

The Supreme Court of Ohio
BEFORE THE BOARD ON THE UNAUTHORIZED PRACTICE OF LAW

OHIO STATE BAR ASSOCIATION,
RELATOR,

v.

MATTHEW COHEN,
RESPONDENT.

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Case No. **UPL 17-03**

FINAL REPORT

Gov. Bar R. VII, Sec. 5b(E)(1)

This matter is before the Board pursuant to Gov. Bar R. VII, Sec. 7. The parties filed a Proposed Consent Decree on April 12, 2017, and a Revised Proposed Consent Decree on April 4, 2018.

A panel of three commissioners was duly appointed for the purpose of hearing testimony and receiving evidence into the record. The panel filed its report with the Board on May 11, 2018.

In accordance with Gov. Bar R. VII, Sec. 5b(D)(1), the Board considered this matter on May 11, 2018. The Board adopts the panel report as attached, including its findings of fact, conclusions of law, and the following recommendations: (1) that the Supreme Court approve the Revised Proposed Consent Decree submitted by the parties on April 4, 2018; (2) that the Supreme Court issue an order finding that Respondent engaged in the unauthorized practice of law; and (3) that the Supreme Court enjoin Respondent from all activities that constitute the practice of law.

s/Renisa A. Dorner, Esq.

Chair

**BOARD ON THE UNAUTHORIZED
PRACTICE OF LAW**

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

OHIO STATE BAR ASSOCIATION,	:	
Relator,	:	
	:	
v.	:	Case No. UPL 17-03
	:	
	:	<u>PANEL REPORT</u>
MATTHEW COHEN,	:	
Respondent.	:	Recommending Approval
	:	of Revised Proposed Consent
	:	Decree - Gov. Bar R. VII(5b)

I. Introduction and Procedural History

This matter is before a Panel of the Board on the Unauthorized Practice of Law (“Board”) on a Complaint filed on April 12, 2017, by the Ohio State Bar Association (“OSBA”) alleging that Respondent Matthew Cohen engaged in the unauthorized practice of law by bringing and prosecuting 32 eviction actions in Franklin County Municipal Court on behalf of various LLCs which own the rental properties. In each instance, Mr. Cohen listed himself as the plaintiff instead of the LLC which owned the property at issue.

Along with the complaint, the parties filed a Joint Motion for Approval of Proposed Consent Decree, Proposed Consent Decree, and Respondent’s Waiver of Notice and Hearing. The commissioners appointed to consider this matter are Edward T. Mohler (Chair), Richard L. Creighton, Jr., and David Tschantz.

Upon review of the proposed consent decree, the panel requested that the parties remove language stating that the respondents’ violations were “far from the most severe, deliberate, ill-willed, or damaging conduct OSBA *and the Board have seen.*,” as it appeared

that the parties were speaking on behalf of the Board. The panel also requested that the parties address the outstanding money judgments awarded to Cohen in the eviction actions.

On April 4, 2018, the parties filed a Revised Proposed Consent Decree (Exhibit 1), which contains the following: (1) An admission by Respondent that drafting and signing complaints for forcible entry and detainer on behalf of another property owner is the unauthorized practice of law; (2) An agreement by Respondent to be permanently enjoined from engaging in such conduct and from otherwise engaging in the unauthorized practice of law in Ohio; (3) a statement that Respondent has not collected on any judgments in the proceedings at issue and agrees to not take any further action to collect on any such judgments; and (4) an agreement that no civil penalty should be imposed. The panel also noted that the language regarding the Board was removed from the civil penalty analysis.

Upon consideration, the panel recommends that the revised Proposed Consent Decree be approved.

II. Findings of Fact

1. The Ohio State Bar Association (“OSBA”) is a bar association whose members include attorneys-at-law admitted to the practice of law in Ohio and who practice throughout the State of Ohio. OSBA, through its Unauthorized Practice of Law Committee, is authorized by Gov.Bar. R. VII, Sec. 5 to file a Complaint with the Board regarding the unauthorized practice of law.

2. Respondent Matthew Cohen is an individual who resides and transacts business in the state of Ohio. Proposed Consent Decree ¶ 2. Mr. Cohen is not, nor has he ever been, admitted to the practice of law in Ohio or otherwise certified to practice law under Rules I (Admission to the practice of law); II (Limited practice of law by a legal

intern); III (Legal professional associations authorized to practice; IX (Temporary certification for practice in legal services, public defender, and law school programs); or XI (Limited practice of law by foreign legal consultants) of the Rules for the Government of the Bar of Ohio. *Id.* at ¶ 3.

3. Respondent is a landlord who operates several residential rental properties in and around Columbus, Ohio. Proposed Consent Decree, ¶ 2. The properties in question were at one point personally owned by Respondent. Joint Motion, p. 2. However, Respondent transferred title of these properties to limited liability companies he created. *Id.* The record indicates that all the properties in question are owned by various LLCs created by Respondent. Complaint, Ex. A. Respondent brought and prosecuted evictions on behalf of the third-party property owners in Franklin County, Ohio. In each of these cases, Respondent named himself as plaintiff instead of the property owner. Complaint, Ex. A.

