

Before the Presiding Judges of the Administrative Judicial Regions

Per Curiam Rule 12 Decision

APPEAL NO.: 24-007

RESPONDENT: Unauthorized Practice of Law Committee

DATE: June 17, 2024

SPECIAL COMMITTEE: Judge Stephen Ables, Chair; Judge Robert Trapp; Judge Sid Harle; Judge Ben Woodward; Judge David Evans

After receiving notice from the Unauthorized Practice of Law Committee (Respondent) that an Unlicensed Practice of Law (UPL) complaint had been filed against it, Petitioner requested a copy of the complaint and supporting materials from a Respondent subcommittee member. From the appeal materials presented to the special committee, it is unclear when Petitioner made its initial request, but Petitioner made a renewed request for the UPL complaint on February 28, 2024. Petitioner cited Rule 12 and wrote that Rule 12 “permits disclosure of information, and I don’t see any authority to withhold the complaint[.]” Petitioner inquired about the status of the UPL complaint again on March 4 and April 22. In a one-sentence reply email from Respondent’s subcommittee member sent to Petitioner on April 22, Respondent’s subcommittee member informed Petitioner that “[a]ccording to the AG, the records are ‘judicial’ and are not subject to open records.”¹ Petitioner timely appealed Respondent’s reply email. As of the date of this opinion, Respondent has not replied to the petition.

Rule 12.5 exempts from disclosure “any record relating to an investigation of any person’s character or conduct” unless: (1) the record is requested by the person being investigated and (2) the release of the record, in the judgment of the records custodian, would not impair the investigation. *See* Rule 12.5(k). We have covered the disclosure of complaints filed with Respondent in previous Rule 12 decisions. *See, e.g.*, Rule 12 Dec. Nos. 99-001, 99-002, 21-002, and 22-012. Complaints filed with Respondent require the investigation of a person’s conduct to determine if that person has engaged in the unauthorized practice of law. Respondent’s complaint records should not be disclosed unless the requestor is the subject of the investigation and the release of the records will not impair Respondent’s investigation. *See* Rule 12 Dec. No. 22-007. The person requesting the UPL complaint is the person being investigated, and therefore the only way Rule 12.5(k) would exempt disclosure of the complaint is if, in the judgment of Respondent, disclosure would impair Respondent’s investigation.

A Rule 12.5 exemption to disclosure applies if the records in question meet the parameters of any Rule 12.5 exemption category. In this case, the Rule 12.5(k) exemption to disclosure may apply, but without a response to the petition from Respondent the special committee cannot

¹ The subcommittee member attached to its reply email a PDF of Open Letter Ruling OR99-1592. In that Open Letter Ruling, the Office of the Attorney General’s Open Records Division cited the Texas Supreme Court’s conclusion that the Respondent is a judicial agency under Rule 12, and that Respondent’s records are judicial records.

conclude that the exemption does apply to the records at issue in this appeal. The special committee gives Respondent leave of 20 business days from the date of this opinion to provide the special committee with information on the applicability of the Rule 12.5(k) exemption or any other applicable exemption. If no response is received, the special committee will be unable to conclude the exemption applies and, in the interest of openness and transparency, the requested record will be subject to disclosure.