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22 September 2006

Steven K. Jacobson  
Chairman, Colorado Supreme Court Attorney Regulation Committee  
c/o COLLINS & RAFIK  
1881 9<sup>th</sup> Street, Suite 315  
Boulder, CO 80302

**RE: Office of Attorney Regulation Counsel**

Dear Mr. Jacobson:

I am in receipt of your memorandum dated September 9<sup>th</sup> 2006. Your memorandum informed me, among other things, that my “original complaints were dismissed by Regulation Counsel, pursuant to his discretionary authority and the Committee cannot address these dismissals.”<sup>1</sup> However, to the contrary, I have received **no response** to any of my complaint memoranda dated March 28<sup>th</sup> 2006, January 23<sup>rd</sup> 2006, December 8<sup>th</sup> 2005, July 20<sup>th</sup> 2005, July 27<sup>th</sup> 2005, August 9<sup>th</sup> 2005 or August 22<sup>nd</sup> 2005.

“The Supreme Court has specifically ruled that even informal attorney disciplinary matters presented to the states' highest courts are judicial proceedings.” *Clulow v. Oklahoma*, 700 F.2d 1291, 1298 (10th Cir. 1983); (citing *In re Summers*, 325 U.S. 561 (1945)). When due process does not obligate the State to establish an avenue of judicial redress (such as attorney regulation grievance process), once the State does so, “these avenues must be kept free of unreasoned distinctions that can only impede open and equal access to the courts.” *Rinaldi v. Yeager*, 384 U.S. 305, 310 (1966). *See also People v. Rivera-Bottzeck*, 2004 Colo. App. LEXIS 2415 (“Although the right to appeal is not constitutionally required, once the state affords an individual this right, the procedures afforded by the state must comport with due process.”) (citing *People v. Edwards*, 971 P.2d 1080 (Colo. App. 1998) (if there is a statutory right to a jury determination of habitual criminality, that determination should be made in accordance with traditional constitutional principles); *Dep't of Health v. Donahue*, 690 P.2d 243 (Colo. 1984) (where state promulgates more


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<sup>1</sup> My lawsuit in the U.S. District Court challenges the unreviewable quasi-judicial discretion about which you refer, which issue I will raise with the Tenth Circuit as that opportunity become available.

stringent standards than would be constitutionally required, deprivation of those standards violates due process).”

What this means to me, Mr. Jacobson, is that I am “entitled” to a well-reasoned and objective response on the issues that I have raised in those memoranda. If they are without merit or frivolous, then I am certain that Ms. Culberson-Smith, who appears to be the only one of the numerous regulation counsel who is “capable” of ~~intercepting~~ processing my complaint memoranda, can articulate whether and how the substance of my complaints is frivolous.<sup>2</sup>

Most respectfully,



Sean Harrington

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<sup>2</sup> For the sake of this discussion, “frivolous” or “meritless” may be defined either as an alleged infraction that has never been recognized by attorney disciplinary proceedings as a rule violation and/or an argument that is in no possible way “warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law.” *See Lego v. Schmidt*, 805 P.2d 1119, 1125 (Colo. App. 1990) (A claim is frivolous if the proponent can present no rational argument based on the evidence or the law in support thereof).