

COPY

IN THE SUPREME COURT OF OHIO

DISCIPLINARY COUNSEL,

CASE NO. 2008-1573

Relator,

v.

BRUCE A. BROWN,

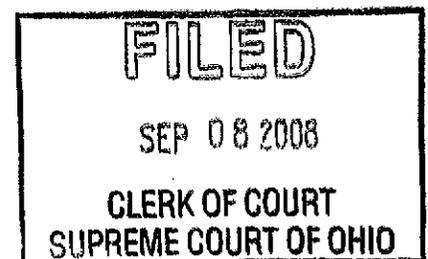
**RESPONSE TO ORDER TO
TO SHOW CAUSE**

Respondent.

Now comes the Respondent Pro-Se , and pursuant to the recent Order of this Court, hereby submits the following Response to the Order To Show Cause regarding the case, *sub judice*.

Respectfully Submitted,

Bruce A. Brown, Pro-Se
The Illuminating Building
55 Public Square, Suite 1260
Cleveland, Ohio 44113
(216)881-0100-Telephone
(216)881-7103-Facsimile
bruce@bandrewbrown.com



RESPONSE TO ORDER TO SHOW CAUSE

Findings Regarding All Counts

1. The Board Of Commissioners On The Unauthorized Practice Of Law (the "Board") has limited jurisdiction.
2. The sole jurisdiction of the Board is to "receive evidence, preserve the record, make findings, and submit recommendations concerning complaints of unauthorized practice of law". **Rules For The Government Of The Bar, Rule VII, Section 2(B).**
3. "The Unauthorized Practice Of Law is the rendering of legal services for another by any person not admitted to practice in Ohio under Rule I and not granted active status under Rule VI, or certified under Rule II, Rule IX, or Rule XI of the Supreme Court Rules For the Government of the Bar of Ohio." **Id., at Section 2 (A).**
4. The Respondent is not, and never has been, licensed to practice law in the State of Ohio.
5. **Ohio Revised Code, §4705.07** articulates the words/titles constituting False Representation As An Attorney as well as what constitutes holding oneself out as an attorney.
6. The Board is not empowered to adjudicate claims of False Representation As An Attorney or allegations of holding oneself out as an attorney.
7. Using the terms Esq., Esquire, or J.D. does not constitute the rendering of legal services for another.
8. **Ohio Revised Code, §4705.07** is bereft of Esq. or Esquire or J.D.
9. The Board Of Trustees Of Columbia University conferred the degree of Juris Doctor ("J.D.") on Respondent on June 10, 1984.

10. J.D. is an academic designation that Respondent aptly earned and is not a professional designation
11. B. Andrew Brown & Associates, LLC is a duly registered Ohio Limited Liability Company, employing the services of, *inter alia*, attorneys. **Record, passim.**

Findings Of Fact-Count One

12. At all times relevant herein, Respondent was acting pursuant to a Power Of Attorney executed by a person purporting to be Georgia Hilliard. **Answer to Formal Complaint, ¶27.**
13. An executor, administrator, guardian, **bailee**, trustee of an express trust, a party with whom or in whose name **a contract has been made** for the benefit of another, **or a party authorized by statute** may sue **in his name** as such representative **without** joining with him the party for whose benefit the action is brought. **Ohio Rules Of Civil Procedure, Rule 17. (emphasis added).**
14. As Attorney In Fact for Georgia Hilliard, Respondent was the party in interest to assert any claim arising from the sale of Georgia Hilliard's property.
15. Despite The Board's finding to the contrary, the record is totally bereft of any action wherein Respondent filed a lawsuit on behalf of Georgia Hilliard. As the record aptly demonstrates, Respondent filed an action where he, not Georgia Hilliard, was the party. **Record, Passim**
16. Respondent can represent himself, pro-se, in any action where he is a party.
17. Despite the Board's finding to the contrary, the record is totally devoid of any evidence of an IOLTA account.

