

BEFORE THE SUPREME COURT COMMITTEE ON PROFESSIONAL CONDUCT  
PANEL B

IN RE: MICHAEL EUGENE KARNEY  
ARKANSAS BAR ID No. 95241  
CPC Docket No. 2011-066

**FILED**

DEC 12 2011

**LESLIE W. STEEN**  
**CLERK**

FINDINGS AND ORDER

The formal charges of misconduct upon which this Findings and Order is based arose from information provided in a grievance filed by the United States Securities and Exchange Commission. The conduct related to Mr. Karney's employment with the United States Securities and Exchange Commission.

Michael Eugene Karney is an attorney licensed to practice law in the State of Arkansas in 1995 and assigned Arkansas Bar Number 95241. He was also licensed to practice law in the State of Oklahoma and assigned Oklahoma Bar Association Number 12358. His Oklahoma law license was suspended on June 26, 2005, for nonpayment of dues for the year 2005. On September 11, 2006, Mr. Karney's name was stricken from the membership rolls of the Oklahoma Bar Association and from the practice of law in the State of Oklahoma for failure to pay dues as a member of the Oklahoma Bar Association for the year 2005.

Rule VII.A of the Arkansas Rules Governing Admission To the Bar requires that an annual license fee shall be paid annually to the Clerk of the Arkansas Supreme Court by each attorney actively licensed to practice law in the State of Arkansas. Failure to pay the annual license fee provided in Rule VII.A shall automatically suspend the delinquent lawyer from the practice of law in Arkansas. Every attorney member of the Bar of Arkansas is provided notice issued in late December of each year that the annual license fee is payable between January 1 and

March 1 of the following year. Following the expiration of the period for payment of the annual license fee, written notice is sent to each attorney licensed to practice law in the State of Arkansas who has not paid the annual license fee. Mr. Karney failed to pay his annual Arkansas license fees from for the years 2005, 2006, 2007, 2008, 2009, 2010, and 2011. His failure to pay his annual license fees resulted in his license to practice law his suspension from the practice of law in Arkansas on March 2, 2005.

Rule 3.A of the Arkansas Rules for Minimum Continuing Legal Education (CLE) requires that every member of the Bar of Arkansas complete 12 hours of approved continuing legal education during each reporting period. Reports of approved CLE hours each member of the Bar of Arkansas has on record with the Office of Professional Programs are provided to the member periodically during the fiscal year. A final report is provided pursuant to Rule 5.D of the Arkansas Rules of Minimum Continuing Legal Education notifying every member of the Bar of Arkansas whether each member has attained the minimum required hours of CLE. Failure to obtain the minimum required hours of CLE required by Rule 3.A results in the Office of Professional Programs sending a notice of noncompliance pursuant to Rule 5.D of the Arkansas Rules of Minimum Continuing Legal Education. Mr. Karney reported enough hours to be in compliance with Rule 3.A of the Arkansas Rules of Minimum Continuing Legal Education but failed to report the hours prior to the expiration of the reporting period and was in noncompliance. Mr. Karney was assessed a deficiency fee of Seventy-Five Dollars (\$75.00) and assessed a late filing fee of Twenty-Five Dollars (\$25.00) but failed to pay the assessed fees. On February 7, 2005, the Office of Professional Programs sent, by certified mail, a Notice of Intent to Suspend License to Mr. Karney at the address on file with the Arkansas Supreme Court Clerk,

140 Chambord Drive, Maumelle, AR 72113. The certified mail was received by Mr. Karney on February 22, 2005. The notice provided Mr. Karney that he must notify the Continuing Legal Education Board within thirty (30) days of the date of the notice that he has corrected the noncompliance but Mr. Karney failed to provide notice of compliance within the time allowed. On March 19, 2005, the Arkansas Continuing Legal Education Board voted to suspend Mr. Karney's Arkansas license to practice law.

Mr. Karney was employed with the United States Securities and Exchange Commission from December 12, 2004, to October 13, 2007, as a Legal Branch Chief. Requirements of the Legal Branch Chief, as set forth by the Securities and Exchange Commission, included that he be a member of the bar and have an expert knowledge of Commission and Division policy as well as court decisions interpreting the securities laws. Mr. Karney's Oklahoma law license was suspended on June 26, 2005, and removed on September 11, 2006. Mr. Karney's Arkansas law license was suspended on March 2, 2005, by the Clerk of the Arkansas Supreme Court and on March 19, 2005, by the Arkansas Continuing Legal Education Board. From March 2, 2005, until October 13, 2007, Mr. Karney engaged in the unauthorized practice of law when he acted as Legal Branch Chief for the United States Securities and Exchange Commission while his license to practice law was suspended.

