

February 28, 2008

Karen A. Gould, Esquire  
Executive Director  
Virginia State Bar  
707 E. Main Street, Suite 1500  
Richmond, VA 23219

**Re: Proposed UPL Opinion 215**

Dear Ms. Gould:

On behalf of Virginia's largest in-house bar association, WMACCA (the Washington Metropolitan Area Corporate Counsel Association), the Association of Corporate Counsel (ACC), and the Chief Legal Officers of Virginia-based companies who have signed below in their personal capacity, we write in support of proposed Unauthorized Practice of Law Opinion 215, titled *In-House Counsel Based Outside Virginia Providing Legal Advice to Employer in Virginia* ("Opinion 215"). As you know, the Standing Committee on the Unauthorized Practice of Law (the "Standing Committee") issued the proposed opinion on October 16, 2007. Opinion 215 was published in the January 2008 issue of *Virginia Lawyer Register* and written comments were solicited. As requested, ten copies of our written comments are enclosed with this letter.

ACC is the world's largest bar association exclusively serving in-house counsel who are employed in public and private companies and non-profit organizations. ACC was incorporated as a non-profit organization in Washington, D.C., in 1982. WMACCA is a non-profit organization, incorporated in Washington, D.C., in 1980. WMACCA is ACC's largest chapter and the leading professional association for the in-house community throughout the Commonwealth of Virginia, in Washington, D.C., and in suburban Maryland, with approximately 1,600 members from more than 500 private-sector organizations. ACC has approximately 23,000 members in 75 countries employed by more than 10,000 organizations.

WMACCA and ACC advocate for the professional interests of in-house lawyers. Our advocacy efforts sometimes require us to oppose professional rules and regulations that may serve some lawyers' interests but not those of in-house counsel. Therefore, we are pleased to offer these comments in support of Opinion 215.

Given the geographical diversity of modern financial institutions and other business entities, it is commonplace for in-house counsel to be called upon to offer advice about the law of jurisdictions other than the jurisdiction(s) where they are

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licensed, their offices are located, or their employers are organized as legal entities. In the course of their employment, in-house counsel regularly provide legal advice to fellow employees in other jurisdictions by telephone or e-mail, and frequently travel to other jurisdictions to offer legal advice to fellow employees in face-to-face meetings.

The question of whether Rule 1A:5 of the Virginia Supreme Court, titled “Virginia Corporate Counsel & Corporate Counsel Registrants,” applies to non-Virginia licensed attorneys who offer advice about Virginia law from their offices outside Virginia or while in their employer’s Virginia offices is an important issue for WMACCA and ACC because approximately half of the WMACCA membership is located outside the Commonwealth of Virginia. We have never interpreted Rule 1A:5 as applying to our members licensed outside Virginia; therefore, we agree with the Standing Committee’s conclusion that the rule does not bar in-house counsel in other jurisdictions from engaging in the activities in question. Opinion 215 eliminates any concern that in-house counsel licensed to practice law outside Virginia are violating the Rules of the Supreme Court of Virginia and engaging in the unauthorized practice of law.

Prohibiting non-Virginia licensed in-house counsel from providing legal advice to their regular employers in Virginia, either from offices outside Virginia or when visiting Virginia, unless they are registered as corporate counsel in Virginia, would impose an impermissible restraint on interstate commerce. Both Part 6, §1 (B) and (C) of the Rules of the Supreme Court of Virginia and Opinion 215 acknowledge that reality. Moreover, from a public policy standpoint, since in-house lawyers have one client that is usually a sophisticated consumer of legal services, there is no risk of members of the public being harmed by the conduct that Opinion 215 acknowledges is beyond the scope of the rules.

Opinion 215 does not herald a change in regulatory procedures or practice; the proposed opinion simply clarifies a matter that is important to in-house counsel in jurisdictions outside Virginia. WMACCA and ACC commend the Committee and the Virginia State Bar for recognizing and supporting the professional interests of non-Virginia licensed lawyers who are employed outside Virginia by financial institutions and other business entities and who provide advice and services to their co-workers in their employer’s Virginia offices as part of their regular duties.

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For all these reasons, WMACCA and ACC endorse Opinion 215 as a fair reading of Rule 1A:5 and Part 6, §I (B) and (C) of the Rules of the Supreme Court of Virginia.

Very truly yours,

Carol Rick Gibbons  
Chair  
WMACCA Advocacy Initiative

Susan Hackett  
Sr. Vice President and General Counsel  
Association of Corporate Counsel

Enclosures

I, \_\_\_\_\_, am Chief Legal Officer  
of

\_\_\_\_\_,  
a corporation with a presence in Virginia. I sign below to show my personal support  
for WMACCA's endorsement of Opinion 215.

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Print name: \_\_\_\_\_