

# DISCIPLINARY REVIEW BOARD

OF THE

## SUPREME COURT OF NEW JERSEY

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December 2, 2005

Stephen W. Townsend, Clerk  
Supreme Court of New Jersey  
P.O. Box 970  
Trenton, New Jersey 08625-0962

Re: In the Matter of Ralph P. Allocca  
Docket No. DRB 05-298  
District Docket No. X-05-060E

Dear Mr. Townsend:

The Disciplinary Review Board reviewed the motion for discipline by consent (censure or such lesser discipline as the Board may determine is warranted) filed by the District X Ethics Committee pursuant to R. 1:20-10(b). Following a review of the record, the Board determined to grant the motion. In the Board's view, a censure is the appropriate discipline for respondent's violations of RPC 1.3 (lack of diligence), RPC 4.1(a)(1) and (2)(truthfulness in statements to others), RPC 8.1(a)(false statement of material fact in a disciplinary matter), and RPC 8.4(a)(violation of the Rules of Professional Conduct) and (c) conduct involving dishonesty, fraud, deceit or misrepresentation).

Specifically, respondent represented the buyers of real property. At the time they entered into the contract, the sellers were facing a foreclosure on their property, which had been stayed, pending the sale of the property. The contract of sale and the HUD-1 indicated that the existing mortgage would be paid off. Further, the title insurance binder required the mortgage to be paid in full at the closing. To respondent's surprise, his clients did not bring sufficient funds to the closing to pay off the

mortgage. Rather, they intended to pay off the mortgage when they "flipped" the property to another buyer. Respondent allowed his clients to unilaterally change the contract and improperly closed without paying off the sellers' mortgage. Respondent did not tell the seller's attorney that the buyers had not brought sufficient funds to the closing.

When the mortgage was not paid off, the foreclosure action against the sellers was reinstated. Moreover, it was not until March 2004, two months after the closing, that respondent paid the real estate and transfer taxes, and recorded the deed.

In addition, in correspondence with the DEC investigator, respondent made material misrepresentations with regard to the mortgage pay-off, payment of taxes, and recording of the deed.

Enclosed are the following documents:

1. Notice of motion for discipline by consent, dated September 23, 2005.
2. Stipulation of discipline by consent, dated September 6, 2005.
3. Affidavit of consent, dated August 30, 2005.
4. Ethics history, dated December 2, 2005.

Very truly yours,



Julianne K. DeCore  
Chief Counsel

/paa  
encls.

- c: Mary J. Maudsley, Chair, Disciplinary Review Board (w/o encl.)  
David E. Johnson, Jr., Director, Office of Attorney Ethics (w/o encl.)  
Kurt W. Krauss, Chair, District X Ethics Committee (w/o encl.)  
Bonnie C. Frost, Secretary, District X Ethics Committee (w/o encl.)  
Ralph P. Allocca, Respondent (w/o encl.)  
Roxanne E. Smith, Grievant (w/o encl.)