



STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

Supreme Court
UNAUTHORIZED PRACTICE OF LAW COMMITTEE
Providence County Courthouse
Providence, R.I. 02903

February 15, 2005

PATRICIA A. SULLIVAN, ESQUIRE
EDWARDS & ANGELL
2800 FINANCIAL PLAZA
PROVIDENCE RI 02903

RE: ADOPTION OF ADMINISTRATIVE RULES OF THE
UNAUTHORIZED PRACTICE OF LAW COMMITTEE

Dear Ms. Sullivan:

Pursuant to our discussion at the meeting of the Unauthorized Practice of Law Committee and the motion to adopt our present rules on an emergency basis, I am writing this letter in compliance with § 42-35-(b)*. Since we have complaints pending regarding unauthorized practice of law by persons appearing in the Small Claims part of the District Court Sixth Division the Committee finds that an imminent peril to the public welfare requires the adoption of our rules immediately.

Two specific incidents are the pendency of a complaint regarding a Massachusetts business corporation acting as a collection agency, which appears in the Small Claims part of the District Court Sixth Division for Creditor Entities other than itself. The Chairman of the Committee has also been apprised of a situation where an employee of a local corporation has been filing complaints in the Small Claims part of the District Court Sixth Division on behalf of that corporation against its accounts receivable debtors. It is believed that the assets of this corporation exceed the sum of one million dollars and thus designating a nonlawyer to prosecute its claims would be unauthorized practice of law as contemplated by § 10-16-3.1 (d) of the General Laws of Rhode Island of 1956 As Amended.

Very truly yours,

Unauthorized Practice of Law Committee
Avram N. Cohen, Chairman

ANC: mec

* The correct reference is R.I.G.L. § 42-35-4(b)(2).

PROCEDURES AND RULES OF PRACTICE
FOR THE COMMITTEE ON UNAUTHORIZED PRACTICE OF LAW
OF THE SUPREME COURT OF THE STATE OF RHODE ISLAND

PART I

NON ADJUDICATIVE PROCEDURE

Sub Part A - Investigation

1. How Initiated

Committee investigation and inquiries may be originated upon the request of any member of the Bar of the State of Rhode Island, the Attorney General, a member of the general public or the Committee on its own initiative.

2 Request for Committee Action

(a) Any person or entity may request that the Committee institute an investigation in respect to any matter over which the Committee has jurisdiction.

(b) Such request shall be in the form of a signed statement setting forth the alleged act which constitutes the unauthorized practice of law, with such supporting information as is available, and the names and addresses of the person or entity complained of. No forms or formal procedures are required.

(c) The person or entity making the request shall not be regarded as a party to any proceeding which may result from the investigation.

(d) It is the general Committee policy not to make public the name of the applicant or complaining party except as required by law or by the Committee's rule.

3. Policy as to Private Controversies

The Committee acts only in the public interest and does not initiate investigation or take other action when the alleged act constituting the unauthorized practice of law is merely a matter of private controversy and does not tend to adversely affect the public.

4. Investigation Policy

The Committee encourages voluntary cooperation in its investigations. Where the public interest requires, however, the Committee may, in any matter under investigation, invoke any or all of the compulsory processes authorized by law.

5. By Whom Conducted

Inquiries and investigations shall be conducted in accordance with all laws governing and administered by the Committee, Committee members or representatives designated and duly authorized by the Committee for that purpose.

6. Notification of Purpose

Any person or entity under investigation compelled or requested to furnish information or documentary evidence shall be advised as to the purpose and scope of the investigation.

7. Subpoenas in Investigations

The Committee or any member or representative thereof who is designated and duly authorized by the Committee to conduct an investigation or inquiry may issue a subpoena directing the person or entity named therein to appear before the Committee or its designated representative at a designated time and place to testify or to produce documentary evidence, or both, relating to any matter under investigation by the Committee.

8. Investigational Hearings

(a) Investigational Hearings, as distinguished from hearings in adjudicative proceedings, may be conducted in the course of any investigation undertaken by the Committee, including rulemaking proceedings under §11-27-19 (d) (1) of the General Laws of Rhode Island of 1956, as amended. Investigational hearings may also be conducted for, (i) the purpose of determining whether or not a respondent is complying with a voluntary compliance agreement made with the Committee or, (ii) the manner in which orders, judgments, and decrees in actions brought pursuant to §11-27-19 (b) of the General Laws of Rhode Island of 1956, as amended, are being implemented.

(b) Investigational Hearings shall be presided over by the Committee, one or more of its members, or a duly designated representative, for the purpose of hearing the testimony of witnesses and receiving documents and other data relating to any subject under investigation. The term "presiding official", as used in this part, means and applies to the Committee, its Chairman or any of its members or designated representative when so presiding. Such hearings may be recorded or stenographically reported and a transcript thereof may be made a part of the record of the investigation.

9 Rights of Witnesses

(a) Any person submitting data, at the request of the Committee or testifying in an investigational hearing, shall be entitled to retain a copy, or on payment of lawfully prescribed costs, procure a copy of any document submitted by him and of his own testimony as stenographically reported, except that in a non-public hearing the witness may, for good cause, be limited to the inspection of the official transcript of his testimony.

