notice of Noncompliance. ([Item O-403, Committee of Bar Examiners' Meeting, Mar. 18, 2022](#)). The law school did not respond to the Notice of Noncompliance despite written notice and reminders from staff.

Staff requested a meeting to determine why the law school did not respond, which was held in May. The law school did not explain why it did not timely respond to the Committee's directive.

Approximately two months after its response was due, on the day that the Committee was scheduled to take action as to the law school's non-response, the law school filed an update and also attended the June Committee meeting to make public comment related to the Committee's consideration of next steps. Because the law school did not file a timely response and the late-filed response was not satisfactory, the Committee directed staff to schedule an inspection at which the law school would have a final opportunity to demonstrate compliance. ([Item O-407, Committee of Bar Examiners' Meeting, Jun. 17, 2022](#)).

That inspection took place on July 21, 2022, conducted by the team of Committee Member Dr. Don Wilcoxson and staff member Natalie Leonard. The team's report is set forth in Attachment A. The team found that the law school had not made further progress in addressing its compliance status.

Today, the Committee will review the report. "If the Committee believes that the inspection report demonstrates that the law school is not or is not likely to be in compliance with these rules, the Committee will notify the law school that it recommends probation or withdrawal of registration." (Rule 4.263).

The law school may request a hearing before the Committee within fifteen days of being sent a notice that the Committee is recommending probation or withdrawal of registration. (Rule 4.264).

Absent a request for a hearing or following review of the hearing record, if the Committee should agree with the team's findings, the Committee may impose termination of registration (Rule 4.266) or probation (Rule 4.267) at its next noticed meeting.

DISCUSSION

Since the Committee issued its list of 29 recommendations as part of the law school's inspection report, the law school has had several opportunities to respond. Staff has also responded promptly to the law school's questions, provided reminders, and proactively set a status meeting when the law school did not respond to a Notice of Noncompliance.

The law school consistently states that it is ready to take any action required to maintain compliance, but in most cases it has not yet done so. At least 17 of the inspection team's recommendations have not been addressed or have been insufficiently addressed.

Twenty-nine items were referred for correction in the original inspection report, largely connected to the areas identified above. As of this writing, at least 17 of the recommendations are unaddressed or minimally addressed based on the evidence provided. (Item O-401, [Attachment A Inspection Report items 1, 2, 6, 7, 11, 13-16, 18-20, 22, 23, 25, 26, 29](#), Committee of Bar Examiners; Meeting, Dec. 3, 2021).

The law school has responded to clerical recommendations that were part of the inspection report. Examples include correcting and updating its web disclosure, and clarifying portions of some administrative policies, such as the refund policy. These improvements have been acknowledged in prior Committee discussions.

Here, the law school quickly scheduled an inspection, which was held on July 21, 2022. The law school presented its position, the State Bar asked questions and then the law school provided a concluding statement. The law school confirmed that it had fully shared all information planned for the inspection.

During the inspection, the law school reinforced that it had completed several clerical recommendations contained in the inspection report, as noted above. Other comments did not directly address the recommendations. The law school generally discussed its focus on being available to students for questions, utilizing multiple-choice practice questions, and considering reorganizing its board, hiring an agency to replace its Chief Financial officer, and adding faculty development opportunities.

To ensure that the law school had the opportunity fully to explain its position and compliance status, the State Bar used its time during the inspection to ask questions related to the outstanding compliance issues noted in the inspection report. However, new details relevant to those areas were not provided.

In particular, taking all information into account, the law school has not reasonably addressed the following issues noted by the Committee:

- Ownership

Questions remain as to the ownership status of the law school in material ways. In 2017, the Committee approved the purchase of the law school by a single individual. To prepare for the purchase, the law school separated from the university. Eventually, the purchase was not completed, but the law school will not file the required major change documents to explain and receive Committee approval of its subsequent ownership plan. Instead, it continues to provide informal and conflicting reports as to the ownership and finances of the law school, sometimes identifying the law school as an independent entity and other times defining it as part of the University. On August 8, 2022, the law school finally provided a letter from its attorney discussing some aspects of the previously approved purchase. This letter identifies two original purchasers, but when the Committee approved the major change for the purchase in 2017, it approved only one of the two purchasers identified in the attorney's letter; the Committee explicitly rejected the other identified purchaser. It appears that the law school failed to follow the Committee's directive as to the originally approved purchase. In addition, the law school still has not filed the required motion for change of ownership describing the ownership timeline or finance plan. (Attachment B). The law school must be candid and forthright and file the required motions.

