

IN THE SUPREME COURT OF FLORIDA  
(Before a Referee)

THE FLORIDA BAR,  
Complainant,

v.

ADAM ROBERT FILTHAUT,  
Respondent.

Supreme Court Case  
No. SC14-1056

The Florida Bar File  
No. 2013-10,737 (13F)

**THE FLORIDA BAR'S REPLY TO**  
**ADAM ROBERT FILTHAUT'S RESPONSE TO**  
**ORDER TO SHOW CAUSE**

The Florida Bar, Complainant, by and through its undersigned counsel, files this reply to Respondent Adam Robert Filthaut's response to this Court's Order to Show Cause as follows:

1. Respondent argues that he should not be suspended from the practice of law pending the final disposition of this case because he is currently employed outside the practice of law, and therefore he is not a danger to the public or to the judicial system. This Court held in *Florida Bar v. Travis*, 765 So. 2d 689, 691 (Fla. 2000) that the public has a right to have confidence that all lawyers who are members of The Florida Bar are deserving of their trust in every transaction. The report of referee demonstrates that Respondent engaged in a pattern of serious

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misconduct which casts doubt on his trustworthiness as a lawyer. Allowing Respondent to remain a member in good standing of The Florida Bar during the pendency of this matter will diminish the public's confidence in the legal system.

2. Respondent also argues that he should not be suspended from the practice of law pending the final disposition of this case because of his lack of disciplinary history and other mitigating factors. This Court also held in *Travis* that the absence of a prior disciplinary record and evidence of good character or reputation cannot be used as a "credit" to overcome a pattern of severe misconduct. *Id.*

3. Finally, Respondent argues that suspension from the practice of law pending the final disposition of this case would deny Respondent due process going forward because: a) it would deprive Respondent a full and fair hearing on the merits of his appeal of the report of referee; and b) it would undermine the public's and the legal profession's faith in the fairness of these proceedings. This Court has held that in bar disciplinary proceedings due process is satisfied by giving the lawyer an opportunity to fully explain the circumstances of the alleged offense and to offer testimony in mitigation of any penalty imposed. *Florida Bar v. Carricarte*, 733 So. 2d 975, 979 (Fla.1999). In this case, Respondent was afforded a final hearing and a separate sanctions hearing to explain his conduct and to offer mitigation evidence. Respondent chose not to avail himself fully of those

opportunities and instead invoked his Fifth Amendment privilege. Respondent's interim suspension from the practice of law will protect rather than undermine the public's and the legal profession's confidence in the proceedings.

4. This Court has held that the referee is in a unique position to assess the credibility of witnesses, and the referee's judgment regarding credibility should not be overturned absent clear and convincing evidence that his judgment is incorrect. *Id* at 978. The referee's report documents his findings regarding the credibility of the witnesses who testified. The referee's findings of fact support the recommended sanction of permanent disbarment.

WHEREFORE, The Florida Bar, Complainant, respectfully requests this Court enter an order suspending Respondent from the practice of law pending the final disposition of this matter.

Respectfully submitted,



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## **CERTIFICATE OF SERVICE**

I hereby certify that the original of the foregoing has been electronically filed with the Honorable John A. Tomasino, Clerk of the Supreme Court of Florida, using the E-Filing Portal; and that true and correct copies have been furnished by email to **Mark Jon O'Brien, Counsel for Adam Robert Filthaut**, at [mjo@markjobrien.com](mailto:mjo@markjobrien.com); **Joseph A. Corsmeier, Esq., Counsel for Stephen Christopher Diaco**, at [jcorsmeier@jac-law.com](mailto:jcorsmeier@jac-law.com); **Gregory W. Kehoe, Esq., Counsel for Stephen Christopher Diaco**, at his primary email address of [kehoeg@gtlaw.com](mailto:kehoeg@gtlaw.com) and his secondary email addresses of [meyerp@gtlaw.com](mailto:meyerp@gtlaw.com), and [flservice@gtlaw.com](mailto:flservice@gtlaw.com); **Danielle Susan Kemp, Esq., Counsel for Stephen Christopher Diaco**, at her primary email address of [kempd@gtlaw.com](mailto:kempd@gtlaw.com) and her secondary email addresses of [rechtinh@gtlaw.com](mailto:rechtinh@gtlaw.com), and [flservice@gtlaw.com](mailto:flservice@gtlaw.com); **William Frederic Jung, Counsel for Robert D. Adams**, at [wjung@jungandsisco.com](mailto:wjung@jungandsisco.com); and to **Adria E. Quintela, Staff Counsel**, The Florida Bar, at [aquintel@flabar.org](mailto:aquintel@flabar.org), on this 5th day of January, 2016.



Jodi Anderson Thompson, Bar Counsel