

BEFORE THE SUPREME COURT COMMITTEE ON PROFESSIONAL CONDUCT
PANEL A

IN RE: STEPHEN E. ADAMS, Respondent
 Arkansas Bar ID#79002
 CPC Docket No. 2002-136

FINDINGS AND ORDER

The formal charges of misconduct upon which this Findings and Order is based arose from information provided to the Committee by Debi Bennett on June 14, 2002. The information related to the representation of Ms. Bennett by Stephen E. Adams, an attorney formerly practicing in Fayetteville, Washington County, Arkansas, beginning in 1993.

On November 17, 2003, service of the formal complaint, supported by affidavits from Debi Bennett, Stark Ligon, Executive Director of the Office of Professional Conduct, and Dana Rowlett, Administrative Assistant for the Office of Professional Programs, was perfected. Respondent failed to file a response to the complaint, which failure to timely respond, pursuant to Section 9.C(4) of the Procedures, constitutes an admission of the factual allegations of the formal complaint and extinguishes Respondent's right to a public hearing.

The facts before the Committee, Panel A, which have been deemed admitted based upon Mr. Adams' failure to respond, are as follows:

During 1993, Ms. Bennett hired Mr. Adams to represent her in a civil lawsuit. Ms. Bennett was quite pleased with Mr. Adams' representation at that time. Ms. Bennett received a Judgment in excess of \$100,000 during December 1993. Because the defendant did not have the funds to pay the judgment in full, Mr. Adams began to garnish the defendant's wages on Ms. Bennett's behalf. According to Ms. Bennett, for the first year or so, the garnishment procedure worked smoothly. Each time Mr. Adams received a garnishment check, he took a portion for his fee, based on the written contingent fee arrangement he had with Ms. Bennett, and then he sent Ms. Bennett a check for the balance of the payment.

Ms. Bennett reported that following that first year, Mr. Adams' behavior changed and he began to send her checks more infrequently. Because she was advised that Mr. Adams was very ill, she tried to be patient and understanding of the situation. When Mr. Adams recovered from his illness, he apparently ceased the active practice of law and returned to teaching. However, since Mr. Adams, still had a fee coming from each garnishment payment, he continued to collect garnishment checks and work on that matter for Ms. Bennett. The problem Ms. Bennett experienced was that the checks came on a very infrequent and irregular basis. At one point, Mr. Adams advised Ms. Bennett that he "lost" two of the garnishment checks, yet to her knowledge, he never undertook any efforts to have the two checks replaced or reissued.

Ms. Bennett has attempted on numerous occasions over the course of the last several years to speak with Mr. Adams about the matter but she has been unable to get through to him. Further, despite her requests she has not received any form of an accounting from Mr. Adams and she has no idea how much he has actually received as a result of the garnishment, how frequently he receives checks nor how the garnishment checks are being divided. Ms. Bennett also does not know how much remains on the outstanding judgment she has which forms the basis of the garnishment. She has also expressed concern as to whether the judgment will expire at some point. Although she has requested Mr. Adams explain all these issues to her on several occasions, he has chosen to ignore her.

Prior to her complaint to the Office of Professional Conduct, the last check Ms. Bennett had received was dated April 18, 2002. She received the check only after having left several messages. Ms. Bennett even attempted sending certified letters but Mr. Adams would not claim them and they were returned to her.

When Ms. Bennett first contacted the Office of Professional Conduct, Mr. Ligon made contacts on this matter with Mr. Adams on Ms. Bennett's behalf. Mr. Adams never provided Mr. Ligon any explanation for his lack of action on Ms. Bennett's behalf. He also failed to provide information to Ms. Bennett and to Mr. Ligon as he assured Mr. Ligon he would. However, after Mr. Ligon's contacts, Ms. Bennett did receive ten (10) additional checks totaling \$3,047.84. She still does not know the balance on the Judgment nor what she will need to do in order to make certain the Judgment remains collectable. She also has never received an

accounting from Mr. Adams with regard to the amounts he has collected in the matter.

