

ORIGINAL

THE BOARD ON THE UNAUTHORIZED PRACTICE OF LAW
OF
THE SUPREME COURT OF OHIO

OHIO STATE BAR ASSOCIATION, :

Relator, :

vs. :

PINNACLE TITLE CORPORATION
ET AL., :

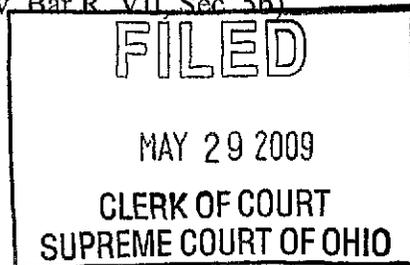
Respondents. :

09-0982

CASE NO. UPL 07-07

FINAL REPORT

(Proposed Resolution,
Gov. Bar R. VII Sec. 5b)



I. PROCEDURAL BACKGROUND

This matter came before the Board on the Unauthorized Practice of Law ("Board") on Relator's Complaint filed on September 28, 2007.

On January 24, 2008, pursuant to the provisions of Section 7(A)(1) of Rule VII of the Supreme Court Rules for the Government of the Bar of Ohio, this matter was assigned to the Panel of C. Lynne Day, Chair, Richard R. Hollington, and Curtis J. Sybert.

The Complaint alleged that Respondents Dennis Leo Mattingly, Jeffrey D. Houk, and Timothy Pool, acting on behalf of Respondents Pinnacle Title Corporation and Pinnacle Title Corp. (hereinafter "Pinnacle"), and Respondents Pinnacle, by and through its shareholders, members, directors, officers, employees, and agents, drafted and completed documents affecting the legal rights of Ohio residents including preparing deeds and other instruments, and charged fees for such services. All Respondents

retained the same counsel in this matter, specifically Victoria Oakley of Louisville, Kentucky, who was granted pro hac vice admission per an Order of this Board dated January 20, 2008.

The parties submitted Stipulations of Fact and Law in Support of Motion to Approve Consent Decree on May 16, 2008. The Consent Decree was filed with the Board on January 7, 2008, per a joint Motion for Approval of the same. The Panel voted to grant the Motion for Approval of Consent Decree on November 11, 2008.

The Board reviewed the Panel's Report on November 20, 2008, and voted to remand the Consent Decree to the parties for further changes. The parties refiled their Motion for Approval of Consent Decree on January 27, 2009. The Panel voted to accept the refiled Consent Decree on April 20, 2009.

II. FINDINGS OF FACT

1. Relator, Ohio State Bar Association, is a regularly organized bar association which has constituted and actively maintains a committee on the unauthorized practice of law, each member of which is an attorney at law, duly admitted to the practice of law in the State of Ohio.

2. Respondents Mattingly, Houk, and Pool are all individuals, and, either individually or collectively, have conducted business in the State of Ohio under the name of "Pinnacle," and in particular, "Pinnacle Title Corporation," "Pinnacle Title Corp., Inc.," "Pinnacle Title Company," and "Pinnacle Title." Respondent Pinnacle Title Corporation is an Ohio corporation having a principal place of business in Cincinnati, Hamilton County, Ohio. (Stipulations of Fact and Law, Para. 2, [May 16, 2008])

3. Respondent Pinnacle Title Corp. ("Pinnacle") is a corporation having a principal place of business in Springboro, Warren County, Ohio. (Stipulations of Fact and Law, Para. 3, [May 16, 2008])

4. Mattingly, Houk, and Pool, either individually or collectively, are shareholders, members, directors, officers, employees, and agents of Pinnacle Title Corp., and Pinnacle Title Corporation. (Stipulations of Fact and Law, Para. 4, [May 16, 2008])

5. Respondents have conducted business operations in Hamilton County, Pike County, Warren County, and other counties, all of which are in Ohio. (Stipulations of Fact and Law, Para. 5, [May 16, 2008])

6. Respondents Pinnacle, their shareholders, members, directors, officers, employees, and agents, and Respondents Mattingly, Houk, and Pool, or any of them are not, and never have been, admitted to practice law in Ohio under Rule 1, granted active status under Rule VI, or certified under Rule II, Rule IX, or Rule XI of the Supreme Court Rules for the Government of the Bar of Ohio. (Stipulations of Fact and Law, Para. 6, [May 16, 2008])

7. Respondents Mattingly, Houk, and Pool, and Respondents Pinnacle, by and through its shareholders, members, directors, officers, employees, and agents, or any of them have, on various occasions, advised individuals as to the legal implications of a particular deed form, and have drafted and completed deeds affecting the legal rights of Ohio residents, and have charged fees for such services. True copies of deeds prepared by the Respondents are attached to the Stipulations of Fact and Law as Exhibit 1. (Stipulations of Fact and Law, Para. 7, [May 16, 2008])

III. CONCLUSIONS OF LAW

1. The Supreme Court of Ohio has original jurisdiction regarding admission to the practice of law, the discipline of persons so admitted, and all other matters relating to the practice of law. Section 2(B)(1)(g), Article IV, Ohio Constitution; *Royal Indemnity Company v. J.C. Penney Company* (1986), 27 Ohio St. 3d 31, 501 N.E.2d 617; *Judd v. City Trust & Saving Bank* (1937), 133 Ohio St. 81, 10 O.O. 95, 12 N.E.2d 288.

2. The unauthorized practice of law also consists of rendering legal services for another by any person not admitted to practice law in the State of Ohio. Gov. Bar R. VII, §2(A).

3. The Supreme Court has consistently held that the practice of law not only encompasses the drafting and preparation of pleadings filed in the courts of Ohio, it also includes the preparation of legal documents and instruments upon which legal rights are secured or advanced. *Akron Bar Association v. Greene*, 77 Ohio St.3d 279, 1997-Ohio-298; *Land Title Abstract & Trust v. Dworken* (1934), 129 Ohio St. 23, 1 O.O. 313, 193 N.E. 650.

4. A corporation may not give legal advice to another, directly or indirectly, through its employees or attorney employees. *Judd v. City Trust & Sav. Bank* (1937), 133 Ohio St. 81, 88, 12 N.E.2d 288, 291-2.

5. The unauthorized practice of law also applies to a non-attorney preparing legal documents and instruments including deeds which convey real property. *Lorain Cty. Bar Ass'n v. Kennedy*, 95 Ohio St.3d 116, 2002-Ohio-1943; *Land Title Abstract & Trust Co. v. Dworken* (1934), 129 Ohio St. 23, 28, 193 N.E. 650, 652.

6. An attorney not admitted in Ohio engages in the practice of law by preparing and signing deeds in Ohio as an attorney-at-law. *Office of Disciplinary Counsel v. Doan*, 77 Ohio St.3d 236, 1997-Ohio-299.

7. Respondents engaged in the unauthorized practice of law by advising various Ohio residents as to the legal implications of a particular deed form. (Stipulations of Fact and Law [May 16, 2008]).

8. Respondents engaged in the unauthorized practice of law by drafting and completing deeds for various Ohio residents. (Stipulations of Fact and Law [May 16, 2008]).

IV. PANEL RECOMMENDATIONS

The Panel has reviewed the proposed resolution under the enumerated factors in Gov. Bar R. VII, §5b and finds that the resolution is submitted in the form of a Consent Decree as described in Gov. Bar R. VII, §5b. Additionally, the Panel finds that: the Respondents admitted to the material allegations of the Complaint through the submitted Stipulations and as reflected in the Consent Decree; the public is sufficiently protected from future harm as Respondents have agreed to be permanently enjoined from engaging in, or aiding or abetting any person or entity engaging in the unauthorized practice of law at any location with the state of Ohio; and the agreement resolves the material allegations of unauthorized practice of law raised by the Relator in its Complaint. The Panel finds that the negotiated injunction demonstrates the Respondents' acknowledgment of the

serious nature of the conduct and that the injunction will prevent similar conduct in the future.

The Panel has considered whether civil penalties would be appropriate in this matter and does not recommend that civil penalties be imposed in this matter. The Panel has found that the parties generally cooperated in this during the investigation and prosecution of the matter. Gov. Bar R. VII, §(8)(B)(1). The Panel also did not find that any harm to third parties was demonstrated by the Relator. Gov. Bar R. VII, §(8)(B)(4). Lastly, the parties did not include a civil penalty as part of the Consent Decree, nor did the Relator request the imposition of penalties. UPL Reg. 400(B).

The Panel recommends that the Consent Decree be approved by the Board and filed with the Supreme Court pursuant to Rule VII, §5(b)(E). (Attachment "A").

The Panel further recommends that the Consent Decree be approved and ordered by the Supreme Court in the form submitted by the parties.

V. BOARD RECOMMENDATIONS

Pursuant to Gov. Bar R. VII, §5b, the Board on the Unauthorized Practice of Law of the Supreme Court of Ohio formally considered this matter on May 6, 2008. The Board adopted the findings of fact and conclusions of law of the Panel. The Board adopted all of the recommendations of the Panel.

The Board recommends that the Consent Decree be approved and ordered by the Supreme Court in the form submitted by the parties. (Attachment "A").

