

Court of Appeals, in case number CA-08-092343, by preparing and filing a Notice of Appeal and other related documents. In both instances, Respondent had Johnson sign the documents she prepared “*sui juris*.” The complaint also alleges that Johnson paid Respondent for her legal services.

The commissioners appointed to hear this matter were Brian L. Katz, N. Victor Goodman, and Curtis J. Sybert, Chair. Respondent was served with a complaint but did not file an answer. Relator filed a Motion for Entry of Default on March 22, 2012. By Entry dated August 3, 2012, the panel granted Relator’s motion for entry of default. In its report filed with the Board on August 21, 2012, the panel recommended a civil penalty of \$20,000 be imposed upon Respondent for engaging in the unauthorized practice of law.

The Board considered the Panel Report in this matter on October 26, 2012, and voted to adopt the panel’s findings of facts and conclusions.

II. PROCEDURAL BACKGROUND

On February 17, 2010, Michelle Hall, former Secretary for the Board, received a phone call and email from Johnson complaining that Respondent was providing “behind the scenes” legal representation. [Compl. at ¶ 3; Zirke Aff. at ¶ 3; Exh. 2-A] Hall referred the matter to Heather Zirke, assistant counsel of CMBA. [Id.] Michael P. Harvey investigated the matter on behalf of Relator. [Harvey Aff. at ¶ 6]

Respondent and Relator mutually agreed to a deposition scheduled for September 20, 2010. [Harvey Aff. at ¶¶ 12-13, 15-17] The Supreme Court issued a subpoena *duces tecum* compelling Respondent to appear at the the deposition. [Zirke Aff. at ¶ 6] Respondent failed to appear at the deposition, and Relator took a default deposition. [Id. at ¶ 19; Dep. Tran. pp. 4-6] Respondent has yet to answer the complaint. [Harvey Aff. at ¶ 25]

Relator filed a Motion for Entry of Default on March 22, 2012. The Board secretary assigned this matter to a Hearing Panel consisting of Commissioners Curtis J. Sybert, Chair, Brian L. Katz, and N. Victor Goodman. Respondent did not respond to the Motion for Entry of Default. The memorandum in support of the motion contains correspondence between Respondent and Relator, affidavits from several individuals, and a transcript of the attempted deposition of Respondent.

III. FINDINGS OF FACT

1. Relator is authorized to investigate and prosecute activities which may constitute the unauthorized practice of law in Ohio. [Gov.Bar R. VII(4)-(5)]
2. Neither Respondent Forrestine McGinnis, nor the company she operates, Forrestine Law, Inc., are admitted to practice law in Ohio under Gov. Bar R. I, registered under Gov.Bar R. VI, or certified under Gov. Bar R. VI, or certified under Gov. Bar R. II, Gov. Bar IX, or Gov. Bar XI. [Compl.at ¶ 1; Zirke Aff. at ¶ 8, Exh. 2-F]
3. Forrestine Law, Inc. has no record of registration on file with the Ohio Secretary of State. [Harvey Aff. at ¶ 22]
4. Respondent was served with a copy of the Complaint and Notice of Filing of Complaint via certified mail at the following address: 1566 Winchester Ave., Lakewood, OH 44107. [Zirke Aff. at ¶ 9, Exh. 2-G. *Also see*, USPS certified mail return received in the Supreme Court of Ohio Office of Attorney Services on June 10, 2011]
5. To date, Respondent has not filed an Answer to the Complaint.
6. Respondent was served with a copy of the Relator's Motion for Entry of Default via regular mail and certified mail by Relator on or about March. 21, 2012. [Mot. for Entry of Def. p. 17]

