

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

**PANEL A**

IN RE:            CLAUDELL WOODS, Respondent  
                      Arkansas Bar ID#83188  
                      CPC Docket No. 2004-015

**FINDINGS AND ORDER**

The formal charges of misconduct upon which this Findings and Order is based arose from information provided to the Committee by Honorable Larry W. Chandler on November 13, 2003. The information related to the representation of the Estate of David Monk by Respondent beginning in 1992.

During February 2004, Respondent was served with a formal complaint, supported by the information from Judge Chandler. Respondent filed a timely response to the formal disciplinary complaint and the matter proceeded to ballot vote pursuant to the Procedures of the Arkansas Supreme Court Regulating Professional Conduct of Attorneys at Law (2002).

The information provided by Judge Chandler to the Committee reflected that you, Claudell Woods, an attorney practicing in Magnolia, Arkansas, were held in contempt of court in your representation of the Estate of David Monk in the case of *In the Matter of the Estate of David Monk, Deceased*, case number P-92-76. The background contained in the contempt order revealed that Mr. Woods filed a Petition for Appointment of Administrator on August 24, 1992, with regard to Mr. Monk's estate. The Petition, which was verified by Ruby Monk Pickens, set out that Mr. Monk was survived by two sons, Alvino Monk and Terry Monk, one daughter, Erma Jean Dumas, also known as Jean Monk Pfeifer, and eight siblings. Ms. Pickens was one of the decedent's siblings. She was appointed administratrix on August 27, 1992.

Judge Chandler addressed issues of the handling of the estate which deeply troubled him. The first issue addressed related to the 15 ½ acres of land in Columbia County which had been owned by the decedent. The record in the probate proceedings demonstrated that Mr. Woods filed a Petition to Sell the Real Property on October 25, 1995. On that same date, a Report of Sale was filed. The report was signed by Mr. Woods for Ms.

Pickens. In the report, Mr. Woods asserted that property sold for its appraised value of \$30,000 to Tony Smith, the great nephew of the decedent. The Order authorizing the sale was not entered by the Court until December 1, 1995. Following the Order, another Report of Sale, signed by Ms. Pickens, was filed. An appraisal of the property was filed immediately prior to the Order Authorizing Sale. The appraisal was completed July 27, 1993, but was not filed for over two (2) years. Both filed Reports of Sale aver that the net proceeds had “been deposited in the estate bank account.” In truth, none of the proceeds were ever placed in the estate bank account. The Report of Sale was held by Judge Chandler to be a false pleading. Judge Chandler refused to allow the sale at \$24,000, although that was the intention of the estate, because it was below the appraised value. After Judge Chandler refused to allow the sale at that price, a Petition to Sell for the Appraised Value was filed. However, neither Mr. Woods nor Ms. Pickens collected another \$6000 from Mr. Smith. A Deed was merely executed in his favor. Judge Chandler found that conduct to be a fraud on the court as well as on the heirs of the estate. Mr. Woods advised that none of the conduct was intentional. He did not intend to provide false information to the Court. His conduct was an effort to cause the Monk family to be able to keep the property of the decedent.

On January 26, 1994, the estate obtained a “loan” from Mr. Tony Smith. There was no written loan document nor any agreement as to the interest rate or method of repayment. The “loan” was not revealed to the heirs of the estate.

On December 28, 2001, Ms. Pickens filed her first accounting, after being ordered by the Court to do so. In that accounting, it was set out that the cost and interest for the loan from Mr. Smith was \$6000. Ms. Pickens was unable to explain how the amount was determined. Ms. Pickens was adamant in proceedings before Judge Chandler that she had received court approval for the loan. All three accountings filed by Ms. Pickens, and prepared by Mr. Woods, set out that the sale of the homestead resulted in a net income to the estate of \$30,000. The three accountings were determined to be false and a fraud on the court.

The second area of discontent for the Court dealt with the notice to the heirs in the probate proceeding. There is no proof, or even indication, that the heirs of the Estate were ever notified of Ms. Pickens’ appointment and opening of the Estate until August 1993. There was also an Affidavit of Service filed in 1995.

Judge Chandler presumed that August 1993 was the first time Mr. Woods made any effort to notify the three children of the decedent that an estate had been opened. Mr. Woods admitted that he did not act so as to make certain that he gave proper and timely notice of the estate proceeding to the heirs. The second Affidavit of Service was signed by Cassandra E. Woods, who stated that she had caused a copy of the letter attached to the Affidavit to be mailed to the three children of David Monk. Judge Chandler noted that Cassandra Woods was not an attorney licensed to practice law in Arkansas. Mr. Woods denied that there was any violation of the Model Rules in this instance because all he did was to have his signature notarized by a notary public. The second Affidavit of Service does not contain Mr. Woods' signature but that of Cassandra Woods, as the person making the averment concerning service and notice to the Court.

The next portion of Judge Chandler's Order dealt with the wrongful death proceeding involving Tyson Foods, Inc. The Court entered an Order on September 30, 1994, allowing Ms. Pickens to hire the law firm of Kusin and Hoover to prosecute the wrongful death action. Approximately six and a half years later, the Court entered an Order Approving Settlement and Disbursement of Funds. The settlement was for \$100,000. Paul D. Hoover and Associates received \$25,000. Ms. Pickens was to receive \$5,000 and the remainder of \$70,000 was to be deposited with the Probate Clerk of Columbia County. There was no explanation for Ms. Pickens receiving \$5000. Judge Chandler ordered that Ms. Pickens return the \$5000 to the estate. Mr. Woods paid the money back from his escrow account.

The three accountings were again addressed by Judge Chandler on page 6 of his Order. Two of the three accountings are noted to have been signed by Mr. Woods. All but two claims listed on the accountings by Mr. Woods and Ms. Pickens were paid without seeking or receiving authority from the probate court to make such payments. Mr. Woods admitted this fact. Following a hearing on the accountings, Judge Chandler ordered that Ms. Pickens return to the Estate the sum of \$12,913.00. Following credits and other payments, Ms. Pickens had already made to the estate, Judge Chandler ordered that she pay the sum of \$4850 to the estate no later than February 22, 2003. Ms. Pickens was also ordered to make restitution to the estate in the amount of \$6000 for the discount given on the sale of the real property without authority of the court.

The fees authorized for Mr. Woods to receive totaled \$3,437.50. However at the time of the hearing, Mr. Woods had received \$5,500. Mr. Woods denied that he received an additional fee of \$5,500. Mr. Woods' expressed theory is that considering the agreement to pay approximately \$12, 913.00, he received no fee. Mr. Woods was ordered to make restitution in the amount of \$2063, no later than February 22, 2003.

Ms. Pickens failed to pay the funds ordered. On March 26, 2003, Ms. Pickens was given two (2) days to have the balance paid. Mr. Woods paid the balance from his "The Legal Office, LLPC" account.

Because Mr. Woods paid estate debts with his personal funds, Judge Chandler entered an order on May 13, 2003, directing that Mr. Woods deliver to counsel for Jean Monk Pfeiffer all of his banking records, bank statements, checks and check registers on all accounts in which any estate money had been deposited. Mr. Woods was ordered to do so no later than May 15, 2003. Mr. Woods failed to comply with the Court's Order. On September 10, 2003, the Court entered an Order directing Mr. Woods to appear and explain why he should not be held in contempt. Mr. Woods filed a Response and stated that he had not acted in bad faith but had made a good faith attempt to comply. Mr. Woods attached to his response correspondence which was sent to David Talley, Ms. Pfeifer's attorney. Judge Chandler held that the attachments sent to Mr. Talley did not even come close to offering significant support the accountings filed by Mr. Woods. Mr. Woods admitted that he never had an estate account and that he did not have records to establish the income and expenditures of the estate. Mr. Woods denied that he failed to hold the property of the Estate of David Monk separate from his own property. He also denied that he failed to deposit and maintain the funds of the estate in a readily identifiable trust account. Mr. Woods admitted that he failed to maintain records of the funds of the estate. According to his response, his grave mistake was in failing to seek a partial accounting and distribution, rather than waiting, because in the interim some of the estate records were misplaced.

Ms. Pickens testified that she never handled any of the money and never signed any checks. She stated that was all handled by Mr. Woods. Based upon her statements, Ms. Pickens was ordered to return the approved fee of \$3300 and expenses in the amount of \$645. Ms. Pickens did not make payment as ordered. Judge Chandler entered an Order that Ms. Pickens be taken into custody and held pending further order of the

Court or the posting of a cash bond in the amount of \$3945.

