

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

CASE NO. 02SA286

RECEIVED

ORIGINAL PROCEEDING IN UNAUTHORIZED PRACTICE OF
LAW

MAR 10 2003

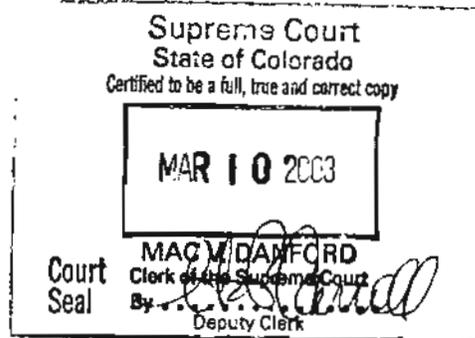
ATTORNEY
REGULATION

Petitioner:

THE PEOPLE OF THE STATE OF COLORADO,
v.

Respondent:

CRYSTAL SLUYTER.



ORDER OF COURT, INJUNCTION AND AWARD OF COSTS

Upon consideration of the Presiding Disciplinary
Judge's Report and Recommendations, and being sufficiently
advised in the premises,

IT IS ORDERED that the Report is accepted and that
CRYSTAL D. SLUYTER IS ENJOINED FROM THE UNAUTHORIZED PRACTICE OF
LAW IN THIS STATE.

IT IS FURTHER ORDERED that the costs and expenses of
this proceeding are assessed against Sluyter in the amount of
\$2,465.67.

BY THE COURT, EN BANC, MARCH 6, 2003.



cc:
James Coyle
Deputy Regulation Counsel

Hon. Roger Keithley
Presiding Disciplinary Judge

Crystal Sluyter
P.O. Box 786
Cortez, CO 81321

Crystal Sluyter
202 No. 19th St.
Dolores, CO 81323

Crystal Sluyter
18708 Hwy. 145
Dolores, CO 81323

Crystal Sluyter
18685 A Main St., PMB 372
Huntington Beach, CA 92648

SUPREME COURT, STATE OF COLORADO

ORIGINAL PROCEEDING IN THE
UNAUTHORIZED PRACTICE OF LAW
BEFORE THE PRESIDING DISCIPLINARY JUDGE
600 17th Street, Suite 510-South
Denver, Colorado 80202

RECEIVED

FEB 28 2003

ATTORNEY
REGULATION

Shelley
PLJ
Complainant:

THE PEOPLE OF THE STATE OF COLORADO

Respondent:

CRYSTAL D. SLUYTER

Case Number: **02SA0286**
(consolidated with
02SA0359)

**REPORT PURSUANT TO C.R.C.P. 53(e) RE: FINDINGS OF FACT,
CONCLUSIONS OF LAW AND RECOMMENDATION FOR FINAL DISPOSITION**

By Orders dated October 25, 2002, and January 24, 2003, the Colorado Supreme Court referred Case Nos. 02SA286 and 02SA359 to the Presiding Disciplinary Judge ("PDJ") to make findings of fact and to make recommendations to the Supreme Court on whether Crystal D. Sluyter ("Sluyter") should be enjoined from the unauthorized practice of law and for recommendations concerning costs, expenses, refunds and restitution.

I. FACTUAL BACKGROUND AS TO BOTH CASES

A Petition for Injunction (sometimes referred to as the "First Petition") was filed with the Supreme Court on August 29, 2002, Case No. 02SA286, by the Office of Attorney Regulation Counsel ("petitioner") under authority granted to that office by C.R.C.P. 234(a). The First Petition requested that the Supreme Court enjoin Crystal D. Sluyter ("Sluyter") from engaging in the unauthorized practice of law, requested that the Supreme Court assess the costs and expenses of these proceedings including reasonable attorneys fees, order the refund of any and all fees paid by clients to Sluyter, and assess restitution against Sluyter for losses incurred by clients or third parties as a result of Sluyter's conduct.

On October 18, 2002, Sluyter filed her Answer to the Petition for Injunction. On October 22, petitioner filed a Reply to Respondent's Answer to the Petition for Injunction.

