SUPREME COURT OF NEW JERSEY
Disciplinary Review Board
Docket No. DRB 10-183
District Docket No. IIB-2007-0010E

IN THE MATTER OF	
RAFFI TOROS KHOROZIAN	
AN ATTORNEY AT LAW	

Decision

Argued: July 22, 2010

Decided: October 7, 2010

Donald F. Miller appeared on behalf of the District IIB Ethics Committee.

David H. Dugan, III appeared on behalf of respondent.

To the Honorable Chief Justice and Associate Justices of the Supreme Court of New Jersey.

This matter was before us on a recommendation for discipline (censure) filed by the District IIB Ethics Committee (DEC). Acting as settlement agent, respondent made misrepresentations in the settlement statements for a real estate transaction. We determine to impose a censure.

Respondent was admitted to the New Jersey bar in 1993. He has no prior discipline.

The complaint charged respondent with having violated RPC 1.1(a) (gross neglect), RPC 1.4(a) and (b) (failure to communicate with the client), RPC 1.7 (no paragraph cited) (conflict of interest: representing both buyer and seller in a real estate transaction), and RPC 8.4(c) (conduct involving dishonesty, fraud, deceit or misrepresentation).

At the outset, we note that the complaint alleged wrongdoing that is not borne out by clear and convincing evidence. For example, the complaint alleged that respondent improperly represented both the buyer and seller in a residential real estate transaction, that he failed to communicate adequately with the sellers (who were not his clients), and that he grossly neglected the real estate closing. For the reasons detailed below, we dismissed the charges that respondent violated RPC 1.7, RPC 1.1(a), and RPC 1.4(a) and (b). The only remaining charge (RPC 8.4(c)) relates to respondent's documentation of the transaction and the accuracy of the closing documents.

At the inception of the September 14, 2009 DEC hearing, the parties stipulated that: (1) on March 29, 2006, respondent

conducted a real estate closing between Paul and Eunice Santucci (the sellers and grievants herein) and Rajiv Lakhaney (the buyer), in the sale of the Santuccis' Teaneck house; (2) respondent represented the buyer; (3) at no time prior to or during the closing, did respondent render any legal advice to the Santuccis; (4) on April 6, 2006, respondent deposited the proceeds of the sale of the house into his trust account and took a $1,400 legal fee, plus expenses of $1,050; (5) respondent paid the Santuccis' outstanding mortgage and several judgments against them; (6) on April 6, 2006, respondent released to the Santuccis closing proceeds in the amount of $49,372.50; (7) the check was later voided; and (8) a new check was issued to Rajiv in the same amount.

The evidence presented at the DEC hearing revealed the following: the Santuccis were already involved in a foreclosure proceeding when, in September 2005, they contacted Mary Lakhaney, the owner of a debt-relief company named "Property Solutions." Paul (Santucci) testified that Lakhaney told them that her company could prevent the foreclosure by making her a co-owner of the property; her program was also supposed to rebuild the Santuccis' credit.

On October 25, 2005, the Santuccis signed a detailed contract of sale prepared by Lakhaney. The Santuccis also signed a rider to the contract containing garbled characters, such as "@#$%^&," where the monetary terms should have appeared.[1]

In part because the rider is garbled, the record is not entirely clear about the terms of the agreement between the Santuccis and Property Solutions. In addition, the parties entered into an oral agreement, a "side-deal," explained more fully below.

Santucci testified that he and his wife knew that they were giving up some of their ownership interest to Lakhaney, but did not know that they were selling their house. Lakhaney, on the other hand, testified that she explained to the Santuccis that the arrangement was a sale of the house to a "straw buyer," someone with good credit, who would purchase the property and allow the Santuccis to remain there, while they rehabilitated their credit.

Lakhaney, who claimed to have done about a dozen straw-buyer transactions prior to the Santuccis', selected her twenty-

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[1] The rider engages Rajiv's own property management company, not Property Solutions. The buyer signing this document is not Rajiv, but a Tristan Pashalian. Respondent was not inculpated in the preparation of any of the sale documents.

one year old son, Rajiv, as the straw buyer for the Santucci deal. Lakhaney testified, matter-of-factly, that the going rate for a straw buyer at the time was $20,000. Indeed, Rajiv charged $20,000 for his role.

