

BEFORE THE SUPREME COURT COMMITTEE ON PROFESSIONAL

CONDUCT

IN RE: CHARLIE LEE RUDD

ARKANSAS BAR ID #89087

CPC Docket No. 2000-151

FINDINGS AND ORDER

The formal charges of misconduct upon which this Order is based arose from a Judicial Referral from the Honorable Ralph Ohm, Hot Springs Municipal Court Judge, Division II. Charlie L. Rudd, an attorney practicing primarily in Hot Springs, Arkansas, appeared in Hot Springs Municipal Court on August 17, 2000, in relation to a criminal battery charge against his client, Kyle Kathcart. Mr. Rudd announced that an agreement had been reached between Mr. Kathcart and the Prosecuting Attorney. Mr. Kathcart agreed to pay restitution in the amount of \$460 at the rate of \$50 per month; the state would *nolle pros* the criminal charge. According to the agreement as presented to the court, Mr. Kathcart would make his payments to Mr. Rudd, who would then forward the payments to the victim. The case was then continued for ninety days to make sure the plan was being followed.

On September 8, 2000, Mr. Kathcart delivered \$50 to Mr. Rudd. On or about October 30, 2000, Mr. Kathcart made another \$50 payment. Mr. Rudd issued a check made payable to the victim in the amount of \$100. The check was issued on a checking account titled "Rudd Law Office, P.A." The check was delivered to the Hot Springs Municipal Clerk who then forwarded the check to the victim. The check was returned by the bank for "insufficient funds". The court became aware of this in November 2000, when Mr. Kathcart presented the court with receipts for payment and the victim informed the court that the check from Mr. Rudd was returned for "insufficient funds".

Mr. Rudd stated that Mr. Kathcart first made payment on October 12<sup>th</sup> or 13<sup>th</sup>, 2000. According to Mr. Rudd, Mr. Kathcart made a second payment on October 30, 2000. Also on October 30, Mr. Rudd was requested by the Municipal Clerk to deliver all monies received from Mr. Kathcart. Mr. Rudd stated that he delivered to the clerk a check that was written on an incorrect account. Mr. Rudd stated that the money he received from Mr. Kathcart was not deposited into a trust account as he was awaiting instructions on what to do with the money from the clerk's office. Mr. Rudd, after being notified of the dishonored check, tendered payment to the victim and paid costs associated with the returned check. Mr. Rudd denied violating the Model Rules of Professional Conduct.

Upon consideration of the formal complaint, the response thereto, and the Arkansas Model Rules of Professional Conduct, the Committee on Professional Conduct finds:

1. That Mr. Rudd violated Model Rule 1.15(a) when he received payments on September 8, 2000, and October 30, 2000, and failed to place the payments in a client trust account but instead placed the payments in his business operating account. Model Rule 1.15(a) requires that all lawyers hold property or clients or third person that is in a lawyer's possession in connection with a representation separate from the lawyer's own property.
2. That Mr. Rudd violated Model Rule 1.15(b) when he received restitution payments from Mr. Kathcart on September 8, 2000, and October 30, 2000, and failed to promptly deliver the restitution to the appropriate party. Model Rule 1.15(b) requires, in pertinent part, that a lawyer promptly deliver to the client or third person any funds or other property that the client or third person is entitled to receive.
3. That Mr. Rudd violated Model Rule 8.4(c) when he delivered a check to the Hot Springs Municipal Clerk representing restitution paid by his client when there were insufficient funds in his account. Model Rule 8.4(c) requires that a lawyer not engage in conduct involving dishonesty, fraud, deceit, or misrepresentation.
4. That Mr. Rudd violated Model Rule 8.4(d) when his failure to deliver restitution resulted in prejudice to the administration of justice by requiring the victim to appear at a hearing to inform the court that restitution had been paid but not timely forwarded. Model Rule 8.4(d) requires that a lawyer not engage in conduct that is prejudicial to the administration of justice.

WHEREFORE, it is the decision and order of the Arkansas Supreme court Committee on Professional Conduct that CHARLIE LEE RUDD, Arkansas Bar ID#89087, be, and hereby is, REPRIMANDED, for his conduct in this matter.

ARKANSAS SUPREME COURT COMMITTEE

ON

PROFESSIONAL CONDUCT

By:

Bart Virden

Chairman

Date: