

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

CASE NO. 03SA283

ORIGINAL PROCEEDING IN UNAUTHORIZED PRACTICE OF
LAW 03UPL012

Petitioner:
THE PEOPLE OF THE STATE OF COLORADO,

v.

Respondent:
HENRY MARTILLARO

RECEIVED

DEC 29 2003

ATTORNEY
REGULATION

ORDER OF COURT

Upon consideration of the Petition for Injunction, the Order to Show Cause, the Proof of Service, and the Motion to Proceed filed in the above cause, and no Response having been filed to the Order to Show Cause, and now being sufficiently advised in the premises,

IT IS THIS DAY ORDERED that the Court finds that this Respondent has been properly served with the Petition for Injunction and Order to Show Cause,

IT IS FURTHER ORDERED that the Respondent, HENRY MARTILLARO, is ENJOINED from engaging in further acts of unauthorized practice of law,

IT IS FURTHER ORDERED that the Respondent is assessed costs in the amount of \$152.50. Said costs to be Remitted to the Office of the Attorney Regulation Counsel within thirty days of the date of this order.

BY THE COURT, DECEMBER 18, 2003.



Copies mailed via the State's Mail Services Division on 12/19/03 HOP

cc:

James Coyle
Deputy Regulation Counsel

Henry Martillaro
8070 W. 70th Dr.
Arvada, CO 80004

Henry Martillaro
3907 Tejon
Denver, CO 80211

FILED IN THE
SUPREME COURT
SEP 30 2003
OF THE STATE OF COLORADO
JAMES C. COYLE

SUPREME COURT, STATE OF COLORADO
2 East 14th Avenue, 4th Floor
Denver, Colorado 80203

ORIGINAL PROCEEDING IN UNAUTHORIZED
PRACTICE OF LAW

Petitioner:
THE PEOPLE OF THE STATE OF COLORADO

vs.

Respondent:
HENRY MARTILLARO

James C. Coyle # 14970
Deputy Regulation Counsel
Attorney for Petitioner
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Denver, CO 80202

Phone Number: (303) 893-8121, ext. 328
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▲ COURT USE ONLY ▲

Case Number: 03UPL012
and 03UPL022

PETITION FOR INJUNCTION

Petitioner, by and through James C. Coyle, Deputy 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 therefor, counsel states as follows:

1. The respondent, Henry Martillaro, is not licensed to practice law in the state of Colorado. The respondent's last known address is 8070 West 70th Drive, Arvada, Colorado 80004; another last known address is 3907 Tejon, Denver, Colorado 80211.

DeLaria Matter

2. On January 13, 2003, Pamela J. DeLaria was the hearing officer for an informal hearing involving a proposed termination of assistance for Tamara Kopyszko, a tenant receiving section 8 rental assistance through the Jefferson County Housing Authority.

3. The respondent, Henry Martillaro, accompanied Ms. Kopyszko to the hearing.

4. Ms. DeLaria asked Mr. Martillaro, "Are you her attorney?" The respondent responded in the affirmative, looking down at the file he brought with him, and saying, "M-hmm."

5. The respondent then handed Ms. DeLaria a business card bearing the name "Charles Martillaro." Because the name "Henry Martillaro" was not on the card, Ms. DeLaria asked him, "Are you an attorney with this law firm?" The respondent responded, "yes."

6. The respondent then represented Ms. Kopyszko's interests at the informal hearing. At the end of the hearing, the respondent presented a closing argument on behalf of Ms. Kopyszko.

7. On February 5, 2003, Colorado attorney Charles Martillaro left a voice mail message for Ms. DeLaria at the Jefferson County Housing Authority. Ms. DeLaria returned the phone call on February 6, 2003. Attorney Charles Martillaro notified Ms. DeLaria that Henry Martillaro was Charles Martillaro's brother (as well as brother to another Colorado attorney, Richard Martillaro), that Henry was not an attorney (although he used to be) and that Charles was concerned that the respondent may be representing himself as an attorney.

WHEREFORE, petitioner prays at the conclusion hereof.

Justin Lloyd Matter

8. Justin Seth Lloyd was charged with possession of a false Colorado driver's license, in violation of C.R.S. §18-5-102(1)(e), and possession of a forged instrument (a check) in violation of C.R.S. §18-5-105, a class 6 felony.

9. Justin knew the respondent through mutual friends and lived with him for about a month. The respondent agreed to represent Justin. Justin did not pay any money to the respondent.

10. On February 3, 2003, a disposition hearing occurred. Deputy District Attorney George Brauchler represented the people. Deputy Public Defender Lester Nieves appeared on behalf of the defendant. At that time, the respondent, posing as Colorado attorney "Richard" Martillaro, entered his appearance on behalf of attorney Charles Martillaro. The matter was continued until February 18, 2003.

11. On February 18, 2003, the respondent again appeared with the defendant. When the respondent checked in with the law clerk for this

hearing, the respondent identified himself as Henry Martillaro.

12. The law clerk indicated that the attorney of record in this case was Richard Martillaro. The respondent indicated that "Richard" was his brother, who couldn't make it that day. The respondent indicated that he was also an attorney and would be appearing instead of Richard Martillaro.

