



# The North Carolina State Bar

Authorized Practice Committee

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November 2, 2015

David L. Thomas  
President  
Eagle 1 Resources, LLC  
c/o Russell C. Balch, Esq.  
Akridge & Balch, P.C.  
852 North Dean Road, Suite 100  
P.O. Drawer 3738  
Auburn, Alabama 36831-3738

## LETTER OF CAUTION

**Re: Allegation of Unauthorized Practice of Law**  
**File number: 15AP0051**

Dear Mr. Thomas:

On October 21, 2015, the Authorized Practice Committee of the North Carolina State Bar met and considered the results of its investigation into the above referenced matter as it is charged with doing by N.C. Gen. Stat. § 84-37 and the State Bar's rules and regulations. You were informed of the allegations before the Committee and given an opportunity to respond. You responded through your attorney, Russell C. Balch, and the Committee carefully considered both your response and the other information received by it.

Based upon all of the information available to it, the Committee believes these are the pertinent facts in this matter:

You are not an attorney. According to documents filed with the Alabama Secretary of State, you are the president of a company named "Eagle 1 Resources, LLC." The Committee received information that you, through your company, are offering legal opinions concerning the title to real property and the legal rights concerning that real property to other persons, firms, or corporations. Eagle 1 Resources was hired by Time Warner Cable in North Carolina as a consultant and in that capacity you wrote letters to the North Carolina Railroad Corporation providing legal opinions regarding property rights and the legal right to access corridors. You cite and analyze case law and offer your opinion as to how a North Carolina court would rule regarding these matters.

In response to the Committee's inquiry, you indicate through counsel that your "letters to railroads operating in North Carolina, and other correspondence challenging railroad crossing fees, do not constitute the unauthorized practice of

C. Colon Willoughby, Jr., Chair  
Rebecca Eggers-Gryder, Vice-Chair

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law in North Carolina." You contend that the complaint was filed out of "animosity" and that similar complaints in other states have been dismissed. You note that your "customers have decided that they do not want to pay the railroads and they engag[e you] to explain their objections" to the railroad companies. To accomplish this, you assert that you "begin a letter writing campaign that explains the general conditions required for a railroad to charge crossing fees based on general legal principals provided by [Eagle 1 Resources]'s attorneys. [Eagle 1 Resources] then explains to the railroad that [your] customers do not want to pay crossing fees unless those conditions can be proven, and requests copies of documents from railroad [sic] that would establish those conditions."

Thus, you characterize your services as information gathering and communicating on behalf of others. You assert that Eagle 1 Resources "does not advise or give opinions . . . as to the[] legal rights" of your customers. You claim that you are "not drafting any documents or correspondence that impact or affect any party's legal rights[.]" You instead describe your letters as "nasty grams," "letters of inquiry," or "demand letters."

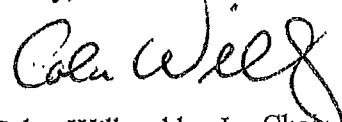
The North Carolina General Statutes prohibit individuals or entities other than active members of the North Carolina State Bar from practicing law or providing or offering to provide legal services in North Carolina to other persons, firms, or corporations. Under the statutes, legal services include giving legal advice or counsel and negotiating the legal rights and liabilities of others on their behalf. The statutes also prohibit a nonlawyer from holding out to others as able to provide legal services for others. N.C. Gen. Stat. §§ 84-2.1, 4, and 5. The Committee concluded that there was probable cause to believe that your activities violated the unauthorized practice of law statutes. Accordingly, it voted to issue this Letter of Caution.

The Committee considered the contentions in your response but found them to be inconsistent with the facts. One of the letters you wrote on behalf of Time Warner Cable, for example, was provided to the State Bar as part of the complaint in this matter. This letter clearly asserts or attempts to assert the legal rights of others on their behalf and cites laws to this end; it goes well beyond rote communication or information gathering. Indeed, it is clear from the evidence that you are asserting the rights of others in your communications with the railroad companies and advising the utilities to defy the railroad's demands for licenses or easements and begin construction without agreement from the railroad. As a result, the utilities are sued. This is the unauthorized practice of law. Accordingly, the Committee expects that you will stop engaging in these activities that violate the unauthorized practice of law statutes as a result of this Letter of Caution. The Committee is using its discretion not to pursue any proceedings for injunction or other action at this time but reserves its right to re-visit your conduct in the future in its discretion should you elect to continue it.

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Thank you for your cooperation in this matter. Please contact the Committee's counsel, David R. Johnson, if you have any questions.

Sincerely,



C. Colon Willoughby, Jr., Chair  
Authorized Practice Committee

CCW/lb