- Governance

The law school has been in the process of creating a governance board for some time but has not completed the project. Most recently, the law school indicated that it was relying upon the guidance of the university's board. The law school must be able to clearly define its governance along with its ownership.

- Finances

Regarding finances, questions remain as to the adequacy and accuracy of the law school's finances. The law school has had low enrollment for some time, and it seems unclear that the law school has the funds to provide the services it offers, particularly if it must return the significant sum paid to it as part of the failed purchase agreement.

The law school has not responded to the State Bar's many requests to provide complete budgets and projections. Though some information has been provided, it has been incomplete and has generated significant questions. After the law school's inspection, the State Bar asked many questions about the reports. After six months of study, the law school announced that its finances for the past three years were incorrect and asked the same financial professionals and auditor to correct them, without responding to the State Bar about why this was done. Subsequent questions have gone unanswered. Instead, the law school has continued to identify a financial professional, but then that professional leaves before providing responses. At the inspection, the law school advised that it will outsource all financial management to an external provider.

Each time the State Bar meets with the law school, it specifically directs the law school to bring a financial professional who can answer questions, and the Committee's inspection directive

required this as well. Unfortunately, the law school did not bring a financial representative to the meeting or file financial documents.

- Soundness of Educational Program

The law school is required to provide a sound educational program, but it is unclear that the law school can do so. Each year, after the first year, generally less than five students continue their studies and the most recent two 4L classes each had only one student. Pass rates for the First-Year Law Students' Exam and the bar exam are low and are not improving.

When asked about this the law school advised that their students are busy, and that the law school is adding more multiple-choice question practice and encouraging students to watch more taped lectures. The law school has not provided a comprehensive plan.

Recently, the law school began verifying the IP addresses of the computers used for exams but does not monitor or proctor the students. Verifying identity could help ensure that the law student's true progress is being demonstrated.

While the law school can address this issue in many ways, it has not provided a clear plan or evidence of improved outcomes.

- Compliance with Committee Directives

The law school has been challenged to follow Committee directives. For example, it launched an additional non-JD degree program without seeking Committee acquiescence or advising the Committee and continued to operate that program over State Bar objection for more than a year. In addition, the law school did not respond to the Committee's Notice of Noncompliance. Regarding the August 8, 2022, letter mentioned above, the law school noted that it was filed ten days before the [unspecified] meeting and was therefore timely, though no Committee directive required that letter, indicating that the law school may not be familiar with the rules, though the State Bar had a special meeting to discuss the law school's responsibilities in May and reinforced them again at the inspection. In addition, the law school has not yet paid its invoice related to the June 2022 Committee meeting. Finally, the law school has not responded to multiple requests to file a major change as to its ownership.

The inspection did not provide new information sufficient to persuade the team that the Committee should consider the law school's response satisfactory or establish the law school's compliance.

RECOMMENDATIONS

It is recommended that the Committee of Bar Examiners find that the law school is not or is not likely to be in compliance with the unaccredited law school rules and that it "notify the law school that it recommends probation or termination of registration." The law school must notify its students and prospective students of its status immediately and copy the State Bar on

the communications, must advise the public of the Notice of Noncompliance on its website, and advise the State Bar when the website has been updated.

As discussed above, the law school may request a hearing before the Committee within fifteen days of being sent a notice that the Committee is recommending probation or withdrawal of registration. (Rule 4.264). Absent a request for a hearing or following review of the hearing record, if the Committee should agree with the team's findings, the Committee may impose termination of registration (Rule 4.266) or probation (Rule 4.267) at its next noticed meeting.

PROPOSED MOTION

Should the Committee of Bar Examiners agree with the staff recommendation, the following motion should be made:

MOVE, that the Committee of Bar Examiners finds that American Heritage University School of Law is not or is not likely to be in compliance with the unaccredited law school rules and hereby notifies the law school that it recommends probation or withdrawal of registration. It must also notify its students and prospective students of its status immediately and copy the State Bar on the communications, and must advise the public of the Notice of Noncompliance on its website, and advise the State Bar when the website has been updated.

The law school may request a hearing before the Committee within fifteen days of being sent a notice that the Committee is recommending probation or withdrawal of registration. Absent a request for a hearing or following review of the hearing record, if the Committee should agree with the team's findings, the Committee may impose termination of registration or probation at its next noticed meeting.