13. When the respondent entered his appearance in court, he indicated that his name was actually "Charles," but that he went by "Henry."

14. Deputy District Attorney Marjorie Enquist represented the people in the court proceeding.

15. The respondent requested a continuance of the arraignment to allow Justin Lloyd, the defendant, time to apply for a diversion. That continuance was denied. The matter was set for trial on April 7, 2003. A motions hearing was set for March 17, 2003.

16. On March 17, 2003, the defendant did not appear, and the respondent did not appear on his behalf. The court ordered the bond forfeited and issued a warrant for the defendant's arrest.

17. Subsequently, Judge Polidori's law clerk attempted to contact attorney Richard Martillaro and left a message inquiring as to the reason for his absence from the motions hearing that morning. Attorney Richard Martillaro appeared at the Division 8 window later than morning. Attorney Richard Martillaro indicated he never met nor represented a client named Justin Lloyd.

18. At that time, Richard Martillaro disclosed that he had just discovered that his brother, Henry, may have represented himself as attorney Richard Martillaro in another matter. Attorney Richard Martillaro disclosed that Henry Martillaro is not licensed to practice law in the State of Colorado, and was previously disbarred in the State of Nevada.

WHEREFORE, petitioner prays at the conclusion hereof.

Kimberly Stratton Matter

19. Kimberly Stratton was the defendant in several court actions involving possession, distribution and manufacturing of controlled substances. The matters were set for a sentencing hearing on February 13, 2003.

20. Prior to the February 13, 2003, sentencing hearing, defendant Stratton indicated that he no longer wished to be represented by Deputy Public

Defender ("DPD") Jonathan Bley and had retained an attorney by the name of Henry (a/k/a Charles) Martillaro.

21. The court continued the sentencing hearing until March 25, 2003, and instructed DPD Bley to contact Martillaro to advise him of the new date and time. DPD Bley indicated that he did so. The respondent did not enter an entry of appearance; thus, Bley remained on the case as counsel of record.

22. On March 25, 2003, DPD Bley indicated to the court that the respondent was present for the hearing, and that he had just spoken with him outside the courtroom. Mr. Bley had told him that he previously received a call from the respondent's brother, Charles Martillaro, stating that the respondent was not licensed to practice law in the State of Colorado.

23. The respondent left the building subsequent to that conversation and prior to Bley notifying the court of the respondent's conduct.

24. On March 26, 2003, at 8:45 a.m., attorney Charles Martillaro appeared at the division's window. After showing proof of identification, attorney Charles Martillaro stated that he has never had contact with a client by the name of Kimberly Stratton and he stated that he once again believed that his brother Henry was impersonating him.

WHEREFORE, petitioner prays at the conclusion hereof.

Justin Barkley Matter

25. On June 29, 1998, Justin Barkley pled guilty to a count of second degree burglary in violation of C.R.S. §18-4-203(1)(2), a class 4 felony. Sentencing occurred on July 7, 1998. Mr. Barkley was sentenced to three years in community corrections.

26. Mr. Barkley was alleged to have eventually violated the terms of his sentence and an arrest warrant was issued. The defendant was arrested and a complaint was filed to revoke his sentence.

27. On January 21, 2003, the respondent appeared before the District Court for an entry of appearance in Mr. Barkley's matter. The respondent entered his appearance as attorney Henry Martillaro.

28. On February 3, 2003, a hearing on the complaint to revoke was held. The respondent appeared on behalf of Mr. Barkley. The respondent identified himself this time as Richard Martillaro and entered his appearance on behalf of the defendant. The respondent represented Mr. Barkley at the hearing. Upon proof of a concurrent sentence served in Weld County, the court

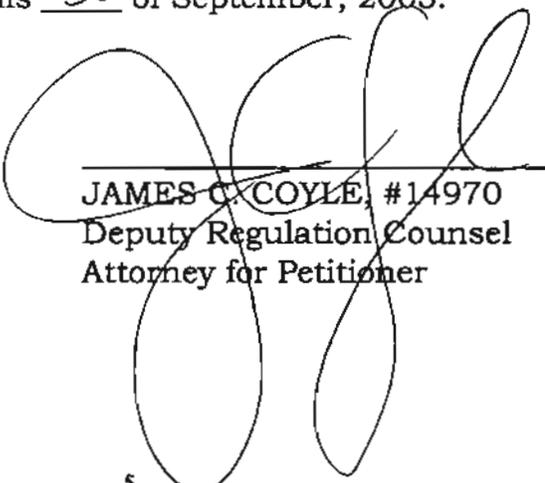
deemed the sentence in the case already served and the complaint to revoke direct sentence was withdrawn.

29. When attorney Richard Martillaro appeared at the division window on March 17, 2003, regarding the Justin Lloyd matter, Richard Martillaro confirmed that he had not represented an individual by the name of Justin Barkley.

30. By holding himself out to be an attorney to Pamela DeLaria and by representing the interests of Tamara Kopyszko in a termination of assistance hearing, the respondent engaged in the unauthorized practice of law in Colorado. By holding himself out as a Colorado attorney and by entering his appearance on behalf of Justin Lloyd, Kimberly Stratton, and Justin Barkley, and by representing these defendants' interests in ongoing district court matters, the respondent also 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 30th of September, 2003.



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