

**NEWMAN, COMLEY & RUTH P.C.**

ATTORNEYS AND COUNSELORS AT LAW

601 MONROE STREET, SUITE 301

P.O. BOX 537

JEFFERSON CITY, MISSOURI 65102-0537

TELEPHONE: (573) 634-2266

FACSIMILE: (573) 636-3306

www.ncrpc.com

ROBERT K. ANGSTEAD  
ROBERT J. BRUNDAGE  
MARK W. COMLEY  
LANETTE R. GOOCH  
CATHLEEN A. MARTIN

MARTIN A. MILLER  
STEPHEN G. NEWMAN  
THOMAS R. O'TOOLE  
JOHN A. RUTH  
ALICIA EMBLEY TURNER

March 16, 2006

**FILED<sup>4</sup>**

MAR 16 2006

The Honorable Colleen M. Dale  
Secretary/Chief Regulatory Law Judge  
Missouri Public Service Commission  
P.O. Box 360  
Jefferson City, MO 65102-0360

Missouri Public  
Service Commission

Re: Case Nos. WC-2006-0082, et al.

Dear Judge Dale:

Please find enclosed for filing in the referenced matters the original and five copies of a Motion for an Order to Show Cause Why the Complaints Should Not Be Dismissed on Grounds that a Complainant is Engaging in the Unauthorized Practice of Law; Respondents' Traverse and Motion to Strike Complainant's Response to Answers of Folsom Ridge and Big Island Homeowners Water and Sewer Association, Inc.; and Respondents' Suggestions in Opposition to Complainants' Motion to Compel.

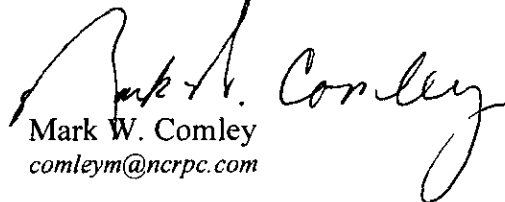
Would you please bring these filings to the attention of the appropriate Commission personnel.

Please contact me if you have any questions regarding this filing. Thank you.

Very truly yours,

NEWMAN, COMLEY & RUTH P.C.

By:

  
Mark W. Comley  
comleym@ncrpc.com

MWC:ab

Enclosure

cc: Office of Public Counsel  
General Counsel's Office  
Cathy Orler  
Cindy Fortney  
Dean Leon Fortney  
Judy Kenter  
Benjamin D. Pugh

Joseph J. Schrader  
Stan Temares  
Ben F. Weir  
Duane Stoyer  
Charles E. McElyea  
Reginald V. Golden

BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF MISSOURI

FILED<sup>4</sup>

MAR 16 2006

Cathy J. Orler, et al. )  
)  
Complainants, )  
v. )  
)  
Folsom Ridge, LLC, )  
)  
and )  
)  
Big Island Homeowners )  
Water and Sewer Association, Inc., )  
f/k/a Big Island Homeowners )  
Association, Inc. )  
)  
Respondents. )

Case No. WC-2006-0082, et al.

Missouri Public  
Service Commission

**MOTION FOR AN ORDER TO SHOW CAUSE WHY THE COMPLAINTS SHOULD  
NOT BE DISMISSED ON GROUNDS THAT A COMPLAINANT IS ENGAGING IN  
THE UNAUTHORIZED PRACTICE OF LAW**

Come now Folsom Ridge, L.L.C and Big Island Homeowners Water and Sewer Association, Inc. and for their above entitled motion respectfully submit the following to the Commission:

1. On January 19, 2006, Ms. Orler filed a pleading entitled Complainants' Response to Respondent's Motion to Continue Holding Pending Motions in Abeyance and for Rescheduling of Second Prehearing Conference. Unmistakably she did so on behalf of not only herself but also on behalf of the other complainants whose complaints have been consolidated under the case number above. This was not an isolated incident.

