

IN THE SUPREME COURT OF FLORIDA  
(Before a Referee)

THE FLORIDA BAR,

**Supreme Court Case No. SC18-1197**

Complainant,

The Florida Bar File Nos.

v.

2017-10,076 (6B)(HES);

2018-10,237(6B); 2018-10,408(6B);

2018-489(6B); 2018-10,715(6B);

2019-10,001(6B).

MARK P. STOPA,

Respondent.

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**REPORT OF THE REFEREE**

**I. SUMMARY OF PROCEEDINGS**

Pursuant to the undersigned being duly appointed as Referee to conduct a hearing on issues raised in the Petition for Emergency Suspension according to Rule 3-5.2 of the Rules Regulating The Florida Bar, the following proceedings occurred:

On July 25, 2018, The Florida Bar filed a Petition for Emergency Suspension against Respondent, Mark P. Stopa, Esquire. On July 27, 2018, the Supreme Court of Florida approved the Petition for Emergency Suspension and ordered that Respondent is suspended from the practice of law until further order of the Court. On July 27, 2018, Respondent filed his Motion to Dissolve or Amend Emergency Suspension, or, in the Alternative, Withdraw Emergency Suspension and Appoint Referee to consider same. The Honorable Daryl Manning was appointed as Referee in this matter pursuant to the Supreme Court of Florida's July 27, 2018 Order and the July 30, 2018 Order of the Honorable Ronald Ficarrotta, Chief Judge of the Thirteenth Judicial Circuit. The Referee was directed to conduct a hearing on the issues raised in the Petition for Emergency Suspension within seven (7) days from the date of assignment, and prepare a Report and Recommendation within seven (7) days of the date of the hearing. The Hearing was conducted on August 1, 2018. Time did not permit a case management conference.

At the commencement of the hearing, Respondent withdrew his Motion to Dissolve or Amend Emergency Suspension. Respondent indicated he was seeking additional time to wind down his practice and the ability for the new firm to access the funds in the Operating Account.<sup>1</sup> Respondent stated he was not contesting The Florida Bar's ability to meet its burden at this hearing to demonstrate a likelihood of prevailing on the merits on every element of the underlying rule

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<sup>1</sup> The Respondent informed the Referee later into the proceedings that he dissolved his firm and a new firm has been formed representing his former clients, of which he has no involvement. See Report page 3, paragraph D.

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SUPREME COURT

violations alleged. Respondent, however, does not admit the allegations in the Petition. Further, Respondent indicated that he disputed that any of the Petition's allegations were that he engaged in financial impropriety. Based on the withdrawal of the Motion to Dissolve or Amend Emergency Petition and lack of challenge to the Petition for Emergency Suspension, Respondent indicated there was no need for the hearing. Bar Counsel stated the Respondent's Motion to Dissolve or Amend Emergency Suspension initiated the hearing and The Florida Bar should be allowed to put on its case to sustain its burden. The Referee conducted the hearing.

During the course of these proceedings, Respondent was represented by Scott K. Tozian, Esquire. The Florida Bar was represented by Matthew I. Flicker, Esquire and Katrina Brown, Esquire. Todd Foster, Esquire was also present on behalf of the Respondent. All items properly filed, including pleadings, transcripts, exhibits and this Report, constitute the record in this case and are being forwarded to the Supreme Court of Florida.

#### **A. Jurisdictional Statement**

Respondent is, and at all times mentioned in the Petition for Emergency Suspension, was a member of The Florida Bar, admitted on April 23, 2002, and is subject to the jurisdiction of the Supreme Court of Florida. The Petition for Emergency Suspension constituted a formal complaint in accordance with Rule 3-5.2(a)(2) of the Rules Regulating The Florida Bar. Respondent filed a Motion for Dissolution in accordance with Rule 3-5.2(g) of the Rules Regulating The Florida Bar, thereby initiating the necessity of this hearing under Rule 3-5.2(i).

#### **B. Findings and Recommendations of the Referee**

The Referee finds, from the clear and convincing evidence presented, that Bar Counsel has demonstrated a likelihood of prevailing on the merits on all elements of the underlying nine rule violations. The Referee recommends that dissolution or amendment to the Order approving the Petition for Emergency Suspension is not warranted.

