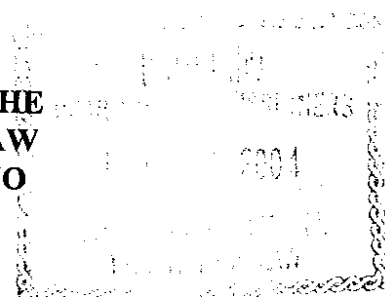


**BOARD OF COMMISSIONERS ON THE  
UNAUTHORIZED PRACTICE OF LAW  
OF THE SUPREME COURT OF OHIO**



**CINCINNATI BAR ASSOCIATION,**  
**Relator,**

v.

**MIDWEST RECOVERY SERVICES,**  
**Respondent.**

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**CASE NO. UPL 03-05**

**DISMISSAL ENTRY**

This matter came on for formal hearing before the Board of Commissioners on the Unauthorized Practice of Law ("Board") on January 21, 2004. Members of the Board present and participating in this decision were Ralph Dill, Chairman, and Judge Michael Corrigan, James Ervin, Steven Nourse, John Polito, and Gerald Draper. Cincinnati Bar Association was represented by Louis F. Solimine and Respondent was represented by Mark R. McBride.

The Relator's Complaint filed May 30, 2003, alleged that Respondent, Midwest Recovery Services ("Midwest"), though not an attorney at law, engaged in the unauthorized practice of law. Respondent filed its answer on June 23, 2004.

Relator alleges that Midwest was engaged in the practice of law as a result of its activities in acquiring and collecting upon existing judgments. Midwest acquired judgments by assignment. It subsequently attempted to collect these judgments by means of garnishment and on at least one occasion, by means of judgment debtor examination. Midwest filed various documents in the Common Pleas Court of Hamilton County, Ohio, to further its collection activities. Some of these activities, if rendered for another, might be considered the practice of law.

However, the facts show that the services were not rendered for another. Midwest is a

sole proprietorship with Curtis L. Derby (hereinafter "Derby") as the sole proprietor.

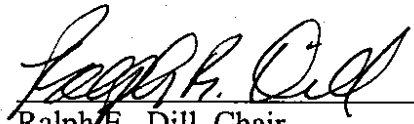
Stipulations, Paragraph 5. Moreover, all the assignments were made by documents which on their face make absolute assignments of the judgments. Stipulations, Paragraph 7. By separate agreement Midwest and each of the assignors agree that Midwest would pay fifty percent (50%) of the amount collected to the assignor. Stipulations, Paragraphs 7 and 9. Midwest agreed to assign the judgment back to the original assignor of that judgment if it failed to collect the amount payable on that judgment. Stipulations, Paragraph 11.

Thus, Midwest or Derby was the owner of the judgments. The fact that he had a contractual duty to pay over part of the amount collected or to reassign the judgments on certain conditions did not affect this ownership.

It is almost too well settled to require citation that the practice of law involves rendering legal services for another person or entity. See, Gov. Bar. R. VII, Section 2 (A). Thus, whether the activities involved would otherwise be the practice of law, they are not the unauthorized practice of law.

Relator cites In re Incorporated Consultants And Lewis Klivans, 6 Ohio Misc. 143, 216 N.E.2d 912 (Cuyahoga County 1965) for the proposition that assignments of this nature are not effective and that activities such as those involved here are the unauthorized practice. However, the Board is neither bound nor persuaded by this case. As a decision of a Common Pleas Court, it is not binding on the Board. Moreover, it fails to make a persuasive argument either by logic or case law for its conclusion that certain assignments should be disregarded. Absent such arguments or authority, the assignments must be taken at face value.

Therefore, it is Ordered that the case at bar is dismissed.

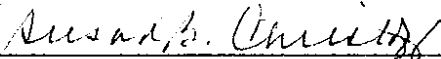


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Ralph E. Dill, Chair  
Board of Commissioners on the  
Unauthorized Practice of Law

## CERTIFICATE OF SERVICE

This is to certify that a copy of the foregoing Report was served by certified mail upon the following this 22<sup>nd</sup> day of December, 2004: Cincinnati Bar Association, Cincinnati Bar Center, 225 East Sixth Street, 2<sup>nd</sup> Floor, Cincinnati, OH 45202; Albert T. Brown, Jr., Brown & Warnock, 2550 Kroger Building, 1014 Vine Street, Cincinnati, OH 45202; Louis F. Solimine, Thompson Hine LLP, Ste 1400, 312 Walnut Street, Cincinnati, OH 45202; Midwest Recovery Services, 799 East McMillan Street, #114, Cincinnati, OH 45206; Mark R. McBride, 608 Madison Avenue, Ste. 1335, Toledo, OH 43604; Maria L. McBride, 8624-B Winton Road, Cincinnati, OH 45231; Office of Disciplinary Counsel, 250 Civic Center Drive, Ste. 325, Columbus, OH 43215; Ohio State Bar Association, Unauthorized Practice of Law Committee, 1700 Lake Shore Drive, Columbus, OH 43204.

  
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Susan B. Christoff, Secretary to the Board