

IN THE SUPREME COURT OF FLORIDA
(Before a Referee)

THE FLORIDA BAR,

Complainant,

CASE NO.

SC16-1727

vs.

TFB FILE NO.

2015-10,414(6C)

2015-10,633(6C)

2015-10,755(6C)

MARK P. STOPA,

2016-10,066(6C)

Respondent.

ANSWER

COMES NOW Respondent, MARK P. STOPA, by and through his undersigned counsel and files this his Answer to The Florida Bar's Complaint, pursuant to Rule 3-7.6(h)(2) of the Rules Regulating The Florida Bar, and states the following:

1. Admitted.
2. Admitted.

COUNT I: TFB File No. 2015-10,414(6C)

3. Admitted or denied, as stated above.
4. Denied that Respondent represented any junior lien holders. The

remainder of the paragraph is admitted.

5. Admitted that on August 11, 2014, the court entered an Order Setting Non-Jury Trial and Pre-Trial Conference. The remainder of the paragraph is denied, as the order speaks for itself.

6. Admitted.

7. Admitted that on October 21, 2014, the Second D.C.A. denied the Petition for Writ of Prohibition. Denied that Respondent had notice of the order on that date.

8. Denied.

9. Admitted.

10. Denied that Respondent represented any junior lien holders. The remainder of the paragraph is admitted.

11. Denied.

12. Denied, as any court order speaks for itself.

13. Admitted.

14. Denied.

15. Denied.

16. Denied.

17. Denied that Respondent represented any junior lien holders. The remainder of the paragraph is admitted.

18. Admitted that on November 25, 2014, Judge Donnellan removed Respondent from the courtroom. The remainder of the paragraph is denied.

19. Denied.

20. Admitted.

21. Denied.

22. Denied.

23. Admitted that the Honorable Thomas M. Gallen, a Senior Circuit Judge in Manatee County, Florida, recused himself from all cases involving Respondent. The remainder of the paragraph is denied.

24. Admitted that Judge Gallen ordered the sheriff's deputy to escort Respondent out of the courtroom. The remainder of the paragraph is denied.

25. Denied.

26. Denied.

COUNT II: TFB File No. 2015-10,633(6C)

27. Admitted or denied, as set forth above.

28. Admitted.

29. Denied.

30. Denied, as any court order speaks for itself.

31. Denied.

32. Admitted.

33. Admitted.

34. Denied, as any court order speaks for itself.

35. Admitted.

36. Denied.

37. Admitted.

38. Admitted.

39. Admitted that on November 14, 2014, Respondent advised Ms. Said of Bank of America's cash-for-keys settlement offer. The remainder of the paragraph is denied.

40. Denied.

41. Without knowledge; therefore, denied.

42. Admitted that Ms. Said accepted the cash-for-keys offer. The remainder of the paragraph is denied.

43. Denied.

44. Denied.

45. Denied.

46. Denied.

47. Denied.

48. Admitted that on November 14, 2014, Respondent's office advised counsel for Bank of America that Ms. Said would like to proceed with the cash-for-keys offer. The remainder of the paragraph is denied.

49. Admitted that Respondent and Ms. Said discussed retention of the \$4,000 as an attorney's fee. The remainder of the paragraph is denied.

50. Denied.

51. Denied.

52. Admitted that Respondent executed a Stipulated Consent to the Entry of Final Judgment of Foreclosure. The remainder of the paragraph is denied.

53. Admitted.

54. Denied.

55. Denied, as any court order speaks for itself.

56. Without knowledge; therefore, denied.

57. Without knowledge; therefore, denied.

58. Denied.

59. Admitted that on January 15, 2015, counsel for Bank of America filed a motion to vacate the final judgment of foreclosure. The remainder of the paragraph is denied as the motion speaks for itself.

60. Admitted that Respondent withdrew as Ms. Said's counsel. Without knowledge; therefore, denied that Ms. Said negotiated with Bank of America on her own.

61. Denied.

62. Admitted that Ms. Said did not sign a release. The remainder of the paragraph is denied.

63. Admitted.

64. Denied.

65. Denied.

66. Denied.

67. Denied.

COUNT III: TFB File No. 2015-10,755(6C)

68. Admitted or denied, as set forth above.

69. Admitted.

70. Admitted.

71. Denied.

72. Denied.

73. Denied.

74. Admitted in September 2014 Ms. Coyne gave Respondent six (6) post-dated checks, each in the amount of \$275, representing Respondent's fee for

the following year. Admitted Ms. Coyne stopped payment on the last two (2) checks. Without knowledge; therefore, denied that the stopped payments on the last two (2) checks were because Ms. Coyne believed Respondent was not acting in her best interests.

75. Admitted Ms. Coyne discussed bankruptcy to retain the property. The remainder of the paragraph is denied.

76. Admitted that Ms. Coyne was not under subpoena or an order to appear; therefore, she was advised not to appear for the foreclosure trial scheduled for February 13, 2015.

77. Admitted on February 12, 2015, Respondent and Attorney Christopher Hixon contacted counsel for Wells Fargo Bank, N.A. (“Wells Fargo”), and agreed to settle the foreclosure case. The remainder of the paragraph is denied.

78. Admitted.

79. Denied.

80. Denied.

81. Denied.

82. Denied.

83. Denied.

84. Denied.

85. Denied.

86. Admitted.

87. Admitted that Ms. Coyne appeared at trial on February 13, 2015. The remainder of the paragraph is denied.

88. Denied.

89. Denied.

90. Admitted Ms. Coyne terminated Respondent's representation and that Ms. Coyne proceeded to negotiate with the bank on her own. The remainder of the paragraph is denied.

91. Denied.

92. Denied.

93. Denied.

94. Denied.

95. Denied.

COUNT IV: TFB File No. 2016-10,066(6C)

96. Admitted or denied, as stated above.

97. Without knowledge; therefore, denied.

98. Denied.

99. Without knowledge; therefore, denied.

100. Admitted that Ms. Howard placed the service papers in a box that Respondent was carrying in his hands. The remainder of the paragraph is denied.

101. Denied.

102. Denied.

103. Without knowledge; therefore, denied.

104. Without knowledge; therefore, denied.

105. Admitted.

106. Denied.

107. Admitted that Ms. Howard attempted to effectuate service while Respondent was attending court. The remainder of the paragraph is without knowledge; therefore, denied.

108. Admitted.

109. Without knowledge; therefore, denied.

110. Without knowledge; therefore, denied.

111. Denied.

112. Denied.

113. Without knowledge; therefore, denied.

114. Denied.

115. Admitted that Respondent expressed to the judge that Ms. Howard's conduct was not appropriate. The remainder of the paragraph is denied.

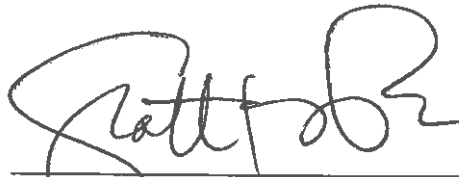
116. Denied.

117. Denied.

118. Denied.

119. Denied.

Respectfully submitted,



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Counsel for Respondent

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that the original of the foregoing was furnished by U.S. Mail to the Honorable Jennifer X. Gabbard, Referee, 800 East Twiggs Street, Room 330, Tampa, Florida 33602; and true and correct copies have been furnished by email to Katrina S. Brown, Esquire, and Jodi Anderson Thompson, Esquire, Bar Counsel, The Florida Bar, kschaffhouser@floridabar.org, jthompso@flabar.org

and tampaoffice@flabar.org; and by email to Adria E. Quintela, Esquire, Staff Counsel, The Florida Bar, aquintel@flabar.org, this 25th day of October, 2016.

A handwritten signature in black ink, appearing to read "Scott K. Tozian". The signature is written in a cursive style with a large initial "S".

SCOTT K. TOZIAN, ESQUIRE