From October 14, 2007, Mr. Karney was employed with the United States Securities and Exchange Commission as an Attorney Advisor. Requirements of the Attorney Advisor, as set forth by the Securities and Exchange Commission, included that he be a member of the bar. Mr. Karney's Oklahoma law license was suspended on June 26, 2005, and removed on September 11, 2006. Mr. Karney's Arkansas law license was suspended on March 2, 2005, by the Clerk of the

Arkansas Supreme Court and on March 19, 2005, by the Arkansas Continuing Legal Education Board. Mr. Karney engaged in the unauthorized practice of law during the period of time he was employed as Attorney Advisor for the United States Securities and Exchange Commission while his Arkansas license to practice law was suspended for failure to pay his annual license fee and for failure to comply with the Rules of Minimum Continuing Legal Education

As an employee of the United States Securities and Exchange Commission, Mr. Karney was the subject of an investigation by the Office of Inspector General into allegations that Mr. Karney was not a member of good standing of any state bar. On May 18, 2010, Mr. Karney sat for a deposition held at the Securities and Exchange Commission in Washington, D.C. He was advised at the start of the deposition that his testimony was subject to the laws of perjury, that providing false or misleading testimony under oath was a very serious offense, and that if evidence shows that the testimony was to have given was false, the Securities and Exchange Commission may refer his false testimony for disciplinary purposes or to an Assistant United States Attorney for formal criminal perjury or false statement charges.

During his testimony, Mr. Karney testified that he was a member of the Arkansas Bar, that he received notice of his dues every year, that he paid those dues, and that he attended CLE courses and provided that information to the Arkansas Bar. Mr. Karney stated that he last paid his annual bar license fees in 2009 and that the fee was Two Hundred Ten Dollars. Mr. Karney was asked about the Arkansas CLE requirements and stated that the minimum number of hours required were fourteen and that he had met those requirements.

Mr. Karney was asked about an internal SEC email dated March 30, 2010, in which the subject of the email was state bar membership. Mr. Karney was asked whether it prompted him

to pay his bar license fees in Arkansas and he stated that it did as bar dues in Arkansas were due by June 30. Mr. Karney was asked whether the fee was always Two Hundred and Ten Dollars and he stated that it was not as it depended on the number of years practiced. Mr. Karney stated that he received notice of his bar dues in the mail and email. Mr. Karney stated that he paid his bar license fees on July 13, 2009, and provided a receipt from the Arkansas Bar Association.

Mr. Karney was asked about the decision of the Arkansas Continuing Legal Education Board to suspend his license to practice law because of failure to maintain the necessary continuing legal education hours. Mr. Karney stated that the decision must have been incorrect as he had complied with the CLE requirements. Mr. Karney was presented with documents from Denise Parks, Deputy Clerk of the Arkansas Supreme Court, and Dana Rowlett, Assistant Director for Continuing Legal Education.

Mr. Karney was asked whether he knew the Arkansas Bar Association and the Bar of Arkansas were two totally separate entities. Mr. Karney stated that he knew they were two different entities but was not sure whether they were different for purposes of payment of dues and maintaining membership. Mr. Karney stated that he did not know why he would have a receipt for payment of Arkansas Bar Association dues but the Arkansas Supreme Court Clerk's office would show him not having paid his annual license fees since 2004. Mr. Karney had paid his Arkansas annual license fees each year from 1996 through 2004. Mr. Karney stated that he was surprised that annual license fees were due on March 2 as the CLE calendar goes from July 1 to June 30.

On August 18, 2011, Michael Eugene Karney was served with a formal complaint along with a copy of all exhibits, by U.S. Postal Service, certified, restricted delivery, return receipt

requested and a response was due on or before September 19, 2011. Mr. Karney requested an extension of time to file his response and he was granted until September 23, 2011, to do so. Mr. Karney requested an additional extension on September 23, 2011, and was granted until September 27, 2011. Mr. Karney failed to file a timely response to the complaint and the failure to timely respond, pursuant to Section 9.C(4) of the Procedures, constituted an admission of the factual allegations of the formal complaint and extinguished his right to a public hearing.

Upon consideration of the formal complaint and attached exhibit materials, the failure to file a timely response, and the Arkansas Rules of Professional Conduct, Panel B of the Arkansas Supreme Court Committee on Professional Conduct finds:

1. Michael Eugene Karney violated Rule 3.4(c), when he failed to pay his Arkansas license fee for the years 2005, 2006, 2007, 2008, 2009, and 2010 in violation of Rule VII.A of the Arkansas Rules Governing Admission to the Bar. Rule 3.4(c) requires that a lawyer not knowingly disobey an obligation under the rules of a tribunal.