Next, Judge Chandler addressed the denial by Ms. Pickens that Alvino Monk, Terry Monk and Jean Monk Pfeifer were the children of David Monk. The initial Petition filed by Ms. Pickens stated that Mr. Monk had two sons and one daughter. Some nine (9) years later, in open court, Ms. Pickens announced her position that Alvino Monk and Terry Monk were not the children of David Monk. The hearing wherein Ms. Pickens announced this was a hearing for the purpose of distributing the assets of the estate. Ms. Pickens was unable to explain why she waited nine (9) years to raise the issue. The finding of the Court was that all three were the children of David Monk. Judge Chandler expressed his belief that it was the significant sum of money that caused the sudden and dramatic change in attitude of Ruby Pickens as to the lawful heirs of her brother. Mr. Woods denied that his conduct in allowing the administratrix to state her opinion about the paternity of the children amounted to a violation of the Model Rules.

Finally, Judge Chandler addressed the issue of Mr. Woods' attorney's fee. The accountings filed set forth that Mr. Woods was entitled to an agreed upon fee of \$5,500. However, in a letter Mr. Woods sent to Alvino Monk, he stated that he was asking for a fee of \$2,200. The Court found that it was strange that Mr. Woods set out in all three accountings that he was entitled to a fee of \$2500 for representing the estate in a chancery court case which was dismissed in December 1994. Mr. Woods made no mention of seeking a fee for that representation in his correspondence to Alvino Monk almost five months later.

Judge Chandler concluded his Order by explaining that Mr. Woods' handling of the estate had been grossly unprofessional. Mr. Woods was found to have violated the probate laws of the State of Arkansas. The Court noted that Mr. Woods had virtually no records making it impossible to determine what monies came in and went out of the estate. It was also deeply troubling to Judge Chandler that Mr. Woods used personal funds to reimburse the estate for wrongful payments made for claims never approved by the Court. Judge Chandler set out that there was little in the record to suggest that Mr. Woods or his client acted fairly, honestly and above-board.

In responding to the disciplinary complaint, Mr. Woods asserted collateral estoppel because certain of the issues before the Committee were considered in the probate matter. Because some of the allegations were alleged in that matter and settled, Mr. Woods asserted the defense of collateral estoppel. The Committee rejects that defense inasmuch as this is a separate forum with a separate purpose. Mr. Woods also asserted double jeopardy since the same facts gave rise to multiple alleged Model Rule violations. The Committee also rejected this defense.

Mr. Woods asserted that he did not take the necessary time to do that which was required to handle the estate. It was for this reason that he agreed to pay and did pay the sum of \$12,913 pursuant to an agreement reached between the parties and the Court in January 2003.

Upon consideration of the formal complaint and attached exhibit materials, the response to it, 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. Woods' conduct violated Model Rule 1.1 when he failed to be thorough enough in his representation of the Estate of David Monk to be certain that he sought court approval for all claims he paid and for all actions he took on behalf of the estate; failed to give proper and timely notice of the estate proceeding to the heirs of the estate; and failed to maintain proper records demonstrating the funds coming into and going out of the estate. Model Rule 1.1 requires that a lawyer provide competent representation to a client, including the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation.
2. That Mr. Woods' conduct violated Model Rule 1.3 when he failed to provide diligent prompt notice of the filing of the estate and the matters being pursued in the estate to the heirs of the Estate of David Monk; when he was not diligent or prompt in handling the Estate of David Monk proceeding; and when at no time did he seek prompt or diligent approval from the Court for actions he took on behalf of the estate of claims he wished to pay on behalf of the estate. Model Rule 1.3 requires that a lawyer act with reasonable diligence and promptness in

representing a client.

3. That Mr. Woods' conduct violated Model Rule 1.5 because he was entitled to a statutory fee in the proceeding related to the Estate of David Monk in the amount of \$3,437.50, yet prior to the Court requiring him to remit a portion back to the estate, he took a fee of \$5,500. Model Rule 1.5 requires, in pertinent part, that a lawyer's fee be reasonable.

4. That Mr. Woods' conduct violated Model Rule 1.15(a) when he failed to hold the property of the Estate of David Monk separate from his own property; when he failed to deposit the funds belonging to the Estate of David Monk in a readily identifiable trust account; and, when he failed to maintain the funds of the Estate of David Monk in a readily identifiable trust account until such time as the Court approved claims relating to the Estate. Model Rule 1.15(a) requires that all lawyers 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 with the 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.

