

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

OHIO STATE BAR ASSOCIATION,

Relator,

v.

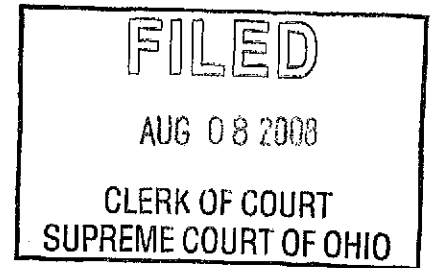
BRUCE A. JACKIM,

Respondent.

08-1559

Case No. UPL 07-05

FINAL REPORT



I. PROCEDURAL BACKGROUND

This matter came before the Board on the Unauthorized Practice of Law on the Relator, Ohio State Bar Association's, Complaint filed on July 9, 2007. The Respondent, Bruce A. Jackim, was duly served with a copy of the Complaint and Notice and subsequently filed an Answer and Third Party Complaints on July 18, 2007. The matter was assigned to a panel consisting of Judge Carrie E. Glaeden- Chair, Patricia A. Wise and C. Lynne Day. On August 28, 2007, the Third Party Complaints were dismissed by the Panel due to lack of jurisdiction, forum and venue.

On October 4, 2007, Respondent filed a Motion to Dismiss/Motion for Judgment on the Pleadings and Relator filed its Answer and Memorandum in Opposition of Respondent's Motion to Dismiss. This motion was overruled by the Panel. Motions to Strike and for Sanctions filed by Respondent were also overruled by the Panel.

Both parties filed Motions for Summary Judgment. The Panel overruled Respondent's

Motion for Summary Judgment and sustained Relator's Motion for Summary Judgment.

II. FINDINGS OF FACT

1. Realtor, Ohio State Bar Association, is duly authorized to investigate and prosecute activities which may constitute the practice of law within the State of Ohio.
2. Respondent Bruce A. Jackim, is not an attorney-at-law in the State of Ohio admitted pursuant to Gov. Bar R. II., Gov. Bar R. IX, or Gov. Bar R. XI (Certificate of Attorney Services Division, Supreme Court of Ohio, Richard A. Dove, July 19, 2007).
3. On April 21, 2004, Respondent had Coralie J. Jurick sign a document granting him durable power of attorney status. (Relator's MSJ Exhibit 4).
4. On April 26, 2004, Respondent filed a motion to stay in a pending legal action, to wit: *Principal Residential Mort., Inc., v. Coralie J. Jurick, et al.*, Cuyahoga County Court of Common Pleas, Case No. CV-04-521279. Respondent was not a party to the case, he signed the motion as "Bruce A. Jackim, Attorney in Fact" and he stated in this motion that it was "for Defendant Coralie J. Jurick". (Relator's MSJ Exhibit 4).

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 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, 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 law in the State of Ohio (Gov. Bar R. VII, §2(A)).

3. Representing another by advising them of their rights and communicating on their behalf to adverse parties constitutes the practice of law. *Akron Bar Assn. v. Bojonell*, 88 Ohio St.3d 154, 2000-Ohio-287; *Cincinnati Bar Assn. v. Cromwell* (1988), 82 Ohio St.3d 255, 695 N.E.2d 243.

4. The practice of law has been defined as “acts undertaken in a representative capacity to protect, enforce or defend another person in the exercise of his or her legal rights or duties.” *In re Unauthorized Practice of Law in Cuyahoga County* (1962), 185 N.E.2d 489.

5. The practice of law is not limited to the handling of cases in court, but also encompasses the preparation of pleadings and other papers in connection with legal matters and the management of such matters on behalf of others. *Disciplinary Counsel v. Coleman*, 88 Ohio St.3d 155, 2000-Ohio-288, 724 N.E.2d 402; *Land Title Abstract & Trust Co. v. Dworkin* (1934), 129 Ohio St. 23, 193 N.E. 650.

6. A durable power of attorney, naming a non-attorney as one’s agent and attorney-in-fact, does not permit that person to prepare and pursue legal filings and proceedings as an attorney-at-law. Since 1402, the law has recognized the distinction between an attorney-in-fact and an attorney-at-law, and only attorneys-at-law have been permitted to practice in the courts. Furthermore, allowing a durable power of attorney to permit the practice of law would circumvent

and thwart the Supreme Court's constitutional power over all matters relating to the practice of law and R.C. 4705.01. *Disciplinary Counsel v. Coleman*, 88 Ohio St.3d 155, 2000- Ohio-288, 724 N.E.2d 402; *State v. Block*, 2007 WL 1219292, Ohio App. 8 Dist., 2007.

