

LEF 9/30/09

Colorado Supreme Court 2 East 14th Ave., Fourth Floor Denver, CO 80203	<b>RECEIVED</b>  SEP 30 2009  ATTORNEY REGULATION
Original Proceeding in Unauthorized Practice of Law 2008UPL031	
<b>Petitioner:</b>  The People of the State of Colorado,  v.  <b>Respondent:</b>  Emmanuel M. Assaf.	Supreme Court Case No: 2009SA80
ORDER OF COURT	

Upon consideration of the Petition for Injunction, the Order and Rule to Show Cause, the Response to Petition for Injunction and the Order Appointing Hearing Master filed in the above cause, and now being sufficiently advised in the premises,

IT IS ORDERED that said Respondent, EMMANUEL M. ASSAF shall be, and the same hereby is, ENJOINED from engaging in the unauthorized practice of law in the state of Colorado.

IT IS FURTHER ORDERED that the Respondent, EMMANUEL M. ASSAF is assessed costs in the amount of \$458.20. Said costs to be paid to the Office of Attorney Regulation Counsel, within (30) days of the date of this order.

IT IS FURTHER ORDERED that this court WAIVES any fines in this matter pursuant to C.R.C.P. 236(a).

BY THE COURT, SEPTEMBER 29, 2009



Case Number: 2009SA80

Caption: People v Assaf, Emmanuel

**CERTIFICATE OF SERVICE**

Copies mailed via the State's Mail Services Division on September 30, 2009. *llc*

Emmanuel M Assaf  
8120 Sheridan Blvd., Suite B-311  
Arvada, CO 80003

Emmanuel M Assaf  
13092 Logan St.  
Denver, CO 80241

Emmanuel M Assaf  
1450 S. Havana St., #710  
Aurora, CO 80012

Honorable William R Lucero  
Office of the Presiding Disciplinary  
Judge  
1560 Broadway, Suite 675  
Denver, CO 80202

Lisa E Frankel  
OFFICE OF ATTORNEY  
REGULATION  
1560 Broadway Ste 1800  
Denver, CO 80202

LF 9/24/09

<p style="text-align: center;">SUPREME COURT, STATE OF COLORADO</p> <p style="text-align: center;">ORIGINAL PROCEEDING IN UNAUTHORIZED PRACTICE OF LAW BEFORE THE OFFICE OF THE PRESIDING DISCIPLINARY JUDGE 1560 BROADWAY, SUITE 675 DENVER, CO 80202</p>	<p style="text-align: center;"><b>RECEIVED</b></p> <p style="text-align: center;">SEP 24 2009</p> <p style="text-align: center;">ATTORNEY REGULATION</p>
<p><b>Petitioner:</b> THE PEOPLE OF THE STATE OF COLORADO,</p> <p><b>Respondent:</b> EMMANUEL M. ASSAF.</p>	<p>Case Number: <b>09SA080</b></p>
<p style="text-align: center;"><b>REPORT OF HEARING MASTER PURSUANT TO C.R.C.P. 236(a)</b></p>	

This matter is before the Presiding Disciplinary Judge ("PDJ") on an "Order Appointing Hearing Master" issued by the Colorado Supreme Court ("Supreme Court") on June 15, 2009. The Supreme Court remanded this matter to the PDJ "to determine the facts and to make recommendations to the Court" pursuant to C.R.C.P. 234(f).

**I. PROCEDURAL HISTORY**

Lisa E. Frankel, Office of Attorney Regulation Counsel ("the People"), filed a "Petition for Injunction" with the Supreme Court on April 3, 2009. On April 8, 2009, the Supreme Court issued an "Order and Rule to Show Cause" and ordered Emmanuel M. Assaf ("Respondent") to answer in writing and show cause within twenty days "why he should not be enjoined from engaging in the unauthorized practice of law in the state of Colorado." Respondent filed a response to the petition on May 11, 2009. The Supreme Court remanded the matter to the PDJ on June 15, 2009.

