

ORIGINAL

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

DISCIPLINARY COUNSEL,
Relator,

v.

MS. BETTY J. BROWN,
Respondent.

FILED
AUG 27 2014
CLERK OF COURT
SUPREME COURT OF OHIO

14-1494

Case No. UPL 13-03

FINAL REPORT
Gov. Bar R. VII(7)(G)

I. INTRODUCTION

This matter was presented to the Board of Unauthorized Practice of Law (“Board”) at its regular meeting on July 30, 2014. The three-count Complaint filed by the Office of Disciplinary Counsel (“Relator”) alleges that Respondent, Betty J. Brown (“Respondent” or “Brown”), drafted and filed complaints on behalf of other individuals in Cuyahoga County Court of Common Pleas even though she is not admitted to the practice of law in Ohio.

One complaint, *Schwartz v. Lord, et al.*, accused officers of the Mayfield Ohio Police and Fire Departments of trespassing onto the property of Ms. Schwartz, an elderly woman who suffers from dementia, and transferring her to an adult care facility against her will. Ms. Schwartz is now deceased. (Count 1, Complaint) Another complaint, *Schwartz v. Cuyahoga Cty. Adult Protection Services et al.*, claimed the Cuyahoga County Adult Protection Services and ten other individuals caused Ms. Schwartz’s placement in an adult care facility against her will. (Count 2, Complaint)

The last complaint, though styled *Brown vs. Baron*, sought damages allegedly sustained by Dean Marinpietri, who allegedly lived at Schwartz's home for 15 years. Brown filed the action against Mr. Baron, who is the legal guardian of Evelyn Schwartz, alleging Mr. Baron disposed of Mr. Marinpietri's property when he was cleaning up Ms. Schwartz's home to prepare it for sale. Brown signed the complaint as "Betty-Janet: Brown" as "POA, attorney in fact for Dean Marinpietri." During the pre-trial for this matter, Brown appeared and when informed she needed to be licensed to practice law to represent another individual, she responded that she was a sovereign citizen and had the right to file the lawsuit. (Count 3, Complaint)

The Respondent has neither filed an Answer to the Complaint alleging she has engaged in the unauthorized practice of law nor to the Relator's Motion for Default in this matter. Upon review of the record, the panel granted Relator's Motion for Default. The Board hereby adopts the panel's report and recommends the Supreme Court find Respondent engaged in the unauthorized practice of law on all three counts, and further recommends a civil penalty in the amount of \$7,000 be imposed on Respondent.

II. PROCEDURAL BACKGROUND

On May 30, 2012, Disciplinary Counsel sent a letter of inquiry via certified mail to Brown with copies of the documents she allegedly prepared on behalf of Schwartz and Marinpietri. Brown was given until June 13, 2012 to respond. Motion for Default at Ex. 2. Brown responded by letter dated June 11, 2012. *Id.* at Ex. 3. Disciplinary Counsel then requested Brown to submit to a deposition, to which she refused and indicated she requires court-appointed counsel to proceed. Brown further indicated Relator did not

provide proof of its “jurisdictions over [her] actions.” Brown’s final communication was in the form of a letter, dated June 23, 2012, wherein she stated the allegations against her are frivolous and meant to harass her. She further indicated “[s]o if there is no proof of claims/contact in ten days, we can consider this closed and indicating that no UPL claim exists.” *Id.* at Ex. 6.

Disciplinary Counsel filed the Complaint in this matter on June 25, 2013. In accordance with Gov. Bar R. VII, Section 6, a copy of the Complaint and required Notice of Filing of Complaint were sent via certified mail to Brown on July 1, 2013. The record indicates that the mail was delivered to the address of record and a return receipt was returned to the Board, indicating the mail was delivered on July 3, 2013.

On December 2, 2013, this matter was assigned to a panel consisting of Commissioners Scott B. Potter, Renisa A. Dorner, and Leo M. Spellacy, Jr., Chair. The Panel issued a Case Scheduling Order in this matter on January 21, 2014, and scheduled an Initial Status Conference for February 6, 2014. The Case Scheduling Order and Notice regarding the Initial Status Conference were sent to Respondent by certified and regular mail. Respondent did not participate in the Initial Status Conference held by telephone. Respondent did file an answer to Relator’s Complaint.

