

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

MIAMI COUNTY BAR ASS'N,

Relator,

v.

WYANDT & SILVERS, INC.,

and

ROLAND A. WYANDT,

and

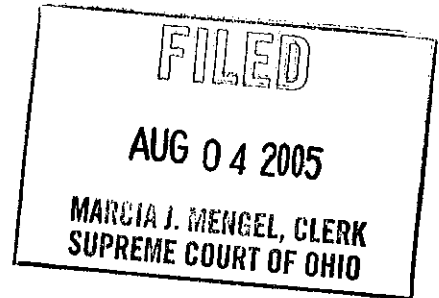
KATHERINE J. SILVERS,

Respondents.

Sup. Ct. Case No. 04-2176

Case No.: UPL 04-02

FINAL REPORT ON REMAND



This matter came before the Board on the Unauthorized Practice of the Law of the Supreme Court of Ohio ("the Board") upon the Complaint filed by the Miami County Bar Association ("Relator") on February 11, 2004, against Wyandt & Silvers, Inc., Roland A. Wyandt, and Katherine J. Silvers (hereinafter individually referred to as "Respondent Wyandt & Silvers, Inc.," "Respondent Wyandt," and "Respondent Silvers" and collectively "Respondents"). Relator's Complaint alleges that Respondents had engaged in the unauthorized practice of the law through rendering legal services, giving legal advice and preparing legal documents for the formation of corporations in the State of Ohio. Respondents were duly served with a copy of the Complaint. Respondent Wyandt responded to the Complaint with a letter dated March 1, 2004, which was mailed to the local law

librarian in Miami County; however, Respondents did not file a response to the Complaint with the Board. Respondents were duly served with Notice of Hearing on April 14, 2004.

On April 16, 2004, Relator filed a Motion for Issuance of Subpoenas *Duces Tecum*. The Board granted Relator's Motion by way of Order dated May 10, 2004. On October 18, 2004, Relator filed a second Motion for Issuance of Subpoenas *Duces Tecum*. The Board granted Relator's Motion by way of Order dated October 26, 2004.

On November 17, 2004, the Board held a hearing on the merits of Relator's Complaint. Respondent Silvers appeared *pro se*. Respondent Wyandt did not appear. Commissioners present during the hearing were Ralph E. Dill, Frank R. DeSantis, John A. Polito, James E. Young and James L. Ervin, Jr.

On or about November 30, 2004, the Board issued its final report to the Supreme Court of Ohio and recommended to the Supreme Court of Ohio that Respondent Roland A. Wyandt had engaged in the unauthorized practice of the law, and that an order be issued by the Supreme Court of Ohio enjoining and restraining Respondents Wyandt & Silvers, Inc. and Roland A. Wyandt from engaging in the unauthorized practice of the law, and that a monetary civil penalty be levied only against Respondent Roland A. Wyandt in the total amount of \$20,000.00. The Board further recommended that an order be issued providing for the reimbursement of costs and expenses by the Board and Relator.

On February 25, 2005, the Supreme Court of Ohio issued an Order remanding the within matter back to the Board for additional review and instructions to supplement its reasoning in regard to its original recommendation.

FINDINGS OF FACT

1. Relator, Miami County Bar Association, is duly authorized to investigate activities and initiate complaints to prevent the unauthorized practice of the law within the State of Ohio. (*See* Gov. Bar R. VII, §§ 4,5).
2. Respondent Wyandt has not been admitted to the practice of law in the State of Ohio. (*See* Hearing Exhibit 10).
3. Respondent Silvers has not been admitted to the practice of law in the State of Ohio. (*See* Hearing Exhibit 9).
4. Respondent Wyandt & Silvers, Inc. is an Ohio corporation for profit created in 1999 with its offices located at 528 North Main Street, Piqua, OH 45356. (*See* Relator's Compl., ¶2; *See* Hearing Transcript, pg. 13, lines 5-7; pg. 17, lines 10-23).
5. Respondent Wyandt and Respondent Silvers are the two principal shareholders of Respondent Wyandt & Silvers, Inc. (*See* Hearing Transcript, pg. 17, lines 10-22; pg. 24, lines 18-23).
6. Respondent Wyandt did render legal services, give legal advice, and prepare legal documents for the formation of corporations in the State of Ohio, including but not limited to, advising clients in the selection of particular corporate entities as permitted under the Ohio Revised Code, and in the advantages and disadvantages of forming one corporate entity over another corporate entity. (*See* Relator's Compl., ¶¶6,7; *See* Hearing Transcript).
7. Respondent Wyandt did render legal services, give legal advice, and prepare legal documents for the formation of a corporate entity, B.A.D. Trucking, Inc., in the State of Ohio, while not admitted to the practice of law in the State of Ohio, and while a principal shareholder of Wyandt &

Silvers, Inc. (*See* Hearing Transcript, pgs. 34-46; *See* Hearing Exhibit 3).

