

1 IN THE CIRCUIT COURT OF THE STATE OF OREGON FOR JACKSON COUNTY

2 OREGON STATE BAR, a public corporation,)

3 Plaintiff,)

4 v.)

5 CONSUMER SOUNDING BOARD, INC.,)

6 an Oregon non-profit corporation;)

7 C.L.O.U.T., INC. (Consumers)

8 Learning to Overcome Unfair Trade),)

9 an Oregon corporation; LEGAL SELF-)

10 HELP COUNCIL, INC., an Oregon)

11 corporation; and PEGGY ANN MUSE,)

12 aka MARGARET ANN MUSE,)

13 Defendants.)

Case No. 82-911NJ-2

DECREE AND PERMANENT INJUNCTION

12 This matter comes before the Court on the stipulation of the parties that a Decree and Permanent Injunction be issued. Based upon such stipulation, and the records and files herein, and the Court being duly and fully advised in the premises, the Court hereby

17 FINDS as follows:

18 1. Plaintiff, Oregon State Bar, is a public corporation and an instrumentality of the judicial department of the government of the State of Oregon, and is lawfully empowered to maintain this suit as Plaintiff.

22 2. The Board of Governors of the Oregon State Bar authorized the initiation and prosecution of this suit at its regular meeting in March, 1982.

25 3. Defendant Muse is a resident of Jackson County, Oregon. She has not been admitted to practice before any

1 court, or a member of the Oregon State Bar. She is an owner,
2 shareholder, director, officer, agent or employee of one or
3 more of the corporate defendants named herein.

4 4. Defendant, Consumer Sounding Board, Inc., is an
5 Oregon non-profit corporation in good standing doing business
6 in Jackson County, Oregon.

7 5. Defendant, C.L.O.U.T., Inc., is an Oregon cor-
8 poration incorporated on December 4, 1978, under the name of
9 Consumer Sounding Board, Inc.; said corporation's name was
10 changed to C.L.O.U.T., Inc., by Articles of Amendment filed
11 with the Corporation Commission on November 9, 1979. C.L.O.U.T.,
12 Inc. was involuntarily dissolved by order of the Corporation
13 Commissioner on September 1, 1981.

14 6. Defendant, Legal Self-Help Council, Inc., is
15 an Oregon corporation in good standing, incorporated on March 1,
16 1982.

17 7. Prior hereto, Defendants, Consumer Sounding
18 Board, Inc., C.L.O.U.T., Inc., and Legal Self-Help Council, Inc.,
19 have, separately and in conjunction with each other, have, or
20 may have, engaged in various activities constituting the prac-
21 tice of law, in violation of ORS 9.160. The Court makes no
22 finding as to whether any such violation was willful.

23 8. Prior hereto, Defendant Muse has, or may have,
24 individually and as an owner, shareholder, director, officer,
25 agent or employee of the above named corporate Defendants,
26 engaged in various activities constituting the practice of

DECREE AND PERMANENT INJUNCTION - Page 2

1 law, in violation of ORS 9.160. The Court makes no finding as
2 to whether such violation was willful.

3 9. The interest and protection of the general
4 public require that legal advice, counsel, and services be
5 rendered to the public and individual members thereof by quali-
6 fied persons, learned in the law, who are duly admitted to
7 practice as attorneys at law after meeting high and exacting
8 standards and requirements as to their character, education and
9 knowledge of the law, and who further are, after admission to
10 the practice of law, held and bound to continuously meet and
11 exceed such standards by the discipline and control of the
12 Plaintiff Bar Association and of the Supreme Court and lower
13 courts of the State of Oregon. Any acts and practices of the
14 above named Defendants in violation of ORS 9.160, and otherwise
15 constituting the practice of law, are illegal, unauthorized and
16 constitute a present and serious risk of injury and harm, finan-
17 cial and otherwise, to the citizens of the State of Oregon.

18 10. The parties hereto have stipulated to the entry
19 of this Decree, and agree that its terms and provisions accurate-
20 ly reflect the law of this State, and that the entry of this
21 Decree is in the best interests of the parties and of the gen-
22 eral public. It is acknowledged, however, that Plaintiff's
23 stipulation to the entry of this Decree does reflect neither
24 endorsement nor disapproval by the Oregon State Bar of the sale
25 or use of divorce, bankruptcy or other legal "kits" containing
26 legal forms.