2. Michael Eugene Karney violated Rule 5.5(a) when he was employed as Legal Branch Chief for the United States Securities and Exchange Commission from March 2, 2005, until October 13, 2007, which required him to be an active member of a bar engaging in the practice of law, but failed to pay his Arkansas bar license fee in 2005, resulting in the suspension of his Arkansas license to practice law on March 2, 2005, and when failed to meet the minimum required hours of continuing legal education (CLE) resulting in the suspension of his Arkansas license to practice law on March 19, 2005, and thereafter while continuing to be employed as Legal Branch Chief. Mr. Karney also violated Rule 5.5(a) when he was employed as Attorney Advisor for the United States Securities and Exchange Commission, which required him to be an

active member of a bar engaging in the practice of law, but failed to pay his Arkansas bar license fee in 2005, resulting in the suspension of his Arkansas license to practice law on March 2, 2005, and failed to meet the minimum required hours of continuing legal education (CLE) resulting in the suspension of his Arkansas license to practice law on March 19, 2005, and thereafter while continuing to be employed as Attorney Advisor. Rule 5.5(a) requires that a lawyer not practice in a jurisdiction in violation of the regulation of the legal profession in that jurisdiction, or assist another in doing so.

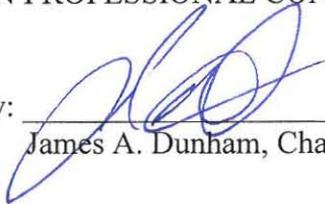
3. Michael Eugene Karney violated Rule 8.4(c) when, in a deposition on May 18, 2010, he was the deponent and misrepresented the status of his Arkansas bar license when he was asked whether he was a member of a state bar and stated that he was a member of the Arkansas bar, and that he had paid his license fee from 2000 to 2009, while records maintained by the Arkansas Supreme Court Clerk showed that Mr. Karney had not paid his license fees in 2005, 2006, 2007, 2008, 2009, or 2010. Mr. Karney also violated Rule 8.4(c) in the same deposition when he misrepresented the status of his Arkansas bar license when he was asked whether he had met the Arkansas continuing legal education requirements, and he stated that he had, while records maintained by the Arkansas Office of Professional Programs show that he had failed to maintain minimum required continuing legal education requirements from 2005 to the date of the filing of this formal complaint. Mr. Karney also violated Rule 8.4(c) in the same deposition when he misrepresented the status of his Arkansas bar license after he was presented with a copy of his attorney information located on the Arkansas Supreme Court website which showed his Arkansas license to practice law as suspended on March 22, 2005, for failure to comply with the minimum continuing legal education requirements and he stated that the information was

incorrect, as he had complied with the Arkansas CLE requirements. Mr. Karney violated Rule 8.4(c) at the same deposition when he misrepresented the status of his Arkansas bar license when he was asked whether he had continually throughout all the years paid all of the necessary annual bar license fees to Arkansas, when records maintained by the Arkansas Supreme Court Clerk showed Mr. Karney had not paid his license fees in 2005, 2006, 2007, 2008, 2009, or 2010. Mr. Karney violated Rule 8.4(c) at the same deposition when he misrepresented the status of his Arkansas bar license when he was asked whether he had continually throughout all the years maintained all of the Arkansas continuing legal education requirements, when records maintained by the Arkansas Office of Professional Programs showed that his Arkansas license to practice law was suspended in May, 2005, for failure to maintain the minimum continuing legal education requirements. Rule 8.4(c) states that it is professional misconduct for a lawyer to engage in conduct involving dishonesty, fraud, deceit or misrepresentation.

WHEREFORE, it is the decision and order of the Arkansas Supreme Court Committee on Professional Conduct, acting through its authorized Panel B, that MICHAEL EUGENE KARNEY, Arkansas Bar No. 95241, be, and hereby is, SUSPENDED for a period of Thirty Six Months, fined the sum of FIVE THOUSAND DOLLARS (\$5,000.00), and assessed costs in the amount of FIFTY DOLLARS (\$50.00) for his conduct in this matter. For his failure to file a timely response to the formal complaint, MICHAEL EUGENE KARNEY, Arkansas Bar No. 95241, be and hereby is, REPRIMANDED, and fined the sum of ONE THOUSAND DOLLARS (\$1,000.00) for his conduct in this matter. All fines, costs, and restitution assessed herein, totaling SIX THOUSAND FIFTY DOLLARS (\$6,050.00) 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 B

By:  \_\_\_\_\_  
James A. Dunham, Chairman

Date: October 27, 2011