Bryan Canary

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DOC 95
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Commissioner on Lawyer Conduct
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North Carolina State Bar Association
The Grievance Committee
PO Box 25908
Raleigh, NC 27611
919-828-4620

RE: Grievance - David K. Tinkler, Assistant General Counsel - Bank of America

Dear Sir/Madam,

This letter details my direct experience with David K. Tinkler, Assistant General Counsel for Bank of America. David is directly and knowingly playing an active role in a Racketeering situation at Bank of America related to false advertising, conspiracy to commit fraud, fraud, mail fraud, extortion, and black mail. With his behavior David is also directly involved in activities that are in violation of the Fair Credit Billing Act, the RICO Act and potential numerous other federal lending laws.

Introduction

While I realize this is a bold accusation, a review of my 16 page email dialogue with David (Doc 14) will provide more than enough information to raise significant concerns, and a review of my emails with

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Bank of America Vice Presidents (VPs) prior to my dialogue with David will clarify the situation (Doc 12, Doc 13). Finally, a review of my Dispute Docs (0 of 6 through 6 of 6) which are 70 pages of written testimony with references to 80 supporting documents which were uploaded to the Consumer Financial Protection Bureau (CFPB) console under the penalty of perjury on 1/31/2016 will make the Big Picture complete.

Once you get the Big Picture, you will have a crystal clear understanding of what is transpiring across the industry and how Bank of America is participating in Industry Wide Collusion related to nefarious HELOC Resets. You will realize that my buck stopped with David Tinkler in the Bank of America Racket. You will realize David was a critical piece in attempting to complete the racket in my situation, and you will realize his written actions were NOT remotely in line with what is expected from any Banking Executive, and most certainly not a Licensed Attorney. David's willingness to be the final player in a racketeering scenario is worthy of being a convicted Felon, all be it that is for a different audience to decide. Suffice it to say, I believe David should be disbarred, and that is what I'm asking for with this grievance filing.

Details related to my full experience with Bank of America, including all relevant details related to David K. Tinkler can be found at **http://bofa-racketeering-2015.weebly.com/** . The documents I've referenced in red above and below can be found on that website at menu item "**CFPB-Case ...0345**" .

In this document I've provided sections titled:

1. Personal Information - David K. Tinkler
2. The Back Story
3. David Tinkler's Involvement Starts Here
4. Documentation Summary
5. My Recommendation - Disbar Him
6. Sworn Testimony

1) Personal Information - David K. Tinkler

My communication with David was limited to email (16 pages worth), so I've started with information in our emails and in his email signature block and worked backwards to figure out more about his background and where he is licensed. Below is the information I have gathered for him thus far:

- Full Name: David Knox Tinkler
- David completed Law School at the University of North Carolina in 1982
- David was accepted to the Bar in Alabama in 1982
- David was accepted to the Bar in South Carolina in 1997
- David is currently employed as a Lawyer by Bank of America in Charlotte NC, but it does NOT appear he is licensed to practice law in NC. It does appear he has some type of reciprocal agreement in place which may rely on his Alabama license for reciprocity.
- David worked as an Attorney in financial institutions including Barclays, Wachovia, and Wells Fargo prior to Bank of America
- David is married with adult children
- David has a Facebook account
- David has a linked in account: https://www.linkedin.com/in/david-tinkler-3a49a65
- Email: david.k.tinkler@bankofamerica.com
- Phone: 980-387-5880
- Mailing Address: Hearst Tower, 214 N. Tryon Street, NC1-027-20-05, Charlotte NC 28255
- David has a Brother who is an Attorney in Charleston SC - Paul Tinkler
- David has a niece who is a State Congresswoman in SC - Mary Tinkler
- David use to live in Columbia SC at some point in his past

2) The Back Story

In September 2005 I originated a Home Equity Line Of Credit Account with Bank of America (Doc 7). A HELOC Account is a credit card, checking account, interest bearing savings account and interest only mortgage substitute, all in one product. It is the most powerful consumer financial product that has ever existed. HELOC Accounts are the bane of a consumer Banker's existence because they cut into profits of all other banking products and they offer consumers a level of credit control that drives bankers mad. Bankers will do anything to muck up the origination, the servicing, and the renewal processes related to HELOC Accounts to force customers into any other banking product, as all other products are more profitable and offer greater credit control to the banker than the HELOC product.

My original HELOC Agreement (Doc 7) included:

1. A Renewal Option (page 1)
2. A Repayment Term Clause with a 15 year non-amortizing payment that would be "superfluous" as long as a Renewal Application Process was offered (and a Renewal was earned) (page 1)

3. A Repayment Term Extension Option that would be irrelevant unless the superfluous15 year Repayment Term became relevant (page 1)
4. Details related to the Fair Credit Billing Act (page 10)
5. An intentionally and horrifically convoluted indicator that a Reset would transpire 10 years after origination (page 1)

In August 2014 I received my first Reset Notice (Doc 4). My formal Reset date was 9/27/2015. Unexpectedly, my Reset Notice was void of a Renewal Application Process option, and it presented that "superfluous" 15 year repayment term as if it was the known and expected outcome from the Reset Process for my open-ended Line of Credit. NOTE: A Reset Process without deviance is just a Renewal Process. The term "Reset" means "to start the draw period over again", not to "convert to installment loan", as deviant Banker's and disinformation specialists in the media are trying to allude to now. NOTE: In 2014, the Office of Currency Control (the "OCC" - a Division of the Department of Treasury) for some reason or another felt the need to state publicly that interest-only HELOC Renewals are appropriate at time of Reset as long as common sense, risk based Renewal Application Processes are implemented (Doc 18, Doc 18a).

From August 2014 through February 2015 I made numerous calls to Bank of America. A Renewal Application Process was denied repeatedly via false and arbitrary statements such as "Your agreement doesn't have a renewal option", "We've never had a renewal process", "The word renew really means refi", "We simply don't have a renewal process", etc .

Perspective on Renewals

With a Renewal, my $841/mo interest only payment on my Line of Credit would remain generally the same for another 10 years, and my HELOC Account (a credit card, checking account, interest bearing savings account and interest only mortgage substitute all in one) would remain just as it had been during the first 10 years of our Agreement. Our Agreement would be "Reset".

Without a Renewal, the superfluous, 15 year Repayment Term comes into play. The proper vocabulary for describing that scenario is 1) My Line of Credit Account would be "frozen", meaning all features and benefits of my Line of Credit Account would cease to exist (no more credit card, checking account, interest bearing savings account and interest only mortgage

substitute) 2) My Line of Credit Account balance would be would be converted to an "installment loan" and 3) My $841/mo interest only payment would convert to a $2615/mo interest and required account-pay down payment. ($841 interest + $1750/mo demand for account pay-down as specified by the no longer superfluous 15 year Repayment Term clause).

Given the absence of a Renewal Application Process can lead to a cash-cull of epic proportions, $15 Billion/year industry wide for the next 3-4 years, the motives for Bankers to arbitrarily refrain from offering a Renewal Application Process are significant and obvious.

The Racket related to arbitrarily denying Renewal Application Processes becomes totally unmasked once you realize:

1. At time of origination in 2005, a reasonable, risk based HELOC Renewal Application Process was verbally promised as part of the sales and marketing process
2. At time of origination in 2005, Bank of America was executing obligatory risk based Renewal Application Processes for all those who originated HELOC Accounts in 1995
3. At time of origination in 2005, there was no time in the prior 10-15 years that Bank of America had not offered the obligatory HELOC Renewal Application Process during HELOC Resets
4. In 2014, the OCC felt the need to publicly state the propriety of Renewing HELOCs with appropriate Renewal Processes, when those processes should be obligatory and that statement should have been able to have gone unsaid
5. In 2014 and 2015, Bank of America was originating new HELOC Accounts while arbitrarily declining Renewal Application Processes for Existing Accounts (BofA was actively seeking new business but refusing the simplest and least expensive methods for retaining the same)
6. In 2014 and 2015, Bank of America "could have" used their then current HELOC Origination Requirements for HELOC Renewal Applications because the HELOC Agreements originated in the mid 2000s did NOT specify the underwriting requirements to be used for HELOC Renewal Applications offered during Resets from 2014 through 2017.

While Items 1, 2, and 3 are powerful, items 4, 5 and 6 make it overtly apparent that Bank of America has NO LOGICAL NOR LEGAL EXCUSE for not offering a HELOC Renewal

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Application Process. Given the boon of not offering a HELOC Renewal Application Process is $15 Billion/year in unwarranted cash flow (industry wide), the racket is laughably obvious.