Disciplinary Counsel filed a Motion for Default on January 22, 2014. Upon consideration, the panel granted the motion. The Board, in adopting the panel’s findings and report, finds Respondent engaged in the unauthorized practice of law and further recommends a civil penalty in the amount of \$7,000 be imposed on Respondent. The Board recommends a \$1,000 civil penalty be imposed for Count 1 and Count 2, and a \$5,000 civil penalty be imposed for Count 3.

III. FINDINGS OF FACT

1. Relator, Disciplinary Counsel, is duly authorized to investigate and prosecute activities which may constitute the unauthorized practice of law in the state of Ohio. Gov. Bar R. VII(4).
2. Respondent, Betty J. Brown, is not and has never been an attorney admitted to practice in the state of Ohio. Mot. Def. Ex. 1.

COUNT 1

3. A complaint styled *Evelyn R. Schwartz v. Robert C. Lord, et al.*, Case No. CV-09-706768, was filed in the Cuyahoga County Common Pleas Court on October 14, 2009. This complaint bears the alleged signature of Evelyn R. Schwartz. Respondent signed the complaint as a "Notary Public" attesting to Ms. Schwartz's signature. This complaint alleged an action by Ms. Schwartz against six employees of the Mayfield Heights Police Department and Fire Department, consists of approximately 32 pages including exhibits, and refers to an incident where the defendants apparently took Ms. Schwartz out of her home against her will. References are made in the complaint to the Magna Carta, the Maryland Constitution, and the Bill of Rights. Mot. Def. Ex. 15
4. On November 4, 2009, following the answers filed by the defendants in this action, a Motion to Strike Robert C Lord's et al Answer to This Action for Cause was filed, bearing the alleged signature of Evelyn Schwartz. The Motion to Strike is based on defendants' failure "to sign their own names attesting that they are making those statements as above referenced." Mot. Def. Ex. 16. The Motion to Strike was denied by Judge Mason by Journal Entry filed November 13, 2009.

5. On November 23, 2009, a Writ of Error Quae Coram Nobis Residant was filed in this matter stating plaintiff “vacates all rulings and decisions entered in this case by the Honorable LANCE T MASON ... including but not limited to; the docketed journal entry in this case denying plaintiffs [sic] motion to strike defendants [sic] answers.” Mot. Def. Ex. 19. The Writ further cautions the judge from entering further rulings “without leave of this court.” *Id.* at 2. The writ bears the alleged signature of Evelyn R. Schwartz as “private attorney” and by Betty-Janet: Brown as “Attorney-In-Fact for Evelyn R. Schwartz.” *Id.* at 3. The Certificate of Service was signed by the Respondent. *Id.* at 4.

6. On November 25, 2009, the court acknowledged receipt of correspondence filed on behalf of plaintiff by Betty Brown, requesting the court to vacate its November 13 order. The court denied the request and further determined “Ms. Brown is engaging in the unauthorized practice of law. The unauthorized practice of law occurs when a person not licensed or otherwise permitted to practice law in Ohio renders legal services on another’s behalf.” Mot. Def. Ex. 20.

7. On February 2, 2010, the court issued an entry stating plaintiff failed to appear at a case management conference scheduled on February 1, 2010. The court also indicated the Cuyahoga County Probate Court had declared plaintiff Schwartz incompetent. The Court further found, in pertinent part, that:

AN INDIVIDUAL BY THE NAME OF BETTY BROWN HAS FILED THIS ACTION PURPORTEDLY ON BEHALF OF THE PLAINTIFF. MS BROWN HAS NOT DEMONSTRATED TO THE COURT THAT SHE HAS GUARDIANSHIP OF PLAINTIFF NOR IS SHE AUTHORIZED TO PRACTICE LAW WITHIN THE STATE OF OHIO. MS. BROWN ALSO HAS FAILED TO RETAIN AN ATTORNEY TO PURSUE THIS ACTION ON PLAINTIFF’S BEHALF. IT IS APPARENT TO THE COURT THAT MS. BROWN IS ATTEMPTING TO ENGAGE IN THE UNAUTHORIZED PRACTICE OF LAW. AT THIS TIME THE COURT SHALL DISMISS THIS

ACTION WITHOUT PREJUDICE FOR THE WANT OF PROSECUTION.
FINAL. COSTS TO MS. BROWN.