7. To date, Respondent has not submitted a reply to Relator's Motion for Entry of Default.
8. Respondent advertised her legal services by posting flyers in local libraries. [Compl. at ¶ 6, Exh. B; Johnson Aff. at ¶¶ 7-8]
9. Respondent admitted to preparing an Answer/Counterclaim to a Complaint for eviction against Johnson in the Cleveland Municipal Court. [Compl. at ¶ 9; Zirke Aff. at ¶ 5, Exh. 2-C; Johnson Aff. at ¶ 14]
10. Respondent prepared a Notice of Appeal on behalf Johnson in the 8th District Court of Appeals. [Compl. at ¶ 9; Johnson Aff. at ¶ 14]
11. Respondent accepted \$40 from Johnson for parking and transportation costs to Johnson's hearings. [Compl at ¶ 4; Zirke Aff. at ¶ 5, Exh. 2-C; Dep. Tran. p. 9]
12. Respondent had Johnson sign the court documents she prepared for filing in the Cleveland Municipal Court and in the 8th District Court of Appeals "*sui juris*." [Compl. at ¶ 10]
13. Respondent was subpoenaed for a deposition at the CMBA on September 20, 2010, a date to which Respondent and Relator mutually agreed to depose Respondent. [Compl. at ¶ 13; Harvey Aff. at ¶¶ 12-13,15, Exh. 1-E, 1-F]
14. On or about July 22, 2010, Relator sent Respondent a letter confirming the date of deposition as September 20, 2010 and a Deposition Notice Duces Tecum. [Harvey Aff. ¶ at 13, Exh. 1-F]
15. On or about September 10, 2010, Respondent acknowledged receiving her subpoena to appear for deposition. [Harvey Aff. at ¶ 16, Exh. 1-I]
16. On the day of the deposition, Respondent failed to appear. [Compl. at ¶ 14; Dep. Trans. 4-6].

17. As required by Gov. Bar R. VII(7)(B), Relator's Motion for Entry of Default contains the following:

- a. A statement of the effort made to contact Respondent [Mot. for Entry of Def. pp. 5-6];
- b. Sworn or certified documentary *prima facie* evidence in support of the allegations of the complaint. [Mot. for Entry of Def. pp. 7-9, Exh. 1-4];
- c. Citations of any authority relied upon by Relator [Mot. for Entry of Def. pp. 9-10];
- d. A statement of any mitigating factors or exculpatory evidence of which Relator is aware [Mot. for Entry of Def. p. 12];
- e. A statement of relief by Relator [Mot. for Entry of Def. p.12-15];
- f. A certificate of service of the motion on Respondent at the address stated on the Complaint [Mot. for Entry for Def. p. 15].

IV. 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 & Sav. Bank* (1937), 133 Ohio St. 81, 12 N.E.2d 288. Accordingly, the Court has exclusive jurisdiction over the regulation of the unauthorized practice of law in Ohio. *Greenspan v. Third Fed. S. & L. Assn.*, Slip Opinion No. 2009-Ohio-3508, at ¶ 16; *Lorain Cty. Bar Assn. v. Kocak* (2009), 121 Ohio St.3d 396, 2009-Ohio-1430, 904 N.E.2d 885, at ¶ 16.

2. The Court regulates the unauthorized practice of law in order to “protect the public against incompetence, divided loyalties, and other attendant evils that are often associated with unskilled representation.” *Cleveland Bar Assn. v. CompManagement, Inc.* (2004), 104 Ohio St.3d 168, 2004-Ohio-6506, 818 N.E.2d 1181, at ¶ 40.
3. The unauthorized practice of law is the rendering of legal services for another by any person not admitted or otherwise registered or certified to practice law in Ohio. Gov.Bar R. VII(2)(A).
4. The unauthorized practice of law includes drafting legal pleadings for filing by *pro se* litigants. *Cleveland Bar Assn. v. Coats*, 98 Ohio St.3d 413, 2003-Ohio-1496, at ¶1 and ¶4.
5. The unauthorized practice of law “embraces the preparation of pleadings and other papers incident to actions and special proceedings and the management of such actions and proceedings on behalf of clients before judges and courts.” *Land Title & Trust v. Dworken* (1934), 129 Ohio St. 23, 28, 193 N.E. 650.
6. “[T]he unauthorized practice of law consists of rendering legal services and includes the preparation of legal pleadings and other papers for another without the supervision of an attorney licensed in Ohio. *Cleveland State Bar Assn. v. Cohen* (2005), 107 Ohio St.3d 98, 2005-Ohio-5980, 836 N.E.2d 1219 at ¶ 6; *See also, Richland Cty. Bar Assn. v. Clapp* (1998), 84 Ohio St.3d 276, 278, 703 N.E.2d 771; *Cleveland Bar Assn. v. Coats* (2003), 98 Ohio St.3d 413, 2003-Ohio-1496, 786 N.E.2d 449.
7. A person not authorized to practice law in Ohio may neither hold himself or herself “out in any manner as an attorney at law” nor “represent [himself or herself] orally or in writing, directly or indirectly, as being authorized to practice law.” R.C. 4705.07(A).