And for absolute clarity, the results of a **Renewal** and a **Refinance** are almost identical to Bank of America (and all Big Banks participating in this scam). They would have customers with interest only HELOC Accounts and all associated benefits. There would be small differences in processing fees. A renewal would be less costly, but it would also not enable them to charge some origination fees that they may prefer to earn by forcing a Refinance, but in the big scope of things these differences are minimal.

BUT, a **Renewal** and a **Refinance** are NOT close to identical to consumers. A Refinance has additional fees (origination fees, recordation tax, lien release fees, doc prep fees) and added complexity for the consumer, especially if the HELOC is in first lien position with another lien in second position. In my case, Refinance Costs could have been close to $5,000 (very expensive recordation costs in Maryland), and that doesn't account for the complexities of dealing with a second lien. And all of those expenses and complexities would have been a non-issue with a Renewal.

THUS, Bank of America and all Big Banks are using known consumer expenses and complexities to trap consumers in these fraudulent HELOC Account conversions for HUGE profits. When looked upon appropriately and with all the facts, this is actually a very crafty game of extortion via very deviant consumer bankers.

In April 2015 Bank of America sent out a 2nd notice of Reset (Doc 5). Like the first, that notice was void of an offer for a Renewal Application process, but it included a Repayment Term Extension Application option which was not included in the first notice. Such a benefit would convert that 15 year "superfluous" Repayment Term into a more palatable 25 year Repayment Term. While I wanted a Renewal, I decided I'd apply for the Repayment Term Extension first, reduce my pending $2615/month payment to $1900/month, and then fight for the Renewal later to return my payment to $841/month interest only while also gaining back all the other benefits of a Line of Credit Account too.

In May 2015 I entered into the Repayment Term Extension Application Process, a full underwriting process that was going to be purportedly used to "lower my payment". The concept of using risk

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based underwriting to "lower a payment" is extremely unusual, and there were other overt flags that implied Bank of America was up to no good. The true nature of this Repayment Term Extension Application Process, which turned out to be a Racket inside of a Racket, became clear in short order.

The Repayment Term Extension Application Process was being offered for outward appearances only. BofA execs had choreographed a false denial processes to turn down all they invited to apply. The first false denial relied on the presentation of an irrelevant debt-income ratio and a customer's false assumption about the propriety of the ratio presented (and in my case, BofA employees actually fabricated a debt value for the debt-income ratio to make the game less obvious). For those such as myself who realized something was wrong and were strong enough to escalate their file, a second fake denial process was executed by a Bank of America VP via the presentation of a nonsensical, irrelevant, double debt-income ratio system that was not revealed in the first denial.

When fiercely challenged on the validity of the nonsensical, irrelevant double debt-income ratio system, Betty Watson, the VP who executed my second level denial, attempted to claim the nonsensical, irrelevant double debt-income ratio system was a requirement of the Office of Currency Control (The "OCC" - a part of the Department of Treasury) and out of the control of Bank of America. **To generally quote her, "You know our Government, they don't always do things that make sense"**.

Unfortunately for Betty, I knew both the Program Guidelines (the nonsensical, irrelevant double debt-income ratio system) AND the OCC claim to be fully fraudulent, and I called her a liar on the spot (over the phone). Betty was given 24 hours to prover the propriety and the validity of her claims in writing. The following day she recanted her statements, and she went on to detail the reality that she and others where aware the Program Guidelines were BofA contrived and nefarious. Doc 12 outlines the conversations, both verbal and written with Betty.

At this point I escalated my conversation to Betty's boss, VP Dwight Carlisle, and I forced all communication to email (Doc 13). Dwight refused transparent written communication as did his bosses Senior VP Jen Bone and Senior VP Karen Spagna. Jen Bone indicated BofA Legal would need to be engaged for a written response, and she indicated she would initiate that connection.

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<u>3) David Tinkler's Involvement Starts Here</u>

On June 29, 2015, David Tinkler initiated dialogue with me via email on behalf of Bank of America. In a very careless manner, David provided a written statement indicating an arbitrary "matter of policy" had been created to deny Renewal Application Processes several years prior, and David provided an illogical, non-risk based explanation for inappropriate income adjustment handling to address my attempt to get qualified for the Repayment Term Extension while overlooking ALL the nefarious racketeering related mischief that had transpired. **The general gist of David's email was that of a Dictator notifying a subject of arbitrary and irrelevant information that the subject was suppose to simply accept "just because the Dictator said it was so"**.

