

**BEFORE THE SUPREME COURT COMMITTEE ON PROFESSIONAL CONDUCT**

**PANEL B**

**IN RE: HORACE A. WALKER**

Arkansas Bar ID # 82169

CPC Docket No. 2005-169

**CONSENT FINDINGS AND ORDER**

The formal charges of misconduct upon which this Findings and Order is based were developed from information provided to the Committee by Dr. Rodney F. Williams, D.C., d/b/a Williams Chiropractic Care, on August 11, 2005 . The information related to the representation of seven clients in 2003-2004 by Respondent Horace A. Walker, an attorney practicing primarily in Little Rock, Arkansas. On April 10, 2006, Respondent was served with a formal complaint, supported by affidavits from Dr. Williams, Ethel Jackson, and other materials. After being informed of the results of a ballot vote by another Panel, Respondent Walker requested a *de novo* public hearing before Panel B.

Following Respondent Attorney's request for a public hearing, 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 late 2003 and 2004 Mr. Walker represented Vincent Anderson, Enis Robinson, Ethel Jackson, Aisha Cunningham, Ashhunta Moore, Lexus Moore, and Mr. Walker himself in claims for personal injuries arising from motor vehicle collisions. All six of these clients, plus Mr. Walker, were treated by Rodney F. Williams, D.C. of Little Rock. Dr. Williams complied with Walker's requests that Walker be provided with a bill and a statement of condition for each of these seven clients for his use in settling their claims. Walker settled the claims and obtained a recovery for each of these seven claims. He withheld from each settlement the necessary funds to pay the client's account with Dr. Williams as follows: Vincent Anderson -\$1,335.00, Enis Robinson - \$1,537.00, Ethel Jackson - \$ 1,530.00, Aisha Cunningham - \$ 1,532.00, Ashunta Moore - \$1,819.00, Lexus

Moore - \$309.00, and Horace Walker - \$1,844.00. Walker failed to pay any amount on these accounts until November 14, 2005, after he was contacted about the Williams complaint by the Office of Professional Conduct.

On October 26, 2004, Mr. Walker's trust account balance was \$430.00, indicating that the trust account held far less than the amount of funds he had earlier withheld from the settlement of any of his seven clients listed herein for the specific purpose of paying the client's account with Williams Chiropractic Clinic. There was an IRS levy against three of his bank accounts, including his trust account, at about this time and a total of \$5,979.57 was removed from the three accounts. This amount is less than the total of \$9,816.00 that should have been in his trust account alone in October 2004 representing the funds he withheld to pay Williams Chiropractic Clinic from seven (7) prior client settlements. The amount of client funds restored to his trust account can only be determined by records in his possession. The exact shortage in his trust account can only be determined by examination of bank account records in his possession covering all three accounts against which the IRS levy was made.

Dr. Williams filed a complaint against Walker in mid-August 2005. The Office of Professional Conduct (OPC) wrote Walker in September 2005 about this situation. He responded, admitting he had inadvertently forgotten to pay these bills. In response to a later letter, he admitted that all these client's settlement sheets would show Dr. Williams was to be paid by Walker's office. He also admitted the settlement funds were not always placed in his trust account. He failed to provide the OPC the requested copies of these client settlement sheets. He also failed to comply with the OPC request to supply it "appropriate client file documents and trust account records" so certain matters involving his handling of settlement funds for these cases could be verified.

On November 14, 2005, using funds from some source, Walker purchased seven (7) cashiers checks and delivered them to Dr. Williams, paying these seven accounts in full. Since he did not pay Dr. Williams with checks from his trust account, and failed to provide OPC the requested relevant trust account documents, it is presumed, since he did not demonstrate otherwise by providing relevant records, that Walker did not retain the funds totaling \$9,816.00 represented by the seven cashiers checks in his trust account during the times these

funds should have been there. His letter to OPC dated December 19, 2005, confirmed that he did not retain the withheld funds in his trust account and then use such funds to pay Dr. Williams. Based on this assumption, his trust account balance in 2004 and 2005 fell well below the balance that should have been retained there to pay Dr. Williams on these seven accounts.

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 B of the Committee on Professional Conduct, and the Arkansas Model Rules of Professional Conduct, the Committee on Professional Conduct finds:

A. Mr. Walker's conduct violated Model Rule 1.2(a) in that: (1) it was the objective of his client Vincent Anderson when Walker settled the client's claim and withheld \$1,335.00 of the settlement funds to pay the client's account with Williams Chiropractic Clinic, that Walker make payment to Williams Chiropractic Clinic to settle the client's account, which Walker failed to do prior to November 14, 2005, after a grievance complaint had been filed against Walker; (2) it was the objective of his client Enis Robinson when Walker settled the client's claim and withheld \$1,537.00 of the settlement funds to pay the client's account with Williams Chiropractic Clinic, that Walker make payment to Williams Chiropractic Clinic to settle the client's account, which Walker failed to do prior to November 14, 2005, after a grievance complaint had been filed against Walker; (3) it was the objective of his client Aisha Cunningham when Walker settled the client's claim and withheld \$1,532.00 of the settlement funds to pay the client's account with Williams Chiropractic Clinic, that Walker make payment to Williams Chiropractic Clinic to settle the client's account, which Walker failed to do prior to November 14, 2005, after a grievance complaint had been filed against Walker; (4) it was the objective of his client Ethel Jackson when Walker settled the client's claim and withheld \$1,530.00 of the settlement funds to pay the client's account with Williams Chiropractic Clinic, that Walker make payment to Williams Chiropractic Clinic to settle the client's account, which Walker failed to do prior to November 14, 2005, after a grievance complaint had been filed against Walker; (5) it was the objective of his client Ashunta Moore when Walker settled the client's claim and withheld \$1,819.00 of the settlement funds to pay the client's account with Williams Chiropractic Clinic, that Walker make payment to Williams Chiropractic Clinic

