IN THE SUPREME COURT OF FLORIDA

THE FLORIDA BAR,

Petitioner,

v. **Case No.: 85,606**

RONALD YORK, SR., INDIVIDUALLY AND D/B/A: ADVANCED PARALEGAL SERVICE,

Respondent.
_____/

RESPONDENTS RESPONSE TO PETITIONER'S ANSWER BRIEF

COMES NOW, Ronald York, Sr, Respondent, in propria persona, and respectfully submits this written response to Petitioner's Answer Brief (of Florida Bar), and states as follows:

1. Respondent states that Petitioner erroneously claims respondent's objections to the Report of Referee are *"merely conclusory, immaterial and they fail to demonstrate that the findings of the referee are without support in the record much less clearly erroneous."*(Answer Brief of The Florida Bar, page 4, paragraph two; page 5, top of page. Emphasis supplied), however, that very argument is without merit, and Respondent states again, the record at bar is devoid of any clear and convincing evidence introduced during the evidentiary proceedings which would lead any reasonable person to believe that respondent had been engaging in the unlicensed practice of law . In fact, the referee himself stated that petitioner's *"Your entire argument and the Bar's entire position is based on a series of assumptions. The assumptions are, it seems to me, that after Mr. York sends out his Exhibit A letter, his solicitation, and does the other things that he does to*

solicit business and people finally come in his door, that he then sits down with them and engages in a conversation with them in which he asks questions, gleans answers, sorts them out and then proceeds to fill out these forms. ***That's your conclusion.*** *His testimony was quite to the contrary. His testimony was that all he did was simply ask people the questions that were in the forms that he's using and fill out the answers or that he read the accident report, what he refers to as the crash report, and that he takes the information from there and that he basis his claim or his conclusion that the person in front of him is entitled to recover based upon what the officer has concluded in the accident report. Now he didn't make it particularly clear as I reread his testimony, but the assumption is that the officer has found fault on the part of the other drivers. Mr. Boggs testified, and I understand that Mr. Sondak does not agree, and I understand that Mr. Boggs does not address Brumbaugh in his testimony. At least I don't remember him addressing Brumbaugh. But Mr. Boggs would make a distinction and say if he is only filling out the information that he gleans from the Florida accident report and/or that simply the person sitting there, his customer, tells him this is my name. This is my address. The accident was at this intersection, on this date, at this time and that he simply fills out this information. Now the reason I'm going through all that is* ***what is the basis of the conclusions that you're reaching? What is the testimonial basis for it? And I point out that there isn't any evidence in this record to conflict or controvert the testimony of Mr. York. The only testimony in this record as to what happens in his office at the time he meets with a client is what he says. There is not one person with whom Mr. York has dealt with over the past however many years--it's in there somewhere--I think he used the number fifteen hundred or so people. There is not one complaint. There is not one person who has testified.***

The Bar didn't even present one witness to come in here whether they're unhappy or not just to describe what happened. It would have been very elucidating to the Court if I would have had at least one of these people sit here and say to me this is what happened when I went in there. Then, in fact, what he did is what Mr. Sondak presumes that he does. Now, that's my concern. How do you carry your burden of proof of clear and convincing if my description of the state of the evidence is accurate? (Excerpted from Hearing Transcript of January 24th, 1996, Hon. Judge Joseph Donahey, Referee, speaking to Bar Counsel Loretta O'Keeffe, at pages 94, lines 20-25; pg. 95, lines 1-25; pg. 96, lines 1-25; pg. 97, lines 1-6. (Italics and emphasis added). The foregoing statements were made by the referee to Petitioner during Petitioner's summation or closing argument, a very accurate and concise recitation by the referee, which he for some unknown reason failed to remember or recite in the Report of Referee, however, a very succinct description of the state of the evidence up until that point in time in this matter by the referee, who surprisingly thereafter, acquiesced to Petitioner, and virtually adopted all unproven series of assumptions in his Report of Referee now objected to by Respondent.

2. In response to Petitioners failure to acknowledge that while older historical documents did reflect that at one time in the past, Respondent did in fact sell Living Trust Kits, there is sufficient testimonial evidence in the record at bar which demonstrates and makes it abundantly clear that Respondent precisely stated verbally, on record, that certain forms and services offered in the past were discontinued so as not to run afoul of known UPL restrictions and decisions. Please see Deposition of Ronald York, Sr., 09-13-96, page 11, lines 22-25; page 12, lines 1-6.

