

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

DIXIE REAL PROPERTIES)	
)	
COMPLAINANT)	CASE NO. 2008-00049
V.)	
)	
OAN SERVICES, INC./REDUCED RATE LONG)	
DISTANCE)	
)	
DEFENDANT)	

O R D E R

On February 7, 2008, Dixie Real Properties, LLC (“Dixie”) filed with the Commission a written complaint against OAN Services, Inc./Reduced Rate Long Distance (“Reduced Rate”). In the complaint, Dixie alleges that Reduced Rate switched Dixie’s long-distance service without proper authorization. However, in filing its complaint, Dixie did not have an attorney sign the complaint on the company’s behalf. Finding that an attorney does not currently represent the complainant in this matter, we reject the tendered complaint.

Dixie Real Properties, LLC is a Kentucky limited liability company organized pursuant to KRS Chapter 275.¹ The complaint was signed by Libby R. Case. Ms. Case is not an attorney licensed to practice law in Kentucky.²

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.³

It includes the representation of a corporation before a state administrative agency.⁴

As to its own proceedings, this Commission has adopted a similar position and has required that those representing the interests of others before us be licensed attorneys. In a previous case, the Commission ordered that:

[A]ny attorney who is not licensed to practice in the State of Kentucky and who seeks to represent a client or employer

¹ Based on information provided from the Kentucky Secretary of State. See <http://apps.sos.ky.gov/business/obdb/showentity.aspx?id=0461741&ct=06&cs=99999> (last visited on February 11, 2008).

² The directory of the Kentucky Bar Association does not list any licensed attorney with the name of "Libby R. Case" or "Elizabeth R. Case." The Commission presumes that "Libby" is a common short version of the proper name "Elizabeth." See <http://www.kybar.org/Default.aspx?tabid=26> (last visited February 11, 2008).

³ Kentucky Supreme Court Rule 3.020.

⁴ Kentucky State Bar Association v. Henry Vogt Machine Co., 416 S.W.2d 727 (Ky. 1967). While we find no authority regarding the representation of a limited liability company before an administrative agency, there is a large body of case law that holds that representation of a limited liability company constitutes the practice of law. See Winzer v. EHCA Dunwoody, LLC, 627 S.E.2d 426 (Ga. App. 2006); Gilley v. Shoffner, 345 F.Supp.2d 563 (M.D.N.C. 2004); Sharp v. Bivona, 304 F.Supp.2d 357 (E.D.N.Y. 2004); Kipp v. Royal & Sun Alliance, 209 F.Supp.2d 962 (E.D.Wisc. 2002).

before this Commission must engage a member of the Kentucky Bar Association.⁵

It logically follows that if an unlicensed attorney may not represent a client before this Commission, neither may a layman.⁶

Based on the foregoing facts, the Commission finds that the complaint fails to comply with Kentucky law and Commission rules and, therefore, cannot be accepted for filing.

IT IS THEREFORE ORDERED that:

1. The complaint is rejected for filing.
2. Dixie shall have 15 days from the date of this Order to amend its application to ensure it is signed by an attorney licensed to practice in the state of Kentucky.
3. If Dixie has failed to file within 15 days of the date of this Order an amended complaint that conforms to this Order, this matter shall be closed and removed from the Commission's docket.

Done at Frankfort, Kentucky, this 14th day of February, 2008.

By the Commission

ATTEST:



Executive Director

⁵ Administrative Case No. 249, Practice Before the Commission by Attorneys Non-Licensed in the Commonwealth of Kentucky (Ky. PSC June 15, 1981) at 2. See also Case No. 2004-00348, Howard Keen v. Carroll County Water District #1 (Ky. PSC Oct. 15, 2004).

⁶ See also Commission regulation 807 KAR 5:001, Section 12.