DECREE AND PERMANENT INJUNCTION - Page 3

1 11. This Court has jurisdiction over the subject
2 matter of this suit, and over the persons of each Defendant.

3 Based upon the above and foregoing findings, and
4 good cause appearing, it is hereby

5 ORDERED, ADJUDGED AND DECREED:

6 1. Defendants, Consumer Sounding Board, Inc.,
7 C.L.O.U.T., Inc. (Consumers Learning to Overcome Unfair Trade),
8 Legal Self-Help Council, Inc., and Peggy Ane Muse, aka Margaret
9 Ann Muse, and each of them, are permanently and forever enjoined
10 from, either directly or through any business or subsidiary
11 owned or operated by them or through any agent or employee, en-
12 gaging in the unlawful practice of law in violation of ORS 9.160,
13 or otherwise, including, but not limited to, the following par-
14 ticulars:

15 a. The appearance in court, or the preparation,
16 drafting, or selection, in whole or in part, directly or in-
17 directly of any complaint, answer, petition, response, or other
18 pleading or paper in any litigation, adoption, probate or other
19 proceeding, except as may be specifically authorized by law.

20 b. The preparation, drafting or selection,
21 in whole or in part, directly or indirectly, of any will, trust,
22 contract, conveyance, article of incorporation, legal form, or
23 document of any similar nature, except as may be specifically
24 authorized by law.

25 c. Any personal contact or communication between
26 Defendants and their customers or other persons in the nature

DECREE AND PERMANENT INJUNCTION - Page 4

1 of consultation, recommendation, explanation, selection of
2 particular forms as documents, advice or other assistance in
3 all matters regarding such person's legal rights, remedies,
4 duties or obligations, where the rendering of such advice or
5 assistance or selection of forms or documents involves the
6 application of legal principles.

7 2. Nothing in this Decree shall restrict the right
8 of Defendants, or any of them, to publish and sell kits con-
9 taining manuals and/or forms designed to enable a person to
10 complete and file the forms necessary to secure a dissolution of
11 marriage, change of name, bankruptcy adjudication, or similar
12 uncontested or ex parte proceeding; provided, however, that
13 all such kits shall contain written statements to the effect that
14 Defendants are not attorneys-at-law or members of the Oregon
15 State Bar, and not authorized to render any advice or other
16 assistance with regard to the kits; and further provided that
17 all personal contact between Defendants and persons purchasing
18 such kits in the nature of consultation, explanation, recom-
19 mendation or advice or other assistance in selecting particular
20 forms, in filling out any part of the forms, or suggesting or
21 advising how the forms should be used in solving the particular
22 person's problem shall be, and hereby is, strictly enjoined.

23 3. No costs herein shall be awarded to any party.

24 DATED: Nov 12, 1982.

25
26 G. W. Wolfeld
Circuit Judge

JACKSON COUNTY, OREGON
RECORDED-FILED
1982 NOV 15 PM 11:40
CLERK OF COUNTY CLERK

DECREE AND PERMANENT
INJUNCTION - Page 5

HEFFERNAN, FOWLER, ALLEY & MCNAIR
ATTORNEYS AT LAW
TELEPHONE (503) 776-4075
408 WEST TENTH STREET P. O. BOX 1746
MEDFORD, OREGON 97501

This instrument is a correct copy of the
original on file in this office.
TEST: NOV 15 1982
WALDENE TERRY, Jackson County Clerk
Clerk of the Circuit Court
State of Oregon - County of Jackson

