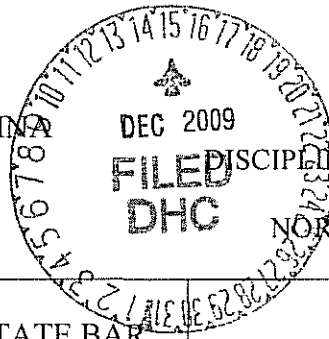


STATE OF NORTH CAROLINA

WAKE COUNTY



BEFORE THE
DISCIPLINARY HEARING COMMISSION
OF THE
NORTH CAROLINA STATE BAR
09 DHC 15

THE NORTH CAROLINA STATE BAR,

Plaintiff

v.

AMANDA R. DIXON, Attorney,

Defendant

FINDINGS OF FACT,
CONCLUSIONS OF LAW,
AND CONSENT ORDER
OF DISCIPLINE

This matter was considered by a hearing panel of the Disciplinary Hearing Commission duly appointed in this case. William N. Farrell and Brian P.D. Oten represented Plaintiff, the North Carolina State Bar. Defendant, Amanda R. Dixon, represented herself. Both parties stipulate and agree to the findings of fact and conclusions of law recited in this consent order and to the discipline imposed. Defendant knowingly, freely and voluntarily waives any and all right to appeal the entry of this consent order of discipline. Based upon the stipulations of fact and the consent of the parties, the hearing panel hereby finds by clear, cogent, and convincing evidence the following

FINDINGS OF FACT

1. Plaintiff, the North Carolina State Bar, is a body duly organized under the laws of North Carolina and is the proper party to bring this proceeding under the authority granted it in Chapter 84 of the North Carolina General Statutes, and the Rules and Regulations of the North Carolina State Bar (Chapter 1 of Title 27 of the North Carolina Administrative Code).

2. Defendant, Amanda R. Dixon (hereinafter "Dixon" or "Defendant"), was admitted to the North Carolina State Bar in 1997, and is, and was at all times referred to herein, an Attorney at Law licensed to practice in North Carolina, subject to the rules, regulations and Rules of Professional Conduct of the North Carolina State Bar and the laws of the State of North Carolina.

3. During all or a portion of the relevant periods referred to herein, Dixon was actively engaged in the private practice of law in the city of Raleigh, Wake County, North Carolina.

4. On March 28, 2003, Dixon served as the closing attorney for the real estate transaction involving property located at 6305 Pumpkin Seed Court, Raleigh, NC

(hereinafter "Pumpkin Seed property"), between Adams Mark Property, the seller, and Azucena Johnson, the buyer.

5. As closing attorney, Dixon represented the buyer/borrower and the lender.

6. The lender for this transaction was First NLC Financial Services, LLC (hereinafter "First NLC").

7. The HUD-1 Settlement Statement for the Pumpkin Seed property represented the following:

- a. the contract sale price was \$188,000.00;
- b. First NLC made two loans to the buyer totaling \$188,137.71;
- c. \$54,067.88 was disbursed to the seller in net sales proceeds.

8. The HUD-1 inaccurately stated that Dixon disbursed \$54,067.88 to the seller. Instead, Dixon disbursed \$14,457.33 of the loan proceeds to a third party and only \$39,582.45 to the seller. Dixon was requested by the seller to disburse his proceeds in this manner based upon a previously existing written agreement between the seller and the third party which was presented to Dixon at the closing.

9. Dixon, as closing attorney, was responsible for ensuring the HUD-1 accurately recited the receipt and disbursement of funds in the transaction.

10. Dixon knew the HUD-1 inaccurately stated the manner in which the proceeds were actually disbursed.

11. Dixon did not notify the lender that the HUD-1 inaccurately stated the disbursement of the loan proceeds.

12. The lender's closing instructions required Defendant to provide preliminary HUDs to the lender for closing approval.

13. By disbursing funds in a manner not reflected on the HUD-1, Dixon closed the transaction in contravention of the lender's closing instructions.

14. On July 10, 2003, Dixon served as the closing attorney for the real estate transaction involving property located at 2924 Oak Bridge Drive, Raleigh, NC (hereinafter "Oak Bridge property"), between Daryl E. Ward, the seller, and Alice James, the buyer.

15. As closing attorney, Dixon represented the buyer/borrower and the lender.

16. The lender for this transaction was Long Beach Mortgage Company (hereinafter "Long Beach").

17. The HUD-1 Settlement Statement for the Oak Bridge property represented the following:

- a. the contract price was \$345,000.00;
- b. Long Beach made two loans to the buyer totaling \$345,000.00;
- c. the buyer brought \$2,503.26 to the closing; and
- d. \$101,506.15 was disbursed to the seller in net sale proceeds.

18. The HUD-1 inaccurately stated that the buyer brought funds to the closing.

19. The HUD-1 inaccurately stated that Dixon disbursed \$101,506.15 to the seller. Instead, Dixon disbursed \$59,650.00 of the loan proceeds to a third party and only \$39,352.89 to the seller. Dixon was requested by the seller to disburse his proceeds in this manner based upon a previously existing written agreement between the seller and the third party which was presented to Dixon at the closing.

20. Dixon, as closing attorney, was responsible for ensuring the HUD-1 accurately recited the receipt and disbursement of funds in the transaction.

21. Dixon knew the HUD-1 inaccurately stated the manner in which the proceeds were actually disbursed as well as the buyer's cash contribution to the transaction.

22. Dixon did not notify the lender that the HUD-1 inaccurately stated the disbursement of the loan proceeds and/or the buyer's cash contribution.

23. The lender's closing instructions required Defendant to obtain written approval from the lender prior to making any changes to the HUD-1.

24. By disbursing funds in a manner not reflected on the HUD-1, Dixon closed the transaction in contravention of the lender's closing instructions.