Conclusions of Law-Count One

18. The lawsuit filed by Respondent in his capacity as *Attorney In Fact* was not violative of the

prohibition against the unauthorized practice of law, pursuant to the provisions of **Ohio Rules Of Civil Procedure, Rule 17.**

19. Although unbeknownst to Respondent, Georgia Hilliard was in fact deceased. Ergo, it is axiomatic that Respondent could not have filed a law suit in her behalf.

Findings Of Fact-Count Two

20. Respondent was acting as a collection agent. **Record, passim.**
21. There is no prohibition in Ohio for non-attorneys to act as collection agents

Findings Of Fact-Count Three

22. **United States Code, §1679a** governs Credit Repair Organizations. **15 USC §1697a.**
23. The term “credit repair organization” means any person who uses any instrumentality of interstate commerce or the mails to sell, provide, or perform (or represent that such person can or will sell, provide, or perform) any service, in return for the payment of money or other valuable consideration, for the express or implied purpose of improving any consumer’s credit record, credit history, or credit rating. **Id.**
24. Respondent sold Rosa Primous (“Primous”) a service. **Tr. p. 375.**
25. Respondent received payment of money from Primous. **Id.**
26. Respondent was paid for, *inter alia*, services to improve Primous’ credit record. **Id.**
27. Respondent was paid for, *inter alia*, services to improve Primous’ credit history. **Id.**
28. Respondent was paid for, *inter alia*, services to improve Primous’ credit rating. **Id.**
29. At all times relevant herein, Respondent was acting as a credit repair organization.
30. Respondent is legally able to operate as a credit repair organization. **15 USC §1697a.**

31. Respondent never told Primous he was an attorney. (**Answer to Formal Complaint**).
32. Primous never advised Respondent that she believed him to be an attorney.
33. Assuming, *arguendo*, Respondent told Primous he was an attorney, that act would arguable be a violation of **Ohio Revised Code, §4705.07** and does not constitute the unauthorized practice of law.
34. Despite The Board's Findings to the contrary, Respondent never corresponded with anyone regarding Primous in a violative manner. Respondent was simply acting as a credit repair organization.
35. As the operator of a credit repair organization, Respondent is authorized to charge a retainer fee.

Conclusions Of Law-Count Three

36. Federal Law authorizes Respondent to act as a credit repair organization. **15 USC §1697a**.
37. The *Supremacy Clause* to the United States Constitution authorizes Respondent to operate a credit repair organization. **United States Constitution, Article VI**.
38. The *Supremacy Clause* to the United States Constitution provides in relevant part as follows:

This Constitution, and the Laws of the United States which shall be made in Pursuance thereof, ... shall be the **supreme Law of the Land; and the Judges in every state shall be bound thereby**, any Thing in the Constitution or **Laws of any State to the Contrary notwithstanding.** (*emphasis added*).

34. The Board is prohibited by the *Supremacy Clause* from sanctioning Respondent for acting as a credit repair organization.

Findings Of Fact Count Four

35. B. Andrew Brown & Associates, LLC, like The Company Corporation and a plethora of other organizations, is in the business of incorporating and registering business entities. **Answer To Formal Complaint, ¶42 & Exhibit L annexed thereto.**
36. Mohammad Joseph (“Joseph”) has told several conflicting stories regarding the amount of money allegedly owned to him by Respondent and what the money was for. **Record, passim.**
37. There is no prohibition in Ohio for non-attorneys to process and register business entities with the Secretary Of State. **Answer To Formal Complaint, Exhibit L annexed thereto.**
38. Non-attorneys process and register business entities with the Ohio Secretary Of State often. **Exhibit L to Answer To Formal Complaint.**
39. A secretary at B. Andrew Brown & Associates, LLC typed the Articles Of Organization for King Drive Thru. **Tr. p. 23.**
40. All attorneys in the State Of Ohio are commissioned as Notary Public. **Ohio Revised Code, §147.03.**
41. Respondent had an attorney in his firm notarize documents for Joseph. **Tr. p. 25.**
42. Joseph hired non-attorney, Michael Watson as a collection agent. **Tr. p.52 & Exhibit A.**¹
43. Joseph informed his collection agent that the money he remitted to Respondent was a loan. **Tr. p. 54 & Exhibit A.**
44. Joseph acknowledged to his collection agent that the funds remitted to Respondent were not for representation in Lakewood Municipal Court. **Tr. 59 & Exhibit A.**
45. Joseph, in an attempt to fabricate a lie that Respondent was an attorney, stated that

¹All Exhibits are Trial Exhibits unless specifically stated otherwise.