2. Recently, on March 9, 2006, Ms. Orler filed a motion to compel and a pleading purporting to be a response to Respondents' answers to the complaints. Despite the way in which these pleadings were entitled, it was evident in the prayer of each that Ms. Orler was not only representing herself in this matter but also the other complainants.

3. The practice of law is defined in Section 484.010, RSMo 2000:
  1. The "**practice of the law**" is hereby defined to be and is the appearance as an advocate in a representative capacity or the drawing of papers, pleadings or documents or the performance of any act in such capacity in connection with proceedings pending or prospective before any court of record, commissioner, referee or any body, board, committee or commission constituted by law or having authority to settle controversies.

Although a natural person is qualified to appear in court or in an administrative agency on his or her own behalf, a natural person who is not a licensed attorney cannot represent another whether he or she does so for consideration or not. *Klingensmith v. Thurman*, 339 S.W.2d 300, 301 (St. L. Ct. App.1960).

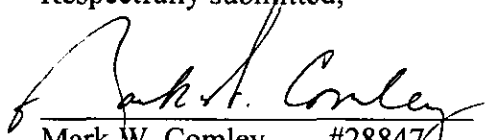
The normal effect of a representative's unauthorized practice of law is to dismiss the cause or treat the particular actions taken by the representative as a nullity. *Strong v. Gilster Mary Lee Corp.*, 23 S.W.3d 234, 241 (Mo.App. E.D.2000); *Joseph Sansone Co. v. Bay View Golf Course*, 97 S.W.3d 531, 532 (Mo.App. E.D.2003).

*Schenberg v. Bitzmart, Inc.* 178 S.W.3d 543, 544 (Mo.App. E.D., 2005)

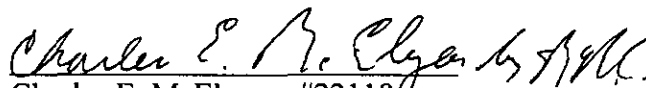
4. Ms. Orler is not a licensed attorney and by regularly filing pleadings on behalf of the other complainants in this matter she is engaging in the unauthorized practice of law.

WHEREFORE, Respondents respectfully request the Commission enter its order to Ms. Orler and the other complainants to show cause why the complaints should not be dismissed on grounds that she has engaged in the unauthorized practice of law.

Respectfully submitted,



Mark W. Comley #28847  
Newman, Comley & Ruth P.C.  
601 Monroe Street, Suite 301  
P.O. Box 537  
Jefferson City, MO 65102  
(573) 634-2266  
(573) 636-3306 FAX



Charles E. McElyea #221180  
Phillips, McElyea, Carpenter & Welch, PC  
85 Court Circle  
P.O. Box 559  
Camdenton, MO 65020  
(573) 346-7231  
(573) 346-4411 FAX

Attorneys for Folsom Ridge, L.L.C. and Big  
Island Homeowners Water and Sewer  
Association, Inc., f/k/a Big Island  
Homeowners Association, Inc.

Certificate of Service

I hereby certify that a true and correct copy of the above and foregoing document was sent via e-mail on this 16th day of March, 2006, to General Counsel's Office at [gencounsel@psc.mo.gov](mailto:gencounsel@psc.mo.gov); and Office of Public Counsel at [opcservice@ded.mo.gov](mailto:opcservice@ded.mo.gov); and via U.S. Mail, postage prepaid, to:

Cathy Orler, 3252 Big Island Drive, Roach, MO 65787,  
Cindy Fortney, 3298 Big Island Drive, Roach, MO 65787,  
Dean Leon Fortney, P.O. Box 1017, Louisburg, KS 66053,  
Judy Kenter, 1794 Big Island Drive, Roach, MO 65787,  
Benjamin D. Pugh, 1780 Big Island Drive, Roach, MO 65787,  
Joseph J. Schrader, 1105 Yorktown Pl., DeLand, FL 32720,  
Stan Temares, 371 Andrews Trail Court, St. Peters, MO 63376,  
Ben F. Weir, 3515 SW Meyer Blvd., Blue Springs, MO 64015,  
Duane Stoyer, 702 Ridgeview Dr., Washington, MO 63090.

