

**PRACTICE OF LAW BOARD
STATE OF WASHINGTON**

1325 Fourth Avenue, Suite 600, Seattle, WA 98101-2539
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Members

Stephen Crossland
Chairperson
Cashmere

June 9, 2008

Hon. Paul A. Bastine
Vice-Chairperson
Spokane

C. David Austin

██████████
Lacey, WA ██████████

Rita L. Bender
Seattle

RE: File No. 08-07 Unauthorized Practice of Law Complaint against David Austin

Margaret Bridewell
Walla Walla

Dear Mr. Austin:

Brian J. Dano
Moses Lake

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 investigation of allegations of unauthorized practice of law in Washington. Revised Code of Washington (RCW) 2.48.180 states that a nonlawyer practicing law or holding himself out as entitled to practice law constitutes the unauthorized practice of law. Court Rule GR 24 defines the practice of law. The unauthorized practice of law is a crime in Washington.

Jeanne J. Dawes
Spokane

Stephanie Delaney
Seattle

Nancy C. Ivarinen
Burlington

As you are aware, W██████ W██████ filed a complaint against you alleging that you engaged in the unauthorized practice of law by giving legal advice regarding estate planning. According to Mr. W██████'s complaint, you visited Mr. and Mrs. W██████'s residence in 2003 and discussed with them various estate plans. You did not know the W██████s prior to driving to their home in Onalaska, Washington. You indicated to our investigator, that you contacted the W██████s after they filled out a "lead card". You asked the W██████s a series of questions about their property and heirs. You recommended that the W██████s purchase a living trust, but Mr. W██████ insisted on a will. The W██████s purchased a will package from you and gave you two checks of \$200 each, one for you and one for attorney A██████ H██████.

Cheryl D. Kringle
Seattle

Howard H. Marshack
Vancouver

Daniel Pérez
Seattle

Renée Shadel
Seattle

Mr. and Mrs. W██████ state that they contacted you again in 2007 with additional concerns about their estate plan and you advised them that a trust would better protect Mrs. W██████ than a will. You advised Mr. W██████ that he should set up a trust to prevent the state from forcing Mrs. W██████ to go through probate and charging her \$6,000. The W██████ subsequently paid you two checks: one for \$600 made out to you and one for \$500 made out to Mr. H██████. Mr. and Mrs. W██████ state that they never spoke with attorney A██████ H██████. Mr. H██████, however, believes that he may have spoken with them in 2007. Mr. W██████ eventually asked for his money back. Mr. H██████ did refund \$500.

Hon. Jane M. Smith
Nespelem

Administrator
Julie Shankland

Investigative Attorney
Sandra Schilling

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. Giving advice or counsel to others as to their legal rights or the legal rights or responsibilities of others and selecting, drafting or completing legal documents which

affect the legal rights of others are both included in the GR 24 definition of the practice of law. According to the W■■■■, you solicited their business in their home and suggested to them to purchase a living trust. This constitutes practicing law by giving advice or counsel to the W■■■■s regarding their legal rights. In 2007, the legislature adopted RCW 19.295.020, prohibiting non lawyers from marketing estate distribution documents. I have attached a copy of this statute for your review.

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:

- ◆ Giving advice or counsel to others as to their legal rights or the legal rights or responsibilities of others for fees or other consideration;
- ◆ Holding yourself out as authorized to select, draft or complete legal documents or pleadings for others;
- ◆ Any activity which is defined as the practice of law in GR 24.

We further ask you to stipulate that in the event you violate this agreement, you agree that this stipulation, evidence of your further violation, the investigative report to the Board of your past violations, the original complaint, your response, and all other evidence of such violations shall be turned over to the appropriate County Prosecutor's Office with a request from the Board that that office institute a criminal proceeding against you.

In the event you do not return this stipulation as signed and agreed to within 15 days of the mailing of this letter, the Board will issue its report and consider turning over its investigation along with a request for prosecution to the County Prosecutor's Office.

We are hopeful that we will be able to resolve these matters by stipulation. If you are willing to so stipulate, 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

Enclosures: Stipulation, Copy of RCW 19.295.020

cc: W■■■■ W■■■■ (letter only)

JS:as

RCW 19.295.020
Marketing of estate distribution documents.

(1) Except as provided in subsection (2) of this section, it is unlawful for a person to market estate distribution documents, directly or indirectly, in or from this state unless the person is authorized to practice law in this state.

(2) A person employed by someone authorized to practice law in this state may gather information for, or assist in the preparation of, estate distribution documents as long as that person does not provide any legal advice.

(3) This chapter applies to any person who markets estate distribution documents in or from this state. Marketing occurs in this state, whether or not either party is then present in this state, if the offer originates in this state or is directed into this state or is received or accepted in this state.

(4) This chapter does not apply to any financial institution.