Rajiv did not testify at the DEC hearing. Lakhaney bitterly complained that Rajiv's fee ultimately went toward the Santuccis' mortgage and taxes over the months to follow the closing, because the Santuccis failed to uphold their end of the bargain.

According to Lakhaney, she and the Santuccis

> had an agreement that, for the first year [after the sale to Rajiv], there would be payments made by the Santuccis, so they could remain in the home, and at that time, both parties would not attempt to refinance or sell the property, and that they would have the first right of option, and they would be able to repurchase it at the same price, but they would have to come up with their own costs, they would have to pay the fees throughout, plus there was supposed to be fees to the management company and fees to the buyer. We were never able to collect any of that, so we were — we also came out of pocket for the mortgage, plus litigating this, another $15,000.
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> [T163-9 to 21.][2]

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[2] "T" refers to the transcript of the September 14, 2009 DEC hearing.

Lakhaney stated that the total monthly cost to carry the property was $3,428. The Santuccis were required to pay $1,500 per month of that amount.

When the time approached for settlement, Lakhaney gave the Santuccis respondent's name and address, as the attorney acting as closing agent for the March 29, 2006 closing. The Santuccis did not know respondent prior to the closing. Santucci denied that anyone associated with the transaction had told him that respondent would be representing them. Santucci added that he had discussed the matter with an attorney friend on several occasions, long before respondent's involvement. According to Santucci, the attorney did not "like the way this sounds" and advised him "not to deal with these people." The attorney even suggested a different mortgage broker, but Santucci disregarded the advice, electing to use Property Solutions and Yetkin Pashalian (Pashalian), Lakhaney's mortgage broker. It is not clear if Yetkin and Tristan Pashalian, the buyer who signed the rider to the contract, are related to each other.

Santucci testified that no attorney was present at the closing.[3] Rather, respondent's paralegal, Helga Dessante,

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[3] As seen below, respondent testified that he was at the closing.

conducted it. Santucci also recalled his "shock" when he learned from Dessante, at the closing, that they were selling their house. Santucci recalled discussing the sale with his wife and deciding to go ahead with it, because they had run out of other options.

Lakhaney disputed Santucci's claimed shock about the terms of the transaction, stating that she had explained the whole straw-purchaser process to him, as well as the secret "side deal" (explained below) that they did not disclose to respondent or Dessante.

Lakhaney saw the Santuccis as opportunists who took advantage of the Property Solutions arrangement, making not a single $1,500 payment after the sale of the house. Lakhaney was forced to make those payments herself to protect Rajiv's credit. She then sued the Santuccis for ejectment, in hopes of removing them from the house. As of the date of the DEC hearing (September 14, 2009), the Santuccis had not made any payments for the property, mortgage or taxes since 2004, but remained in the house.

Respondent testified that he had been recommended for this deal by Pashalian, for whom he had done about five other closings. He represented the buyer, Rajiv, and prepared the

deed, the RESPA, and sellers' affidavit of title for the transaction, duties customarily handled by the seller's attorney. He did not prepare the contract of sale or rider, and was unsure if he had reviewed a contract, prior to closing. His file did not contain a contract, the final version of which was "lost," according to Lakhaney.

The deed, dated March 27, 2006, was signed on March 29, 2006, but was certified by respondent as having been signed on March 24, 2006. Respondent explained that the deed must have contained the wrong date, because all of the signatures were placed on the document on March 29, 2006.

Respondent and Dessante prepared three separate RESPAs for the transactions. All of them contained inaccuracies.

The first RESPA, Exhibit J-G, showed a sale price of $400,000 and a first mortgage of $320,000. Cash from buyer was listed as $91,032.70. Settlement charges of $11,032.70 were to come from the buyer. A side deal called for the sellers to pay those charges. The RESPA did not reference an $80,000 second mortgage, although Line 204 required it. Also, the RESPA made no reference to two judgments to be satisfied at settlement.