On December 10, 2002, petitioner filed a Second Petition for Injunction ("Second Petition") with the Supreme Court, Case No. 02SA359, against

Sluyter. The Second Petition set forth further grounds for enjoining Sluyter from the unauthorized practice of law in Colorado and again requested costs and expenses of the proceedings as well as an order relating to refund and restitution. The Supreme Court issued an Order to Show Cause on December 16, 2002. Personal service was accomplished on Sluyter on December 20, 2002, by serving Sluyter's employee and father at her place of business. Sluyter failed to respond to the Order to Show Cause in a timely fashion. Petitioner filed a Motion for Default on January 24, 2003 and again Sluyter failed to respond to the Motion for Default in a timely fashion. Sluyter had proper notice of the Motion for Default. Default was entered by the PDJ on February 11, 2003 on the Second Petition in Case No. 02SA359. As a result, all facts contained in the Second Petition have been deemed admitted.

Upon petitioner's motion, the two matters were consolidated by order of the PDJ dated February 11, 2003. An evidentiary hearing was held before the PDJ on February 20, 2003. James C. Coyle, Deputy Regulation Counsel, appeared on behalf of the petitioner. Sluyter did not appear. Sluyter received proper notice of the evidentiary hearing. At the time of the hearing, petitioner moved for the dismissal of claim II in Case No. 02SA286 of the First Petition (alleging that Sluyter held herself out as an attorney licensed in the State of Colorado to client Nancy Carlson). The PDJ granted petitioner's motion to dismiss. Petitioner also withdrew the request for relief in the nature of orders for refund and restitution in both cases. Petitioner's exhibits 1 through 24 were admitted into evidence.

At no time has Sluyter been licensed to practice law in the State of Colorado. Sluyter, a graduate of a law school not accredited by the American Bar Association,¹ was licensed to practice law in the State of California during all times relevant to the conduct as issue in this proceeding. Sluyter, by virtue of her licensure in California, was also licensed to practice law in the U.S. District Court for the District of Colorado, the U.S. Tenth Circuit Court of Appeals, various other federal courts and at least one tribal court. In the fall of 2002, Sluyter submitted her resignation to the California State Bar. Once her resignation is accepted by the California Supreme Court, she will no longer be licensed to practice law in any state jurisdiction. On February 10, 2003, Sluyter was disbarred from the practice of law in the U.S. Tenth Circuit Court of Appeals. The U.S. District Court for the District of Colorado has been notified of Sluyter's resignation from the California bar.

Between 1994 and 1998, Sluyter practiced law in Long Beach and Huntington Beach, California, under her California law license. In September

¹ The law school from which Sluyter graduated, although not accredited at the time of her graduation, was later accredited by the ABA.

1998, she moved to Colorado. In January 1999, she opened her law office under the name "The Law Offices of Crystal D. Sluyter" at 202 N. 19th Street, Dolores, Colorado. She has maintained a law office in Colorado since that date.

"The Law Office of Crystal D. Sluyter" is a sole proprietorship. It employed one Colorado attorney, Rebecca Pescador, as an associate attorney commencing in June 2001. Ms. Pescador was first licensed to practice law on May 14, 2001. Sluyter and Ms. Pescador handled some cases together and Ms. Pescador handled some additional cases on her own. Sluyter managed the business of operating the law firm.

On June 13, 2001, Sluyter entered into an agreement with Ms. Pescador providing that Ms. Pescador would "be paid \$175 per hour for billable work less the overhead of 50%." The agreement further provided:

"the parties agree that Rebecca Pescador is licensed to practice in the State Courts of Colorado, and she will make all Colorado State court appearances"

"the Law Office of Crystal D. Sluyter will provide office support staff, and research access through Westlaw"

"Crystal D. Sluyter will exercise all of her efforts to increase the client base, thereby to increase income for both parties."

Clients were billed at \$175 per hour for Ms. Pescador's work, and Sluyter retained \$87.50 from each hour collected by Pescador as "overhead." Clients were also charged \$175 per hour for work performed by Sluyter. Billing statements did not disclose the name of the attorney performing the services for which time was billed on each client matter.

The Sluyter/Pescador agreement also provided that all attorney-client relationships were between the client and "The Law Offices of Crystal D. Sluyter," rather than the client and any individual attorney.

II. FINDINGS OF FACT

A. The First Petition [Case No. 02SA286]

Sluyter Was Holding Herself Out as an Attorney to the General Public

Sluyter maintained listings in the Durango-Cortez area Qwest Dex and Directory Plus telephone directories. These listings were in the yellow pages section under the heading for "attorneys." The listing in Qwest Dex stated "Sluyter Crystal D., Cortez 560-1239." The listing in Directory Plus stated "Sluyter, Crystal D. ATTY Dolrs 560-1239."

