

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

DISCIPLINARY COUNSEL,

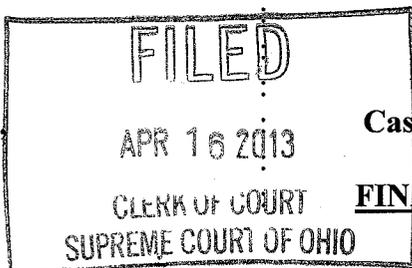
Relator,

v.

THOMAS JONES, JR.

Respondent.

13-0611



Case No. UPL 11-02

FINAL REPORT

I. OVERVIEW

Disciplinary Counsel (“Relator”) filed a complaint against Thomas Jones, Jr. (“Respondent”), of Cleveland, Ohio, alleging he engaged in the unauthorized practice of law by preparing court pleadings, motions, and deeds for two homeowners. The Complaint indicates Respondent and his business partner, disbarred Ohio attorney Michael Troy Watson, engaged in an enterprise that consisted of purchasing properties in foreclosure for a nominal amount, transferring the property to themselves, and then filing legal documents in the foreclosure case as “successors in interest” in an attempt to stop the foreclosure.¹

II. PROCEDURAL BACKGROUND

This matter came before the Board on the Unauthorized Practice of Law on Relator’s Complaint filed on April 26, 2011. Although a copy of the Complaint and Notice to Respondent of Filing of Complaint was sent via certified and regular mail on

¹ These filings were struck by the court because the Respondent was not a party to the lawsuit. Compl. ¶¶ 9-12

April 27, 2011, to the Respondent's address of record, the certified mail was returned unclaimed to the Board on May 24, 2011. It is noted that the regular mailing was not returned. A copy of the Complaint and Notice of Filing of Complaint was sent to Respondent at the address of record on May 24, 2011, with a Certificate of Mailing retained by the Board.² The mailing was not returned to the Board.

The matter was assigned to a panel consisting of Brian L. Katz, F. Scott O'Donnell, and John J. Chester, Jr., Chair, by entry dated October 31, 2011. On January 19, 2012, Respondent filed a Motion to Dismiss, and in response, Relator timely filed a Memorandum in Opposition to Respondent's Motion to Dismiss on February 8, 2012. By Entry dated August 27, 2012, the Panel denied Respondent's Motion to Dismiss and ordered Respondent to file an Answer to Relator's Complaint on or before September 17, 2012. On September 17, 2012, Respondent submitted another Motion to Dismiss. The panel denied the motion. Respondent failed to file an Answer to Relator's Complaint in compliance with the Panel's Entry.

On October 2, 2012, Relator filed a Motion for Default Judgment. The panel convened on November 29, 2012. Upon consideration, the panel granted Relator's motion for default judgment and recommended a civil penalty of \$2,500 for each count, for a total civil penalty of \$10,000. The panel presented its report to the Board on March 21, 2013. The Board approved the panel's report and adopted its report and recommendations.

III. FINDINGS OF FACT

² "If service of any document by certified mail is refused or unclaimed, the Secretary may make service by ordinary mail evidenced by a certificate of mailing. Service shall be considered complete when the fact of mailing is entered on the record, provided that the ordinary mail envelope is not returned by the postal authorities with an endorsement showing failure of delivery." Gov. Bar R. VII(10).

1. Relator, the Office of Disciplinary Counsel, is duly authorized to investigate and prosecute activities which may constitute the practice of law within the State of Ohio.

[Gov. Bar R. VII, Sec. 4.]

2. Respondent Thomas Jones, Jr. of Cleveland Ohio, is not and has never been an attorney admitted to practice in the State of Ohio. [Compl. ¶ 2.; Mot. Def. Ex. 1.]

