Public Reprimand No. 2011-17

Order (public reprimand) entered by the Board on August 3, 2011.

SUMMARY[1]

From the spring of 2005 to January 2009, the respondent was "of counsel" to The Crest Group, LLC. The principal of The Crest Group was Peter Unitt, an attorney. The respondent handled closings for The Crest Group when The Crest Group was designated as closing attorney.

During this period, the respondent sometimes signed the closing documents either before or after the closing instead of at the closing. On several occasions when the respondent signed the documents outside the closing, the respondent did not attend the closing but understood that it would be handled by Unitt.

On August 29, 2006, a mortgage lender approved two separate adjustable rate mortgage loans for a borrower on two separate pieces of property. The first piece of property the borrower held in equal shares with her husband. The second piece of property was held in equal shares by the borrower and three of her siblings. The Crest Group was designated as the closing agent for both loans. The closing instructions from the lender required that all persons holding title to the two properties sign the mortgage deed, the Truth-in-Lending disclosure and rescission notice.

The respondent properly prepared the title commitment and HUD-1 Settlement Statements listing all title holders for each property. However, prior to the closing and without the respondent's knowledge, someone at The Crest Group removed the names of the borrower's husband and siblings from the documents and designated the borrower only as the title holder. The respondent signed the closing documents without insuring that all title holders were named in the documents.

On September 1, 2006, the borrower signed the closing documents for both loans. Neither the respondent nor any other attorney from The Crest Group was present when she signed the closing documents, and the borrower received no explanation of the documents either before or at the closing. The borrower's husband and siblings did not sign the mortgage deed, disclosure, and rescission. The respondent did not inform the lender that he

would not be present at the closing and did not obtain the lender's consent after consultation to the limited scope of his representation.

By failing to attend the closing, the respondent violated Mass. R. Prof. C. 1.1, 1.2(a), and 1.3. By failing to inform the lender that he had not or would not attend the closing and had not ensured or would not ensure that the lender's instructions were followed and by failing to obtain the lender's consent to the limited scope of the representation, the respondent violated Mass. R. Prof. C. 1.2(c) 1.4(a) and (b).

In a second matter, a borrower signed two sets of closing documents for two separate home equity loans. In each case, the borrower signed the documents at her home in the presence of a nonlawyer employee of The Crest Group. In both cases, the respondent did not inform the lender that he had not attended the closing, and, in both cases, the respondent signed all the closing documents as closing attorney.

By failing to attend the closing and failing to carry out the instructions of the lender at the closing, the respondent violated Mass. R. Prof. C. 1.1, 1.2(a), and 1.3. By failing to inform the lender that he had not attended or would not attend the closing and had not ensured or would not ensure that the lender's instructions were followed, and by failing to obtain the lender's consent after consultation to the limited scope of the representation, the respondent violated Mass. R. Prof. C. 1.2(c) and 1.4(a) and (b).

The respondent was admitted to the Bar of the Commonwealth on December 18, 1981. He had no prior discipline. In aggravation, the respondent's conduct caused harm to the lender in the first matter due to his failure to secure the signatures of all title holders to the mortgage deed. In addition, the respondent signed closing documents in other matters without assuring that they were in order and without attending the closing.

The matter came before the Board of Bar Overseers on a stipulation of facts and a joint recommendation for discipline. On July 11, 2001, the board voted to accept the parties' stipulation and to impose a public reprimand.

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[1] Compiled by the Board of Bar Overseers based on the record of proceedings before the Board.