

Supreme Court of Florida

No. 71,828

THE FLORIDA BAR, Complainant,

vs.

ERNESTO ABERASTURIA, Respondent.

[August 18, 1988]

PER CURIAM.

This proceeding is before the Court on the petition of The Florida Bar against the unlicensed practice of law, charged against the respondent, Ernesto Aberasturia. The Court issued an order to show cause, following which The Florida Bar and the respondent submitted a joint stipulation for the disposition of this proceeding. We approve the stipulation. The dispositional provisions of the stipulation are set forth as follows:

6. Both parties agree that a writ of injunction shall issue permanently and perpetually enjoining Respondent, Ernesto Aberasturia from:
 - a. Representing to the public, either personally or by use of advertisement, that he is an attorney or a person capable of advising and handling matters requiring legal skills;
 - b. Representing persons before the Immigration and Naturalization Service, unless and to the extent the regulations of the Immigration and Naturalization Service allow representation of such person before the service by a non-lawyer;
 - c. Advising persons of their rights, duties, and responsibilities under Florida law, or federal law, as those laws relate to immigration and naturalization matters, except to the limited degree permitted under the Code of Federal Regulations;

- d. Advising customers as to any legal remedy which might be available to them;
- e. Allowing members of the public to rely on Respondent to properly prepare legal forms or legal documents affecting a customers legal rights except as permitted by federal regulation or Rule 10-1.1(b) of the Rules Governing the Investigation and Prosecution of the Unlicensed Practice of Law.

7. In addition Respondent agrees to take the following affirmative steps:

- a. In the event any persons call the office of the Respondent, asking to speak to "attorney Aberasturia," Respondent will require his staff to affirmatively advise such persons that Respondent is not a Florida attorney.
- b. That in the event any persons call the office of the Respondent, speak directly to the Respondent and refer to Respondent as "attorney Aberasturia," Respondent will affirmatively advise such persons that Respondent is not a Florida attorney.
- c. That in the event someone physically comes to the office of Respondent he will advise and instruct his office staff to act diligently not to convey the impression that Respondent is a member of The Florida Bar or licensed to practice law in Florida.
- d. That in the event someone physically comes to the office of Respondent and meets directly with Respondent, Respondent will act diligently not to convey the impression that he is a member of The Florida Bar or licensed to practice law in Florida.
- e. In the event that Respondent is contacted by any party seeking legal advice, Respondent shall affirmatively inform these individuals that he is not an attorney licensed to practice law in Florida and not a member of The Florida Bar.
- f. In the event that Respondent is contacted by any party seeking legal services, Respondent shall refuse to perform such legal services.

8. Nothing in this stipulation shall preclude or prevent Respondent from working as an accountant or as a translator.

9. Nothing in this stipulation shall require him to remove or not to display any diploma or license from any other jurisdiction which he has validly received.

10. Respondent agrees however to advise any person who refers to him as abogado, the Spanish equivalent for attorney, that he is not licensed to practice law in Florida or to affirmatively state that his only license was in such jurisdiction as he was validly previously admitted to.

Ernesto Aberasturia is hereby permanently enjoined from the unlicensed practice of law as set forth above and ordered to take the affirmative steps set forth above.

The costs of this proceeding are taxed against the respondent. Judgment is entered against Ernesto Aberasturia for

costs in the amount of \$291.09, for which sum let execution
issue.

It is so ordered.

EHRlich, C.J., and OVERTON, McDONALD, SHAW, BARKETT, GRIMES and
KOGAN, JJ., Concur

NOT FINAL UNTIL TIME EXPIRES TO FILE REHEARING MOTION AND, IF
FILED, DETERMINED.

Original Proceeding - The Florida Bar

Rutledge R. Liles, President, Jacksonville, Florida; Stephen N. Zack, President-elect, Miami, Florida; John F. Harkness, Jr., Executive Director, John T. Berry, Staff Counsel, Mary Ellen Bateman, UPL Counsel and Lori S. Holcomb, Assistant UPL Counsel, Tallahassee, Florida; and Robert M. Sondak, Chairman, Standing Committee on Unlicensed Practice of Law, Miami, Florida,

for Complainant

Nicholas R. Friedman of Friedman, Baur, Miller & Webner, Miami, Florida,

for Respondent