



FILED

FEB 22 2016

ELIAS PORTALES, ESQ., State Bar No. 230402  
EFP Law Group  
111 N Market Street, Suite 300  
San Jose, CA 95128  
[408] 357-4655  
[408] 490-2821 fax

STATE BAR COURT CLERK'S OFFICE  
SAN FRANCISCO

In Pro Per

STATE BAR COURT  
HEARING DEPARTMENT- SAN FRANCISCO

In the Matter of:	)	Case No.: 15-O-13271
	)	
ELIAS FRANCISCO PORTALES	)	<b>Answer</b>
NO. 230402,	)	
	)	
A Member of the State Bar.	)	

Respondent Elias Francisco Portales, answering the disciplinary charges, denies each allegation contained in the Notice of Disciplinary Charges.

Respondent originally represented Ms. Garcia-Brown ("Complainant") in a Chapter 7 bankruptcy case. Her bankruptcy was successfully discharged and then she hired Respondent to prepare potential litigation based on violations of the Real Estate Practices Act Qualified Written Request (RESPA/QWR) under 12 U.S.C. § 2605(e)(1)(B). In order to file any litigation Respondent needed to provide Complainant's lender time to respond to the RESPA/QWR, Complainant fired Respondent before time elapsed for the lender to respond.

Respondent is attaching the original retainer agreement with Ms. Garcia for a Chapter 7 bankruptcy. Subsequently the Respondent and Complainant signed a separate retainer agreement on 2/13/15, for potential litigation based on violations of the RESPA by Bank of America. The retainer required a \$1,500 deposit/retainer which was earned upon execution. Respondent used the State Bar example retainer letter which reads, "Client acknowledges that the deposit is not an

estimate of total fees and costs, but merely an advance for security, except that the amount of \$1,500.00 of the initial advance retainer is a flat fee, earned upon receipt, and is credited against services provided." Respondent is having difficulty retrieving this agreement because it was scanned into a laptop that was subsequently stolen from his vehicle in San Francisco earlier this year.

Respondent is attaching all communications with Ms. Garcia-Brown available to him at this time. Again because Respondent's laptop was stolen he does not have a complete record of emails sent to Ms. Garcia-Brown. To be clear if Respondent emailed Ms. Garcia-Brown and she did not respond then he would not have that email in my new computer.

On October 24, 2015 Respondent initially met with Ms. Garcia-Brown regarding the refiling of a bankruptcy. On or about On 2/13/15 Respondent met with Ms. Garcia-Brown to begin representation for RESPA/QWR, after successfully representing her in a Chapter 7 bankruptcy. Respondent made sure that she was working with Carmel Crowthers a HUD Counselor with Neighborhood Housing Services of Silicon Valley to avoid any violations of SB 94. On 4/14/15 drafted and sent a RESPA Request to Bank of America on 2/16/15. As Respondent explained to Ms. Garcia-Brown throughout both her bankruptcy case and the RESPA matter she was likely going to lose her home to foreclosure. And it was up to Ms. Crowthers to achieve a loan modification to save Ms. Garcia-Brown's home. It had been several months since Ms. Garcia-Brown made a payment on her mortgage as a result of her only source of income being her disability payments. At our meeting of 2/13/15, Respondent informed Ms. Garcia-Brown that Respondent would be sending over the RESPA QWR and that dependent upon the response from Bank of America Respondent could potentially file litigation for violations of RESPA QWR. Ms. Garcia-Brown did receive a Notice of Trustee Sale, however the foreclosure did not take place until around 8/31/15 (as demonstrated by the website for the Santa Clara

County Clerk-Recorder Office, nearly 4 months after she terminated my representation and demanded a full refund). It is worth noting that while Ms. Garcia-Brown is complaining that Respondent was not in contact with her, Respondent was monitoring the setting of her foreclosure date through [www.auction.com](http://www.auction.com) in preparation for the best time to send the RESPA QWR. Ms. Garcia-Brown's foreclosure was postponed twice before Respondent was fired.

Dated this February 22, 2016

By:   
ELIAS PORTALES, ESQ.

**PROOF OF SERVICE BY PERSONAL DELIVERY<sup>1</sup>**

In the Matter of Elias Portales

State Bar Court Case No. 15-0-13271

I, the undersigned, hereby declare as follows:

1. I am over the age of 18 years;  
2. My business/residence address is: 648 Pine Terrace, South San Francisco  
CA 94080;

3. On 2/22, 2016, I personally served a true copy of the attached  
Answer

(state exact name of served document(s) ) in the above-captioned action upon ~~Clark~~  
~~of the State Bar Court~~ by (check applicable option) :  
Robert Henderson

- (1) personally delivering a copy of said document(s) to the above-named person;
- (2) personally leaving said document(s) in a envelope or package clearly labeled to identify the attorney being served with a receptionist or other person having charge of the office of the above-named attorney (use only in the case of service upon an attorney)

4. The location/address at which the aforesaid service occurred was: 180  
Howard St San Francisco, CA;

5. This declaration was executed on 2/22/16, 2016 at  
San Francisco, California;

6. The foregoing is true and correct and I so state under penalty of the laws pertaining to perjury in the State of California.

  
Print name: Jan Jacobo

<sup>1</sup>Use only for personal service or for service on an attorney pursuant to Code of Civil Procedure section 1011 (a).