

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

STARK COUNTY BAR ASS'N,
Relator,

vs.

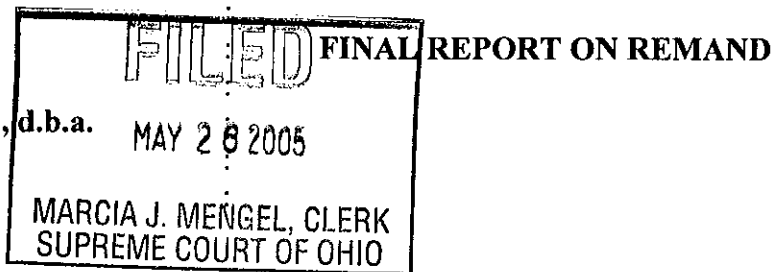
**DONALD BENNAFIELD, d.b.a.,
BENNAFIELD ENTERPRISES, INC.**

and

**DONALD BENNAFIELD, d.b.a.
THE PROFESSIONALS,**
Respondents.

Sup. Ct. Case No. 04-2169

Case No. UPL 02-08



This matter came on for formal hearing before the Board of Commissioners on the Unauthorized Practice of Law ("Board") on September 24, 2003. Members of the Board present and participating in this decision were Ralph Dill, Chairman, Gerald Draper, Eric Kearney, and Steven Nourse. Relator, Stark County Bar Association, ("Relator") was represented by Robert C. Meyer and Respondent, Donald Bennafield ("Bennafield") appeared *pro se*.

The Relator's Complaint, filed October 7, 2002, alleged that Respondents, Donald Bennafield, d.b.a. Bennafield Enterprises, Inc. and Donald Bennafield, d.b.a. The Professionals, engaged in the unauthorized practice of law for a fee by advising and counseling residents of Ohio with respect to Ohio law governing divorces, modifications of custody and property transfers, and the law of the United States governing bankruptcies. Relator also alleged that Respondents provided legal counseling services and prepared legal briefs.

On October 24, 2002, Bennafield filed a motion to dismiss complaint, counter complaint, motion for injunctive relief with memorandum brief in support, and money damages. On

November 4, 2002, Relator filed a reply in which it denied every allegation raised by Bennafield in the "counter complaint" and asserted that the Board had no jurisdiction to entertain the allegations raised by Bennafield. Relator further noted that in paragraph 24 of Bennafield's motion to dismiss, Bennafield admitted that he has practiced law and presently was practicing law in Stark County, Ohio. On November 5, 2002, Bennafield filed an answer to Relator's reply. On December 20, 2002, the Board issued an order in which it overruled Bennafield's motion to dismiss and granted Relator's motion to strike counter claim.

On December 30, 2004, the Board issued its Final Report to the Supreme Court. On February 25, 2005, the Supreme Court remanded the case to the Board, "to supplement the reasons stated for its recommendation."

FINDINGS OF FACT

1. Relator is duly authorized to investigate activities which may constitute the unauthorized practice of law within the State of Ohio. Gov.Bar R. VII, Section 4.
2. Donald Bennafield is not licensed to practice in Ohio. (Attorney Services Certificate dated January 15, 2003.)
3. Bennafield prepared and filed in Stark County Common Pleas Court a complaint on behalf of another person. (Transcript pp. 19-21.) See *Adult Parole Authority, et al, State of Ohio v. Stephanie P. Mayle*, Case No. 2003CR0220, Relator's Hearing Exhibit 1. The complaint was signed by "Don Bennafield, (President) (dba) Bennafield Enterprises, Inc., Cobra Missing Children Network."