#### **C. Narrative Summary of the Petition for Emergency Suspension**

The filing of the Petition for Emergency Suspension was authorized by the Executive Director of The Florida Bar. The Petition alleged that the Respondent is causing great public harm. The Florida Bar listed 11 witnesses and presented 53 exhibits in support of the Petition. Bar Counsel proffered Respondent continued to settle cases without the consent of the clients, filed frivolous motions and provided misleading information, all resulting in nine (9) separate violations of Rules Regulating The Florida Bar: 4-1.2(a) (Objectives and Scope of Representation – Lawyer to Abide by Client's Decisions); 4-1.3 (Diligence); 4-1.4 (Communication); Rule 4-1.8(a) (Conflict of Interest; Prohibited and Other Transactions: Business Transactions with or Acquiring Interest Adverse to Client); Rule 4-1.8(b) (Conflict of Interest; Prohibited and Other Transactions: Using Information to Disadvantage of Client); 4-3.3 (Candor Toward the Tribunal); 4-3.4 (Fairness to Opposing Party and Counsel); 4-8.4(c) (Misconduct: A lawyer shall not engage in conduct involving dishonesty, fraud, deceit, or misrepresentation); and 4-8.4(d) (Misconduct: A lawyer shall not engage in conduct regarding the practice of law that is prejudicial to the administration of justice).

One (1) witness testified and the Referee received fifty-one (51) exhibits into evidence over the objection of the Respondent. Additionally, Respondent repeatedly indicated that, while not admitting the facts alleged in the Petition, he did not contest The Florida Bar's ability to meet its burden under Rule 3-5.2 to show a likelihood of prevailing on the merits as to each element of the underlying rule violations. The exhibits include affidavits, Report of Referee in The Florida Bar v. Mark P. Stopa, Supreme Court Case Nos. SC16-1727 and SC17-1428, Trial Transcript Citimortgage v. Robin Guess and Sworn Statement Testimony of Mark P. Stopa.

#### **D. Relief sought by Respondent**

Respondent withdrew his Motion to Dissolve or Amend Emergency Suspension as filed and essentially modified his request for relief at the proceeding. Respondent advised the Referee the Stopa Law Firm is dissolved as of July 27, 2018. The new firm that is handling Respondent's former clients is Stay in My Home, P.A., with which Respondent testified he has no affiliation. This new firm maintains the Operating Account containing \$72,000 that was transferred from the Stopa Law Firm to continue covering operating expenses of the firm for the benefit of its clients. Respondent states this account remains untouched pursuant to the Emergency Suspension Order. Respondent is seeking approval for the new firm to access the Operating Account or clarification as to the Emergency Suspension Order.

During the proceedings, the parties and the Referee reviewed the Emergency Suspension Order in detail. The specific limitations placed upon the Respondent are clear and warranted. No clarification, dissolution, or amendment to any of the Emergency Suspension provisions is recommended.

#### **CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that the original of the foregoing Report of Referee has been emailed to THE HONORABLE John Tomasino, Clerk, Supreme Court of Florida, at [e-file@flcourts.org](mailto:e-file@flcourts.org) and mailed to The Honorable John Tomasino, Clerk, Supreme Court of Florida to 500 South Duval Street, Tallahassee, Florida 32399-1927; a copy has been emailed to Matthew Ian Flicker, Bar Counsel, The Florida Bar, [mflicker@floridabar.org](mailto:mflicker@floridabar.org), [pmcbride@floridabar.org](mailto:pmcbride@floridabar.org); Katrina S. Brown, bar Counsel, The Florida Bar, [kschaffhouser@floridabar.org](mailto:kschaffhouser@floridabar.org); Scott Kevork Tozian, Counsel for Respondent, [stozian@smithtozian.com](mailto:stozian@smithtozian.com), [mrenke@smithtozian.com](mailto:mrenke@smithtozian.com); Adria E. Quintela, Staff Counsel, The Florida Bar, [aquintel@floridabar.org](mailto:aquintel@floridabar.org),

this 8<sup>th</sup> day of August, 2018.



The Honorable Daryl Manning, Referee