FRD

Frank R. DeSantis, Chair
Board on the Unauthorized Practice of Law

The Supreme Court of Ohio
BEFORE THE BOARD ON THE UNAUTHORIZED
PRACTICE OF LAW

OHIO STATE BAR ASSOCIATION

Case No. UPL 07-07

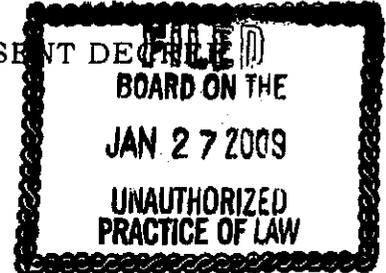
Relator

vs

PROPOSED CONSENT DECREE

PINNACLE TITLE CORPORATION, ET AL.

Respondent



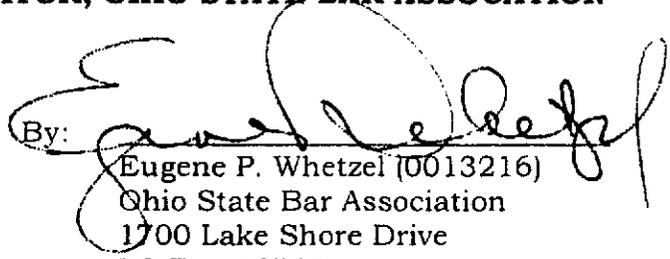
Pursuant to Rule VII, Section 5b, Supreme Court Rules for the Government of the Bar of Ohio, Relator, Ohio State Bar Association, and Respondents, Pinnacle Title Corporation, Pinnacle Title Corp., Dennis Leo Mattingly, Jeffrey D. Houk, and Timothy Poole request that the following Consent Decree be approved by this Board and the Supreme Court of Ohio:

1. By providing legal advice concerning the legal implications of the use of particular deed forms by sellers of real estate, Respondents engaged in the unauthorized practice of law.
2. By drafting and preparing real estate deeds affecting the rights of Ohio residents, Respondents engaged in the unauthorized practice of law.
3. Pinnacle Title Corporation and Pinnacle Title Corp., its successors and assigns, and its officers, members, agents, representatives, and employees, Dennis Leo Mattingly, Jeffrey D. Houk, and Timothy Poole are permanently enjoined from providing advice concerning the legal implications of deeds and from preparing real estate deeds for and to residents of the State of Ohio.
4. Pinnacle Title Corporation and Pinnacle Title Corp., its successors and

assigns, and its officers, members, agents, representatives, and employees, Dennis Leo Mattingly, Jeffrey D. Houk, and Timothy Poole are permanently enjoined from providing legal services or legal advice to Ohio residents or other engaging in the unauthorized practice of law in the State of Ohio.

5. No civil penalty is to be imposed.

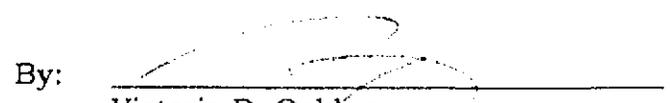
RELATOR, OHIO STATE BAR ASSOCIATION

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**RESPONDENTS, PINNACLE TITLE CORPORATION
PINNACLE TITLE CORP., DENNIS LEO
MATTINGLY, JEFFREY D. HOUK, and TIMOTHY
POOLE**

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Counsel for Respondents
Pinnacle Title Corporation,
Pinnacle Title Corp.,
Dennis Leo Mattingly,
Jeffrey D. Houk, and Timothy Poole

CERTIFICATE OF SERVICE

This is to certify that a copy of the foregoing Final Report was served certified mail upon the following this *24th* day of May, 2009. Ian Robinson, Esq., Fitch, Kendall, Cecil, Robinson & Barry, Co., LPA, 600 East State Street, PO Box 590, Salem, OH 44460; Eugene P. Whetzel, Esq., Ohio State Bar Association, 1700 Lake Shore Drive, P O Box 16562, Columbus, OH 43216-6562; Vickie Oakley, Esq., 2541 Ridgewood Ave., Louisville, KY 40217; Pinnacle Title Co., 3801 Springhurst Blvd., Ste. 102, Louisville, KY 40241; Jeffrey D. Houck, 7400 New LaGrange Rd., Norwood 1, Suite 420, Louisville, KY 40222; Timothy Pool, 7400 New LaGrange Rd., Louisville, KY 40222; Dennis Lee Mattingly, 7401 Wilcotte Ct., Prospect, KY 40059; Cincinnati Bar Association, 225 E. Sixth Street, 2nd Floor, Cincinnati, OH 45202-3209; Office of Disciplinary Counsel, 250 Civic Center Drive, Suite 325, Columbus, OH 43215; Ohio State Bar Association, P O Box 16562, Columbus, OH 43216-6562.


D. Allan Asbury, Secretary of the Board