

Bar Lobbyist Draws Wrath of Sections Over Job Priorities

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SACRAMENTO — Festering dissatisfaction among heads of several specialty sections in the State Bar of California over the Bar's slow delivery of information on pending legislation has prompted the Bar to hire a private bill-monitoring service to handle work previously assigned to the agency's Sacramento office.

Directed since last May by Mark Harris, former chief of staff to Assembly Judiciary Committee Chairman Elihu Harris, D-Oakland, the Bar's legislative staff is spending most of its time pressing for substantial dues hikes to finance the Bar's lawyer discipline program.

As a result, Bar administrators say, little time is left to provide long-established services to the 16 sections of

the Bar on legislation affecting specialized areas of law.

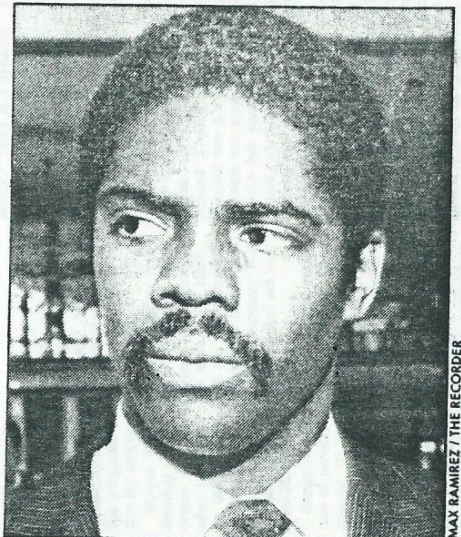
For more than a week, The Recorder repeatedly attempted to reach Harris, director of the Bar's Office of Governmental Affairs, for comment, but he has not returned phone calls.

"Returning phone calls is not a strong point of that office," said a lawyer who is active in a major Bar section executive committee.

"It is quite evident that the Sacramento office of the State Bar is overworked and understaffed," Colin Wied, a vice president of the Bar's Board of Governors, wrote on March 21 to Teresa Quinn, a Los Angeles attorney with Lillick, McHose & Charles.

Wied chairs the Bar's business law section executive committee. Quinn had complained that her section was receiving

SEE HARRIS PAGE 5



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MARK HARRIS: Accused of shirking his duties to Bar sections.

Harris Incurs Anger of Bar Section Heads

CONTINUED FROM PAGE 1
no bill information.

"We pay for those services," Quinn said in an interview, noting that \$6 of the annual \$25 voluntary section dues in the 7,525-member business law section goes to the Bar through an interfund transfer to help finance support services for the sections.

The Bar — which says it spends far more on section administration than is recouped in the interfund dues transfer — plans to apply a flat 25 percent of the section dues for administration next year.

"We're [the business law section] fighting that, because we're just not getting the services," Quinn said.

Voluntary dues for membership in the sections range from \$20 to \$35 annually — over and above mandatory dues — and are used to help finance the various activities of the sections, including continuing education, publications and legislative review.

Quinn said the business law section, the largest of the Bar's 16 sections, two years ago contracted with a private service to follow legislation of concern to business lawyers. "We were very unhappy with the Sacramento office and its ability to get us bills in a timely and accurate manner," she said.

She said the section contracted with Robert P. Oglesby, a non-lawyer Sacramento-based lobbyist with Orrick, Herrington & Sutcliffe, and renewed his contract this year.

"That was probably the easiest vote we took this year, to renew his contract," Quinn said.

Initially, she said, the section was served by Oglesby and the Bar's Sacramento office.

"But when Harris cut us off, it put more pressure on Oglesby not to be wrong," she said.

She said her section has received nothing from Harris in 1988. "Before, [bill information] came daily," she said. "We were unhappy that Harris had made that decision without talking to us," Quinn added. "We felt we were paying for these services through the interfund mechanism but not getting the services."

She said it was "always our intent for Rob to work with the State Bar," but Quinn said the section decision to contract with a private firm for bill-monitoring "evidently made Mark Harris so angry that he cut us off from all bills, and he didn't tell us that's what he was doing."

Wied, who chairs the Board of Governors' Administration and Finance Committee, wrote Quinn that understaffing in the legislative office was causing the work of the sections and the conference of delegates to be given minimal attention.

"That must change," Wied concluded. "I will set about trying to marshal legislative resources for the sections and the Conference of Delegates immediately."

