

Colorado Supreme Court 2 East 14th Avenue Denver, CO 80203	DATE FILED: September 27, 2018 CASE NUMBER: 2018SA3
Original Proceeding in Discipline, 2015UPL029	
<b>Petitioner:</b>  The People of the State of Colorado,  <b>v.</b>  <b>Respondents:</b>  Patrick Morris and Assurant Legal Services, LLC a delinquent Colorado limited liability company.	Supreme Court Case No: 2018SA3
ORDER OF COURT	

Upon consideration of the Order Entering Default Judgment Under C.R.C.P. 55(b) and Report of Hearing Master Under C.R.C.P. 236(a) filed in the above cause, and now being sufficiently advised in the premises,

IT IS ORDERED that said Respondents, PATRICK S. MORRIS and ASSURANT LEGAL SERVICES, LLC, a delinquent Colorado limited liability company shall be, and the same hereby are, ENJOINED from engaging in the Unauthorized Practice of Law.

IT IS FURTHER ORDERED that said Respondents are assessed costs in the amount of \$674.00. Said costs to be paid to the Office of Attorney Regulation Counsel within (30) thirty days from the date of this order.

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

BY THE COURT, SEPTEMBER 27, 2018.

<p>SUPREME COURT, STATE OF COLORADO</p> <p>ORIGINAL PROCEEDING IN THE UNAUTHORIZED PRACTICE OF LAW BEFORE THE OFFICE OF THE PRESIDING DISCIPLINARY JUDGE 1300 BROADWAY, SUITE 250 DENVER, CO 80203</p>	
<p><b>Petitioner:</b> THE PEOPLE OF THE STATE OF COLORADO</p> <p><b>Respondents:</b> PATRICK S. MORRIS and ASSURANT LEGAL SERVICES, LLC, a delinquent Colorado limited liability company</p>	<p>Case Number: <b>18SA003</b></p>
<p><b>ORDER ENTERING DEFAULT JUDGMENT UNDER C.R.C.P. 55(b) AND REPORT OF HEARING MASTER UNDER C.R.C.P. 236(a)</b></p>	

In this unauthorized practice of law matter, Patrick S. Morris (“Respondent Morris”) and Assurant Legal Services, LLC (“Respondent Assurant”) (collectively “Respondents”) defaulted. The Presiding Disciplinary Judge (“the PDJ”) thus deemed admitted the allegations that Respondents engaged in the unauthorized practice of law by holding themselves out as authorized to provide legal services and by providing legal services. The PDJ recommends that the Colorado Supreme Court enjoin Respondents from the further unauthorized practice of law and order them to pay a fine and costs.

#### I. PROCEDURAL HISTORY

Kim E. Ikeler of the Office of Attorney Regulation Counsel (“the People”) filed a “Renewed Petition for Injunction” on January 3, 2018, alleging that Respondents engaged in the unauthorized practice of law. The Colorado Supreme Court issued an “Order to Show Cause” on January 12, 2018, directing Respondents to show cause in writing within twenty-one days of service why they should not be enjoined from the unauthorized practice of law. The People served the renewed petition and show cause order by certified mail on January 31, 2018, but Respondents did not respond to the petition or the show cause order.

On March 2, 2018, the Colorado Supreme Court issued an “Order of Court,” referring this matter to the PDJ to prepare a report setting forth “findings of fact, conclusions of law, and recommendations” under C.R.C.P. 234(f) and 236(a). On March 6, 2018, the PDJ issued an “Order to Show Cause Under C.R.C.P. 234-236,” ordering Respondents to answer the People’s petition no later than March 20, 2018. It later came to the PDJ’s attention that the order was sent to Respondents at the wrong address, and the PDJ then issued a second order to show

cause on May 7, 2018, directing Respondents to answer the People's petition no later than May 21, 2018. Respondents did not do so.

