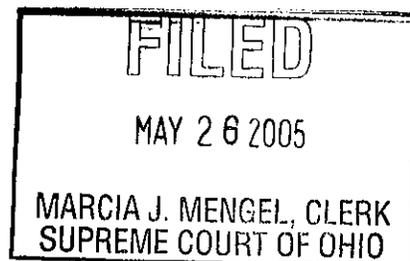


**BOARD ON THE UNAUTHORIZED PRACTICE OF LAW  
OF  
THE SUPREME COURT OF OHIO**

<b>OHIO STATE BAR ASSOCIATION</b>	:	
Relator,	:	
	:	
	:	<b>Sup. Ct. Case No. 04-2150</b>
vs.	:	
	:	Case No. <b>UPL 03-04</b>
<b>JOHN ALLEN,</b>	:	
	:	
and	:	<b>FINAL REPORT ON REMAND</b>
	:	
<b>DENISE FLAGG,</b>	:	
Respondents.	:	

This matter came on for formal hearing before the Board of Commissioners on the Unauthorized Practice of Law ("Board") on October 21, 2004. Members of the Board present and participating in this decision were Ralph Dill, Chairman, and Judge Michael Corrigan, John Polito, James Young and Frank R. DeSantis. The Ohio State Bar Association was represented by Jeffrey J. Fanger, Fanger Law Office, and Eugene P. Whetzel, General Counsel for the Ohio State Bar Association. Respondent Denise Flagg was represented by Richard P. Wright, the Wright Law Offices. No appearance was made by or on behalf of Respondent John Allen.

The Board's findings of fact, conclusions of law, and recommendation were filed with the Supreme Court on December 29, 2004. In Case No. 04-2150, on February 25, 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.



The Relator's Second Amended Complaint, filed March 29, 2004, alleged that Respondents, John Allen and Denise Flagg, though not attorneys at law, engaged in the unauthorized practice of law by advising and counseling clients and preparing legal pleadings for filing in Courts in the State of Ohio. In her Answer to the Second Amended Complaint filed on April 9, 2004, Denise Flagg denied the claims made by Relator as to her. In his Answer, filed on April 13, 2004, Respondent John Allen admits that he is not and never has been an attorney admitted to practice law in the State of Ohio, but denies the claims raised by Relator against him in its Second Amended Complaint. Further, Respondent John Allen raised counterclaims, alleging among other things that Relator has no constitutional authority to file suit, Relator has no jurisdiction over Respondents, this action was brought maliciously and intentionally without authority or jurisdiction and that Relator is civilly liable to Mr. Allen and Ms. Flagg and criminally liable to the "People of Ohio."

During the course of the pre-hearing proceedings, Relator served upon Respondent John Allen Interrogatories which Mr. Allen refused to answer. Relator served subpoenas issued by the Board on Mr. Allen for deposition on two occasions which Mr. Allen ignored.

At the hearing, the Board heard testimony of Respondent Denise Flagg. Ms. Flagg lived with Respondent John Allen for three years. (Transcript of Hearing p. 7) (hereinafter "Trans. \_\_\_\_\_"). She knew Mr. Allen's middle name to be Dale. *Id.* During the time that she lived with him, his only source of income was preparing pleadings for legal cases and giving people advice about the pleadings and the proceedings of the cases involving those pleadings. (Trans. pp. 10 and 15). Ms. Flagg testified that on occasion Mr. Allen advised her that he was going to prepare legal documents for people and ultimately produced those documents to those individuals in her presence. (Trans. p. 26). Mr. Allen gave advice about the proceedings relating to those

pleadings and explained the pleadings to those people. (Trans. pp. 20-21). After she separated from Mr. Allen, people called Ms. Flagg's residence seeking to engage Mr. Allen to prepare legal documents for them and to give them advice. Some of these calls were in response to an advertisement placed by Mr. Allen in a local newspaper. (Trans. pp. 12 and 29).

Ms. Flagg identified three sets of pleadings for domestic cases that in her presence were provided by Respondent Allen to clients in return for a fee. (Trans. pp. 7-11, 13-14, Exhibits 6 and 9).

Also admitted without objection was the deposition transcript of Denise Flagg. Ms. Flagg testified during the deposition that on at least one occasion Mr. Allen prepared a trust document for a client. (Exhibit 1, Deposition of Denise Flagg at p. 11). Further, she testified that it was Mr. Allen's stated position that there was no such thing as a "license to practice law in Ohio." (Exhibit 1, Deposition of Denise Flagg at p. 25).

During the hearing, Respondent Flagg testified that she prepared no legal documents nor gave anyone legal advice or counsel. Relator stipulated that Ms. Flagg did not engage in the unauthorized practice of law. Counsel for Ms. Flagg moved to dismiss the claims of Relator against her.

During the hearing, Relator moved to amend its Complaint consistent with the evidence to reflect the complete name of Respondent to be John Dale Allen. There being no objection, the Motion to Amend was granted. (Trans. p. 34).