Chanel Triplett

3. In 2008 Chanel Triplett owned the property located at 2982 East 59th Street, Cleveland, Ohio 44127. [Compl. ¶4.; Mot. Def. Ex. 2]

4. This property was subject to a secured mortgage held by Deutsche Bank National Trust Company (“Deutsche Bank”), and on January 10, 2008, Deutsche Bank filed a foreclosure complaint in the Cuyahoga County Court of Common Pleas, Case No. 08CV646959, against Triplett as the owner of the 2982 East 59th Street property for failing to pay her mortgage. [Compl. ¶5.; Mot. Def. Ex. 3]

5. While the foreclosure action was pending, Respondent and Watson purchased the 2982 East 59th Street property from Triplett for \$100.00. [Compl. ¶6.; Mot. Def. Ex. 4]

6. To facilitate the sale of the 2982 East 59th Street property, Respondent prepared a quitclaim deed, which Triplett executed on November 17, 2008, transferring the property to Respondent and Watson. [Compl. ¶7.; Mot. Def. Ex. 4]

7. That same day, the quitclaim deed was filed with the Cuyahoga County Recorder’s Office, record #200811170616. [Compl. ¶8.; Mot. Def. Ex. 4]

8. In 2009, Triplett owned a second property located at 3116 West 17th Street, Cleveland, Ohio 44109. [Compl. ¶13.; Mot. Def. Ex. 5]

9. Sometime in 2009 Respondent negotiated and purchased the 3116 West 17th

Street property from Triplett for \$100.00. [Compl.¶14.; Mot. Def. Ex. 5]

10. To facilitate the sale of the 3116 West 17th Street property, Respondent prepared a quitclaim deed, which Triplett executed on December 7th, 2008 transferring the property to Respondent and Watson. [Compl.¶15.; Mot. Def. Ex. 6]

11. The quitclaim deed was later filed with the Cuyahoga County Recorder's Office on December 4, 2009, record #200902040511. [Compl.¶16.; Mot. Def. Ex. 5]

Claudia Cammon

12. In 2009, Claudia Cammon owned the property located at 4119 East 102nd Street, Cleveland, Ohio 44105. [Compl.¶17.; Mot. Def. Ex. 7]

13. That year, Respondent negotiated and purchased the 4119 East 102nd Street property from Cammon for \$100.00. [Compl.¶18.; Mot. Def. Ex. 8]

14. To facilitate the sale of the 4119 East 102nd Street property, Respondent prepared a quitclaim deed, which Cammon executed on December 7, 2008, transferring the property to Respondent and Watson. [Compl.¶19.; Mot. Def. Ex. 7]

15. The quitclaim deed was later filed with the Cuyahoga County Recorder's Office on March 19, 2009, record #200903190074. [Compl.¶20.; Mot. For Def. Judg. Ex. 7]

16. In 2009, Cammon owned a second property located at 13115 Southview Avenue, Cleveland, Ohio 44120. [Compl.¶21.; Mot. Def. Ex. 9]

17. Sometime that year, Respondent negotiated and purchased the 13115 Southview property from Cammon for \$100.00. [Compl.¶22.; Mot. Def. Ex. 10]

18. To facilitate the sale of the 13115 Southview Avenue property, Respondent and Watson prepared a quitclaim deed, which Cammon executed on March 10, 2009 transferring the property to Respondent and Watson. [Compl.¶23.; Mot. Def. Ex. 10]

19. The quitclaim deed was later filed with the Cuyahoga County Recorder's Office on December 14, 2009, record #200912140436. [Compl. ¶24.; Mot. Def. Ex. 10]

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 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.*, 27 Ohio St.3d, 501 N.E.2d 617 (1986); *Judd v. City Trust & Savings Bank*, 133 Ohio St. 81, 12 N.E.2d 288 (1937).

2. The Supreme Court's jurisdiction extends to regulating the unauthorized practice of law, to protect the public from persons "who have not been qualified to practice law and who are not amenable to the general discipline of the court." *Union Sav. Assn. v. Home Owners Aid, Inc.*, 23 Ohio St.2d 60, 64, 262 N.E.2d 558 (1970).

3. 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)).

4. 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*, 129 Ohio St. 23, 193 N.E. 650 (1934).

5. Legal documents, including deeds, contracts, and trusts, may not be prepared by a nonlawyer for the benefit of another. *Toledo Bar Assn. v. Chelsea Title Agency of Dayton, Inc.*, 100 Ohio St.3d 356, 2003-Ohio-6453, 800 N.E.2d 29, ¶ 7, quoting *Lorain Cty Bar Assn. v. Kennedy*, 95 Ohio St.3d 116, 116-117, 766 N.E.2d 1272 (2002); see also

Dayton Bar Association v. Addison, 107 Ohio St.3d 153, 837 N.E.2d 367 (2005).