Mot. Def. Ex. 21.

COUNT 2

8. A complaint styled *Evelyn R. Schwartz v. Cuyahoga County Adult Protective Services, et al.*, Case No. CV-09-705794, filed in the Cuyahoga County Common Pleas Court on October 2, 2009 alleged claims against Cuyahoga County Adult Protective Services (“APS”), and ten individuals, including employees of APS, employees of Hillcrest Hospital, and employees of Mayfield Heights Police Department. Compl. ¶ 8; Mot. Def. Ex. 8. The complaint, consisting of 15 pages, references the Confirmatio Cartarum of 1297 as well as the Magna Carta and alleges defendants trespassed on Schwartz’s property and “over [her] express objection thereto, cause[d] plaintiff to be sequestered in a adult care facility” Mot. Def. Ex. 8 at 7. The complaint bears the alleged signature of Evelyn R. Schwartz with the notation “All rights reserved ucc 1-308.” *Id.* at 15. The Respondent signed the complaint as a notary. *Id.*

9. Relator indicates defendant Robert C. Lord filed an answer to the complaint. Compl. ¶ 31. Subsequently, a “Motion to Strike Robert C. Lord’s et al Answer to this Action for Cause” was filed on behalf of Ms. Schwartz. Compl. ¶ 32; Mot. Def. Ex. 9. The Motion to Strike bears the alleged signature of Ms. Schwartz and does not contain Ms. Brown’s name. On November 23, 2009, a pleading titled “Replication to Nelli Johnson” was also filed on behalf of Ms. Schwartz. Mot. Def. Ex. 11. This pleading bears the alleged signature of Ms. Schwartz and is also signed by Respondent as “ATTORNEY-IN-FACT FOR Evelyn R. Schwartz.” Respondent also signed the Certificate of Service.

10. On November 24, 2009, defendants filed a Motion to Strike requesting the court to strike all pleadings filed by Betty Janet Brown on behalf of purported pro se plaintiff Schwartz. Mot. Def. Ex. 12.
11. In their Motion to Strike, defendants informed the court that Ms. Schwartz was found incapacitated and in need of adult protective services by the probate court. Mot. Def. Ex. 12B. By Ex-Parte Order filed November 19, 2009, the Probate Court of Cuyahoga County authorized the Director of Cuyahoga County Department of Senior and Adult Services to give consent for Ms. Schwartz for protective services. *Id.* The probate court further ordered Betty Brown aka Betty-Janet Brown aka Betty J. Brown be restrained from any contact from Evelyn Schwartz. Mot. Def. Ex. 12B. Defendants argued any pleadings filed by Betty Brown on behalf of Evelyn Schwartz would be in violation of the probate court's order. Mot. Def. Ex. 12 at 4.
12. In a Journal Entry on December 31, 2009, the court denied plaintiff's "Motion to Strike Robert C. Lord's Answer to this Action for Cause" and granted defendants' Motion to Strike all pleadings filed by Brown. Mot. Def. Ex. 14. In its Journal Entry, the court stated that: "Betty Janet Brown is not licensed to practice law in the state of Ohio. Thus, the court strikes the pleading from the record as Betty Janet Brown is engaging in the unauthorized practice of law. All further pleadings filed in this case by Betty Janet Brown or any other non-party non-licensed to practice law will be likewise stricken." *Id.*
13. On December 9, 2009, the court held a case management conference in *Evelyn Schwartz v. Cuyahoga County Adult Protective Svcs, et al.* Compl. ¶ 38; Mot. Def. Ex. 13. No appearances were made on behalf of Ms. Schwartz. Mot. Def. Ex. 13. Counsel for defendants and the court engaged in "extensive talks" regarding the origins of this