The second RESPA, Exhibit J-F, was prepared for an $80,000 second mortgage (but does not so state), with separate buyer's

expenses of $1,382.20. The side deal between the parties called for the Santuccis to pick up all of the buyer's expenses. Respondent testified that Pashalian advised him, at the closing, that the sellers had agreed to pay the buyer's expenses. This RESPA, too, made no reference to the two judgments to be satisfied at settlement. Respondent explained that the judgments did not appear on these RESPAs because he did not know the pay-off amounts at the time of this "dry" closing. Respondent testified: "It could have been $4500 [sic], it could have been $100,000 for all I know."

When asked why there were two separate RESPAs for first and second mortgages to the same transaction, respondent gave a non-responsive answer: "The numbers changed over a period of time, as the numbers came in. There's no other reason I can think of."

Dessante also testified that, due to the foreclosure, it was several days after the closing before she received the final pay-off figures for the sellers' mortgage. She "redid" the first page of the third and final RESPA, Exhibit J-O, without submitting the final version to the parties for their signatures. This final RESPA reflected a $400,000 sale price and buyer's expenses of $11,032.70. The first mortgage ($320,000) and second mortgage ($78,817.50) were properly

listed.[4] Total cash from the buyer was now listed as $12,414.90. Respondent conceded, however, that Rajiv brought no cash to the closing and that there was no buyer's deposit for the transaction. Cash to sellers was listed in the amount of $61,574.80.

The final RESPA also contained three new entries by Dessante. Line 503 contained the pay-off amount for the first mortgage; line 504 listed an $18,754.70 judgment against Paul Santucci; and line 505 showed a $303 judgment against Eunice Santucci. The RESPA also reflected the $3,215 realty transfer fee on Line 502, but failed to carry that figure over to page two, Line 1400, an oversight for which respondent had no explanation.

Respondent testified that the final RESPA was "most likely" signed by the parties on March 29, 2006, along with the other two RESPAs, but that the numbers were added for lines 503 to 505 later. When asked if there were three distinct RESPAs for the deal, respondent stated, "It may well have been." Once it was established that there were three RESPAs, respondent was asked

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[4] Respondent's ledger for the transaction shows that Argent Mortgage, the lender, sent funds in amounts somewhat different from those on the RESPA: $325,443.10 for the first mortgage and $79,972.60 for the second mortgage.

why. He replied, "I can't explain it to you really, sitting here today. I can't explain it to you as to why there's [sic] three [RESPA] statements."

In a letter-brief to us, dated June 17, 2010, respondent's counsel explained the circumstances surrounding the preparation and signing of the RESPAs:

> At the dry settlement on March 29, 2006, respondent's paralegal had buyer and sellers sign the initial [RESPA] she had prepared but which was incomplete. The initial [RESPA] consisted of four pages, not the usual two. This was because the buyer was financing the purchases by way of two mortgages, one for $320,000 (represented by the first two pages) and a second for $80,000 (represented by the final two pages). The parties' signatures were affixed to the fourth page (T184:15-T186:6).
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> Days later, after all of the necessary data was received, respondent's paralegal prepared a final [RESPA] (Exhibit [J-O]) in which she recorded the data on a revised first page at lines 503, 504 and 505, substituting that page for the first page in the March 29, 2006 version. The final [RESPA] was not presented to the parties for resigning. (T186:7-25).

Refuting Santucci's account of events at the closing, respondent testified that he was present that day. He claimed no knowledge that the first two RESPAs were incorrect, believing that they accurately reflected the first and second mortgage transactions. He gave no reason for his use of two RESPAs,

beyond the fact that the lender, Argent Mortgage, was funding a first and a second mortgage.

Respondent also claimed to be unaware, until the closing, that Rajiv was not contributing cash at closing, as stated in the RESPAs ($91,032.70 according to Exhibit J-G, or $12,414.90 according to Exhibit J-O). Once he became aware of that fact, respondent did not change the RESPA to accurately reflect that Rajiv was bringing no funds to the closing.

