

In the Supreme Court of Georgia

Decided: September 28, 2009

S09Y1375. IN THE MATTER OF GEORGE E. POWELL, JR.

PER CURIAM.

George E. Powell, Jr. has filed a petition for voluntary discipline in which he admits that he violated Rule 8.4 (a) (4) of the Georgia Rules of Professional Conduct found in Bar Rule 4-102 (d), and asks for a suspension of between six months and three years. The State Bar has requested that Powell be suspended for three years.

Powell admits that in connection with six related real estate closings, which he handled on behalf of a lender, he prepared HUD-1 settlement statements that did not accurately represent the transactions and thus misrepresented the details of the transactions. Specifically, he indicated that funds not paid to the seller were to be paid to one lender as the seller's lender, but failed to indicate that those net funds were actually being held on behalf of the seller for ultimate payment to a different lender. Subsequent HUD-1 statements for the same closings indicated that the funds were being attributed

either to the seller or to payment of the mortgage without specifying a particular lender. After three civil actions were filed related to the properties at issue, the parties resolved the matter through mediation, Powell's clients were placed in the first lien position on the properties as intended, and all funds were distributed according to the terms of the mediation agreement.

Although the maximum sanction for a violation of Rule 8.4 (a) (4) is disbarment, the record shows the existence of the following mitigating factors: the absence of a prior disciplinary record, the absence of a selfish motive, a cooperative attitude towards the proceedings, good character, and remorse. Having considered the record and similar cases, we conclude that a suspension of three years is the appropriate sanction in this case. See In the Matter of Moore, 277 Ga. 540 (592 SE2d 409) (2004); In the Matter of Vaughn, 277 Ga. 33 (585 SE2d 881) (2003).

Accordingly, the Court accepts the petition for voluntary discipline and directs that George E. Powell, Jr. be suspended from the practice of law for three years, effective as of the date of this opinion. Powell is reminded of his duties under Bar Rule 4-219 (c).

Three-year suspension. All the Justices concur.