8. The Court has also specifically stated that holding oneself out as a “member of the Ohio bar to prospective clients and others without possessing a license to practice law in this state” is the unauthorized practice of law. *Disciplinary Counsel v. Robson* (2007), 116 Ohio St.3d 318, 2007-Ohio-6460, 878 N.E.2d 1042, at ¶ 10; *Medina Cty. Bar Assn. v. Flickinger*, 95 Ohio St.3d 498, 2002-Ohio-2483, 769 N.E.2d 822.
9. “The use of ‘lawyer’, attorney at law,’ ‘counselor at law,’ ‘law office,’ or other equivalent words by any person not licensed to practice law, in connection with that person’s own name, or any sign, advertisement, card, letterhead, circular, or other writing, document, or design, the evident purpose of which is to induce others to believe that person to be an attorney, constitutes holding [oneself] out [as an attorney].” R.C. 4705.07(B). By circulating flyers for her company Forrestine Law, Inc. along with the statement “Avoid Expensive Attorney Fees,” Respondent was representing that she had skills or knowledge regarding the law and caused others to believe her company and services were legitimate.
10. A person not authorized to practice law in Ohio engages in the unauthorized practice of law when he or she advertises legal services that he or she is not licensed to provide. *Cleveland Bar Assn. v. McKissic* (2005), 106 Ohio St. 3d 106, 2005-Ohio-3954, 832 N.E.2d 49.
11. A person not authorized to practice law in Ohio engages in the unauthorized practice of law when he or she accepts money in exchange for representation or advice. *Disciplinary Counsel v. Brown* (2009), 121 Ohio St.3d 243 at ¶28, 2009-Ohio-1152, 905 N.E.2d 163; *Disciplinary Counsel v. Pratt* (2010), 127 Ohio St. 3d 293 at ¶ 17, 2010-Ohio-6210, 939 N.E.2d 170. Respondent indicates she was paid \$40 by Johnson for parking and

transportation costs to attend Johnson's hearings. A finding of remuneration is not required in order to find that a person not authorized to practice law in Ohio has engaged in the unauthorized practice of law. *Cleveland Bar Assn. v. Henley* (2002), 95 Ohio St. 3d. 91, 2002-Ohio-1628, 766 N.E.2d 130, quoting *Geauga Cty. Bar Assn. v. Canfield* (2001), 92 Ohio St.3d 15, 2001-Ohio-138, 748 N.E.2d 23

12. A Motion for Default must contain sufficient sworn or certified documentary *prima facie* evidence in support of the allegations of the complaint. Gov.Bar. R. VII(7)(B).
13. Respondent, who is not admitted to the practice of law in Ohio nor otherwise permitted to practice through registration or certification, engaged in the unauthorized practice of law by holding herself out as an Ohio-licensed attorney to Stephen E. Johnson and others.
14. Respondent also engaged in the unauthorized practice of law through the following conduct:
 - a. Holding herself as authorized to practice law in Ohio by advertising her legal services known as "Forrestine Law, Inc." on flyers posted in Lakewood, OH public libraries. [Compl. at ¶ 6; Johnson Aff. at ¶ 8]
 - b. On behalf of Stephen E. Johnson, preparing and filing an Answer/Counterclaim in the Cleveland Municipal Court. [Compl. at ¶ 9; Zirke Aff. at ¶ 5, Exh. 2-C; Johnson Aff. at ¶ 14]
 - c. On behalf of Stephen E. Johnson, preparing and filing a Notice of Appeal in the 8th District Court of Appeals. [Compl. at ¶ 9; Johnson Aff. at ¶ 14]
 - d. Accepting \$40 in exchange for her legal services. [Compl at ¶ 4; Zirke Aff. at ¶ 5, Exh. 2-C; Dep. Tran. p. 9]

15. Relator's Motion for Entry of Default contains sufficient sworn and/or certified documentary prima facie evidence in support of the allegations of the Complaint.

V. CIVIL PENALTY ANALYSIS

The Board recommends that the Supreme Court of Ohio impose a civil penalty of \$5,000 for each pleading she prepared and impose a \$10,000 penalty for holding herself out as authorized to practice law when she was not authorized to do so, which includes circulating the advertisements that promoted her legal services, for a total of \$20,000.

