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June 3, 2010

REDACTED

Yvonne K. Fenner  
Executive Officer, Court Reporters Board of California  
2535 Capitol Oaks Drive, Suite 230  
Sacramento, CA 95833

**Re: Illegal Activity of U.S. Legal Support**

Dear Ms. Fenner:

By this letter, I and the Deposition Reporters Association of California respectfully request that the Board take immediate action against US Legal Support (“US Legal”) for its clear violation of CCR Title 16, Article 8. Section 2475(b)(8).

On August 26 of last year, an employee or agent of US Legal Support sent the following email to the office of XXXX in San Jose:

***From: Ameen Hofioni [mailto:ahofioni@uslegalsupport.com]  
Sent: Wednesday, August 26, 2009 11:33 AM***

***Subject:***

***BTW...for your first Deposition with US Legal....I’m dropping off a “First Time Depo” gift card for \$200. We are ready for you.***

This email was forwarded from a staff person at the XXXX firm to XXXXX, CSR, who can be reached at (XXX) XXX-XXXX.

On September 29, 2009, US Legal posted the following notice on a website called “CSRnation” that it needed a licensee in the San Jose area to cover a deposition at the XXXX San Jose office:

***/-----Original Message-----***

***Sent: Tuesday, September 29, 2009 11:58 AM***

***To: XXXX@XXXXXX***

***Subject: 1pm XXXX Job today in San Jose: Cover Depos (The bay area)***

***A message from US Legal Support to all members of Cover Depos (The bay area) on CSRnation!***

***call Claudia at US Legal Support at 415-692-4953 if interested.***

Ms. XXXX would prefer to keep the identity of the staff person who forwarded the email to her confidential. Whether the email was received can be confirmed independently by issuing a

subpoena to the XXXX firm and the violation can be confirmed by obtaining information that they booked a deposition with US Legal after receiving this email.

Section 2475(b)(8) provides that US Legal may not “directly or indirectly give” “any” “gift” or “anything of value” to “any person or entity associated with a proceeding being reported[.]” With emphasis added, the regulation reads in full:

Other than the receipt of compensation for reporting services, ***neither directly or indirectly give*** nor receive ***any gift***, incentive, reward, or ***anything of value to*** or from ***any person or entity associated with a proceeding being reported.*** Such persons or entities shall include, but not limited to, attorneys, employees of attorneys, clients, witnesses, insurers, underwriters, or any agents or representatives thereof. Exceptions to the foregoing restriction shall be as follows: (A) giving or receiving items that do not exceed \$100 (in the aggregate for any combination of items given and/or received) per above-described person or entity per calendar year; or (B) providing services without charge for which the certified shorthand reporter reasonably expects to be reimbursed from the Transcript Reimbursement Fund, Sections 8030 et seq. of the Code, or otherwise for an "indigent person" as defined in Section 8030.4(f) of the Code.

The gift card is called a “gift.” It is a gift. It therefore qualifies as a “gift” under this Section. It is, in any event, certainly a “thing of value.” The email demonstrates that it was provided to the recipient “directly” by an employee, agent, or representative of US Legal (see the email, “uslegal.support.com”) “for” their business with US Legal.

The amount is \$200; therefore, the otherwise illegal gift does not qualify for the exemption for gifts under \$100 or any other exception.

US Legal as a corporation is required by statute to abide by Section 2475(b)(8). US Legal is a “professional corporation”<sup>1</sup> rendering “professional services.”<sup>2</sup>

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<sup>1</sup> “(b) ‘Professional corporation’ means a corporation organized under the General Corporation Law or pursuant to subdivision (b) of Section 13406 that is engaged in rendering professional services in a single profession, except as otherwise authorized in Section 13401.5, pursuant to a certificate of registration issued by the governmental agency regulating the profession as herein provided and that in its practice or business designates itself as a professional or other corporation as may be required by statute. However, any professional corporation or foreign professional corporation rendering professional services by persons duly licensed by the Medical Board of California or any examining committee under the jurisdiction of the board, the Osteopathic Medical Board of California, the Dental Board of California, the California State Board of Pharmacy, the Veterinary Medical Board, the California Architects Board, the Court Reporters Board of California, the Board of Behavioral Sciences, the Speech-Language Pathology and Audiology Board, the Board of Registered Nursing, or the State Board of Optometry shall not be required to obtain a certificate of registration in order to render those professional services ....”