ATTACHMENTS LIST

- A. Inspection Report Pursuant to Notice of Noncompliance – American Heritage University School of Law
- B. Letter received August 8, 2022 from American Heritage University School of Law



The State Bar of California

American Heritage School of Law Periodic Inspection

July 21, 2022

**REPORT ON THE INSPECTION OF
AMERICAN HERITAGE UNIVERSITY OF SOUTHERN CALIFORNIA SCHOOL OF LAW
PURSUANT TO NOTICE OF NONCOMPLIANCE
9227 Haven Avenue, Suite 210, Rancho Cucamonga, California 92704**

EXECUTIVE SUMMARY AND RECOMMENDATIONS

Introduction

A periodic inspection of the American Heritage School of Law (AHSL) was conducted via videoconference pursuant to Rule 4.262 of the Rules for Unaccredited Law Schools (Rules) on July 21, 2022 by Natalie Leonard, State Bar staff, and Dr Don Wilcoxson, member of the Committee of Bar Examiners (Committee). AHSL Dean Rosa Mosley and American Heritage University President Aitua Ogiamien attended on behalf of the law school.

Background

American Heritage University School of Law is a registered, unaccredited law school in the distance category, founded in 2006, and located in Rancho Cucamonga, California. Its headquarters is located in the same space as American Heritage University, also a distance education organization.

The law school was last inspected in December 2020. After reviewing the resulting periodic inspection report, the Committee issued a Notice of Noncompliance to the law school. While the law school did not respond within the timeframe required by the rules, the law school did provide a later response. The Committee deemed the response unsatisfactory and directed the scheduling of this inspection to offer the law school a final opportunity to discuss its compliance.

Conduct of Site Visit

AHSL received attended the Committee's discussion in which an inspection was ordered and received written confirmation of the order. Staff's invitation to schedule included a schedule, which was used to organize the one-hour meeting. As a courtesy, fifteen extra minutes were provided to the law school to allow it to fully complete its remarks.

After five minutes of introductions, the law school was provided with 30 minutes to discuss the topics of its choice. The State Bar continued with fifteen minutes of questions, then each side was provided with five minutes to conclude. The law school was provided with 15 extra minutes to fully conclude its remarks.

SPECIFIC FINDINGS AS TO THE COMMITTEE'S RULES AND GUIDELINES

Below are the team's consultant's observations.

President Ogamien advised that the law school would like to separate completely from the university and operate as a separate employer identification number, though he would remain President over both the law school and the remainder of the university.

The law school was reminded of its obligation to file a major change request as to ownership after the previously approved separation from the university and purchase by an outside entity was approved, explain any entity reunification that occurred, and request advance approval of any further entity change.

President Ogamien also advised that a governing board for the law school was forming, but did not identify its members, schedule, structure or purpose in response to staff questions. He noted that the law school was also assisted by the University's Board of Governors.

He also advised that the law school would like to outsource all financial functions to a contractor, Maurice White. The law school does not plan to have a Chief Financial Officer in the future. No individuals with financial expertise attended the meeting, and State Bar questions related to finance were not addressed.

The law school's long-time registrar will also be retiring and the law school was advised to inform the State Bar in accordance with the rules and guidelines when this occurs.

As to the educational course offered, the law school has taken a survey of students to better understand their needs and level of satisfaction. The survey results were not provided.

As to security during law school exams, the law school advised that the IP address of each test taker is verified, but no other verification is required.

The law school confirmed that it no longer enrolled students in its Executive JD program that was conducted without acquiescence from the Committee and that no degrees had been awarded in that program, though it continued to do so for a period of time after the inspection.

As for the law school's program, Dean Mosley advised of several aspects of the law school curriculum. She indicated that under her leadership, the curriculum includes more practice with multiple-choice questions. She encourages students to attend live lectures in order to foster discussion and use tapes only for reinforcement, but does not require this.

When asked if the law school was fulfilling its requirement to provide six hours of practical skills training, the law school advised that prior lectures were available on-demand to students, though they were not directed to particular videos. Students are sent reminders to review videos from the library, and that they have constant access to the dean for questions.

The law school will also be updating its legal research class to incorporate hard copy research methods in the future.

When asked about high attrition and modest bar pass rate at the law school, the President advised that he appreciated the faculty development process at Bristol University and wished to incorporate some of the key learnings from his study time there into the curriculum. Both the dean and the president indicated that students entering the program may have challenges in completing the program, and the law school seeks to strike a balance between allowing students to continue and dismissing those students that are unlikely to be able to complete the program.

