

**BOARD ON THE UNAUTHORIZED PRACTICE OF LAW
OF
THE SUPREME COURT OF OHIO**

COLUMBUS BAR ASSOCIATION,

Relator,

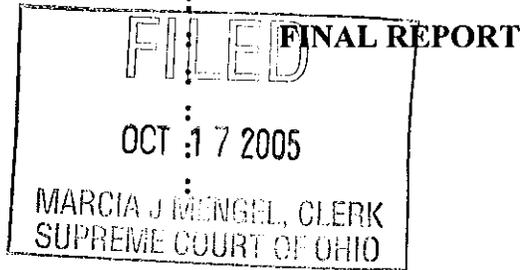
v.

WILLIAM THOMAS,

Respondent.

05-1980

CASE NO. UPL 05-01



I. PROCEDURAL BACKGROUND

This matter came before the Board on the Unauthorized Practice of Law ("Board") on Relator's Complaint filed February 14, 2005. Though Respondent William Thomas signed for and received copies of the Complaint sent to him by certified mail by both Respondent and the Board, no Answer was filed.

On March 9, 2005 pursuant to the provisions of Section 7(A)(1) of Rule VII of the Supreme Court Rules for the Government of the Bar, this matter was assigned to the Panel of Frank R. DeSantis, Chair, Judge Michael J. Corrigan, and Kenneth A. Kraus.

On April 11, 2005, Relator filed a Motion for Default. No response to the Motion was ever filed by Respondent. On May 6, 2005, the Panel granted the Relator's Motion for Default, but remanded the matter to Relator to address the applicability of Gov. Bar R. VII, §8(B) regarding penalties to this matter. The Relator filed a Supplemental Motion for Default on May 20, 2005.

In its Complaint, Relator alleged that Respondent Thomas, though not an attorney-at-law, engaged in the unauthorized practice of law by preparing and filing pleadings with the court, preparing legal documents, and giving legal advice. In its Motion for Default, Relator provided evidence to establish a *prima facie* case for occurrences of the unauthorized practice of law alleged in the Complaint, and further satisfied the requirements of Gov. Bar VII, §7(B) for a motion for default.

Included in the Relator's Motion for Default, were the affidavits of individuals on whose behalf Respondent provided certain legal services, as well as the transcripts of depositions of the Respondent wherein he admits to conduct which supports the claims against him of the unauthorized practice of law.

Additionally, included in the Motion for Default is a copy of the "Agreement of Respondent and Relator Regarding Discipline By Consent" filed with the Board of Commissioners on Grievances and Discipline of the Supreme Court of Ohio, Case No. 04-045, wherein Attorney James E.L. Watson ("Watson") conceded that he aided Respondent William Thomas in the unauthorized practice of law in that he instructed Respondent Thomas to prepare legal documents, but did not review or sign them before they were filed with the court and did not properly supervise Respondent Thomas in allowing him to send correspondence to a client which contained legal advice. In the related case, the Supreme Court ultimately found, *inter alia*, that attorney James E.L. Watson had committed a violation of DR 3-101(A). See *Columbus Bar Assn. v. Watson* (2005), 106 Ohio St.3d 298, 2005-Ohio-4983.

II. FINDINGS OF FACT

1. Relator, Columbus Bar Association, is duly authorized to investigate activities which may constitute the unauthorized practice of law within the State of Ohio. (Gov. Bar R. VII, §§ 4 and 5).

2. Respondent, William Thomas, is not licensed to practice in Ohio. (Exhibit 10, Relator's Motion for Default, Certificate of Richard Dove, Director of Attorney Services, The Supreme Court of Ohio).

3. Respondent, William Thomas, is a paralegal who has been employed by Watson, a lawyer duly registered to practice law in the State of Ohio for many years. In May 2002, as a result of a health problem, Watson was unable to tend to the affairs of his law practice. During Watson's absence from his practice, he directed Respondent to prepare and file an Answer and Counterclaim and a Motion for Restraining Order on behalf of a domestic relations client by the name of Richard Zahner. Respondent prepared the documents as instructed by Watson, signed Watson's name, and without review by or authority of Watson, filed the pleadings with the court. The Motion for Restraining Order prepared by Respondent included a supporting affidavit purportedly submitted by Richard Zahner. There is disputed testimony with respect to whether or not Zahner signed the affidavit, but Respondent, without Watson's knowledge or authorization to do so, improperly notarized the affidavit and signed Watson's name as notary. Respondent subsequently drafted a letter to Mr. Zahner explaining the legal process and giving legal advice relative to the domestic relations matter. The letter was sent to Zahner under Watson's name, but was signed by Respondent without the knowledge or authority of Watson to do so.