Prior to October 2001, Sluyter's letterhead did not describe the courts in which she was licensed. When contacted by the Office of Attorney Regulation Counsel in October 2001, Sluyter modified her letterhead. Sluyter's letterhead after October 22, 2001 and continuing until July 2002 stated:

Law Office of Crystal D. Sluyter
P.O. Box 786
Cortez, Colorado 81321
Telephone: (970) 560-1239
Facsimile: (970) 565-6678

Crystal D. Sluyter admitted in all California State and Federal Courts, Colorado Federal Court, Eastern and Western Oklahoma Federal Courts, 9th and 10th Circuit Court of Appeals, Ute Mountain Ute Tribal Court, and United States Tax Court

Rebecca A. Pescador admitted in all Colorado State Courts, Colorado Federal Court, United States Tax Court, and the Ute Mountain Ute Tribal Court

Sluyter's letterhead failed to specifically state that she was not licensed to practice law in the state of Colorado, despite requests by petitioner and a verbal representation from Sluyter that she would include a specific disclaimer.

In July 2002, Sluyter modified her letterhead once again. The July 2002 modified letterhead states "Colorado federal court not in state courts" as a new disclaimer. Sluyter did not, however, consistently use the newly modified letterhead.

Billing statements used by both Sluyter and Ms. Pescador also failed to disclose Sluyter's lack of licensure in Colorado. The billing statements stated:

Law Office of Crystal D. Sluyter
P.O. Box 786
Cortez, Colorado 81321

No description of licensure was set forth either for Sluyter or Ms. Pescador in the billing statements. In addition, Sluyter's facsimile transmission cover sheets failed to disclose her limited licensure.

Prior to May 2002, Sluyter's law office telephone number (970) 560-1239 was answered "Law Office of Crystal D. Sluyter" When no one responded, the voice mail message stated in part:

You have reached the Law Office of Crystal D. Sluyter. If you have reached this number during business hours, Ms. Sluyter is either away from her desk or on the other line. Please leave your name and number and your call will be returned.

Following the commencement of these proceedings, Sluyter listed a new phone number on the pleadings submitted to this court. That phone number was answered "law offices."

Sluyter Entered Into Attorney-Client Agreements
and Relationships on Colorado Matters.

The Law Offices of Crystal D. Sluyter had approximately 100 clients, 43 of which were Colorado clients.²

The standard fee agreement between clients and "The Law Offices of Crystal D. Sluyter ("attorney")" states that "client is retaining a law firm, not any particular attorney, and the attorney services to be provided to client will not necessarily be performed by any particular attorney." The fee agreement further states "client consents and authorizes attorney to associate or employ attorneys, legal associates, legal assistants, and other support staff in pursuing client's claims." Sluyter signed some of the fee agreements pertaining to Colorado matters on behalf of the Law Offices of Crystal D. Sluyter.

The selective billing statements provided by Sluyter regarding Colorado

² Sluyter claims that she only handled matters for Colorado clients in federal courts or by *pro hac vice* admission and that Ms. Pescador handled all other Colorado client matters. By virtue of her admissions regarding the Nuesle, Allison and Smith matters, that claim is not credible.

clients do not disclose which attorney from "The Law Offices of Crystal D. Sluyter" performed that client's work. Regardless of who actually performed the work, the fee agreements and billing statements make clear that the client had an attorney-client relationship on Colorado legal matters with Sluyter's law firm, including Sluyter.

Sluyter Prepared Pleadings and Gave Legal Advice to
Client Linda Nuessle.

Sluyter admitted "helping" Colorado resident, Linda Nuessle, prepare legal documents ("an appeal brief") for filing with the Colorado Court of Appeals in the case captioned *In re: The Marriage of Nuessle and Suvada*, Case No. 00CA663. Sluyter charged Ms. Nuessle \$2,600 for assistance in preparing the appeal brief. Sluyter was not acting under the supervision or direction of another attorney at the time she assisted Ms. Nuessle. Sluyter was not authorized by the Colorado Court of Appeals to represent Ms. Nuessle.

The record of the Colorado Court of Appeals reflects that all pleadings were filed by Ms. Nuessle *pro se* without disclosure that Sluyter assisted in the preparation of the appeal brief.

B. The Second Petition (Case No. 02SA359)

Sluyter Held Herself Out as an Attorney, Provided Legal Advice,
and Prepared Pleadings on Behalf of Clients
Steve and Miscelle Allison.

