

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

**DISCIPLINARY COUNSEL,**  
Relator,

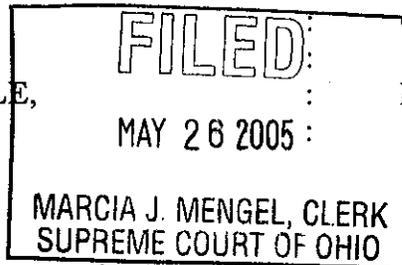
Sup. Ct. Case No. 04-2108

vs.

Case No. UPL 03-09

**AJAMU M. KAFELE,**  
Respondent.

**FINAL REPORT ON REMAND**



This matter came on for formal hearing before the Board of Commissioners on the Unauthorized Practice of Law (“Board”) on July 21, 2004. Members of the Board present and participating in this decision were Ralph Dill, Chairman, and John Polito, James Ervin, James Young and Frank R. DeSantis. Disciplinary counsel was represented by Carol A. Costa and Lori J. Brown and Respondent appeared pro se.

The Relator’s Complaint filed October 6, 2003, alleged that Respondent, Ajamu M. Kafele, though not an attorney at law, engaged in the unauthorized practice of law by filing pleadings on behalf of a corporation in a lawsuit proceeding in the Franklin County Court of Common Pleas, captioned *Bankers Trust of California v. Pamela Lewis, et al.*, Franklin County Court of Common Pleas, Case No. 01 CVE 11 11151 (“*Bankers Trust* matter”).

In his Answer, filed on November 12, 2003, Respondent alleges that he could “neither admit nor deny any matter of the complaint because he lacks sufficient knowledge or information to assert a formal answer and/or defense.”

At the hearing, the Board heard testimony of Jeffrey Kalniz, an attorney who represented Bankers Trust in a foreclosure action against Pamela Lewis. Another defendant in that action was Divine Endeavors LLC., on whose behalf Relator’s argue, Respondent filed pleadings.

Though called to testify as on cross-examination, after identifying himself as Ajamu M. Kafele, and providing his current address, Respondent refused to answer any questions and asserted his Fifth Amendment privilege against self-incrimination.

The Board's findings of fact, conclusions of law, and recommendation were filed with the Supreme Court on December 22, 2004. In Case No. 04-2108, on March 28, 2005, the Supreme Court remanded the cause and ordered the Board to supplement the reasons for its recommendation. The Board has supplemented its recommendation after additional consideration.

### **FINDINGS OF FACT**

1. Relator, Disciplinary Counsel, is duly authorized to investigate activities which may constitute the unauthorized practice of law within the State of Ohio. (Gov. Bar R. VII, Section 5(A)).
2. Respondent, Ajamu M. Kafele, is not licensed to practice in Ohio. (Exhibit 1 - Certificate of Richard Dove).
3. Respondent, Ajamu M. Kafele, filed two pleadings on behalf of Divine Endeavors, LLC in the Court of Common Pleas for Franklin County in the *Bankers Trust* matter, a "Motion for Leave to File an Answer" and a "Conditional Acceptance" (filed as an Answer). (Exhibit 3 and Exhibit 4).

Respondent argued that Relator failed to prove that he was the Ajamu M. Kafele described in the aforementioned pleadings and/or failed to prove that he filed or authorized those pleadings to be filed in the Franklin County Court of Common Pleas. The Board has concluded that these arguments do not have merit for the following reasons:

First, Jeffrey Kalniz testified that he was familiar with and recognized Respondent from other cases in which Respondent filed pleadings or appeared in court proceedings.<sup>1</sup> Further, Kalniz testified that the pleadings filed in the *Bankers Trust* matter, though unusual (“Conditional Acceptance” as an Answer to a Complaint), were consistent with pleadings filed by Respondent in other cases.

Second, Respondent identified himself and provided his current address when called to testify as on cross-examination. The address given under oath is the same address as one of the addresses used by the Ajamu M. Kafele filing pleadings in the *Bankers Trust* matter. (Exhibit 11). Additionally, the address used by the Board of Commissioners to provide notice to Respondent of the Complaint filed against him and of the hearing held on July 21, 2004, to both of which he responded, was the same as one of the addresses used by the Ajamu M. Kafele filing pleadings in the *Bankers Trust* matter. (Exhibit 6).

Finally, in civil proceedings, a court is permitted to draw inferences from a witness’s refusal to testify on Fifth Amendment grounds. *Baxter v. Palmigiano*, 425 U.S. 308, 96 S. Ct. 1551 (1976). An inference should not be drawn from an invocation of the Fifth Amendment privilege unless other independent evidence demonstrates that the inference is reasonable. *See State Farm Life Ins. Co. v. Gutterman*, 896 F.2d 1116, 119 (5th Cir. 1990).

