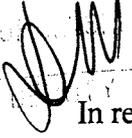


STANDARD FORM NO. 107
BY 

NO: 36222-8-II

COURT OF APPEALS DIV II
OF THE STATE OF WASHINGTON

In re Estates of
ALFRED S. PALMER and SARAH
L. PALMER,
Deceased.
Respondent
DAWN PALMER GOLDEN,
Appellant,
vs.
WORLD GOSPEL MISSION,
Respondent.

No. 36222-8-II
APPELLANT'S BRIEF

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ASSIGNMENTS OF ERROR

1. The Commissioner pro tem wrongfully denied appellant's Petition to Disqualify the World Gospel Mission as a beneficiary of the Palmer Trust contrary to RPC 1.8© and public policy.
2. The Superior Court Judge's denial of Appellant's Motion to Revise the Commissioner Pro Tem's Order Denying Appellant's Petition to Disqualify contrary to RPC 1.8© and public policy.

ISSUES PERTAINING TO ASSIGNMENTS OF ERROR

1. Was Respondent, World Gospel Mission, unlawfully practicing law when it drafted the Palmer Trust, Will and Power of Attorneys?
2. If World Gospel Mission was engaged in the unlawful practice of law when drafting the Palmer Trust, Will and Power of Attorneys, is it in violation RPC 1.8 ©?
3. Is the drafting of the Palmer Trust, Wills and Power of Attorneys by World Gospel Mission against public policy?
4. Should/must World Gospel Mission be disqualified as a beneficiary of the Palmer Trust?

STATEMENT OF THE CASE

In 1997 the Palmers were attending a presentation given by Dan

Fivecoat, the Northwest representative of World Gospel Mission, with regard to estate planning and charitable giving to World Gospel Mission (Cp 38).

As a result, World Gospel Mission prepared the Palmer Trust in question along with pour over wills and durable power of attorneys (14). This is what they do and clearly state that they do not charge for this service (Cp40 & 54). The trust and companion documents were presented to the Palmers by Mr. Fivecoat and signed in Puyallup, Washington on April 3, 1997 and Mr. Fivecoat witnessed the will (40). Mr. Fivecoat at that time resided in Dundee, Oregon and was the Northwest Representative of World Gospel Mission.

Appellant filed a petition to disqualify World Gospel Mission on the basis that Mr. Fivecoat witnessed the will (Cp 39). Upon discovery, request for admission of facts, Appellant's suspicions that the World Gospel Mission drafted the Trust were admitted (Cp 13 &14).

Appellant then filed an amended petition to disqualify World Gospel Mission as a beneficiary of the trust on the basis of World Gospel Mission's unlawful practice of law, its violation of RPC 1.8© and public policy (Cp 1-4).

The matter came on for hearing before a Commissioner Pro Tem on

January 30, 2007. The Commissioner denied the petition (Cp 56) and Appellant then filed a Motion to Revise (Cp 57-59) which was heard by the Court on February 9, 2007. The Court denied the motion by order entered February 22, 2007 (Cp 60& 61) without notice to Appellant's attorney. When Appellant's attorney discovered the entry of the order on April 17, 2007, this appeal was filed. On May 25, 2007, the Court, on motion by appellant's attorney, set aside the February 22, 2007 orders as void and reentered it denying Appellant's Motion to Revise as of May 25, 2007 (Cp 65&66).

ARGUMENT

FACTS ADMITTED BY WORLD GOSPEL Mission PURSUANT TO REQUEST FOR ADMISSION OF FACT AND THE DECLARATIONS OF DAN FIVECOAT AND MARK MOORE.

1. That the power of attorney executed by Alfred Palmer on April 3, 1997 was prepared by the World Gospel Mission and presented by Dan Fivecoat (Cp 13& 14).
2. That the power of attorney executed by Sarah Palmer April 3, 1997 was prepared by the World Gospel Mission and presented by Dan Fivecoat (Cp14).