1 The parties hereto stipulate to, and move the Court for, entry
2 of the foregoing Decree:

3 HEFFERNAN, FOWLER, ALLEY & MCNAIR

4
5 BY: _____
6 Frank R. Alley, III, of
7 Attorneys for Plaintiff

8 CONSUMER SOUNDING BOARD, INC.

9 BY: _____
10 Its _____

11 C.L.O.U.T., INC.

12
13 BY: _____
14 Its _____

15 LEGAL SELF-HELP COUNCIL, INC.

16 BY: _____
17 Its _____

18
19 _____
20 PEGGY ANN MUSE

21 Approved as to Form:

22 DAVIS, AINSWORTH, PINNOCK &
23 GILSTRAP

24 BY: _____
25 Donald M. Pinnock, of
26 Attorneys for Defendants

CIRCUIT COURT OF OREGON

JACKSON COUNTY

3	STATE OF OREGON, ex rel.)	
	Dave Frohnmayer, Attorney)	No. 82-4247-NJ-2
4	General for the State of)	No. 87-5460-Z
	Oregon, and OREGON STATE)	
5	BAR, a public corporation,)	
)	
6	Plaintiffs,)	JUDGMENT ON HEARING
)	FOR CONTEMPT OF COURT
7	v.)	
)	
8	Peggy Ann Muse,)	
)	
9	Defendant.)	

10 IT IS HEREBY ORDERED AND ADJUDGED that defendant, Peggy
 11 Ann Muse, by the conduct described in this court's Findings of
 12 Fact and Conclusions of Law, which are incorporated herein by
 13 reference, is guilty beyond a reasonable doubt, of five (5)
 14 separate and willful acts of contempt of this court's order in
 15 Case Number 82-4247-NJ-2, pursuant to the provisions of ORS
 16 33.010(e) and ORS 33.030.

17 IT IS FURTHER ORDERED AND ADJUDGED that defendant, Peggy
 18 Ann Muse, by the conduct described in this court's Findings of
 19 Fact and Conclusions of Law, is guilty beyond a reasonable
 20 doubt, of five (5) separate and willful acts of contempt of
 21 this court's order and violation of an Assurance of Voluntary
 22 Compliance in Case Number 87-5460-Z, pursuant to the provisions
 23 of ORS 646.632(4), ORS 33.010(e), ORS 33.030, and ORS
 24 646.642(1).

25 Plaintiffs Oregon State Bar and State of Oregon are
 26 entitled, as aggrieved parties under ORS 33.110, to

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 PHONE 378-4888

1 defendant shall be allowed to transfer probation to another
2 state.

3 6. A requirement that defendant abide by all rules and
4 regulations imposed by her probation officer which are
5 reasonably related to ensuring defendant's success on probation.

6 7. A requirement that defendant shall obey all laws.

7 8. The following prohibitions:

8 Peggy Muse, or any business or entity in which she holds an
9 interest, shall be restrained and enjoined from the
10 advertising, offering or performing of paralegal work, legal
11 assistance work, or other law or consumer-related service
12 including, but not limited to the following:

13 (a) The offering or selling of legal forms or
14 documents or materials containing instruction or
15 advice about the selection or completion of legal
16 forms or documents;

17 (b) Meeting with or advising other persons or
18 entities about consumer complaints or legal matters;

19 (c) Assisting other persons or entities in the
20 completion or drafting of documents;

21 (d) Any activity involving the exercise of discretion
22 concerning the property or other legal rights of other
23 persons or entities;

24 (e) Appearing in court or any administrative
25 proceeding or arbitration on behalf of other persons
26 or entities;

- 1 (f) Preparing or typing of pleadings, other papers
2 incident to actions or special proceedings,
3 conveyances, or other legal instruments;
4 (g) Preparing tax returns for or giving tax advice to
5 other persons or entities;
6 (h) Performing financial or estate planning for other
7 persons or entities;
8 (i) Having personal contact with other persons or
9 entities in the nature of consultation, explanation,
10 recommendation or advice or other assistance in
11 selecting documents related to legal or consumer
12 matters, filling out or drafting any part of such
13 documents or suggesting or advising how the documents
14 should be used in solving particular problems;
15 (j) Maintaining any legal action on behalf of other
16 persons or entities.

17 The Court finds that the above conditions to probation are
18 necessary to ensure the successful completion of probation by
19 defendant.

20 IT SHALL BE THE FURTHER SENTENCE OF THE COURT, that
21 sentence shall be suspended as to counts 3, 4 and 5 of contempt
22 on Case Number 82-4247-NJ-2 and that defendant be placed on two
23 (2) years of formal probation and subject to the same
24 conditions of probation enumerated above on count 2.

25 Defendant shall be sentenced to pay a \$10,000 civil
26 penalty, pursuant to ORS 646.642(2), for each of five

1 violations of Order Number 87-5460-Z for a total of \$50,000.
2 This penalty shall be paid to the State of Oregon, Department
3 of Justice and applied pursuant to ORS 180.180 and ORS
4 646.642. Further sentence based on counts 1 - 5 of Case Number
5 87-5460-Z, pursuant to ORS 33.020, shall be suspended and
6 defendant shall be placed on bench probation for a period of
7 three (3) years and subject to the following conditions of
8 probation:

9 1. Strict compliance with the terms and conditions of the
10 Decree and Permanent Injunction Order, Case Number
11 82-4247-NJ-2, and the Assurance of Voluntary Compliance, Case
12 Number 87-5460-Z.

13 2. Obey all laws.

14 3. Strict compliance with the provisions of the Oregon
15 Unlawful Trade Practices Act, ORS 646.605, et seq.

16 The Oregon State Bar is awarded judgment against Peggy Ann
17 Muse for its reasonable attorney fees, pursuant to ORS 9.166.
18 An affidavit detailing those fees shall be submitted to the
19 court within 10 days after entry of judgment.

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1 The State of Oregon is awarded judgment against Peggy Ann
2 Muse for its reasonable attorney fees, pursuant to ORS
3 646.642(2). An affidavit detailing those fees shall be
4 submitted to the court within 10 days after entry of judgment.

5 IT IS SO ORDERED this ____ day of _____, 1990.

6

7

8

Mitchell Karaman
Circuit Court Judge

9

10

Prepared by:

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James A. Prunty #84128
Assistant Attorney General
Oregon Department of Justice
Financial Fraud Section
100 Justice Building
Salem, Oregon 97310
Telephone: (503) 378-4732

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PHONE 378-4400

Page

CIRCUIT COURT OF OREGON

JACKSON COUNTY

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STATE OF OREGON, ex rel.)	
Dave Frohnmayer, Attorney)	No. 82-4247-NJ-1
General for the State of)	No. 87-5460-Z
Oregon, and OREGON STATE)	
BAR, a public corporation,)	FINDINGS OF FACT AND
)	CONCLUSIONS OF LAW FOR
Plaintiffs,)	CONTEMPT HEARING
)	
v.)	
)	
Peggy Ann Muse,)	
)	
Defendant.)	

10 On July 27, 1990 defendant was served with show cause
 11 orders for a hearing on contempt of this court's orders, Case
 12 Number 82-4247-NJ-2, and Case Number 87-5460-Z; and a show
 13 cause order for hearing on preliminary injunction, Case Number
 14 90-2458-L-3. On August 20, 1990 defendant, through counsel,
 15 requested and was granted a postponement of these hearings
 16 until September 7, 1990. On September 5, 1990, defendant filed
 17 a petition in the Federal District Court for the Eastern
 18 District of California in Case Number 90-2458-L-3. The court
 19 has determined not to hear that case pending a decision by the
 20 federal court on defendant's petition.

21 A hearing was held on September 7, 1990 before the
 22 Honorable Mitchell Karaman on an Order for defendant, Peggy Ann
 23 Muse, to show cause why she should not be held in contempt of
 24 this court's 1982 Decree and Permanent Injunction, and 1987
 25 Assurance of Voluntary Compliance. The State of Oregon
 26 appeared through James A. Prunty, Assistant Attorney General

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1 and the Oregon State Bar appeared through Frank R. Alley, III.
2 Defendant Peggy Ann Muse appeared without an attorney.

3 The Court finds that plaintiff Oregon State Bar had
4 standing to bring a contempt action based on each of the 1982
5 and 1987 Orders of this Court. The Court also finds that the
6 State of Oregon had standing to bring this contempt action
7 based on each of the 1982 and 1987 Orders of this Court.

8 Before the hearing defendant requested postponement for two
9 reasons. The first was that case numbers 82-4247-NJ-2 and
10 87-5460-Z had been removed to the United State District Court
11 for the Eastern District of California. The second was that
12 defendant was not represented by counsel, her attorney having
13 withdrawn from any further representation of defendant on
14 Wednesday, September 5, 1990.

