## PRACTICE OF LAW BOARD STATE OF WASHINGTON

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## **Members** April 16, 2008 Stephen Crossland Chairperson Cashmere Dennis Elliott c/o l Hon. Paul A. Bastine Law Office of Vice-Chairperson **Spokane** Fife, WA Rita L. Bender Seattle RE: Unauthorized Practice of Law Complaint – File No. 06-23 Brian J. Dano Moses Lake Dear Mr. Elliott: Jeanne J. Dawes Spokane The Practice of Law Board was created by order of the Washington State Supreme Court, General Rule (GR) 25. The Board is charged with the Stephanie Delaney Seattle investigation of allegations of unauthorized practice of law in Washington. Revised Code of Washington (RCW) 2.48.180 states that a nonlawyer C. Robert Ford practicing law or holding himself out as entitled to practice law constitutes the Bellevue unauthorized practice of law. Court rule GR 24 defines the practice of law. Nancy C. Ivarinen The unauthorized practice of law is a crime in Washington. **Burlington** Cheryl D. Kringle As you are aware, A ... B. ... on behalf of W ... J and S Seattle Salon, filed a complaint against you and your business, Elliott & Associates, alleging that you engaged in the unauthorized practice of law by representing Howard H. Marshack Vancouver a client in a debt collection matter<sup>1</sup> and by threatening a lawsuit. **Daniel Pérez** On March 24, 2006, you attempted to serve on W Seattle Salon and Day Spa a small claims court action filed by A Hon. Jane M. Smith with the Notice of Small Claim was a letter to Mr. J stating that you are Nespelem attempting to collect back wages and that Ms. M has authorized you to work out a settlement agreement for her. The letter continues "[I]f we do not Administrator here (sic) from you within 24 hours we will be forced to file suite (sic)..." Julie Shankland **Investigator** In an interview with our investigator, Ms. M stated that she hired you Sandra Schilling to file a lawsuit for her against Mr. J. Ms. M. was employed by Mr. to work in his salon beginning in November 2005. In January 2006, Mr. paychecks to Ms. M were returned due to insufficient funds. In March 2006, Ms. M quit working for Mr. J with wages owing.

<sup>&</sup>lt;sup>1</sup> This is in violation of the Revised Code of Washington (RCW) 19.16.110, which requires collection agencies to be licensed.

According to Ms. M., she did not draft or complete the Notice of Small Claim court action, but explained the problem to you and "he legalized it for me." The initial Notice had to later be redrafted because of incorrect format. This error could have caused injury to Ms. M by resulting in a dismissal of her action. Ms. M not remember the processing of the second Notice of Small Claim. Both the first and second Notices list Ms. M 's address in care of Elliott & Associates. Ms. M states that you also drafted "Exhibit A," which was a statement attached to the Notice of Small Claim, and that you brought it to her to sign. Ms. Messel explicitly states that she did not ask you to settle this debt matter for her and never authorized nor saw the March 24, 2006 settlement letter. Ms. March 24, 2006 settlement letter. Ms. March 24, 2006 settlement letter. you were unsuccessful and so she filed service of the Notice by registered mail. On October 4, 2006, Ms. M went to court by herself. The hearing in this matter was continued for two weeks so Ms. M could provide documentation of her indirect costs and a copy of the RCW regarding receiving double wages. Ms. M Elliott & Associates and spoke with your wife, L Elliott & requesting that invoices be fabricated to provide documentation of additional indirect costs. You then provided her a copy of RCW 49.52.070, as well as several fictitious invoices. Ms. M you about \$250 total. In October 2006, the court awarded her a judgment against Mr. in the amount of \$1,735.

You told our investigator that you assist clients in administrative and family law cases. In family law, you walk clients through the procedures of filling out on-line forms and by cleaning up format. You state that Ms. M went with you to court, filled out the Notice of Small Claim form herself, and gave the form to you to type up. You state that she drafted the "Exhibit A" attachment and gave it to you to type up. You state that you never gave her legal advice, and that Ms. M authorized you to seek settlement and that she drafted the March 24, 2006, settlement letter with you.

According to you, the part of the letter which states "we" will be forced to file suit was a typographical error. Since the court did not accept the initial notice, you state that Ms. M completed a second one and you assisted her in serving Mr. J by certified mail. According to you, no part of your service for Ms. M was supervised or assisted by an attorney. Our investigation of your file in this matter uncovered a blank declaration form signed by Ms. M Well left you a message requesting an explanation of why you have a blank declaration signed by Ms. M but you have not returned an answer.

You are not a lawyer. RCW 2.48.180(2)(a) states that a non-lawyer practicing law or holding himself out as entitled to do so constitutes the unauthorized practice of law. Selecting, drafting or completing legal documents which affect the legal rights of others is included in the GR 24 definition of the practice of law. After considering all the information provided, the Board determined that you selected and completed the legal documents for the small claims action and drafted the "Exhibit A" document attached to the notice based on Ms. Market is recital of the facts. Negotiation of legal rights on behalf of another entity or person(s) is also included in the GR 24 definition of the practice of law. The March 24, 2006 settlement letter is evidence that you sought to negotiate Ms. Market is legal rights.

At this time, pursuant to GR 25(f)(4)(B), we request that you enter into a written agreement with this Board, to refrain from the following conduct:

- ♦ Selection, drafting or completion of legal documents or agreements for others.
- Negotiation of legal rights or responsibilities on behalf of another entity or person(s).
- ♦ Any activity which is defined as the practice of law in GR 24.

In 2005, you signed an Agreement to Refrain from Engaging in the Unauthorized Practice of Law following a complaint that you were representing clients in personal injury matters. Because this is a second offense, the Practice of Law Board has voted to immediately refer the investigation of this matter and that of the previous complaint to the County Prosecutor. In addition, the Practice of Law Board has voted to refer the investigation of this matter to the Consumer Protection Division of the Attorney General's Office and the Department of Licensing.

Please sign and date your signature and have your signature witnessed by a person over the age of eighteen, who will also sign as the witness. The signed letter should be returned to the Board within 15 days.

Thank you in advance for your anticipated cooperation.

Very Truly Yours,

Steve Crossland, Chair Practice of Law Board

JS:as

cc: W J , S Salon