

**IN THE SUPREME COURT  
STATE OF FLORIDA**

THE FLORIDA BAR,

**CASE NO. SC18-149**

Petitioner,

v.

Florida Bar File Nos.  
20174035(11B) and  
20174045(11B)

TIKD SERVICES LLC,  
A Foreign Limited Liability Company,

and

CHRISTOPHER RILEY,  
individually and as Founder of  
TIKD SERVICES LLC,

Respondents.

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**TIKD SERVICES LLC AND CHRISTOPHER RILEY'S  
ANSWER TO THE FLORIDA BAR'S PETITION AND  
RESPONSE TO ORDER TO SHOW CAUSE**

Respondents TIKD Services LLC ("TIKD") and Christopher Riley hereby answer The Florida Bar ("Bar")'s petition and respond to this Court's Order to Show Cause, and they would respectfully show as follows:

**I. Answer to The Florida Bar's Petition.**

Respondents hereby answer the allegations in the Petition and, by correspondingly numbered paragraphs, state as follows:

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1. Respondents admit Respondent Christopher Riley is not, and has not been, a member of The Florida Bar but expressly deny that Mr. Riley has or is engaged in the practice of law in the State of Florida or elsewhere.

2. Respondents admit TIKD is a Delaware Limited Liability Company with its principal place of business in Coral Gables, Florida, but expressly deny TIKD has or is engaged in the practice of law in the State of Florida or elsewhere.

3. Respondents admit TIKD is not a lawyer referral service.

4. Respondents deny they have engaged in the unlicensed practice of law in any Florida county, including Miami-Dade County.

5. Respondents deny they advertise in a fashion which may lead a reasonable lay person to believe TIKD or Mr. Riley are qualified to provide legal services to the public. Respondents admit, however, that the independent attorneys who represent TIKD's customers are licensed and qualified to offer and provide legal services to the public in the State of Florida.

6. Respondents deny this allegation accurately or fully describes TIKD's advertisements or the nature of its services. TIKD provides a technology platform and financial benefits that offer drivers a simpler way to deal with a traffic ticket. For a fixed, pre-determined charge (which may be paid in installments) TIKD's customers authorize TIKD to facilitate retention of an independent attorney to defend their traffic tickets on their behalf. TIKD caps the drivers' financial

exposure for resolving that traffic ticket at the amount of TIKD's charge. If the ticket results in "points" awarded against the customer's driving record, TIKD provides the customer a full refund of the amount charged.

7. Respondents deny they, personally or through advertisement, suggest the services provided by TIKD are the equivalent of, or a substitute for, the services of an attorney. Respondents admit, however, that the attorneys who contract directly with and represent TIKD's customers, are licensed, independent Florida attorneys. Respondents further deny this allegation accurately describes the content of TIKD's website.

8. Respondents admit TIKD's advertising reaches drivers who have been issued traffic tickets and desire to have their traffic tickets resolved.

9. Denied.

10. Denied.

11. Respondents admit they have entered into agreements with independent licensed Florida attorneys who are willing to represent TIKD's customers, but deny that they are "TIKD lawyers" and deny that they are controlled or directed by TIKD in their representation of their clients.

12. Denied.

13. Denied.

14. Denied.

15. Denied.

16. Denied.

17. Denied.

18. Denied.

19. Denied.

## **II. Affirmative Defenses.**

Petitioner's claims are barred, in whole or in part, because a holding that Respondents' services, website, publications and/or other communications constitute the practice of law would violate the following constitutional provisions:

1. Freedom of speech and press guaranteed by the First Amendment to the United States Constitution and Article I, Section 4, of the Constitution of the State of Florida.

2. Equal protection and due process guaranteed by the Fourteenth Amendment to the United States Constitution and Article I, Sections 2 and 9 of the Constitution of the State of Florida.

3. Respondents' right to pursue a lawful occupation and business guaranteed by Article I, Section 2 of the Constitution of the State of Florida.

4. TIKD's customers' right of access to the courts guaranteed by Article I, Section 21 of the Constitution of the State of Florida.

### **III. Response to Order to Show Cause.**

Neither the facts alleged in the Petition, nor the cases cited therein, support the Bar's accusation that Respondents are engaged in the unlicensed practice of law ("UPL").

#### **A. The facts do not support the Bar's allegation of UPL.**

TIKD was founded by its CEO, Christopher Riley, a 2001 graduate of the United States Naval Academy and a 2008 graduate of the Harvard Business School. Mr. Riley is not, and has never claimed to be, an attorney. Deploying innovative technology, TIKD provides a consumer-oriented solution to a common problem: resolving traffic tickets. As with similar advancements in other industries, TIKD's services reflect Florida's "ever changing business and social order." *Fla. Bar v. Brumbaugh*, 355 So. 2d 1186, 1192 (Fla. 1978) (quoting *State Bar v. Cramer*, 399 Mich. 116, 249 N.W.2d 1 (1976)).

