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STATE OF NORTH CAROLINA
DEPARTMENT OF REVENUE
PROPERTY TAX COMMISSION
P. O. BOX 871
RALEIGH, N. C. 27602

Commission Staff
Telephone (919) 733-7719

November 8, 1995

Ms. Harriet Tharrington
Counsel for Consumer Protection Committee
The North Carolina State Bar
P.O. Box 25908
Raleigh, NC 27611

RE: Request for Advisory Opinion
N.C.G.S. § 84-2.1 'Practice law' defined

Dear Ms. Tharrington:

Dan R. Murray, Chairman of the Property Tax Commission, request an advisory opinion concerning the above referenced statutory provision. The issues the Chairman request the committee to address are:

1. Whether filing notice of appeal with the Property Tax Commission by a professional representative who is not licensed to practice law constitutes the unauthorized practice of law as defined pursuant to G.S. § 84-2.1, amended effective October 1, 1995?
2. Whether the preparation of an Application of Hearing (Form AV-14) by a professional representative who is not licensed to practice law constitutes the unauthorized practice of law as defined pursuant to G.S. 84-2.1, amended effective October 1, 1995?
3. Whether appearing before a county board of equalization and review concerning property valuation appeals by a professional representative who is not licensed to practice law constitutes the unauthorized practice of law as defined pursuant to G.S. § 84-2.1, amended effective October 1, 1995?

In order to assist your committee in addressing these issues, the following material outlines the procedure that is followed when filing a property tax appeal with the North Carolina Property Tax Commission:

Professional representatives, namely, tax consultants, tax representatives and certified public accountants appear before county boards of equalization and review or county boards of

commissioners on behalf of taxpayers regarding the listing, appraisal and assessment of real and personal property in the respective counties. The professional representative is allowed to appear before the county board on behalf of the taxpayer if the taxpayer has signed a power of attorney which purports to give the representative such authority.

At the hearing, the representative is given an opportunity to present facts and submit documentation concerning the assessment of the taxpayer's property. The board then renders a written decision regarding the value of the property and that decision is mailed to the taxpayer or to the representative. Within thirty (30) days of the county board's written decision, the taxpayer must file notice of appeal with the Property Tax Commission. (See G.S. § 105-290).

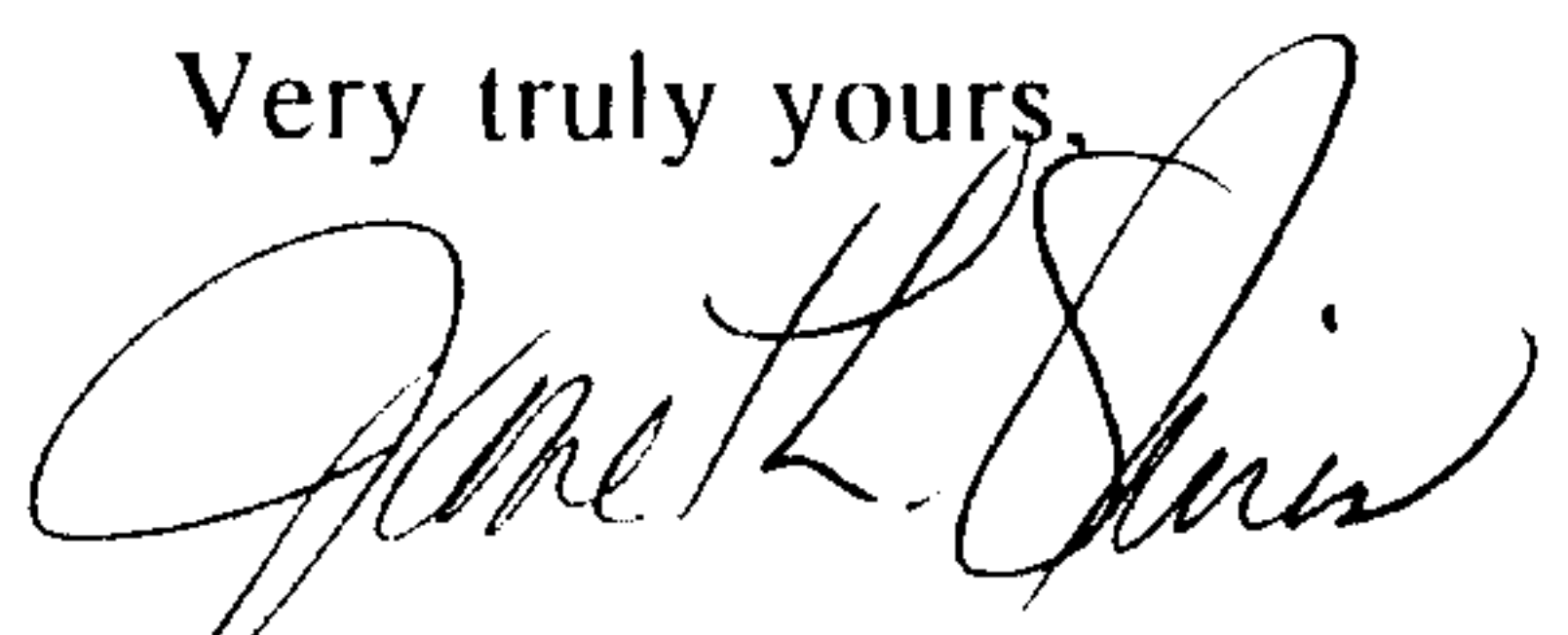
A typical notice of appeal filed with the Commission states that the taxpayer appeals the decision of the county board regarding the property tax value. The representative is filing the notice of appeal with the Property Tax Commission because the representative appeared before the county board and the taxpayer has given that individual such authority.

