Colorado Supreme Court 101 West Colfax Avenue, Suite 800 Denver, CO 80202	RECEIVED NOV 0 5 2012 ATTORNEY REGULATION
Original Proceeding in Unauthorized Practice of Law, 11UPL080	
Petitioner: The People of the State of Colorado, **v.** **Respondent:** Katherine Szot.	Supreme Court Case No: 2011SA359
ORDER OF COURT	

Upon consideration of the Petitioner's Renewed Motion to Strike Respondent's Objection filed in the above cause, and now being sufficiently advised in the premises,

IT IS ORDERED that said Motion to Strike shall be, and the same hereby is, DENIED.

IT IS THIS DAY ORDERED that the Recommendation of the Presiding Disciplinary Judge is adopted.

THEREFORE, KATHERINE SZOT is ENJOINED from further conduct found to constitute the unauthorized practice of law.

IT IS FURTHER ORDERED that the Respondent is assessed costs of these proceedings in the amount of $286.50, said costs to be paid to the Office of Attorney Regulation Counsel within (30) days of the date of this order.

IT IS FURTHER ORDERED that a fine be imposed in the amount of $250.00.

BY THE COURT, NOVEMBER 5, 2012.

Case Number: 2011SA359
Caption: People v. Szot, Katherine

CERTIFICATE OF SERVICE

Copies mailed via the State's Mail Services Division on November 5, 2012.

Katherine Szot
509 S. El Paso St.
Colorado Spg, CO 80903

Kim E Ikeler
OFFICE OF ATTORNEY REGULATION
1560 Broadway Ste 1800
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William R Lucero
PRESIDING DISIPLINARY JUDGE
1560 Broadway Ste 675
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SUPREME COURT, STATE OF COLORADO ORIGINAL PROCEEDING IN THE UNAUTHORIZED PRACTICE OF LAW BEFORE THE OFFICE OF THE PRESIDING DISCIPLINARY JUDGE 1560 BROADWAY, SUITE 675 DENVER, CO 80202	RECEIVED AUG - 7 2012 REGULATION COUNSEL
Complainant: THE PEOPLE OF THE STATE OF COLORADO **Respondent:** KATHERINE SZOT TORREZ	Case Number: **11SA359**
REPORT OF HEARING MASTER PURSUANT TO C.R.C.P. 236(a)	

This matter is before the Presiding Disciplinary Judge ("the PDJ") on an order of the Colorado Supreme Court ("the Supreme Court") appointing the PDJ as a hearing master and directing the PDJ to prepare a report setting forth "findings of fact, conclusions of law, and recommendations," pursuant to C.R.C.P. 234(f) and 236(a).

I. SUMMARY

The Office of Attorney Regulation Counsel ("the People") allege that Katherine Szot Torrez ("Respondent") engaged in the unauthorized practice of law by drafting motions on behalf of Ronald Roy Hoodenpyle ("Hoodenpyle"), a fellow member of a political group who had been incarcerated. The PDJ concludes that Respondent engaged in the unauthorized practice of law by drafting, as Hoodenpyle's legal representative, pleadings for his use in a judicial proceeding. The PDJ recommends that the Supreme Court enjoin Respondent from the practice of law, impose a moderate fine, and award costs in the People's favor.

II. PROCEDURAL HISTORY

On December 12, 2011, the People filed a "Petition for Injunction," seeking to enjoin Respondent from the unauthorized practice of law. The Supreme Court issued an "Order and Rule to Show Cause" on December 15, 2011, to which Respondent filed a response on January 6, 2012. On January 9, 2012, the People filed a "Motion to Proceed," which the Supreme Court granted on January 13, 2012, referring the matter to the PDJ to prepare this

report. The PDJ issued an "Order of Hearing Master Pursuant to C.R.C.P. 234-236" on January 18, 2012.