3. That the living trust executed by Alfred Palmer and Sarah Palmer April 3, 1997 was prepared by the World Gospel Mission and presented by Dan Fivecoat (Cp14).
4. That the will executed by Alfred Palmer April 3, 1997 was prepared by the World Gospel Mission and witnessed and presented by Dan Fivecoat (Cp 14).
5. That the will executed by Sarah Palmer April 3, 1997 was prepared by the World Gospel Mission and witnessed and presented by Dan Fivecoat (Cp 14).
6. That Dan Fivecoat was the representative of The World Gospel Mission, an Illinois Not-For-Profit Corporation with its main office in Marion, Indiana, on April 3, 1997 (Cp 15).
7. That World Gospel Mission has a department for raising funds to support its mission work (Cp 54).
9. That as a part of that, it provides estate planning free of charge (Cp 54).
10. The procedure described by Mark Moore in his declaration describes almost exactly how a law firm or even a sole practitioner handle the preparation of wills, trusts and related

documents (Cp 54&55).

World Gospel Mission drafted the wills and trust in question (Cp 54&55). The actions of World Gospel Mission are almost exactly what the court in Estate of Marks, 957 P2d 235 (1998) held is the practice of law, the activity of selecting a will kit, discussing the distribution of assets and whether it was fair, obtaining the inventory of investments, typing the will, and arranging for the signing and witnessing of the will. The World Gospel Mission is not a law firm nor is Mr. Fivecoat a lawyer. Therefore, World Gospel Mission is engaged in the unlawful practice of law.

In addition, RPC 1.8© states:

“A lawyer who is representing a client in a matter . . . © Shall not prepare an instrument giving the lawyer or a person related to the lawyer as parent, child, sibling, or spouse any substantial gift from a client, including a testamentary gift, except where the client is related to the donee.”

Therefore a lawyer cannot draft a trust in which he is a named beneficiary. World Gospel Mission was acting as a lawyer and is therefore bound by the RPCs. In addition, it was held in the Estate of Marks, supra, that even if

the drafter acted in total good faith, which was the case in Estate of Marks, the drafter of a trust cannot be a beneficiary of said trust as a matter of public policy.

Since the trust distributes the entire estate in percentages and there is no residuary clause, the 75% interest would go by the intestacy statute. The only persons who can inherit under the intestacy statute are the surviving heirs of the decedents, the personal representative, Donald Palmer and Dawn Palmer Golden the appellant.

Granting this appeal will disqualify The World Gospel Mission as beneficiary and increase Donald Palmer's and Dawn Palmer Golden's share of the estate from the present seven and a-half percent each to forty-five percent each.

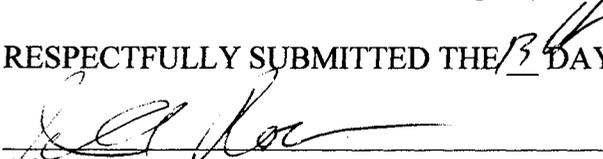
CONCLUSION

The World Gospel Mission admits that it drafted the Palmer Trust and other legal documents, wills and powers of attorneys. That is clearly the unlawful practice of law. In unlawfully practicing law, the World Gospel Mission is subject to the Washington Rules of Professional Conduct. Rule 1.8© states that an attorney cannot draft a document for a client which gives the attorney or immediate family members a substantial gift. In addition, it

was held in the Estate of Marks, supra, that even if the beneficiary acted in total good faith, such designation of beneficiary would be against public policy.

Therefore the court should overturn the orders of the Commissioner Pro Tem and the Court and disqualify the World Gospel Mission as a beneficiary of the Palmer Living Trust and order its 75% interest be paid to Donald Palmer and Dawn Golden Palmer, equally, share and share alike.

RESPECTFULLY SUBMITTED THE 13th DAY OF JUNE, 2007.



John A. Rorem WSBA#4069
Attorney for Appellant, Dawn Palmer Golden

SIGNED AT GIG HARBOR, WASHINGTON ON 13th DAY OF
JUNE, 2007.


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DECLARATION OF MAILING