



FILED

MAR 14 2016

Case No. SG11-1345, SG12-1534 and SG13-1778

STATE BAR OF NEVADA

SOUTHERN NEVADA DISCIPLINARY BOARD

STATE BAR OF NEVADA
[Signature]
OFFICE OF BAR COUNSEL

STATE BAR OF NEVADA,)
)
 Complainant,)
)
 vs.)
)
 FRED W. KENNEDY, ESQ.)
)
 NV Bar No. 2269)
 Respondent.)

PUBLIC REPRIMAND

TO: FRED W. KENNEDY, ESQ.

Mark Michaliszyn ("Michaliszyn") attended an initial consultation with you to discuss a possible loan modification. Michaliszyn disclosed that he had been in bankruptcy, and that he and his wife were very behind with their mortgage and HOA payments, and wasn't sure if a loan modification was possible. You assured Michaliszyn that despite his current situation, he could get him a loan modification. You told him that the banks, under the new laws, had to work with homeowners and that you, as an attorney, could get them a much better loan payment.

Based on your representations, Michaliszyn retained your services. You did not provide Michaliszyn with a fee agreement. At the time of retention, Michaliszyn provided you all of their loan paperwork as requested. Michaliszyn made an initial payment of \$1,000 at the time of retention, and continued to make \$1,000 payments until he paid a total of \$4,250.

After Michaliszyn completed his payments, you stopped communicating with him. Michaliszyn kept sending you communications he was receiving from the bank, but received

1 no response. Even after advising your office of a foreclosure notice placed on the door of his
2 home, he still didn't receive any communication from you. Finally, Michaliszyn demanded a
3 sit down meeting with you. Michaliszyn stated at this meeting, you made statements
4 contrary to those made during the initial consultation, but said that your office would still work
5 to try to save his home.

6 Michaliszyn's home was sold and the locks were changed. Michaliszyn personally
7 negotiated a \$3,000 cash for keys exchange with the real estate company.

8 Michaliszyn waited at your office for 2 hours to see you to find out how the house
9 could be sold without the mediation you promised him. You got angry with Michaliszyn and
10 told him he didn't deserve a modification and that he should be happy he got to live in the
11 house without a payment for as long as he did. You refused to give Michaliszyn any money
12 back.

13 Stephen DaMario ("DaMario") met with you for a free consultation in March of 2011 to
14 discuss his options for a loan modification. You told DaMario during this consultation that
15 you had done many modifications over the last two years and had not lost one house.

16 You quoted DaMario the sum of \$4,100 and told him that the process would not begin
17 until a Notice of Default was received. DaMario retained your services and paid you the sum
18 of \$4,100 over the next few months.

19 DaMario subsequently decided not to pursue his loan modification due to a change in
20 his personal circumstances. DaMario sent you a letter notifying you of these changed
21 circumstances, and requested a partial refund. He received no response.

22 DaMario began leaving numerous messages for you but received no return phone
23 call. DaMario tried to schedule a meeting with you, but was told by your assistant that you
24 would not meet with DaMario until you spoke together on the phone. DaMario left more
25 phone messages for you that were never returned.

1 About six months later, DaMario finally met with you. You refused to give DaMario
2 any money back, and called DaMario an idiot for moving out of the house, because he could
3 have stayed there for free.

4 On December 23, 2013, the State Bar sent you a letter demanding a response to the
5 grievance, including a copy of DaMario's file. You did not provide the file as requested.
6 Instead of responding to the allegations, and providing the requested documents, you paid
7 DaMario in exchange for a withdrawal of the grievance. You claimed you thought a bar
8 grievance was the same as a fee dispute and that you acted appropriately in negotiating a
9 partial payment while demanding a dismissal. In total, you paid DaMario the sum of \$3,000
10 prior to your Formal Hearing.

11 Ruthie Michelle Williams ("Williams") filed a grievance with the State Bar stating that
12 she retained the services of you to assist her with an appeal to the Supreme Court regarding
13 the revocation of her parental rights. Williams did not have any documentation regarding
14 retention or payment of funds.

15 On November 14, 2012, the State Bar sent a letter asking you to respond to the
16 allegations. The State Bar received no response.

17 On March 5, 2013, the State Bar sent a certified letter demanding a response and
18 advising you that failure to respond would result in the matter being referred to a screening
19 panel of the Southern Nevada Disciplinary Board, which would consider the complaint on the
20 assumption that all of the allegations were true, and that the panel would be asked to
21 consider your failure to respond to the State Bar as a separate disciplinary violation pursuant
22 to Rule of Professional Conduct 8.1(b) (Bar Admission & Disciplinary Matters). No response
23 was received.

24 On April 5, 2013, the State Bar sent you one more letter demanding a response to the
25 allegations raised by Williams. No response was received. You later testified that your wife,

1 who performs work at your office, determined that the letters from the State Bar didn't require
2 a response, so she failed to alert you that any of them had arrived.

3 In light of the foregoing, you violated Rule of Professional Conduct ("RPC") 1.1
4 (Competence), RPC 1.3 (Diligence), RPC 1.4 (Communication), RPC 1.5 (Fees) and RPC
5 8.1(b)(Bar Admission & Disciplinary Matters) and are hereby **PUBLICLY REPRIMANDED**.

6 Dated this 4th day of March, 2016.

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9 F. THOMAS EDWARDS, ESQ.
10 Formal Hearing Panel Chair
11 Southern Nevada Disciplinary Board
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1 **CERTIFICATE OF MAILING**

2 The undersigned hereby certifies that a true and correct copy of the foregoing **PUBLIC**
3 **REPRIMAND** was placed in a sealed envelope and sent by U.S. regular mail in Las Vegas,
4 Nevada, postage fully prepaid thereon for certified mail, addressed to:

5 **Fred W. Kennedy, Esq.**
6 **c/o Robert W. Lueck, Esq.**
7 **528 S. Casino Center Boulevard, Suite 311**
8 **Las Vegas, NV 89101**

9 **Certified Mail No. 7012 1010 0001 2501 7264**

10 DATED this 16th day of March, 2015.

11 By: 
12 Jana L. Chaffee, an employee of
13 the State Bar of Nevada
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