Before answering the People's petition, Respondent filed a "Notice and Order to Dismiss with Prejudice for Lack of Jurisdiction" on January 30, 2012,[1] and the People filed a response thereto the same day. Respondent filed a reply on February 6, 2012, and the People then filed "Petitioner's (A) Request for Ruling on Motion to Dismiss and (B) Request that the Court Order Respondent to File Her Answer Within Ten Days After a Ruling, if Any, Favorable to Petitioner" on February 10, 2012. The PDJ denied Respondent's jurisdictional objection on February 22, 2012,[2] and ordered her to file an answer by March 7, 2012.

Respondent also filed a "Writ of Error" on February 15, 2012; an "Addendum to Writ of Error" on February 23, 2012; a "Notice of Default" on February 29, 2012; and a "Notice of Default and Request [for] Hearing for Final Judgment or Judgment According to 11 C.R.C.P. 54(b)" on March 7, 2012. In response, the People filed "Petitioner's Response to Notice of Default" on March 1, 2012; they also filed on March 8, 2012, "Petitioner's Request for Findings (A) That the Allegations of the Petitioner Be Deemed Admitted and (B) That Respondent Has Engaged in the Unauthorized Practice of Law," as well as "Petitioner's Motion for Sanctions." The PDJ denied all these motions on March 27, 2012,[3] and again ordered Respondent to file an answer, which she did on April 9, 2012.

At the unauthorized practice of law hearing on April 17, 2012, the PDJ heard testimony from Leslee Anne Barnicle ("Barnicle") and Respondent, and the PDJ admitted the People's exhibits 1, 4-10, 12-19, and 21, as well as Respondent's exhibits A-B.

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[1] Respondent argued in her motion to dismiss that she and Hoodenpyle are "Sovereigns of the Republic of Colorado, now known as Colorado free-state," and that "the Supreme Court of Colorado, the defacto government, does not have jurisdiction over a free, Sovereign Living Vessel of the Colorado Republic/Colorado-free State."

[2] The PDJ noted that Respondent had not provided any legal authority supporting her arguments, and he determined that both personal and subject matter jurisdiction were proper.

[3] In his order, the PDJ found that Respondent's various motions contained unpersuasive citations to authority and that her arguments were largely duplicative of those she made in her motion to dismiss for lack of jurisdiction. The PDJ denied the People's request for findings pursuant to C.R.C.P. 12(a)(1).

III. FINDINGS OF FACT AND CONCLUSIONS OF LAW

Factual Findings

On June 17, 2010, Hoodenpyle was convicted by a federal jury of filing a false lien against a house owned by an IRS Revenue Officer.[4] Hoodenpyle was sentenced to twelve months' imprisonment and was ordered to surrender for service of his sentence at a federal correctional facility in Big Spring, Texas, on October 29, 2010.[5] Hoodenpyle did not comply, however, resulting in the filing of a second criminal complaint against him for failure to appear for service of his sentence in violation of 18 U.S.C. sections 3146(a)(2) and (b)(1)(A)(ii).[6] Hoodenpyle was thereafter arrested, detained, and indicted.[7] The case was assigned to Judge Christine M. Arguello.[8]

On March 2, 2011, Barnicle was appointed as Hoodenpyle's attorney, and two days later she entered her appearance.[9] Barnicle testified that upon her appointment, she picked up the discovery file from the U.S. District Attorney's office and then met with Hoodenpyle at the federal detention center in Englewood, Colorado. Based on her conversations with Hoodenpyle, Barnicle tried to negotiate a resolution, knowing there was a significant likelihood that the government could secure a conviction in the case. Barnicle explained that although the sentencing guidelines called for eight to fourteen months' incarceration, she worked out a deal with the government—a "tremendous variance" from the guidelines—for a three-month prison sentence.[10] Hoodenpyle signed a "Statement by Defendant in Advance of Plea of Guilty"[11] and entered a guilty plea on April 8, 2011.[12] Barnicle said she believed that she "had a very good relationship" with Hoodenpyle and that the plea was "a very good result, based on the facts of [Hoodenpyle's] case."

Both Hoodenpyle and Respondent considered themselves Sovereigns of the Republic of Colorado ("the Republic"), also known as Colorado free-State,[13] rather than United States citizens. Both had signed a Declaration of Sovereign Rights held by Indigenous Power under the Constitution of the El Paso County

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[4] Ex. 7 at A8.
[5] Ex. 7 at A8.
[6] Ex. 7 at A6. This case was styled *United States v. Ronald Roy Hoodenpyle*, United States District Court for the District of Colorado, case number 1:10-mj-01182-KLM.
[7] Ex. 4 at 3.
[8] Ex. 4 at 4. The matter was given a new case number, 1:10-cr-00595-CMA-1.
[9] Ex. 4 at 7.
[10] Barnicle also testified that she managed to secure the government's agreement to give Hoodenpyle credit toward his three-month sentence for any time he had served on the false lien conviction if that verdict were overturned on appeal.
[11] Ex. 1.
[12] Ex. 4 at 8.
[13] Ex. B at 001.

Settlement.[14] As Respondent testified, the Republic is an organization of people, joined together by a covenant, who accept only the authority of common law, the United States Constitution, and the "Law of God."[15] According to Respondent, Hoodenpyle learned of her position as Advocate/Counsel General of the Republic shortly after he entered his guilty plea, and he then contacted her to assist him with his legal matters.

Respondent, who is by training a paralegal but not a licensed lawyer, testified that she believed her contract with the Republic to serve as Advocate/Counsel General not only authorized her to assist Hoodenpyle but obligated her to do so. As such, she began to correspond with Hoodenpyle and his wife, Darla, concerning Hoodenpyle's guilty plea.[16] At Hoodenpyle's behest, Respondent wrote to Colorado Governor John Hickenlooper, asking him to intervene in Hoodenpyle's case.[17] After meeting with Hoodenpyle several times during April 2011 and obtaining certain documents from Barnicle, Respondent "typed up" and filed on April 27, 2011, a "sui juris" motion on Hoodenpyle's behalf to withdraw his guilty plea.[18] Respondent testified that Hoodenpyle drafted this motion, then instructed her to type it and bring it to him for his signature. She also insisted that it was Hoodenpyle who found the cited cases and who referred to her as his "legal advocate."

In early May 2011, Respondent emailed Barnicle twice to convey Hoodenpyle's request that Barnicle withdraw as counsel on the case.[19] In one email, Respondent wrote that Barnicle was "being used to put a block between [Hoodenpyle] and his Sovereign status,"[20] while in the other she claimed that Barnicle's "conversion" from "assistance of counsel" to counsel had "hampered [Hoodenpyle] from doing what he wanted done."[21] To the latter email Respondent also attached a "General Power of Attorney," dated May 8, 2011, in which Hoodenpyle appointed Respondent as his "Attorney in Fact" to "obtain . . . any and all pleadings, motions, correspondence, communications, agreements, and any other exhibits that will protect my rights, further my

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[14] *See* Ex. B at 006-008.

[15] *See also* Ex B. at 001 ("That the Supreme Court of Colorado, the defacto government, does not have jurisdiction over a free, Sovereign Living Vessel of the Colorado Republic/Colorado-free State except it be of Common Law jurisdiction and which up holds the Constitution for the United States of America of 1789 and the Law of God."); Ex. 15 at 3 ("As a Sovereign, I am only bound to the constraining certainty of the United States Constitution 1787 and the Laws of the Almighty God (Elhoim [sic])").

[16] Ex. 7 at 2.

[17] Ex. 5.

[18] Ex. 7.

[19] Exs. 9 & 13.

[20] Ex. 9. In the email, Respondent observed that "[t]his Sovereignty stuff can be confusing," adding, "I know that you do not learn about this in law school, either."

