

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

IN RE: **BARRY MICHAEL EASLEY**  
Arkansas Bar ID # 74041  
CPC Docket No. 2012-027

**HEARING FINDINGS AND ORDER**

On April 25, 2012, Respondent was served with a formal Complaint, his response was filed, and rebuttal was filed. The matter was considered by Panel A on ballot vote on July 20, 2012.

Mr. Easley was informed of the outcome and requested a public hearing before another panel, which would not know the result of the first panel action. The hearing was conducted for three full days on February 13-15, 2013, in Little Rock. Stark Ligon represented the Office of Professional Conduct (OPC), and Respondent was represented by Tim Dudley and Bart Virden. The hearing panel consisted of Stephen Crane (hearing chair), Panel B members James Dunham, Carolyn Morris, Nike Cung, and substitutes Mark Limbird, Richard Downing, and William Watkins, III, serving in place of Panel B members Henry Hodges, Barry Deacon, and Sylvia Orton who were not available or recused. The standard of proof was preponderance of the evidence. The final form and contents of this Findings and Order was determined by the hearing panel chair after submissions by both sides.

**I. INTRODUCTION**

1. The Rule violations charged, 1.8(e)(prohibited financial assistance to a client), 8.4(b)(criminal conduct), and 8.4(c)(conduct involving dishonesty, fraud, deceit or misrepresentation) were tried to the panel.

**FILED**  
APR 09 2013  
**LESLIE W. STEEN**  
**CLERK**

## II. COMMITTEE FINDINGS

1. Regarding Rule 1.8(e): The Office of Professional Conduct alleged and the Respondent admitted to two instances of providing financial assistance to clients.

The Respondent guaranteed a bank loan line of credit on behalf of Mike Gahr, Jr., a client of the Respondent at the time of the guarantee of the loan. The respondent was representing Mr. Gahr in a "Fen-Phen" claim.

The OPC also alleged, and the Respondent admitted that the Respondent assisted his client, Neil Smith, in obtaining a loan from a bank as an advance on her eventual settlement in the fen-phen litigation.

The Respondent admitted the transactions in his response and at the hearing. The Respondent offered explanation and argued that the transactions were technical violations of the rule but did not violate the spirit and intent of the rule and were done for humanitarian reasons.

The Panel, on a unanimous vote, found that Rule 1.8(e) was violated and that a caution was the appropriate sanction.

2. Rule 8.4(b): The Office of Professional Conduct alleged that the Respondent engaged in criminal conduct which involved dishonesty, fraud, deceit or misrepresentation and violated various United States criminal codes.

The allegations of criminal conduct involved the actions of an employee who persuaded the bookkeeper of the Easley Law firm to issue a portion of her paycheck to her husband and daughter in order that she not be penalized for earning more money than she was allowed under the disability guidelines. The evidence failed to establish that Mr. Easley

actively participated in this scheme or was anything but negligent in his management of the law office.

It was also alleged that settlement funds were mixed with bonus paid by the firm and distributed under the settlement in such a way that the true nature of the payment was secreted from the government. The committee finds that the proof failed to establish that Mike Easley intended to participate in this scheme or had the criminal intent to mask the funds from the government. Again at most he failed to properly supervise his employees, a failing for which he was not charged.

It was the finding of the Panel that a criminal act was not proven. There was no proof of willful or intentional conduct which was a required element in all of the criminal violations alleged by the OPC. On a vote of 6 to 1, the Panel found that the allegations brought by the OPC were not proven.

Rule 8.4(c):The Office of Professional Conduct alleged that the same conduct and actions previously alleged in the Rule 8.4(b) allegations violated Rule 8.4(c) and involved fraud, misrepresentation or deceit.

The Panel finds that allegations of criminal law violations by Mike Easley require that the office prove criminal intent to commit fraud , misrepresentation or deceit by a preponderance of the evidence. The Panel finds that the burden of the office was not met in proving intent on this rule.

The Panel on a vote of 6 to 1 found that there was no fraud, misrepresentation or deceit proven.

Therefore, the Panel found that the allegations regarding Rule 8.4(c) were not proven.

### III. SUMMARY OF FINDINGS

Upon consideration of the formal complaint and attached exhibit materials, responses to it, rebuttals, hearing testimony, and other matters before it and both the Arkansas Model Rules of Professional Conduct and, after May 1<sup>st</sup>, 2005 the Arkansas Rule of Professional Conduct, Panel B of the Arkansas Supreme Court Committee on Professional Conduct finds:

Count A. By unanimous vote the conduct of Barry Michael Easley violated Arkansas Model Rule 1.8(e) on two occasions.

Count B. By unanimous vote the Panel found that the Respondent's conduct did not violate Arkansas Rule 8.4(b).

Count C. By unanimous vote it was found that the Respondent's conduct did not violate Arkansas Rule 8.4(c) and charges (c)(1), (c)(7), and (c)(9) through (c)(11). By a vote 6 to 1 the Panel found that the Respondent's conduct did not violate Arkansas Rule 8.4(c) and charges (c)(2) through (c)(6) and (c)(8).

WHEREFORE, it is the decision and order of the Arkansas Supreme Court Committee on Professional Conduct, acting through its authorized Panel B, that **BARRY MICHAEL EASLEY**, Arkansas Bar ID# 74041, be, and hereby is, **CAUTIONED** for his conduct in this matter and assessed case and hearing costs totaling \$2,875.86. The costs of \$ 2,875.86 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:   
Steve R. Crane, Vice-Chair, Panel B and  
Hearing Chair

Date: 4-4-13