case and the pending motions. *Id.* The Journal Entry issued after the case management conference indicates *Schwartz v. Cuyahoga County Adult Protective Svs. et al.* originated from a case in probate court, wherein the court ordered Attorney Russell Baron (who was also a defendant in the action) to serve as guardian of the person and estate of plaintiff Evelyn Schwartz. Mot. Def. Ex. 13. The court scheduled another conference for January 14, 2010, stating the case would be dismissed if plaintiff did not appear. *Id.* By Journal Entry dated, January 20, 2010, the case was dismissed for lack of prosecution as plaintiff failed to appear at the January 14, 2010 conference. *Id.*

COUNT 3

14. A “Complaint for Temporary Restraining Order” styled *Betty-Janet: Brown as POA for Dean M. Marinpietri v. Russell Z. Baron*, Case No. CV-10-722577, filed in the Cuyahoga County Court of Common Pleas on March 29, 2010 alleged claims against Russell Baron, the court-appointed guardian of Evelyn Schwartz. In the complaint, Respondent alleged Baron was unlawfully taking possession of Ms. Schwartz’s house and property, and Mr. Marinpietri had a right of possession of same. Brown claimed in the complaint that she was Mr. Marinpietri’s “durable POA” and signed the document as “POA, attorney in fact for Dean Marinpietri.” Mot. Def. Ex. 22.

15. On March 31, 2010, Respondent filed a “Petition for Emergency Injunction.” The allegations contained in the petition were similar to those set forth in the complaint but further explained Mr. Marinpietri’s interest in Ms. Schwartz’s house and property contained therein. Mot. Def. Ex. 23. According to the petition, while Ms. Schwartz held

title to the home, Brown claimed Mr. Marinpietri had “a considerable ownership interest in the property in question via his sweat equity...” *Id.* at ¶ 3.

16. Mr. Baron, through counsel, filed an answer to the complaint, whereby he explained he was the court-appointed guardian of Ms. Schwartz, who has been diagnosed with dementia, and he is required to sell her home. Mot. Def. Ex. 24 ¶ 1. Baron further indicates he gave Marinpietri, who at the time was incarcerated, and Brown ample notice to remove Marinpietri’s property from Schwartz’s residence. Mot. Def. Ex. 24 ¶ 3.

17. A pre-trial was held in this matter on June 8, 2010. Michael Goldberg, the staff attorney for Judge Synenberg, conducted the pre-trial as part of his regular duties. Respondent Brown appeared and confirmed to Mr. Goldberg that she prepared the complaint in the case. When advised she needed to be licensed to practice law in the state of Ohio in order to represent another person, Brown replied she was a sovereign citizen and had the right to file the particular lawsuit. Mot. Def. Ex. 25, Goldberg Affidavit.

18. By Journal Entry dated June 9, 2010, the court found Brown is not registered to practice law in the state of Ohio and thus her preparation and filing of the complaint on behalf of Dean Marinpietri constituted the unauthorized practice of law. The complaint was stricken in its entirety. Mot. Def. Ex. 26.

IV. CONCLUSIONS OF LAW

A. The Supreme Court of Ohio has original jurisdiction over the admission to the practice of law, the discipline of persons so admitted, and all other matters relating to the practice of law. Ohio Constitution, Article IV, Section 2(B)(1)(g); *Royal Indemnity Co.*

v. *J.C. Penney Co.*, 27 Ohio St.3d 31, 501 N.E.2d 617(1986); *Judd v. City Trust & Savings Bank*, 133 Ohio St. 81, 12 N.E.2d 288 (1937). The unauthorized practice of law includes “holding out to the public or otherwise representing oneself as authorized to practice law in Ohio by a person not authorized to practice law by the Supreme Court Rules for the Government of the Bar or Pr. Con. R. 5.5.” Gov. Bar R. VII, Sec. 2(A)(4).