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 all other matters relating to the practice

of law. Section 2(B)(1)(g), Article IV, Ohio Constitution; *Royal Indemnity Co. v. J.C. Penney Co.* (1986), 27 Ohio St. 3d 31, 501 N.E.2d 617; *Judd v. City Trust & Savings 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 services for another by any person not admitted to practice in Ohio. Gov.Bar R. VII, Section 2(A).
3. The practice of law is not limited to the conduct of cases in court. It embraces the preparation of pleadings and other papers incident to lawsuits and the management of such proceedings on behalf of clients. *Land Title Abstract & Trust Co. v. Dworken* (1934), 129 Ohio St. 23, 1 O.O. 313, 193 N.E. 650.
4. Bennafield engaged in the unauthorized practice of law by preparing legal papers on behalf of another person relative to the pleading filed in Stark County Common Pleas Court, Case No. 2003CR0220.

CIVIL PENALTY ISSUES

Effective June 16, 2003, Gov.Bar R. VII was amended to permit the imposition of civil penalties on persons found to have engaged in the unauthorized practice of law. The hearing on this matter was held on September 24, 2003. At that time, Gov.Bar R. VII, Section 8(D) provided:

(D) The Board may recommend and the Court may impose civil penalties in an amount up to ten thousand dollars per offense. Any such penalty shall be based on the following factors:

- (1) the degree of cooperation, in the investigation, provided by the respondent;

(2) the number of occasions that unauthorized practice of law was committed;

(3) the flagrancy of the violation;

(4) damages to third parties arising from the offense;

(5) any other relevant factors.

The parties did not develop a record of the factors set forth in Gov.Bar R. VII, Section 8(D) with competent, admissible evidence. The record does suggest that Respondent may have been engaging in conduct similar to the conduct under review for several years. The record does not however suggest that Respondent received substantial financial benefit from his conduct. It would therefore appear that the most appropriate remedy in this action would be the imposition of an injunction without a civil penalty.

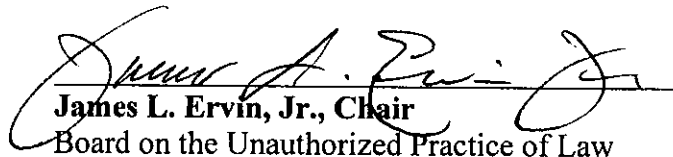
RECOMMENDATIONS

The Board recommends that the Supreme Court of Ohio issue an Order finding that Bennafield has engaged in the unauthorized practice of law.

The Board further recommends that the Supreme Court of Ohio issue a further Order prohibiting Bennafield from engaging in the unauthorized practice of law in the future.

STATEMENT OF COSTS

Attached as Exhibit A is a statement of costs incurred by Relator and the Board.


James L. Ervin, Jr., Chair
Board on the Unauthorized Practice of Law

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Exhibit "A"

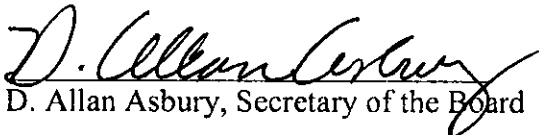
STATEMENT OF COSTS

*Stark County Bar Association, Relator v. Donald Bennafield, d.b.a. Bennafield
Enterprises, Inc., and Donald Bennafield, d.b.a. The Professionals,
Case No. UPL 02-08*

Armstrong & Okey, Inc., 9/24/03 Hearing and Transcript	\$326.25
Eric Kearney, Commissioner Expenses -9/24/03 Hearing	151.20
TOTAL	\$477.45

CERTIFICATE OF SERVICE

This is to certify that a copy of the foregoing Final Report was served by certified mail upon the following this 26th day of MAY, 2005: Stark County Bar Association, Suite 400, Courtyard Square, 116 Cleveland Avenue, N. Canton, OH 44702; Robert C. Meyer, Esq., Buckingham Doolittle & Burroughs, 4518 Fulton Drive, NW, Canton, OH 44718; George Urban, Esq., 300 Bank One Tower, 101 Central Plaza South, Canton, OH 44702; Donald Bennafield, d.b.a Bennafield Enterprises, Inc., 511 Webster Avenue, NE, Canton, OH 44704-2053; Donald Bennafield, d.b.a. The Professionals, P.O. Box 7280, Station A, Canton OH 44705-0280; 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