Respondent conceded that neither RESPA signed by the Santuccis reflected a) the pay-off figure for their mortgage; b) respondent's $1,400 legal fee; and c) expenses of $1,050 for the filing of the deed and the two mortgages. Those items were only found on Dessante's final version. Respondent also acknowledged that he never explained some of these items to the Santuccis, after he learned that they were paying the buyer's expenses.

Respondent also testified that he held a "50 or 51 or 49" percent interest in Edgewater Title Company, the title company that Rajiv selected for the transaction. He did not advise the Santuccis of his interest in that entity or that it received a $2,705 fee from their funds, at closing. The complaint did not charge respondent with a conflict of interest in this regard,

presumably because the investigation revealed no clear and convincing evidence of any wrongdoing. There is no indication in the record that the fee was unearned.

Respondent claimed that he was unaware that the Santuccis were going to live in the house, after the sale to Rajiv. Rajiv signed an occupancy agreement stating that he would occupy the premises as his primary residence. Respondent maintained that, had he known about the post-closing living arrangement, he would probably not have agreed to represent Rajiv.

After the closing, respondent disbursed the settlement proceeds according to the figures in the final RESPA, with one exception. Instead of disbursing cash to sellers in the amount of $61,574.80 to the Santuccis, respondent's trust account check to them was for $49,372.50. That reduced figure reflected their payment of $12,414.90 in buyer's expenses.[5]

Respondent gave the $49,372.50 check to his secretary. Santucci came to the office to pick it up. A few weeks later, Lakhaney and Pashalian appeared at his office with the Santuccis' check. When respondent asked why they had it, they explained that the funds were supposed to go to Rajiv. They

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[5] This figure is off, in the Santuccis' favor, by $212.60, as $61,574.80 minus $49,372.50 equals $12,202.30.

wanted a new check issued. Respondent told them that they should have Rajiv endorse the Santucci check. They explained that the bank had declined a third party endorsement.

Refusing to "disburse someone else's money" without their authorization to do so, respondent agreed to dictate an authorization form for the Santuccis' signatures. He advised Lakhaney and Pashalian to return with it only if they obtained the Santuccis' signatures, if the signatures were notarized and if they obtained a photocopy of the Santuccis' driver's licenses. A few days later, respondent received the document with the Santuccis' notarized signatures and photocopies of their driver's licenses. On May 5, 2006, respondent voided the original Santucci check and issued a new one to Rajiv.

Santucci claimed that his wife was "tricked" into signing the authorization and that he was not at home at the time. Over respondent's objection, he testified that Eunice told him that no notary was present in the house, when she signed it. Santucci was not asked if he had left his driver's license at home that day, making it available for photocopying.

Lakhaney testified that the Santuccis signed the check authorization in her presence. She had set up the meeting to further explain to the Santuccis their obligations as homeowners

and that they were "not staying there for free." There were taxes to be paid and other obligations that were "normal protocol" for homeowners. According to Lakhaney, once they signed the authorization, it was notarized, on the spot, by a notary that Lakhaney brought with her. The Santuccis used their own home photocopier to furnish copies of their driver's licenses.

At the DEC hearing, respondent's counsel presented yet a fourth RESPA for the transaction, a compilation of the prior three. Exhibit R-2 is a four-page rendition prepared, apparently in anticipation of the DEC hearing. It is made up of four pages. Page one is identical to page one of Exhibit J-O, the third RESPA. Page two is identical to page two of Exhibit J-G, the first RESPA. Page three is identical to page one of Exhibit J-F, the second RESPA. Page four is identical to page two of Exhibit J-F and page two of Exhibit J-O. When asked if Exhibit R-2 was ever sent out to anyone, respondent stated that he did not know, but speculated that it could have been faxed to the lender.

The DEC found that respondent "failed in his duty to act in total honest [sic] and to avoid participating in any fraud or misrepresentation," violations of RPC 1.1(a) and RPC 8.4(c), respectively.