B. The facts presented here meet the elements, by a preponderance of the evidence, that Respondent engaged in the unauthorized practice of law. “Because Respondent did not possess the qualifications necessary to practice law in this state and yet attempted to provide legal representation in court for another person, a preponderance of the evidence establishes that [Respondent] engaged in the unauthorized practice of law.” *Ohio State Bar Assn. v Heath*, 123 Ohio St.3d 483, 2009-Ohio-5958, 918 N.E.2d 145, ¶ 23.

C. Respondent filed multiple pleadings in three separate cases in Cuyahoga County Common Pleas Court. At a minimum, in *Evelyn R. Schwartz v. Robert C. Lord, et al.*, Case No. CV-09-706768, Respondent filed A Writ of Error Quae Coram Nobis Residant as the attorney-in-fact for Ms. Schwartz. (Count 1, Complaint) Likewise, in *Evelyn R. Schwartz v. Cuyahoga County Adult Protective Services, et al.*, Case No. CV-09-705794, Respondent filed a pleading titled “Replication to Nelli Johnson” as the attorney-in-fact for Ms. Schwartz. (Count 2, Complaint) Last, in *Betty-Janet: Brown as POA for Dean M. Marinpietri v. Russell Z. Baron*, Case No. CV-10-722577, Respondent filed a complaint and a Petition for Emergency Injunction as a “POA” and “attorney-in-fact” for Mr. Marinpietri. (Count 3, Complaint) The Court has held that the “preparation of legal pleadings and other legal papers without the supervision of an attorney licensed in Ohio” is the unauthorized practice of law. *Disciplinary Counsel v. Brown*, 121 Ohio St.3d 423,

2009-Ohio-1152, 905 N.E.2d 163, ¶ 41, citing *Cleveland Bar Assn. v. McKissic*, 106 Ohio St.3d 106, 2005-Ohio-3954, 832 N.E.2d 49, ¶ 6.

D. Additionally, Respondent also engaged in the unauthorized practice of law by attending a pretrial on Mr. Marinpietri's behalf in the case styled as *Betty-Janet: Brown as POA for Dean M. Marinpietri v. Russell Z. Baron*. See *Disciplinary Counsel v. Alexicole, Inc.*, 105 Ohio St.3d 52, 53, 2004 Ohio 6901, 822 N.E.2d 348, ¶ 8. (finding that "The unauthorized practice of law consists of rendering legal services, including representation on another's behalf during discovery, settlement negotiations, and pretrial conferences to resolve claims of legal liability, by any person not admitted to practice in Ohio.")

V. APPLICABILITY OF CIVIL PENALTIES BASED ON FACTORS IN GOV. BAR R. VII(8)(B) AND UPL REG. 400

When determining whether to recommend that the Supreme Court impose civil penalties in an unauthorized practice of law case, the Board is required to base its recommendation on the factors set forth in Gov. Bar. R. VII(8)(B) and UPL Reg. 400(F). Additionally, UPL Reg. 400(F)(4) specifies mitigating factors the Board may use to justify a recommendation of no civil penalty or a less severe penalty. The Board considered the general civil penalty factors, aggravating and mitigating factors, and its analysis is described below.

A. The degree of cooperation provided by the Respondent in the investigation.

Respondent has been completely uncooperative throughout the investigation and the pendency of this case. On May 30, 2012, Disciplinary Counsel sent a letter of inquiry via certified mail to Brown with copies of the documents she allegedly prepared on behalf of Schwartz and Marinpietri. Brown was given until June 13, 2012 to respond.

Motion for Default at Ex. 2. Brown responded by letter dated June 11, 2012. *Id.* at Ex. 3. Disciplinary Counsel then requested Brown to submit to a deposition, to which she refused and indicated that she required court-appointed counsel to proceed. Brown further indicated Relator did not provide proof of its “jurisdictions over [her] actions.” *Id.* at Ex. 5. Brown’s final communication was in the form of a letter, dated June 23, 2012, wherein she stated the allegations against her are frivolous and meant to harass her. She further indicated “[s]o if there is no proof of claims/contact in ten days, we can consider this closed and indicating that no UPL claim exists.” *Id.* at Ex. 6.