The appeal process begins before the Commission upon filing of the notice of appeal. As a procedural matter, the representative is allowed to file the notice of appeal with the Commission if the taxpayer has signed a power of attorney which purports to give him such authority. Once the notice of appeal is acknowledged as filed, an Application for Hearing (Form AV-14) is forwarded to the person filing the notice of appeal. The Application for Hearing must be prepared and filed within thirty (30) days of the acknowledgement date of the notice of appeal unless an extension is requested and granted. The representative prepares the Application for Hearing even though the document is signed by the taxpayer. At this point in the proceeding, all necessary documents have been filed with the Commission and the appeal may be set for hearing.

The Property Tax Commission is an administrative quasi-judicial body that renders decisions on the issues of property tax valuation and assessment. A decision or order of the Commission is directly appealable to the North Carolina Court of Appeals on the record made at the Commission hearing. In light of the amendment to G.S. § 84-2.1, which now includes preparing or aiding and filing petitions etc. for use in any court, "including administrative tribunals and other judicial or quasi-judicial bodies", the Commission respectfully request your committee's opinion regarding these issues.

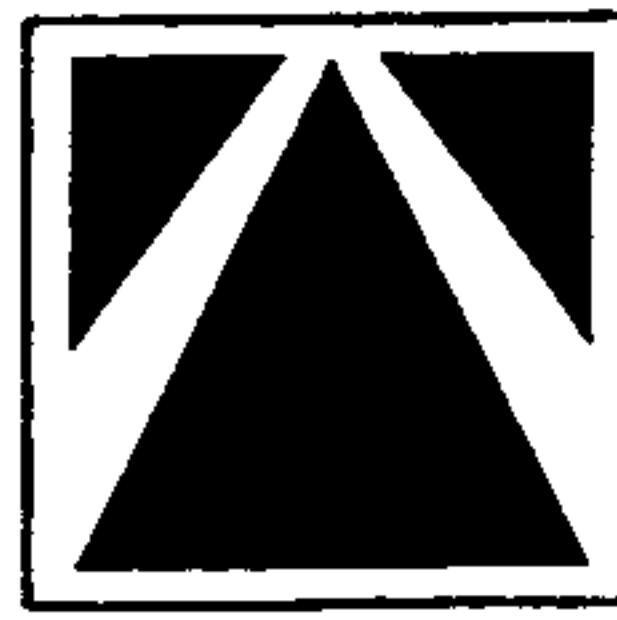
Thank you in advance for your attention and assistance in this matter. If additional information is needed, please do not hesitate to call.