4. Respondent subsequently prepared and filed Objections to the Magistrate's Order in the Zahner matter and signed Watson's name to the document without authority to do so and without Watson having reviewed the document before it was filed.

5. In 1997, Respondent Thomas undertook to assist a relative, Inez Faulkes, in preparing her Last Will & Testament. Respondent improperly signed the Last Will & Testament as a witness outside of the presence of the testator, without having witnessed the testator's signing of the document.

6. Following Ms. Faulkes' death, Respondent caused legal documents to be prepared (including an Application for Authority to Administer Estate; Application to Probate Will; Fiduciary's Bond; and Entry Admitting Will to Probate) to probate the Will. Said documents were prepared and signed by Respondent in the name of Watson, without any authority from Watson to do so. Watson did not review the documents before they were submitted to Court. The Probate Court of Summit County returned the documents as deficient because Respondent failed to submit a \$200 filing fee.

7. Respondent subsequently sent letters to the next of kin providing legal advice about their right to contest the Last Will and Testament of Inez Faulkes. The letters bear the forged signature of Watson, and misrepresent that the Will had been admitted to probate and that Watson represented the Estate of Inez Faulkes. Watson did not review these letters before they were sent.

8. Subsequently, Respondent prepared and sent a letter to Judge William J. Spicer, Judge of the Probate Court of Summit County, Ohio, requesting that Watson be appointed Administrator of the Estate of Inez Faulkes. The letter bore the forged

signature of Watson without authority from Watson and Watson did not review the letter prior to it being sent.

9. Respondent prepared and sent another letter providing legal advice to Patricia Hillimion relative to her role as Administrator of the Estate of Inez Faulkes. The letter was sent under the forged signature of Watson without authority by Watson to do so. Watson did not review the letter before it was sent.

III. CONCLUSIONS OF LAW

1. The Supreme Court of Ohio has original jurisdiction regarding admission to the practice of law, the discipline of persons so admitted, and to all other matters relating to the practice of law. Section 2(B)(1)(g), Article IV, Ohio Constitution; *Royal Indemnity Company v. J.C. Penney Company* (1986), 27 Ohio St. 3d 31, 501 N.E.2d 617; *Judd v. City Trust & Saving Bank* (1937), 133 Ohio St. 81, 10 O.O. 95, 12 N.E.2d 288.

2. The unauthorized practice of law consists of rendering legal advice for another by a person not admitted to practice in Ohio. (Gov. Bar R. VII, §2(A)).

3. The Supreme Court has consistently held that the practice of law is not limited to appearances in court, but also includes giving legal advice and counsel in the preparation of legal instruments and contracts by which legal rights are preserved. *Land Title Abstract & Trust Company v. Dworkin* (1934), 129 Ohio St. 23, 1 O.O. 313, 193 N.E. 650.

4. The providing of advice and counsel in preparation of estate planning documents such as wills, trusts and powers of attorney, constitute the unauthorized practice of law. *Akron Bar Association v. Miller* (1997), 80 Ohio St. 3d 6, 684 N.E. 2d 288; and *Trumbull County Bar Ass'n. v. Hanna* (1997), 80 Ohio St. 3d 58, 684 N.E. 2d 329.

5. The Respondent engaged in the unauthorized practice of law by preparing and filing pleadings with the court, rendering legal advice and preparing estate planning documents.

IV. PANEL RECOMMENDATIONS

1. The Panel recommends that the Supreme Court of Ohio issue an Order finding that Respondent has engaged in the unauthorized practice of law.

2. The Panel further recommends that the Supreme Court of Ohio issue a further Order prohibiting Respondent from engaging in the unauthorized practice in the future.

