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FILED

APR 18 2008

STATE BAR COURT CLERK'S OFFICE
SAN FRANCISCO

5 In Pro Per

6 THE STATE BAR COURT

7 HEARING DEPARTMENT-SAN FRANCISCO

8
9 In the Matter of

CASE NO. 06-J-130332

10
11 THOMAS EDWARD FRANKOVICH,
No. 74414

RESPONDENT THOMAS E.
FRANKOVICH'S ANSWER TO STATE
BAR OF CALIFORNIA NOTICE OF
DISCIPLINARY CHARGES

12
13 A Member of the State Bar.
14

15 Respondent, Thomas E. Frankovich (hereinafter "Respondent"), answers the State Bar
16 of California Notice of Disciplinary Charges alleging violations of Rule 2-100 (A) of the Rules
17 of Professional Conduct.

18 **DENIAL**

19 Pursuant to Code of Civil Procedure Section 431.30(d), Respondent hereby answers the
20 Notice of Disciplinary Charges by denying paragraphs 5, 6, 7, and 8 of said charges and admits
21 to paragraphs 1, 3, 4 of said charges, and admits in part paragraph 2 but denies the accuracy of
22 the findings or that Respondent's acts should have caused the discipline imposed. Respondent
23 only admits to those acts contained in Respondent's Declaration(s) submitted in the Central
24 District of California in response to it's inquiry.

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1 **AFFIRMATIVE DEFENSES TO DISCIPLINARY CHARGES**

2 As separate and distinct affirmative defenses to the State Bar of California's Notice of
3 Disciplinary Charges, Respondent alleges as follows:

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5 **FIRST AFFIRMATIVE DEFENSE**

6 As a FIRST AFFIRMATIVE DEFENSE, Respondent alleges that Respondent was/and
7 is denied due process.

8
9 **SECOND AFFIRMATIVE DEFENSE**

10 As a SECOND AFFIRMATIVE DEFENSE, the STATE BAR has failed to state
11 sufficient facts to support any ethics violations or to support any disciplinary action or any
12 other action against Frankovich.

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14
15 **THIRD AFFIRMATIVE DEFENSE**

16 As a THIRD AFFIRMATIVE DEFENSE, at all times and places mentioned in the
17 complaint, Frankovich acted in a manner authorized and/or required by the applicable law
18 which controls plaintiff's rights, if any, with regard to the matters alleged in the complaint.

19
20 **FOURTH AFFIRMATIVE DEFENSE**

21 As a FOURTH AFFIRMATIVE DEFENSE, Frankovich alleges that the State Bar's
22 issuance of these disciplinary charges was political, was for purposes of intimidating,
23 misleading, and coercing Respondent and issued to interfere with Respondent's assistance of
24 the disabled in civil rights cases in violation of federal law. Frankovich at all times acted in a
25 reasonable and ethical manner.

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1 **FIFTH AFFIRMATIVE DEFENSE**

2 As a FIFTH AFFIRMATIVE DEFENSE, the State Bar's claims, and each of them, are
3 barred by the doctrine of laches.

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5 **SIXTH AFFIRMATIVE DEFENSE**

6 As a SIXTH AFFIRMATIVE DEFENSE, the State Bar's claims, and each of them, are
7 barred by the doctrine of estoppel

8
9 **SEVENTH AFFIRMATIVE DEFENSE**

10 As a SEVENTH AFFIRMATIVE DEFENSE, the State Bar's claims, and each of them,
11 are barred by the doctrine of waiver.

12
13 **EIGHTH AFFIRMATIVE DEFENSE**

14 As a EIGHTH AFFIRMATIVE DEFENSE, any action or inaction by Frankovich with
15 respect to the allegations contained in the complaint was and is permitted and authorized by
16 applicable law.

17 **NINTH AFFIRMATIVE DEFENSE**

18 As a NINTH AFFIRMATIVE DEFENSE, Frankovich's actions, if any there were,
19 were conducted in good faith.

20 **TENTH FFIRMATIVE DEFENSE**

21 As a TENTH AFFIRMATIVE DEFENSE, the State Bar's claims are barred by
22 applicable statute of limitations.

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1 **ELEVENTH AFFIRMATIVE DEFENSE**

2 As a ELEVENTH AFFIRMATIVE DEFENSE, the complaint, to the extent that it
3 seeks suspension and/or disbarment against Frankovich, violates Frankovich's right to
4 procedural due process under the Fourteenth Amendment of the United States Constitution and
5 the Constitution of the State of California, and therefore fails to state a cause of action upon
6 which disciplinary action, suspension or disbarment may be granted.
7

8 **TWELFTH AFFIRMATIVE DEFENSE**

9 As a TWELFTH AFFIRMATIVE DEFENSE, the State Bar has failed to state a cause
10 of action justifying any disciplinary action.
11

12 **THIRTEENTH AFFIRMATIVE DEFENSE**

13 As a THIRTEENTH AFFIRMATIVE DEFENSE, the State Bar's claims are barred by
14 the fact that any decisions made by Frankovich with respect to the public or any access action
15 filed against a public accommodation were for good cause and were reasonably based on the
16 facts as Frankovich understood them based upon inspections conducted by Frankovich and/or
17 authorized by Frankovich.
18

19 **FOURTEENTH AFFIRMATIVE DEFENSE**

20 As a FOURTEENTH AFFIRMATIVE DEFENSE, the State Bar's claims in this action
21 are barred because Frankovich's conduct was, at all times mentioned in the complaint,
22 absolutely justified and privileged.
23

24 **FIFTEENTH AFFIRMATIVE DEFENSE**

25 As a FIFTEENTH AFFIRMATIVE DEFENSE, the disciplinary suspension and
26 excessive time taken to reinstate Respondent by the Central District exceeded the punishment
27 for the alleged act(s).
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1 **SIXTEENTH AFFIRMATIVE DEFENSE**

2 As a SIXTEENTH AFFIRMATIVE DEFENSE, the State Bar prosecution of
3 Respondent constitutes double jeopardy.

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5 **SEVENTEENTH AFFIRMATIVE DEFENSE**

6 As a SEVENTEENTH AFFIRMATIVE DEFENSE, the State Bar has failed to set out
7 it's claims with sufficient particularity to permit Frankovich to raise all appropriate defenses
8 and thus Frankovich reserves the right to add additional defenses as the bases for the State
9 Bar's purported claims become known.

10
11 WHEREFORE, Respondent prays for judgment as follows:

- 12 1. That the complaint be dismissed in its entirety, with prejudice, and that
13 judgment thereon be entered in favor of Frankovich and against the State
14 Bar.
- 15 2. That the State Bar take nothing by reason of its complaint.
- 16 3. That Frankovich be awarded its reasonable attorneys' fees and costs of
17 suit incurred herein; and
- 18 4. That Frankovich be awarded all other further legal and equitable relief,
19 as this Court deems proper.

20
21 Dated: April 11, 2008

THOMAS E. FRANKOVICH
A PROFESSIONAL LAW CORPORATION

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23
24 By: 

Thomas E. Frankovich

Duplicate Original