

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

IN RE:           ANN C. DONOVAN, Respondent  
                  Arkansas Bar ID#78043  
                  CPC Docket No. 2002-181

**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 Dennis Michael DeHart on November 19, 2001. The information related to the representation of Mr. DeHart by Respondent in 1999 through 2001.

On January 20, 2003, Respondent was served with a formal complaint, supported by affidavit(s) from Mr. DeHart. A response was filed. The matter proceeded to ballot vote. A Findings and Order was prepared from the ballot vote decision and served on Respondent. Respondent requested a public de novo hearing in the matter. Prior to the time for the de novo hearing, Respondent requested that the matter be considered for conclusion through discipline by consent. The Respondent and the Executive Director negotiated a discipline by consent proposal, which was submitted to this Panel.

The information before the Panel revealed that Mr. DeHart hired Ann C. Donovan, an attorney practicing in Fayetteville, Washington County, Arkansas, to pursue a paternity matter for him. Mr. DeHart has a daughter who was during the year of 1999 residing in Arkansas. Mr. DeHart wished to establish that the minor was his biological child and to be assured of visitation and any other rights with regard to the child. Ms. Donovan ultimately filed a Petition for Paternity on October 13, 2000. Mr. DeHart learned of the filing from the Circuit Clerk's office not Ms. Donovan.

A hearing on the Petition was held on November 30, 2000. Mr. DeHart attended the hearing. The Order from that hearing was entered the following day. Because the mother of Mr. DeHart's daughter did not appear at the hearing, the presiding Judge ordered that her counsel locate her and have her present for a hearing on January 4, 2001, along with Mr. DeHart's daughter. Following the hearing on January 4, 2001, the presiding

Judge found that paternity had been established. Custody was awarded to Mr. DeHart and the mother of the child was ordered to pay \$40 per week in child support. The child support was to be paid through the registry of the court. There was nothing in the Order which mentioned that child support payments should be sent to Mr. DeHart's attorney, Ms. Donovan. However, the checks were sent directly to Ms. Donovan. Three checks, each for \$160, were sent directly to Ms. Donovan. The checks were held by Ms. Donovan because she alleged that Ms. DeHart owed her money. Mr. DeHart was unaware that Ms. Donovan had the payments until he spoke with a Deputy Clerk who advised him of this fact. When Mr. DeHart learned of this fact, he provided the Clerk's office with his current address and the payments began to be sent directly to him.

Mr. DeHart personally went to Ms. Donovan's office on December 18, 2001, and questioned Ms. Donovan about the monies she was holding. Ms. Donovan admitted to being in possession of the three checks and informed Mr. DeHart that she held them because he owed her money for her services. This was despite the fact that Mr. DeHart had already paid Ms. Donovan \$1900 for her services. Because he needed the monies for his daughter, Mr. DeHart paid Ms. Donovan \$100 on that date and she released the checks to him.

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

1. That Ms. Donovan's conduct violated Model Rule 1.4(a) when she failed to advise Mr. DeHart that she was in possession of his child support checks after the same were sent to her by the Clerk of Benton County; when she failed to keep Mr. DeHart advised of any efforts she was undertaking on his behalf after she initially filed the Petition for Paternity on his behalf; and, when she did not send Mr. DeHart a copy of the filed Petition for Paternity after she filed the same with the Benton County Circuit Clerk. Model Rule 1.4(a) requires that a lawyer keep a client reasonably informed about the status of a matter and promptly comply with reasonable requests for information.

2. That Ms. Donovan's conduct violated Model Rule 1.15(b) when she failed to promptly notify Mr. DeHart when she received his court ordered child support from the Benton County Circuit Clerk and when she failed to promptly deliver to Mr. DeHart his court ordered child support after she received the same from the Benton County Circuit Clerk. Model Rule 1.15(b) requires, in pertinent part, that upon receiving funds in which a client has an interest, a lawyer shall promptly notify the client and except as stated in this Rule or otherwise permitted by law or by agreement with the client, a lawyer shall promptly deliver to the client any funds that the client is entitled to receive.
3. That Ms. Donovan's conduct violated Model Rule 1.16(d) when she failed to surrender the child support checks to Mr. DeHart that she had in her possession after her representation of him was terminated until several months had elapsed and he traveled from Wisconsin to her office to confront her about the checks. Model Rule 1.16(d) requires, in pertinent part, that upon termination of representation, a lawyer shall take steps to the extent reasonably practicable to protect a client's interests, such as surrendering property to which the client is entitled.

WHEREFORE, it is the decision and order of the Arkansas Supreme Court Committee on Professional Conduct, acting through its authorized Panel B, that ANN C. DONOVAN, Arkansas Bar ID#78043, be, and hereby is, CAUTIONED for her conduct in this matter. Further, pursuant to Section 18.A of the Procedures of the Arkansas Supreme Court Regulating Professional Conduct of Attorneys at Law (2002), Ms. Donovan is ordered to pay costs in the amount of \$50. Pursuant to Section 18.C. of the Procedures, Ms. Donovan is ordered to pay a fine in the amount of \$250. The costs and 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 B

By: \_\_\_\_\_

John Rush, Chair, Panel B

Date: \_\_\_\_\_

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