Respondent represented his cousin, Mahmoud Abu-Kaliel (“Mahmoud”), in a problem with the lease for King Drive-Thru. **Tr. p. 72.**

46. Maurice Dancie (“Dancie”), the landlord of the property where King Drive-Thru is located, stated that Respondent was the Business Manager, not attorney for Mahmoud. **Tr. p. 261.**

47. Dancie expressly testified that Mahmoud’s attorney for the lease issues related to King Drive-Thru was Mr. Dubiak. **Tr. p. 262.**

48. On all issues related to King Drive-Thru, Respondent was not the attorney. **Id.**

49. Despite The Board’s Finding to the contrary, at all times relevant herein, Joseph was aware that Respondent was not an attorney. **Tr. P. 54 & Exhibit A.**

50. The record is totally bereft that Respondent completed any documents for Joseph. By Joseph’s own, self-serving, testimony, he did not know if Respondent completed any documents. **Tr. p. 64-65.**

Conclusions Of Law-Count Four

51. Joseph simply loaned Respondent money and in an impuissant to get it back, fabricated a lie to assert pressure on Respondent. **Record, passim.**

52. The Record is totally bereft that Respondent completed any forms.

Findings Of Fact-Count Five

53. At all times relevant herein, Respondent was acting as a Non-Attorney Bankruptcy Petition Preparer. **Record, passim.**

54. Notwithstanding the fact that a General Power Of Attorneys creates caution in the bankruptcy court, such documents were not violative of any statute. **Tr. p. 395 & Exhibit 57.**

55. Judge Morganstern-Clarren determined that Respondent had not done anything improper in connection with Reginald Pierce (“Pierce”). **Tr. p. 400 & 413.**
56. Judge Morganstern-Clarren received a letter from Respondent stating that he had filed a disclosure of compensation for non-attorney petition preparers. **Tr. p. 416-417.**
57. The record is completely devoid of an letter to Judge Morganstern-Clarren on behalf of Pierce. **Record, passim.**
58. Judge Morganstern-Clarren thought Respondent engaged in the unauthorized practice of law because he has “Esq” on his stationary not because of the contents of the letter. **Tr. p. 410 & Exhibit 36.**
59. When Pierce signed his Petition For Bankruptcy (the “Petition”), Respondent had already signed it as the “Non-Attorney Petition Preparer”. **Tr. p. 169**, ergo, expressly indicating that respondent was not an attorney . **Id.**
60. Despite The Board’s Finding to the contrary, the record is completely devoid of any evidence that Respondent converted any funds for his own use. **Record, passim.**
61. Respondent did not counsel Pierce about filing bankruptcy as Pierce had already determined that he wanted to file bankruptcy, and wanted do so under Chapter 7, prior to meeting Respondent. **Tr. p. 166.**
62. Respondent discussed the need of a general power of attorney with Pierce. **Tr. p. 173.**
63. Pierce gave Respondent power of attorney. **Id.**
64. Pierce acknowledged that he signed a document that was notarized by Cindy. **Tr. p. 190.**
65. Pierce acknowledged that The General Power Of Attorney (Page 5 of Exhibit 32; **Tr. p. 190**) was the document that Cindy notarized for him. **Id.**

66. The record is completely devoid of any documents, other than the general power of attorney, that were notarized by Cindy. **Record, passim.** Therefore, it is axiomatic that the General Power Of Attorney was executed by Pierce.
67. Respondent was acting within his legal right, by virtue of the General Power Of Attorney, when he filed Pierce's Bankruptcy Petition. **Exhibit 57.**