On July 17, 2009, the PDJ held a Status Conference. Ms. Frankel appeared on behalf of the People and Respondent appeared *pro se* by telephone. Respondent advised the PDJ that he would be incarcerated in California for 180 days beginning on July 22, 2009. The PDJ therefore continued the UPL proceeding in light of Respondent's impending incarceration in California, but ordered him to contact the People and the PDJ in the event of his early release. Respondent shortly thereafter notified the People and the PDJ that he had received a temporary stay of his criminal sentence in California, and the PDJ scheduled a second Status Conference for August 21, 2009.

Ms. Frankel appeared on behalf of the People and Respondent appeared *pro se* for the second Status Conference. Respondent advised the People and the PDJ that he had been presented with two options in which to serve his California criminal sentence, but that he had not reached a final decision as of the date of the second Status Conference. The parties also expressed an interest in discussing a proposed stipulation of this UPL case. The PDJ therefore found good cause to continue the Status Conference until September 10, 2009.

## **II. FINDINGS OF FACT**

On September 10, 2009, the parties tendered a “Stipulation, Agreement and Affidavit Consenting to Order of Injunction” to the PDJ. For purposes of this report, and in the interests of judicial economy, the PDJ accepted the following findings of fact set forth in the stipulation.

On or about April 24, 2006, Respondent and the Unauthorized Practice of Law Committee entered into an “Agreement Pursuant to C.R.C.P. 232.5(d)(3) to Refrain from Unauthorized Practice of Law” (“Agreement”). Pursuant to the Agreement, Respondent specifically agreed to refrain from any further actions constituting the unauthorized practice of law in Colorado, including but not limited to: (a) holding himself out as a Certified Attorney Assistant; (b) utilizing the business name, “The Paralegal Offices of Emmanuel A. (sic) Assaf;” (c) purchasing advertising in the attorney section of any yellow pages or other advertisement; (d) utilizing business cards suggesting he can provide legal services in connection with any areas of practice; and (e) providing legal advice and preparing legal documents.

In violation of the Agreement, after April 24, 2006, Respondent continued to utilize the business name “The Paralegal Offices of Emmanuel M. Assaf.” In April 2008, Respondent’s website referred to his office as “The Paralegal Offices of Emmanuel M. Assaf.” The website stated, “We have 4 locations in the state of California in Los Angeles County and 1 location in the state of Colorado in the Denver area.” Respondent’s website actually identified two locations in Colorado – in Arvada and Aurora. Respondent’s website noted that “The Paralegal Offices of Emmanuel M. Assaf” offered services in the areas of auto accidents, adoptions, bankruptcy, child support, divorces, evictions, foreclosures, immigration, income tax, landlord/tenants disputes, name changes, notary public, partnerships, restraining orders, small claims, spousal support, and wage garnishments. Respondent’s website did not exclude these services from those provided at his Colorado offices.

On May 21, 2008, the State Bar of California retrieved approximately 1,960 client files from Respondent’s Huntington Park, California office. In five of those files, the client’s address was noted to be in Colorado. On August 29, 2008, the Superior Court of the State of California for the County of Los

Angeles ordered Respondent, The Paralegal Offices of Emmanuel Assaf, and LA Law Paralegal Service to immediately cease and desist from: (1) offering to perform or actually performing any act that constitutes the unauthorized practice of law in violation of Business and Professions Code section 6126(a); (2) entering into any oral or written contractual agreement with any individual or business to provide any service the performance of which would constitute the unauthorized practice of law; and (3) receiving any money or fees from any individual or business for any service the performance of which would constitute the unauthorized practice of law.

Respondent used a business card with Colorado clients since April 2006 that identifies himself as a Bankruptcy Petition Preparer. This business card states, "We are not Attorneys and we can not give you legal advice." Business cards retrieved by the State Bar of California on May 21, 2008, also refer to Respondent's office as, "The Paralegal Offices of Emmanuel M. Assaf" and note 19 areas in which Respondent's business performs work. One side of the card identifies Respondent's four California locations and the other side identifies Respondent's two Colorado locations.