Wied, a partner in the San Diego firm of Wied & Smelko, met with Harris in Sacramento on March 24, and last week the Bar contracted with Oglesby to provide bill-monitoring services to all of the sections on a trial basis.

Oglesby said he would identify and monitor pertinent bills for the sections — a task complicated by the fact that the 1988 legislative session is already more than three months old. A registered lobbyist, he will not represent the Bar.

Other than to confirm his contract with the Bar, Oglesby would not comment further.

Paulette Eaneman-Taylor, the Bar's deputy executive director, said Harris came to Bar Executive Director Herbert Rosenthal several weeks ago to advise him that legislative services to the sections were suffering because of the enormous energy needed to lobby the dues bills and other Bar-sponsored legislation.

"Mark came to Herb and told him we were really not getting the bills out in a timely way to the sections," Eaneman-Taylor said. "We tried to handle it here in San Francisco, which is logistically difficult. The most workable [solution] seemed to be to go with Orrick, Herrington. We see it at this time as a short-term solution. We're looking at longer-term solutions."

She said Harris received complaints

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— Teresa Quinn, business law section member

"from a couple of section executive committee chairs" about not getting information on bills.

"He was very responsive," she said. "He knew he had a growing problem."

"For bill-tracking to be effective, it has to be done every day," Eaneman-Taylor added. "You need somebody to do the routinized function, someone knowledgeable who does specifically that."

Harris reportedly began his tenure with the Bar's Sacramento office by almost immediately clashing with the former acting director of the office, Judith Harper. She had been the Bar's legislative representative in Sacramento since 1984 and ran the office for six months after the departure of Terrance Flanigan, who is now chief deputy appointments secretary for Gov. George Deukmejian in Sacramento.

Harper, a longtime legislative lawyer before she came to work for the Bar, is now with the Sacramento law firm of Kronick, Moskovitz, Tiedemann & Girard, in its legislative department, and is also president of the Sacramento County Bar Association.

Several sources knowledgeable about the Harper-Harris transition, who asked not to be identified, say Harper was forced out by Harris and was badly treated by him after he arrived to head the Bar's legislative office — despite the fact that she supported his appointment.

Harper will not comment on her relationship with Harris, and Rosenthal denies any mistreatment of Harper or other employees who worked for Harris on the small staff of the Governmental Affairs Office, which lost — in addition to Harper — a legislative secretary and the office manager, who resigned not long after Harris took over.

Harper will comment on Harris' cessation of services to the sections and committees: "I have heard from many volunteers that I worked with that Harris is doing little or nothing for the sections," she said.

Others who worked with Harris confirm that view. "He indicated to me that the sections and committees were not needed and that the sections, committees and the conference of delegates would be phased out," said one source who worked with Harris. "He felt he had the power to do whatever he wanted. He made us believe that he had the power to do anything."

That and other sources knowledgeable about the controversy said Harris' close political connections with Assembly Judiciary Committee Chairman Elihu Harris, D-Oakland — whose committee plays a crucial role in Bar legislation, including the fee bills — made Mark Harris "untouchable."

Rosenthal vehemently denied those allegations and said "no Bar staff member, including me, is 'untouchable.'"

The legislative office includes only one other full-time advocate, legislative representative Abelardo Antonio "Tony" Nevarez. In previous years, the advocacy staff numbered three.

"There are fewer resources and more demand," Eaneman-Taylor said.

"It's a terrible way to do business," Wied said in an interview. "And it's not

just the resources of the Sacramento office [that are being concentrated on the dues bills], but it also consumes the productive hours [of many other Bar administrators]. Hopefully, we'll establish a more stable relationship with the Legislature."

Serving the sections and the committees is a critical function, Wied noted, but it is also a nightmare for the lobbyist because of conflicting views of the same bills.

"Frequently the Bar will literally find itself opposing itself," he said. "If not carefully monitored, we tend to look foolish. It is somewhat bedeviling to the lobbyist."

Wied said Harris is frustrated with a job that has grown more difficult in recent years, given the continuing legislative attack on Bar discipline programs and its management and accounting practices.

"Everybody is acting in good faith," Wied said. "Mark is trying to serve the whole world, and there is a limit to what you can expect an individual to do."

He insisted there is no dissatisfaction among Bar administrators with Harris' ability. "Mark is a dynamo," Wied said. "He is an invaluable asset to the Bar."

Eaneman-Taylor agreed. "He is very competent, collegial and delightful to work with."