3. While Respondent cannot at this late date object to stipulations agreed to by legal counsel hired to represent him and Petitioner, Respondent states that Petitioner has a penchant for merely

referring to stipulated documents and statements and then putting forth assumptions that a certain course of conduct must have taken place, or some alleged act of UPL must have occurred simply because Petitioner assumes it did without anything more to substantiate blatant assumptions that are wholly unsupported by the record at bar, self serving assumptions meant to cast aspersion on your Respondent, and portray me in a most unfavorable way, again, without a scintilla of evidence which would tend to prove Petitioners obviously biased and jaundiced assumptions which are unproven to this day, because those assumptions are untrue, and did not happen.

4. Respondent states that Petitioner intentionally mischaracterized testimony relating to the issue of whether or not I was acting as a "public adjuster", and in fact, contrary to Petitioners assertion that I raised the issue "numerous times" (top of page 7 of Answer Brief of Petitioner), the fact is, at ***no time*** have I ever asserted that I was a public adjuster, and the testimony the Petitioner specifies is the testimony of Professor Glenn Boggs (T-1 at 97-99; 116-123; 125-126), whose testimony revolved around why he believed that adjusting claims was not the practice of law. Petitioner failed to dispel Respondents argument that the referee's findings and conclusions are in fact erroneous and unsupported by the record at bar. Respondent is not asking this Honorable Court to "reweigh the evidence" or "substitute it's judgment" for that of the referee, Respondent is simply stating that the referee's findings and conclusions are erroneous and are unsupported by the record, and further, that there is no "substantial" or "competent evidence" other than presupposed presumptions ungrounded in factual basis or evidential proof of any kind.

5. The Report of Referee simply recited unproven allegations and assumptions put forth by Petitioner in their written Supplemental Closing Argument, as well as Petitioners complaint, and much to Respondent's amazement, the referee totally ignored his own statement and concern that

Petitioner has failed to produce any real or factual clear and convincing evidence that Respondent had ever committed any actual UPL act beyond those imagined series of assumptions offered as "proof" without anything more, again referring to the statement of the referee to Petitioner at the conclusion of the hearing during summary argument. (January 24, 1996 Hearing Transcript, pages 94 through top of page 97).

6. Respondent admits that I was unwise and made a mistake in writing a collection letter and thereafter, attaching a small "post-it" note to same stating that "will sue" in behalf of Mr. Rhodes, a customer of mine, however, that is not and was not a mistake Respondent made more than one time, and certainly can not be said to be the unlicensed practice of law in such a isolated incident, without more. Respondent will never send out a collection letter again, and certainly will not mention that anyone will file a lawsuit again, which is probably the closest act complained of that might cause concern about a single instance of an act bordering on UPL. Incidentally,. Rhodes wanted me to convey that he would file a small claims court action against Mr. Christy if Mr. Christy refused to pay him for damage to his automobile, and thus the infamous note that has contributed to the other baseless UPL charges leveled against Respondent. I apologize for that particular indiscretion, it was certainly poor judgment on my part to have made such a statement.

7. Respondent strongly disagrees with Petitioner that an injunction is the proper sanction for day to day business conduct which never involves giving out legal advice or counsel, or telling any one what their rights or legal options are, nor have I ever told anyone how to testify in court, nor what particular forms they should use (customers must tell me), nor have I or do I ever draft any legal forms (for anyone other than myself, i.e., my pleadings in the case at bar), nor do I give any legal advice, as I have more than a large number of lawyers whom I refer people to when they

and if they ask me legal questions, which if answered by me, would constitute giving out legal advice, and I insist anyone else in our office do the same (refer people with legal questions to the appropriate legal source for a response, namely, an attorney). Please see attached Exhibit "A", Respondent's in office attorney referral guide.

8. Respondent states that an injunction in this particular case would be a miscarriage of due process as well as unfair and unjust in lieu of the fact that Petitioner failed to present, and even more importantly, the referee failed to base his finding, by his own admission, upon any clear or convincing evidence or proof that Respondent has been engaged in any acts which rise to the level of the unlicensed practice of law. Basically, Petitioner is asking this Honorable Court to issue an injunction against the way Respondent has chosen to effectively market my business, by helping people to help themselves, well within the recognized and observed scope of limitations which non lawyers must adhere to, and which I, Respondent, have meticulously adhered to in all of my business paraprofessional dealings with the public at large as well as other businesses locally. It is Respondent's firm belief that the Petitioner's unreasonable demand for an injunction is based more on the misperception of what I as an independent paralegal can do to help people who prefer to pursue self help legal alternatives available to them, and unfounded assumptions that if I am in business as a paralegal, then I must be committing acts of UPL which may "someday" cause harm to someone, however, the truth of this entire matter is that I have *never* had a legitimate complaint filed against me by anyone I've ever helped or worked with or for, and I have been a upstanding Member of The Better Business Bureau for a number of years without complaints, and I participate in the "I CARE" Program, sponsored by the Better Business Bureau, and pay an annual fee to be a member thereof, because I do care about my customers and my business.

