

BEFORE THE SUPREME COURT COMMITTEE ON PROFESSIONAL CONDUCT  
PANEL C

IN RE: DAVID JOHN WOOD  
Arkansas Bar ID #81169  
CPC Docket No. 2005-128

CONSENT FINDINGS & ORDER

The formal charges of misconduct upon which this Consent Order is premised, involving respondent attorney David John Wood of Little Rock, Pulaski County, Arkansas, arose from information brought to the attention of the Committee on Professional Conduct by Jeanne Murphy, and arose from Respondent's "dual" representation of Dr. Jeanne Murphy, her former husband Dr. Bruce Murphy, and certain of their business entities in the 1980s and 1990s. Following Respondent Attorney's receipt of the formal complaint, the attorney entered into discussion with the Executive Director which has resulted in an agreement to discipline by consent pursuant to Section 20.B of the Arkansas Supreme Court Procedures Regulating Professional Conduct of Attorneys at Law (2002).

In early 1993 Mr. Wood was both an attorney and a C.P.A., and had been designated a tax specialist by the Arkansas Board of Specialization. Since 1983 he had provided legal and tax services and advice to spouses Dr. Bruce Murphy and Dr. Jeanne Murphy and to their various business entities. Marital difficulties arose between the Murphys in early 1993. Thereafter, Dr. Bruce Murphy approached Wood about assisting him in alleged real estate investment plans in the Destin, Florida area. As a part of the plan, Wood allowed Dr. Murphy to place large amounts of his income into or through Wood's attorney trust account over a several year period. Wood also opened a bank account for Dr. Bruce Murphy in a Florida bank, and had the account statements mailed to Wood's law office. These actions were taken without the knowledge of Dr. Jeanne Murphy.

Dr. Bruce Murphy filed for divorce on July 23, 1997. On July 29, 1997, Dr. Jeanne Murphy had a telephone conversation with Wood in which she asked Wood if Dr. Bruce Murphy had assets that were hidden from her in offshore accounts or secret bank accounts. In that conversation, Wood provided Dr. Jeanne Murphy, also then his client, no information about Dr. Bruce Murphy's separate financial dealings through Wood. In a discovery deposition in October 1997 in the Murphy divorce case, Dr. Bruce Murphy denied the existence of any off-shore accounts. In November 1997, Wood prepared amended joint personal tax returns for the Murphys for the years 1994, 1995, and 1996, which reflected previously undisclosed interest income from a Murphy business entity.

The substantial assets Dr. Bruce Murphy had hidden from his wife were eventually discovered in the divorce case and equitably distributed there. Dr. Jeanne Murphy sued Wood and his law firm for negligence, conflict of interest, constructive fraud, and fraud in an action that became Pulaski Circuit No. CIV-2000-4915. At a jury trial in March 2003, a general verdict was returned in her favor and against Wood and his law firm for \$38,000 in compensatory damages and \$175,000 in punitive damages. Mr. Wood did not appeal and the \$213,000 judgment was paid in full, with Mr. Wood personally paying \$123,000 of the judgment.

Upon consideration of the formal complaint and attached exhibits, admissions made by the respondent attorney, the terms of the written consent, the approval of Panel C of the Committee on Professional Conduct, and the Arkansas Model Rules of Professional Conduct, the Committee on Professional Conduct finds:

A. Mr. Wood's conduct violated Model Rule 1.2(a) in that in his representation of Dr. Jeanne Murphy, both as a legal and tax adviser and as the preparer of her joint personal tax returns with her husband Dr. Bruce Murphy, it was her objective that Wood file complete and accurate returns and that he not fail to disclose to her on such joint tax returns any assets and income of either spouse, so that accurate and truthful tax returns could be filed. He failed to file complete and accurate returns for the years 1994, 1995, and 1996, by failing to disclose to Dr. Jeanne Murphy the full amount of interest earned by BEM Leasing for those years, as a result of clerical error in his office in misfiling interest statements received there. Model Rule 1.2(a) requires that a lawyer shall abide by a client's decisions concerning the objectives of representation, subject to paragraphs (c), (d) and (e), and shall consult with the client as to the means by which they are to be pursued.

B. Mr. Wood's conduct violated Model Rule 1.7(a) in that he continued to represent both Dr. Bruce Murphy and Dr. Jeanne Murphy ("dual representation") after February 1993 when it was clear to Wood, or reasonably should have been clear to him, that their legal interests might have become materially adverse and Wood knew of this adverse situation but failed to disclose it to one of his clients, Dr. Jeanne Murphy. Model Rule 1.7(a) provides that a lawyer shall not represent a client if the representation of that client will be directly adverse to another client, unless: (1) the lawyer reasonably believes the representation will not adversely affect the relationship with the other client; and (2) each client consents after consultation.

C. Mr. Wood's conduct violated Model Rule 1.7(b) in that he continued to represent Dr. Jeanne Murphy and her professional medical corporation after early 1993, at times when Wood should have reasonably known that his continued representation of Dr. Jeanne Murphy may have been materially limited by Wood's responsibilities to another client, her spouse Dr. Bruce Murphy, conduct that was a "dual representation." Dr. Jeanne Murphy did not consent, after consultation by Wood, to his continued representation of her since she was not fully aware of the circumstances known to Dr. Bruce Murphy and Wood. Model Rule 1.7(b) provides that a lawyer shall not represent a client if the representation of that client may be materially limited by the lawyer's responsibilities to another client or to a third person, or by the lawyer's own interests, unless: (1) the lawyer reasonably believes the representation will not be adversely affected; and (2) the client consents after consultation.

WHEREFORE, in accordance with the consent to discipline presented by Mr. Wood and the Executive Director, it is the decision and order of the Arkansas Supreme Court Committee on Professional Conduct that Respondent DAVID JOHN WOOD, Arkansas Bar No. 81169, be, and hereby is, REPRIMANDED for his conduct in this matter, and assessed Committee costs of \$250.00. 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 with 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 C

By \_\_\_\_\_  
Searcy W. Harrell, Jr., Chairperson, Panel C

Date \_\_\_\_\_