

SUPREME COURT, STATE OF COLORADO
TWO EAST 14TH AVENUE
DENVER, COLORADO 80203

CASE NO. 04SA404

ORIGINAL PROCEEDING IN DISCIPLINE
03UPL096 & 04UPL038

RECEIVED

Petitioner:

JUN 23 2005

THE PEOPLE OF THE STATE OF COLORADO,

REGULATION
COUNSEL

v.

Respondent:

MIKE KACZMAREK, JR.

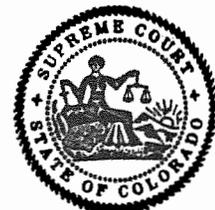
ORDER OF COURT

Upon consideration of the Petition for Injunction, Order to Show Cause, Proof of Service, Request for Entry of Injunction, Affidavit of Kim Ikeler and the Amended Request for Entry of Injunction filed in the above cause, and now being sufficiently advised in the premises,

IT IS THIS DAY ORDERED that the Respondent MIKE KACZMAREK, JR. shall be, and the same hereby is, ENJOINED from the unauthorized practice of law.

FURTHER ORDERED the Respondent is assessed costs of these proceedings in the amount of \$117.40. Said costs to be paid to the Office of Attorney Regulation Counsel, 600 17th St., Suite 200-S within thirty days of the date of this order.

BY THE COURT, JUNE 22, 2005.



Copies mailed via the State's Mail Services Division on 6/22/05 HOP

Mike Kaczmarek, Jr.
c/o Legal Svc. Center of
America
2427 W. Willamette Ave.
Colorado Springs, CO 80904

Kim Ikeler
Assistant Regulation Counsel

SUPREME COURT, STATE OF COLORADO
2 East 14th Avenue, 4th Floor
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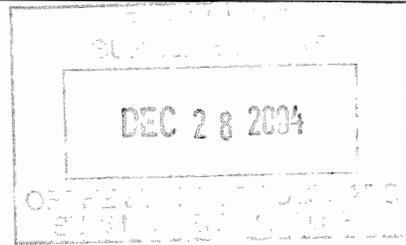
ORIGINAL PROCEEDING IN UNAUTHORIZED
PRACTICE OF LAW

Petitioner:
THE PEOPLE OF THE STATE OF COLORADO

vs.

Respondent:
MIKE KACZMAREK, Jr.

Kim E. Ikeler, #15590
Assistant Regulation Counsel
Attorney for Petitioner
600 17th Street, Suite 200-South
Denver, CO 80202
Phone Number: (303) 866-6440
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▲ COURT USE ONLY ▲

Case Numbers: 03UPL096
and 04UPL038

045A404

PETITION FOR INJUNCTION

Petitioner, by and through Kim E. Ikeler, Assistant Regulation Counsel, and upon authorization pursuant to C.R.C.P. 234(a)¹, respectfully requests that the Colorado Supreme Court issue an order pursuant to C.R.C.P. 234 directing the respondent to show cause why he should not be enjoined from the unauthorized practice of law. As grounds therefor, counsel states as follows:

1. The respondent, Mike Kaczmarek, Jr., is not licensed to practice law in the state of Colorado. The respondent's last known business address is c/o Legal Services Centers of America, 2427 W. Willamette Ave., Colorado Springs, CO 80904. However, upon information and belief, respondent has left the State of Colorado and moved to Michigan. Petitioner has made a number of attempts to contact respondent there, without success. Petitioner does not have a more current address for respondent, as of the date of filing this petition for injunction.

¹ The Unauthorized Practice of Law ("UPL") Committee authorized the filing of this petition on December 10, 2004.

03UPL096

2. On December 2, 2003, Paul Mitchell, Esq. faxed to respondent a copy of a Notice of Emergency Hearing in a case styled *In the Matter of: Boyd, Beulah L.*, Douglas County District Court, case no. 03PR0208 (the "guardianship/conservatorship proceeding"). A member of Mr. Mitchell's staff spoke to respondent about these transmissions. Mr. Mitchell's office was led to believe that respondent was an attorney; the fax cover sheets are addressed to "Mike Kaczmarek, Esq." Respondent did not call Mr. Mitchell's office to correct that misimpression.