8. Respondent Wyandt did render legal services, give legal advice, and prepare legal documents for the formation of a corporate entity, UR Square, Inc., in the State of Ohio, while not admitted to the practice of law in the State of Ohio, and while a principal shareholder of Wyandt & Silvers, Inc. (*See* Hearing Transcript, pgs. 50-58; *See* Hearing Exhibit 4).

9. Respondent Wyandt did render legal services, give legal advice, and prepare legal documents for the formation of a corporate entity, Vulchers Row, Inc., in the State of Ohio, while not admitted to the practice of law in the State of Ohio, and while a principal shareholder of Wyandt & Silvers, Inc. (*See* Hearing Transcript, pgs. 64-71; *See* Hearing Exhibit 5).

10. Respondent Wyandt did render legal services, give legal advice, and prepare legal documents for the formation of a corporate entity, Multi Clean, Inc., in the State of Ohio, while not admitted to the practice of law in the State of Ohio, and while a principal shareholder of Wyandt & Silvers, Inc. (*See* Hearing Transcript, pgs. 75-79; pg. 85, lines 12-20; pg. 87, lines 6-12; pg. 88, lines 10-11 and 15-21; pgs. 89-90; *See* Hearing Exhibit 2; *See* Hearing Exhibit 6, *also see* Affidavit in Support of Hearing Exhibit, filed November 22, 2004).

11. Respondent Wyandt did render legal services, give legal advice, and prepare legal documents for the formation of a corporate entity, Finishing Touches, ETC, Inc., in the State of Ohio, while not admitted to the practice of law in the State of Ohio, and while a principal shareholder of Wyandt & Silvers, Inc. (*See* Exhibit 7, Depo Transcript of Peggy Kerenstew, pgs. 10-11, lines 24-2; pg. 13, lines 16-25; pg. 14, lines 13-18; pg. 15, lines 1-3; pg. 19, lines 7-13; pg. 22, lines 11-21; pg. 27, lines 2-24; pg. 32).

12. Respondent Silvers did not engage in the unauthorized practice of the law. (*See* Hearing

Transcript, pgs. 19-20, lines 9-4; pg. 21, lines 1-3; pgs. 22-23, lines 15- 3).

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 the rendering of legal services for another by any person not admitted to practice in Ohio. (*See* Gov. Bar R. VII, § 2(A)).
3. A corporation cannot lawfully engage in the practice of the law, and it cannot lawfully engage in the practice of the law through its officers who are not licensed to practice law. Cincinnati Bar Assn. v. Clapp & Associates Financial Services, Inc. (2002), 94 Ohio St. 3d 509, 2002 Ohio 1485, 764 N.E.2d 1003; Disciplinary Counsel v. Lawlor (2001), 92 Ohio St. 3d 406, 750 N.E. 2d 1150; Union Savings Assn. v. Home Owners Aid, Inc. (1970), 23 Ohio St. 2d 60, 52 Ohio Op. 2d 329, 262 N.E. 2d 558.
4. The drafting of documents by a layperson on another's behalf and which create a business entity is the unauthorized practice of law. Columbus Bar Assn. v. Verne (2003), 99 Ohio St.3d 50, 2003 Ohio 2463, 788 N.E.2d 1064.
5. The Board finds that based upon the Relator's Complaint, and the evidence presented at the hearing, Respondent Roland A. Wyandt has engaged in the unauthorized practice of the law.
6. The Board does not find that based upon the evidence presented that Respondent Katherine J. Silvers engaged in the unauthorized practice of the law. The Board hereby dismisses the Relator's

Complaint only as to those claims made against Respondent Katherine J. Silvers. (*See* Gov. Bar R. VII, § 8(A)).

RECOMMENDATIONS

1. The standard for the imposition of civil penalties is set forth in Gov. Bar R. VII, §8(B), which states, in pertinent part, that:

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

- (1) The degree of cooperation provided by the respondent in the investigation;
- (2) The number of occasions that unauthorized practice of law was committed;
- (3) The flagrancy of the violation;
- (4) Harm to third parties arising from the offense;
- (5) Any other relevant factors.

