

<p>SUPREME COURT, STATE OF COLORADO Two East 14th Avenue Denver, Colorado 80203</p> <p>ORIGINAL PROCEEDING IN UNAUTHORIZED PRACTICE OF LAW, 05UPL019</p>	<p>Case No. 05SA374</p> <p>RECEIVED</p> <p>SEP 20 2006</p>
<p>Petitioner:</p> <p>THE PEOPLE OF THE STATE OF COLORADO,</p> <p>v.</p> <p>Respondent:</p> <p>DAVID M. FISHMAN and ARBITRONIX, INC.</p>	<p>REGULATION COUNSEL</p>
<p>ORDER OF COURT</p>	

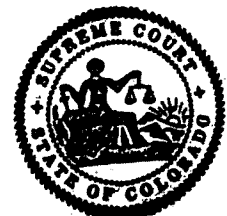
Upon consideration of the Petition for Injunction, The Order to Show Cause, The Answer Brief and Report Re: Unauthorized Practice of Law Pursuant to C.R.C.P. 236(a) filed in the above cause, and now being sufficiently advised in the premises,

IT IS THIS DAY ORDERED that the Court Accepts the Stipulation of the Parties.

IT IS FURTHER ORDERED the Respondents, DAVID M. FISHMAN and ARBITRONIX, INC. are ENJOINED from engaging in the Unauthorized Practice of law in the state of Colorado.

IT IS FURTHER ORDERED that costs in the amount of \$91.00 are assessed against the Respondents, DAVID M. FISHMAN and ARBITRONIX, INC. costs to be paid within thirty (30) days of the date of this order.

BY THE COURT, SEPTEMBER 20, 2006.



Copies mailed via the State's Mail Services Division on 9/20/06 HOP

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David M. Fishman
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4820 Alpine Place, Suite B-201
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Honorable William Lucero
Presiding Disciplinary Judge

SUPREME COURT, STATE OF COLORADO ORIGINAL PROCEEDING IN THE UNAUTHORIZED PRACTICE OF LAW BEFORE THE OFFICE OF THE PRESIDING DISCIPLINARY JUDGE 1560 BROADWAY, SUITE 675 DENVER, CO 80202	RECEIVED SEP 06 2006 ATTORNEY REGULATION
Petitioner: THE PEOPLE OF THE STATE OF COLORADO,	Case Number: 05SA374
Respondents: DAVID M. FISHMAN and ARBITRONIX, INC.	
REPORT RE: UNAUTHORIZED PRACTICE OF LAW PURSUANT TO C.R.C.P. 236(a)	

On May 10, 2006, the Colorado Supreme Court issued an "Order of Court" and remanded this matter to the Presiding Disciplinary Judge ("PDJ") pursuant to C.R.C.P. 234(f) for its determination of facts and recommendations. On July 5, 2006, the PDJ held a Status Conference and set the matter for hearing. James S. Sudler appeared on behalf of the Office of Attorney Regulation Counsel ("the People") and David M. Fishman ("Respondent Fishman") appeared *pro se* by telephone on behalf of himself and Arbitronix, Inc. ("Respondent Arbitronix").

On August 18, 2006, the parties filed a Stipulation, Agreement and Affidavit Consenting to an Order of Injunction ("Stipulation"). The PDJ summarizes the facts set forth in the Stipulation as follows:

1. Respondent Fishman and Respondent Arbitronix share the same address of 5420 West Sahara, #102, Las Vegas, NV 89146. Neither respondent is licensed to practice law in the State of Colorado. Respondent Arbitronix is a Nevada corporation, which at all pertinent times described herein was doing business in Colorado. Respondent Fishman is the Registered Agent for Respondent Arbitronix and he also serves as its President and Director.
2. David Phillips ("Phillips"), a Colorado resident, came to Respondent Arbitronix seeking training on how to operate in the State of Colorado as a debt settlement marketing company. He had his own trade name: Litigation Alternatives. Phillips and Respondent Arbitronix entered into a contract whereby Phillips received training and operating methods and necessary documentary exemplars for forms

- and contracts. Phillips agreed that Respondent Arbitronix would do the actual intervention and debt negotiation with creditors and/or their agents on behalf of Phillips.
3. Phillips reviewed Colorado court records and used some of those records to make contact with business entities seeing them as potential clients of Phillips.
 4. Phillips provided information to Respondent Arbitronix about several clients engaged in lawsuits in Colorado including the specific clients described below.
 5. Phillips did not have his own forms and according to Respondent Arbitronix and Respondent Fishman, Phillips used Respondent Arbitronix's forms without permission. Phillips contacted four different entities for "third party debt settlement services" and forwarded those files to Respondent Arbitronix for the negotiation services under his contract with Respondent Arbitronix.
 6. Pursuant to the contract with Phillips, as he forwarded files to Respondent Arbitronix, those files were read and reviewed by Respondent Arbitronix's staff.
 7. In one instance concerning one of the four files submitted by Phillips to Respondent Arbitronix, a paralegal was engaged to prepare an answer to a lawsuit against Nectar Enterprises, Inc. ("Nectar"). Respondent Fishman forwarded that answer to Nectar via electronic mail with instructions on how to take the answer to the courthouse and file it.
 8. Respondent Fishman never went to Colorado to talk to any client, and was not involved in marketing the services for Phillips or signing the proposed agreements.