Further, Respondent did not file an Answer to the Complaint, despite being served with a copy of the Complaint and Notice of Filing of Complaint in which she was informed her of her right to file an Answer. Respondent failed to participate in the Initial Status Conference held by telephone. On December 14, 2013, Relator sent Respondent a draft copy of its Motion for Default and stated that the motion would be filed if she did not file a response by January 15, 2014. *See* Relator’s affidavit filed Feb. 26, 2014.

Respondent also failed to respond to Relator’s Motion for Default. After Relator filed a supplement to its Motion for Default, the Panel in an order dated February 28, 2014 provided Respondent “ten (10) days from the date of this order to file with the Board a response in opposition to Relator’s Motion for Default and/or Relator’s supplement to the Motion for Default.” Respondent failed to file a timely response. Instead, on April 11, 2014, the Board received a letter from Respondent that provided, in pertinent part, that: “You all/both have ignored my answer and therefore denied me due process of law. As such you have lost your assumed subject matter jurisdiction and have

no lawful means to default me. Please leave me alone.” This letter is the only submission that the Board ever received from Respondent.

B. The number of occasions that unauthorized practice of law was committed.

Respondent engaged in the unauthorized practice of law in three separate cases filed in Cuyahoga County Common Pleas Court. As set forth above, Respondent filed pleadings in all three cases and attended a pre-trial conference in one of the cases.

C. The flagrancy of the violation.

Respondent’s actions demonstrate her intent to manipulate and circumvent the rules regulating the practice of law. Respondent’s actions also demonstrate a complete disregard of the courts’ respective orders regarding her unauthorized practice of law.

In *Evelyn R. Schwartz v. Cuyahoga County Adult Protective Services, et al.* (Count 2, Complaint), Judge Villanueva signed a Journal Entry on December 9, 2009, that provided, in pertinent part, that “Betty Janet Brown is not licensed to practice law in the state of Ohio. Thus, the court strikes the pleading from the record as Betty Janet Brown is engaging in the unauthorized practice of law. All further pleadings filed in this case by Betty Janet Brown or any other non-party non-licensed to practice law will be likewise stricken.” Mot. Def. Ex. 14. In *Evelyn R. Schwartz v. Robert C. Lord, et al.* (Count 1, Complaint), Judge Mason stated in a Journal Entry dated February 1, 2010 that “IT IS APPARENT TO THE COURT THAT MS. BROWN IS ATTEMPTING TO ENGAGE IN THE UNAUTHORIZED PRACTICE OF LAW.” Despite being admonished by two judges of the Cuyahoga County Common Pleas Court regarding her unauthorized practice of law, on March 29, 2010, Respondent nevertheless filed a third case—*Betty-Janet: Brown as POA for Dean M. Marinpietri v. Russell Z. Baron* (Count 3,

Complaint)—as a “POA” and “attorney-in-fact.” Respondent’s disregard for the rules regulating the practice of law and the judiciary continued into June 2010. When advised by Judge Synenberg’s staff attorney at a pretrial conference that Respondent needed to be a licensed attorney to practice law on behalf of another person, Respondent replied that she was a “sovereign citizen” that had a right to file the lawsuit. Mot. Def. at Ex. 25.

D. Harm to third parties arising from offense.

Numerous parties were harmed as result of Respondent’s unauthorized practice of law. The complaint referenced in Relator’s Count 1 named six individuals employed by the Mayfield Heights Police Department and Fire Department. The complaint referenced in Relator’s Count 2 had eleven defendants. The defendant in the complaint referenced in Relator’s Count 3 was Ms. Schwartz’s legally appointed guardian. In addition to the harm caused by Respondent’s attempted representation of an individual declared incompetent and interference with Ms. Schwartz’s legally appointed guardian, numerous defendants in the three cases referenced above obtained counsel, had their attorneys attend multiple court conferences and respond to frivolous pleadings and motions, including motions to strike, a “replication” and a Writ of Error Quae Coram Nobis Residant, and a Petition for Emergency Injunction.

