



July 20, 2009

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

RE: Two Complaints - attached

Dear ABCD:

Attached are complaints against members of the actuarial profession. These complaints refer to activity of these members while providing professional services to either the Society of Actuaries or the American Academy of Actuaries. In the course of providing these services these members produced **actuarial communications** which contained **actuarial findings**.

These terms are defined in ASOP 41 as follows:

Actuarial Communication—A written, electronic, or oral communication issued by an actuary with respect to actuarial services.

Actuarial Findings—The results of professional services provided to a principal by an individual acting in the capacity of an actuary (including commentary on another actuary's work). Such services include providing advice, conclusions, statements of actuarial opinion, other opinions, or recommendations, based upon actuarial considerations.

I believe these members have violated the Code as evidenced by the quality of their actuarial communications and their actuarial findings as outlined in my attached complaints. I have interpreted the duties and obligations of these members with respect to the Code by treating the professional body to which they belonged as their Principal.

I have become aware of information I relied on in making these complaints as a result of my duties as an SoA Board member. Some correspondence upon which I relied was provided to me by Bruce Schobel per my request. None of the information is confidential with the possible exception of references made regarding an expunged criminal record. This expungement information can reasonably be referred to in this complaint as it is already known, apparently, to the ABCD through the disclosures made by David Hartman.

Additional Concern – Request for Guidance

In addition to the complaints I have made and documented in the attached, I also wish to request **guidance** from the ABCD and alert you to another possible Code violation related to the these matters.

Please see the attached text of an email sent by David Hartman to Bruce Schobel on 6/25/2009 attached as an **Exhibit**. I seek your guidance and the guidance of Academy General Counsel on whether or not this email constitutes “blackmail”. If so, then a material Code violation would be apparent.

I have found the following definition of “blackmail” in Wikipedia (which, I agree, may not be an ideal source for a legal opinion which is why I seek guidance):

***Blackmail** is the crime of threatening to reveal substantially true information about a person to the public, a family member, or associates unless a demand made upon the victim is met. This information is usually of an embarrassing and/or socially damaging nature. As the information is substantially true, the act of revealing the information may not be criminal in its own right nor amount to a civil law defamation; the crime is making demands to withhold it. [<http://en.wikipedia.org/wiki/Blackmail>]*

In the 6/25/09 Hartman email to Bruce Schobel there are numerous direct indications that the as a quid pro quo for Hartman not revealing information he feels will be a “public embarrassment” for Bruce, if Bruce resigns, he will withhold disclosing that information to the Academy Board. This seems to meet the definition given above for “blackmail”.

See the following (highlighted in the email text provided):

We wanted to give you a chance to voluntarily step aside before we send it - hence this e-mail.

You have a choice. Hopefully, you will step aside while the disciplinary process moves to its conclusion. In this way, you can say you cooperated with the process. You can avoid the public embarrassment for you and the Academy that will result if the Board has to discuss preventing you from becoming President in October. It really is in your interest that you withdraw gracefully and quietly.

I ask for you to sleep on these questions, seek the counsel of others and search your soul deeply. I hope you will see your way clear to step aside for now. If you choose to do so, I assume that you will let John Parks and the whole Board know of your decision. If you choose not to step aside, please let me know by July 1. Our letter will then be forwarded to the Board.

The definition of “blackmail” relates to a threat to divulge information that is *substantially true*. As you will see in the attached complaint, I believe, the information Hartman is threatening to reveal if Bruce does not step down is *substantially false*. This would raise a question of whether

Hartman's and Anker's ultimately revealing of the information, as they did when the 7/9/09 email was sent to the Academy Board, amounts to civil defamation as suggested by the above definition.

I request that if your guidance suggests that Hartman's threat may be blackmail or Hartman's actions may be civil defamation, then the ABCD initiate an investigation to resolve those issues.

Thank-you for your consideration of these matters.

Sincerely;

A handwritten signature in black ink that reads "Tom Bakos". The signature is written in a cursive, flowing style.

Tom Bakos

Cc: Mary Downs

EXHIBIT

Text of 6/25/2009 email from David Hartman to Bruce Schobel

-----Original Message-----

From: Dave Hartman [<mailto:dghartman@comcast.net>]

Sent: Thu 6/25/2009 3:02 PM

To: Bruce Schobel

Cc: John P Parks; Bluhm, Bill; Lehmann, Steve; Mary Downs

Subject: Draft Letter to AAA Board

Dear Bruce,

I, and most of my fellow past presidents of the AAA, fear that the public trust that the American Academy of Actuaries has built up over the years since its founding in 1965 is at risk of being damaged. The source of the risk is the American Arbitration Association Award of Arbitrators (Award) document. Whether one agrees or disagrees with the finding, it exists. Please view the words in the Award from the perspective of someone in the public.

Please read the attached draft letter addressed to the members of the Board of Directors of the American Academy of Actuaries (AAA). So far, 19 past presidents of the AAA have indicated their willingness to sign this letter. There is still one other past president who has not indicated one way or another if he plans to sign it. Only two have indicated they do not wish to sign it and two more feel they can not sign it due to ABCD conflicts. That covers all 24 past presidents who are not currently on the AAA Board of Directors who have e-mail addresses.

Our interest in drafting this letter to the Board is to protect the reputation of the AAA - an objective I believe you share.

We wanted to give you a chance to voluntarily step aside before we send it - hence this e-mail. We reiterate - the Award exists. It is not a sealed document and more and more people will learn of its contents as time goes on - some in the profession and some outside the profession (the public). As you know, among the things it says are "nothing in the record proved the 'facts' expressed by Schobel were true." and that statements that "Schobel was a convicted felon were substantially true."

Please step back and look at how those statements about your conduct match up to the Academy's Vision Statement and everything else that the Academy stands for. It is hard to imagine that an average Academy member (or any outsider) will understand how the Board of Directors can ignore those statements. Any reasonable observer looking at those statements is likely to conclude that they raise serious questions about the appropriateness of your being in a leadership position in the Academy at this time.

You have a choice. Hopefully, you will step aside while the disciplinary process moves to its

conclusion. In this way, you can say you cooperated with the process. You can avoid the public embarrassment for you and the Academy that will result if the Board has to discuss preventing you from becoming President in October. It really is in your interest that you withdraw gracefully and quietly.

Or you can choose to fight that outcome against significant odds, causing a distraction from the ambitious and very important agenda that the Academy has charted for the coming year. Having you in office at a time when controversy surrounds your conduct could be highly disruptive to the Academy and would not serve the best interests of the members or the Academy as it pursues its very important mission.

I ask for you to sleep on these questions, seek the counsel of others and search your soul deeply. I hope you will see your way clear to step aside for now. If you choose to do so, I assume that you will let John Parks and the whole Board know of your decision. If you choose not to step aside, please let me know by July 1. Our letter will then be forwarded to the Board.

Thank you for your careful consideration.

Dave