### **FINDINGS OF FACT**

1. Relator, The Ohio State Bar Association, 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. Respondents John Dale Allen and Denise Flagg are not licensed to practice in Ohio. (Answer and Counterclaim of John Allen to Second Amended Complaint at ¶ 2, Answer of Respondent Denise Flagg at ¶ 2). (Exhibit 17 - Certificate of Richard Dove, dated October 20, 2004).

3. Respondent Denise Flagg did not engage in any actions that would constitute the practice of law.

4. Respondent John Dale Allen prepared legal documents including pleadings on at least three occasions for divorce cases and a trust, and advised and counseled clients about the legal significance of the documents, and the nature of the legal proceedings.

### 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. 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. 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.

4. Respondent Denise Flagg did not engage in the practice of law and claims by Relator against her are dismissed.

5. Respondent John Dale Allen engaged in the unauthorized practice of law by preparing legal papers and rendering legal advice for a fee.

6. Respondent John Dale Allen's counterclaims are without merit and there being no authority for such claims within the framework of this action, said counterclaims are dismissed.

### **RECOMMENDATIONS**

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

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

Though the Relator recommended a civil penalty of Ten Thousand Dollars (\$10,000.00) on the basis that there were ongoing and multiple occurrences of the Unauthorized Practice of Law and third parties may have been adversely affected by Respondent's conduct (Trans. p. 35), the Board believes a more significant civil penalty is warranted.

Respondent John Dale Allen had a complete disregard for the authority of the Relator, this Board and the Ohio Supreme Court to challenge his unlawful activities in engaging in the unauthorized practice of law. Respondent cavalierly flaunted the authority of Relator and this Board with respect to the claims against him involving the unauthorized practice of law.

Respondent prepared numerous legal documents for many individuals, provided advice and counseling as his only source of income over at least a three year period, he ignored subpoenas served upon him for depositions and refused to participate in the hearing before this Board.

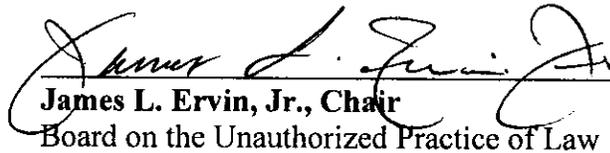
Respondent's attitude and philosophy regarding this conduct is embodied in his statement that there is "no such thing as a license to practice law in Ohio."

Obviously, based upon Respondent's refusal to participate, no evidence or information was provided in mitigation or explanation of Respondent's conduct and no mitigation could be imagined by this Board.

As the result of the breadth and seriousness of Respondent's conduct, the Board finds that the maximum civil penalty is warranted for each offense identified in the record and recommends a civil penalty in the amount of Forty Thousand Dollars (\$40,000.00) pursuant to Gov. Bar R. VII, Section 19(D)(1)(c). *See Toledo Bar Association 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 and expenses incurred to date by the Board and Relator in this matter.

  
**James L. Ervin, Jr., Chair**  
Board on the Unauthorized Practice of Law

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

Exhibit "A"

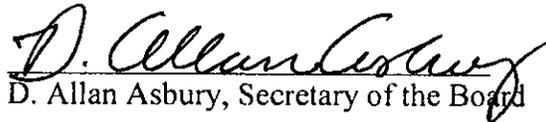
**STATEMENT OF COSTS**

*Ohio State Bar Assn. v. John Allen and Denise Flagg,*  
Case No. UPL 03-04

Armstrong & Okey, Inc., 10/21/04 Hearing and Transcript	\$184.25
Frank DeSantis, Commissioner Expenses -10/21/04 Hearing	111.00
John Polito, Commissioner Expenses -10/21/04 Hearing	117.00
James E. Young, Commissioner Expenses -10/21/04 Hearing	278.46
Michael J. Corrigan, Commissioner Expenses -10/21/04 Hearing	114.00
Licking County Sheriff Service of Subpoenas	135.50
Perry County Sheriff Service of Subpoenas	57.50
<b>TOTAL</b>	<b>\$1814.11</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: Ohio State Bar Association, Unauthorized Practice of Law Committee, 1700 Lake Shore Drive, Columbus OH 43204; Rebecca Widdig, Esq., Law Offices of Stanley C. Bender, 707 Sixth Street, PO Box 950, Portsmouth, OH 45662; Jeffrey J. Fanger, Esq., Fanger Law Office, Bank One Center, 600 Superior Avenue, Ste. 1300, Cleveland, OH 44114; Eugene P. Whetzel, General Counsel, Ohio State Bar Association, 1700 Lake Shore Drive, Columbus, OH 43204; Richard P. Wright, Esq., 21 West Church Street, Ste. 208, Newark, OH 43055; John Allen, PO Box 404, Pleasantville, OH 43148; John Allen, 89 Westview Place, Thornville, OH 43076; Denise Flagg, d.b.a. Freedom Trust, 9840 High Point Rd. NW, Thornville, OH 43076; Licking County Bar Association, PO Box 487, Newark, OH 43058; Office of Disciplinary Counsel, 250 Civic Center Drive, Ste. 325, Columbus, OH 43215.

  
D. Allan Asbury, Secretary of the Board