25. At the bottom of page 2 of each HUD-1 referenced above is printed the following:

I have carefully reviewed the HUD-1 Settlement Statement and to the best of my knowledge and belief, it is a true and accurate statement of all receipts and disbursements made on my account or by me in this transaction.

The HUD-1 Settlement Statement which I have prepared is a true and accurate account of this transaction. I have caused or will cause the funds to be disbursed in accordance with this statement.

WARNING: It is a crime to knowingly make false statements to the United States on this or any other similar form. Penalties

upon conviction can include a fine or imprisonment. For details go to: Title 18 U.S. Code Section 1001 and Section 1010.

26. Dixon signed this certification as closing attorney on each HUD-1.

27. By this certification Dixon misrepresented to the lender that each HUD-1 was an accurate statement of the receipt and disbursement made by her in the transaction and misrepresented that she caused disbursement to be made in accordance with each HUD-1.

28. By closing transactions and disbursing funds in a manner not reflected on each HUD-1, Dixon misrepresented the transaction to the lenders.

CONCLUSIONS OF LAW

1. All parties are properly before the hearing panel and the panel has jurisdiction over Defendant, Amanda R. Dixon, and over the subject matter.

2. Defendant's conduct, as set forth in the Findings of Fact above, constitutes grounds for discipline pursuant to N.C. Gen. Stat. § 84-28(b) in that Defendant violated the Rules of Professional Conduct in effect at the time of her action as follows:

- a. By certifying the accuracy of the HUD-1 settlement statements in both the Pumpkin Seed and Oak Bridge transactions when she knew both statements inaccurately portrayed the respective transactions, Dixon engaged in conduct involving dishonesty, fraud, deceit and misrepresentation in violation of Rule 8.4(c);
- b. By misrepresenting to the lenders in the Pumpkin Seed and Oak Bridge transactions that the HUD-1 was an accurate statement of the receipt and disbursement of funds, Dixon intentionally prejudiced or damaged her client during the course of the professional relationship in violation of Rule 8.4(g); and
- c. By closing these loans in contravention of the lenders' closing instructions and not advising the lenders of changes to each approved HUD-1, Dixon engaged in conduct in violation of Rule 1.4(a) and (b).

Based upon the stipulations of fact and the consent of the parties, the hearing panel hereby finds by clear, cogent, and convincing evidence the following additional

FINDINGS OF FACT REGARDING DISCIPLINE

1. The conduct in question occurred over 6 years prior to the issuance of discipline in this matter and the State Bar has received no evidence that Defendant engaged in similar misconduct in other real estate transactions or engaged in any other misconduct during this time.

2. Defendant cooperated with both local law enforcement as well as the State Bar in their respective investigations of this matter. Specifically, Defendant freely testified to her detriment in the State's prosecution of individuals involved in the above-referenced transactions.

CONCLUSIONS REGARDING DISCIPLINE

1. In determining the appropriate discipline in this matter, the panel considered the factors listed in 27 NCAC 1B .0114(w)(3).

2. Dixon's misconduct is aggravated by the following factors:

- a. Multiple offenses; and
- b. Substantial experience in the practice of law.

3. Dixon's misconduct is mitigated by the following factors:

- a. Absence of a prior disciplinary record;
- b. Absence of a dishonest or selfish motive;
- c. Timely good faith efforts to make restitution or to rectify consequences of misconduct;
- d. Full and free disclosure to the hearing panel or cooperative attitude toward the proceedings;
- e. Delay in disciplinary proceedings through no fault of the defendant attorney; and
- f. Remorse.

4. Defendant's conduct resulted in significant potential harm to her clients, the respective lenders in these transactions, due to the reliance placed on HUD-1 Settlement Statements by the lender in evaluating the transaction and determining whether they would or would not participate in the transaction. However, Defendant has demonstrated that, while she was unaware of the implications of her actions at the time of the transactions, she now clearly understands the nature and wrongfulness of her conduct and is genuinely remorseful.

5. Based upon the totality of the evidence, in this case, a censure is appropriate and will be sufficient to protect the public. The hearing panel has considered all disciplinary options and finds that a reprimand or an admonition would not be sufficient discipline to protect the public because of the threat of potential harm to the public, clients, and the profession. The panel finds that a reprimand or an admonition would fail to acknowledge the seriousness of the offenses committed by Defendant and

would send the wrong message to attorneys regarding the conduct expected by members of the Bar and the State. In light of the significant potential harm presented by Defendant's conduct, discipline of less than a public censure would not sufficiently protect the public and would not be appropriate.

6. But for the numerous and significant mitigating factors in this case, specifically Defendant's recognition of the impropriety of her conduct, her commitment to refrain from such conduct in the future, her cooperation and testimony for the State of North Carolina in a criminal prosecution involving the matters at issue in this case, and the length of time since the misconduct, the panel would consider some type of suspension of Defendant's license to practice law. However, given the circumstances of this case, the panel finds and concludes that the public and profession would be adequately protected by a censure of this Defendant.

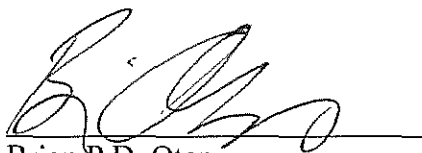
ORDER OF DISCIPLINE

1. Defendant, Amanda R. Dixon, is hereby censured.
2. Defendant shall pay the costs in this matter within 30 days of service upon her of a statement of the costs.

Signed by the Chair with the consent of the other hearing panel members, this the 14th day of December, 2009.



M. H. Hood Ellis
Chair, Disciplinary Hearing Panel



Brian P.D. Oten
Deputy Counsel
Attorney for Plaintiff



Amanda R. Dixon
Defendant