15 A colloquy followed during which the Court learned from
16 defendant that defendant had not filed any removal petition
17 mentioning the 1982 or 1987 orders upon which this contempt
18 hearing was based. Defendant indicated that she had mailed a
19 "corrected caption" page to federal court on the preceding
20 afternoon. A copy of that caption was forwarded to the court
21 by defendant. It did not contain either the caption or the
22 case numbers of the 1982 and 1987 court orders upon which the
23 contempt hearing was based. The court found that there was no
24 evidence to suggest that either of those cases had been removed
25 to federal court. Defendant's request to postpone the contempt
26 hearing on the basis of removal was, therefore, denied.

1 Defendant then requested a postponement based on her lack
2 of representation. With respect to this request the court
3 makes the following findings:

4 1. Defendant was served with the show cause order for
5 contempt on July 27, 1990. That order contained a notice to
6 defendant of her right to court appointed counsel in these
7 cases.

8 2. In a letter dated August 1, 1990 Mr. Prunty wrote the
9 court to bring to the court's attention the possibility that
10 defendant would wait until the August 20th hearing date to
11 apply for court appointed counsel. Defendant responded in a
12 letter dated August 6, 1990 in which she neither indicated that
13 she was having any problem obtaining counsel nor that she might
14 not be able to afford an attorney. In a letter dated August
15 14, 1990 Mr. Prunty again wrote the court, this time to voice
16 the concern that defendant had not yet obtained counsel, or
17 applied for a court appointed attorney or requested any
18 postponement. On August 20, 1990, the date set for the
19 contempt hearing, defendant did not appear, notwithstanding a
20 subpoena duces tecum served by the State upon the defendant for
21 that date. Michael Jewett appeared on behalf of defendant and
22 requested a postponement, having agreed only late on Friday,
23 August 17, 1990 to take the case. A postponement was granted
24 until Friday, September 7, 1990.

25 In a letter dated September 4, 1990 defendant wrote to the
26 court to urge that a default not be entered against her in case

1 number 90-2458-L-3. There defendant indicated that she had
2 every intention of answering and addressing plaintiff's
3 concerns at the September 7, 1990 hearing. On Wednesday,
4 September 5, 1990, defendant filed a petition for removal of
5 case number 90-2458-L-3 to federal district court in
6 California. Also on Wednesday, September 5, 1990, defendant's
7 attorney, Michael Jewett, requested and was given leave to
8 resign from any further representation of defendant. The
9 grounds stated by Mr. Jewett in support of resignation were:
10 defendant had failed to pay the \$2,000 retainer which she was
11 told that her lawyer needed before proceeding despite her
12 promise to do so; defendant filed a removal petition in federal
13 court without her lawyer's knowledge or consultation; and,
14 defendant missed a number of appointments at Mr. Jewett's
15 office and refused to sign the retainer agreement required
16 before he could proceed further with defendant's representation.

17 The court finds as follows concerning defendant's lack of
18 representation:

19 1. Defendant never made application with the court for a
20 court appointed attorney and probably did not qualify for one.

21 2. Defendant had the means to hire an attorney.

22 3. Defendant at the time of this hearing was represented
23 by an attorney in Portland in a lawsuit filed against the
24 Oregon Department of Justice for declaratory relief.

25 4. Defendant had enough time between July 27 and September
26 7, 1990 to hire an attorney.

1 5. Defendant did not exercise due diligence or follow
2 through in hiring an attorney.

3 6. Defendant did not request a postponement until the day
4 of the hearing, at which time both attorneys for both
5 plaintiffs and numerous subpoenaed witnesses were present and
6 prepared to testify for the second time.

7 7. Defendant used every method at her disposal to delay
8 and stall both the show cause hearing for contempt and the show
9 cause hearing for preliminary injunction.

10 Defendant's request for postponement was and is denied.
11 Based on the totality of the circumstances defendant's
12 explanation for not being represented was insufficient as a
13 matter of law to show any diligence whatever in attempting to
14 obtain counsel.

15 At the contempt hearing plaintiffs called the following
16 witnesses: Marta Dahlen, Gary Sloper, Carmen Rogers, Sue
17 Baker, Julie Gorst, Betty Sigurdson, Margaret Simpson, Shannon
18 Orr, and Shelly Hale. Plaintiff, State of Oregon, also offered
19 seven exhibits which were received as evidence. Defendant was
20 given an opportunity to ask questions on cross-examination.
21 Defendant was also given an opportunity to make a statement or
22 call witnesses on her own behalf. Defendant offered no
23 evidence or exhibits on her own behalf.