On July 10, 2001, Steve and Miscelle Allison met with Sluyter at her office. The Allisons wanted to hire Sluyter to represent them in a dispute with their contractor concerning damages to their garage floor. During the course of that meeting, Sluyter gave legal advice to the Allisons concerning their Colorado legal matter. This advice consisted in part of an explanation of their legal rights and remedies regarding their dispute with the contractor, and potential effects of the statute of limitations on their case.

Sluyter told the Allisons that she was an attorney and could practice law in Colorado as could other attorneys in her firm, and that she had permission to practice law in Colorado. The Allisons believed that Sluyter was going to handle their case.

On July 13, 2001, the Allisons entered into an attorney/client agreement with the Law Offices of Crystal D. Sluyter. Sluyter signed the agreement on behalf of the firm. An attorney/client relationship was formed on this Colorado matter between Sluyter and the Allisons. Sluyter informed the Allisons that

she would be handling their case but may also have another attorney available for assistance.

On August 22, 2001, Sluyter sent a letter to her clients stating that “[i]n order to prepare the proper documents for your case, I will need the following information” and set forth thirty-eight questions to the Allisons regarding their Colorado legal matter. The letter requested all supporting documents for the clients’ answers. The letter stated that the Allisons’ filing fee would be ninety-one dollars and Sluyter signed the letter, “Law Offices of Crystal D. Sluyter by Crystal D. Sluyter, Attorney at Law.”

On September 17, 2001, a complaint for damages was filed in *Steve and Miscelle Allison v. Brett Elliott, B&C Construction, et al.*, Case No. 01CV162, Montezuma County District Court. The complaint was signed by Rebecca Pescador. At that time, the Allisons were unaware of Pescador’s participation in their legal matter.

On October 17, 2001, Sluyter sent another letter to the clients, updating them on the status of their case. Sluyter stated that the sheriff’s office had tried to serve defendant Brett Elliot but could not find him. The letter stated that from the date that the defendant was served, he had twenty days to answer the complaint, and that if he failed to answer:

we will request the court enter a default. After they enter a default we will request a default judgment which will be accompanied by affidavits from you both as to your damages and other documents which will show your damages.

As with the first letter, Sluyter signed her name “Law Offices of Crystal D. Sluyter by Crystal D. Sluyter, Attorney at Law.”

Subsequent letters sent to the Allisons had the signature line of “Law Offices of Crystal D. Sluyter, by Rebecca Pescador, Attorney at Law,” with a stamped signature of Ms. Pescador.

Sluyter did not disclose her representation of the Allisons to the Montezuma County District Court. The court file reflects that all pleadings were either signature-stamped by Ms. Pescador or (after objections were made to the signature stamp by opposing counsel) signed by Ms. Pescador.

In response to a *subpoena duces tecum* served upon her in this proceeding, Sluyter explained, in part, why substantial portions of the billing statements were redacted. Sluyter stated:

That information is information about the case which falls inside the attorney-client privilege . . . [and] all work product has to be protected and that unless I receive a request to provide it *in camera* that I have to redact it ... my clients' have not waived that. (emphasis added).

Sluyter's reference to "my clients" constitutes an admission that she had an attorney/client relationship with the Allisons on their Colorado legal matter.

Sluyter Prepared Legal Documents on Behalf of
Client Marvin Smith.

Sluyter set up a Colorado corporation on behalf of Colorado resident Marvin Smith. Sluyter was not admitted to practice law in Colorado when she provided those legal services. Sluyter was not acting under the supervision or direction of another attorney at the time she prepared the incorporation documents on behalf of Mr. Smith.

III. CONCLUSIONS OF LAW

"The Colorado Supreme Court, as part of its inherent and plenary powers, has exclusive jurisdiction over attorneys and the authority to regulate, govern, and supervise the practice of law in Colorado to protect the public." *People v. Varallo*, 913 P.2d 1, 3 (Colo. 1996), citing *Colorado Supreme Court Grievance Comm. v. District Court*, 850 P.2d 150, 152 (Colo. 1993). This authority includes the power to prohibit the unauthorized practice of law and to promulgate rules in furtherance of that end. *Id.* The determination of what acts do or do not constitute the practice of law is a judicial function. *Unauthorized Practice of Law Committee of the Supreme Court v. Prog*, 761 P.2d 1111, 1115 (Colo. 1998); C.R.C.P. 228. The purpose of the requirement that a person must obtain a license from [the Supreme Court] is to protect the public from unqualified persons who provide incompetent legal services. *Unauthorized Practice of Law Comm. V. Grimes*, 654 P.2d 822, 826 (Colo. 1982).