Italco Food Products Inc. v. Nectar Enterprises, Inc. et al.
Denver County Court, 4K10416

9. Phillips met with Chris Dunphy of Nectar and entered into a contract with Nectar using a form from Respondent Arbitronix.
10. Respondent Fishman sent an e-mail message to Mr. Dunphy stating that a draft of an answer for Nectar is being sent to Mr. Dunphy in Word format.
11. The negotiator assigned to the Nectar case was Donna Davila. She sent an e-mail message dated February 10, 2004 to Phillips about the

progress of her negotiations under the contract between Phillips and Respondent Arbitronix.

12. Ms. Davila also sent an e-mail message to Phillips stating that Respondent Arbitronix wanted Mr. Dunphy to review an invoice and a stipulated agreement with payment terms to Italco Food Products, Inc. ("Italco"). Ms. Davila constantly communicated with Phillips asking him to talk to his client and go over matters with his client and then ultimately have his client review the stipulation prepared by counsel for Italco. Phillips presented the stipulation to the client.
13. Ms. Davila sent an e-mail message to Mr. Dunphy confirming an acceptance of a settlement agreement between Italco and Mr. Dunphy's company for the lawsuit, stating the settlement sum of \$3,800.00 and Respondent Arbitronix fee due of \$60.59.

Park Western Leasing, Inc. v. J&V Trucking, Inc. et al
Jefferson County District Court, 02CV3368

14. Harry L. Simon, a licensed Colorado attorney, represented a plaintiff, Park Western Leasing, Inc., against J&V Trucking, Inc., and Velma Riley.
15. Phillips met with Ms. Riley on behalf of J&V Trucking, Inc., and entered into an agreement with her using forms from Respondent Arbitronix.
16. Respondent Fishman wrote to Mr. Simon, an attorney for Park Western Leasing, Inc., on behalf of Ms. Riley and her company in this pending lawsuit.

Reed H. Barker v. Aurora Rug Binding Co., Inc.
Arapahoe County District Court, 04CV2353

17. Richard Cantone of Aurora Rug Binding Company, Inc., met with Phillips in Colorado and entered into an agreement with him using the same forms from Respondent Arbitronix described above.
18. Richard Kleiner, an employee and/or agent of Respondent Arbitronix, sent e-mail messages to Kevin R. Ellis, Esq., who was the attorney for plaintiff Reed H. Barker.
19. Mr. Kleiner negotiated the underlying indebtedness that was the subject of this Arapahoe County District Court lawsuit.

20. A settlement was reached between Respondent Arbitronix on behalf of Mr. Cantone's firm and Mr. Barker due to the efforts of Respondent Arbitronix and Mr. Kleiner.

**Bank One and Bank One Leasing Corporation v.
Ideal Image Printing Company, Thomas J. Pruss and Patricia A. Pruss
Arapahoe County District Court, 04CV3410**

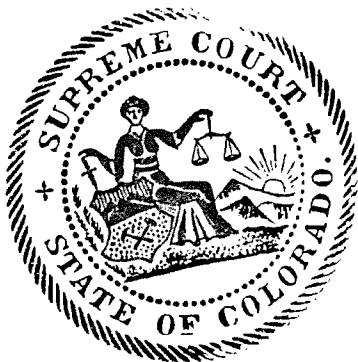
21. Thomas Pruss of Ideal Image Printing Company met with Phillips in Colorado and entered into a contract with him using the same forms from Respondent Arbitronix as described above.
22. Richard Kleiner of Respondent Arbitronix negotiated on behalf of Ideal Image Printing with Bank One in this pending Arapahoe County District Court matter.


The Stipulation further states that neither Respondent Fishman and/or Respondent Arbitronix have made any admissions or concessions that the allegations of the People in the Petition and/or the Stipulation constitute the unauthorized practice of law in the State of Colorado. The parties also stipulate that the Stipulation and/or any recommended order thereon shall not be used as evidence in any other forum or proceeding to the effect that David M. Fishman and/or Arbitronix, Inc. were in fact engaged in the unauthorized practice of law in the State of Colorado.

RECOMMENDATION

Based on the facts sets forth in the Stipulation, the PDJ **FINDS** that the interests of judicial economy support acceptance of the Stipulation. Accordingly, the PDJ **RECOMMENDS** that the Colorado Supreme Court accept the stipulation of the parties, issue an order enjoining David M. Fishman and Arbitronix, Inc. from the unauthorized practice of law, and order them to pay the costs of these proceedings in the amount of \$91.00 within thirty (30) days of its order.

DATED THIS 6TH DAY OF SEPTEMBER, 2006.





WILLIAM R. LUCERO
PRESIDING DISCIPLINARY JUDGE