3. On December 4, 2003, an emergency hearing was held before complainant, Judge Angela Arkin, in the guardianship/conservatorship proceeding. In attendance were the petitioner, Helen Burnside, her attorney, Paul Mitchell, and Loyd Boyd, the son of the protected person, Beulah Boyd. The protected person was not present.

4. Mr. Boyd requested a continuance. He stated that respondent, whom he characterized as the attorney for Mr. Boyd and the protected person, was unable to be present.

5. Mr. Mitchell stated that he had spoken to respondent several times, and that respondent had told Mr. Mitchell that respondent was the attorney for Mr. Boyd and his brother, but not for the protected person. Based on this, Judge Arkin appointed Susan Elkins as attorney for the protected person.

6. Judge Arkin then attempted to call respondent in order to reschedule the emergency hearing. The Judge's call was unsuccessful because the number she was calling had been disconnected. The Judge then looked for respondent's name on the Supreme Court Attorney Registration list. Respondent's name was not there. The Judge confirmed with both Mr. Mitchell and Mr. Boyd that respondent had represented himself to them as an attorney who would be taking the case for the Boyd brothers. The Judge set this forth in her Minute Order, which she copied to the Office of Attorney Regulation Counsel ("OARC").

04UPL038

7. On March 1, 2004, respondent wrote to Lily Weed ("Weed") on behalf of Mark Thomas ("Thomas"). The letterhead stated, "Legal Services Centers of America." Respondent enclosed several legal documents, including a Release of Deed of Trust for Ms. Weed's signature and a \$70,000 Promissory Note to Weed signed by Thomas. The Promissory Note was payable upon the

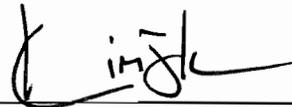
condition that Weed execute the "Release of Deed" and that the sale of the real property close successfully. Respondent stated: "We would need you to sign off on the deed of trust and accept the \$70,000 as final payment or we will be forced to sell the property and place the \$70,300 into escrow." Respondent directed Weed to sign the "Release of Deed" and return it to respondent's office, and to call with any questions.

8. On the same date, Thomas also wrote to Weed. He referred to respondent as his "attorney": "You may contact my attorney if you have any questions." It is clear from this letter that Thomas viewed respondent as his lawyer. According to Weed's attorney, Catherine Seal, Weed also had the impression that respondent was Thomas' lawyer.

9. By holding himself out to be an attorney, and acting as the legal representative for Mr. Thomas in his legal matter with Weed, the respondent engaged in the unauthorized practice of law (the unauthorized practice of law includes acting as a representative in protecting, enforcing or defending the legal rights and duties of another and/or counseling advising and assisting that person in connection with legal rights and duties. *See Denver Bar Association v. P.U.C.*, 154 Colo. 273, 391 P.2d 467 (1964)). The respondent does not fall within any of the statutory or case law exceptions.

WHEREFORE, the petitioner prays that this court issue an order directing the respondent to show cause why the respondent should not be enjoined from engaging in any unauthorized practice of law; thereafter that the court enjoin this respondent from the practice of law, or in the alternative that this court refer this matter to a hearing master for determination of facts and recommendations to the court on whether this respondent should be enjoined from the unauthorized practice of law. Furthermore, petitioner requests that the court assess the costs and expenses of these proceedings, including reasonable attorney fees against this respondent; order the refund of any and all fees paid by clients to the respondent; and assess restitution against the respondent for losses incurred by clients or third parties as a result of the respondent's conduct; and any other relief deemed appropriate by this court.

Respectfully submitted this 28th of December 2004.



Kim E. Ikeler, #15590
Assistant Regulation Counsel
Attorney for Petitioner