4. Relator initiated a UPL investigation regarding Respondent upon reports from two attorneys who represent tenants in the Columbus area. Joint Motion for Approval of Proposed Consent Decree, p. 3. Relator sent a letter to Respondent on April 14, 2015, advising him of the open investigation. *Id.* Mr. Cohen admitted he filed evictions for the properties owned by LLCs but stated he did not realize his conduct constituted the unauthorized practice of law. *Id.*

5. Since late-April of 2015, Respondent has used an attorney for his evictions from LLC-owned properties. *Id.* at p. 3. The OSBA continued its investigation of the allegations and confirmed that Respondent has retained counsel for eviction actions. *Id.*

III. Conclusions of Law

1. R.C. 4705.01 provides: “No person shall be permitted to practice as an attorney and counselor at law, or to commence, conduct or defend any action or proceeding in which the person is not a party concerned ... unless the person has been admitted to the bar by order of the supreme court in compliance with its prescribed and published rules.”

2. The unauthorized practice of law is the rendering of legal services for another by any person not admitted to practice law in Ohio, and includes “the drafting and preparation of pleadings filed in the courts of Ohio”. *Cleveland Metro. Bar Assn. v. McGinnis*, 137 Ohio St.3d 166, ¶ 5, 2013-Ohio-4581, quoting *Lorain Cty. Bar Assn. v. Kocak*, 121 Ohio St.3d 396, 2009-Ohio-1430, 904 N.E.2d 885, ¶ 17; *see also Geauga Cty. Bar Assn. v. Haig*, 129 Ohio St.3d 601, 2011-Ohio-4271, 955 N.E.2d 352, ¶ 2.

3. The Court has held that a non-attorney who files complaints in municipal court for forcible entry and detainer on behalf of another is engaged in the unauthorized practice of law. *Cleveland Bar Assn. v. Picklo*, 96 Ohio St.3d 195, 2002-Ohio-3995.

IV. Analysis

1. The OSBA and Respondent have agreed that drafting and signing complaints for forcible entry and detainer and money damages on behalf of a property owner, and representing that property owner in related proceedings constitute the unauthorized practice of law. Revised Proposed Consent Decree ¶ 12.

2. Respondent has ceased engaging in the conduct described above and shall not engage in such conduct in the future, and agrees to be permanently enjoined from engaging in such conduct in the future and from otherwise engaging in the unauthorized practice of law in the State of Ohio. Revised Proposed Consent Decree ¶ 13.

3. The parties jointly recommend that no civil penalty be imposed against Respondents. The factors of Gov.Bar.R. VII(8)(B) apply as follows:

(1) *The degree of cooperation provided by the respondent in the investigation:*

Respondent cooperated fully in both the pre-filing and post-filing investigation of this matter. Respondent promptly ceased all conduct that allegedly constituted the unauthorized practice of law upon receiving notice from OSBA in early 2015.

(2) *The number of occasions that unauthorized practice of law was committed:* the unauthorized practice of law occurred from January 1, 2013, through the filing of the Complaint, Respondent committed at least 32 violations.

(3) *The flagrancy of the violation:* the violations were unknowing or unwitting and Respondent owned and managed the LLCs that were the owners of the properties in question.

(4) *Harm to third parties arising from the offense:* The parties stipulated that there was no known harm to the LLCs which owned the properties in question. However, most of the defendant-tenants in the cases were evicted. Revised Proposed Consent Decree ¶ 15(4). The parties note that 28 of the money claims were dismissed for failure to prosecute, and four were either dismissed voluntarily by the Respondent or the court. Revised Proposed Consent Decree ¶ 6. Respondent has not collected on the money judgments obtained in the cases. *Id.* Respondent further agrees that he will not take further action to collect on such judgments. *Id.*

4. Respondent cooperated throughout the investigation, admitted to the unauthorized practice of law, and agreed to cease the activity. Therefore, the Panel agrees with Relator that civil penalties are not warranted.

V. Panel Recommendation

The Panel recommends that the Board approve the Revised Proposed Consent Decree and file it with the Supreme Court pursuant to Rule VII(5b)(E).

VI. Statement of Costs

Relator states that no costs have been incurred.

s/Edward T. Mohler, Esq.
Panel Chair

s/Richard L. Creighton, Jr., Esq.
Panel Member

s/David E. Tschantz, Esq.
Panel Member

CERTIFICATE OF SERVICE

This is to certify that a copy of the foregoing Final Report was served by certified mail upon the following this 18th day of May, 2018: Patrick W. Skilliter, MacMurray & Shuster, LLP, 6530 West Campus Oval, Ste. 210, New Albany, OH 43054; Desiree Blankenship, Ohio State Bar Association, PO Box 16562, Columbus, OH 43216; Matthew Cohen, PO Box 673, Pickerington, OH 43147; Ira B. Sully, 844 S. Front St., Columbus, OH 43206.

s/Minerva B. Elizaga

Secretary

Board on the Unauthorized
Practice of Law