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In the Supreme Court of Ohio

IN THE MATTER OF:
THE RESIGNATION OF
RICHARD JAMES LACIVITA

Case No 2012-1768

WRITTEN RESPONSE OF RICHARD JAMES LACIVITA TO MOTION TO APPEAR AND SHOW CAUSE

JOHN B. JUHASZ, Esq. No 0023777
COUNSEL OF RECORD
E-mail: Jbjjurisdoc@yahoo.com
7081 West Boulevard, Suite No 4
Youngstown, Ohio 44512-4362
Telephone: 330.758-7700
Facsimile: 330.758-7757
COUNSEL FOR RESPONDENT

WILLIAM M. FLEVARES (#0059960)
COUNSEL OF RECORD
TURNER, MAY & SHEPHERD
185 High Street, N.E.
Warren, Ohio 44481
Telephone: (330) 399-8801
Fax: (330) 399-8805
E-Mail: wflevares@lawturner.com

RANDIL J. RUDLOFF (#0005590)
151 East Market Street
P.O. Box 4270
Warren, Ohio 44482
Telephone: (330) 393-1584
Fax: (330) 395-3831
E-Mail: rudloffri@gsfirm.com
BAR COUNSEL FOR RELATOR

RECEIVED
JAN 30 2014
CLERK OF COURT
SUPREME COURT OF OHIO

FILED
JAN 30 2014
CLERK OF COURT
SUPREME COURT OF OHIO

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Respondent, RICHARD JAMES LACIVITA, hereby submits his written response to the motion of the Trumbull County Bar Association to appear and show cause, and this Court's January 10, 2014 order to file a written response within 20 days.

ROSE AFFIDAVIT

In all but a few very minor respects, the Respondent agrees that the allegations in the Rose affidavit are true. Any disagreements herein mentioned are not for the purpose of being disingenuous, contentious, or obstreperous, but in the interest of complete candor with the tribunal. Respondent agrees that:

1. Richard Rose is married to Donna R. Rose.
2. During the summer of 2013, Donna signed a contract to purchase real property located in the City of Hubbard, County of Trumbull, and State of Ohio and known for as 646 Meadowland Drive, Hubbard, Ohio 44425.
3. Richard Rose was actively involved with Donna Rose regarding the

steps of completion of the transaction.

4. On or about July 2013, Richard and Donna Rose asked the Respondent and Associated Land Title Agency, Inc., to handle the closing of this transaction.

5. Respondent and Associated Land Title had handled several closings for the Roses previously.

6. Respondent further agrees that in August of 2013 the Roses gave him a certified check in the amount of \$69,180.00 to pay for the purchase price and Donna Rose's costs associated with the purchase of the Meadowland Drive property.

7. Respondent further agrees that in August of 2013 a deed transferring title from George H. Woolensack, Jr., and Christine A. Woolensack to Donna R. Rose was recorded with the Trumbull County Recorder, and that Respondent notarized the deed.

8. Respondent further agrees that his notary commission was revoked by operation of law when he resigned as a lawyer but believes that the deed by which Donna took title is valid.

9. Respondent does not know, but has no reason to doubt, that the Roses contacted Lerner, Samson and Rothfuss, counsel for PNC Mortgage Company, and were informed by counsel for PNC Mortgage Company that neither the mortgage held by PNC Mortgage Company nor another mortgage that

encumbered the property had been paid. Respondent agrees that he initially informed the Roses that said mortgages were paid in full.

10. Respondent agrees that around October, 2013, he handed Mr. Rose a check in the amount of \$39,975.00 to pay off the first mortgage, the one held by PNC Mortgage Company, and promised that the remaining \$27,000.00 would be paid soon, if not necessarily the following week.

11. Respondent also agrees that he later that month called the Roses and informed them that he was unable to pay the remaining \$27,000.00 needed to satisfy the other mortgage that encumbered the real estate. While he does not know, Respondent has no reason to disagree with the claim that Donna Rose subsequently paid an additional \$27,000.00 directly to the lienholder to satisfy and release the mortgage. Respondent agrees that he has not reimbursed the Roses for the \$27,000.00 that he failed to pay to satisfy the second mortgage on the property.

12. Respondent, again in the interest of candor, does not agree that the Roses were *entirely* unaware that Respondent had resigned from the practice of law during November 2012 with discipline pending and that Respondent had had his right to act as an insurance agent to issue title insurance revoked prior to the transaction in question. Respondent believes that the Roses were concerned enough that they asked a realtor if it were "OK" for Respondent to complete the work. This in no way lessens what Respondent has done and what

the Respondent has failed to do in relation to the Court's resignation order. At this admittedly late date, however, the Respondent feels bound by the duty of candor in this response.

MOTION TO APPEAR

Once again in candor, the Respondent acknowledges that since tendering his resignation and this Court's order accepting the resignation, he has held himself out as an attorney practicing law in this State. He has prepared deeds and other legal documents. He has notarized deeds, mortgages, and other documents. He has not since his resignation was tendered and since the order accepting his resignation was entered, appeared before any public body or court or tribunal in any representative capacity whatsoever. He has not worked for any law firm.

Thus, while there was ample reason for the relator to file the motion, the Respondent in the late fall of 2013 closed his law office and title office. He has no client files. He Had only real estate closing files. He has done nothing related to the practice of law since that time. He is no longer practicing law in any form and will not practice law in the future.

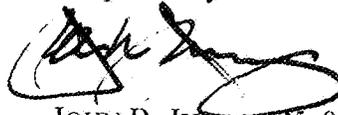
Not surprisingly, several governmental agencies have commenced investigations. The Respondent has cooperated fully, meeting with officials and/or turning over such items as were sought and as remained in his possession. He continues to do so.

It would be preposterous to suggest anything other than that the Respondent has acted in violation of this Court's order accepting his resignation, filed November 26, 2012. Respondent will not do so here.

A sanction for civil contempt must allow the alleged contemnor a fair opportunity to purge himself of contempt. *See, e.g., Carroll v. Detty*, 113 Ohio App.3d 708, 712, 681 N.E.2d 1383 (4th Dist. 1996), citing *In re Purola*, 73 Ohio App.3d 306, 596 N.E.2d 1140 (3rd Dist 1991), motion to certify overruled, 63 Ohio St.3d 1428, 588 N.E.2d 129; and *Fry v. Fry*, 64 Ohio App.3d 519, 582 N.E.2d 11 (3rd Dist. 1989). *See, also, e.g., Rich v. Rich*, 11th Dist. No. 2012-T-0089, 2013 Ohio 2840, 2013 Ohio App. LEXIS 2887. The Respondent asks for just that: an opportunity to purge himself of the contempt by continuing not to practice law and by otherwise complying with the resignation order as best he is able.

WHEREFORE, having fully answered, the Respondent prays that he be found in contempt, but afforded a reasonable opportunity to purge himself of the violations.

Respectfully submitted,



JOHN B. JUHASZ No 0023777
7081 West Boulevard, Suite No 4
Youngstown, Ohio 44512-4362
Telephone: 330.758-7700
Facsimile: 330.758.7757
E-mail: Jbjjurisdoc@yahoo.com
COUNSEL FOR RESPONDENT

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing was: sent by regular United States Mail, postage prepaid; hand delivered to counsel or counsel's office; sent by telecopier to sent by e-mail to Mr. William M. Flevares, Esq., at wflevares@lawturner.com and to Mr. Randil J. Rudloff, Esq., at rudloffri@gsfirm.com on January 29, 2014.


JOHN B. JUHASZ

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