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July 22, 2002

Boxholder
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Dear Inquirer:

In a letter dated August 10, 2001, you requested an opinion from the Committee on Unauthorized Practice of Law relating to three issues:

- (1) whether you can practice law in tribal courts without a license to practice law in Connecticut;
- (2) the appropriate location of your office under these circumstances; and
- (3) the propriety of advertisements in Connecticut for your legal work.

The Committee has relied upon the following facts provided in your letter:

- You are a law student certified pursuant to Connecticut's student practice rules.
- You are employed by an Indian tribe recognized under federal law whose reservation land is contained within the State of Connecticut.
- You plan to take the tribal bar exam and practice tribal law before the tribal courts on tribal lands.

First, you will not violate General Statutes §51-88 if you practice law in tribal courts without a license in Connecticut. Tribal self-government includes the right to establish procedures for tribal courts and regulate the participation of attorneys in those courts.

Federal statute, federal common law and state statute all require us to treat bonafide Indian tribes as sovereign nations and to protect tribal rights to self-determination. Because of the continuing inherent sovereignty of Indian tribes, for example, federal common law forbids states from unlawfully infringing on the right of reservation Indians to make their own laws and be ruled by themState v. Sabastian, 243 Conn. 115, 159 cert. Denied, 118 S.Ct. 856 (1997).

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Although tribal sovereignty does not immunize the Indian tribe from all state interference, state action cannot interfere with the right of tribal Indians to govern themselves under their own laws. Id., 160.

In addition, General Statutes §47-59a explicitly grants Connecticut Indian tribes the right to "determine the tribal form of government." This presumably includes the right to determine who can practice in their courts. The Connecticut Rules of Practice and Connecticut law governing the unauthorized practice of law therefore do not apply on tribal land or in tribal courts.

Second, you may not maintain an office to practice law outside of tribal lands. See Perlah v. S.E.I. Corporation, 29 Conn. App. 43 (1992). In Perlah, the plaintiff attorney sought compensation for legal work performed while the plaintiff was licensed to practice law only in New York. During the representation, the client corporation resided in Connecticut, the attorney worked out of an office in Greenwich, and the attorney created a Connecticut corporation to assist the client in acquiring a New York corporation. Id., 44-45. The appellate court held that "an attorney may not recover compensation for legal services unless he has been admitted to practice in the jurisdiction where the services were rendered." Id., 47. Under the facts in Perlah, the court held that the legal services were "primarily rendered in Connecticut" and therefore involved the unauthorized practice of law.

The Perlah decision does not clarify which facts were dispositive, but the location of the office was clearly an important factor in finding that the transaction took place in Connecticut.

Third, advertising is permissible as long as it is limited to advertisements regarding tribal work that tribal rules permit you to perform. There is authority to support the proposition that advertising alone is sufficient to constitute the unauthorized practice of law if the advertisement is for an activity that amounts to legal services. See Statewide Grievance Committee v. Zadora, 62 Conn. App. 828, 833 (2001). It is the substance of the advertising that determines whether the advertising violates General Statutes §51-88. An attorney not authorized to practice law in Connecticut but advertising that he or she will perform legal work in Connecticut violates §51-88. Id. Advertising for services that you are legally authorized to perform in tribal courts under tribal rules is permissible.

If you have additional information, please feel free to contact the Committee again.

Sincerely,



Carl M. Porto

Chair, Committee on Unauthorized Practice of Law