3. The Panel has also considered the appropriateness of the imposition of civil penalties pursuant to Gov. Bar Rule VII, §8(B). As found by the Panel, Respondent prepared and filed pleadings, rendered legal advice and prepared estate planning documents for clients who were unaware that the pleadings, documents and legal advice were not being prepared or provided by an attorney. Gov. Bar Rule VII, §8(B)(3).

Respondent forged the name of an attorney on the legal documents and correspondence that he prepared. While Respondent may have believed that he had the

ostensible authority by Watson to take the actions which were taken, he had no such authority and his actions were detrimental to the clients. (The Last Will & Testament prepared by Respondent was determined to be defective in that it was witnessed outside the presence of the testator.) Gov. Bar Rule VII, §8(B)(4).

Respondent did not cooperate in these proceedings (failed to answer or otherwise defend, failed to respond to Relator's Motion for Default and Supplemental Motion for Default) and offered to the Panel no information in mitigation of his conduct. Gov. Bar Rule VII, §8(B)(1).

The Panel finds that the conduct of Respondent in engaging in the unauthorized practice of law warrants the imposition of civil penalties and recommends a civil penalty in the amount of Five Thousand Dollars (\$5,000.00) with respect to Respondent's representation of Zahner and Five Thousand Dollars (\$5,000.00) with respect to his representation of Inez Faulkes, for a total civil penalty of Ten Thousand Dollars (\$10,000.00). (*See, Toledo Bar Association v. Chelsea Title Agency of Dayton, Inc.* (2003), 100 Ohio St. 3d 356, 2003-Ohio-6453.)

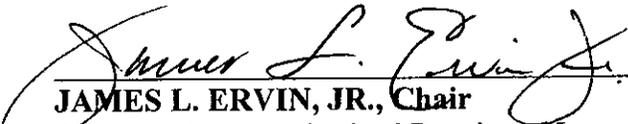
V. BOARD RECOMMENDATIONS

Pursuant to Gov. Bar R. VII, §7(F) the Board on the Unauthorized Practice of Law of the Supreme Court of Ohio considered this matter on September 28, 2005. The Board adopted the findings, conclusions of law, and recommendations of the Panel. Specifically, and as provided herein, the Board adopts the Panel's recommendation that the Court issue an Order that the Respondent has engaged in the unauthorized practice of law; that the Court issue an Order enjoining the Respondent from engaging in the

unauthorized practice of law in the future; and that the Court impose a civil penalty of \$10,000 (Ten Thousand Dollars and 00/100) against the Respondent. The Board further recommends that the costs of these proceedings incurred by the Board and the Relator be taxed to the Respondent in any Order entered, so that execution may issue.

STATEMENT OF COSTS

Attached as Exhibit A is a statement of costs and expenses incurred to date by the Board and Relator in this matter.


JAMES L. ERVIN, JR., Chair
Board on the Unauthorized Practice of Law

**BOARD ON THE UNAUTHORIZED PRACTICE OF LAW
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Exhibit "A"

STATEMENT OF COSTS

Columbus Bar Association v. William Thomas,
Case No. UPL 05-01

| | |
|---|-----------------|
| Reimbursement to the Columbus Bar Association | \$683.65 |
| TOTAL | \$683.65 |

CERTIFICATE OF SERVICE

This is to certify that a copy of the foregoing Final Report was served by certified mail upon the following this 17th day of OCTOBER, 2005: Columbus Bar Association, 175 South Third Street, Suite 1100, Columbus, OH 43215; Mary Jo Cusack, Esq., 5655 N. High Street, Suite 200, Worthington, OH 43085; Jill Snitcher McQuain, Esq., Columbus Bar Association, 175 South Third Street, Suite 1100, Columbus, OH 43215-5134; William Thomas, 1111 Parsons Avenue, Columbus, OH 43206; William Thomas, 1091 South Washington Ave., Columbus, OH 43205; Office of Disciplinary Counsel, 250 Civic Center Drive, Ste. 325, Columbus, OH 43215; Ohio State Bar Association, Unauthorized Practice of Law Committee, 1700 Lake Shore Drive, Columbus, OH 43204.


D. Allan Asbury, Secretary of the Board