

**In Re The Matter of
Antonio P. VILLANUEVA**

**Criminal Case No. 88-09
Commonwealth Trial Court**

Decided February 1, 1988

**1. Attorneys - Unauthorized
Practice**

The preparation of corporate articles, by laws, and charter, and other documents necessary to establish a corporation is the practice of law.

**2. Attorneys - Unauthorized
Practice**

The mere holding out by a layman that he is practicing or is entitled to practice law constitutes the unauthorized practice of law.

**3. Attorneys - Unauthorized
Practice**

The charging and receiving of fees is an indication of practicing law.

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COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS
COMMONWEALTH TRIAL COURT

IN RE THE MATTER OF) CRIMINAL CASE NO. 88-09M
)
)
 ANTONIO P. VILLANUEVA,) ORDER
)
 Respondent.)
_____)

This matter was heard on January 29, 1988. The Bar Association was represented by Ms. Marcia Bell. The respondent, Antonio Villanueva, appeared and represented himself.

After hearing the testimony and considering the argument of the respondent, the court finds the following facts to be true.

In December, 1986 or January of 1987, Mr. Soo Ann Kim had some friends from Korea who needed to have a business incorporated. He indicated to the respondent that his friends had contacted attorneys on Saipan but the fees were too high. The respondent approached Mr. Kim and stated that he could get the work done for a lesser amount (\$400) and if Kim would supply the necessary information, he would get the incorporation papers done. Kim did this and two or three weeks

1 later, the respondent returned with the Articles of
2 Incorporation, By-laws, and other necessary documents to
3 incorporate the business to be known as 20th Century Arts.
4 Mr. Kim handed these papers to his friends who then proceeded
5 to have the corporation registered. At the time the respondent
6 gave the documents to Villanueva, Kim paid him \$400 cash.

7 Similar procedures were followed in the following months
8 for two additional corporations known as Global Travel Agency
9 and A's Saipan Corporation. The latter corporation was done at
10 a discount rate and was less than \$400.

11 From the above facts the court concludes as a matter of law
12 the following.

13 The respondent is not an attorney at law nor a trial
14 assistant. In a prior matter he was indefinitely suspended as
15 a trial assistant and has never regained his former status. In
16 Re the Matter of Villanueva, CTC No. 1-82, DCA No. 83-9001.

17 [1,2] The preparation of corporate articles, by laws and charter
18 and other documents necessary to establish a corporation is the
19 practice of law. People ex rel Dunbar v. McCellan, (Colo.)
20 434 P.2d 126. Florida Bar v. Town, (Fla.) 174 So.2d 395. The
21 mere holding out by a layman that he is practicing or is
22 entitled to practice law constitutes the unauthorized practice
23 of law.

24 [3] Of additional significance here is the fact that the
25 respondent charged and received fees three different times and
this is another indication of practicing law without a

license. Re Mathews, (Idaho) 62 P.2d 578; People v. Ring,
(Cal) 70 P.2d 281.

1 The respondent does not really contest any of the above.
2 His sole defense is that he told Kim that he would have the
3 work done by a friend. That friend was a trial assistant.
4 Respondent argues that since the trial assistant performed all
5 the work, he did not engage in the unauthorized practice of law.

6 The court disbelieves this contention for several reasons.
7 The respondent failed to subpoena or arrange for the appearance
8 of the trial assistant and attempted to have the court consider
9 an affidavit which the Bar Association properly objected to.
10 Thus, there is nothing except respondent's assertion that he
11 did not do the work. Even if the court were to believe this,
12 it is evident that the respondent was an integral part of the
13 preparation of the corporate documents by being the gatherer of
14 the information to enable the work to proceed and collected the
15 fees. If the respondent had put Kim in direct contact with a
16 person who was licensed to do the legal work and performed no
17 other function, he would not be guilty of the unauthorized
18 practice of law.

19 The court finds the respondent, Antonio Villanueva, engaged
20 in the unauthorized practice of law and pursuant to 6 CMC
21 § 3307 he is guilty of Contempt of Court.

22 This is the second time the respondent has been before the
23 court and all the above acts were done after the respondent was
24 suspended as a trial assistant. He should have been keenly
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1 aware that his actions were illegal yet he pursued on a course
2 which clearly shows an inability to appreciate the consequences
3 of his actions.

4 This is one of those cases where a substantial fine would
5 be in order plus some time in jail to impress upon the
6 respondent the seriousness of his conduct. Mr. Kim has already
7 been implicated and found guilty of contempt. His sentence was
8 suspended because his involvement was much less culpable.

9 Unfortunately, the contempt of court provision limits the
10 fine to \$100. The one mitigating factor is that apparently the
11 people who had the corporations formed have not been injured
12 and no complaint has been registered with the court as to the
13 actual formation of the three corporations.

14 The respondent does appear to be sorry for his involvement.

15 The respondent is hereby sentenced to six months in jail
16 and fined \$100. The six month term in jail is suspended on the
17 following conditions:

18 1. The \$100 fine is paid no later than March 1,
19 1988. Should the fine not be paid by said date, a warrant
20 for the arrest and commitment of the respondent for six
21 months shall issue.

22 2. The respondent shall abide by all laws of the
23 Commonwealth and specifically not engage in any
24 unauthorized practice of law.

25 Dated at Saipan, MP, this 1st day of February, 1988.


Robert A. Hefner, Chief Judge