

VIRGINIA:

**BEFORE THE DISCIPLINARY BOARD
OF THE VIRGINIA STATE BAR**

IN THE MATTER OF

LARRY MICHAEL GROSS

VS B Docket No.: 04-000-0354

ORDER

On July 8, 2004, the Virginia State Bar, by Assistant Bar Counsel Kathryn A. Ramey, and Respondent Larry Michael Gross, Esquire telephonically appeared before a duly convened panel of the Disciplinary Board of the Virginia State Bar consisting of Robert L. Freed, Esquire, Chair presiding, Thaddeus T. Crump, Lay Member, Ann N. Kathan, Esquire, Glenn M. Hodge, Esquire, and David R. Schultz, Esquire, and, pursuant to 15 VAC 5-80-50.D.5.D of the Virginia State Bar Regulations under the Virginia Consumer Real Estate Protection Act (“CRESPA”) and Rules of Court, Part Six, Section IV, Paragraph 13.B.5.c, presented an Agreed Disposition of a single One Thousand Dollar (\$1,000.00) fine, plus costs, for the Board’s consideration and approval. Teresa L. McLean, court reporter, Chandler and Halasz, P. O. Box 9349, Richmond, Virginia 23227, (804) 730-1222, after being duly sworn, reported the hearing and transcribed the proceedings. The Stipulations of Fact and applicable CRESPA Regulations are as follows:

I. STIPULATIONS OF FACT

1. At all times material to this matter, Respondent was an attorney licensed to practice law in the Commonwealth of Virginia.

2. On July 1, 1998, Respondent acted as the settlement agent for the sale of real property described as a residence containing not more than four residential units located in Buckingham, Virginia. Respondent was not CRESPA registered at this time and did not comply with any of the requirements of CRESPA or the Virginia State Bar Regulations under the Virginia Consumer Real Estate Protection Act (“the Regulations”).

3. On November 17, 1998, Respondent acted as the settlement agent for sale of real property described as a residence containing not more than four residential units located in Buckingham, Virginia. Respondent was not CRESPA registered at this time and did not comply with any of the requirements of CRESPA or the Regulations.

4. On June 8, 1999, Respondent acted as the settlement agent for a sale of real property described as a residence containing not more than four residential units located in Buckingham, Virginia. Respondent was not CRESPA registered at this time and did not comply with any of the requirements of CRESPA or the Regulations.

5. On November 15, 1999, Respondent acted as the settlement agent for a sale of real property described as a residence containing not more than four residential units located in Arvonnia, Virginia. Respondent was not CRESPA registered at this time and did not comply with any of the requirements of CRESPA or the Regulations.

6. On February 28, 2000, Respondent acted as the settlement agent for a transaction involving real property described as a residence containing not more than four residential units located in Charlottesville, Virginia. Respondent was not CRESPA registered at this time and did not comply with any of the requirements of CRESPA or the Regulations.

7. On July 1, 2000, Respondent acted as the settlement agent for a transaction involving real property described as a residence containing not more than four residential units located in Buckingham County, Virginia. Respondent was not CRESPA registered at this time and did not comply with any of the requirements of CRESPA or the Regulations.

8. On May 31, 2001, Respondent acted as the settlement agent for a transaction involving real property described as a residence containing not more than four residential units located in Buckingham County, Virginia. Respondent was not CRESPA registered at this time and did not comply with any of the requirements of CRESPA or the Regulations.

9. There is no evidence of actual harm to consumers protected under CRESPA as the result of the real estate transactions described in paragraphs 1-8 above.

II. CRESPA REGULATIONS

The following CRESPA regulations apply:

15 VAC 5-80-30. Registration; reregistration; required fee.

Every licensed attorney, title insurance company, title insurance agent or real estate broker, as well as every financial institution authorized to do business in Virginia under any of the provisions of Title 6.1 of the Code of Virginia, or under federal law, and every subsidiary or affiliate of any such financial institution, now providing or offering, or intending to provide or offer, escrow, closing or settlement services as a settlement agent with respect to real estate transactions in Virginia shall register with the Bar on or before September 29, 1997, using the registration form available from the Bar for that purpose. Settlement agents beginning to provide or offer such services after July 1, 1997, shall register with the Bar prior to doing so. The registration requirement in this paragraph shall not apply to attorney settlement agents unless they provide or offer to provide escrow, settlement and closing services for real estate subject to CRESPA, i.e., real estate containing not more than four residential dwelling units. Thus, for example, attorneys who handle only commercial real estate transactions are not subject to these regulations.

Every settlement agent shall thereafter reregister after notice on a schedule established by the Bar, providing updated registration information. Every settlement agent shall have

a continuing duty to advise the Bar of any change in name, address or other pertinent registration data that occurs between registrations.

