

SUPREME COURT, STATE OF COLORADO TWO EAST 14 <sup>TH</sup> AVENUE DENVER, COLORADO 80203	CASE NO. 06SA309
ORIGINAL PROCEEDING IN UNAUTHORIZED PRACTICE OF LAW, 05UPL87	
<b>Petitioner:</b>	<b>RECEIVED</b>
THE PEOPLE OF THE STATE OF COLORADO,  v.	
<b>Respondent:</b>	JUL 05 2007
SAM MARTINEZ d/b/a RELIABLE ENTERPRISES.	<b>ATTORNEY REGULATION</b>
<b>ORDER OF COURT</b>	

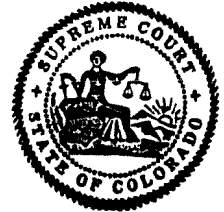
Upon consideration of the Petition for Injunction, the Order to Show Cause issued thereto, the Response to Order to Show Cause the Reply in Support of Petition for Injunction, the Partial Stipulation, Agreement and Affidavit Consenting to an Order of Injunction, Leaving Open the Issues of Whether any Refunds, Restitution, Fines or Costs should be Paid for the Hearing on May 2, 2007, The Report Re: Unauthorized Practice of Law Pursuant to C.R.C.P. 236(a) and the Complainant's Statement of Costs filed in the above cause, and now being sufficiently advised in the premises,

IT IS THIS DAY ORDERED that said Respondent, SAM MARTINEZ d/b/a RELIABLE ENTERPRISES shall be and the same hereby is ENJOINED from the unauthorized practice of law.

IT IS FURTHER ORDERED that a fine be imposed in the amount of \$2000.00.

IT IS FURTHER ORDERED that Respondent is assessed costs in the amount of \$180.49. Said costs to be paid to the Office of Attorney Regulation Counsel, within (30) thirty days of the date of this order.

BY THE COURT, JULY 5, 2007



copies mailed via the State's Mail Services Division on 7/5/07 HOP

Lisa Frankel  
Assistant Regulation Counsel

James Coyle  
Deputy Regulation Counsel

Sam Martinez  
3645 Sheridan Blvd.  
Wheat Ridge, CO 80212

Sam Martinez  
Reliable Enterprises  
3425 W. 38<sup>th</sup> Ave.  
Denver, CO 80211

Hon. William Lucero  
Presiding Disciplinary Judge

RECEIVED

<p>SUPREME COURT, STATE OF COLORADO</p> <p>ORIGINAL PROCEEDING IN UNAUTHORIZED PRACTICE OF LAW BEFORE THE OFFICE OF THE PRESIDING DISCIPLINARY JUDGE 1560 BROADWAY, SUITE 675 DENVER, CO 80202</p>	<p>MAY 22 2007</p> <p>ATTORNEY REGULATION</p>
<p><b>Complainant:</b> THE PEOPLE OF THE STATE OF COLORADO,</p> <p><b>Respondent:</b> SAM MARTINEZ d/b/a RELIABLE ENTERPRISES.</p>	<p>Case Number: <b>06SA309</b></p>
<p><b>REPORT RE: UNAUTHORIZED PRACTICE OF LAW PURSUANT TO C.R.C.P. 236(a)</b></p>	

On October 3, 2006, Lisa E. Frankel, Office of Attorney Regulation Counsel ("the People), filed a "Petition for Injunction" with the Colorado Supreme Court ("Supreme Court"). The Supreme Court issued an "Order to Show Cause" on October 5, 2006. Sam Martinez d/b/a Reliable Enterprises ("Respondent") filed a response on October 26, 2006. The People filed a reply on November 21, 2006.

The Supreme Court thereafter appointed the Presiding Disciplinary Judge ("PDJ") to act as Hearing Master pursuant to C.R.C.P. 234(f) on November 28, 2006. On December 19, 2006, the PDJ held a Status Conference and set the matter for hearing.