[21] Ex. 13.

defense, and help bring about prosecutions of those that have harmed me, in ALL legal actions in the past, present and future."[22]

In a return email, Barnicle made clear to Respondent that she needed a request to withdraw from Hoodenpyle himself, explaining, "I do believe you are acting at Ron's behest, but I have to have authorization directly from Ron to file his request with the court."[23] Barnicle testified that she became concerned around this time that Respondent's efforts to act as an intermediary would compromise her relationship with Hoodenpyle and "undo all the work [she] had done" on the case. As Barnicle noted, "when [Respondent] got involved, everything kind of took a turn for the worse . . . . It put a real barrier between myself and Mr. Hoodenpyle once the outside party got involved."

On May 11, 2011, Respondent signed and filed an "Entry of Appearance as Attorney-in-Fact," citing case law ostensibly supporting her role as Hoodenpyle's representative and attaching a copy of her power of attorney.[24] She testified that she prepared this document using her own words.

The same day, Respondent filed a "Notice to Terminate Leslee Barnicle as Attorney of Record," with the introductory paragraph reading, "COMES NOW Ronald Roy Hoodenpyle, by and through [Respondent], Attorney-In-Fact . . . ."[25] In the pleading, Respondent demands Barnicle be removed as Hoodenpyle's attorney of record due to what she characterized as Barnicle's "misleading, fraudulent, and negligent actions."[26] At the unauthorized practice of law hearing, Respondent initially maintained that she merely "put down" on paper the message Hoodenpyle instructed her to convey, but she subsequently conceded that she drafted this turn of phrase, drawing upon a letter Hoodenpyle wrote on April 22, 2011, in which he described Barnicle's "fraud, deception, or trickery."[27] The motion, she acknowledged, reflected her own choice of words, based on her understanding of Hoodenpyle's wishes.

Also on May 11, 2011, Respondent signed and filed a motion to withdraw Hoodenpyle's guilty plea.[28] The motion appears essentially identical to the "sui juris" motion that Respondent filed on April 27, 2011, except for the opening "comes now" clause, in which Respondent identifies herself as Hoodenpyle's "Attorney-Of-Fact."[29] On May 12, 2011, the court struck the three pleadings

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[22] Ex. 12.
[23] Ex. 10.
[24] Ex. 14. Respondent cites the following cases in her entry of appearance: *Matter of Katz' Estate*, 274 N.Y.S. 202 (Surr. Ct. 1934); *Olive-Sternenberg Lumber Co. v. Gordon*, 143 S.W.2d 694 (Tex. Civ. App. 1940); *Arcweld Mfg. Co. v. Burney*, 121 P.2d 350 (Wash. 1942).
[25] Ex. 15.
[26] Ex. 15 at 2.
[27] Ex. 6.
[28] Ex. 16.
[29] Ex. 16.

Respondent had filed the previous day, because Barnicle remained counsel of record for Hoodenpyle.

Respondent testified that she soon thereafter consulted with Hoodenpyle, who asked her to file an objection to the court's order striking the three pleadings. Accordingly, on May 20, 2011, Respondent signed and filed, as Hoodenpyle's "Attorney-Of-Fact," an "Objection to Motion of Entry of Appearance and to Withdraw Guilty Plea and Motion to Dismiss Due to Lack of Jurisdiction."[30] The pleading cites numerous cases, as well as a Colorado statute, ostensibly bolstering the argument that the court had usurped Hoodenpyle's rights.[31] According to Respondent, she transcribed much of the motion from Hoodenpyle's letters to her, but she also copied into this motion her arguments from the notice to terminate Barnicle, including the description of Barnicle's conduct as "misleading, fraudulent, and negligent." As with the other three pleadings, Respondent testified that she believed she was empowered to draft the documents, sign them, and file them in federal court on Hoodenpyle's behalf through the power of attorney and the covenant she signed with the Republic. She said, "I felt like I was doing what I was supposed to do under my contract," adding, "I felt like I was practicing God's law."

On May 23, 2011, Judge Arguello held a hearing with respect to terminating Barnicle as counsel of record. At the hearing, Barnicle was permitted to withdraw from the case, and Hoodenpyle was allowed to proceed pro se with the assistance of standby counsel. Respondent did not thereafter sign or file pleadings on Hoodenpyle's behalf, and Hoodenpyle withdrew Respondent's power of attorney on February 14, 2012.[32] Respondent testified that she is no longer affiliated with the Republic.