6. Under Gov.Bar R. VII(7)(B), the Relator is required to file a motion for default if the Respondent fails to file an answer. The Relator's motion for default shall contain: a) a statement of the effort made to contact the respondent; b) sworn or certified documentary *prima facie* evidence in support of the allegations of the complaint; c) citations of authorities relied upon by the Relator; d) a statement of mitigating factors or exculpatory evidence; e) a statement of the relief sought by the Relator; and f) a certificate of service of the motion on Respondent. Gov. Bar R.VII(7)(B)(1)-(6).

7. Relator's Motion for Default Judgment complies with Gov.Bar R. VII (7)(B).

8. Gov. Bar R. VII(7)(E) requires proof by a preponderance of the evidence that Respondent has engaged in the unauthorized practice of law. *Cincinnati Bar Assn. v. Bailey*, 110 Ohio St.3d 223, 2006-Ohio 4360, 852 N.E.2d 1180.

9. The sworn and certified documentary *prima facie* evidence presented by Relator establishes, by a preponderance of the evidence presented, that Respondent engaged in the unauthorized practice of law in each of the four (4) counts of the complaint by preparing four (4) deeds, on behalf of Chanel Triplett and Claudia Cammon.

10. Each act found by the Board to constitute the unauthorized practice of law is based upon a stipulation of facts and/or evidence that contains sufficient information to demonstrate the specific activities upon which the conclusions are drawn in compliance with Gov. Bar R. VII(7)(H) and *Cleveland Bar Assn. v. Compmanagement, Inc.*, 111 Ohio St.3d 444, 2006-Ohio-6108 at ¶24-6.

V. CIVIL PENALTIES

1. The Board has also considered the appropriateness of the imposition of civil

penalties pursuant to Gov. Bar R. VII, §(8)(B) and UPL Reg. 400. As found by the Panel, Respondent failed to cooperate in the investigation and drafted and filed four (4) deeds. Due to Respondents lack of cooperation, Relator has been unable to determine whether Respondent executed other fraudulent deeds. Gov. Bar Rule VII (8)(B)(1), (2) and (3).

2. The Board concludes that Respondent's clients were likely unaware that their legal documents were being prepared by a nonattorney and potentially suffered financial harm as a result. Further, Respondent offered no information in mitigation of his conduct. Gov. Bar Rule VII(8)(B)(1), (4) and (5).

3. By way of aggravating factors, the Board concludes that Respondent benefited from the unauthorized practice of law as preparing the Triplett and Cammon deeds was part of a for profit enterprise. In addition, Respondent's unauthorized practice included preparation of legal instruments for filing with a "court or other governmental entity." UPL Reg. 400(F)(d) and (f).

4. The Board recommends, pursuant to Gov. Bar Rule VII(8)(B), a civil penalty of \$10,000.00.

VI. CONCLUSION/RECOMMENDATIONS

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

2. The Board 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 Board recommends, pursuant to Gov. Bar Rule VII(8)(B), a civil penalty of

\$10,000.00 (\$2,500.00 for each deed prepared by Respondent.)

4. Pursuant to Gov. Bar Rule VII(8)(A)(1), the Board determined that Respondents should reimburse the costs and expenses incurred by the Board and Relator in this matter.

VI. STATEMENT OF COSTS

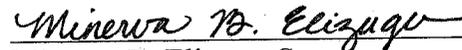
No costs have been incurred by Relator in this matter. In accordance with Gov. Bar R. VII(19)(F), there will be publication costs incurred once the Supreme Court enters its order in this case.



Curtis J. Sybert, Chair
Board on the Unauthorized Practice of Law

CERTIFICATE OF SERVICE

This is to certify that a copy of the foregoing Final Report was served by certified mail upon the following this 16th day of April, 2013: Philip King, Esq., Office of Disciplinary Counsel, 250 Civic Center Drive, Suite 325, Columbus, Ohio 43215-7411; Thomas Jones, Jr. 2982 E. 59th Street, Cleveland, Ohio 44127; Eugene Whetzel, Ohio State Bar Association, 1700 Lake Shore Drive, Columbus, Ohio 43216; Heather Zirke, Esq., Cleveland Metropolitan Bar Association UPL Committee, 1301 E. Ninth Street, Second Level, Cleveland, Ohio 44114.



Minerva B. Elizaga, Secretary
Board on the Unauthorized Practice of Law