

SUPREME COURT, STATE OF COLORADO
Two East 14th Avenue
Denver, Colorado 80203

Case No.02SA260

ORIGINAL PROCEEDING IN CONTEMPT

RECEIVED

Petitioner:

FEB 10 2003

THE PEOPLE OF THE STATE OF COLORADO,

**ATTORNEY
REGULATION**

v.

Respondent:

JAMES RALPH LOVE

ORDER OF COURT

Upon consideration of the Presiding Disciplinary Judge's Report Pursuant to C.R.C.P. 239, and being sufficiently advised in the premises,

IT IS ORDERED that Court finds the Respondent is GUILTY of CONTEMPT of the court's order of May 30, 1989.

IT IS FURTHER ORDERED that the costs of these proceedings of \$495.53 are assessed against the Respondent,

IT IS FURTHER ORDERED that the Respondent is fined \$1000.00. Said fine is stayed pending Respondent's successful completion of a two year period of probation wherein Respondent shall not engage in any other conduct that constitutes the unauthorized practice of law.

BY THE COURT, FEBRUARY 06, 2003.



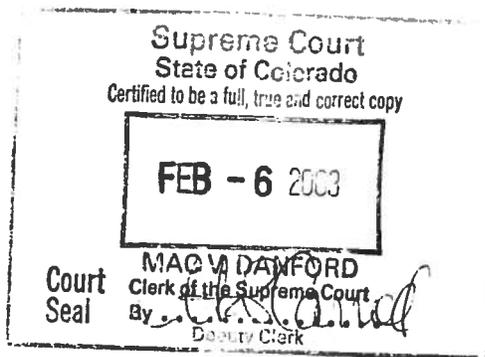
CC: pathi 2-10-03

cc:

James Coyle
Deputy Regulation Counsel

James R. Love
1532 Galena St., Suite 200
Aurora, CO 80010

Hon. Roger Keithley
Presiding Disciplinary
Judge



<p style="text-align: center;">SUPREME COURT, STATE OF COLORADO</p> <p style="text-align: center;">ORIGINAL PROCEEDING IN UNATHORIZED PRACTICE OF LAW BEFORE THE OFFICE OF THE PRESIDING DISCIPLINARY JUDGE 600 17TH STREET, SUITE 510-S DENVER, CO 80202</p>	<p style="text-align: center;">RECEIVED</p> <p style="text-align: center;">FEB 05 2003</p> <p style="text-align: center;">ATTORNEY REGULATION</p>
<p>Petitioner: THE PEOPLE OF THE STATE OF COLORADO,</p> <p>Respondent: JAMES R. LOVE.</p>	<p>Case Number: 02SA0260</p>
<p style="text-align: center;">REPORT PURSUANT TO C.R.C.P. 239 RE: RECOMMENDATION FOR FINAL DISPOSITION</p>	

JL
2/10

On August 21, 2002, the People of the State of Colorado ("petitioner") filed a Petition for Contempt Citation with the Colorado Supreme Court requesting that the Court issue an order requiring the respondent James R. Love to show cause pursuant to C.R.C.P. 238(c) why he should not be held in contempt for willful refusal to comply with the Colorado Supreme Court order enjoining him from further acts of unauthorized practice of law.

By Order dated October 25, 2002, this matter was remanded by the Colorado Supreme Court to the Presiding Disciplinary Judge ("PDJ") as Hearing Master to determine the facts as to whether the respondent had engaged in contempt, and if so for a recommendation to the Supreme Court for appropriate sanctions. On November 13, 2002, the PDJ advised respondent James R. Love ("respondent") appearing *pro se* of his rights pursuant to C.R.C.P. 107(d)(1). James C. Coyle, Deputy Regulation Counsel, appeared on behalf of petitioner. At that time, respondent entered a plea of not guilty. A Contempt Hearing was set for January 6, 2003.¹

On December 17, 2002, the parties attended a settlement conference with Jean E. Dubofsky, Esq. and on December 23, 2002, the parties submitted a Stipulation, Agreement and Affidavit Consenting to a Finding or, and Order Regarding Contempt ("the Stipulation") to the PDJ. The Stipulation sets forth the following facts:

¹ The contempt hearing was vacated upon acceptance of the Stipulation submitted by the parties.

I. FINDINGS OF FACT

The respondent's address is 1532 Galena Street, Suite 200, Aurora, Colorado. The respondent is not licensed to practice law in the State of Colorado.

The respondent is the president of Pyramid Financial and Insurance Services, In. ("Pyramid"), a Colorado corporation. The respondent's business includes the marketing and sale of life and auto insurance as well as financial planning.

On May 30, 1989, the Colorado Supreme Court entered an order enjoining the respondent from practicing law in Colorado. *See People v. Love*, 775 P.2d 26 (Colo. 1989). A copy of the decision is attached to the Stipulation as exhibit 1.

Respondent knew of the May 30, 1989, Colorado Supreme Court Order of Injunction. The respondent was able to comply with the order of injunction.

On or about June 28, 2001, the respondent entered into a "consulting agreement" with Victoria Cineros Mejia, which provided that the respondent would receive thirty percent of recovery for ". . . assist[ing] in the collection of funds from Safeco Insurance Company for the death of her son, Antonio Cruz Mejia, a/k/a Victor Carillo Sosa."

The respondent had not sold the underlying Safeco policy that involved Antonio Cruz Mejia, and had not provided any prior insurance or financial planning services to Ms. Mejia. A copy of the "consulting agreement" is attached to the parties' Stipulation as exhibit 2.