The DEC dismissed the charged conflict of interest (RPC 1.7), determining that no attorney/client relationship existed between respondent and the Santuccis. The DEC made no findings with regard to the RPC 1.4(a) and (b) charges.

Although this charge was not part of the complaint, the DEC found respondent in violation of the Supreme Court's determination in Opinion No. 26 of the Committee on the Unauthorized Practice of Law, 139 N.J. 323 (1995), which requires attorneys, in residential real estate transactions with unrepresented parties, to disclose the propriety of retaining independent counsel. The DEC did not cite to an RPC, when making this finding, lumping it together with its RPC 1.1(a) and RPC 8.4(c) findings.[6]

After considering that respondent has had no prior discipline since his 1993 bar admission, the DEC recommended a censure.

Following a de novo review of the record, we are satisfied that the DEC's finding that respondent's conduct was unethical was fully supported by clear and convincing evidence.

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[6] In respondent's counsel's letter-brief to us, counsel acknowledged that respondent did not comply with that opinion, but countered that the DEC did not cite a concomitant RPC violation.

Unquestionably, the Santuccis' sale to Rajiv was a fraudulent real estate transaction. Lakhaney and Property Solutions, Lakhaney's son Rajiv, Yetkin Pashalian, and the Santuccis were all part of a scheme to defraud the lender, Argent, by making it appear that the transaction was a straightforward residential real estate sale. That respondent may not have been aware of the full extent of the parties' fraudulent plan is not dispositive of the case. Respondent is not innocent, as he has urged. He prepared closing documents, in particular RESPAs, knowing that they misrepresented the transaction.

As closing agent, respondent certified that the RESPAs were complete and accurate accounts of the funds received and disbursed as part of the settlement of the transaction. In fact, the RESPA form indicates, below the closing agent's signature line, that, under 18 U.S.C. §1001 and §1010, it is a federal crime to knowingly make false statements on a RESPA.

Exhibit J-G, the first mortgage RESPA, contained a misrepresentation of which respondent was aware and which may have been designed to hide the $80,000 second mortgage (RESPA Exhibit J-F). This was undeniably a one hundred percent financing arrangement. What other purpose would be served by the

lender's splitting the $400,000 loan into two: one loan for $320,000 and the other for $80,000? On its face, it makes no sense that the lender would secure the $320,000 note with a first purchase money mortgage and the remainder of the purchase price with a second mortgage. It could be that an eighty percent loan-to-value ratio limited Argent's such lending capacity to eighty percent of the sale price, or $320,000. Perhaps someone at Argent, as a loan officer, managed to slip the second mortgage through as a means of accomplishing a one hundred percent financing. We do not know this to be the case, as respondent did not testify about that issue, no one from Argent testified, and the DEC did not subpoena Argent's records.

Respondent testified that he probably sent those RESPAs (Exhibits J-F and J-G) along to the lender. He must have done so, because Argent funded the loans. Importantly, Exhibit J-G, the RESPA for the first mortgage, falsely stated that the borrower (Rajiv) brought $91,032.70 in cash to the closing, when he brought none. $80,000 of that $91,032.70 was attributable not to cash brought to the closing, but to the second mortgage. The remaining $11,032.70, representing the buyer's expenses, was going to be paid by the sellers.

The cash-from-borrower amount was a critical number to Argent because it assured the lender that the borrower was not "in over his head" and had the financial wherewithal to pay the loan into the future. Respondent's use of a false cash-from-borrower amount on Exhibit J-G was a misrepresentation, in violation of RPC 8.4(c).

Respondent's explanation for his use of yet another RESPA, Exhibit J-O, (the third RESPA), made little sense. He testified that he thought this RESPA may have been drafted to reflect the final pay-off figure for the sellers' mortgage loan and the two judgments. Yet, if that had been the case, he could have just added those items to Exhibit J-G. Recall that respondent cobbled Exhibits J-F and J-G together to make Exhibit J-O and had Dessante add figures at lines 503 to 505 for the mortgage and judgments.

