

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

CASE NO.01SA85

UNAUTHORIZED PRACTICE OF LAW

RECEIVED

MAR 04 2002

IN THE MATTER OF: MATTHEW KEMP, a/k/a DONALD KEMP, ATTORNEY
DONALD MATTHEW KEMP, MATTHEW DONALD KEMP, MATTHEW CROSS REGULATION
MATTHEW KEMP CROSS

ORDER OF COURT

Upon consideration of the Motion to Proceed filed in the above cause, and now being sufficiently advised in the premises,

IT IS THIS DAY ORDERED that said Motion shall be, and the same hereby is, GRANTED.

IT IS FURTHER ORDERED that the Respondent, MATTHEW KEMP, is enjoined from engaging in the unauthorized practice of law and assessed costs and expenses of \$900.00 as well as disgorgement of fees to his client Lana Kahl, plus statutory interest from November 22, 1998.

BY THE COURT, MARCH 4, 2002.

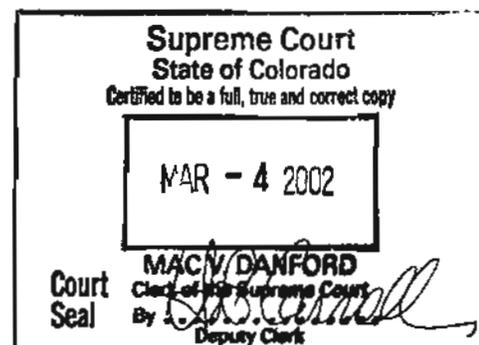


cc:

James Coyle
Assistant Regulation Counsel

Hon. Roger Keithley
Presiding Disciplinary Judge

Matthew Kemp
1934 E. Forest Creek #S
Salt Lake City, UT 84121



FILE
SUPRE

MAR - 5 2001

SUPREME COURT, STATE OF COLORADO

ORIGINAL PROCEEDING IN UNAUTHORIZED PRACTICE OF LAW

Petitioner:
THE PEOPLE OF THE STATE OF COLORADO

Respondent:
MATTHEW KEMP, a/k/a DONALD KEMP,
DONALD MATTHEW KEMP, MATTHEW DONALD
KEMP, MATTHEW CROSS KEMP and MATTHEW
KEMP CROSS

James C. Coyle # 14970
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Attorney for Petitioner
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▲ COURT USE ONLY ▲

Case Number: 01SA85

PETITION FOR INJUNCTION

Petitioner, by and through James C. Coyle, Assistant Regulation Counsel, 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 therefore, counsel states as follows:

1. The respondent, Matthew Kemp, is not licensed to practice law in the State of Colorado. The respondent's most current address is 1934 E. Forest Creek #S, Salt Lake City, Utah 84121.

2. The respondent has been specifically referred to in Colorado Supreme Court attorney discipline matters. In People v. Reynolds, 933 P.2d 1295 (Colo. 1997), this respondent was described as attorney Reynolds' "non-lawyer employee" who met with attorney Reynolds' clients, accepted payments, offered legal advice and interpretation, and signed attorney-client agreements. Reynolds was suspended for three years for conduct involving this respondent. The respondent was also the non-lawyer assistant in People v. Stewart, 892 P.2d 875 (Colo. 1995), which disciplinary opinion details three incidents and summarizes eleven others in which attorney Stewart's clients would first meet

with this respondent, pay him a retainer and this respondent would provide these clients with legal advice. Attorney Stewart was also suspended for three years for, amongst other things, aiding a non-lawyer in the unauthorized practice of law.

3. The respondent is a named director of Dominion Group, Inc., a Colorado corporation. In incorporation documents, the Dominion Group is listed as a "Colorado legal support group" that engages in "mediation, legal support services, document preparation and referral services for low income and financially challenged individuals and couples." Karen S. Milner, an attorney who is presently under immediate suspension, was also a director in this corporation.

4. At all times relevant hereto, the respondent was employed by the law offices of Karen S. Milner, located at 2870 N. Speer Blvd, Suite 201, Denver, Colorado 80211. Respondent has sometimes been referred to as a legal assistant and/or director of client services while employed by attorney Milner. Some clients, however, were not notified as to whether the respondent was an attorney or not an attorney.

5. In the fall of 1998, Lana Kahl contacted attorney Karen Milner's law office regarding potential claims against the building contractor on her residence, as well as potential claims against her real estate agent. After leaving several voice mail messages at attorney Milner's office, this respondent returned Ms. Kahl's telephone calls.

6. On October 17, 1998, a Saturday, Ms. Kahl traveled to attorney Milner's office and met with this respondent. Neither attorney Milner nor any other attorney was present during this meeting. At no time during this meeting did this respondent state that he was not an attorney; because of this omission and due to legal advice given by this respondent, Ms. Kahl believed that this respondent was an attorney.

7. Ms. Kahl explained to the respondent that she was a first time buyer who had qualified for a home through the Colorado Housing Finance Authority and that the price of the homes in her subdivision had increased dramatically since she entered into the contract. Ms. Kahl believed that the builder was attempting to have her disavow her contract so that they could sell her home at a higher price. In addition, Ms. Kahl stated to the respondent that she believed that because she would not repudiate the contract, the builder had dramatically modified the construction plans to decrease costs of construction, including but not limited to required basic foundation protections against the expansive soils that had previously been noted by soil engineers. Ms. Kahl emphasized to this respondent that this was her only chance to afford a home.

8. At this meeting, the respondent told Ms. Kahl that he "would represent her" in the dispute with the builder and the real estate agent. Ms. Kahl gave the respondent copies of all materials that she had regarding the real estate contract. The respondent agreed to accompany Ms. Kahl to the closing on her home and stated that they would deal with the contractor and real estate agent then. The respondent did not tell Ms. Kahl his specific plans for resolving the issues.

