

Mitchel Tarter Disbarred Following Real Estate Scam



Summary: After admitting to misconduct regarding a scheme to get loan modifications for struggling homeowners, the state of New York has disbarred Mitchel Tarter.

A Manhattan attorney has been disbarred for his role in scamming distressed homeowners out of tens of thousands of dollars. Mitchel Tarter convinced homeowners to enter into a mass joinder litigation against their lenders for mortgage relief, according to an appeals court ruling which found he cheated those homeowners out of money from legal fees and monthly charges.

His lawsuit resulted in a yearslong scheme involving kickbacks to nonattorney mortgage brokers he found through a college acquaintance. This acquaintance had been banned from working in the mortgage industries in Maryland and Washington State, according to an Appellate Division, First Department panel.

The unanimous panel took Tarter's license away. He had been admitted to practice in New York in 2004. The panel also confirmed a referee and hearing panel's decision of liability against him on the charges from the scheme. The panel wrote, "[Tarter] performed no meaningful work for those fees, which he failed to refund and improperly shared with nonattorney mortgage brokers who referred clients to him." They allege that the misconduct ran from 2012 to 2014. They added, "[His] misconduct was affirmative, ongoing, egregious, and detrimental to all 50 of his clients."

The scheme involved financially at risk homeowners who were persuaded to pay him advance legal fees, and additional monthly charges, for a mass joinder litigation for the purpose of modifying their mortgage payments, asserting claims against their lenders. Once Tarter started collecting the payments, he deposited them into his personal account instead of a trust account, as required by federal law and regulations. With the fees in his account, he then disbursed them to two fake entities, which paid the nonattorney brokers who had referred the clients to him.

Tarter did file the lawsuit for one group of clients. However, he admitted during a hearing regarding previous sanctions against him that he knew the lawsuit filed in December 2012 for 21 plaintiffs was not viable and likely to fail. The U.S. District Court for the Southern District of New York dismissed the lawsuit, *Kalie v. Bank of America*, very soon after it was filed for improper joinder of parties and inadequate pleadings. Tarter did not refund the clients roughly \$50,000 in advance fees, half of which was already paid to the nonattorney brokers.

Between July 2012 and November 2013, 29 more distressed homeowners reached out to Tarter, paying him \$140,817.16. Of the money, he split it the money with nonattorney brokers. When clients requested refunds or information on their matters, he repeatedly ignored their requests.

In the end, the Grievance Committee charged him with 11 violations of the New York Rules of Professional Conduct. At the time, Tarter had offices in several New Jersey towns and on Wall Street. Tarter "freely admitted" to misconduct during a sanctions hearing last year. He claimed he lacked the experience to appropriately represent his clients. He also claimed that his misconduct was from a long-term problem with alcohol and drug addiction, noting he was involved with Alcoholics Anonymous and had attended various assistance programs.

Tarter expressed remorse for his actions but the panel found he had "made significant efforts at mitigation in this case, they are outweighed by the aggravated circumstances presented." He "continued to engage in his fraudulent scheme undeterred by his awareness, upon dismissal of the Kalie action, that commencement of any further actions would be unavailing to his clients."

Tarter represented himself before the panel. His New Jersey law license is currently suspended.

Do you think Tarter should face criminal charges for what he did? Share your thoughts with us in the comments below.

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