

BEFORE THE SUPREME COURT COMMITTEE ON PROFESSIONAL

CONDUCT

IN RE: CHRISTOPHER C. MERCER, JR.

ARKANSAS BAR ID #54010

CPC Docket No. 2001-007

FINDINGS AND ORDER

The formal charges of misconduct upon which this Order is based arose from the complaint of Janice Walker. Ms. Walker was involved in a motor vehicle accident in Little Rock on June 25, 2000. Later that evening, Ms. Walker was approached by an individual known as "C. Jackson". Mr. Jackson informed Ms. Walker that Mercer Law Firm would provide her and her husband with representation relating to the accident. Ms. Walker informed Mr. Jackson that her husband would handle the matter and would contact him if it was necessary. Mercer Law Firm is operated by Christopher C. Mercer, Jr., Attorney at Law, Little Rock, Arkansas.

Mr. Jackson called Ms. Walker at her home on June 26, 2000. Ms. Walker stated that her husband would contact Mr. Jackson. Mr. Walker called Mr. Jackson at Mercer Law Firm and informed him that they were assessing their options and informed him that they would have to schedule a time to meet with him. On Tuesday, June 27, 2000, Ms. Walker called Mr. Jackson and stated that she and her husband appreciated his interest in the matter but that they declined the offer of representation.

Upon receipt of a police report from the accident, Ms. Walker called State Farm Insurance to file a claim. Ms. Walker was informed that Mr. Jackson, an employee of Mercer Law Firm, had informed State Farm that Mercer law Firm was representing her in the matter. Ms. Walker called Mr. Jackson and asked that a letter be prepared to State Farm to clarify the situation.

Mr. Walker met with Chris Mercer on June 29, 2000, concerning the letter that was to be sent to State Farm. Mr. Mercer stated that a relative of Ms. Walker contacted Mr. Jackson and asked that he assist with the accident. Mr. Mercer provided Mr. Walker with a letter stating that he no longer represented the Walkers but asserted his interest in a twenty-five percent (25%) lien on any settlement claim in the matter and asserted that there was a valid contract between the Walkers and his office. Mr. and Mrs. Walker thereafter received a copy of a letter sent to State Farm Insurance where Mr. Mercer agreed to settle his lien for \$1,350 plus costs in the amount of \$35.

Mercer stated in his response that Eva Lambert, Ms. Walker's cousin, called Mr. Jackson and requested that he assist the Walkers with the personal injury claim. Mr. Jackson did not know Ms. Walker prior to the telephone call. Ms. Lambert advised Mr. Jackson that she would visit with Ms. Walker and call him back. Ms. Lambert returned the telephone call to Mr. Jackson and stated that Ms. Walker wanted Mercer Law Firm to represent her. Because Ms. Lambert was related to Ms. Walker, no written contract was executed prior to providing services. Mr. Mercer stated that his office agreed to represent the Walkers at a reduced rate of twenty-five percent (25%) of the settlement and Ms. Walker agreed to it. Mr. Mercer asserted that Ms. Walker retained him to represent her, authorized his office to do work for her, promised to sign a fee agreement, benefitted from the services, and then terminated the employment for the purpose of circumventing payment. Upon settlement of the claim with State Farm Insurance, two checks were prepared, one issued to Ms. Walker and the other to Ms. Walker and Mercer Law Firm. Mr. Mercer stated that Ms. Walker has cashed the check made payable to her and is holding the check made payable to Mercer and Ms. Walker. Mr. Mercer asserted that Ms. Walker was using the Committee on Professional Conduct to erase the debt she owes Mercer Law Firm. Mercer denied violating any of the Model Rules of Professional Conduct alleged in the complaint.

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. Mercer violated Model Rule 8.4(a) when he allowed Mr. Jackson, an employee, agent or representative of the Mercer Law Firm, to make direct contact with Ms. Walker for the purpose of soliciting employment in a personal injury matter, which Mr. Mercer could not do himself under Model Rule 7.3(a). Model Rule 8.4(a) requires that a lawyer not violate or attempt to violate the rules of professional conduct through the acts of another; Model Rule 7.3(a) requires that a lawyer not by in-person or live telephone contact solicit professional employment from a prospective client with whom the lawyer has not family or prior professional relationship when a significant motive for the lawyer's doing so is the lawyer's pecuniary gain.
2. That Mr. Mercer violated Model Rule 8.4(c) when he informed State Farm Insurance Company that he represented Ms. Walker knowing that he did not have a written fee agreement; when he submitted a letter to State Farm on June 29, 2000, which stated that he was ceasing representation of Ms. Walker but was retaining a twenty-five percent (25%) attorney's lien on any settlement knowing that he did not have a written fee agreement with Ms. Walker' and, when he informed State Farm in a letter dated July 27, 2000, that he had a valid verbal contract with Ms. Walker and a twenty-five percent (25%) lien on settlement proceeds but would settle for \$1,350 in fees and \$35 in costs, knowing that he did not have a written fee agreement with Ms. Walker and misrepresented his interests in the matter to State Farm. Model Rule 8.4(c) requires, in pertinent part, that a lawyer not engage in conduct involving misrepresentation.
3. That Mr. Mercer violated Model Rule 8.4(d) when his misrepresentations to State Farm resulted in the inability of Ms. Walker to timely and effectively settle her personal injury matter. 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 CHRISTOPHER C. MERCER, JR., Arkansas Bar ID #54010, be, and hereby is, REPRIMANDED, for his conduct in this matter.

ARKANSAS SUPREME COURT COMMITTEE

ON

PROFESSIONAL CONDUCT

By:

Bart Virden

Chairman

Date:

BV/MEH/dc