Respondent also prepared and had Ms. Mejia sign a "special power of attorney." The special power of attorney appointed the respondent as Ms. Mejia's attorney-in-fact, to act in her name and place to "assist in the conclusion in the matter regarding the death of [her] son." That special power of attorney provided that the respondent would be "entitled to reasonable compensation for services rendered on [Ms. Mejia's] behalf under this power of attorney." A copy of the "special power of attorney" is attached to the parties' Stipulation as exhibit 3.

Respondent admits that entering into the consulting agreement and special power of attorney establishes contempt of the May 30, 1989 Colorado Supreme Court Order.

II. CONCLUSIONS OF LAW

The Motion for Contempt Citation filed by petitioner requests that the Supreme Court find respondent in contempt of the Court's May 30, 1989 Order

and impose a fine or imprisonment and/or remedial sanctions and assess all costs of this proceeding against Love.

Four things must be shown to prove punitive contempt: "(1) the existence of a lawful order of the court; (2) contemnor's knowledge of the order; (3) the contemnor's ability to comply with the order; and (4) the contemnor's willful refusal to comply with the order." *In re Boyer*, 988 P.2d 625, 627 (Colo. 1999); *citing In re Marriage of Nussbeck*, 974 P.2d 493, 497 (Colo.1999). Based on the stipulated facts set forth above, the PDJ finds beyond a reasonable doubt that a lawful order of court existed, respondent had knowledge of the order, respondent had the ability to comply with the order, and he willfully refused to comply with the order by entering into the consulting agreement and special power of attorney involving Ms. Mejia's legal representation. See *Nussbeck*, 974 P.2d at 497 (stating that contempt requires proof beyond a reasonable doubt of the contemnor's willful refusal to comply with the court's order).

There is no definitive "bright-line" test as to what constitutes the "practice of law" in Colorado. *Denver Bar Association v. Public Utilities Commission*, 391 P.2d 467, 471 (Colo. 1964). Generally, "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 him in connection with these rights and duties is engaged in the practice of law." *Id.* Applying that standard, the courts of this state have found the practice of law to include counseling and advising a client in legal matters, *People v. Belfor*, 611 P.2d 979, 980 (Colo. 1980), and giving "legal advice to those for whom he draws instruments, or holds himself out as competent to do so, does work of a legal nature, when the instruments he prepared either define, set forth, limit, terminate, specify, claim or grant legal rights." *Conway-Bogue Realty Inv. Co. v. Denver Bar Ass'n*, 135 Colo. 398, 312 P.2d 998, 1005-06, (Colo. 1957).

Under this analysis, respondent engaged in the practice of law by entering into a "consulting agreement" pursuant to which respondent would receive thirty percent of recovery for ". . . assist[ing] in the collection of funds from Safeco Insurance Company for the death of her son" Similarly, respondent engaged in the practice of law by preparing and requesting that Ms. Mejia sign a "special power of attorney" appointing him as Ms. Mejia's attorney-in-fact, to act in her name and place to "assist in the conclusion in the matter regarding the death of [her] son" . The power of attorney provided that respondent would be "entitled to reasonable compensation for services rendered on Ms. Mejia's behalf."

Based upon the facts set forth in the Stipulation submitted by the parties, the PDJ finds that respondent engaged in the unauthorized practice of law while under an Order of the Supreme Court enjoining him from doing so.

As part of the Stipulation submitted by the parties, the respondent agrees to the following sanctions: (1) respondent agrees to pay the costs and

administrative costs in the sum of \$495.53 incurred in conjunction with this matter within sixty (60) days after the issuance of an Order by the Supreme Court; (2) respondent should be found in contempt of the Contempt Order issued by the Supreme Court; (3) respondent should be fined \$1,000 for such contempt, and the fine should be stayed pending successful completion of a two-year period of probation wherein respondent shall not engage in any other conduct that constitutes the unauthorized practice of law.

The Colorado Rules of Civil Procedure encourage settlements in the context of the unauthorized practice of law. C.R.C.P. 233(f) provides that “[i]nformal disposition of matters, as provided by this rule, is to be encouraged.” Accordingly, the PDJ makes the following recommendation to the Supreme Court:

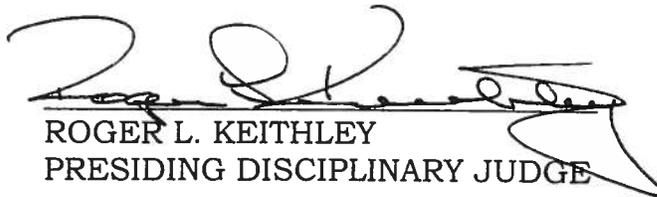
III. RECOMMENDATION REGARDING GUILT

It is recommended that the Supreme Court of the State of Colorado enter an Order finding that James R. Love is GUILTY of contempt of the Supreme Court’s Order of Court dated May 30, 1989.

IV. RECOMMENDATION REGARDING PENALTY

The Presiding Disciplinary Judge respectfully recommends that the Supreme Court of the State of Colorado accept and approve the Stipulation, Agreement and Affidavit Consenting to a Finding of, and Order Regarding, Contempt. The PDJ further recommends that the Court assess costs of these proceedings against respondent in the amount of \$495.53, fine respondent in the amount of 1,000 (one thousand dollars), and stay the payment of this amount pending respondent’s successful completion of a two-year period of probation wherein respondent shall not engage in any other conduct that constitutes the unauthorized practice of law.

DATED THIS 5th DAY OF FEBRUARY, 2003.


ROGER L. KEITHLEY
PRESIDING DISCIPLINARY JUDGE

Copies to:
James C. Coyle Via Hand Delivery
Office of Attorney Regulation Counsel
James R. Love Via First Class Mail
Respondent
1532 Galena Street, Suite 200
Aurora, CO 80010
Mac Danford Via Hand Delivery
Colorado Supreme Court