Unauthorized Practice of Law Claims

The Supreme Court, which exercises exclusive jurisdiction to define the practice of law within the State of Colorado,[33] restricts the practice of law to licensed lawyers in order to protect members of the public from receiving incompetent legal advice from unqualified individuals.[34] Supreme Court case law holds that "an unlicensed person engages in the unauthorized practice of law by offering legal advice about a specific case, drafting or selecting legal

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[30] Ex. 17.
[31] Ex. 17.
[32] Ex. A.
[33] C.R.C.P. 228.
[34] *Unauthorized Practice of Law Comm. v. Grimes*, 654 P.2d 822, 826 (Colo. 1982); *see also Charter One Mortg. Corp. v. Condra*, 865 N.E.2d 602, 605 (Ind. 2007) ("Confining the practice of law to licensed attorneys is designed to protect the public from the potentially severe consequences of following advice on legal matters from unqualified persons."); *In re Baker*, 85 A.2d 505, 514 (N.J. 1952) ("The amateur at law is as dangerous to the community as an amateur surgeon would be.").

pleadings for another's use in a judicial proceeding without the supervision of an attorney, or holding oneself out as the representative of another in a legal action."[35] Phrased somewhat more expansively, a layperson who acts "in a representative capacity in protecting, enforcing, or defending the legal rights and duties of another and in counselling, advising and assisting that person in connection with these rights and duties" engages in the unauthorized practice of law.[36]

The PDJ concludes that Respondent engaged in the unauthorized practice of law by drafting and filing legal pleadings on Hoodenpyle's behalf on May 11 and 20, 2011.[37] Respondent admitted that it was she who characterized Barnicle's actions as "misleading, fraudulent, and negligent" in the notice to terminate Barnicle,[38] and she conceded that this phrase carries different, "gentler" connotations from the words Hoodenpyle had originally used to describe Barnicle's actions. Respondent again used this wording in the "Objection to Motion of Entry of Appearance and to Withdraw Guilty Plea and Motion to Dismiss Due to Lack of Jurisdiction."[39] In addition, Respondent acknowledged that she drafted the language in her entry of appearance.

The motions Respondent filed for Hoodenpyle reflect one of the hallmarks of the practice of law: the exercise of legal judgment, knowledge, or skill (although in this instance, the filings reflect a misunderstanding of relevant legal principles).[40] For example, Respondent used legal terms of art by portraying Barnicle's conduct as "misleading, fraudulent, and negligent." These words carry specific meanings and important consequences within the

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[35] *People v. Shell*, 148 P.3d 162, 171 (Colo. 2006); *see also* C.R.C.P. 201.3(2)(a)-(f) (defining the practice of law).
[36] *See Denver Bar Ass'n v. Pub. Utils. Cmm'n*, 154 Colo. 273, 279, 391 P.2d 467, 471 (1964); *see also Shell*, 148 P.3d at 171.
[37] *See Title Guaranty Co. v. Denver Bar Ass'n*, 135 Colo. 423, 434, 312 P.2d 1011, 1016 (1957) (holding that preparation of legal documents for others amounts to the unauthorized practice of law); *see also Grimes*, 759 P.2d at 4 (ordering a layperson who had been enjoined from the practice of law not to "recommend or suggest to persons or entities using [his form service] what information should be placed in the blanks"). It is less clear that Respondent practiced law by "typ[ing] up" the April 27, 2011, "sui juris" motion to withdraw Hoodenpyle's guilty plea. Respondent testified that Hoodenpyle himself drafted the motion and found the cited case law, and the PDJ has no reason to doubt this testimony.
[38] Ex. 15 at 2.
[39] Ex. 17.
[40] *See People v. Adams*, 243 P.3d 256, 266 (Colo. 2010) (noting that non-attorneys are barred from performing on another's behalf activities that require the exercise of legal discretion or judgment); *Grimes*, 759 P.2d at 3-4 (ordering a layperson who had been enjoined from the practice of law to refrain from "prepar[ing] any document for any other person or entity which would require familiarity with legal principles"); *Pub. Utils. Cmm'n*, 154 Colo. at 280, 391 P.2d at 471-72 (stating that the practice of law encompasses the preparation for others of "procedural papers requiring legal knowledge and technique").