9. On October 20, 1998, Ms. Kahl gave the respondent \$500 in cash as a retainer. Ms. Kahl received a cash receipt from "Milner Law Offices". The copy of the receipt, executed by the respondent, reflects a numeral dollar amount of \$500, and a written dollar amount of "five dollars and no/100 dollars".

10. On October 23, 1998, Ms. Kahl alleges that her real estate agent advised her to execute a document that would drastically reduce the size of her deck with no consideration to her. She faxed the document to Mr. Kemp and asked that he call her. He called her back on October 28 and advised her to sign the document, but to write in the words "deck already included in contract." He additionally advised her to send it by certified mail directly to the builder, despite the fact that both Ms. Kahl and the builder had real estate agents. He again assured her that he would attend the closing with her to deal with all construction dispute issues.

11. According to Ms. Kahl, on November 2, 1998 the builder canceled the contract with her based upon language that the respondent had advised her to add to the modification. Panicked, Ms. Kahl asked for a meeting with this respondent. That evening, Ms. Kahl and her father met with the respondent and a man whom Mr. Kemp represented was an expert in construction matters. Ms. Kahl showed the alleged construction expert pictures of the construction and he stated that she indeed did have a claim against the builder. Ms. Kahl wrote the man a check for \$100.

12. Mr. Kemp advised Ms. Kahl to write a conciliatory letter to the builder to get back into the contract. Ms. Kahl scheduled the walk-through for November 16, 1998 and notified the respondent of this date. Thereafter she could not reach the respondent.

13. Finally, on the day of the walk-through, this respondent advised Ms. Kahl to go to the walk-through without him or her father, disregard the major construction flaws and do everything possible to make the real estate closing happen. She went to the walk-through without the respondent or her father, mentioned only minor changes, and accepted the construction, believing that the respondent would rectify the situation in the future.

14. The closing was set for November 19, 1998. Ms. Kahl advised the respondent of the closing date.

15. On the morning of November 19, the builder called Ms. Kahl and told her the closing would not occur on that date, but on the next Friday. Ms. Kahl called the respondent, who advised her to go to the closing site anyway. She traveled to the closing site and no one was there.

16. Just before the closing, the respondent told Ms. Kahl that he would not attend the closing, despite previous assurances to her that he would confront the builder at the closing. Ms. Kahl attended the closing and all documentation for the transfer was executed.

17. A few days later, Ms. Kahl and her father met with this respondent and the construction expert at the home. Mr. Kemp took Ms. Kahl aside and said he would need \$500 more to go ahead with the representation. Ms. Kahl did not have \$500, but wrote the Dominion Group a check for \$300. The endorsement on the back of the cancelled check was "Dominion Groups" with no further information other than a bank account number.

18. Thereafter, Ms. Kahl's father provided the respondent with a list of complaints regarding the construction as requested. The respondent then represented to Ms. Kahl that he would send separate demand letters to the builder and the real estate agent. Ms. Kahl was unable to talk to this respondent thereafter.

19. Frustrated by this respondent's lack of response, Ms. Kahl faxed a letter directly to attorney Karen Milner on about January 26, 1999. Continuing to believe that this respondent was Ms. Milner's law partner, Ms. Kahl requested that Ms. Milner encourage the respondent to contact her and act on her behalf. Ms. Milner responded with a letter stating that she was satisfied with the way this respondent had handled Ms. Kahl's matter.

20. On February 25, 1999, Ms. Kahl and her father met with Ms. Milner, who provided no meaningful information regarding the case. No action was subsequently taken by the respondent or Ms. Milner on behalf of Ms. Kahl. Ms. Kahl has retained another law firm and continues to incur legal fees, some of which are a direct result of this respondent's conduct toward Ms. Kahl, and has suffered substantial harm as a result of this respondent's unauthorized and incompetent advice.

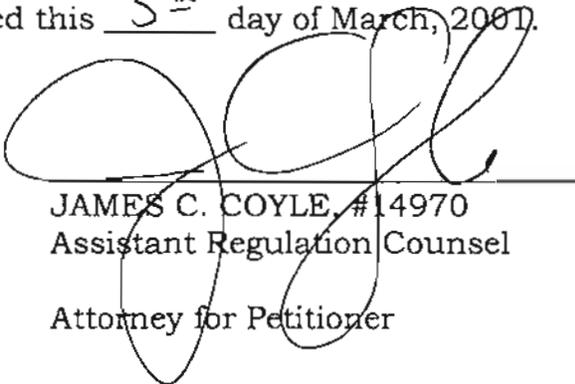
21. Pursuant to Denver Bar Association v. Public Utilities Commission, "generally one who acts in a representative capacity in protecting, enforcing or defending the legal rights and duties of another and in counseling, advising and assisting him in connection with these rights and duties engages in the

unauthorized practice of law”.

22. By holding himself out as an attorney and by giving legal advice to this client, the respondent Matthew Kemp has engaged in the unauthorized practice of law. While this respondent no longer lives in the state of Colorado at this time, an injunction is necessary to prevent a reoccurrence of this respondent’s pattern and practice of deception and unauthorized practice of law.

WHEREFORE, the petitioner prays that this court issue an order directing the respondent to show cause why he should not be enjoined from engaging in any further unauthorized practice of law in the state of Colorado; thereafter, that the court enjoin this respondent from the practice of law in the state of Colorado, 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 the respondent; refund all fees paid by Ms. Kahl to the respondent; and assess restitution against the respondent incurred by Ms. Kahl or third parties as a result of the respondent’s conduct in this matter; and any other relief deemed appropriate by this court.

Respectfully submitted this 5th day of March, 2001.



JAMES C. COYLE, #14970
Assistant Regulation Counsel
Attorney for Petitioner