The fee for each registration and reregistration shall be \$35 for an individual settlement agent and \$100 for a settlement agent which is a corporation or other legal entity authorized to register in that capacity. The Bar reserves the right to adjust the fee as necessary within the statutory limit of \$100. The prescribed fee shall accompany each registration or reregistration in the form of a check made payable to the Treasurer of Virginia.

Registration is subject to revocation or suspension if the Bar or other appropriate licensing authority finds the settlement agent out of compliance with CRESPA or regulations issued thereunder.

15 VAC 5-80-50. Attorney settlement agent compliance.

A. Attorney settlement agent certification. Each attorney settlement agent shall, at the time of initial registration and each subsequent reregistration, certify on the form available from the Bar for that purpose, that the attorney settlement agent has in full force and effect the following insurance and bond coverages, and that such coverages will be maintained in full force and effect throughout the time the attorney settlement agent acts, offers or intends to act in that capacity:

1. A lawyer's professional liability insurance policy issued by a company authorized to write such insurance in Virginia providing first dollar coverage and limits of at least \$250,000 per claim covering the licensed attorney acting, offering or intending to act as a settlement agent. The policy may also cover other attorneys practicing in the same firm or legal entity.

2. A blanket fidelity bond or employee dishonesty insurance policy issued by a company authorized to write such bonds or insurance in Virginia providing limits of at least \$100,000 covering all other employees of the attorney settlement agent or the legal entity in which the attorney settlement agent practices.

3. A surety bond issued by a company authorized to write such bonds in Virginia, on a form approved by the Virginia State Bar, providing limits of at least \$100,000 covering the licensed attorney acting, offering or intending to act as a settlement agent. A copy of the approved bond form is available from the Bar. The bond may also cover other attorney settlement agents practicing in the same firm or legal entity. The original surety bond must be attached to the attorney settlement agent's certification form and furnished to the Bar; a surety bond on which a law firm is named as principal may be furnished by the firm or any one attorney settlement agent in the firm, with other such attorney settlement agents in the same firm attaching a copy to their forms.

The Bar reserves the right to require other evidence of the above insurance and bond coverages beyond the attorney's certification and surety bond, at its discretion.

An attorney settlement agent who has no employees other than the attorney settlement agent or other licensed owner(s), partner(s), shareholder(s), or member(s) of the legal entity in which the attorney settlement agent practices may apply to the Bar for a waiver of the coverage required in subdivision A 2 of this section, using the waiver request form available from the Bar. Such waiver requests will be acted on by the Executive Committee of the Bar, whose decision shall constitute final action by the agency.

B. Separate fiduciary trust account. Each attorney settlement agent shall maintain one or more separate and distinct fiduciary trust account(s) used only for the purpose of handling funds received in connection with escrow, closing or settlement services. Funds received in connection with real estate transactions not covered by CRESPA may also be deposited in and disbursed from such account(s). All funds received by an attorney settlement agent in connection with escrow, closing or settlement services shall be deposited in and disbursed from the separate fiduciary account(s) in conformity with both the Bar's disciplinary rules and CRESPA. These separate fiduciary trust accounts shall be maintained in the same manner and subject to the same rules as those promulgated by the Bar for other lawyer trust accounts, as well as in conformity with CRESPA. One separate fiduciary trust account may be maintained and used by all attorney settlement agents practicing in the same firm or legal entity.

III. PROPOSED DISPOSITION

Upon consideration of the Stipulations of Fact, the Board finds violations of the CRESPA Regulations listed above, and, finding it is just and proper to do so, hereby accepts the Agreed Disposition of the parties. Therefore, it is hereby

ORDERED that Respondent pay a single One Thousand Dollar (\$1,000.00) fine, plus costs in accordance with 15 VAC 5-80-50.D.6, to the Clerk of the Disciplinary System within ten (10) days of the acceptance of this Agreed Disposition by the Board.

It is further ORDERED that pursuant to Part Six, Section IV, Paragraph 13.B.8.c of the Rules of the Supreme Court of Virginia, the Clerk of the Disciplinary System assess all costs against the Respondent.

It is further ORDERED that the Clerk of the Disciplinary System shall mail by certified mail, return receipt requested, an attested copy of this Order to Respondent Larry Michael Gross at his last address of record with the Virginia State Bar, Route 1,

Box 2050, Buckingham, VA 23921, and hand-deliver a copy of this Order to Assistant Bar Counsel Kathryn A. Ramey at 707 East Main Street, Suite 1500, Richmond, VA 23219.

Entered this ____ day of _____, 2004.

VIRGINIA STATE BAR DISCIPLINARY BOARD

By: _____
Robert L. Freed, 1ST Vice Chair