Conclusions Of Law-Count Five

68. At not time did Respondent act as Pierce's legal representative. **Record, passim.**
69. The Record is completely devoid of any evidence that Respondent acted outside the statutory scope of a *Non-Attorney Bankruptcy Petition Preparer*. **Id.**
70. Respondent was duly authorized to file a General Power Of Attorney. **Tr. p. 173, 190.**
71. Pierce's Bankruptcy case was dismissed because Pierce failed to attend a court proceeding before Judge Morganstern-Clarren. **Tr. p. 410-412**

Findings Of Fact-Count Six

72. At all times relevant herein, Respondent was acting as a Non-Attorney Bankruptcy Petition Preparer. **Record, passim.**
73. Notwithstanding the fact that a General Power Of Attorneys creates caution in the bankruptcy court, such documents were not violative of any statute. **Tr. p. 467 & Exhibit 57.**
74. By virtue of the General Power Of Attorney, Respondent was legally authorized to do certain things for Teresa Delaney ("Delaney"). **Tr. p. 467.**
75. By virtue of the General Power Of Attorney, Respondent was authorized to perform any act not constituting the practice of law. **Exhibit 41, p. 24.**
76. The acts admitted to by Respondent in his Answer to the Complaint For Injunctive Relief,

Turnover Of Fees, and Imposition Of Fines (the "Complaint") do not constitute the unauthorized practice of law as they do not encompass rendering legal services.

77. The sole reason that the Complaint was filed was because of the allegation that Respondent advised Delaney to not attend the continued 341 meeting of creditors. **Tr. p. 474 & 518.**
78. Respondent challenged the allegation that he advised Delaney to not attend the continued 341 meeting of creditors. **Tr. p. 517-518.**
79. The record is completely devoid of any evidence that Respondent advised Delaney to not attend the continued 341 meeting of creditors. **Record, passim.**

Objection Analysis

Despite The Board's Finding To The Contrary, at no time has Respondent held himself out to be a licensed attorney by using 'Esq.' with his name. Respondent has gone to great lengths to demonstrate that he is not an attorney, but a Business Management Consultant. (**Answer to Complaint**). As evidenced by Respondent's listings in the local telephone directories and his company web-site, it is clear that Respondent is not holding himself out as an attorney.

In it's Final Report, The Board makes the farcical argument that "... the services the Respondent performed, or agreed to perform, after holding himself out as a lawyer were services that **a nonlawyer might legally perform ... Final Report, p. 32.** This statement is tantamount to an conclusion that Respondent has done nothing violative of the prohibition against the unauthorized practice of law. Moreover, this fact, combined with Respondent's web-site and telephone directory listings, clearly demonstrate that he was not attempting to hold himself out as an attorney.

Ohio Revised Code, §4705.07 expressly details what constitutes holding oneself out as an attorney. The record herein is replete with evidence that Respondent has done nothing violative of

§4705.07. Simply put, pursuant to this Court's ruling in **State v. Volpe, 38 Ohio St. 3d 191 (1988)**, the Board cannot use a general statute to impute a result not sanctioned by a specific statute, *ie.*, **Rule VII, Rules For The Government Of The Bar.**

Conclusion

Based on all of the foregoing, it looms abundantly clear that Respondent exercised several precautions to insure that one could not reasonably conclude that he was practicing law. Moreover, the record of any evidence that Respondent did practice law. Relator's entire case rests with Respondent's use of "Esq." with his name. Ergo, no civil penalties, including but not limited to reimbursement of the costs and expenses of this cause, are warranted.

Respectfully Submitted,

Bruce Andrew Brown, Pro-Se

CERTIFICATE OF SERVICE

I hereby certify that I served a true and correct copy of the foregoing *Response To Order To Show Cause* to Lori Brown, this 7th day of April, 2008 at 250 Civic Center Drive, Columbus, Ohio 43215-7411 and The Secretary Of The Board Of Commissioners On The Unauthorized Practice Of Law, 65 South Front Street, Columbus, OH 43215.

Bruce A. Brown