Whatever respondent's true reason for Exhibit J-O, it, too, contained misrepresentations: that the buyer brought $12,414.90 to the closing and that respondent then disbursed those funds. If this RESPA was used (for instance, sent to Argent or the title company) and not just prepared for respondent's file, in the event someone questioned him, it misrepresented that Rajiv had contributed funds at closing. If the RESPA never left the

file, then it is not really a violation of RPC 8.4(c) because no one saw it, relied upon it, or was deceived by its inaccuracy.

The fourth RESPA, a four-page document, seen for the first time and introduced into evidence at the DEC hearing, appears to be a self-serving document prepared for respondent's file. It is nothing more than a compilation of pages from the prior RESPAs. This RESPA, too, may have been sent out to the mortgage company. When asked, respondent was unsure if it had been used for any purpose.

Another false document was an occupation agreement signed by Rajiv, assuring the lender and the title company that the property was free of any tenant possessory or financial claims. The lender and the title company wanted to be certain that the property was vacant and free of claims, when title changed hands. In reality, the Santuccis were to remain as tenants.

On that score, respondent testified that he was unaware, when he had Rajiv sign the document, that the Santuccis would remain in the house. He contended that he had learned of that fact well after the closing, after Lakhaney and Pashalian had him re-issue the Santucci settlement check in Rajiv's name. There is no evidence to contradict respondent's testimony that the parties lied to him about occupancy. Therefore, as to the

occupancy agreement, we find that respondent was unaware of its falsehood.

Finally, with regard to the $49,372.50 check that Lakhaney and Pashalian obtained for Rajiv, it appears that respondent did not act unethically, when he required them to obtain the Santuccis' signatures and driver's licenses, as proof that they had signed the authorization to turn over the funds to Rajiv for the side deal. We find that respondent did not violate any RPCs with regard to that check.

Overall, however, we find it difficult to discern respondent's motive for his actions in this matter. On the one hand, it appears that he was knee-deep in a scheme to defraud Argent, as evidenced by his use of multiple RESPA statements for the same transaction. There were strong hints that the first two RESPAs attempted to hide the second mortgage. Respondent also had figures added to RESPAs over the parties' previously obtained signatures -- after they had sworn to the accuracy of those numbers -- when he should have had them sign a new RESPA. But we have a scanty record that lacks the full documentation (for instance, the title binder or Argent's file) that would have fully explained what transpired in the case. On the other hand, respondent was memory-challenged at the hearing. Could he

have been so extraordinarily reckless and disinterested in the results of the closing that he was unable to recall the real purpose for the many RESPA statements? He simply would not settle on a narrative for the transaction.

Three charges remain for dismissal. With respect to RPC 1.7(a)(1), the DEC correctly dismissed the charge that respondent represented the Santuccis, in addition to Rajiv. Santucci was clear that he never met or spoke with respondent prior to the closing and that no one associated with the transaction ever advised him that respondent would be acting in his behalf. In fact, he testified that respondent did not even attend the closing. Even Lakhaney confirmed that she had not told the Santuccis that respondent would be representing them. By his own admission, Santucci discussed the transaction on more than one occasion with a different attorney, who advised him not to deal with Pashalian and the Lakhaneys.

Respondent, too, testified that he had not met the Santuccis before they arrived at the closing and that he did not advise them, at the closing, other than to have been the preparer of several documents, more commonly prepared by the seller's attorney. Likewise, there is no documentary evidence in the record that respondent acted on the Santuccis' behalf.

Because the record lacks clear and convincing evidence that respondent represented the Santuccis, we dismiss the RPC 1.7(a)(1) charge.

The gross neglect charge (RPC 1.1(a)) is also worthy of dismissal. There is no evidence that respondent neglected the transaction. To the contrary, respondent and his paralegal spent a considerable amount of time working to consummate the settlement. Thereafter, post-closing tasks were performed, such as recording the deed. For lack of clear and convincing evidence to support the RPC 1.1(a) charge, we dismiss it.