With David's careless written response, it was clear that David felt Bank of America was beyond prosecution for arbitrary and deviant acts, and it was clear that David was not acting in a proper legal capacity. David's response made it very clear he was in fact the final player in the execution of this racketeering scenario, as opposed to an Attorney providing proper legal insight into a disagreement. David's job was to put the nails in my financial coffin, not to provide appropriate business and/or legal insight.

I returned David's email with a 3 page Information Bomb which outlined all relevant parts of the nefarious processes as I had experienced them with Bank of America. I also alluded to experiences with PNC Bank which in fact is what gave me the chutzpah to take on David and Bank of America with such candor. The information I provided to David in writing was similar as that I had sent in writing to the BofA VPs in the weeks prior (Doc 12, Doc 13). I wanted to make sure he couldn't claim he had never seen the information, thus it was retold to him directly. I also unmasked his poor attempt at explaining away the lack of proper income adjustments. This latter part is only relevant to make the case that NONE of the Repayment Term Extension Applications were ever meant to be approved. Basically, if the two fake denials didn't get the customer to go away, faulty excuses were generated ad hoc to attempt to trap customers in these predatory and fraudulent repayment scenarios.

David replied to my 3 page Information Bomb by starting a "**new email string**". In the new email string David offered me the Repayment Term Extension I had been fraudulently denied with a non-disclosure clause attached. The general gist of David's offer was, "**We aren't interested in offering you a**

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Renewal Application Process, but we'll give you the Repayment Term Extension you were fraudulently denied, as long as you don't tell anyone what we are doing".

> Anyone who discerns the facts related to his offer and views this in proper context will fully recognize this offer with a non-disclosure as attempted Black Mail, knowingly executed by David K. Tinkler, an Attorney who currently holds a license to practice law in Alabama and South Carolina, and who is currently physically working in Charlotte NC. Furthermore, the offer was made to attempt to cover up copious amounts of deviance related to dozens of felonious activities which David had been formally made aware of in writing.
>
> **The non-disclosure clause** -- Underwriting is about absolute transparency. There is NEVER a time when anything about a risk based underwriting process should require a non-disclosure clause. NEVER. Furthermore, it is IMPOSSIBLE to include a non-disclosure clause for a truly risk based underwriting decision without simultaneously violating the transparency requirements to ensure compliance with Fair Lending Laws. If Bank of America would like to claim this non-disclosure clause was a part of a legitimate underwriting exception, which they attempted to do in a response to the Consumer Financial Protection Bureau Case in January 2016 (Doc 73a), they would be stepping from one Raging Fire into another.

Upon receipt of David Tinkler's Black Mail offer I went silent and started to document everything related to this experience. I documented more than 25 separate, deviant acts related to the cover up of convoluted HELOC Agreements, the arbitrary denial of Renewal Application Processes, and the choreographed fake denials executed in the FAKE Repayment Term Extension Application underwriting process. Approximately 2 weeks later David followed up via email to check in on his offer. When I counseled David on sending the offer on a **new email string** instead of using the existing email string, he attempted to claim we had not had any dialogue prior to his email offer. Unfortunately for David, I have dealt with compass-less, manipulative Attorneys like him before, and I was able to quickly get him to recant his claim via a game I call Karmic Chicken. It's all in writing. Just read it. (Doc 14).

David quickly recanted his claim that we had not had prior email dialogue, and David attempted to explain away the intentional manipulation as a bout of forgetfulness. So, David initially wanted me, and all others who might come upon our dialogue later, to believe he had emailed out an offer for a

$750/month payment reduction with a non-disclosure clause attached without any prior written dialogue, and after getting caught in an act of intentional convolution, he wanted me and all others to believe he had simply forgotten about the 3 page Information Bomb I had dropped in his lap which triggered the payment reduction offer with the non-disclosure clause to start with. Absolutely asinine. Insanity in motion.