to settle the client's account, which Walker failed to do prior to November 14, 2005, after a grievance complaint had been filed against Walker; (6) it was the objective of his client Lexus Moore when Walker settled the client's claim and withheld \$309.00 of the settlement funds to pay the client's account with Williams Chiropractic Clinic, that Walker make payment to Williams Chiropractic Clinic to settle the client's account, which Walker failed to do prior to November 14, 2005, after a grievance complaint had been filed against Walker. 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. Walker's conduct violated Model Rule 1.5(c) in that when he settled her claim, he failed to provide his client Ethel Jackson with an accounting or settlement sheeting stating the outcome of the matter and showing the remittance to the client and the method of its determination. Model Rule 1.5(c) provides that a fee may be contingent on the outcome of the matter for which the service is rendered, except in a matter in which a contingent fee is prohibited by paragraph (d) or other law. A contingent fee agreement shall be in writing and shall state the method by which the fee is to be determined, including the percentage or percentages that shall accrue to the lawyer in the event of settlement, trial or appeal, litigation and other expenses to be deducted from the recovery, and whether such expenses are to be deducted before or after the contingent fee is calculated. Upon conclusion of a contingent fee matter, the lawyer shall provide the client with a written statement stating the outcome of the matter and, if there is a recovery, showing the remittance to the client and the method of its determination.

C. Mr. Walker's conduct violated Model Rule 1.15(a) in that: (1) he failed to deposit the settlement funds received for his client Vincent Anderson in a trust account; (2) he failed to deposit the settlement funds received for his client Enis Robinson in a trust account; (3) he failed to deposit the settlement funds received for his client Aisha Cunningham in a trust account; (4) he failed to deposit the settlement funds received for his client Ashunta Moore in a trust account; (5) he failed to deposit the settlement funds received for his client Lexus Moore Anderson in a trust account; (6) he failed to maintain a minimum balance of \$9,816.00 in his

trust account after late October 2004, or after settlement of the last of the seven client matters listed herein, thereby permitting his trust account balance to drop below the balance that should have been maintained for him to pay in full from his trust account all funds withheld from client settlements for the specific purpose of paying client accounts at Williams Chiropractic Clinic. Model Rule 1.15(a), in part, requires that a lawyer 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. Funds of a client shall be 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.

D. Mr. Walker's conduct violated Model Rule 1.15(b) in that: (1) he failed to promptly deliver to Williams Chiropractic Clinic \$1,335.00 in which the Clinic had an interest, as settlement funds from Vincent Anderson; (2) he failed to promptly deliver to Williams Chiropractic Clinic \$1,537.00 in which the Clinic had an interest, as settlement funds from Enis Robinson; (3) he failed to promptly deliver to Williams Chiropractic Clinic \$1,532.00 in which the Clinic had an interest, as settlement funds from Aisha Cunningham; (4) he failed to promptly deliver to Williams Chiropractic Clinic \$1,530.00 in which the Clinic had an interest, as settlement funds from Ethel Jackson; (5) he failed to promptly deliver to Williams Chiropractic Clinic \$1,819.00 in which the Clinic had an interest, as settlement funds from Ashunta Moore; (6) he failed to promptly deliver to Williams Chiropractic Clinic \$309.00 in which the Clinic had an interest, as settlement funds from Lexus Moore; and (7) he failed to promptly deliver to Williams Chiropractic Clinic \$1,884.00 in which the Clinic had an interest, as settlement funds from Horace Walker. 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.

E. Mr. Walker's conduct violated Model Rule 8.1(b) in that: (1) he failed to respond, and provide documents, to a written request from the Committee's Office of Professional Conduct dated September 26, 2005, for copies from his files of "settlement sheets" on his clients Vincent Anderson, Enis Robinson, Aisha Cunningham, Ethel Jackson, Ashunta Moore and Lexus Moore, and for copies of his trust account checks evidencing payment made for them to Dr, Rodney Williams; and (2) he failed to respond, and provide documents, to a second written request from the Committee's Office of Professional Conduct dated November 3, 2005, for copies from his files of "settlement sheets" on his clients Vincent Anderson, Enis Robinson, Aisha Cunningham, Ethel Jackson, Ashunta Moore and Lexus Moore, and for copies of his trust account checks evidencing payment made for them to Dr, Rodney Williams. Model Rule 8.1(b), in part, requires that a lawyer, in connection with a disciplinary matter, shall not knowingly fail to respond to a lawful demand for information from a disciplinary authority, except that this rule does not require disclosure of information otherwise protected by Rule 1.6.

WHEREFORE, in accordance with the consent to discipline presented by Mr. Walker and Executive Director, it is the decision and order of the Arkansas Supreme Court Committee on Professional Conduct, acting through its authorized Panel B, that the Arkansas law license of **HORACE A. WALKER**, Arkansas Bar ID# 82169, be, and hereby is, **SUSPENDED FOR THREE (3) MONTHS** and is assessed \$50.00 in Committee costs 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. The \$50.00 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 B

By: \_\_\_\_\_

Harry Truman Moore, Chair, Panel B

Date: \_\_\_\_\_

(Rev. 3-18-06 SL)