BEFORE THE SUPREME COURT COMMITTEE ON PROFESSIONAL CONDUCT
PANEL A

FILED
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LESLIE W. STEEN
CLERK

IN RE: LARRY J. HARTSFIELD
Arkansas Bar ID # 69030
CPC Docket No. 2008-045

FINDINGS AND ORDER

The formal charges of misconduct upon which this Findings and Order is based were developed from information provided to the Committee by Bennie Jean White on December 6, 2007. The information related to the representation of Detection Systems, Inc. (DSI) and James Bottoms by Respondent Larry J. Hartsfield, an attorney practicing primarily in Little Rock, Pulaski County, Arkansas. On June 3, 2008, Respondent was served with a formal complaint, supported by an affidavit from Ms. White.

DSI is an Arkansas corporation duly organized and authorized to do business in Arkansas since 1976. At all relevant times, James Bottoms and Bennie Jean White were DSI shareholders. Mr. Hartsfield served as DSI corporate attorney for many years. On February 2, 2006, Mr. Hartsfield brought suit on behalf of DSI against Bennie Jean White in Pulaski County Circuit Court Case No. CV-06-1316, *Detection Systems, Inc. v. Bennie Jean White.* DSI sought injunctive relief against Ms. White, alleging interference with business relations and breach of fiduciary duty. White filed a Verified Answer, Counterclaim/Third Party Complaint, and Request for Interlocutory Injunctive Relief, and Kristian Nelson filed a Motion to Intervene, which the court granted. On behalf of James Bottoms personally, Mr. Hartsfield answered White's counterclaim and filed a counterclaim against White. Hartsfield also filed a *lis pendens*. White filed a reply to Bottoms's counterclaim and a Motion to Dismiss. The court filed an Order of Dismissal with prejudice after determining that (1) Bottoms was not authorized by DSI to file the complaint and request for TRO against White and (2) the lawsuit

was improper and invalid.

In her First Amended, and Verified, Counterclaim for Derivative Suit and Renewed Motion for Injunctive Relief against James Bottoms, Bennie Jean White asserted that Mr. Hartsfield was the corporate attorney for DSI and owed a fiduciary duty to DSI, thus preventing him from representing Bottoms in a dispute to determine ownership interests he had in DSI. She further asserted that she was a former client of Mr. Hartsfield in DSI-related and other business matters, as he actively represented her, Bottoms and DSI in property, corporate, business, and other litigation-related matters and maintained the confidential information of every party involved. Mr. Hartsfield moved to non-suit, and the court granted the motion in November 2006.

Upon consideration of the formal complaint and attached exhibit materials, the response to it, and other matters before it, and the Arkansas Model Rules of Professional Conduct, Panel A of the Arkansas Supreme Court Committee on Professional Conduct finds:

1. Mr. Larry J. Hartsfield violated Rule 1.7(a) in that he filed an answer and counterclaim to a third-party complaint on behalf of James Bottoms, individually, in the case of *Detection Systems, Inc. v. Bennie Jean White*, Pulaski County Circuit Court Case No. CV-06-1316, which alleged that the other shareholders had a cause of action against Bottoms for breach of a fiduciary duty owed to them as shareholders. The facts alleged in the third-party complaint, if true, meant that DSI also had a cause of action against Bottoms. Consequently, Hartsfield should have known from the third-party complaint that the interests of DSI were potentially directly adverse to the interests of Bottoms. Rule 1.7(a)(1) requires that, except as provided in paragraph (b), a lawyer shall not represent a client if the representation involves a concurrent conflict of interest. A concurrent conflict of interest exists if the representation of one client will be directly adverse to another clients.

2. Mr. Larry J. Hartsfield violated Rule 1.7(a) in that he filed an answer and counterclaim to

a third-party complaint on behalf of James Bottoms, individually, in case the case of *Detection Systems, Inc. v. Bennie Jean White*, Pulaski County Circuit Court Case No. CV-06-1316, which alleged that the other shareholders had a cause of action against Bottoms for breach of a fiduciary duty owed to them as shareholders. There existed a significant risk that Hartsfield's representation of DSI was materially limited by his representation of Mr. Bottoms in the same lawsuit. Rule 1.7(a)(2) requires that, except as provided in paragraph (b), a lawyer shall not represent a client if the representation involves a concurrent conflict of interest. A concurrent conflict of interest exists if there is a significant risk that the representation of one or more clients will be materially limited by the lawyer's responsibilities to another client, a former client or a third person or by a personal interest of the lawyer.

3. Mr. Larry J. Hartsfield violated Rule 1.13(g) in that, when James Bottoms was made a third-party defendant in the case of *Detection Systems, Inc. v. Bennie Jean White*, Pulaski County Circuit Court Case No. CV-06-1316, there was a directly adverse conflict of interest to the representation of DSI absent informed consent, as required by Rule 1.7(b), from an appropriate official of DSI other than James Bottoms.

4. Mr. Larry J. Hartsfield violated Rule 1.13(g) in that, when James Bottoms was made a third-party defendant in the case of *Detection Systems, Inc. v. Bennie Jean White*, Pulaski County Circuit Court Case No. CV-06-1316, there was a significant risk that his representation of James Bottoms, individually, would be materially limited by the duties he owed to DSI, Inc., which required informed consent, pursuant to Rule 1.7(b), from an appropriate official of DSI other than James Bottoms.

Arkansas Rule 1.13(g) requires that a lawyer representing an organization may also represent any of its directors, officers, employees, members, shareholders or other constituents, subject to the

provisions of Rule 1.7. If the organization's consent to the dual representation is required by Rule 1.7, the consent shall be given by an appropriate official of the organization other than the individual who is to be represented, or by the shareholders.

WHEREFORE, it is the decision and order of the Arkansas Supreme Court Committee on Professional Conduct, acting through its authorized Panel A, that Larry J. Hartsfield, Arkansas Bar ID# 69030, be, and hereby is, CAUTIONED for his conduct in this matter, and assessed standard Committee case costs of $50.00. The costs assessed herein shall be payable by cashier's check or money order to the "Clerk, Arkansas Supreme Court" and delivered to the Office of Professional Conduct within thirty (30) days of the date this Findings and Order is filed of record with the Clerk of the Arkansas Supreme Court.

ARKANSAS SUPREME COURT COMMITTEE ON
PROFESSIONAL CONDUCT - PANEL A

By: Steven Shults
Steven Shults, Chair, Panel A

Date: October 14, 2008