Since April 24, 2006, Respondent has helped Colorado clients prepare bankruptcies. Under the bankruptcy petition preparer statute, 11 U.S.C.A. §110, a non-attorney may prepare documents for filing by a debtor in a United States Bankruptcy Court. However, the bankruptcy petition preparer may not offer a potential debtor any legal advice, including:

- Whether to file a petition under Title 11;
- Whether commencing a case under Chapter 7, 11, 12, or 13 is appropriate;
- Whether the debtor's debts will be discharged;
- Whether the debtor will be able to retain his home, car, or other property;
- Advice concerning the tax consequences of a case;
- Advice concerning the dischargeability of tax claims;
- Whether the debtor may or should promise to repay debts to a creditor or enter into a reaffirmation agreement with a creditor;
- Concerning how to characterize the nature of the debtor's interest in property or the debtor's debts; or

- Concerning bankruptcy procedures and rights.

Respondent prepared a "Guide" to help his individual clients prepare their Chapter 7 bankruptcy. The Guide contains legal advice not permitted by the bankruptcy petition preparer statute. For example, the bankruptcy petition preparer statute does not permit the bankruptcy petition preparer to characterize the nature of the debtor's debts. Yet, in the Guide, Respondent advises his clients: "NATURE OF DEBTS: Check mark 'Debts are primarily consumer debts.'"

### **III. CONCLUSIONS OF LAW AND RECOMMENDATIONS**

By continuing to hold himself out as "The Paralegal Offices of Emmanuel M. Assaf" and offering legal advice prohibited by the bankruptcy petition preparer statute under 11 U.S.C.A. §110, Respondent engaged in the unauthorized practice of law.<sup>1</sup> Respondent does not fall within any of the statutory or case law exceptions.

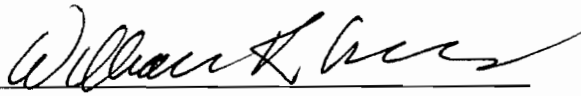
The parties stipulated to an order of injunction as well as an order requiring that Respondents pay costs in the amount of \$458.20 incurred in conjunction with this matter. The PDJ reviewed the stipulation, and in the interests of judicial economy, **RECOMMENDS** that the Supreme Court **ACCEPT** it and **ENJOIN** Respondent from the unauthorized practice of law and order her to pay costs and refunds.

The PDJ further **RECOMMENDS** that the Supreme Court order Respondent to pay **COSTS** in the amount of \$458.20 within thirty (30) days of the Supreme Court's order of injunction.

Finally, the PDJ **RECOMMENDS** that the Supreme Court **WAIVE** any **FINES** in this matter pursuant to C.R.C.P. 236(a).<sup>2</sup>



DATED THIS 23<sup>RD</sup> DAY OF SEPTEMBER, 2009.

  
WILLIAM R. LUCERO  
PRESIDING DISCIPLINARY JUDGE

<sup>1</sup> See *People v. Shell*, 148 P.3d 162 (Colo. 2006); *Denver Bar Assn. v. P.U.C.*, 154 Colo. 273, 391 P.2d 467 (1964) (The unauthorized practice of law includes acting as a representative in protecting, enforcing or defending the legal rights and duties of another and/or counseling, advising and assisting that person in connection with legal rights and duties).

<sup>2</sup> See C.R.C.P. 236(a) (A report from the Presiding Disciplinary Judge approving the parties' stipulation to injunction may be exempt from a fine).

Copies to:

Lisa E. Frankel  
Office of Attorney Regulation Counsel

Via Hand Delivery

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Respondent  
13092 Logan Street  
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Via First Class Mail

Susan Festag  
Colorado Supreme Court

Via Hand Delivery