legal context.[41] More broadly, Respondent's filing of criminal pleadings for Hoodenpyle—especially the motion to withdraw his guilty plea—profoundly affected his "legal rights and duties," as expressed in the Supreme Court's *Shell* decision.[42]

Respondent's conduct in this matter implicates the primary concerns underlying the unauthorized practice of law rules. She assisted Hoodenpyle in filing motions that had the potential to undermine the favorable deal Barnicle had negotiated on Hoodenpyle's behalf, without understanding the possible ramifications of those actions. Furthermore, Respondent interfered with Barnicle's attorney-client relationship with Hoodenpyle, and by filing misinformed and fruitless pleadings she wasted judicial resources.

Respondent advanced in her pleadings and at the unauthorized practice of law hearing several affirmative defenses. The PDJ examines each defense in turn and concludes that each lacks merit.

First, Respondent suggests that the power of attorney Hoodenpyle signed in her favor authorized her to take actions otherwise limited to licensed attorneys. She stresses that this power of attorney was a private contract and notes that the United States Constitution bars laws impairing contractual obligations.[43] Courts nationwide have roundly rejected this defense, holding that conferral of a power of attorney does not authorize an unlicensed person to practice law.[44] Rather, a power of attorney permits an attorney in fact to make decisions regarding litigation, to be implemented by a licensed attorney.[45] The fundamental distinction between attorneys in fact and "attorneys at law" has deep roots in our justice system, dating back to fifteenth-century England,[46] and

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[41] As one example, the Supreme Court has held that one of the few avenues for a defendant to withdraw a guilty plea is by showing he or she was fraudulently influenced to enter the plea. *See People v. Chavez*, 730 P.2d 321, 327 (Colo. 1986).
[42] *See Shell*, 148 P.3d at 171 (quoting *Pub. Utils. Cmm'n*, 154 Colo. at 279, 391 P.2d at 471).
[43] *See* U.S. CONST. art. 1, § 10, cl. 1.
[44] *See, e.g., Christiansen v. Melinda*, 857 P.2d 345, 349 (Alaska 1993) ("A statutory power of attorney does not entitle an agent to appear pro se in his principal's place.") (cited with approval in *People v. Adams*, 243 P.3d 256, 266 (Colo. 2010)); *see also Drake v. Superior Court*, 26 Cal. Rptr. 2d 829, 833 (Cal. App. 1994) (same); *In re Conservatorship of Riebel*, 625 N.W.2d 480, 483 (Minn. 2001) (same); *Estate of Friedman*, 482 N.Y.S.2d 686, 687 (Surr. Ct. 1984) (same); *Disciplinary Counsel v. Coleman*, 724 N.E.2d 402, 404 (Ohio 2000) (same); *Kohlman v. W. Pa. Hosp.*, 652 A.2d 849, 852 (Pa. Super. Ct. 1994) (same). The cases Respondent cites in her entry of appearance to bolster her position that the power of attorney authorized her to file pleadings on Hoodenpyle's behalf are inapposite, and in fact one of these cases has been reversed.
[45] *Riebel*, 625 N.W.2d at 482. Respondent is mistaken in her belief that the Contract Clause of the U.S. Constitution bars the State of Colorado from impairing her rights under the power of attorney signed by Hoodenpyle. Since contracts that are contrary to public policy are illegal and void, *see Metropolitan Life Insurance Co. v. Roma*, 97 Colo. 493, 495, 50 P.2d 1142, 1143 (1935), a power of attorney cannot trump state law and authorize a layperson to practice law.
[46] *Coleman*, 724 N.E.2d at 404.

for good reason. To confer upon attorneys in fact the privileges of attorneys at law would vitiate the system of standards governing attorney licensure, since powers of attorney could easily be used to circumvent those standards.[47] The resulting practice of law by persons without appropriate training and skill would deprive members of the public of effective representation, thus occasioning significant public harm.