Very truly yours,

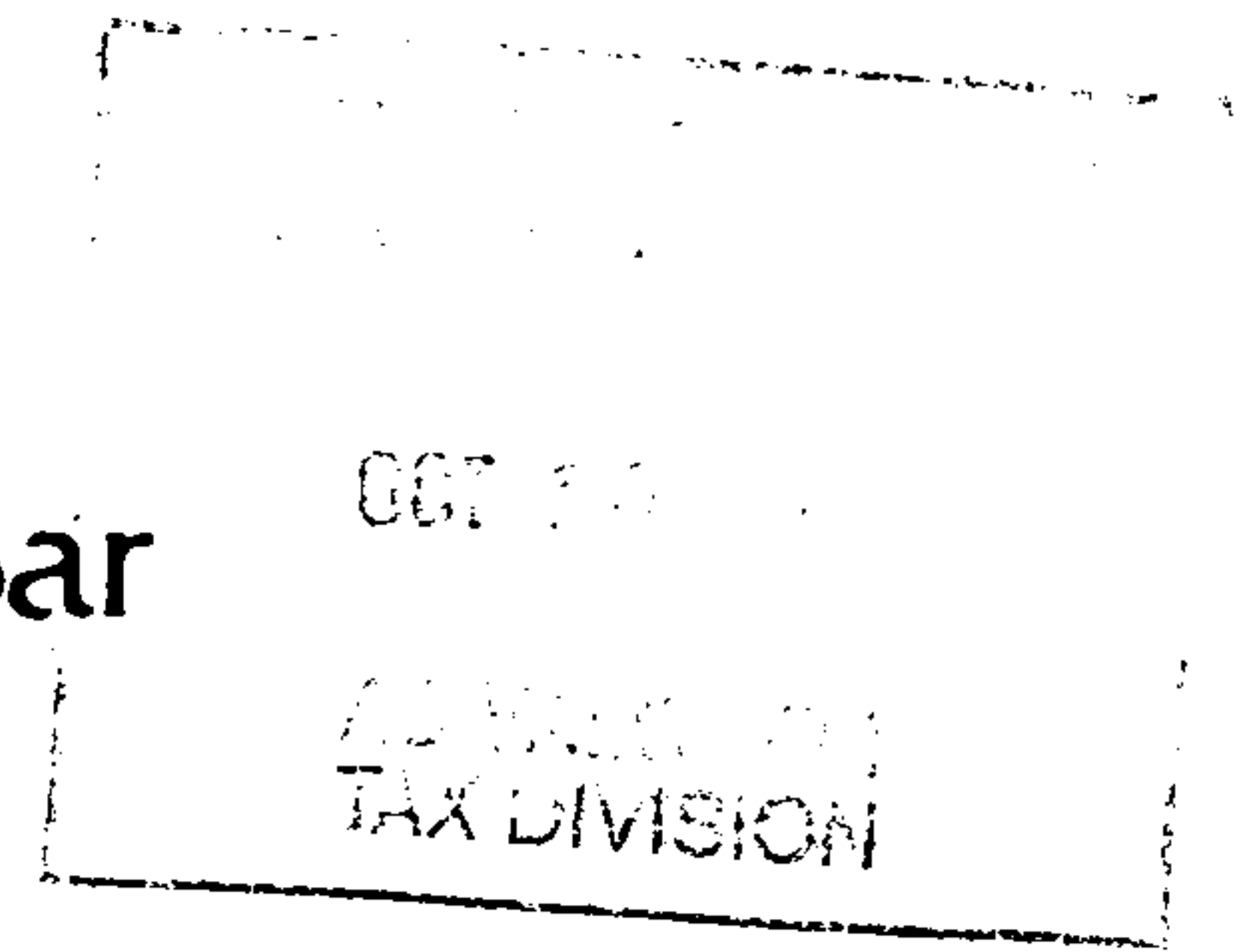

Janet L. Shires, Secretary
Property Tax Commission

JLS/

cc: Dan R. Murray, Chairman



The North Carolina State Bar



Consumer
Protection COMMITTEE

October 9, 1996

Ms. Janet L. Shires
Department of Revenue
Property Tax Commission
Post Office Box 871
Raleigh, N.C. 27602

Re: Request for Advisory Opinion on the Unauthorized Practice of Law

Dear Ms. Shires:

The Consumer Protection Committee recently considered your inquiry regarding whether certain actions taken before the Property Tax Commission would constitute the practice of law in North Carolina. Specifically, you asked whether a professional representative not licensed to practice law in this State could take the following action:

1. Filing notice of appeal with the Property Tax Commission.
2. Preparing and filing an Application of Hearing with the Property Tax Commission.
3. Appearing before a county board of equalization and review concerning property valuation appeals.

The Committee determined that, based upon your representation that the Property Tax Commission is an administrative quasi-judicial body, the first two instances listed above would constitute the practice of law as defined in N.C.G.S. § 84-2.1. That Statute specifies, in part, that the phrase "practice law" includes the preparation and filing of petitions for use in any court, including administrative tribunals and other judicial or quasi-judicial bodies.

With respect to the third instance, the Committee concluded that the determination of whether such conduct constituted the practice of law within the meaning of G.S. §84-2.1 depends upon whether a county board of equalization and

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review is considered a judicial or quasi-judicial body. If so, then the Committee believes that this conduct would also constitute the practice of law.

On behalf of the Consumer Protection Committee, I thank you for your inquiry and hope that we have adequately addressed your concerns. If you have any remaining questions, please feel free to contact either Sylvia Wood, the Staff Advisor to the Consumer Protection Committee or me.

Sincerely,

A handwritten signature in black ink, appearing to read "H. P. Satisfsky", with a long horizontal flourish extending to the right.

Howard P. Satisfsky, Chair
Consumer Protection Committee