Finally, the RPC 1.4(a) and (b) charges that respondent failed to adequately communicate with the Santuccis were premised on the allegation that respondent represented them as sellers in the transaction. As previously set out, respondent did not represent the Santuccis. Thus, he had no duty to keep them informed. Therefore, we dismiss the failure-to-communicate charges as well.

In summary, then, respondent is guilty of misrepresentations in two RESPA settlement statements.

The discipline imposed for misrepresentations on closing documents has varied greatly, depending on the number of misrepresentations involved, the presence of other ethics

infractions, and the attorney's disciplinary history. Reprimands are usually imposed when the misrepresentations are unaccompanied by additional instances of misconduct. See, e.g., In re Spector, 157 N.J. 530 (1999) (attorney concealed secondary financing to the lender through the use of dual RESPA statements, "Fannie Mae" affidavits, and certifications); In re Sarsano, 153 N.J. 364 (1998) (attorney concealed secondary financing from the primary lender and prepared two different RESPA statements); and In re Blanch, 140 N.J. 519 (1995) (attorney failed to disclose secondary financing to a mortgage company, contrary to its written instructions).

At times, even when the misrepresentation is combined with other unethical acts, such as gross neglect, a reprimand may still result. See, e.g., In re Agrait, 171 N.J. 1 (2002) (reprimand for attorney who, despite being obligated to escrow a $16,000 deposit shown on a RESPA, failed to verify it and collect it; in granting the mortgage, the lender relied on the attorney's representation about the deposit; the attorney also failed to disclose the existence of a second mortgage prohibited by the lender; the attorney's misconduct included misrepresentation, gross neglect, and failure to communicate to the client, in writing, the basis or rate of his fee).

Suspension cases have involved either other serious unethical acts added to the misrepresentation or multiple instances of false RESPAs. See, e.g., In re De La Carrera, 181 N.J. 296 (2004) (three-month suspension in a default case in which the attorney, in one real estate matter, failed to disclose to the lender or on the RESPA, that the sellers were taking back a secondary mortgage from the buyers, a practice prohibited by the lender; in two other matters, the attorney also disbursed funds prior to receiving wire transfers, resulting in the negligent invasion of clients' trust funds) and In re Daly, 195 N.J. 12 (2008) (eighteen-month retroactive suspension for attorney who pleaded guilty to an information charging him with conspiracy to submit false statements in four real estate transactions; specifically, the attorney prepared settlement statements containing material misrepresentations about the sale price of the properties, the amount of funds brought by the buyers at the closings, the amount of the deposits, and the disbursements made to the sellers, the real estate and mortgage brokers, and the attorney himself).

Here, the misrepresentations are unaccompanied by other misconduct, placing this case in the reprimand category with Spector, Sarsano, and Blanch. In mitigation, respondent has no

prior discipline. In aggravation, he added figures to the RESPA over the parties' signatures, after the fact. He was also so disinterested in the case that he either allowed his paralegal to control an improper transaction or he knowingly participated in a fraud and then feigned problems with recall of the important events and the representation. Either way, we are convinced that a reprimand is insufficient to address respondent's serious misconduct. We, therefore, determine to impose a censure.

Chair Pashman recused himself. Member Clark did not participate.

We further determine to require respondent to reimburse the Disciplinary Oversight Committee for administrative costs and actual expenses incurred in the prosecution of this matter, as provided in R. 1:20-17.

Disciplinary Review Board
Bonnie C. Frost, Vice-Chair

By: Julianne K. DeCore
for Chief Counsel

SUPREME COURT OF NEW JERSEY
DISCIPLINARY REVIEW BOARD
VOTING RECORD

In the Matter of Raffi Toros Khorozian
Docket No. DRB 10-183

Argued: July 22, 2010

Decided: October 7, 2010

Disposition: Censure

Members	Disbar	Suspension	Censure	Dismiss	Disqualified	Did not participate
Pashman					X	
Frost			X			
Baugh			X			
Clark						X
Doremus			X			
Stanton			X			
Wissinger			X			
Yamner			X			
Zmirich			X			
Total:			7		1	1

Julianne K. DeCore
Chief Counsel