

March 3, 2004

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Ms. Eleanor Mitchell Hunter, Executive Director
Florida Board of Bar Examiners
Administrative Board of the Supreme Court of Florida
1891 Eider Court
Tallahassee, FL 32399-1750

VIA FAX ONLY

Re: Applicant No. 87407

Dear Ms. Hunter:

I am writing in response to your February 20, 2004 correspondence in which you propose to redact portions of the investigative hearing transcript. For the reasons set forth below, I am unable to agree with that offer. I respectfully reiterate my request that I be provided any and all information that the investigative panel relied upon in reaching its conclusions.

I have never heard of a situation where one party offers to redact portions of the record in lieu of disclosing relevant information to the opposing side. This highly unusual procedure would, most assuredly, catch the attention of the Board panelists. Further, if the Board members were to see redacted portions of the transcript, I believe that it would create suspicion in the minds of the panelists and work to the prosecution's advantage.

Additionally, I have significant concerns over the Board's policy of allowing some Board members to sit on investigative panels, while other members of the same Board sit in judgment at the Board's formal hearing. Naturally, members of any board have an affinity with their own brethren. I believe that to have members of the Board appear as investigators and witnesses (through the transcript), and have other members of the same Board sit in judgment, creates an intolerable risk of unfairness under the circumstances. See, e.g., Rogers v. Texas Optometry Board, 609 S.W.2d 248 (Tex. Civ. App. Dallas 1980).

The Supreme Court's pronouncements in Willner v. Committee on Character & Fitness, 373 U.S. 96; 83 S. Ct. 1175; 10 L. Ed. 2d 224 (1963) are clear. As far back as the investigative hearing, I was entitled to inspect the exact evidence the panelists considered in reaching their conclusions. I was not afforded this right. I respectfully reiterate my request to inspect the file. Thank you for your attention to this matter.

Sincerely,

Frank J. Lawrence, Jr.