4) Documentation Summary

Doc 12 and Doc 13 were the stimulus for my conversation with David. My entire dialogue with David is contained in Doc 14. All communication with David was via email. We had no verbal communication. A review of these documents and David's communication shows, without a doubt, David was aware of very nefarious deeds within his corporation, and through his written actions, David fully participated in the final stage of a racketeering for profit process. David's offer for a Repayment Term Extension with a non-disclosure clause is nothing short of attempted Black Mail and conspiracy to cover up dozens of felonious actions perpetrated by Bank of America employees and execs. His subsequent written antics are more attempts to convolute and cover-up felonious activities. Doc 12, Doc 13 and Doc 14 are transcribed copies of emails for easy reading. Doc 12a, Doc 13a, Doc 14a and Doc 14b are copies of the original emails.

From an investigative perspective, my recommendation would be to start with Doc 14, then go to Doc 12 and Doc 13 to fill in some blanks. If more clarity is desired, move on to the Dispute Documents 0 of 6 through 6 of 6. The Dispute Documents formally detail EVERYTHING with references to over 80 supporting documents. In reality, once you read Dispute Doc 0 of 6 and 1 of 6, you will have read most everything that is needed to understand EVERYTHING. Dispute Docs 2 of 6 through 6 of 6 just provide additional information in finer resolution and clarify the games being played in Bank of America's errant, careless, and self-incriminating response to the CFPB Case in January 2016.

> For what it's worth, David or someone else like him in Bank of America Legal is directly colluding with PNC Bank and others. This is evident because renewal opportunities are being arbitrarily denied across the industry. Colluding bankers at Bank of America and PNC Bank got so sloppy, that when the Reset notices from Bank of America and PNC Bank are compared side by side, the notices alone give away the collusion. See Dispute Doc 2 of 6 for those details and references to the Docs necessary to perform the analysis.

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Please note, this matter has been escalated to a Congressional level. Those in our Congress who are keen on Banking Reform are very well informed on this situation (Congressman Sarbanes, Senator Sanders, Senator Warren, Senator Shelby, Senator Brown and Senator Paul). Likewise, North Carolina Senator Walter Jones has been included on all correspondence given Bank of America is headquartered in Charlotte, NC.

5) My Recommendation - Disbar Him

From my perspective, David Tinkler should be disbarred. In my opinion, David has earned the honor of being disbarred (as well as the honor of becoming a convicted Felon), but I realize you all as Attorneys, judging your own, may not see things in the same light. Ultimately, your decision is all that matters as it relates to David's License to practice Law. As such, please review this matter and take action as you all deem appropriate.

6) Sworn Testimony

I took on the $1750/month payment increase because it was forced on me. I refused the offer for a $750 payment reduction with the non-disclosure clause to become the voice for 3.3 million citizens dealing with this Grand case of Industry Wide Collusion. 750,000 of the 3.3 million affected citizens are Bank of America customers and each one of those has been or will be exposed to this nefarious behavior from fellow citizens working at Bank of America between 2014 and 2017.

On 2/15/2016, I notified Bank of America of their violations of the Fair Credit Billing Act, per page 10 of our Agreement, and in that notification I initiated a consumer based payment modification effective 3/1/2016, as supported by page 10 of our Agreement. I am modifying my payment to interest only, as it would have been had I been offered a Renewal Application Process. I'm hopeful Bank of America realizes the wisdom in allowing this payment dispute with me to rest. Doc 90 is a copy of this notice to Bank of America, and Doc 93 is copy of the notice to relevant Senators and Congressmen of Doc 90 and the escape hatch offered by the Fair Credit Billing Act for all who are being fraudulent trapped in this Industry Wide Racketeering for profit scheme.

I am willing to swear to, certify and/or clarify all written information that is retrieved from my website at http://bofa-racketeering-2015.weebly.com/ I will also verbally testify to the same if called to do so, but I do NOT expect to incur any financial costs for testifying. The documents I uploaded to the CFPB console

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(Dispute Docs 0 of 6 through 6 of 6) were submitted into the Federal Justice System under penalty of perjury, as such, I feel that should send a very clear message about my sincerity related to my written testimony.

Please contact me via email or fax with any questions or for clarification. I will forward my mailing address and/or phone number via email or fax if requested via email or fax.

In pursuit of proper banking, Attorneys with Ethics, and a truly competitive marketplace,

Bryan Canary
Self-Employed US Citizen

cc: David Tinkler, Assistant General Counsel, Bank of America