Sluyter engaged in the unauthorized practice of law in Colorado by holding herself out to an extent that a consumer would reasonably believe that she was a Colorado lawyer by: (1) operating "The Law Offices of Crystal D. Sluyter" physically located in Colorado without sufficient notice that Sluyter was not licensed to practice law in Colorado; (2) using yellow page advertisements in Colorado telephone directories for a Colorado location under

the "attorneys" section, which in one of the directories specifically described the respondent as an attorney, with no disclaimer that Sluyter was not licensed to practice law in Colorado; (3) using letterheads in stationery and billing statements that failed to sufficiently disclose to the intended recipient that Sluyter was not licensed to practice law in Colorado; and (4) by using telephone greetings and messages that describe her office as a law office.

Sluyter also engaged in the unauthorized practice of law in Colorado by entering into attorney-client agreements and attorney-client relationships on Colorado legal matters on behalf of her sole proprietorship law firm; by preparing or assisting in the preparation of a pleading on behalf of client Linda Nuessle; by holding herself out to Steve and Miscelle Allison as being able to practice law in Colorado, by entering into an attorney/client relationship with the Allisons on a Colorado matter, by providing the Allisons with legal advice, by preparing legal documents on behalf of the Allisons, and by preparing incorporation documents on behalf of Marvin Smith. All of this conduct transpired within the State of Colorado, involved clients living in Colorado or whose need for legal representation involved Colorado matters and while Sluyter was not licensed to practice law in this state.

The Colorado Supreme Court's rules pertaining to the unauthorized practice of law only require that petitioner demonstrate the respondent engaged in such unauthorized practice in order to establish that an order of injunction should be issued. The rules and case law presume that unauthorized practice by a non-licensed individual creates the potential for harm to consumers of legal services in Colorado. The record demonstrates, however, that unless restrained, Sluyter will continue to engage in the unauthorized practice of law with the likely consequence that those who rely upon her for legal advice and assistance will suffer injury. *See People v. Prog*, 761 P.2d 1111, 1116 (Colo. 1988). Accordingly, Sluyter should be enjoined from the unauthorized practice of law in this state.

IV. AWARD OF COSTS AND EXPENSES

Petitioner submitted a statement of costs and expenses with its motion for default. That statement set forth costs and expenses in the amount of \$2,465.67. The petitioner withdrew its request for orders relating to refunds and restitution.

Upon a finding that an individual has engaged in the unauthorized practice of law, the Supreme Court may enter an order enjoining the respondent from further conduct found to constitute the unauthorized practice

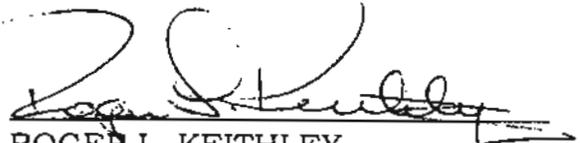
of law, and make such further orders as it may deem appropriate, including without limitation the assessment of costs of the proceeding.

The PDJ finds that petitioner's costs are reasonable and appropriate for the underlying investigation authorized by C.R.C.P. 232.5, as well as the two injunctive proceedings filed under C.R.C.P. 234, and therefore recommends that the Supreme Court award a total of \$2,465.67 in costs and expenses in the within consolidated matters.

V. RECOMMENDATION

The Presiding Disciplinary Judge recommends that the Supreme Court of the State of Colorado grant the petitions for injunction in the within matter, enjoin Crystal D. Sluyter from the unauthorized practice of law in the State of Colorado, and order that the costs and expenses of these proceedings be assessed against Sluyter in the amount of \$2,465.67.

DATED THIS 27th DAY OF FEBRUARY, 2003.


ROGER L. KEITHLEY
PRESIDING DISCIPLINARY JUDGE

Copies to:

Mac Danford Via Hand Delivery
Colorado Supreme Court

James C. Coyle Via Hand Delivery
Office of Attorney Regulation Counsel

Crystal Sluyter Via First Class Mail
Respondent
18685 A Main Street
PMB 372
Huntington Beach, CA 92648