7. An allegation that an individual or entity has engaged in the unauthorized practice of law must be supported by either an admission or other evidence of the specific act or acts upon which the allegation is based. *Ohio State Bar Assn. v. Martin*, 118 Ohio St.3d 119, 2008-Ohio-1809 (emphasis added). Although the terms "legal services" and "practice of law" are construed and argued by Respondent to mean the necessity of engaging in the unauthorized practice of law more than once, the Panel finds that this prohibition applies to even a single instance.

8. Although this incident occurred in 2004, retroactive application of UPL civil remedies and penalties are not prohibited pursuant to *Cleveland Bar Assn. v. Sharp Estate Serv., Inc.*, 107 Ohio St.3d 219, 2005-Ohio-6267.

9. The Panel finds by a preponderance of the evidence presented that Respondent engaged in the unauthorized practice of law when he filed a motion in the Cuyahoga County Court of Common Pleas on behalf of Coralie J. Jurick in a case pending against her.

IV. PANEL RECOMMENDATIONS

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

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

3. The Panel has also considered the appropriateness of the imposition of civil penalties pursuant to Gov. Bar R. VII, §(8)(B). The Panel has determined that civil penalties are not appropriate in this case.

a). The Respondent, although never specifically admitting that he engaged in the unauthorized practice of law, never denied filing the motion in a court of law on behalf of Coralie J. Jurick. Respondent's arguments mainly consisted of mitigating factors in that he acted as he did to assist Ms. Jurick, but not to be thought of as an attorney nor to receive any monetary gain in doing so.

b). This Panel has determined that this is an isolated case and that Respondent, neither prior nor subsequent to this incident has engaged in activities that could be considered the unauthorized practice of law. (Gov. Bar R. VII, §(8)(B)(2)).

c). The record is devoid of any evidence that Ms. Jurick was harmed or suffered direct legal or economic consequences due to the activities of the Respondent. (Gov. Bar R. VII, §(8)(B)(4)).

d). Although Relator seeks a \$10,000.00 civil penalty, and his unauthorized practice of law included the preparation of a legal instrument for filing with a court, the Panel finds that the mitigation outweighs these aggravating factors and recommends that no civil penalty be imposed. Specifically, the mitigating factors include the fact that Respondent has ceased engaging in this conduct. (UPL Reg. 400(F)(4)(a)). Additionally, the Panel finds Respondent's conduct resulted from a motive other than dishonesty or personal benefit – Ms. Jurick was about to lose her home due to her financial problems resulting from her severe alcoholism. Respondent was seeking to slow

these legal proceedings while he and another relative of Ms. Jurick's could purchase and pay for her home on her behalf. (UPL Reg. 400 (F)(4)(e)).

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 formally considered this matter on June 30, 2008. The Board adopted the findings of fact, and conclusions of law of the Panel. The Board further adopted all of the recommendations of the Panel including its recommendation not to impose a civil penalty.

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

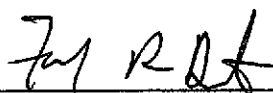
The Board further recommends that the Supreme Court issue a further Order enjoining the Respondent from engaging in the unauthorized practice of law in the future.

The Board further recommends that the Supreme Court of Ohio not impose a civil penalty against the Respondent in this matter.

The Board further recommends that any costs of these proceedings be taxed to the Respondent in any Order, so that execution may issue.

VI. STATEMENT OF COSTS

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



Frank R. DeSantis, Chair
Board on the Unauthorized Practice of Law

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

Exhibit "A"

STATEMENT OF COSTS


Ohio State Bar Association v. Bruce A. Jackim,

Case No. UPL 07-05

To date, no expenses have been incurred.

CERTIFICATE OF SERVICE

This is to certify that a copy of the foregoing Final Report was served by certified mail upon the following this 8th day of August, 2008: Catherine M. Brady, Esq., 7010 Pearl Road, Middleburg Heights, OH 44130-4939; Ian Robinson, Esq., Fitch, Kendall, Cecil, Robinson & Barry, Co., LPA, 600 East State Street, P O Box 590, Salem, OH 44460; Eugene P. Whetzel, Esq., Ohio State Bar Association, 1700 Lake Shore Drive, P O Box 16562, Columbus, OH 43216-6562; Bruce A. Jackim, 1014 Pearl Road, Middleburg Heights, OH 44130-4939; Ohio State Bar Association, 1700 Lake Shore Drive, P O Box 16562, Columbus, OH 43216-6562; Cleveland Metropolitan Bar Association, 1301 East Ninth St., 2nd Level, Cleveland, OH 44114-1253; Office of Disciplinary Counsel, 250 Civic Center Drive, Ste. 325, Columbus, OH 43215.


D. Allan Asbury, Secretary of the Board