

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

JAMES S. WAYNE, INDIVIDUALLY AND AS)	
TRUSTEE OF THE JAMES S. WAYNE)	
LIVING TRUST)	
)	
COMPLAINANT)	
)	CASE NO.
V.)	2009-00264
)	
HENRY COUNTY WATER DISTRICT NO. 2)	
)	
DEFENDANT)	

O R D E R

On July 6, 2009, James S. Wayne, individually and as trustee of the James S. Wayne Living Trust, filed a formal complaint against Henry County Water District No. 2 ("Henry County"). On August 13, 2009, Henry County filed its answer to the complaint. James T. Simpson, Chief Operating Officer of Henry County, signed the answer on behalf of Henry County. On information and belief, Mr. Simpson is not an attorney licensed to practice law in Kentucky.

No person may engage in the practice of law in Kentucky without first obtaining a license to practice. The practice of law is:

[A]ny service rendered involving legal knowledge or legal advice, whether of representation, counsel or advocacy in or out of court, rendered in respect to the rights, duties, obligations, liabilities, or business relations of one requiring the services.¹

¹ Kentucky Supreme Court Rule 3.020.

It includes, as Kentucky's highest court held in Kentucky State Bar Association v. Henry Vogt Machine Co., 416 S.W.2d 727 (Ky. 1967), the representation of a corporation before a state administrative agency.

[A]ny attorney who is not licensed to practice in the State of Kentucky and who seeks to represent a client or employer before this Commission, must engage a member of the Kentucky Bar Association. It logically follows that if an unlicensed attorney may not represent a client before this Commission, neither may a layman.²

Commission regulations concerning formal complaints incorporate, at least in part, these sentiments. 807 KAR 5:001, Section 12(2), states in part: "Complaints by corporations or associations, or any other organization having the right to file a complaint, must be signed by its attorney and show his post office address." The regulation requires that a corporation or other organization, from the outset of a complaint proceeding, be represented by an attorney.

Based on the above, the Commission finds that Henry County's answer fails to comply with Kentucky law and should not be accepted for filing. We further find that Henry County should be permitted to file an answer that complies with 807 KAR 5:001 within 10 days of the date of this Order. The Defendant's failure to submit a timely answer that complies with this Administrative Regulation will be considered as an admission of all allegations contained in the complaint and will constitute grounds for the entry of an Order granting the Complainant's requested relief.

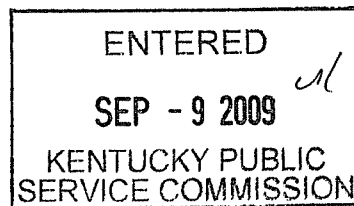
IT IS THEREFORE ORDERED that:

1. The answer of Henry County is rejected.

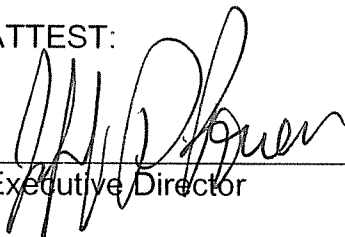
² Administrative Case No. 249, Practice Before the Commission by Attorneys Non-Licensed in the Commonwealth of Kentucky (Ky. PSC June 15, 1981) at 2.

2. Within 10 days of the date of this Order, Henry County shall submit an answer that complies with 807 KAR 5:001. Failure to submit a timely answer that complies with this Administrative Regulation will be considered as an admission of all allegations contained in the complaint and will constitute grounds for the entry of an Order granting the Complainant's requested relief.

By the Commission



ATTEST:



Executive Director

Honorable W. Henry Graddy
W. H. Graddy & Associates
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103 Railroad Street
Midway, KY 40347

James T Simpson
Chief Operating Officer
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