Meanwhile, the People moved for entry of default on April 12, 2018. When Respondents failed to respond to either show cause order, the PDJ granted the default motion on May 22, 2018, thereby deeming admitted the allegations in the petition for injunction, including the allegation that Respondents engaged in the unauthorized practice of law. The People then filed a "Motion for Default Judgment" on July 24, 2018, to which Respondents did not respond.

## **II. PETITIONER'S MOTION FOR DEFAULT JUDGMENT**

The People have followed the procedure for default judgments set forth in C.R.C.P. 55 and 121 section 1-14 by showing valid service on Respondents; submitting an affidavit indicating that venue is proper and that Respondents are not minors, incapacitated persons, officers of the state, or in the military; and filing a statement of the costs. Accordingly, the PDJ **GRANTS** the People's "Motion for Default Judgment."

## **III. FINDINGS OF FACT AND CONCLUSIONS OF LAW**

The PDJ issues the following report to the Colorado Supreme Court under C.R.C.P. 236(a).

### **Factual Findings**

Respondent Morris, a Colorado resident, is not licensed to practice law in Colorado or any other state. He is the principal of Respondent Assurant, a delinquent Colorado limited liability company. Respondent Assurant does not employ licensed attorneys.

Respondent Assurant operated a website offering bankruptcy petition preparation to the public. A cached website page (as it appeared on November 27, 2017) shows Respondent Assurant promising "Low Cost Legal Services"; boasting that Respondent Morris had over ten years of bankruptcy experience and had filed over 300 cases; stating "I will help you through the entire process and help you with rebuilding your credit after you've filed"; quoting a \$299.00 preparation fee; and providing the reader with Respondents' phone number.

Respondents overcharged debtors for bankruptcy petition preparation. For example, on February 18, 2015, Respondent Morris was enjoined from acting as a bankruptcy petition preparer ("BPP") by Michael Romero, Chief Judge of the U.S. Bankruptcy Court for the District of Colorado, in *In re Michael LeRoy Livingston, Debtor*.<sup>1</sup> Entities acting in concert with Respondent Morris also were enjoined. In that case, Respondent Morris charged Livingston, the debtor, \$375.00 to prepare his bankruptcy documents. This was more than the

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<sup>1</sup> Case No. 14-15720-MER, Chapter 7.

appropriate charge for BPP services, which are limited to typing. Chief Judge Romero ordered Respondent Morris to repay Livingston the full fee, but Respondent Morris did not do so.

As another example, Respondent Morris charged debtor Zachariah Kaufman over \$1,000.00 to prepare bankruptcy documents, far more than was appropriate.<sup>2</sup> Respondent Morris gave Kaufman the impression that Respondent Morris was a lawyer. Respondent Morris has never repaid Kaufman any portion of the fees that he collected.

### **Legal Standards Governing the Unauthorized Practice of Law**

The Colorado Supreme Court, which exercises exclusive jurisdiction to define the practice of law within the State of Colorado,<sup>3</sup> restricts the practice of law to protect members of the public from receiving incompetent legal advice from unqualified individuals.<sup>4</sup> To practice law in the State of Colorado, a person must have a law license issued by the Colorado Supreme Court, unless a specific exception applies.<sup>5</sup>

Colorado 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 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.”<sup>6</sup> Specifically, 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 that person in connection with these rights and duties” engages in the practice of law.<sup>7</sup> A non-lawyer holding himself or herself out as an attorney or as authorized to provide legal services also engages in the unauthorized practice of law.<sup>8</sup>

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<sup>2</sup> *In re Zachariah Kaufman, Debtor*, U.S. Bankruptcy Court for the District of Colorado, Case No. 14-19599.

<sup>3</sup> C.R.C.P. 228.

<sup>4</sup> *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.”).

<sup>5</sup> See C.R.C.P. 201-227.

<sup>6</sup> *People v. Shell*, 148 P.3d 162, 171 (Colo. 2006).

<sup>7</sup> *Shell*, 148 P.3d at 171 (quotation omitted).

