



The State of South Carolina  
OFFICE OF THE ATTORNEY GENERAL

CHARLES MOLONY CONDON  
ATTORNEY GENERAL

March 12, 1999

The Honorable Elizabeth C. Hair  
Sumter County Treasurer  
Administration Building  
13 East Canal Street  
Sumter, South Carolina 29150

**RE: Informal Opinion**

Dear Ms. Hair:

By your letter of January 26, 1999 and attachments thereto, you have asked whether "the elected County Treasurer, as a non-attorney, [may] present a case before Magistrate's Court, as a representation of the County."

The issue, as suggested in your letter, is whether such activities of the County Treasurer or the Deputy Treasurer constitute the unauthorized practice of law. The practice of law in South Carolina is regulated solely by the Supreme Court. *See*, Section 40-5-10 et seq. The Court, and the Court alone, determines what is the unauthorized practice of law in this State. Recently, the Court spoke on this issue in In Re Unauthorized Practice of Law, 309 S.C. 304, 422 S.E.2d 123 (1992). In this decision, the Court ruled as follows:

The Constitution commits to this Court the duty to regulate the practice of law in South Carolina. S.C. Const. Art. V, Sec. 4; *see also* S.C. Code Ann. Sec. 40-5-10. We take this opportunity to clarify certain practices which we hold do not constitute the unauthorized practice of law.

First, we recognize the validity of the principle found in S.C. Code Ann. Sec. 40-5-80: any individual may represent another individual before any tribunal, if (1) the tribunal approves of the representation and (2) the representative is not compensated for his services. We have refused, however, to allow an individual to represent a business entity under the statute. *See* State ex rel. Daniel v. Wells, 191 S.C. 468, 5 S.E.2d 181 (1930). **We modify Wells today to allow a business to be represented by a non-lawyer officer, agent or employee, . . . in civil magistrate's court proceedings. Such representation may be compensated and shall be**

**undertaken at the business's option, and with the understanding that the business assumes the risk of any problems incurred as the result of such representation. The magistrate shall require a written authorization from the entity's president, chairperson, general partner, owner or chief executive officer, or in the case of a person possessing a Limited Certificate, a copy of that Certificate, before permitting such representation.**

Second, we hold that State Agencies may, by regulation authorize persons not licensed to practice law in South Carolina, including laypersons, Certified Public Accountants (CPAs), attorneys licensed in other jurisdictions and persons possessing Limited Certificates of Admission, to appear and represent clients before the agency. These regulations are presumptively valid and acts done in compliance with the regulations are presumptively not the unauthorized practice of law. We recognize, however, that such an agency practice could be abused, and reserve the authority to declare unenforceable any regulation which results in injury to the public.

Third, our respect for the rigorous professional training, certification and licensing procedures, continuing education requirements, and ethical code required of Certified Public Accountants (CPAs) convinces us that they are entitled to recognition of their unique status. We hold that CPAs do not engage in the unauthorized practice of law when they render professional assistance, including compensated representation before agencies and the Probate Court, that is within their professional expertise and qualifications. We are confident that allowing CPAs to practice in their areas of expertise, subject to their own professional regulation, will best serve to both protect and promote the public interest . . . .

Finally, we recognize that other situations will arise which will require this Court to determine whether the conduct at issue involves the unauthorized practice of law. **We urge any interested individual who becomes aware of such conduct to bring a declaratory judgment action in this Court's original jurisdiction to determine the validity of the conduct.** We hope by this provision to strike a proper balance between the legal profession and other professionals which will ensure the public's protection from the harms caused by the unauthorized practice of law. (Emphasis added.)

Thus, the Court has determined that the representation by a non-lawyer agent of a business entity in magistrate's court is no longer the unauthorized practice of law, under certain conditions. Based on this ruling by the Court, there is support for a magistrate to conclude that a non-attorney County Treasurer or Deputy appearing in Magistrate's Court would not be engaged in the unauthorized practice of law. Of course, such a finding is beyond the scope of an opinion of this Office, because only the South Carolina Supreme Court can determine what activities constitute the unauthorized

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practice of law. Accordingly, if this letter does not satisfy the Magistrate's concerns regarding your ability, or that of your Deputy, to appear in his Court, I would encourage you to seek a declaratory judgment in the original jurisdiction of the Supreme Court. See, In Re Unauthorized Practice of Law, supra.

This letter is an informal opinion only. It has been written by a designated Deputy Attorney General and represents the position of the undersigned attorney as to the specific questions asked. It has not, however, been personally scrutinized by the Attorney General nor officially published in the manner of a formal opinion.

With kind regards, I am

Sincerely yours,



Zeb C. Williams, III  
Deputy Attorney General

ZCW/an