5. That Mr. Woods' conduct violated Model Rule 1.15(a)(3) when he failed to maintain complete records of the funds belonging to the Estate of David Monk which came into his possession during the course of his representation of the estate. Model Rule 1.15(a)(3) requires that a lawyer maintain complete records of such funds (funds which are in a lawyer's possession in connection with a representation) and preserve the records for a period of five years after the termination of the representation.

6. That Mr. Woods' conduct violated Model Rule 3.1 because seven years after he filed a Petition for Appointment of Administratrix in the Estate of David Monk, wherein he identified three children of Mr. Monk, he, through his client in a hearing to disburse funds, denied that the individuals were the children of David Monk, with no basis for doing so. Model Rule 3.1 requires that a lawyer not bring or defend a proceeding, or assert or controvert an issue therein, unless there is a basis for doing so that is not frivolous, which includes a good faith argument for an extension, modification or reversal of existing law.

7. That Mr. Woods' conduct violated Model Rule 3.3(a)(1) when he filed a pleading in the probate proceeding setting forth that the real property of the Estate had been sold for \$30,000 when in fact it had been sold for \$24, 000; and, when he filed a Petition to Sell the Real Property of the Estate for the appraised value of \$30,000 when he knew it had sold for \$24,000 and a deed was executed after such \$24,000 payment. Model Rule 3.3(a)(1) requires that a lawyer not knowingly make a false statement of material fact or law to a tribunal.

8. That Mr. Woods' conduct violated Model Rule 3.4( c) when his failure to representation of the Estate of David Monk in a professional manner resulted in the presiding Court finding that he was in contempt of court; when he and the Administratrix sold the real property of the Estate without court approval; when he filed a pleading in the probate proceeding setting forth that the real property of the Estate had been sold for \$30,000 when in fact it had been sold to the great nephew of the decedent for \$24,000; when he engaged in fraud on the Court when he filed a Petition to Sell the Real Property for the appraised value of \$30,000 when he, in fact, sold it for \$24,000, and caused a deed to be executed to the great nephew of the decedent without recovering the remaining \$6000 of the \$30,000 which the Court had approved for the sale; when acting with the Administratrix, he obtained a "loan" to the Estate from Mr. Tony Smith, the purchaser of the real property, without permission of the probate court to do so; when at no time did he reveal to the heirs of the Estate the fact of the "loan" despite the duty that he had to do so; when he filed accountings in the probate proceeding which contained false information about the sale of the real property; when he failed to provide timely notice to the heirs of David Monk of the filing of the Estate; when he listed payments of claims on the accounting filed in the estate matter which had never been approved by the Court nor had he ever sought permission to pay such claims before doing so; and, when he failed to comply with the Order of Judge Chandler to deliver to counsel for Ms. Pfeifer all of his banking records, bank statements, checks and check registers on all accounts in which any estate money had been deposited. Model Rule 3.4( c) requires that a lawyer not knowingly disobey an obligation under the rules of a tribunal except for an open refusal based on an assertion that no

valid obligation exists.

9. That Mr. Woods' conduct violated Model Rule 5.5(b) when he allowed Cassandra Woods, person not licensed to practice law in the State of Arkansas to sign and file a pleading in the Estate of David Monk. Model Rule 5.5(b) requires that a lawyer not assist a person who is not a member of the bar in the performance of activity that constitutes the unauthorized practice of law.
10. That Mr. Woods' conduct violated Model Rule 8.4(d) because his failure to timely comply with the Order of Judge Chandler to turn over the bank records related to the Estate of David Monk created the need for further action in the proceeding pending before Judge Chandler and caused delay in pursuing the matter before the Court; and, because his failure to maintain complete records of the funds of the Estate of David Monk created unnecessary proceedings before Judge Chandler in regard to the distribution and closing of the Estate. 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, acting through its authorized Panel A, that CLAUDELL WOODS, Arkansas Bar ID# 83188, be, and hereby is, **SUSPENDED** for his conduct in this matter. The suspension shall be for a period of **THREE (3) MONTHS**. The suspension shall become effective as of the date of the filing of this Findings and Order with the Clerk of the Arkansas Supreme Court. Further, pursuant to Section 18.A. of the Procedures of the Arkansas Supreme Court Regulating Professional Conduct of Attorneys at Law (2002), Mr. Woods is assessed the costs of pursuing this proceeding in the amount of \$50. Mr. Woods is also ordered to pay a fine in the amount of \$1000 pursuant to Section 18.B. of the Procedures. The costs assessed and the fine imposed 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.

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

Bart Virden, Chair, Panel A

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