24 The Court Finds as follows:

25 1. Plaintiffs' motion and affidavits in support of show
26 cause hearing alleged nine discrete violations of the order in

1 case number 82-4247-NJ-2 and nine discrete violations of the
2 order in case number 87-5460-Z with particularity and with
3 enough specificity to put defendant on notice of the particular
4 behavior for which she was being charged with contempt.

5 2. Plaintiffs' witnesses were credible.

6 3. Defendant offered no evidence to rebut the testimony or
7 exhibits offered by plaintiff's witnesses. Defendant did not
8 request a recess or additional time to consider her options
9 when plaintiffs rested a few minutes before noon.

10 4. Defendant violated paragraph 1(c) on pages 4-5 of the
11 Decree and Permanent Injunction, Case Number 82-4247-NJ-2, by
12 advising Gary Sloper of his legal rights, remedies, duties or
13 obligations with respect to the filing and completion of his
14 bankruptcy petition in April and May of 1990. Defendant's
15 conduct was willful.

16 5. Defendant violated paragraph 1(c) on pages 4-5 of the
17 Decree and Permanent Injunction, Case Number 82-4247-NJ-2, by
18 selecting a particular form or document for Carmen Rogers, as
19 well as by advising her regarding her duties and obligations
20 with respect to the filing and completion of her bankruptcy
21 petition in June 1990. Defendant's conduct was willful.

22 6. Defendant violated paragraph 1(b) on page 4 of the
23 Decree and Permanent Injunction, Case Number 82-4247-NJ-2, by
24 preparing and selecting a legal form or document for Betty
25 Sigurdson with respect to the preparation and completion of

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1 probate documents in January 1990. Defendant's conduct was
2 willful.

3 7. Defendant violated paragraph 1(c) on pages 4-5 of the
4 Decree and Permanent Injunction, Case Number 82-4247-NJ-2, by
5 advising Sue Baker of her legal rights, remedies, duties or
6 obligations with respect to the filing and completion of her
7 bankruptcy petition in July of 1990. Defendant's conduct was
8 willful.

9 8. Defendant was responsible for training her employees as
10 well as establishing guidelines, policies and procedures for
11 employees of CSB to follow. One of the directives given to
12 employees was to sell services to consumers. As a policy
13 matter it was routine for Ms. Muse and other employees to sit
14 down with consumers and give them advice and answer questions
15 regarding the legal documents prepared by CSB. Defendant
16 violated paragraph 1(c) on pages 4-5 of the Decree and
17 Permanent Injunction, Case Number 82-4247-NJ-2, by authorizing
18 and directing an employee named Kathy to advise Margaret
19 Simpson of her legal rights, remedies, duties or obligations
20 with respect to the filing and completion of her bankruptcy
21 petition in February of 1990. Defendant's conduct was willful.

22 9. Defendant violated paragraph 5(e) on page 3 of the
23 Assurance of Voluntary Compliance, Case Number 87-5460-Z, by
24 giving Gary Sloper advice, recommendations and explanations
25 regarding the completion of a bankruptcy petition in April and
26 May of 1990. Defendant's conduct was willful.

1 10. Defendant violated paragraph 5(e) on page 3 of the
2 Assurance of Voluntary Compliance, Case Number 87-5460-Z, by
3 giving Carmen Rogers advice, recommendations and explanations
4 in June and July of 1990 regarding the completion of a
5 bankruptcy petition and other legal documents, in addition to
6 completing a claim of exemption form with a false or incorrect
7 bankruptcy number on behalf of Carmen Rogers. Defendant's
8 conduct was willful.

9 11. Defendant violated paragraph 5(e) on page 3 of the
10 Assurance of Voluntary Compliance, Case Number 87-5460-Z, by
11 recommending in January of 1990 to Betty Sigurdson that she
12 probate a will. Defendant's conduct was willful.

13 12. Defendant violated paragraph 5(e) on page 3 of the
14 Assurance of Voluntary Compliance, Case Number 87-5460-Z, by
15 recommending to Sue Baker in July of 1990 that she not report
16 certain assets to bankruptcy court. Defendant's conduct was
17 willful.