(b) Any witness appearing in person in an investigational hearing may be accompanied, represented, and advised by counsel as follows:

(1) Counsel for a witness may advise the witness, in confidence, and upon the initiative of either himself or the witness, with respect to any question asked of the witness, and if the witness refuses to answer a question, then counsel shall briefly state on the record if he has advised the witness not to answer the question and the grounds for such refusal.

(2) When a claim is made that the testimony or other evidence sought from a witness is outside the scope of the investigation, or that the witness is entitled to refuse to answer a question or produce other evidence on grounds of privilege of any kind counsel shall make objection accordingly at any appropriate time during the investigational hearing by stating the objection and the grounds therefor.

(3) Any objection made in accordance with 9(b) (1) and (2) above, shall be treated as continuing objections and preserved throughout the further course of the hearing as to any similar line of inquiry.

(4) Counsel for a witness may not, for any purpose or to any extent not allowed by subparagraphs (1) and (2) of this paragraph, interrupt the examination of the witness by making any objections or statements. Motions challenging the Committee's authority to conduct the investigation or the sufficiency or legality of the subpoena must be addressed to the Committee, in writing, in advance of the hearing. Copies of such motions shall be filed with the presiding official as part of the record of the investigation, but no arguments in support thereof shall be permitted at the hearing.

(5) Following completion of the examination of a witness, counsel for the witness may on the record request the presiding official to permit the witness to clarify any of his or her answers which may need clarification in order that they may not be left equivocal or incomplete on the record. The granting or denial of such request shall be within the sole discretion of the presiding official.

(6) The presiding official shall take all necessary action to regulate the course of the hearing to avoid delay and to prevent or restrain disorderly, dilatory, obstructionist, or contumacious conduct, or contemptuous language, such official shall, for reasons stated on the record, immediately report to the Committee any instance where an attorney or party acting pro se has refused to comply with his or her directions, or has been guilty of disorderly, dilatory, obstructionist, or contumacious conduct, or contemptuous language in the course of the hearing. The Committee acting pursuant to §11-27-19 (b) of the General Laws of Rhode Island of 1956, as amended, will take such further action, if any, as the circumstances warrant, including making application to the Superior Court for an order requiring such person to comply with the orders of the presiding official, making a complaint to the Disciplinary Board of the Supreme Court of the State of Rhode Island where indicated and exclusion of the attorney from further participation in the investigation.

10. Depositions

The Committee, pursuant to §11-27-19 (d) (6) of the General Laws of Rhode Island of 1956, as amended, may order testimony to be taken by deposition in any investigation at any stage of such investigation. Such deposition shall be taken in accordance with the discovery rules applicable in civil cases in the Superior Court of the State of Rhode Island.

11. Orders Requiring Discovery

(a) The Committee may request production of documents and things and entry upon land and the right to copy records, files and the like, for the purpose of examination as such right is given by the rules of civil procedure applicable in the Superior Court.

12. Reserved

13. Non Compliance with Investigational Process

In cases of failure to comply with Committee Investigational Processes, appropriate enforcement action may be initiated by the Committee.

14. Disposition

(a) When a matter is not subject to uniform non-adjudicative disposition pursuant to §15 of these rules and investigation indicates that corrective action is warranted, further proceedings may be instituted pursuant to §11-27-19 of the General Laws of Rhode Island of 1956, as amended.

(b) When the facts disclosed by an investigation indicate that corrective action is not necessary or warranted in the public interest the investigational file will be closed. The matter may be further investigated at any time if circumstances so warrant.

Sub Part B - Informal Enforcement Procedure

15. Voluntary Compliance

(a) The Committee, when it has information indicating that a person(s)/entity is engaging in the unauthorized practice of law, and if it deems the public interest will be fully safeguarded thereby, may dispose the matter on an informal nonadjudicatory basis as may be required in accordance with the determination by the Committee.

(b) In determining whether the public interest will be fully safeguarded through such informal administrative action, the Committee will consider: (1) the nature and gravity of the alleged offense; (2) the prior record and good faith of the parties involved; and (3) other factors, including where appropriate, adequate assurance of voluntary compliance.

PART II

ADJUDICATIVE PROCEEDINGS

1. Definitions

For purposes of these rules, adjudicative proceedings mean those causes of action which the Committee is authorized to commence in the Courts of the State of Rhode Island.

2. Procedure

Adjudicative Proceedings are governed by the Rules of Procedure applicable in the Courts in which they are pending.

PART III
MISCELLANEOUS RULES

1. Appearances

Qualifications - 1. Members of the Bar of the State of Rhode Island are eligible to practice before the Committee.

2. Members of the Bar of a Federal Court or of the highest court of any State or Territory of the United States are eligible to practice before the Committee subject to the provisions of Rule No. 40 of the Supreme Court Rules.

3. Any individual or member of a partnership involved in any proceeding or investigation may appear on behalf of himself or herself.

2. Cooperation with Other Agencies

It is the policy of this Committee to cooperate with other governmental agencies.

PART IV
FORMS

1. Subpoena

The form of subpoena shall be that which is provided by Chapter 17 of Title 9 of the General Laws of Rhode Island of 1956, as amended.