

KENTUCKY BAR ASSOCIATION
Unauthorized Practice of Law Opinion KBA U-39
Issued: September 1984

Question: Does the filing of a final settlement in an estate, by a Certified Public Accountant, constitute the unauthorized practice of law?

Answer: Yes.

References: SCR 3.020; Fraze v. Citizens Fidelity Bank & Trust Co., 393 S.W.778 (Ky 1964); Winkenhofer v. Chaney, 369 S.W.2d 113 (Ky 1963); OAG 73-80; OAG 72-39.

OPINION

The former Court of Appeals of Kentucky held in Fraze v. Citizens Fidelity Bank & Trust Co., 393 S.W.2d 778 (Ky. 1964), that:

...preparing and filing petitions for probate of wills, appointment of administrators and final settlement in county court, is unauthorized practice of law when done voluntarily by persons without a beneficial interest in the corpus of the estate.

See also Winkenhofer v. Chaney, 369 S.W.2d 113 (Ky 1963); OAG 73-80; OAG 72-39.

Unless the certified public accountant comes within the exception to SCR 3.020 by having a beneficial interest in the corpus of the estate and acting without consideration for his services, OAG 73-80, he or she may perform such services only after furnishing a copy to an attorney for the estate "in order that all legal aspects may be verified." See Fraze v. Citizens Fidelity Bank & Trust Co., 393 S.W.2d at 785.

Note to Reader

This unauthorized practice opinion has been formally adopted by the Board of Governors of the Kentucky Bar Association under the provisions of Kentucky Supreme Court Rule 3.530 (or its predecessor rule). Note that the Rule provides in part: "Both informal and formal opinions shall be advisory only."