

1984 WL 249700 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

February 9, 1984

***1 RE: Lay Representation of Employees Before the Employment Security Commission**

The Honorable Elizabeth J. Patterson
Senator
District No. 4
Suite 508
Gressette Senate Office Building
Columbia, South Carolina 29202

Dear Senator Patterson:

You have requested an opinion from this office as to whether an employee-claimant could be represented by a non-lawyer in a proceeding before the South Carolina Employment Security Commission. The General Assembly has empowered the Commission to establish its own procedures governing hearings and appeals in unemployment compensation cases:

The manner in which appealed claims shall be presented and the conduct of hearings and appeals shall be in accordance with regulations prescribed by the Commission for determining the rights of the parties, whether or not such regulations conform to common law or statutory rules of evidence and other technical rules of procedure. [Section 41-35-720, Code of Laws of South Carolina \(1976\)](#).

Pursuant to this authority, the Commission has had for many years the following rule as to representation of parties:

Any individual may appear for himself in any proceeding before the Appeal Tribunal or Commission. Any partnership may be represented by any of the partners. An association may be represented by any of the members of the association. A corporation may be represented only by an attorney at law licensed to practice in South Carolina, except that any employee or agent of a corporation may give factual information to the Commission or its Appeal Tribunal. Representatives of labor unions, employee or employer organizations, may appear and give factual information or data which will be pertinent or helpful to the determination of the issues before the Commission or its Appeal Tribunal. R 47-55(A), [South Carolina Code of Laws \(1976\)](#); Rule 5, Rules of the Employment Security Commission, [South Carolina Code of Laws \(1962\)](#).

The Commission has held that under this regulation an individual can only be represented by himself or an attorney at law. [See, e.g., In the Matter of the Claim of Cullie Bonaparte](#), Decision No. 77-C-462 (filed April 29, 1977) (copy enclosed). Since the agency primarily charged with the statutory authority to enforce employment security laws and regulations has in the exercise of its judicial powers already rendered an opinion on the question raised in your letter, we must decline to render an official opinion on that question. [See, Etiwan Fertilizer Company v. South Carolina Tax Commission](#), 217 S.C. 354, 60 S.E.2d 682 (1950). This is not to say that this office either agrees or disagrees with the reasoning expressed in the Commission's Order. We only note that, in accordance with our longstanding policy, it would be inappropriate for this office to officially comment upon that agency's ruling. [See](#), letter of advice, January 20, 1984 (copy attached).

I regret that, under the circumstances, this office can provide no greater assistance to you at this time. With cordial best wishes,
I am

Very truly yours,

*2 Richard B. Kale, Jr.

Senior Assistant Attorney General

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