

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

**OHIO STATE
BAR ASSOCIATION**
1700 Lake Shore Drive, Suite 300
Columbus, OH 43204,

RELATOR,

v.

LEGALLY MINE, LLC,
c/o LMRA Services, Inc.
1337 East 750th Street North
Orem, UT 84097

and

DANIEL MCNEEF
[REDACTED]

RESPONDENTS.

Case No. UPL 23-04

**ORDER DENYING
PARTIES' JOINT MOTION
TO APPROVE CONSENT
DECREE**



Before the Board are: 1) Relator's Complaint and Certificate, 2) the parties' Joint Motion to Approve Consent Decree with Exhibits, 3) Relator's Brief in Support of Joint Motion to Approve Consent Decree, and 4) Consent Decree, filed November 10, 2023, in addition to 5) the parties' Supplement to Motion to Approve Consent Decree, filed February 29, 2024.

In accordance with Section 13(C) of Rule VII of the Supreme Court Rules for the Government of the Bar of Ohio, the hearing panel prepared and filed a written report to the Board for discussion at the Board's June 12, 2024 meeting. The Board, by majority vote, rejected the hearing panel's recommendation.

According to the materials filed by the parties, Respondents, non-attorneys all, provide legal services by recommending and drafting legal documents, including but not limited to testamentary documents, documents forming legal entities, and documents transferring real estate. In their proposed consent decree, the parties correctly identify acts that are the unauthorized practice of law. The parties also correctly agree that such

conduct should be enjoined. The parties further correctly propose relief that includes having Respondents provide their customers in Ohio notice of Respondents' unauthorized practice of law and of the customers' right to cure any defects in the advice or services provided by Respondents and that such cure may be accomplished through the use of Ohio licensed attorneys, at Respondents' expense. The parties additionally agree that Respondents should reimburse the one set of named customers all fees paid to Respondents, along with Relator's costs. But the other relief proposed by the parties is inadequate in two respects.

First, Paragraph 56(a)(i) of the proposed consent decree appears to envision that Respondents may continue to do business in Ohio — specifically, by providing “protection plans and legal documents” — and do so through Ohio licensed attorneys. If the purpose of this provision is to establish a system in which Ohio attorneys would be contracted by Respondents to review Respondents' recommendations and documents, such an arrangement would improperly allow Respondents to continue their unauthorized practice of law.

In *Cleveland Bar Association v. Sharp Estate Services, Inc.*, 107 Ohio St.3d 219, 2005-Ohio-6267, the respondents there provided advice regarding the type of testamentary documents customers should get and then contracted with customers to prepare those documents. The respondents then further contracted with Ohio attorneys to review the respondents' recommendations and documents. The court held that such an arrangement would not insulate the respondents from engaging in the unauthorized practice of law:

Even if the attorneys had been extensively involved in the transaction, they are incapable of acting solely in the interests of their ostensible clients because of their contractual relationship with [respondents].... In [*Cincinnati Bar Ass'n v. Kathman* (2001), 92 Ohio St.3d 92], we concluded that “the review attorney enters the relationship too late,” and we followed the analysis of the Colorado Supreme Court, which concluded that “hub” attorneys merely “lend[] credibility and a façade of legality to the product the nonattorney offers.” *Id.* at 97, citing *People v. Cassidy* (Colo. 1994), 884 P.2d 309, 311. [*Id.* at ¶10.]

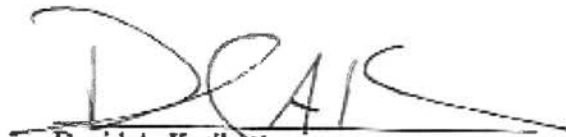
Second, the proposed consent decree does not require Respondents to notify all of Respondents' Ohio clients of the possibility of a refund. It would provide only for a single set of named customers — the Thomases — to receive a refund.

The Board expresses no opinion at this time on the adequacy of the proposed civil penalty, other than to note that the factors related to the consideration of a civil penalty

from UPL Reg 400(F)(3) and (4) appear to be miscited or misapplied. For example, in Paragraph 67(c)(ii), the proposed consent decree presents Respondents' lack of prior unauthorized practice of law as an aggravating factor in favor of a more severe penalty, when lack of such activity is normally considered a mitigating factor in favor of a less severe penalty.

In light of the foregoing, IT IS SO ORDERED:

1. The parties' joint motion to approve a proposed consent order is denied; and
2. The parties shall inform the panel chair within 10 days of the date of this Order if a case scheduling order for a hearing on this matter should be set or if the parties intend to submit another joint motion to approve a consent decree with a revised proposed consent decree consistent with the discussion herein.

A handwritten signature in black ink, appearing to read "DAK", is written over a horizontal line.

David A. Kutik, Esq.

Board Chair

**BOARD ON THE UNAUTHORIZED
PRACTICE OF LAW**

