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## The Florida Bar

St. Pete attorney doesn't want Bar 'caught with its pants down'

September 20, 2010

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**A**ttorney David Stern's move to sell his law firm's administrative side to DJSP Enterprises has prompted a look by The Florida Bar, which received a complaint about it from a foreclosure defense lawyer in St. Petersburg.

The Bar confirmed it is investigating DJSP's operations to determine whether the company is practicing law without a license. DJSP processes court documents needed to foreclose on homes on behalf of lenders and loan servicers.

The Law Offices of David J. Stern is DJSP's only client, and the relationship between the two is now under review. Stern's clients included the nation's biggest lenders before he split his practice into two lines of business.

Lawyers can own separate businesses but are not allowed to solicit clients in person or have anybody else do that for them, said Cynthia Booth, The Bar's assistant ethics counsel.

If attorneys "set up a separate business, they can't use that business to feed clients to their law firm," she said. "If a lawyer does operate a separate business out of [his] law firm, then all the rules of professional conduct that apply to attorneys would also apply to that nonlawyer business."

When it comes to location, Stern's law firm and DJSP occupy the same suburban office in Plantation.

By June, the company occupied 90 percent of the nearly 127,000 square feet of space that Stern rents, according to a filing with the Securities and Exchange Commission. The law firm occupied the remaining 10 percent. Since then, DJSP has grown its space to occupy nearly 200,000 square feet in Plantation, including space in a nearby building.

The Bar started its inquiry after a complaint was filed by St. Petersburg foreclosure defense lawyer Matthew Weidner in June.

"I stuck my nose in this is because I had an ethical obligation as a member of The Bar," Weidner said. "I didn't want my Bar to be caught with its pants down, being made to look foolish that all this was occurring and they had no idea about it."

Stern said his law firm and DJSP are providing all the required information to help The Bar understand the new company.

"We are disappointed that they felt compelled to do it, but we understand that they need to investigate. At the end of the day, we know we have done nothing wrong, so



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we are not worried about a bad or negative outcome,” Stern said. “Before we went public, we retained some of the leading ethics guys out there to write an ethics opinion. Every servicing agreement, every strategy, everything was highly scrutinized by ethics counsel.”

In the complaint, Weidner asked for a clarification of the meaning of “nonlegal services” when it comes to processing foreclosures.

“Where is the line between the legal pleadings and nonlegal services?” he asked The Bar.

Stern said nothing has changed in the way the law firm does business since the processing entity went public.

Before going public, paralegals would prepare a complaint, call the court to set a hearing or write a letter to the clerk’s office. When a complaint or a motion for summary judgment is prepared, the documents go to an attorney for review and signature.

“Post transaction, the paralegal that used to work for the law firm now works for the back-office processing company,” Stern explained. “They sit in the same place. They have the same chair. They have the same phones. Nothing has changed there.”

Still, DJSP acknowledges in Securities and Exchange Commission filings that existing laws and regulations for law firms could be interpreted differently in the future, which could force DJSP to stop providing some services and impacting the company’s bottom line.

“In addition, all states and the American Bar Association prohibit attorneys from sharing fees for legal services with non-attorneys, so that if any aspect of our business is deemed to constitute the practice of law, it would not be possible for us to continue performing those services,” the SEC filing said.

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