The Affidavit of Dana Rowlett confirms the status of Mr. Adams' status with regard to his continuing legal education. According to the information provided by Ms. Rowlett, Mr. Adams was suspended for non-compliance of the minimum continuing legal education requirements in Arkansas since November 1997. At no time since November 1997 has Mr. Adams been reinstated from the CLE Board imposed suspension.

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

1. That Mr. Adams' conduct violated Model Rule 1.3 when, while continuing to represent Ms. Bennett through collection of her Judgment, he failed to act diligently and promptly in delivering the collected funds to her and failed to be diligent and prompt in discussing this ongoing collection with her. Model Rule 1.3 requires that a lawyer act with reasonable diligence and promptness in representing a client.
2. That Mr. Adams' conduct violated Model Rule 1.4(a) because through his continuing representation of Ms. Bennett while collecting her Judgment, he failed to respond to her repeated requests for information with regard to the garnishment and Judgment. 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.
3. That Mr. Adams' conduct violated Model Rule 1.15(a)(1) when he failed to keep the funds of Ms. Bennett separate from his own since he began collecting the Judgment on her behalf and when he failed to place the funds owing to Ms. Bennett in an IOLTA trust account as he has received the garnishment checks from the judgment debtor's employer. Model Rule 1.15(a)(1) requires that a lawyer hold property of a client or third persons that is in a lawyer's possession in connection with a representation separate from the lawyer's own property with funds of a client being deposited and maintained in one or more identifiable trust accounts in the state

where the lawyer's office is situated, or elsewhere with the consent of the client or third person.

4. That Mr. Adams' conduct violated Model Rule 1.15(b) because he continuously failed to promptly notify Ms. Bennett when he received garnishment checks from the judgment debtor's employer; when he continually failed to deliver to Ms. Bennett her portion of the garnishment checks that he received from the judgment debtor's employer; and, when, despite repeated requests from Ms. Bennett and the Executive Director of the Office of Professional Conduct on her behalf, he failed to provide a complete accounting of the funds he collected on Ms. Bennett's behalf. Model Rule 1.15(b) requires that upon receiving funds or other property in which a client or third person has an interest, a lawyer shall promptly notify the client or third person. 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 or third person any funds or other property that the client or third person is entitled to receive, and, upon request by the client or third person, shall promptly render a full accounting regarding such property.
5. That Mr. Adams' conduct violated Model Rule 5.5(a) because although his license to practice law has been suspended since 1997 for CLE deficiencies, he has continued to act as a lawyer on behalf of Ms. Bennett in the post-Judgment collection efforts. Model Rule 5.5(a) requires that a lawyer not practice law in a jurisdiction where doing so violated the regulation of the legal profession in that jurisdiction.
6. That Mr. Adams' conduct violated Model Rule 8.4(c) when he was dishonest in his conversations with the Executive Director when he advised that he would send a response to Mr. Ligon's inquiries of July 8, 2002, and when he advised Mr. Ligon on August 14, 2002, that he would immediately send a full accounting to Ms. Bennett along with the checks he had collected in May 2002, and he did not take any of these actions until September 15, 2002, when he sent Ms. Bennett ten uncashed garnishment checks dating from April 26, 2002. Model Rule 8.4(c) requires that a lawyer not 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 A that STEPHEN E. ADAMS, Arkansas Bar ID#79002, be, and hereby is, SUSPENDED FOR A PERIOD OF SIXTY (60) MONTHS for his conduct in this matter. The suspension shall become effective on the date this Findings and Order is filed of record with the Clerk of the Arkansas Supreme Court. Mr. Adams is also ordered, pursuant to Section 18.A. of the Procedures of the Arkansas Supreme Court Regulating Professional Conduct of Attorneys at Law, to pay costs in the amount of \$50. The costs 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 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 A

By: _____

Gwendolyn D. Hodge, Chair, Panel A

Date: _____