The law school also indicated that it had updated its website to include current disclosures and the most current version of its documents and the note the recommendations it had addressed to date from the law school's inspection report. Consistent with standard practice, the law school's writings related to its compliance are forwarded to the Committee and considered.

The State Bar's team asked questions related to motions overdue to the Committee from the law school, ownership status over time, quality of the curriculum, adequacy of practical skills training, governance, and financial management. The law school's answers are incorporated above. The law school was not required to bring any documents to the inspection and did not do so.

CONCLUSION AND RECOMMENDATION

It is recommended that this Noncompliance Inspection Report be received and filed. The answers provided by the law school are summarized for consideration by the Committee.



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August 8, 2022

Committee of State Bar Accredited and Registered Schools

VIA EMAIL

Dear Committee:

I am writing this letter on behalf of American Heritage University School of Law (AHUSOL) with reference to the issue of whether or not AHUSOL is required to refund any payments made to it on the failed sale of the law school.

AHUSOL previously submitted a letter, dated June 16, 2022, from the Onwaeze Law Group explaining the contract and its validity; however, attorney Ogochukwun Victor Onwaeze did not address the issue of refunds to the buyer.

FACTS RELATING TO ANY REFUND

The buyers, Raymond C. Dabney, Robert Dabney, and Richard Dabney, hereinafter referred to as the DABNEYS, breached the contract by failing to complete the payment as specified in the contract. The contract was executed on November 29, 2016, with the payment for purchase of the law school due forthwith. Subsequent to the due date for payment, AHUSOL contacted the DABNEYS via letter, email, and telephone. The DABNEYS failed to respond to these communication attempts. As of August 2022, the DABNEYS have not completed payment on the contract as they agreed.

AHUSOL contends that the DABNEYS breached the covenant of good faith and fair dealing by tendering a down payment and then immediately, surreptitiously, and prematurely changing the ownership of AHUSOL with the California Secretary of State. The DABNEYS effectuated the change in ownership knowing that it had not completed the sale for the law school. Furthermore, the DABNEYS abandoned the ownership by allowing their registration with the Secretary of State to lapse. AHUSOL contends that the DABNEYS did not act in good faith as required by law.

The concept of good faith and fair dealing has been addressed by California courts as follows:

Committee of State Bar

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“There is an implied covenant of good faith and fair dealing in every contract that neither party will do anything which will injure the right of the other to receive the benefits of the agreement.” [Carma Development (Cal.), Inc v. Marathon Development California, Inc (1992) 2 Cal.4th 343]

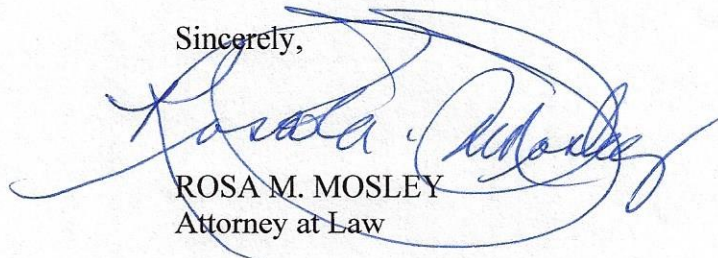
“The covenant of good faith and fair dealing implied by law in every contract exists merely to prevent one contracting party from unfairly frustrating the other party’s right to receive *the benefits of the agreement actually made*. [Guz v. Bechtel National, Inc. (2000) 24 Cal.4th 317]

Further CACI No. 325 states: “In every contract or agreement there is an implied promise of good faith and fair dealing. This implied promise means that each party will not do anything to unfairly interfere with the right of any other party to receive the benefits of the contract. Good faith means honesty of purpose without any intention to mislead or take unfair advantage of another. Generally speaking, it means being faithful to one’s duty or obligation. However, the implied promise of good faith and fair dealing cannot create obligations that are inconsistent with the terms of the contract.”

AHUSOL has suffered monetary damages as result of the DABNEYS’ breach of contract and their failure to act in good faith in dealing with AHUSOL from the outset. Thus, AHUSOL should not be required to refund anything to the DABNEYS. Moreover, this is not a matter to which the Committee should concern itself. If the DABNEYS wish to seek some kind of refund, they have the right to pursue such in a California court of law; to date they have not. The statute of limitations for such an action is governed by a four-year statute of limitations pursuant to CCP § 337. As discussed above, AHUSOL has a valid defense to any such action by the DABNEYS.

AHUSOL is requesting the Committee to withdraw its question regarding any refund in this contractual matter.

Sincerely,



ROSA M. MOSLEY
Attorney at Law