<sup>8</sup> See *Binkley v. People*, 716 P.2d 1111, 1114 (Colo. 1986) (“Anyone advertising as a lawyer holds himself or herself out as an attorney, attorney-at-law, or counselor-at-law and, if not properly licensed, may be held in contempt of court for practicing law without a license.”); *Grimes*, 654 P.2d at 825 (finding that a nonlawyer who advertised in the telephone book under “lawyers” and in the newspaper under the heading “legal counsel” engaged in the unauthorized practice of law); *People ex rel. Attorney General v. Hanna*, 127 Colo. 481, 258 P.2d 492 (1953) (ruling that a nonlawyer engaged in the unauthorized practice of law by using in her telephone listing the words “Legal Forms – Depositions – Conveyance Papers”); *People ex rel. Attorney General v. Castleman*, 88 Colo. 207, 207, 294 P.2d 535, 535 (1930) (holding in contempt an unlicensed person who engaged

In U.S. bankruptcy court, BPPs are regulated under 11 U.S.C. § 110, which prohibits BPPs from using the word “legal” in their advertisements.<sup>9</sup> BPPs are limited to providing typing services, and they cannot provide legal advice.<sup>10</sup>

Here, Respondent Assurant’s website advertises the company’s help “through the entire process,” implying that Respondents were authorized to and could provide legal advice to debtors regarding bankruptcy procedure. Respondent Assurant uses the word “Legal” in its corporate name. By holding itself out as authorized to provide legal services, Respondent Assurant contravened the BPP statutory scheme and engaged in the unauthorized practice of law. In the Kaufman and Livingston cases, Respondent Morris accepted fees to prepare bankruptcy documents, a task that requires the exercise of legal knowledge and is broader in scope than providing mere typing services. Respondent Morris thereby flouted statutory provisions governing BPPs and engaged in the unauthorized practice of law.

### **Restitution, Fines, and Costs**

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 Colorado Supreme Court impose a fine ranging from \$250.00 to \$1,000.00 for each such incident. Because this is Respondents’ first instance of the unauthorized practice of law, the People state that the minimum fine of \$250.00 is appropriate, and the PDJ agrees.

The People filed a statement of costs, attached as exhibit B to their motion for default judgment, reflecting costs in the amount of \$674.00.<sup>11</sup> These costs appear reasonable. Relying on C.R.C.P. 237(a), the PDJ recommends an award of the full amount of costs requested.

### **IV. RECOMMENDATION**

The PDJ **RECOMMENDS** that the Colorado Supreme Court **FIND** Respondents engaged in the unauthorized practice of law and **ENJOIN** them from the unauthorized practice of law. The PDJ further **RECOMMENDS** that the Colorado Supreme Court enter an order requiring Respondents to pay, jointly and severally, a **FINE** of \$250.00 and to pay **COSTS** in the amount of \$674.00.

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in the unauthorized practice of law by advertising himself as a lawyer); *People ex rel. Colo. Bar Ass’n v. Taylor*, 56 Colo. 441, 444, 138 P. 762, 764 (1914) (same).

<sup>9</sup> 11 U.S.C. § 110(f)(1).

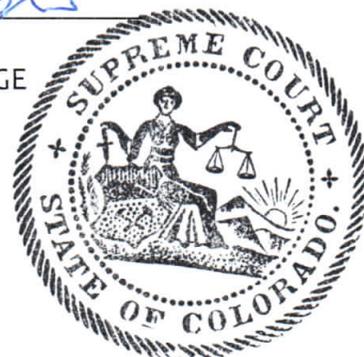
<sup>10</sup> *Id.* § 110(e)(2)(a).

<sup>11</sup> 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”).

DATED THIS 23<sup>rd</sup> DAY OF AUGUST, 2018.

*William R. Lucero*

WILLIAM R. LUCERO  
PRESIDING DISCIPLINARY JUDGE



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Cheryl Stevens  
Colorado Supreme Court

Via Hand Delivery