Respondent next posits that she merely acted as a helper to Hoodenpyle, who had limited capacity to litigate on his own behalf while incarcerated. But in drafting and filing pleadings on Hoodenpyle's behalf Respondent did not merely take dictation or type up his own words, as Colorado law would permit.[48] Instead, the evidence demonstrates that she put Hoodenpyle's wishes into her own words and exercised independent judgment in drafting documents for him. Nor is the PDJ persuaded by Respondent's contention that she was simply trying to help Hoodenpyle terminate Barnicle's representation and obtain the right to file pro se pleadings. Even though Respondent did not assume an ongoing, more substantive role as criminal counsel to Hoodenpyle, she did meaningfully assist him with his legal rights through the several motions she filed on his behalf.

Another defense Respondent advances is that she acted pursuant to authority conferred by her Sovereign rights and her office as Advocate/Counsel General of the Republic.[49] She asserts that "Sovereigns do not fall under statutory law, only common law and the Constitution. Also under the TEN

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[47] *See, e.g., Estate of Friedman*, 482 N.Y.S.2d at 687.

[48] *See Pub. Utils. Cmm'n*, 154 Colo. at 281, 391 P.2d at 472 (stating that the practice of law does not encompass the "completion of forms which do not require any knowledge and skill beyond that possessed by the ordinarily experienced and intelligent layman"); *Grimes*, 759 P.2d at 4 (holding that a layperson who had been enjoined from the practice of law could "act solely and strictly as a scrivener" when asked by customers to fill in blank forms); *see also Franklin v. Chavis*, 640 S.E.2d 873, 876 (S.C. 2007) ("Even the preparation of standard forms that require no creative drafting may constitute the practice of law if one acts as more than a mere scrivener.").

[49] It appears that Respondent also believes she is entitled to practice law because she is a signatory to the Declaration of Sovereign Rights Held by Indigenous Power. *See* Ex. B at 008. This document provides an avenue for adherents to declare allegiance to the "Republic of the united [sic] States," among other elements. *See* Ex. B at 008. This type of declaration is not mentioned in any reported case law, and no legal authority exists supporting the proposition that it accords adherents any special legal rights. In addition, Respondent argues that her right to act as Hoodenpyle's attorney is supported by Chapter 1, Article 1, Section 2 of the United Nations Charter, which sets forth as a purpose: "To develop friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples, and to take other appropriate measures to strengthen universal peace." The United Nations Charter does not provide a basis for unlicensed persons to engage in the practice of law in Colorado. Finally, Respondent argues that Hoodenpyle's "character papers," which assert his status as a "living sovereign" and "common law Citizen" and declare that anyone who violates his constitutional rights will be subject to a one-million-dollar penalty, granted her authority to practice law on his behalf. *See* Resp. to Pet'r's. Pet. for Inj. Ex. E. No legal authority validates this defense.

COMMANDMENTS and Covenant of God as Creator."[50] The PDJ can identify no legal support for this position. As explained above, the Supreme Court has plenary authority to regulate the practice of law in Colorado.

Finally, Respondent argues that the PDJ has jurisdiction only to preside over attorney discipline cases, not over private sovereign men and women. The PDJ disagrees, as explained in the order denying Respondent's motion to dismiss this matter. Article VI of the Colorado Constitution grants the Supreme Court exclusive authority to regulate and control the practice of law in Colorado.[51] The Supreme Court referred the matter to the PDJ, as hearing master, pursuant to C.R.C.P. 234. Further, the PDJ has personal jurisdiction over Colorado residents, including Respondent, who are served in Colorado.[52] As such, jurisdiction is proper in this proceeding.