In this case, as noted above, there is more than sufficient evidence to establish that Respondent was the Ajamu M. Kafele described in the pleadings filed in the *Bankers Trust* matter, and that he caused the pleadings to be filed. Consequently, it is reasonable for this Board

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<sup>1</sup> Although not included in the Complaint, and therefore not before this Board, evidence was adduced at this hearing which would indicate that Respondent engaged in the unauthorized practice of law in other instances. *See, Bank of New York v. Lisa Barclay* (10th. App. Dist., 2004), 2004 Ohio 1217; 2004 Ohio App. LEXIS 1073. The (“The Court further cautions Mr. Kafele that continued participation in this appeal or companion cases under these circumstances, *i.e.*, where he lacks either status as a pro se appellant or as a licensed attorney, places him at further examination of his conduct to determine whether it constitutes the unauthorized practice of law.”)

to infer from the Respondent's invocation of the Fifth Amendment that he filed these pleadings on behalf of the corporate Defendant in that case.

### CONCLUSIONS OF LAW

1. The Supreme Court of Ohio has original jurisdiction regarding admission to practice 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. Penny 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 advice for another by any person not admitted to practice in Ohio. (Gov. Bar R. VII, Section 2(A)).

3. A corporation can only maintain litigation or appear in court through an attorney licensed to practice law. *Union Savings Association v. Home Owners Aid, Inc.* (1970), 23 Ohio St.2d 60, 262 N.E.2d 558.

4. 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 the lawsuit and the management of such proceedings on behalf of clients. *Land Title Abstract & Trust Co. v. Dworkin* (1934), 129 Ohio St. 23, 1 O.O. 313, 193 N.E. 650.

5. Respondent engaged in the unauthorized practice of law by preparing legal papers on behalf of a corporation as indicated in the preparation and filing of the "Motion for Leave of Court to File an Answer" and the "Conditional Acceptance" (filed as an Answer).

### RECOMMENDATIONS

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

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

Although the Relator made no recommendation as to the application of the civil penalty in this case, the Board has concluded that a civil penalty is warranted.

The Respondent prepared and filed pleadings on behalf of another with a Court in this state. While not before the Board in this case, as noted above, Respondent has been publicly warned in another case that conduct as is involved in the *Bankers Trust* matter, constituted the unauthorized practice of law.

Respondent apparently ignored that warning in undertaking his conduct in the *Bankers Trust* matter. Accordingly, the Board finds that a civil penalty is warranted and recommends a civil penalty in the amount of Ten Thousand Dollars (\$10,000.00) pursuant to Gov. Bar R. VII, Section 19(D)(1)(c). See *Toledo Bar Assoc. v. Chelsea Title Agency of Dayton, Inc.* (2003), 100 Ohio St. 3d 356, (2003-Ohio-6453).

#### **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**

*Disciplinary Counsel v. Ajamu M. Kafele*  
Case No. UPL 03-09

Armstrong & Okey, Inc., 7/21/04 Hearing and Transcript	\$527.00
Frank DeSantis, Commissioner Expenses -7/21/04 Hearing	59.75
John Polito, Commissioner Expenses -7/21/04 Hearing	58.50
James E. Young, Commissioner Expenses -7/21/04 Hearing	144.50
Service of Subpoenas	23.61
<b>TOTAL</b>	<b>\$813.36</b>

## CERTIFICATE OF SERVICE

This is to certify that a copy of the foregoing Final Report was served by certified mail upon the following this 26<sup>th</sup> day of MAY, 2005: Office of Disciplinary Counsel, 250 Civic Center Drive, Ste. 325, Columbus, OH 43215; Jonathan E. Coughlan, Esq. Disciplinary Counsel, Office of Disciplinary Counsel, 250 Civic Center Drive, Ste. 325, Columbus, OH 43215; Stacy Solocheck Beckman, Esq., Assistant Disciplinary Counsel, Office of Disciplinary Counsel, 250 Civic Center Drive, Ste. 325, Columbus, OH 43215; Carol A. Costa, Esq., Assistant Disciplinary Counsel, Office of Disciplinary Counsel, 250 Civic Center Drive, Ste. 325, Columbus, OH 43215; Ajamu M. Kafele, 947 E. Johnstown Rd., #142, Gahanna, OH 43230, Ohio State Bar Association, Unauthorized Practice of Law Committee, 1700 Lake Shore Drive, Columbus, OH 43204; Columbus Bar Association, 175 South Third Street, Columbus, OH 43215.

  
D. Allan Asbury, Secretary of the Board