Beyond the legal definition, proof of US Legal’s status as a professional corporation can be inferred from its lack of registration with the Board. Only “professional corporations” are exempt, per this statute.

<sup>2</sup> Corporations Code, section 13401(a), defines “professional services” this way:

“(a) ‘Professional services’ means any type of professional services that may be lawfully rendered only pursuant to a license, certification, or registration authorized by the Business and Professions Code ...”

Corporations Code section 13410(a) provides as follows (emphases supplied):

13410. (a) A professional corporation ... qualified to render professional services in this state ***shall be subject to*** the applicable rules and regulations adopted by, ***and all the disciplinary provisions of the Business and Professions Code expressly governing the practice of the profession in this state***, and to the powers of, the governmental agency regulating the profession in which such corporation is engaged. Nothing in this part shall affect or impair the disciplinary powers of any such governmental agency over licensed persons or any law, rule or regulation pertaining to the standards for professional conduct of licensed persons or to the professional relationship between any licensed person furnishing professional services and the person receiving such services.

Under this statute, a “professional corporation” is subject to “all the disciplinary provisions of the Business & Professions Code expressly governing the practice of the profession in this state[.]” Note the reference to “all” of the provisions. The statute makes no exceptions.

Section 8046 of the Business & Professions Code is a “disciplinary provision[] of the Business & Professions Code expressly governing the practice of the profession in this state[.]” It regulates corporate *qua* corporate behavior and provides:

8046. A shorthand reporting corporation shall not do or fail to do any act the doing of which or the failure to do which would constitute unprofessional conduct under any statute, rule or regulation now or hereafter in effect which pertains to shorthand reporters or shorthand reporting. In conducting its practice it shall observe and be bound by such statutes, rules and regulations to the same extent as a person holding a license under this chapter.

Thus, anything “shorthand reporting corporation[s]” are forbidden to do under Business & Professions Code section 8046 is likewise made applicable to “professional corporations” pursuant to Corporations Code section 13410(a). Because “shorthand corporations” pursuant to section 8046 must not do anything that would “constitute unprofessional conduct,” so too must “professional corporations” abide by this “Business & Professions Code [section] expressly governing the practice of the profession in this state[.]”

More broadly, it is the self-evident intent of the Legislature as expressed twice through both Corporations Code section 13401 and 8046 to ensure that corporations – however organized – are subject to the same rules as licensees.

Furthermore, the Rules of Professional Conduct are essential to ensure the integrity of the deposition reporting profession specifically and the judicial process generally. They exist to ensure that deposition professionals – extensions of the court in a private setting – have no stain or suspicion upon their complete and total impartiality. One California legislative committee has identified the importance of the deposition profession this way:

An accurate written record of who said what in court is essential if the outcome of a judicial proceeding is to be accepted by the litigants and the public as non-arbitrary, fair, and credible.

In criminal cases, for example, courts of appeal rely exclusively upon a written brief and a written transcript to adjudicate the lawfulness of what occurred at trial. A conviction – and thus in some instances the life or death of an accused – can stand or fall based entirely upon what a witness said, what a lawyer said, what a juror said, or what a judge said, as solely reflected in the written transcript.

In civil cases, millions of dollars, life-long careers, and the fate of whole business enterprises can hinge on what was said or what was not said in a deposition or at trial.

([http://www.sen.ca.gov/ftp/SEN/COMMITTEE/JOINT/SUNSET\\_REVIEW/\\_home/pubs.htm](http://www.sen.ca.gov/ftp/SEN/COMMITTEE/JOINT/SUNSET_REVIEW/_home/pubs.htm))

For these reasons, we respectfully request that the Board take immediate and appropriate action against US Legal for corporate behavior patently in violation of this Board's Rules of Professional Conduct.

Yours truly,

Antonia Pulone, CSR 3926  
DRA Past President & Depo Diplomat