

To: Administrators/Chairs of Unauthorized Practice of Law Committees

From: Janet Green Marbley, Chair
ABA Standing Committee on Client Protection

Date: October 24, 2008

Re: *Survey of Unauthorized Practice of Law Committees* (2009)

We are pleased to enclose the questionnaire for the 2009 *Survey of Unauthorized Practice of Law Committees*. This is the third survey the Standing Committee on Client Protection has undertaken on the unauthorized practice of law since it published the *1994 Survey and Related Materials on the Unauthorized Practice of Law/Nonlawyer Practice*. The results of the survey are provided to courts, bar associations, lawyers, and members of the public and news media nationwide. We are hopeful that the survey results will include a response from every jurisdiction in the United States.

Please send your data even if it is not complete or you don't have all the information available to fully complete the questionnaire. Once completed, the survey will be published on the Client Protection page of the ABA website: <http://www.abanet.org/cpr/clientpro/home.html>.

The mechanisms for the enforcement of UPL statutes vary from jurisdiction to jurisdiction. If you are not responsible for UPL enforcement in your jurisdiction, we would appreciate you forwarding the questionnaire to the correct person or entity. Please return your completed questionnaire to Ben Woodson, American Bar Association, 321 North Clark Street, 15th Floor, Chicago, IL 60654-7598, Ph: 312/ 988-5304, Fax: 312/ 988-5491, E-mail: woodsonb@staff.abanet.org. If you would like a copy of the questionnaire in electronic form, please contact Ben Woodson at (312) 988-5304 or woodsonb@staff.abanet.org

Thank you for taking the time to complete the questionnaire and contributing to the validity of the *2009 Survey of Unauthorized Practice of Law Committees*.

Survey of Unauthorized Practice of Law Committees

(2009)

American Bar Association
Center for Professional Responsibility
Standing Committee on Client Protection

Please return this questionnaire by Wednesday, December 31, 2008. If a question is not applicable to your jurisdiction, please respond with N/A. Please use the response unknown where the information requested is unavailable. Use 0 only to indicate a zero numerical amount. If you have any questions while filling out the questionnaire, please contact Selina Thomas, Associate Client Protection Counsel, (312) 988-6721, e-mail: thomass@staff.abanet.org

Entity Responding:

DEFINITION OF THE "PRACTICE OF LAW"

1. DOES YOUR JURISDICTION HAVE A DEFINITION OF THE "PRACTICE OF LAW"?

YES
NO

Cite/URL: _____

2. WHAT IS THE SOURCE OF THE DEFINITION? (PLEASE CHECK ALL THAT ARE APPLICABLE)

Rule
Statute
Case Law
Advisory Opinion
Other

(explain) _____

3. DOES YOUR JURISDICTION HAVE A DEFINITION OF THE

“UNAUTHORIZED PRACTICE OF LAW”?

YES
NO

Cite/URL _____

4. WHAT IS THE SOURCE OF THE DEFINITION? (PLEASE CHECK ALL THAT ARE APPLICABLE)

Rule
Statute
Case Law
Advisory Opinion
Other

explain) _____

ENFORCEMENT AGAINST UPL

5. WHAT IS THE SOURCE OF ENFORCEMENT AUTHORITY?

Rule
Statute
Case Law
Advisory Opinion
Other

explain) _____

6. WHAT REGULATORY ENTITY IS AUTHORIZED TO ENFORCE THE UPL REGULATIONS?

State Bar Counsel
State Bar Committee
Supreme Court Committee/Commission
Attorney General
County Prosecutor
Other

(explain) _____

7. WHO PAYS FOR UPL ENFORCEMENT?

8. WHAT IS THE ANNUAL BUDGET FOR UPL ENFORCEMENT?

9. THIS AMOUNT INCLUDES:

	Yes	No
a. Salaries and benefits:	<input type="checkbox"/>	<input type="checkbox"/>
b. Space:	<input type="checkbox"/>	<input type="checkbox"/>
c. Equipment and Supplies:	<input type="checkbox"/>	<input type="checkbox"/>
d. Travel/Education/Training:	<input type="checkbox"/>	<input type="checkbox"/>
e. Other: _____		

10. WHAT REMEDIES/SANCTIONS ARE AVAILABLE AGAINST SOMEONE ENGAGED IN THE UNAUTHORIZED PRACTICE OF LAW?

- Civil Injunction
- Civil Contempt
- Civil Fine
- Criminal Fine
- Prison
- Restitution
- None
- Other

(explain) _____

11. HOW ACTIVE IS YOUR JURISDICTION IN ENFORCING THE UPL REGULATIONS? (i.e. does your jurisdiction actively prosecute allegations of unlicensed practice of law on a regular basis?)

- Active:
- Not Active
- Non-existent:

(Please explain):

NONLAWYER PRACTICE

12. DOES YOUR JURISDICTION PERMIT ANY NONLAWYER PRACTICE?

No
Yes (please check all applicable)

*Legal Technicians

*Legal Assistants/Paralegals under the supervision of an attorney

*Document preparers

*Other (explain) _____

13. IF NONLAWYER PRACTICE IS PERMITTED, IS IT REGULATED/LICENSED?

No
Yes by:

State Bar

Supreme Court

Other Regulatory Entity/Board

14. MAY NONLAWYERS INDEPENDENTLY ENGAGE IN ANY OF THE FOLLOWING (PLEASE CHECK ALL APPLICABLE):

Prepare pleadings/wills/other legal documents

Attend administrative proceedings

Pre-trial activities (take depositions, etc.)

Give legal advice

Negotiate legal matters

Appear in court

Attend real estate closings

Participate in state administrative proceedings

Participate in alternative dispute resolution proceedings

Other: (explain)

15. MAY DISBARRED OR SUSPENDED LAWYERS ENGAGE IN A LAW-RELATED ACTIVITY?

Yes

No

16. IF A DISBARRED OR SUSPENDED LAWYER CAN ENGAGE IN LAW-RELATED ACTIVITY, WHAT ARE THE RESTRICTIONS? _____

17. IS THE SOURCE OF YOUR JURISDICTIONS' POSITION ON DISBARRED/SUSPENDED LAWYER PRACTICE?

Rule

Statute

Case Law

Advisory Opinion

Other

(explain) _____

CONCLUSION

18. IS YOUR JURISDICTION CONTEMPLATING ANY CHANGE IN ITS UPL REGULATIONS, ENFORCEMENT ACTIVITY, OR AUTHORITY?

No

Yes (explain):

****Please attach copies of all relevant rules, statutes, and cases.**

Survey completed by:

Title and name of UPL contact:

Address: _____

Telephone number: _____

Fax Number: _____

E-mail address: _____

Thank you very much for taking the time to complete this survey. Please return the completed questionnaire to:

Ben Woodson
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Chicago, IL 60610-4714
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