

BEFORE THE SUPREME COURT COMMITTEE ON PROFESSIONAL CONDUCT

PANEL B

IN RE: **WOODSON D. WALKER**, Respondent

Arkansas Bar ID #76135

CPC Docket No. 2001-088

FINDINGS AND ORDER

The formal charges of misconduct upon which this Order is based arose out of information provided to the Committee by attorney Lizabeth Lookadoo on April 13, 2001. The information pertained to the representation of the subrogation interest of State Farm Automobile Insurance Company ("State Farm"), by Woodson D. Walker, in 1997-2001 in a case involving his client Judy Buckley, State Farm's insured. The complaint was considered at a public hearing before Panel B on June 21, 2002. Respondent appeared and was represented by Austin Porter, Jr. The Office of Professional Conduct was represented by its Executive Director, Stark Ligon.

Respondent's law firm agreed in writing on October 29, 1997, to protect and represent the \$4,132.07 subrogation interest of State Farm for an attorney's fee of a contingency of one-third in an action in which the firm represented Judy Buckley against an insured of Farm Bureau Insurance. On March 19, 1998, Judy Buckley settled her claim against Farm Bureau for \$12,500 and signed a release which Woodson Walker signed as a witness. State Farm was not notified of the settlement nor paid its subrogation interest from funds withheld for that purpose from the settlement by Walker. After State Farm finally learned from Farm Bureau Insurance on December 22, 1998, of the March 19, 1998, settlement, State Farm demanded payment from Respondent of its subrogation interest on numerous occasions, but received no satisfactory response, nor the funds, from Walker.

State Farm finally had to file suit against Respondent personally in Pulaski Circuit Court on November 29, 2000, seeking recovery of its unpaid subrogation interest. On March 1, 2001, State Farm took a default judgment of \$3,786.81 against Respondent, for the \$2,754.71 to which it was entitled in subrogation plus attorney fees and costs. A copy of the default judgment was provided to Respondent on March 10, 2001, and he failed to respond to counsel for State Farm until March 10, 2002, when Respondent Walker paid the judgment of \$3,786.81 from personal, and not trust account, funds. At the public hearing Respondent testified he was presently unable to account for all funds in his trust account, because for several years he had not properly maintained records linking funds in his trust account to specific clients.

In Respondent's November 19, 2001, response to the formal complaint, he acknowledged that on December 11, 2000, over two and one-half years after the settlement, and after State Farm filed suit against him on November 29, 2000, State Farm had not been paid. Respondent claims the non-payment was because the file had been mistakenly closed and then lost when he relocated his law office in March 2000. Respondent claims that after he was served with summons and complaint in the civil suit filed against him in Pulaski Circuit Court, his trust account check for \$2,754.71 was mailed directly to State Farm, and not through its attorney of record, Ms. Lookadoo, on December 11, 2000, but State Farm was then unwilling to accept this amount and returned the check. In his response, Respondent stated "... Respondent will forward immediately to [State Farm] a check in the amount of \$3,786.81, in satisfaction of the default judgment obtained by State Farm's attorney." Respondent Walker did not finally send payment to Lookadoo until March 6, 2002.

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

1. Respondent's conduct violated Model Rule 1.4(a) when he failed to notify State Farm that the Judy Buckley case was settled on March 19, 1998, and that he had received funds in which State Farm had an interest by subrogation. Respondent failed thereafter to respond to numerous requests from State Farm, and its attorney Ms. Lookadoo, for information and status reports on this matter. Model Rule 1.4(a) requires that a lawyer shall keep a client reasonably informed about the status of a matter and promptly comply with reasonable requests for information.
2. Respondent's conduct violated Model Rule 1.15(b) when he failed to notify State Farm that he had received funds in which it had a subrogation interest when he settled the claim of his client Judy Buckley on March 19, 1998, and when he thereafter failed to deliver to State Farm the funds it was entitled to receive from March 19, 1998, until March 6, 2002. Model Rule 1.15(b) requires, in pertinent part, that upon receiving funds in which a client or third person has an interest, a lawyer shall promptly notify the client or third person.
3. Respondent's conduct violated Model Rule 8.4(d) when he failed to deliver to State Farm settlement funds to which it was entitled, requiring State Farm to have to file suit against Respondent personally and take a default judgment against him, to which he still failed to respond, requiring the unnecessary use of additional judicial resources. 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, WOODSON D. WALKER, Arkansas Bar ID #76135, be, and he hereby is, **SUSPENDED FOR TWELVE (12) MONTHS** for his conduct in this matter. The petition for costs filed by the Office of Professional Conduct at the conclusion of the hearing is granted, and Respondent Walker is ordered to pay to the Committee on Professional Conduct the sum of \$858.64 in investigative costs, pursuant to Section 18.A of the Procedures, within thirty (30) days of the filing of this order. Respondent's motion, pursuant to Section 12 of the Procedures, for a stay pending appeal to the Arkansas Supreme Court is granted. The stay granted herein shall dissolve thirty-one (31) days after this order is filed with the Clerk of the Arkansas Supreme Court if no proper notice of appeal from this order has been timely filed.

By:

Richard F. Hatfield, Chair, Panel B

Date: