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was appealing from action taken by the county assessor.[12] We agreed with TERC's reasoning that the taxpayer's appeal from the Board to TERC was not from a protest made under chapter 77, article 15, of the Nebraska Revised Statutes.

Our reasoning and holding in *Republic Bank* control the identical jurisdictional issue presented in this appeal.

CONCLUSION

For the reasons more fully set forth in *Republic Bank*, we conclude that TERC did not err in dismissing Prime Alliance's appeal for lack of subject matter jurisdiction, due to the fact that the appeal was not timely filed under § 77-1233.06(4). Accordingly, we affirm.

AFFIRMED.

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[12] *Id.* at 730, 811 N.W.2d at 689.

STATE OF NEBRASKA EX REL. COMMISSION ON UNAUTHORIZED PRACTICE OF LAW, RELATOR, V. BILLY ROY TYLER, RESPONDENT.

811 N.W.2d 678

Filed April 20, 2012. No. S-11-713.

1. **Rules of the Supreme Court: Attorneys at Law.** The Nebraska Supreme Court has the inherent power to define and regulate the practice of law and is vested with exclusive power to determine the qualifications of persons who may be permitted to practice law.
2. ____: ____. The inherent power of the Nebraska Supreme Court to define and regulate the practice of law includes the power to prevent persons who are not attorneys admitted to practice in this state from engaging in the practice of law.
3. **Attorney and Client: Actions.** A legal proceeding in which a party is represented by a person not admitted to practice law is considered a nullity and is subject to dismissal.
4. **Rules of the Supreme Court: Attorneys at Law.** Pursuant to its inherent authority to define and regulate the practice of law in Nebraska, the Nebraska Supreme Court has adopted rules specifically addressed to the unauthorized practice of law.

Original action. Injunction issued.

Sean J. Brennan, Special Prosecutor, for relator.

Billy Roy Tyler, pro se.

HEAVICAN, C.J., WRIGHT, CONNOLLY, STEPHAN, MCCORMACK, and MILLER-LERMAN, JJ.

PER CURIAM.

This is an original action to enjoin the unauthorized practice of law. We conclude that an injunction should issue.

BACKGROUND

On June 2, 2011, pursuant to Neb. Ct. R. § 3-1014(E) (rev. 2008), the Nebraska Supreme Court Commission on Unauthorized Practice of Law (Commission) notified Billy Roy Tyler (Respondent) by certified mail that it had received complaints that he was engaged in activities in Douglas County, Nebraska, which, if true, would constitute the unauthorized practice of law. Specifically, the Commission alleged that Respondent engaged in unauthorized practice by (1) preparing pleadings for other individuals and either filing the documents or preparing them for others to file pro se and (2) representing other individuals in the district court for Douglas County.

The letter informed Respondent that he had 20 days to respond to the allegations and directed him to cease and desist from his actions. The letter also notified Respondent that the Commission was beginning a formal investigation of the allegations. A copy of the Supreme Court Rules on the Unauthorized Practice of Law, Neb. Ct. R. §§ 3-1001 to 3-1021 (rev. 2008), was enclosed with the letter.

The certified mailing was returned to the Commission unclaimed, but the same letter sent by regular U.S. mail was not returned. Respondent left a voice message with counsel for the Commission which confirmed he had received the letter. In the message, Respondent stated that the letter contained "lies and inaccuracies," that it was "slanderous and libelous," and that he intended to sue counsel for the Commission due to its contents.

On June 17, 2011, counsel for the Commission acknowledged by letter Respondent's voice message, noted Respondent's denial of the allegations, and informed Respondent that the

Commission was prepared to proceed with civil injunction proceedings. Respondent was again offered an opportunity to submit information regarding his alleged unauthorized practice to counsel for the Commission. The June 17 certified mailing was returned to the Commission unclaimed, but the same letter sent by regular U.S. mail was not returned.

On August 8, 2011, the Commission filed a "Petition for Injunctive Relief" in this court pursuant to § 3-1015. The petition stated the Commission had made findings that Respondent had engaged in the unauthorized practice of law. Specifically, the Commission alleged that from October 15, 2009, to the present,

> (A) The Respondent has been and is giving advice or counsel, direct or indirect, to other persons as to the legal rights of those persons, where a relationship of trust or reliance exists between the Respondent and the persons to which such advice or counsel is given;
>
> (B) The Respondent has engaged in selecting, drafting, completing, and/or filing, for other persons, legal documents which affect the legal rights of those persons;
>
> (C) The Respondent has appeared in court on behalf of parties to legal matters;
>
> (D) The Respondent is not licensed to practice law in the state of Nebraska and thus, is unauthorized to engage in the conduct referred to herein.

An alias summons was personally served on Respondent by the Douglas County sheriff's office on October 19, 2011, after both a prior attempt at personal service and an attempt at service by certified mail failed. Pursuant to § 3-1015(C), Respondent's answer to the petition was due 30 days after service, which was November 18, 2011. On October 25, Respondent filed a document entitled "Motion to appoint Counsel & for inspection & discovery." Respondent did not file an answer to the petition.

Based on Respondent's failure to file an answer, the Commission filed a "Motion for Summary Judgment and Civil Injunction" on December 2, 2011. The motion alleged that Respondent was in default by his failure to answer the petition. The Commission sought an order of this court enjoining

Respondent from engaging in the unauthorized practice of law. No response to this motion was filed by Respondent.

On February 29, 2012, this court entered an order requiring Respondent to show cause within 20 days as to why the court should not dispose of the matter pursuant to § 3-1015(D) and grant the petition for injunctive relief based on Respondent's failure to file a written answer. On the same date, the court denied Respondent's "Motion to appoint Counsel & for inspection & discovery."