Respondent’s unauthorized practice of law also resulted in a waste of judicial resources. In *Evelyn R. Schwartz v. Robert C. Lord, et al.*, Judge Mason entered three separate journal entries and held one case management conference in connection with Respondent’s unauthorized practice of law. Similarly, in *Evelyn R. Schwartz v. Cuyahoga County Adult Protective Services*, Judge Villanueva entered two separate journal entries and held at least two case management conferences stemming from

Respondent's unauthorized practice of law. Last, in *Betty-Janet: Brown as POA for Dean M. Marinpietri v. Russell Z. Baron*, Judge Synenberg also entered a journal entry in connection with Respondent's unauthorized practice of law and her staff attorney held a pretrial conference that Respondent attended.

E. Any other relevant factors.

Applying the factors of UPL Reg. 400(F), which are the bases for a recommendation of a more severe or less severe penalty, the Panel finds:

Aggravating Factors:

a. The Respondent Had Been Informed Prior To Engaging In The Unauthorized Practice Of Law That The Respondent's Conduct May Constitute An Act of Unauthorized Practice Of Law.

As set forth above, Judge Villanueva's December 9, 2009 Journal Entry informed Respondent that her conduct constituted the unauthorized practice of law. Judge Mason's February 1, 2010 Journal Entry similarly informed Respondent that her conduct constituted the unauthorized practice of law. Despite being admonished by two separate judges of the Cuyahoga County Common Pleas Court, Respondent nevertheless proceeded to file a complaint in *Betty-Janet: Brown as POA for Dean M. Marinpietri v. Russell Z. Baron* and act as Mr. Marinpietri "attorney-in-fact." When her unauthorized practice of law was subsequently questioned by Judge Synenberg's staff attorney at a pretrial, Respondent brazenly claimed that she had a right to practice law as a "sovereign citizen."

b. **Respondent's Unauthorized Practice Of Law Included An Appearance Before A Court Or Other Tribunal.**

As set forth above, Respondent appeared before a court or tribunal at a status conference in *Betty-Janet: Brown as POA for Dean M. Marinpietri v. Russell Z. Baron*. (Count 3, Complaint)

c. **Respondent's Unauthorized Practice Of Law Included The Preparation Of Legal Instruments For Filing With The Court.**

Respondent's unauthorized practice of law included the preparation of legal instruments for filing with the Court. In *Evelyn R. Schwartz v. Robert C. Lord, et al.*, Case No. CV-09-706768, Respondent filed A Writ of Error Quae Coram Nobis Resident as the attorney-in-fact for Ms. Schwartz. (Count 1, Complaint) Likewise, in *Evelyn R. Schwartz v. Cuyahoga County Adult Protective Services, et al.*, Case No. CV-09-705794, Respondent filed a pleading titled "Replication to Nelli Johnson" as the attorney-in-fact for Ms. Schwartz. (Count 2, Complaint) Last, in *Betty-Janet: Brown as POA for Dean M. Marinpietri v. Russell Z. Baron*, Case No. CV-10-722577, Respondent filed a Complaint and a Petition for Emergency Injunction as a "POA" and "attorney-in-fact" for Mr. Marinpietri. (Count 3, Complaint)

2. **Mitigating Factors:**

The record fails to indicate that the Respondent's conduct at issue has continued and, therefore, the Panel presumes that Respondent has not engaged in the unauthorized practice of law since June 2010.

Civil Penalty

Relator requested the maximum civil penalty permitted under Gov. Bar R. VII(8)(B) -- \$10,000 per offense for a total civil penalty of \$30,000. Balancing the

factors outlined in Gov. Bar R. VII(8)(B)(5) and the UPL Reg. 400, the Board concludes a civil penalty is warranted in this case. The panel recommends a civil penalty of \$1,000 in connection with Count 1 of Relator's Complaint and a civil penalty of \$1,000 in connection with Count 2 of Relator's Complaint. Had Respondent cooperated and admitted that her conduct constituted the unauthorized practice of law, the Board may have reached a different conclusion. Given, however, the aggravating factors set forth above and the lack of any real mitigating factors, the Board believes a \$1,000 civil penalty for Count 1 and a \$1,000 civil penalty for Count 2 is warranted. The Board's recommendation is consistent with the penalty imposed in *Cleveland Metro. Bar Assn. v. McGinnis*, 137 Ohio St.3d 166, 2013-Ohio-4581, 998 N.E.2d 474, where the respondent engaged in relatively few acts of unauthorized practice of law and prepared documents for one individual. In *McGinnis*, the Court imposed a \$1,000 civil penalty for each count involving Respondent's drafting of a pleading for another individual.

