BEFORE THE SUPREME COURT COMMITTEE ON PROFESSIONAL CONDUCT
PANEL A

FILED
NOV 20 2009
LESLIE W. STEEN
CLERK

IN RE: PAUL HICKEY, Respondent
Arkansas Bar ID#75059
CPC Docket No. 2009-095

CONSENT FINDINGS AND ORDER

The formal charges of misconduct upon which this Findings and Order is based arose from information provided to the Committee by Richard Nance in an Affidavit dated September 4, 2009. The information related to the representation of Richard Nance by Respondent in 2008.

On September 14, 2009, Respondent was served with a formal complaint, supported by affidavit from Mr. Nance. A response was filed. The Respondent, through counsel, Milas H. "Butch" Hale, and the Executive Director negotiated a discipline by consent proposal, which was submitted to this Panel.

The information before the Panel reflected that the Office of Professional Conduct was contacted by Richard Nance in April 2009 about his former attorney, Paul Hickey of Little Rock. After receiving information from Mr. Nance, Mr. Hickey was contacted concerning the retainer fee received from Mr. Nance and the deposit of it into the operating account as opposed to Mr. Hickey's IOLTA Trust Account.

During May 2008, Richard Nance hired Paul Hickey, an attorney practicing primarily in Little Rock, to seek collection of a debt for him. Mr. Nance had made an investment with Bobby Jones, individually and d/b/a MI ARK Eco-Recovery Systems LLC, which was doing business with Krisell Oil Company, Inc. Mr. Jones stopped communicating after the investment was made so Mr. Nance believed he had been scammed for over $30,000, and he needed counsel to assist him in seeking recovery of those funds. After consultation with Joseph Larkin, an attorney

practicing in Michigan, Mr. Nance learned any lawsuit would have to be filed in Arkansas. Mr. Larkin presented Mr. Nance with the names of three (3) attorneys to speak with who handled collection matters. From those three, Mr. Nance chose Mr. Hickey. He signed an Attorney-Client Agreement and delivered to Mr. Hickey a retainer fee of $2500. The hourly attorney fee rate to be charged against the retainer was $200 per hour.

Both Mr. Larkin and Mr. Nance called Mr. Hickey numerous times after May 27, 2008, but he did not return calls to answer any questions or to advise what actions, if any, he was taking. After several months of hearing nothing from Mr. Hickey, Mr. Nance asked Mr. Larkin to attempt to recover the retainer from Mr. Hickey. Mr. Larkin sent a letter to Mr. Hickey on February 19, 2009, requesting full refund. Initially, there was no response to the request. In a letter dated March 1, 2009, Mr. Hickey returned the $2500 retainer. In the file returned to Mr. Larkin and Mr. Nance, there was very little in the way of services performed by Mr. Hickey reflected during the approximately nine (9) months, Mr. Hickey was counsel for Mr. Nance.

Mr. Hickey's lack of action and communication caused an unnecessary delay in pursuit of recovery of funds on Mr. Nance's behalf.

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

1. That Mr. Hickey's conduct violated Rule 1.3, because his conduct with regard to Mr. Nance's legal matter was neither diligent nor prompt after he was retained. Rule 1.3 requires that a lawyer act with reasonable diligence and promptness in representing a client.

2. That Mr. Hickey's conduct violated Rule 1.4(a)(4) because during the course of

time Mr. Hickey represented Mr. Nance, he failed to promptly reply to Mr. Nance and his Michigan counsel with information about the collection matter. Rule 1.4(a)(4) requires that a lawyer promptly comply with reasonable requests for information.

3. That Mr. Hickey's conduct violated Rule 1.15(a)(1), because upon receipt of the $2,500 retainer from Mr. Nance, which was for services to be rendered in the future and also any court and service fees associated with the representation, Mr. Hickey failed to place the funds in his IOLTA trust account. Mr. Nance's funds were not kept separate in a trust account. Rule 1.15(a)(1) requires that a lawyer hold property of clients or third persons, including prospective clients, that is in a lawyer's possession in connection with a representation separate from the lawyer's own property.

4. That Mr. Hickey's conduct violated Rule 1.15(b)(2) because he failed to deposit the $2,500 advanced payment of fee made to him by Mr. Nance in May 2008, in his IOLTA trust account. Rule 1.15(b)(2) requires that a lawyer shall deposit into a client trust account legal fees and expenses that have been paid in advance, to be withdrawn by the lawyer only as fees are earned or expenses incurred.

WHEREFORE, it is the decision and order of the Arkansas Supreme Court Committee on Professional Conduct, acting through its authorized Panel A, that PAUL HICKEY, Arkansas Bar ID# 75059, be, and hereby is, CAUTIONED for his conduct in this matter. Mr. Hickey is also assessed the costs of this proceeding in the amount of $100, pursuant to Section 18.A. of the Procedures of the Arkansas Supreme Court Regulating Professional Conduct of Attorneys at Law. The costs assessed herein shall be payable by cashier's check or money order payable to the "Clerk, Arkansas Supreme Court" 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: November 20, 2009

(13.M, Rev.1-1-02)