(Gov. Bar R. VII, §8(B)).

2. In analyzing the factors contained in Gov. Bar. R. VII, §8(B), there was no degree of cooperation provided by Respondent Roland A. Wyandt; Respondent Wyandt did not appear at the hearing before the Board. (*See* Gov. Bar R. VII, §8(B)(1); *See also* Hearing Transcript).

3. There were at least five separate instances of Respondent Roland A. Wyandt, and the entity Respondent Wyandt & Silvers, Inc., engaging in the unauthorized practice of the law. (*See* Gov. Bar R. VII, §8(B)(2)).

4. Respondents Roland A. Wyandt and Wyandt & Silvers, Inc. engaged in the unauthorized practice of the law as early as 1995, and had been sanctioned and/or disciplined by the Miami County

Court of Common Pleas, and continued to engage in such action through the filing of the instant action by the Miami County Bar Association. (*See* Gov. Bar R. VII, §8(B)(3); *See* Hearing Transcript, pg. 10-11).

5 .The actions of Respondents Wyandt & Silvers, Inc. and Roland A. Wyandt in rendering legal services, giving legal advice, and preparing legal documents for the formation of corporations in the State of Ohio, including but not limited to, advising clients in the selection of particular corporate entities as permitted under the Ohio Revised Code, and in the advantages and disadvantages of forming one corporate entity over another corporate entity, for B.A.D. Trucking, Inc., UR Square, Inc., Vulchers Row, Inc., Multi Clean, Inc., and Finishing Touches, ETC, Inc., in the State of Ohio, did cause harm to the legal rights of these entities. (*See* Gov. Bar R. VII, §8(B)(4); *See also* Hearing Transcript).

Based on the foregoing discussion, the Board recommends that the Supreme Court of Ohio issue an order that assesses a monetary civil penalty against Respondent Roland A. Wyandt in the total amount of \$20,000.00 (\$4,000.00 per offense).

The Board recommends that the Supreme Court of Ohio issue an order that finds that Respondent Roland A. Wyandt has engaged in the unauthorized practice of the law.

The Board recommends that the Supreme Court of Ohio issue an order that enjoins and restrains Respondents Wyandt & Silvers, Inc. and Roland A. Wyandt from engaging in the unauthorized practice of the law.

The Board recommends that the Supreme Court of Ohio issue an order providing for the reimbursement of costs and expenses by the Board and Relator.

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 the Law

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

Exhibit "A"

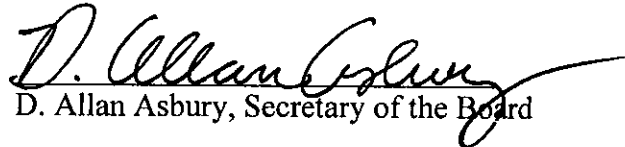
STATEMENT OF COSTS

Miami County Bar Association v. Wyandt & Silvers, Inc., et. al.
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Armstrong & Okey, Inc., 11/17/04 Hearing and Transcript	\$473.75
Frank DeSantis, Commissioner Expenses -11/17/04 Hearing	120.00
John Polito, Commissioner Expenses -11/17/04 Hearing	117.00
James E. Young, Commissioner Expenses -11/17/04 Hearing	276.10
Reimbursement to the Miami County Bar Association	1,256.49
 TOTAL	 \$2,243.34

CERTIFICATE OF SERVICE

This is to certify that a copy of the foregoing Final Report was served by certified mail upon the following this 4th day of August, 2005: Miami County Bar Association, c/o Miami County Law Library, Safety Building, 201 West Main Street, Troy, Ohio 45373; Bryan K. Stewart, Esq., Dysinger Stewart & Downing, LPA, 249 South Garber Drive, Tipp City, OH 45371; James Bennett, Esq., Miami County Prosecutor's Office, Safety Building, 201 West Main Street, Troy, OH 45373; John M. Cotner, Esq., 22 North Short Street, Troy, OH 45373; Katherine J. Silvers, Statutory Agent for Wyandt & Silvers, Inc., 528 North Main Street, Piqua, OH 45356; Wyandt & Silvers, Inc., 523 North Main Street, Piqua, OH 45356; Roland A. Wyandt, 523 North Main Street, Piqua, OH 45356; Katherine J. Silvers, 508 Bear Run, Piqua, OH 45356; 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