Wied said the private bill-monitoring and distribution system may cost the Bar less in the long run.

"Out of this I think will come a much more cost-effective system," he said.

The service this session will cost around \$7,000, although Wied emphasized that is a preliminary figure. The business law section paid \$5,000 for the service last year, and the real property section, which has utilized another private service for several years, paid about \$7,000 annually.

Some sections have very little legislative activity, while others, such as real property, review numerous bills and may utilize private services to track bills. The taxation section receives bill information from the monthly Cal-Tax Survey, which lists bills affecting tax law, according to Bar administrators. The legal services section receives all its bills from the Legal Services Office of the Bar.

"We haven't had and don't expect to have a problem," said John Lamb, staff counsel for the State Department of Consumer Affairs in Sacramento and legislative liaison for the legal services section. "We've been spared because we get our bills from a different source."

LeAnne Maillian, a Beverly Hills solo practitioner who chairs the Bar's Council of Section Chairs, said the major concern of several section heads centered on "the problems we've had with the tracking on our bills."

Bonnie Vail, director of sections and committees for the Bar in San Francisco, said the sections currently have 41,000 members, up from 28,000 last year. Membership ranges from a low of 435 in the antitrust section to 2,866 in family law, 5,041 in litigation, 5,333 in real property and 7,525 in business law.

Litigation members pay the top annual dues of \$35, she said, with the bulk at \$30 or \$25 and a few at \$20. She estimates that 1,500 are non-lawyer associate members

Vail said a recent Peat-Marwick-Main & Co. audit estimated that the Bar spends \$789,000 to operate the sections. But Vail said that, based on the 25-percent interfund transfer of section dues, the sections theoretically would receive only \$287,000 in interfund dues transfers based on current membership figures.

The section heads counter that the voluntary legal work of many section members more than compensates for that difference — a fact the Council of Section Chairs said Peat-Marwick failed to take into account. The council concluded that the free legal services of section attorneys amounted to about \$1 million annually.

Staff for the sections at the Bar in San Francisco includes Vail, four section administrators and four secretaries.

Susan Cooper Philpot of San Francisco's Cooley, Godward, Castro, Huddleston & Tatum, legislative liaison for the business law section, said Harris' view of the controversy is that, since the section had hired a private service, the Bar's services would be duplicative. The section's view was somewhat different, she said: "We thought we had hired a backup."

Philpot said she talked to Harris last month about the cessation of services to the business law section. "He wasn't angry," she said. "He acted like it was no big deal. He saw it as an inconsequential matter, and the business law section did not."

She said delays in sending new legislation to the section heads can be disastrous. "In order to be effective in the Legislature, you have to get your comments in early in the legislative process," she said.

Because section analysis of bills is voluntary, the process must be initiated quickly. The number of bills concerning business law, she said, is great, necessitating review by specialized subsections.

Lynne Yates-Carter, a San Jose family law specialist who is vice chairwoman of the family law section, complained that by February, it became apparent "we were in deep trouble."

"The problems we were experiencing weren't necessarily attributable to the legislative office," she added. "There is a traditional, historical problem of the lag time between introduction of bills and the Bar getting them out to us. . . . Once the problem was discovered, the Bar was helpful in getting bills to us."

But now is the time when bills are heard before key committees and decisions to kill or pass measures are often made.

Edward A. Weiner of Pillsbury, Madison & Sutro in San Francisco, chairman of the real property law section executive committee said his section isn't troubled because it uses a private bill-tracking service.

"When we want to take a position, we do go back to the State Bar," he added. "We're not unhappy with the support we have obtained [from the Bar]. The Board of Governors has appropriately put the time on the dues bill."

And, he noted, "there is a problem with voluntary sections who act through their executive committees. The sections do represent certain special interests, and there should be some limitations on the sections taking positions on behalf of the State Bar."

James C. Hagedorn of Wohl, Cinnamon & Hagedorn in Sacramento, chairman of the litigation section executive committee, figures this is an unusual section.

"One of the problems in the past is that we got too much," Hagedorn said. "An inherent problem with a voluntary organization is time. We're all voluntary attorneys, and we don't have much time. We used to get any bill remotely related to the section."

"I would have 100 bills, and I don't have time to read them all. You need more than somebody to just send us the bills. You need somebody who is looking at a bill to determine whether it's going anywhere."

"I'm not as up in arms yet as some [other section heads]," Hagedorn said. "But I have asked, 'Hey, what's going on?'"