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October 22, 1986

The Honorable William A. Holohan
Chief Justice
Judicial Nominating Commission
Arizona Supreme Court
201 South-West Wing
Capitol Building
Phoenix, Arizona 85007

Re: I86-103 (R86-126)

Dear Mr. Chief Justice:

You have asked for our opinion on the following questions:

1. In light of the Arizona Senate's failure to confirm two nominations to the Commission on Appellate Court Appointments, who should serve on the commission, the nominees who have not yet been confirmed or the persons whose membership terms expired January 20, 1986?

2. If the nominees may serve, is any additional formal action required other than the governor's original appointments?

Ariz. Const. art. VI, § 36(A) provides that the members of the Commission on Appellate Court Appointments shall be appointed by the Governor "with the advice and consent of the Senate in the manner prescribed by law." The applicable statute is A.R.S. § 38-211(B) which provides in pertinent part:

If the senate takes no formal action on the nomination during such legislative session the

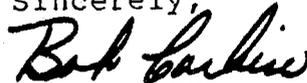
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governor may after the close of such legislative session appoint the nominee to serve subject to confirmation during the next legislative session. In no event shall a nominee serve longer than one year after nomination without senate confirmation.

We are informed that on May 20, 1986, after close of the legislative session, the Governor appointed the two nominated persons to limited terms on the Commission. Because the Governor has appointed the nominees to limited terms under this provision, they may serve on the Commission.

In answer to your second question, because the Governor already has formally made the limited appointments, nothing further must be done.

Sincerely,



BOB CORBIN

Attorney General:

BC:PAS:gm