

# COMMITTEE OF BAR EXAMINERS OPEN SESSION AGENDA ITEM

**AGENDA ITEM NUMBER:** December 2016 – O-402

**DATE:** November 22, 2016

**TO:** Subcommittee on Educational Standards

**FROM:** George C. Leal, Director for Educational Standards

**SUBJECT:** **University of Silicon Valley School of Law -  
Withdrawal of Registration**

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## BACKGROUND

The University of Silicon Valley School of Law (USVSOL) is a registered, unaccredited fixed-facility law school located in Fremont, California. It is owned by Sherry Ross and operates as her sole proprietorship; she also acts as the law school's Dean, administrator and registrar. Ms. Ross earned a Juris Doctor degree from a California-Accredited law school, Lincoln Law School of San Jose, but she is not an attorney.

The law school was founded by Dean Ross in 2004. At that time, it was given its degree-granting by the former Bureau of Private Postsecondary and Vocation Education (BPPVE) and was registered by the Committee of Bar Examiners (Committee). With the change in California law that affected all unaccredited law schools, direct regulatory oversight of USVSOL was transferred to the Committee in 2008. As such, USVSOL became subject to each of the registration requirements found in the *Unaccredited Law School Rules* (Rules) and the *Guidelines for Unaccredited Law School Rules* (Rules).

Central to the Committee's ability to oversee and regulate any unaccredited law school under its jurisdiction is each law school's continuing obligation to "demonstrate its on-going compliance with *Unaccredited Law School Rules* . . ." Guideline 1.2. Key to being found compliant with the Rules and Guidelines is a law school's willingness to be inspected by the Committee. As required by Rule 4.244(A), "a registered law school must be inspected every five years . . . to assess compliance with these rules."

Given this express requirement, and despite the repeated efforts by staff to inspect USVSOL, it has never been formally inspected on behalf of the Committee. Beginning in 2012, staff contacted Dean Ross with several requests to schedule a formal, periodic inspection of USVSOL before the end of that year. At that time, Dean Ross informed staff that she was suffering from a serious health condition that would prevent her from preparing for and then participating in an inspection for several months. As a result, staff and Dean Ross agreed to postpone the inspection until mid-2013.

In June of 2013, staff made an informal visit to the law school to confer with Dean Ross in an effort to assist her efforts to prepare for a formal inspection. During that visit, while the school was then open and appeared to be operating, Dean Ross confirmed that her health had become significantly worse and that she had decided not to enroll any new or existing students for the upcoming academic year. In light of that fact, it was agreed that a periodic inspection would be postponed for the foreseeable future.

USVSOL's 2013 Annual Compliance Report confirmed that it then had no students. It also confirmed each of USVSOL's students (all six) withdrew that year since none had timely passed the First-Year Law Students' Examination. Over the next two years, through the end of 2015, staff and Dean Ross communicated occasionally to discuss whether her health had improved sufficiently to allow an inspection to take place. She continued to confirm, however, that it had not and that school would remain closed.

In late 2015, Dean Ross was finally able to confirm that she was almost fully recovered and that an inspection during the spring or summer of 2016 was possible. Given that development, emails were exchanged in an effort to confirm a date for the inspection. Dates in February and April were discussed and agreed upon but, based upon a variety of personal or family-related issues, each was cancelled by Dean Ross. Due to the continuing delay and that the school had, by then, been closed for over two and a half years, it was suggested to Dean Ross that she voluntarily agree to terminate the registration of USVSOL. She refused to consider any such request and, instead, inquired about transforming the law school into an online, correspondence law school, or whether the law school could be merged with or sold to another law school that was operating.

Finally, after additional email correspondence, the date of June 22, 2016 was confirmed by Dean Ross as the date for the inspection. However, as she had previously, just before the date agreed to, Dean Ross contacted staff by email to cancel the inspection, again citing both her health and her concern that an inspection would find the school to be noncompliant and its registration subject to termination. In response, staff cancelled the inspection with the admonition that a recommendation would be made to the Committee to terminate USVSOL's registration.

Based upon the history discussed above, the Committee decided during its October 2016 meeting to issue a formal Notice of Noncompliance to USVSOL. Attachment A is the Notice of Noncompliance (NNC), along with correspondence, that was sent to Dean Ross at the address of record.

## **DISCUSSION**

The Committee's NNC was sent to Dean Ross on October 21<sup>st</sup> in both a hardcopy and electronic version. It was mailed to the law school's current mailing address in Fremont by means of a letter sent by certified mail, return receipt requested, and delivered by the United States Postal Service. It was also sent to Dean Ross the same day, via email with a PDF attachment. As confirmed by Attachment B, notice of the hardcopy letter

was delivered by the U.S.P.S. to the law school on October 25<sup>th</sup> with Dean Ross later signing for and acknowledging her receipt of the letter on November 15<sup>th</sup>.

To date, no response has been received from Dean Ross seeking to contest any of the compliance issues described in the NNC. As required by Rule 4.261, within “fifteen days of receiving a Notice of Noncompliance, a law school must file a response demonstrating that it is in compliance or is taking steps to achieve compliance.” As then provided by Rule 4.262(B), if “the Committee deems the response unsatisfactory, it must schedule an inspection within thirty days.” Assuming any such inspection is ordered and takes place and a report is submitted to the Committee, pursuant to Rule 4.63, 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.”

As described above, given that staff’s long-standing efforts to conduct a periodic inspection of USVSOL have been wholly unsuccessful due to the lack of cooperation by Dean Ross, it appears reasonable to believe that any new effort to conduct an inspection would meet with a similar result. The failure and refusal of Dean Ross to respond to the NNC in any manner whatsoever appears to support this conclusion.

## **RECOMMENDATION**

It is recommended that the Committee waive the inspection requirements of Rule 4.262(B) and Rule 4.263 since no response from USVSOL was received by the deadline, and, the school be advised that it may contest the Committee’s action to withdraw the registration of USVSOL, by requesting a hearing before the Committee within fifteen days of being sent a notice that the Committee intends to withdraw the school’s registration.

## **PROPOSED MOTION**

If the Subcommittee agrees with this recommendation, the following motion is recommended:

Move that, following the failure of the University of Silicon Valley School of Law to submit a response to the Notice of Noncompliance dated October 15, 2016, the inspection requirements of Rule 4.262(B) and Rule 4.263 of the *Unaccredited Law School Rules* be waived; that the law school be advised that the Committee intends to withdraw the school’s registration; that, as provided by Rule 4.264, the law school may submit a request for a hearing before the Committee within fifteen days of being sent a notice that the Committee is recommending withdrawal of the school’s registration.