In response to this court's order of February 29, 2012, Respondent filed a document captioned "Traverse to 2-29-12 order" in which he stated, "No Evidence Counsel Hearing No due Process am suing!" To that pleading, Respondent attached what appears to be a 42 U.S.C. § 1983 (2006) petition to be filed in the U.S. District Court for the District of Nebraska and an in forma pauperis request in that court.

DISPOSITION

[1-3] This court has the inherent power to define and regulate the practice of law and is vested with exclusive power to determine the qualifications of persons who may be permitted to practice law.[1] This includes the power to prevent persons who are not attorneys admitted to practice in this state from engaging in the practice of law.[2] A legal proceeding in which a party is represented by a person not admitted to practice law is considered a nullity and is subject to dismissal.[3] This is not for the benefit of lawyers admitted to practice in this state, but "'"for the protection of citizens and litigants in the administration of justice, against the mistakes of the ignorant on the one

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[1] *State ex rel. Comm. on Unauth. Prac. of Law v. Yah*, 281 Neb. 383, 796 N.W.2d 189 (2011); *State ex rel. Hunter v. Kirk*, 133 Neb. 625, 276 N.W. 380 (1937); *In re Integration of Nebraska State Bar Ass'n*, 133 Neb. 283, 275 N.W. 265 (1937); *State ex rel. Wright v. Barlow*, 131 Neb. 294, 268 N.W. 95 (1936).

[2] *Yah, supra* note 1.

[3] *Id.* See, also, *Anderzhon/Architects v. 57 Oxbow II Partnership*, 250 Neb. 768, 553 N.W.2d 157 (1996); *Back Acres Pure Trust v. Fahnlander*, 233 Neb. 28, 443 N.W.2d 604 (1989); *Niklaus v. Abel Construction Co.*, 164 Neb. 842, 83 N.W.2d 904 (1957).

hand, and the machinations of unscrupulous persons on the other . . . .'"'"[4]

[4] Pursuant to our inherent authority to define and regulate the practice of law in Nebraska, this court has adopted rules specifically addressed to the unauthorized practice of law.[5] At the core of these rules is a general prohibition: "No nonlawyer shall engage in the practice of law in Nebraska or in any manner represent that such nonlawyer is authorized or qualified to practice law in Nebraska except as may be authorized by published opinion or court rule."[6] "Nonlawyer" is defined by the rules as "any person not duly licensed or otherwise authorized to practice law in the State of Nebraska," including "any entity or organization not authorized to practice law by specific rule of the Supreme Court whether or not it employs persons who are licensed to practice law."[7] The term "practice of law" is defined as

> the application of legal principles and judgment with regard to the circumstances or objectives of another entity or person which require the knowledge, judgment, and skill of a person trained as a lawyer. This includes, but is not limited to, the following:
>
> (A) Giving advice or counsel to another entity or person as to the legal rights of that entity or person or the legal rights of others for compensation, direct or indirect, where a relationship of trust or reliance exists between the party giving such advice or counsel and the party to whom it is given.
>
> (B) Selection, drafting, or completion, for another entity or person, of legal documents which affect the legal rights of the entity or person.
>
> (C) Representation of another entity or person in a court . . . .[8]

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[4] *Yah, supra* note 1, 281 Neb. at 391, 796 N.W.2d at 196, quoting *Niklaus, supra* note 3.

[5] See §§ 3-1001 to 3-1021.

[6] § 3-1003.

[7] § 3-1002(A).

[8] § 3-1001.

Our unauthorized practice rules include civil enforcement procedures under which the Commission may institute civil injunction proceedings in this court,[9] as it has done in this case. The rules provide that within 30 days after service of a petition alleging unauthorized practice of law, the "respondent shall file . . . a written answer admitting or denying the matter stated in the petition."[10] The rules further provide that if no written answer is filed, as is the case here, this court "upon its motion or upon the motion of the Commission or its counsel, shall decide the case, granting such relief and issuing such other orders as may be appropriate."[11] That is the posture in which this case comes before us now.

Accordingly, we find the following facts as alleged in the petition and not denied by Respondent to be true:

> (A) The Respondent has been and is giving advice or counsel, direct or indirect, to other persons as to the legal rights of those persons, where a relationship of trust or reliance exists between the Respondent and the persons to [whom] such advice or counsel is given;
>
> (B) The Respondent has engaged in selecting, drafting, completing, and/or filing, for other persons, legal documents which affect the legal rights of those persons;
>
> (C) The Respondent has appeared in court on behalf of parties to legal matters;
>
> (D) The Respondent is not licensed to practice law in the state of Nebraska[.]

Based upon these facts, we conclude that Respondent is a nonlawyer who has repeatedly engaged in the practice of law as defined by § 3-1001(A), (B), and (C) and that there is a very real risk of harm to the public if his conduct is not enjoined.

Accordingly, by separate order entered on April 19, 2012, Respondent is enjoined from engaging in the unauthorized practice of law in any manner, including but not limited to the

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[9] §§ 3-1015 to 3-1018.

[10] § 3-1015(C).

[11] § 3-1015(D).

following: (1) giving advice or counsel to another entity or person as to the legal rights of that entity or person or the legal rights of others for compensation, direct or indirect, where a relationship of trust or reliance exists between Respondent and the party to whom it is given; (2) selecting, drafting, or completing, for another entity or person, legal documents which affect the legal rights of the entity or person; and (3) representing another entity or person in a court, in a formal administrative adjudicative proceeding or other formal dispute resolution process, or in an administrative adjudicative proceeding in which legal pleadings are filed or a record is established as the basis for judicial review. Noncompliance with this order of injunction shall constitute contempt punishable under this court's inherent power and § 3-1019.

INJUNCTION ISSUED.