With regard to the civil penalty, the Board hereby discusses the facts of this case along with the guidelines set forth in UPL Reg. 400.

1. **Degree of cooperation provided by respondent in the investigation.** Respondent cooperated with Relator during the early stages of the investigation. She regularly communicated with Relator through letters. However, after she and Relator mutually agreed to a deposition date and time, Respondent failed to appear at the deposition.
2. **Number of occasions that the unauthorized practice of law was committed.** Based on the evidence presented by Relator, the Board finds that Respondent has committed the following three acts constituting the unauthorized practice of law:
 - a. The preparation of the Answer/Counterclaim in the Cleveland Municipal Court;
 - b. The preparation of the Notice of Appeal and other legal documents in the 8th District Court of Appeals; and
 - c. Holding herself out to the public as authorized to practice law in Ohio when she is not, and the use of flyers to advertise her legal services under the name "Forrestine Law Inc."

3. **The flagrancy of the violations.** Respondent has not received any legal education nor been admitted to the bar of Ohio, yet she has refused to recognize that her conduct is inappropriate. Respondent continued to market her services as a person qualified to practice law in Ohio even after the commencement of this action. Further, by drafting documents for clients “behind the scenes” and allowing her clients to sign *sui juris*, the Board finds that Respondent was aware that she is not authorized to practice law in Ohio and was attempting to circumvent the rules regarding the unauthorized practice of law by drafting the documents and having clients sign them to give the appearance that the clients were not being assisted by Respondent or Forrestine Law, Inc.
4. **Harm to third-parties arising from the offense.** Johnson’s legal rights were undoubtedly affected when Respondent prepared pleadings on his behalf. Furthermore, Respondent may have at least one other client on whose behalf she engages in the unauthorized practice of law.
5. **Other relevant factors.** By posting flyers advertising her legal services, Respondent held herself out as an attorney and allowed others to believe she was knowledgeable and authorized to perform legal services in Ohio.

VI. BOARD RECOMMENDATIONS

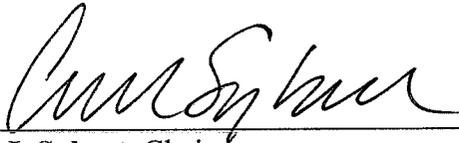
1. The Board recommends that the Supreme Court of Ohio issue an order finding that Respondent engaged in the unauthorized practice of law.
2. The Board also recommends that the Court issue an order further prohibiting Respondent from engaging in the unauthorized practice of law in the future, which includes drafting legal documents for others and having them sign said documents *pro se* or *sui juris*, and holding herself out as authorized to practice law in Ohio, including, but not limited to,

advertising her services under the name “Forrestine Law, Inc” or any other name that would indicate Respondent is authorized to practice law in Ohio.

3. The Board recommends that the Court impose a civil penalties against Respondent in the amounts of \$5,000 for the legal documents she prepared in Cleveland Municipal Court; \$5000 for the legal documents she prepared in the 8th District Court of Appeals; and \$10,000 for holding herself out as authorized to practice law in Ohio, which includes but is not limited to, the advertisements promoting her legal services under the name “Forrestine Law, Inc.”, for a total of \$20,000.
4. The Board further recommends that the Court require Respondent to reimburse the costs and expenses incurred by the Board and Relator in this matter.

VII. STATEMENT OF COSTS

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



Curtis J. Sybert, 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

Deposition/Transcript Costs	\$299.12
Federal Express/Postage	\$59.81
Certified Copies	\$10.00
TOTAL	\$368.93

CERTIFICATE OF SERVICE

This is to certify that a copy of the foregoing Final Report was served certified mail upon the following this 18th day of January, 2013. Michael P. Harvey, Esq., 330 Northcliff Drive, Rocky River, Ohio 44113; John A Hallbauer, Esq., Buckley King, 600 Superior Ave. E., Suite 1400, Cleveland, Ohio 44114; Forrestine McGinnis 1566 Winchester Ave., Lakewood, Ohio 44107; Cleveland Metropolitan Bar Association 1301 E. Ninth Street, Second Level, Cleveland, Ohio 44114; Office of Disciplinary Counsel, 250 Civic Center Drive, Suite 325, Columbus, Ohio 43215; Ohio State Bar Association, P O Box 16562, Columbus, Ohio 43216-6562.

Minerva B. Elizaga
Minerva B. Elizaga, Secretary of the Board