With respect to Count 3, the Panel recommends a civil penalty of \$5,000. Before Respondent filed the complaint and Petition for Emergency Injunction in *Betty-Janet: Brown as POA for Dean M. Marinpietri v. Russell Z. Baron*, Respondent had clearly been admonished by two Cuyahoga Common Pleas Court judges for her unauthorized practice of law. She ignored these previous orders and filed the complaint on Mr. Marinpietri's behalf anyway. She then claimed the right to file the lawsuit as a "sovereign citizen." Given the additional aggravating factors associated with Count 3, the panel recommends that a larger penalty—in the amount of \$5,000—is warranted in connection with Count 3. This recommendation is consistent with the *Disciplinary v. Bukstein*, wherein Respondent, who referred to herself as a "civil rights advocate" filed a motion in

domestic relations court on behalf of another individual and also called an opposing party and his counsel in another case, citing legal authority and demanding discovery. 139 Ohio St.3d 230, 2014-Ohio-1884. The Court imposed a \$5,000 civil penalty for each count in *Bukstein*, citing there was no evidence that the Respondent sought other clients, or that there was lasting harm as a result of Respondent's involvement. *Id.* at ¶¶ 27 and 28. Further, although Respondent has not participated in the proceeding, the Board concludes that Ms. Brown's conduct "is on not par with the most egregious acts that the [Court] [has] found to constitute the unauthorized practice of law." *Id.* at ¶ 30. Balancing Respondent Brown's persistence in filing pleadings on behalf of others, despite being warned to cease such conduct with no record that the conduct has continued, the Board concludes a \$5,000 civil penalty for Count 3 is warranted.

VI. BOARD RECOMMENDATION

The Board recommends that the Court issue an order enjoining Respondent from performing legal services in the State of Ohio unless and until Respondent secures from the Supreme Court or from the highest court of some other state, territory or other jurisdictional entity of the United States, a license to practice law, and registers in accordance with the Rules for the Government of the Bar of Ohio. The Board further recommends that the Court issue and order imposing a civil penalty of \$7,000 upon the Respondent. The Board further recommends that the Court issue an order that the costs of this proceeding be taxed to Respondent.

VII. STATEMENT OF COSTS

Relator indicates it incurred no costs in this matter.


John J. Chester, Jr., Chair
Board on the Unauthorized Practice of Law

CERTIFICATE OF SERVICE

I hereby certify that the foregoing Final Report was served the 27th day of August, 2014, upon the following in accordance with Gov. Bar R. VII, Sec. 7(G): Scott Drexel, Office of Disciplinary Counsel, 250 Civic Center Drive, Suite 325, Columbus, Ohio 43215; Donald Scheetz, Office of Disciplinary Counsel, 250 Civic Center Drive, Suite 325, Columbus, Ohio 43215; Betty Brown 262 Shelton Blvd, Eastlake, Ohio 44095. Further, in accordance with Gov. Bar R. VII, Sec. 7(G), a copy of the final report was served on this day upon the following: Office of Disciplinary Counsel, Attn: Amy Stone, Esq., 250 Civic Center Drive, Suite 325, Columbus, Ohio 43215; OSBA UPL Committee, Attn: Eugene Whetzel, Esq., PO Box 16562, Columbus, Ohio 43216; Cleveland Metro Association, Attn Heather Zirke, 1301 East Ninth Street, Second Level, Cleveland, Ohio 44114.

Minerva B. Elizaga
Minerva B. Elizaga, Secretary
Board on the Unauthorized Practice of Law