

STATEWIDE GRIEVANCE COMMITTEE

Tarreyll G. Hicks  
Complainant

:

vs.

:

Grievance Complaint #08-0252

Norman F. Fishbein  
Respondent

:

DECISION

Pursuant to Practice Book §2-35, the undersigned, duly-appointed reviewing committee of the Statewide Grievance Committee, conducted a hearing at the Superior Court, 235 Church Street, New Haven, Connecticut on November 5, 2008. The hearing addressed the record of the complaint filed on March 18, 2008, and the probable cause determination filed by the New Haven Judicial District Grievance Panel for Geographical Area 7 and the towns of Branford, East Haven, Guilford, Madison and North Branford on June 26, 2008, finding that there existed probable cause that the Respondent violated Rules 8.4(2) and 8.4(3) of the Rules of Professional Conduct.

Notice of the hearing was mailed to the Complainant, to the Respondent and to the Office of the Chief Disciplinary Counsel on September 22, 2008. Pursuant to Practice Book §2-35(d), Assistant Disciplinary Counsel Suzanne Sutton pursued the matter before this reviewing committee, assisted by legal intern Russell Farr. Both the Complainant and the Respondent appeared and testified. The Respondent was represented by Attorney Roger J. Frechette.

This reviewing committee finds the following facts by clear and convincing evidence:

The Respondent represented the purchaser and the seller in a real estate transaction in Hamden, Connecticut in 2005. The Complainant was the buyer. The purchase price agreed to was \$305,000. However, the lender would only agree to the deal if the price was no more than \$290,000. On June 6, 2005, the Complainant and the seller signed an agreement lowering the sales price to \$290,000, but on that same day they also agreed to have the seller take a \$15,000 note from the Complainant secured by a mortgage on the property. The transaction was closed on June 10, 2005. The HUD-1 form listed the selling price as \$290,000.

This reviewing committee also considered the following:

At the hearing, the Respondent acknowledged that the sales price listed on the HUD-1 form was incorrect. He indicated that he thought he was helping the parties, since they wanted to get the deal to go through. The Respondent stated that there was no jeopardy to the lender

Grievance Complaint #08-0252

Decision

Page 2

and that "nobody got hurt." The Respondent stated that he was not trying to make any extra money from the transaction, and to the extent that any tax bills may have been affected, he is taking steps to correct them.

This reviewing committee concludes by clear and convincing evidence that the Respondent engaged in unethical conduct. The Respondent clearly falsified the HUD-1 form, and did so to circumvent the lender's restrictions on the transaction. The Respondent's stated motive of helping the parties consummate the transaction was, at best, naïve. The Respondent's actions clearly constituted conduct involving dishonesty, fraud, deceit or misrepresentation, in violation of Rule 8.4(3) of the Rules of Professional Conduct. Although a violation of this type might ordinarily result in a presentment, we note that the Respondent has never been sanctioned in his many years of practice, and that he admitted his misconduct in this matter. Accordingly, it is the decision of this reviewing committee that the Respondent be reprimanded.

Since the Respondent does not appear to have been charged or convicted with criminal activity, this reviewing committee declines to act on the Rule 8.4(2) finding, and leaves it to the appropriate criminal law authorities to take whatever actions are deemed appropriate in that regard.

The Respondent is hereby reprimanded.

(8)

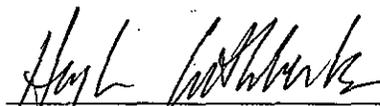
asc

DECISION DATE: 1/16/09

Grievance Complaint #08-0252

Decision

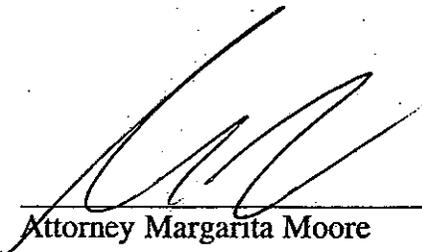
Page 3

  
\_\_\_\_\_  
Attorney Hugh Cuthbertson

Grievance Complaint #08-0252

Decision

Page 4



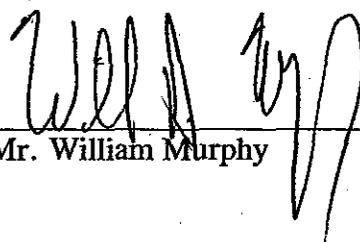
---

Attorney Margarita Moore

Grievance Complaint #08-0252

Decision

Page 5

A handwritten signature in black ink, appearing to read "William Murphy", is written over a horizontal line. The signature is stylized and cursive.

Mr. William Murphy