

**BEFORE THE SUPREME COURT COMMITTEE ON PROFESSIONAL CONDUCT**

IN RE: KENNETH ROBERT SHEMIN

Arkansas Bar ID #78138

CPC Docket No. 2002-149

**FINDINGS & CONSENT ORDER OF DISCIPLINE**

The formal charges of misconduct upon which this Consent Order is premised, involving respondent attorney Kenneth Robert Shemin of Fayetteville, Washington County, Arkansas, arose from information brought to the attention of the Committee on Professional Conduct by Lamar Pettus and by the Respondent..

Following Respondent Attorney's receipt of the formal complaint, the attorney entered into discussion with the Executive Director which has resulted in an agreement to discipline by consent pursuant to Section 20.B of the Arkansas Supreme Court Procedures Regulating Professional Conduct of Attorneys at Law (2002). Upon consideration of the formal complaint and attached exhibits, admissions made by the respondent attorney, the terms of the written consent, the approval of Panel C of the Committee on Professional Conduct, and the Arkansas Model Rules of Professional Conduct, the Committee on Professional Conduct finds:

That Mr. Shemin 's conduct violated Model Rule violated Model Rule 1.15(a)(1), when:

1. On July 30, 1999, he entered into a multi-party agreement which contemplated he would retain \$500,000.00, from funds previously paid him by a corporate client, as an advance for costs for future work on behalf of the client and the parties to the July 30, 1999, Agreement. He failed to promptly restore these funds to any trust account. In explanation and mitigation of this violation, Mr. Shemin has offered a recent letter from out-of-state counsel for many of the parties to the July 30, 1999, Agreement, who negotiated the terms and drafted the Agreement, to the effect that it was not contemplated by them that Mr. Shemin was required to place the \$500,000.00 previously paid him by his client in a trust account for the future legal work he agreed to do for the parties to the Agreement..

2. On March 30, 2001, he opened a new IOLTA trust account at Bank of America in Fayetteville, AR, and deposited personal funds in the amount of \$130,000.00 in the new account. These funds remained in the account and were used for personal and law firm purposes until spent down to a balance of \$40.69 by October 9, 2001, when the first client funds were deposited in the trust account. No additional personal funds were placed in this trust account after October 9, 2001.

3. On August 8, 2001, he deposited the proceeds of a \$350,000 personal loan into his IOLTA trust account at Bank of America, in connection with his obligations in 1 (above) and the July 30, 1999, Agreement. Model Rule 1.15(a) requires, in pertinent part, that an lawyer shall hold property of clients or third persons that is in a lawyer's possession in connection with a representation separate from the lawyer's own property. Funds of a client shall be deposited and maintained in one or more identifiable trust accounts in the state where the lawyer's office is situated, or elsewhere with the consent of the client or third person. The lawyer or law firm may not deposit funds belonging to the lawyer or law firm in any account designated as the trust account, other than the amount necessary to cover bank charges, or comply with the minimum balance required for the waiver of bank charges.

WHEREFORE, in accordance with the consent to discipline presented by Mr. Shemin and the Executive Director, it is the decision and order of the Arkansas Supreme Court Committee on Professional Conduct that Respondent KENNETH ROBERT SHEMIN, Arkansas Bar No. 78138, be, and he hereby is, CAUTIONED for his conduct in this matter and ordered to pay a fine of \$15,000.00. The fine 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 with 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 C

By \_\_\_\_\_

Bart F. Virden, Committee Chairperson

Date \_\_\_\_\_