9. Petitioners unsubstantiated assumption or notion that my business activities create public harm are without substance and lack any kind of proof whatsoever, and in fact belie the truthful and fair and accurate assessment made by the referee himself, who pointedly remarked that: ***"There is not one person with whom Mr. York has dealt with over the past however many years...it's in there somewhere....I think he used the number fifteen hundred or so people. There is not one complaint."*** (Jan. 24, 1996 Hearing Transcript, page 96, lines 14-18). Contra the Report of Referee, and allegation of "public harm" claimed as a reason to impose such a severe measure which will negatively impact my already proven harmless marketing strategy, which I have already revealed to be the most cost effective way of soliciting and earning new customers and the business they, and others they refer to me, bring as a result of my hard work and carefully restrained self help legal services, which certainly do not amount to UPL.

10. While Respondent agrees with Petitioners eloquent restatement of the principles reflected in the cited past cases heard and decided by this Honorable Court, which certainly delineate what acts can be said to amount to UPL, the mere recitation of the cases cannot be said to be a link or causation for injunctive relief when Petitioner has failed miserably to demonstrate Respondent has engaged in any of the activities outlined within the notable cases cited, and therein lies the fatal flaw of Petitioners unproven allegations about Respondent. The real truth is that Respondent has found a perfectly legal way of helping people help themselves, by serving as an alternate point of contact for those who want me to be, there is no legal advice given, no legal forms drafted, no legal counsel offered, no "injured parties", no representation as defined by law, certainly no type of representation in court or anywhere else, everyone who comes into my office is immediately put on notice that I am NOT an attorney, that there is no lawyer within my business, and that we

cannot and will not provide anyone with legal advice or counsel. We have been set upon by a long line of State Bar investigators, who have attempted to get me and other paralegals here to draft legal forms and documents, to notarize documents improperly, or to give them legal advice by asking trick questions designed to elicit legal advice, to alter legal forms to fit a particular type situation, and each time they have been turned away, because Respondent absolutely refuses to do anything that will or could be called UPL, or engage in any activity or practice that will cause me a legal problem. Nevertheless, my self conceived successful marketing strategy, is under attack by the Bar. I am sure many local lawyers who *are not* on my referral list have made many unfounded complaints against me. Of course. I don't send them business. They want me out of their way. Several have attempted to solicit me to send them accident victims, and I saw those individuals as ambulance chasers, and I rejected their offers. I selected lawyers to refer customers to based on their reputation in the community at large, some, based on recommendations of other business men and woman locally. They have never complained about me, I wonder why? I don't "hold myself out" as qualified to represent accident victims, that is Plaintiff's mischaracterization of what I do, I simply assist accident victims by acting as their alternative point of contact, and I don't know of any law, caselaw, or statute, that makes it illegal for one human being to help another human being, and you can certainly help people without giving them legal advice or legal representation, that is a fact.

11. Respondent verily believes the referee found only that which will be that which will allow him to retain "status quo" with the very same Bar that has brought forth this groundless UPL matter. I believe the referee spoke his mind and heart during the hearing, however, he could not write that position in his report, for reasons of fraternal self preservation in the arena of law.

12. Respondent respectfully submits that there was not and is not any clear and convincing evidence that Respondent at any time has engaged in a pattern of acts which constitute the unlicensed practice of law, and no amount of misstatement of facts, mischaracterization of the truth, or statements designed to prey on unsubstantiated assumptions without proof, can make acts or legitimate business practices rise to the level of UPL. Thus, this Honorable Court's interest and concern for protecting the public certainly will not be served or ministered to or upheld by enjoining your Respondent from marketing my business as deemed beneficial and also legally productive, as so long as I continue to observe the guidelines and restrictions imposed by this Honorable Court in all past UPL case decisions, which I have read, and agree with, and have and will continue to abide by.

CONCLUSION

For all the foregoing reasons, Respondent respectfully submits that this Honorable Court should reject the referee's report, findings of fact and conclusions of law, as the Bar has failed to meet the standard of proof of clear and convincing evidence which would allow this Honorable Court to rightfully enjoin the alleged UPL acts complained of.

Respectfully submitted:

Ronald York, Sr.

Ronald York, Sr., in propria persona.
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(813) 931-7776

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing was sent by U.S. Mail to Loretta O'Keefe UPL Branch Counsel, Tampa Airport Marriott, #C-49, Tampa, FL. 33607, and, Mary Ellen Bateman, UPL Counsel, The Florida Bar, 650 Appalachee Pkwy., Tallahassee, FL. 32399-2300, on this 18th day of July, 1996.

Ronald York, Sr.

Ronald York, Sr., Respondent

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