

**PRACTICE OF LAW BOARD
STATE OF WASHINGTON**

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June 27, 2008

Guillermo Garcia

College Place, WA

RE: File No. 08-03 Unauthorized Practice of Law Complaint against
Guillermo Garcia

Dear Mr. Garcia:

The Practice of Law Board was created by order of the Washington State Supreme Court, General Rule (GR) 25. The Board is charged with investigating 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.

As you are aware, the Practice of Law Board opened a complaint against you alleging that you engaged in the unauthorized practice of law by drafting court documents and advising a client about his legal rights. According to the Board's investigation, you acted as a legal representative to J. H. in divorce proceedings and in a tort claim filed against him by M. H. You drafted and had Mr. H. sign a power of attorney, dated April 11, 2007, and a second power of attorney dated May 3, 2007, allegedly giving you authority to act as Mr. H.'s legal representative in court, in motions, and in all matters of cross examination. You advised Mr. H. regarding legal strategy in these matters.

According to the Board's investigation, you drafted, on your computer, letters sent to opposing counsel, which include (but are not limited to) the following: A letter dated April 13, 2007, threatening to expose Mrs. H. for licensing violations unless she agrees to settlement demands; a letter dated April 26, 2007, proposing settlement terms; a letter dated May 2, 2007, stating that Mr. H. had given you a limited power of attorney "to handle his legal matters/affairs"; and a letter dated May 3, 2007, stating that Mr. H.'s paralegal has read the file and setting forth the paralegal's response to a settlement letter. You drafted on your computer pleadings filed in court, which include (but are not limited to) the following: Declaration of J. L. H., Interrogatories, Petitioner's Declaration Opposing Respondents Motions and Docket for May 14, 2007; and an Affidavit of Prejudice against

Judge Z██████. You drafted and signed pleadings filed in court, which include (but are not limited to) the following: Notes For Motion Dockets, Notice of Intent to Withdraw Motion, Amended Motion for Sanctions for Failure to Comply with T.O., and Motion to End Temporary Order of June 3, 2006, and Negotiate a New Temporary Order. On September 27, 2007, the Court penalized Mr. H██████ \$3,000 in terms and attorney fees for the pleadings that you had written and filed. The order stated that these pleadings “were improper, outlandish, and egregious, delaying the proceedings and causing Plaintiff to incur attorney fees and costs...”

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. GR 24(a) states that the practice of law includes, but is not limited to:

- (1) Giving advice or counsel to others as to their legal rights or the legal rights or responsibilities of others for fees or other consideration.
- (2) Selection, drafting or completion of legal documents or agreements which affect the legal rights of an entity or person(s).
- (3) Representation of another entity or person(s) in a court, or in a formal administrative adjudicative proceeding or other formal dispute resolution process or in an administrative adjudicative proceeding in which legal pleadings are filed or a record is established as the basis for judicial review.
- (4) Negotiation of legal rights or responsibilities on behalf of another entity or person(s).

By advising a client as to his divorce strategy, by drafting court documents and signing court documents, and by communicating on a client's behalf with opposing counsel, you have violated every section of GR 24. Your actions have not been isolated to this instance. In your February 7, 2008, response to the Board, you admit that you have assisted many clients. The fact that a client signed a power of attorney does not authorize you to act on his behalf as his lawyer. The Washington Court clarified in *State v. Hunt*, 75 Wash. App. 795, 880 P.2d 96 (2005) that a power of attorney does not authorize a person to act pro se in the place of another. In addition, the payment of a fee is not a precondition to the finding of unauthorized practice of law. The Washington Court stated in *Perkins v. CTX Mortgage Company*, 137 Wn.2d 93, 969 P.2d 93, 98 (1999) that the payment of a fee is “irrelevant” to the inquiry of whether an action was the unauthorized practice of law. The rule is that the nature of the service rendered governs its classification. *Id.*

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:

- ◆ Holding yourself out as authorized to Giving advice or counsel to others as to their legal rights or the legal rights or responsibilities of others
- ◆ Selecting, drafting or completing legal documents or pleadings for others;
- ◆ Representation of another entity or person(s) in a court, or in a formal administrative adjudicative proceeding or other formal dispute resolution

process or in an administrative adjudicative proceeding in which legal pleadings are filed or a record is established as the basis for judicial review

- ◆ Negotiation of legal rights or responsibilities on behalf of another entity or person(s).

The Practice of Law Board has also voted to refer this matter to the County Prosecutor with a recommendation for prosecution.

Please sign and return the enclosed agreement. Your signature must be witnessed by a person over the age of eighteen. The signed agreement must be returned to the Board within 15 days.

Thank you in advance for your anticipated cooperation.

Very Truly Yours,

A handwritten signature in black ink, appearing to read 'Steve Crossland', written in a cursive style.

Steve Crossland, Chair
Practice of Law Board

JS:as

Enclosure: Stipulation