TIKD owns and operates a website at <http://www.tikd.com>. Through its website and mobile app, TIKD offers services to persons who have received traffic tickets. TIKD facilitates expedient ticket resolution and caps the customer's financial exposure on the ticket. TIKD also facilitates the customer's retention of an independent, licensed Florida attorney who then enters into a direct attorney-client relationship with the TIKD customer.

Ticketed drivers can use TIKD's app to upload an image of their traffic ticket and engage TIKD services for a fixed, one-time charge that is never more, and usually less, than the face amount of the ticket. TIKD also permits its customers to pay its charge by installments.

TIKD provides three primary services: (1) it facilitates the retention and payment of a licensed, independent Florida attorney to defend the customer's traffic ticket; (2) it guarantees that the customer will not pay any further charges, fees, or fines for its ticket; and (3) it permits payment by installments.

TIKD does not guarantee the outcome of any traffic ticket. However, by agreeing to pay any fine or court costs assessed if the ticket is not dismissed, TIKD provides a financial service by capping a driver's monetary exposure on the ticket. Likewise, TIKD does not guarantee its customers will not receive "points" on their driving records, but if "points" are assessed, TIKD provides its customer a full refund while still paying any assessed fines and court costs.

The attorneys who represent TIKD customers are not employed by TIKD. They are independent, licensed Florida practitioners. TIKD does not supervise or control the attorneys or their representation of their clients. TIKD pays the lawyers a flat rate per representation. The attorneys do not pay TIKD any fees or otherwise compensate TIKD in any way.

The attorneys and TIKD's customers enter into separate and direct attorney-client relationships. TIKD does not participate in that relationship or influence the attorneys who represent its customers. Any TIKD customer can decline representation by any given attorney, and if that happens, TIKD provides the customer a full refund.

**B. The six cases cited do not support the Bar's allegation of UPL.**

TIKD's services are not the practice of law. All legal services are provided directly by licensed, independent Florida lawyers not under TIKD's employ or control. TIKD's services are analogous to a liability insurance carrier that retains and pays independent attorneys to represent its insureds, in exchange for the payment of insurance premiums. Florida law permits attorneys to receive payment for their services from third parties such as TIKD, so long as the attorneys' independent professional judgment and representation of their clients is not compromised. R. Regulating Fla. Bar 4-1.8(f).

The Bar's Petition cites six cases, claiming Respondents violate their "letter or spirit": *Fla. Bar v. Sperry*, 140 So. 2d 587 (Fla. 1962); *Fla. Bar v. Warren*, 655 So. 2d 1131 (Fla. 1995); *Fla. Bar v. Neiman*, 816 So. 2d 587 (Fla. 2002); *Fla. Bar v. Brumbaugh*, 355 So. 2d 1186 (Fla. 1978); *Fla. Bar v. Consol. Bus. & Legal Forms, Inc.*, 386 So. 2d 797, (Fla. 1980); *Fla. Bar v. We The People Forms & Serv. Ctr. of Sarasota, Inc.*, 883 So. 2d 1280 (Fla. 2004). Respondents' conduct is

not contrary to these cases. In fact, the cited cases demonstrate the Petition fails to state a claim that Respondents are engaged in the unlicensed practice of law.

*Sperry*, *Warren*, and *Neiman* each involved unlicensed individuals affirmatively holding themselves out as actual lawyers and rendering actual legal services (*i.e.*, representing persons in matters pending before the US Patent Office, rendering opinions on legal matters, arguing the merits of cases, etc.). *Fla. Bar v. Sperry*, 140 So. 2d 587 (Fla. 1962); *Fla. Bar v. Warren*, 655 So. 2d 1131 (Fla. 1995); *Fla. Bar v. Neiman*, 816 So. 2d 587 (Fla. 2002). The Bar's citation of these cases reveals the flaw in any UPL assertions regarding TIKD. The bedrock principle of UPL regulation is "to protect the public from being *advised and represented in legal matters* by unqualified persons over whom the judicial department can exercise little, if any, control in the matter of infractions of the code of conduct which, in the public interest, lawyers are bound to observe." *Sperry*, 140 So. 2d at 595 (emphasis added).

Unlike *Sperry*, Respondents do not claim they are lawyers or that they provide legal advice or legal service. Respondents do not represent anyone before a government agency, in court, or in other legal proceedings. All such representation is done by independent attorneys not under Respondents' employ, direction or control.

In *Warren*, this Court enjoined a non-lawyer who failed to respond to a petition alleging he had represented persons in litigation, collected fees under the guise of being a lawyer, and failed to perform the promised services. 655 So. 2d at 1132-33. The Petition makes no claim that Respondents' conduct corresponds even remotely to that enjoined in *Warren*. Again, independent lawyers provide the legal advice and representation, not Respondents.

