

BEFORE THE SUPREME COURT COMMITTEE ON PROFESSIONAL CONDUCT

PANEL A

IN RE: STEPHEN GREGORY HOUGH

Arkansas Bar ID #84077

CPC Docket No. 2005-166

FINDINGS AND ORDER

The formal charges of misconduct upon which this Findings and Order is based on information initially provided to the Committee by Clarence Farrar of Fort Smith on May 20, 2005. The information related to the representation of Clarence and Judy Farrar in 2005 by Respondent Hough, an attorney practicing primarily in Fort Smith, Sebastian County, Arkansas. On January 13, 2006, Respondent Hough was served with a formal complaint, supported by the joint affidavit of Clarence and Judy Farrar.

On February 11 and March 10, 2005, the Farrars made payments to Hough, totaling \$759.00, for the legal fee and filing fee for Hough to file a Chapter 7 bankruptcy for them. Their checks do not reflect that Hough deposited them into a trust account. He did not file a bankruptcy action for them. Almost immediately after March 10 they began having difficulty obtaining information from Hough and his office about the status of their matter entrusted to him. Phone calls were not returned and Hough missed an appointment set with them. Hough failed to respond to a letter from the Office of Professional Conduct on July 14, 2005, about the Farrars' situation. In June 2005 they hired and paid another attorney to do what Hough had been hired to do. On June 20, 2005, the new attorney filed a Chapter 7 action for them and obtained a discharge order entered September 28, 2005. Hough has failed to refund to the Farrars their advance \$209 filing fee payment or any unearned legal fee, in spite of a request to make such refunds. Hough's Arkansas law license was in suspended status from March 2 - August 10, 2005, due to his failure to timely pay his 2005 license fee and he engaged in the unauthorized practice of law in Arkansas when he accepted employment and their March 10 fee payment from the Farrars, thereby practicing law while his law license was in suspended status.

Upon consideration of the formal complaint and attached exhibit materials, the response to it, and other matters before it, and the Arkansas Model Rules of Professional Conduct, Panel A of the Arkansas Supreme Court Committee on Professional Conduct finds:

A. Mr. Hough's conduct violated Model Rule 1.3, in that he was hired and paid by March 10, 2005, to file Chapter 7 bankruptcy action for the Farrars. Hough failed to act with reasonable diligence and file anything for them and on June 20, 2005, they hired another attorney who filed their Chapter 7 that date. Model Rule 1.3 requires that a lawyer shall act with reasonable diligence and promptness in representing a client.

B. Mr. Hough's conduct violated Model Rule 1.4(a), in that after March 10, 2005, he failed to respond to the Farrars' requests for information about the status of their legal matter or to meet with them about it and keep them reasonably informed of its status. Model Rule 1.4(a) requires that a lawyer shall keep a client reasonably informed about the status of a matter and promptly comply with reasonable requests for information.

C. Mr. Hough's conduct violated Model Rule 1.15(a), in that on February 11, 2005, the Farrar gave Hough their check #1678 for \$484.00 as a first payment on their legal fee and filing fee for a bankruptcy action. Hough failed to deposit into a trust account this advance payment of fees and expenses. On March 10, 2005, the Farrar gave Hough their check #1708 for \$275.00 as the final payment on their legal fee and filing fee for a bankruptcy action. Hough failed to deposit into a trust account this payment of fees not yet earned and expenses not yet paid. Model Rule 1.15(a) 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. Hough's conduct violated Model Rule 1.16(d), in that since termination of his employment by the Farrars, he has failed to refund to them the \$209 advance payment they gave him for their bankruptcy filing fee, which funds Hough did not expend. Since termination of his employment by the Farrars, he has failed to refund to them any unearned balance of the \$550 they paid him as our legal fee to prepare and file their

bankruptcy filing fee, which action the Farrars have no evidence he prepared and filed. Model Rule 1.16(d) requires that upon termination of representation, an attorney shall take steps to the extent reasonably practicable to protect the client's interests, such as giving reasonable notice to the client, allowing time for employment of other counsel, surrendering papers and property to which the client is entitled and refunding any advanced payment of fee that has not been earned.

E. Mr. Hough's conduct violated Model Rule 3.4(c), in that he failed to pay his 2005 Arkansas law license fee by March 1, 2005, as required by Arkansas Supreme Court Rule VII.C, Rules Governing Admission to the Bar. Model Rule 3.4(c) requires that a lawyer shall 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.

F. Mr. Hough's conduct violated Model Rule 5.5(a), in that while his Arkansas law license was automatically administratively suspended from March 2, 2005, until August 10, 2005, as a result of his failure to pay his 2005 license fee by March 1, 2005, he practiced law, including on the Farrar matter. Model Rule 5.5(a) provides that a lawyer shall not practice law in a jurisdiction in violation of the regulation of the legal profession in that jurisdiction, or assist another in doing so.

G. Mr. Hough's conduct violated Model Rule 8.4(c), in that by March 10, 2005, he had accepted \$759.00 from the Farrars to prepare and file their Chapter 7 bankruptcy action, yet they have no evidence as of December 2005 that he had performed any of the services for which he was were paid, nor had he refunded to them their advance payment of the filing fee and the unearned legal fee, conduct which involved dishonesty, fraud, deceit or misrepresentation on Hough's part. Hough accepted legal employment from the Farrars on March 10, 2005, at a time when his Arkansas law license had been automatically administratively suspended on March 2, 2005, for failure to pay his 2005 law license fee. He failed to inform the Farrars of your status, conduct which involved dishonesty, fraud, deceit or misrepresentation on Hough's part. Model Rule 8.4(c) requires that a lawyer shall not engage in conduct involving dishonesty, fraud, deceit or misrepresentation.

WHEREFORE, it is the decision and order of the Arkansas Supreme Court Committee on Professional Conduct, acting through its authorized Panel A, that the Arkansas law license of **STEPHEN GREGORY**

HOUGH, Arkansas Bar ID# 84077, be, and hereby is, **SUSPENDED FOR TWELVE (12) MONTHS** 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, and shall be concurrent with any other pending suspensions being served by Respondent at the time this suspension becomes effective. He is ordered to pay \$759.00 restitution for the benefit of Clarence Farrar and \$50.00 Committee costs. The restitution and 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 A

By: _____

Phillip D. Hout, Chair, Panel A

Date: _____