Fine, Costs, and Restitution

C.R.C.P. 236(a) provides that, if a hearing master makes a finding of the unauthorized practice of law, the hearing master shall also recommend that the Supreme Court impose a fine ranging from $250.00 to $1,000.00 for each such incident. In assessing fines for the unauthorized practice of law, the Supreme Court previously has examined whether the respondent's actions were "malicious or pursued in bad faith" and whether the respondent continued to engage in unlawful activities despite warnings to desist.[53]

In this case, Respondent appears to have believed that she was acting in Hoodenpyle's best interests and in accord with her own duties Advocate/Counsel General of the Republic by assisting him in litigation. Although these beliefs were ill-founded and injurious, the PDJ does not attribute a bad-faith motive to Respondent. Further, Respondent engaged in a limited scope of legal practice on Hoodenpyle's behalf during a period of less than two weeks. Although the People seek a fine greater than the minimum fine of $250.00, the PDJ believes that Respondent will not repeat her misguided actions and that a fine of $250.00 is appropriate here.[54]

In unauthorized practice of law matters, the Supreme Court may assess costs as it deems appropriate, pursuant to C.R.C.P. 237(a). Because the

[50] Resp. to Pet'r's. Pet. for Inj. at 5.
[51] *Unauthorized Practice of Law Comm. v. Prog*, 761 P.2d 1111, 1115 (Colo. 1988).
[52] *See People ex rel. S.M.*, 7 P.3d 1021, 1023 (Colo. App. 2000).
[53] *See Adams*, 243 P.3d at 267-68.
[54] The People do not allege that Respondent's conduct underlying this matter amounted to more than one instance of the unauthorized practice of law. The Supreme Court has previously tallied the number of instances of the unauthorized practice of law by reference to the number of individuals a respondent represented. *Id.* at 267, 267 n.7. As such, the PDJ agrees that Respondent engaged in just one instance of the unauthorized practice of law for purposes of assessing a fine.

unauthorized practice of law rules do not otherwise speak to the awarding of costs, the Colorado Rules of Civil Procedure apply to this issue.[55] C.R.C.P. 54(d), in turn, provides that "costs shall be allowed as of course to the prevailing party."

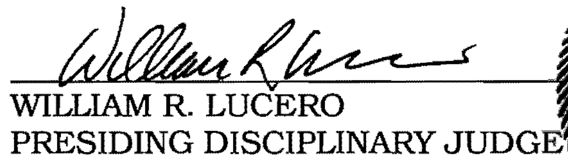
The People filed a statement of costs on March 28, 2012, requesting $286.50 in costs. Respondent did not file a response. The People are the prevailing party here, and the PDJ finds that their requested costs, which are limited to service of process fees, charges for certified copies of federal court documents, and an administrative fee, are reasonable.[56]

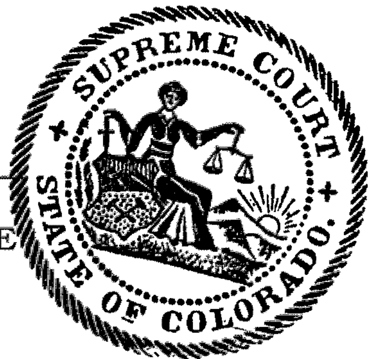
Finally, the People do not seek restitution, nor does this appear to be a case in which restitution would be appropriate.

IV. RECOMMENDATION

The PDJ **RECOMMENDS** that the Supreme Court **FIND** Respondent engaged in the unauthorized practice of law and **ENJOIN** her from the unauthorized practice of law. The PDJ further **RECOMMENDS** that the Supreme Court enter an order requiring Respondent to pay a **FINE** of $250.00 and to pay **COSTS** in the amount of $286.50.

DATED THIS 7th DAY OF AUGUST, 2012.





WILLIAM R. LUCERO
PRESIDING DISCIPLINARY JUDGE

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Colorado Supreme Court

[55] *See* C.R.C.P. 235(d).
[56] *See* C.R.S. § 13-16-122 (setting forth an illustrative list of categories of "includable" costs in civil cases, including "[a]ny fees for service of process").