In *Neiman*, this Court enjoined a non-lawyer paralegal and his corporation which had performed a laundry list of acts "commonly understood to be the practice of law," including negotiating personal injury settlements. 816 So. 2d at 588. The referee found "no attorney had any meaningful role in the development or settlement of several of the cases." *Id.* Here, Respondents prepare no legal documents and do not participate in the legal services rendered. All representation, advice and counsel is provided by licensed, independent Florida attorneys subject to oversight by the Bar and this Court. The Petition inaccurately calls these independent lawyers "TIKD's attorneys," but it alleges no facts supporting any allegation that they are controlled by or take direction from Respondents.

*Brumbaugh* involved the provision of "secretarial services" in the preparation of wills, bankruptcies, and divorces. *Brumbaugh*, 355 So. 2d at 1189. The Bar contended that Ms. Brumbaugh had personally prepared the legal documents necessary for divorce proceedings. *Id.* Respondents do no comparable

activities: they do not give drivers legal advice on their tickets, prepare legal documents, or represent drivers in court. Besides being factually distinct, *Brumbaugh* offers quite useful language on how this Court draws the line between proper competition in the delivery of legal services to the public and impermissible UPL: “Because of the natural tendency of all professions to act in their own self-interest, however, this Court must closely scrutinize all regulations tending to limit competition in the delivery of legal services to the public, and determine whether or not such regulations are truly in the public interest.” *Id.*<sup>1</sup>

As this Court recognized: “[A]ny attempt to formulate a lasting, all-encompassing definition of ‘practice of law’ is doomed to failure ‘for the reason that under our system of jurisprudence such practice must necessarily change with the everchanging business and social order.’ . . .” *Id.* at 1191-92 (quoting *Cramer*, 399 Mich. 116.). Exemplifying that “everchanging business and social order,” TIKD simply deploys modern mobile technology to connect a customer with a licensed, independent Florida attorney.

The last two cases, *Consolidated Business* and *We The People*, likewise fail to support a finding of UPL. *Consolidated Business* involved a non-lawyer run corporation that directly employed Florida lawyers full-time to provide legal

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<sup>1</sup> The Court noted that the case did not arise out of a complaint by the respondent’s customers, but rather by members of the Florida Bar; that none of the respondents’ customers thought she was an attorney; that she never handled contested divorces; and had helped several hundred customers obtain their own divorces. *Id.* at 1190-91.

services and extensively controlled the details of how the lawyers delivered those legal services. *Consol. Bus. & Legal Forms, Inc.*, 386 So. 2d at 798-800. The referee found that the for-profit corporation, among other things, (1) established rules and policies governing fees, permissible conference time with clients, and required legal forms; (2) had access to clients' files; (3) employed legal secretaries with access to clients' files; (4) directed and controlled the legal secretaries' activities; (5) terminated lawyers without regard to transfer of client files; (6) assigned new lawyers to take over client files upon termination of a prior attorney; (7) exerted a proprietary interest in the clients' case files; (8) and managed specific client cases in a profit-oriented manner that resulted in client injury or inadequate representation. 386 So. 2d at 799-800. Lawyer-employees were fired and hired, resulting in the switching of lawyers for hundreds of clients without their consent. Respondents engage in none of the conduct described in *Consolidated Business*, and the Petition does not allege they do.

Finally, *We The People* is inapposite. In that case, a for-profit corporation, owned and operated by non-lawyers, had advertised and performed form-preparation services that extended far beyond typing and selling forms, and had directly employed an attorney to give legal advice to their customers. 883 So. 2d at 1281, 1282-84. This Court enjoined actions beyond selling forms and instructions and providing typing services, such as preparing legal documents and

pleadings, or interpreting the effect of Florida law for other people. The Petition does not assert Respondents engaged in any such conduct, so *We the People* is inapplicable.

In sum, the Petition does not allege that Respondents have engaged in any conduct that has been held to be the practice of law in *Sperry*, *Warren*, *Neiman*, *Brumbaugh*, *Consolidated Form*, and *We the People* (or any other case). The Petition therefore provides no basis on which to conclude that Respondents are engaged in the unlicensed practice of law or to enter an injunction. To the extent the Court does not simply enter judgment on the pleadings against the Bar, TIKD requests, pursuant to Rule 10-7.1(b)(6), an opportunity to present evidence to an appointed referee showing why its activities do not constitute the unlicensed practice of law.

#### **IV. Conclusion and Prayer.**

For the reasons stated above, Respondents TIKD Services LLC and Christopher Riley respectfully request that this Court enter judgment on the pleadings, dismiss the Petition, and grant such other and further relief to which Respondents may be entitled. In the alternative, should the Court determine that fact issues need to be determined, Respondents request, pursuant to Rule 10-7.1(b)(6), that the Court appoint a referee to conduct a hearing and make recommended findings and conclusions to the Court.

Respectfully submitted,

*By: /s/ Christopher M. Kise*

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**CERTIFICATE OF SERVICE**

I hereby certify that a true and complete copy of the foregoing was served by electronic mail on April 4, 2018 on all counsel listed below:

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