

OFFICE OF ATTORNEY ETHICS
Supreme Court of New Jersey
P.O. Box 963
Trenton, New Jersey 08625
(609) 530-4008
Trial Counsel: Nitza I. Blasini, Esq.

OFFICE OF ATTORNEY ETHICS,	:	
	:	DOCKET NO: XIV-03-086E
Complainant,	:	XIV-03-085E
	:	
vs.	:	DISCIPLINARY ACTION
	:	
RAJANIKANT C. MODY, ESQ. and	:	
KEVIN M. BOSWORTH	:	COMPLAINT FOR MISCONDUCT
	:	Complex Misconduct
Respondents,	:	(R.1:20-4(b))

Complainant, Office of Attorney Ethics of the Supreme Court of New Jersey, P.O. Box 963, Trenton, New Jersey 08625, by way of Complaint against Rajanikant C. Mody, Esq., (respondent Mody) and Kevin M. Bosworth, Esq., (respondent Bosworth) says that:

GENERAL ALLEGATIONS

1. Respondent Mody was admitted to the practice of law in the State of New Jersey in 1975.

2. During the events set forth herein, respondent Mody maintained two offices for the practice of law: 6 Karen Place, Edison, New Jersey and 1618 Stelton Road, Piscataway, New Jersey.

3. In connection with his law practice, respondent Mody maintained the following accounts at Bank of America:

- 1) Attorney Trust Account No. 999702866;
- 2) Attorney Business Account No. 4232030302

4. Respondent Bosworth was admitted to the practice of law in the State of New Jersey in 1979.

5. During the events set forth herein respondent Bosworth maintained an office for the practice of law at 357 Third Street, Jersey City, New Jersey.

6. In connection with his law practice, respondent Bosworth maintained the following accounts at Wachovia:

- 1) Attorney Trust Account No. 2010610320511;
- 2) Attorney Business Account No. 2082164018378.

COUNT ONE

1. Sherlock Anthony (grievant) sold property known as 60 Stevens Avenue, Jersey City, New Jersey to Terry Patterson (Patterson). Exhibit 1.

2. At the closing which occurred on April 4, 2000, grievant was represented by respondent Mody; Patterson was represented by respondent Bosworth. Id.

3. According to both Patterson and grievant, on the date of the closing, the sales price was increased from \$140,000.00 to \$180,000.00. During an OAE interview, respondent Mody also acknowledged said increase.

4. As the closing agent, respondent Bosworth received \$161,521.94 from WMC Mortgage Corporation on April 5, 2000. Exhibit 2.

5. Thereafter, respondent Bosworth made the following disbursements from said \$161,521.94: (See Exhibit 3)

Payments:	Check#	Date	Payee	Amount
	3298	4/5/00	National City Mtg. Co.	\$3,280.00
	3300	4/5/00	Elite Title Services, Inc.	\$1,165.00
	3301	4/5/00	Sailor & Sailor Assoc., Inc.	\$350.00
	3302	4/5/00	Rajanikant C. Mody	\$120,865.34
	3304	4/6/00	Kevin Bosworth	\$950.00
	3305	4/6/00	Maya Realty, Inc.	\$26,000.00
	3306	4/6/00	Rajanikant C. Mody	\$4,300.00
	3321	4/28/00	Register of Hudson County	\$742.00
	3330	5/9/00	Jersey City Tax Collector	\$4.18
	3362	6/5/00	J.C.M.U.A.	\$987.24
	3426	7/31/00	OSI-Collection Service Inc.	\$677.93
	3427	7/31/00	Terry L. Patterson	\$322.02
Balance:				\$1,878.23

6. In connection with this closing, respondent Mody received a total of \$125,165.34 (\$120,865.34 + \$4,300.00 = \$125,165.34) from respondent Bosworth. See Exhibit 3.

7. Respondent Mody then made the following disbursements from said \$125,165.34 Exhibit 4.

Payments:	Check#	Date	Payee	Amount
	1332	4/6/00	Rajanikant Mody-Legal Fee	\$1,150.00
	1334	4/6/00	Kevin Bosworth-FEDEX	\$63.00
	1335	4/6/00	Disb. Sherlock	\$193.65
	1337	4/7/00	Delta Funding Corp.	\$121,758.27
Balance				\$2,000.42

8. Respondent Mody then issued trust check no. 1352 in the amount of \$2,000.42 to grievant, which was the remaining balance in his trust account. Exhibit 5.

9. Grievant never cashed the check, however.

10. Although Patterson¹ did not have sufficient funds in his personal account and so advised respondent, he was directed,

¹ According to the RESPA, Patterson was required to bring \$24,235.66 to closing.

nevertheless, to write out a personal check in the amount of \$24,235.66. Exhibit 6 and Exhibit 7.

11. The "Contract for Sale of Real Estate" dated February 9, 2000, between grievant and Patterson specifically states that the balance of the purchase price of said property is "to be paid at closing of title, in cash, or by certified or bank cashiers' checks.. ." Exhibit 8.

12. According to the RESPA Line 603, grievant was to receive \$28,631.35 at closing (See Exhibit 1). Instead, he received only \$195.65 and a photocopy of Patterson's check. See Exhibit 7.

13. Respondent Bosworth certified that grievant received closing proceeds totaling \$28,631.35. Respondent Bosworth knew these funds were never disbursed to grievant. Therefore, his certification on the RESPA regarding this disbursement was false.

14. Respondent Mody allowed his client to certify the RESPA knowing that said certification was false.

The above described conduct constitutes a violation of RPC 8.4(c), which prohibits an attorney from engaging in dishonesty, fraud, deceit, or misrepresentation; RPC 4.1(a) (1), which prohibits an attorney from making a false statement of material fact of law to a third person and RPC 8.4(a), which prohibits an attorney from violating the rules through the acts of another.

WHEREFORE, respondent should be disciplined.

OFFICE OF ATTORNEY ETHICS

Dated: February 22, 2004

By: /s David E. Johnson, Jr., Director

