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SUPREME COURT OF NEW JERSEY

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February 11, 2002

Certified Mail - R.R.R. and Regular Mail

Philip J. Moran, Esq.
54 Hamlet Court
PO Box 244
Skillman, New Jersey 08558

Re: In the Matter of Philip J. Moran
Docket No. DRB 01-411
LETTER OF ADMONITION

Dear Mr. Moran:

The Disciplinary Review Board has reviewed your conduct in the above matter and has concluded that it was improper. Specifically, you were retained by James Birchenough and his wife to represent them in the purchase of real property owned by Gregory and Christy Bosch. Although the sellers retained an attorney to draft a deed and affidavit of title, they were not represented by an attorney at the closing. The sellers' mortgage provided that, if the prepayment of the mortgage were received after the first day of the month, an extra month's interest would be due. You had no actual knowledge of that prepayment clause, although the pay-off statement that the mortgagee provided to you mentioned that requirement. At the January 28, 1999 closing, a \$15 Federal Express fee was collected from the sellers for the purpose of overnighting the pay-off check to the mortgagee. Because you sent the pay-off check on February 3, 1999 by regular mail, instead of Federal Express, and the check was received by the mortgagee on February 5, 1999, an additional month's interest was assessed against the sellers, in the amount of \$819.51. After a period of unsuccessful efforts to have the mortgagee waive all or part of the additional interest, you paid the amount due out of your own funds. After the closing, however, it was discovered that a \$1,059.50 balance was due back to the sellers. You did

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not refund that amount to the sellers, but instead reimbursed yourself for the \$819.50 previously paid to the mortgagee. You also failed to refund to the sellers the \$239.99 balance that was not in dispute. Your conduct was unethical and in violation of *RPC* 1.15(b).

In addition, after the closing, James Birchenough learned that real estate taxes, sewer and water charges and his home warranty premium had not been paid timely, although you collected sufficient funds at the closing. Notwithstanding your obligation to represent your clients' interests responsibly, you failed to reply to their numerous telephone calls, did not remit the payment for the taxes, the sewer charges and the home warranty until April 1999 and did not pay the water charges at all. Your conduct was improper and in violation of *RPC* 1.3 and *RPC* 1.4(a). Moreover, you failed to promptly deliver to the Birchenoughs \$350.28, representing an overpayment made by them towards the closing proceeds. Your failure to do so was unethical and in violation of *RPC* 1.15(b).

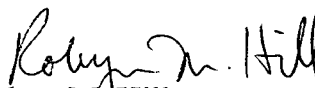
In imposing only an admonition, the Board considered that no disciplinary infractions have been sustained against you since your admission to the New Jersey bar in 1975.

Your conduct adversely reflected not only upon you as an attorney, but also upon all members of the bar. Accordingly, the Board has directed the issuance of this admonition to you. *R.* 1:20-15(f)(4).

A permanent record of this occurrence has been filed with the Clerk of the Supreme Court and the Board's office. Should you become the subject of any further discipline, it will be taken into consideration.

The Board has also directed that the costs of the disciplinary proceedings be assessed against you. An affidavit of costs will be forwarded under separate cover.

Very truly yours,


Robyn M. Hill

RMH:ms

- c. Chief Justice Deborah T. Poritz
- Associate Justices
- Stephen W. Townsend, Clerk, Supreme Court of New Jersey
- Rocky L. Peterson, Chair, Disciplinary Review Board
- David E. Johnson, Jr., Director, Office of Attorney Ethics
- Sarah G. Crowley, Chair, District VII Ethics Committee
- Alan G. Frank, Jr., Secretary, District VII Ethics Committee
- James Birchenough, Grievant
- Gregory and Christy Bosch, Grievants