18 13. Defendant violated paragraph 5(e) on page 3 of the
19 Assurance of Voluntary Compliance, Case Number 87-5460-Z, by
20 authorizing and directing an employee of Muse, in February of
21 1990, to consult with Margaret Simpson and complete a portion
22 of Margaret Simpson's bankruptcy petition, selected for her by
23 the employee. Defendant's conduct was willful.

24 The following are Conclusions of Law:

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1 1. Plaintiffs have proved, beyond a reasonable doubt, five
2 (5) willful violations of Order Number 82-4247-NJ-2, and five
3 (5) willful violations of Order Number 87-5460-Z.

4 2. Plaintiffs have also proved, beyond a reasonable doubt,
5 that defendant had actual knowledge of Order Number
6 82-4247-NJ-2 and Order Number 87-5460-Z.

7 3. Each violation of Order Number 82-4247-NJ-2 is
8 punishable by a fine of \$300, a six month jail term, or both,
9 because by engaging in conduct prohibited by the permanent
10 injunction defendant defeated or prejudiced the rights of the
11 Oregon State Bar, ORS 33.020(2). The Oregon State Bar and the
12 State of Oregon, on behalf of its citizens, were thereby denied
13 the benefit of the injunction prohibiting defendant from
14 engaging in the unauthorized practice of law.

15 4. Each violation of Order Number 87-5460-Z constitutes a
16 contempt within the meaning of ORS 646.632(4) and is punishable
17 under ORS 33.020(2) by a fine of \$300, a six month jail term,
18 or both, because by engaging in conduct in violation of the
19 injunctive provisions of the Assurance of Voluntary Compliance
20 defendant defeated or prejudiced the rights of the State of
21 Oregon, on behalf of its citizens, to be protected from the
22 harm that flows from defendant engaging in the unauthorized
23 practice of law.

24 5. Each violation of Order Number 87-5460-Z also
25 constitutes a violation of an Assurance of Voluntary Compliance

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1 under ORS 646.642(1) punishable by a civil penalty to be set by
2 the court of not more than \$25,000 per violation.

3 6. There is no provision in ORS Chapter 33 or within the
4 Oregon Unlawful Trade Practices Act, ORS 646.605, et seq., that
5 requires the State of Oregon to elect its remedy. ORS 646.656
6 specifically provides that: "The remedies provided in ORS
7 646.605 to 646.652 are in addition to all other remedies, civil
8 or criminal, existing at common law or under the laws of this
9 state."

10 7. The \$25,000 civil penalty provision of ORS 646.642(2)
11 applies to as many violations as may be plead with
12 particularity and proved beyond a reasonable doubt.

13 8. Both the Oregon State Bar and the State of Oregon,
14 through the Attorney General for the State of Oregon, are
15 parties to the 1982 and 1987 Orders respectively, and also
16 parties to this action for contempt of both of those Orders.
17 Defendant's conduct has prejudiced or defeated the rights of
18 both the Oregon State Bar and the State of Oregon. Therefore,
19 the plaintiffs may each recover a sum of money from defendant
20 sufficient to indemnify each of plaintiffs and satisfy their
21 costs and disbursements in pursuing this contempt action,
22 pursuant to ORS 33.110.

23 9. Plaintiff Oregon State Bar is entitled to judgment for
24 its attorney fees spent in enforcement of the 1982 injunction,
25 pursuant to ORS 9.166.

26 ///

1 10. Plaintiff State of Oregon is entitled to judgment for
2 its attorney fees spent in enforcement of the 1987 Assurance of
3 Voluntary Compliance, pursuant to ORS 646.642(2).

4

5 IT IS SO ORDERED this _____ day of _____, 1990.

6

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8

Mitchell Karaman
Circuit Court Judge

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10

11

12 Prepared by:

13 James A. Prunty #84128
14 Assistant Attorney General
15 Oregon Department of Justice
16 Financial Fraud Section
17 100 Justice Building
18 Salem, Oregon 97310
19 Telephone: (503) 378-4732

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11 - FINDINGS OF FACT AND CONCLUSIONS OF LAW
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