**FINDINGS OF FACT AND CONCLUSIONS OF LAW**

On March 23, 2007, the parties filed a "Partial Stipulation, Agreement and Affidavit Consenting an Order of Injunction, Leaving Open the Issues of Whether Any Refunds, Restitution, Fines or Costs Should Be Paid for the Hearing on May 2, 2007" ("Partial Stipulation"). In the Partial Stipulation, Respondent agreed that he met with clients and provided immigration and dissolution of marriage legal services.<sup>1</sup> The parties therefore jointly requested that the PDJ recommend to the Supreme Court that Respondent be enjoined from the unauthorized practice of law.

Pursuant to the Partial Stipulation of the parties, the PDJ **FINDS** that Respondent engaged in the unauthorized practice of law in Colorado when he prepared immigration and dissolution of marriage documents and when he

<sup>1</sup> See the Partial Stipulation for detailed stipulated facts.

provided consultations to multiple clients in immigration matters. The PDJ therefore recommends that the Supreme Court enjoin Respondent from the unauthorized practice of law.

The parties could not resolve the issue of whether any refunds, restitution, fines, and/or costs should be paid by Respondent and agreed that the PDJ should hear these issues. The PDJ held a hearing to address the issues of refunds, restitution, fines, and costs on May 2, 2007. Ms. Frankel appeared on behalf of the People and Respondent appeared *pro se*. The People presented exhibits 1-5 and testimony from investigator Mary Lynne Elliott and Respondent on these issues.

The People's Exhibit 1 is a "Summary Chart of Work Performed and Fees Charged by Respondent" based on data provided by Respondent through his records and deposition testimony. Exhibit 1 lists work performed for thirty-eight clients and fees paid by these clients to Respondent in the total amount of \$6,595.00.

At the conclusion of the hearing, the People requested that the PDJ recommend to the Supreme Court that Respondent fully refund fees paid to him by each of his thirty-eight clients in the amount of \$6,595.00 and pay the People's costs in this matter. They argued that any work Respondent provided his clients was irrelevant to the issue of refunds because he provided nothing more than "unqualified legal advice." Based on the evidence presented, however, at least a portion of the work Respondent provided his clients had value because it fell into the category of "scrivener's duties." Further, the People do not know the whereabouts of most of Respondent's former clients nor did they provide evidence that any client sought a refund of the fee they paid to Respondent. Under these circumstances, the PDJ is reluctant to recommend that Respondent fully refund each of his thirty-eight clients absent a showing of a specified loss or harm by an individual client.

The People also requested that the PDJ recommend that the Supreme Court impose a \$250.00 fine for each incident of unauthorized practice of law based on C.R.C.P. 236(a), which provides:

If the hearing master makes a finding of unauthorized practice of law in the report, then the hearing master shall also recommend that a fine be imposed for each incident of unauthorized practice of law; the minimum fine for each incident shall be not less than \$250 and not more than \$1000. *A report from the Presiding Disciplinary Judge approving the parties' stipulation to injunction, may be exempt from a fine.*

C.R.C.P. 236(a) (emphasis added).

Although the People requested the imposition of a \$9500.00 fine (\$250 for thirty-eight clients), the PDJ finds that such a fine is excessive, particularly in light of Respondent's stipulation to injunction, the scrivener's work he provided his clients, and his present financial condition.

**RECOMMENDATION**

Based on the facts sets forth in the Partial Stipulation, the PDJ **FINDS** that the interests of judicial economy support acceptance of the Partial Stipulation. Accordingly, the PDJ **RECOMMENDS** that the Colorado Supreme Court accept the Partial Stipulation of the parties, issue an order enjoining Sam Martinez d/b/a Reliable Enterprises from the unauthorized practice of law, impose a fine in the amount of \$2000.00, and order him to pay the costs of these proceedings within thirty (90) days of its order.

DATED THIS 21<sup>ST</sup> DAY OF MAY, 2007.



WILLIAM R. LUCERO  
PRESIDING DISCIPLINARY JUDGE

Copies to:

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Via Hand Delivery

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Via First Class Mail

Susan Festag  
Colorado Supreme Court

Via Hand Delivery

