

February 3, 2005

Unlicensed Practice of Law Standing Committee
State Bar of Georgia
Suite 100
104 Marietta Street, NW
Atlanta, GA 30303

Dear Committee Members:

HALT is a national organization dedicated to helping people handle their legal affairs simply, affordably, and equitably. With 50,000 members nationwide, HALT has been working for over a quarter-century to help consumers of legal services by making the civil justice system more user-friendly. On behalf of consumers in Georgia and elsewhere, we urge the Standing Committee on the Unauthorized Practice of Law to hold that the preparation of articles of incorporation by a nonlawyer for another person does not constitute the unauthorized practice of law.

One problem with requiring that only lawyers provide services such as document preparation is that many people are priced out of the market for lawyers. According to the American Bar Association, each year 38 million low- and moderate-income households need legal help but are denied access to the American civil justice system. The vast majority of Americans who require legal assistance continue to have unmet needs because they simply cannot afford the \$100 or more per hour it takes to hire an attorney. Part of the solution to this crisis in access lies in expanding the availability of less expensive legal services provided by nonlawyers.

For any service in a modern economy, consumers should have access to the broadest possible range of service providers, so that they can find the person who will best meet their needs with regard to quality, price, convenience, and any other criteria that the consumer considers important. If the Bar allows consumers to use only attorneys for the preparation of articles of incorporation, it will take away a number of other options which the consumer should be allowed to consider.

Non-lawyers can perform many services, including the preparation of articles of incorporation, as well as lawyers can. Passing the bar is neither necessary nor sufficient to demonstrate competence at this task. Certainly a veteran corporate accountant is better qualified to draft articles of incorporation

than a recent admittee to the bar; in fact, the accountant is likely to have a better grasp of the relevant law than many corporate attorneys. Why, then, should a consumer be forced to hire an attorney to complete these documents, when her accountant is already familiar with her needs and could draft the articles of incorporation himself?

A prohibition on preparation of documents is even more absurd when applied to those who merely fill in the blanks on preprinted forms rather than drafting the documents from scratch. In today's economy many legal documents, including articles of incorporation, are available as fill-in-the-blank forms or computer software questionnaires that generate a completed form. Asking the questions on such a form and entering the answers is the job of a scrivener, not the practice of law. States such as California and Arizona have thriving legal document preparation industries that are approved by the bar. These legal document preparers serve thousands of customers a year by completing documents such as uncontested divorces, bankruptcies, wills, and articles of incorporation. Numerous other states, such as Virginia, New Jersey, and Kentucky allow nonlawyers to administer real estate closings. Federal bankruptcy courts allow nonlawyers to prepare bankruptcy petitions. There is no reason for Georgia to prohibit a practice that has served consumers well in other parts of the country.

While the original question presented to the UPL Standing Committee concerned any preparation of articles of incorporation by a nonlawyer, the question presented now addresses the preparation of such documents "for remuneration." The change in wording of the question presented indicates that the real concern of the Georgia Bar in this matter is not consumer welfare, but economic protection—or else why would the bar be unconcerned about harm that could befall consumers if an nonlawyer prepares their articles of incorporation for free? Lawyers are, of course, entitled to compete for customers in the marketplace for document preparation. They may even do so by verbally attacking their nonlawyer competition. However, to use the regulatory power of the Georgia Bar to prohibit competition is a disservice to consumers. For that reason, we urge the UPL Standing Committee to find that the preparation of articles of incorporation by nonlawyers is not the unauthorized practice of law.

Sincerely,

Thomas M. Gordon
Senior Counsel