

BEFORE THE SUPREME COURT COMMITTEE ON PROFESSIONAL CONDUCT

PANEL A

IN RE: KENNETH GEORGE FUCHS

ARKANSAS BAR ID # 81063

CPC Docket No. 2001-084

FINDINGS AND ORDER

The formal charges of misconduct upon which this Order is based arose from a grievance received on August 24, 2001, from Jim Walker. A formal complaint was filed by the Office of Professional Conduct and was supported by an affidavit from Mr. Walker.

The information contained in the formal disciplinary complaint revealed that Mr. Walker had an initial consultation with Kenneth George Fuchs on July 26, 2001, because he was being harassed by a creditor after he had filed bankruptcy. Mr. Fuchs stated that he would look into the matter and would call Mr. Walker in a few days to see if he wanted to accept the case. Mr. Walker left two documents with Mr. Fuchs, a collection letter from The Northland Group and a small note containing the name and phone number of the person that had harassed Mr. Walker about his personal finances. Mr. Fuchs never called Mr. Walker, so Mr. Walker called Mr. Fuchs office on August 3, 2001, and was promised a return call. Mr. Fuchs did not return that call. On August 7, 2001, Mr. Walker called Mr. Fuchs' office to notify him that he no longer wanted his assistance on the case and Mr. Walker asked for the return of his evidence.

After numerous visits to Mr. Fuchs' office and many phone calls by Mr. Walker, Mr. Fuchs failed and refused to return the documents left in his care. Mr. Walker was told by Mr. Fuchs' secretary that they could not find the documents or any record of Mr. Walker's July 26th visit.

Mr. Fuchs was served with the formal complaint, pursuant to Section 9A, Procedures of the Arkansas Supreme Court Regulating Professional Conduct of Attorneys at Law (Procedures), on October 4, 2001. 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.

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

1. That Mr. Fuchs' conduct violated Model Rule 1.15(a)(2), when Mr. Walker entrusted Mr. Fuchs with documents after their initial consultation and Mr. Fuchs failed to keep those documents safe and return them to Mr. Walker. Model Rule 1.15(a)(2) provides, in pertinent part, that all lawyers shall hold property of clients or third persons that is in a lawyer's possession in connection with a representation separate from the lawyer's own property, and shall be identified as such and appropriately safeguarded.
2. That Mr. Fuchs' conduct violated Model Rule 1.16(d), when he failed to surrender Mr. Walker's papers to him after Mr. Walker called his office to notify him that he no longer needed his services. Model Rule 1.16(d) provides, in pertinent part, that upon termination of representation, a lawyer shall take steps to the extent reasonably practicable to protect a client's interests, such as giving reasonable notice to the client, allowing time for employment of other counsel, and surrendering papers and property to which the client is entitled.
3. Mr. Fuchs' conduct violated Model Rule 8.4(d), when he failed to return Mr. Walker's documents to him and caused Mr. Walker delays in his pursuing his case. Model Rule 8.4(d) provides that a lawyer shall 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 Kenneth George Fuchs, Arkansas Bar ID # 81063, be, and he hereby is, REPRIMANDED for his conduct in this matter.

ARKANSAS SUPREME COURT COMMITTEE ON

PROFESSIONAL CONDUCT - Panel A

By:

Win A. Trafford, Chairman, Panel A

WTADde **Date:**
