

BEFORE THE SUPREME COURT COMMITTEE ON PROFESSIONAL CONDUCT

PANEL A

IN RE: STEPHEN GREGORY HOUGH

Arkansas Bar ID # 84077

CPC Docket No. 2005-151

FINDINGS AND ORDER

The formal charges of misconduct upon which this Findings and Order is based arose from information provided to the Committee by Jennifer Gooch Elliott of Dumas on August 3, 2005. The information related to the representation of Ms. Elliott in 2004-2005 by Respondent Hough, an attorney practicing primarily in Fort Smith, Sebastian County, Arkansas.

On December 21, 2005, Respondent was served with a formal complaint, supported by affidavits from Jennifer Gooch Elliott, Denise Parks, and Susie Pointer. 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 Complaint and extinguishes Respondent's right to a public hearing.

Jennifer Gooch Elliott of Dumas, Arkansas, was involved in a dispute and a court case filed on August 4, 2004, against her by James Deason in Union County Circuit Court No. CV-2004-0320-6 over some firearms and other items. She had used a local Dumas attorney, but decided to change attorneys. In September 2004, she contacted Hough. In October 2004 she met with him in Little Rock and gave him her file in the matter. Hough agreed to take over her case and told her his fee would be \$4,500. He agreed that she would pay him \$3,500 up front and the remaining \$1,000 within thirty days. She then wired him the \$3,500.00 on October 25, 2004, to a certain Arvest Bank account number, as he had instructed. She never saw him again. Hough never provided her any form of a fee agreement or contract for legal services. He told her he would keep her advised at regular intervals on her case, and he should have the matter concluded by December 2004. Hough entered his appearance in the pending case in Union County on November 15, 2004.

He failed to keep an appointment to meet Ms. Elliott in Dumas in November 2004, following a business trip he told her he had planned to the Arkansas Department of Correction at the Tucker Unit. He had no communication with her from December 2004 to March 2005. In March 2005 she reached him by telephone and requested that her fee be returned, along with her documents, due to his failure to provide the legal services for which she paid. In May 2005 Ms. Elliott sent him a certified letter requesting the refund of fees paid and her papers. Hough signed for the letter on May 9, 2005, as shown by the certified mail “green card.” Ms. Elliott obtained the services of a Dumas attorney, who took care of this matter, and got the Union County lawsuit resolved without further involvement by Hough.

On August 2, 2005, she mailed Hough a letter by certified mail, again making the same request for refund of her money and return of her papers she gave him on October 2004. Her letter was unclaimed. Hough did not respond to her numerous calls to his office telephone (now disconnected) or his cell number. He did not send her any written communications or pleadings showing any work he had done on her legal matter.

Shortly after September 20, 2005, Hough received a copy of the letter of that date from Stark Ligon to him about Ms. Elliott’s legal matter. Hough did not made contact with Ms. Elliott or Mr. Ligon as a result of the letter.

Hough failed to pay his 2005 Arkansas law license fee until August 10, 2005, resulting in the automatic suspension of his law license on March 2, 2005, until it was paid. He represented Jennifer Gooch Elliott and practiced law during this period while not authorized to do so.

The Arvest Bank account into which Hough instructed Ms. Elliott to wire transfer the \$3,500 advance partial fee she paid him had not been registered as a trust account with the Arkansas IOLTA Foundation office, as shown by the Affidavit of Susie Pointer, Executive Director of IOLTA. Hough failed to place client funds which he had not yet earned into a trust account until he earned them.

Upon consideration of the Complaint and attached exhibit materials, the failure to respond to the Complaint, 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 1.2(a), in that it was Jennifer Elliott's objective in the representation when she hired and paid Hough in October 2004 that he would represent her in the pending litigation in which she was a defendant in Union County and bring the matter to a satisfactory conclusion. He failed to abide by this objective by doing nothing for her after entering his appearance in her litigation matter. 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. Hough's conduct violated Model Rule 1.3, in that he were hired and paid by Jennifer G. Elliott on October 25, 2004, entered his appearance in her pending litigation on November 15, 2004, and thereafter took no action in the matter until she was forced to secure the services of another attorney in July 2005, who resolved the litigation satisfactorily shortly thereafter. Model Rule 1.3 requires that a lawyer shall act with reasonable diligence and promptness in representing a client.

C. Mr. Hough's conduct violated Model Rule 1.4(a), in that after October 25, 2004, he failed to keep Ms. Elliott reasonably informed of the status of her litigation matter she entrusted to him, and he failed to respond to her several requests for information. 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.

D. Mr. Hough's conduct violated Model Rule 1.15(a), in that he failed to deposit Elliott's \$3,500 partial fee in a trust account until he had earned the funds. 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.

E. Mr. Hough's conduct violated Model Rule 1.16(d), in that since his services were terminated by Ms. Elliott in August 2005, he has failed to return to her the unearned portion of the \$3,500 she paid him in October 2004 for his future services in her litigation matter. Since his services were terminated by Ms. Elliott in August

2005, he has failed to return to her the documents she entrusted to his care in October 2004 when he accepted her employment. 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.

F. Mr. Hough's conduct violated Model Rule 3.4(c), in that he has 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.

G. Mr. Hough's conduct violated Model Rule 5.5(a), 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, resulting in the automatic suspension of his Arkansas law license until August 10, 2005, when he paid his 2005 license fee. He practiced law, including on Jennifer Gooch Elliott's matter, while his law license was suspended during this period. Model Rule 5.5(a) provides that a lawyer shall not practice law in a jurisdiction where doing so violates the regulation of the legal profession in that jurisdiction.

H. Mr. Hough's conduct violated Model Rule 8.4(c), in that he accepted employment and a partial fee of \$3,500 from Jennifer Elliott in a pending litigation matter and took no action thereafter except to enter his appearance in the case. Model Rule 8.4(c) requires that a lawyer shall not engage in conduct involving dishonesty, fraud, deceit or misrepresentation.

I. Mr. Hough's conduct violated Model Rule 8.4(d), in that his failure to adequately represent his client Jennifer G. Elliott required her to employ new counsel to resolve the litigation matter that had earlier been entrusted to Hough. Model Rule 8.4(d) requires 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, acting through its authorized Panel A, that the 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. He is ordered to pay \$3,500.00 restitution for the benefit of Jennifer Gooch Elliott and \$50.00 Committee costs. 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.. 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. Mr. Hough is also additionally reprimanded for his failure to file a response to the Complaint.

ARKANSAS SUPREME COURT COMMITTEE ON
PROFESSIONAL CONDUCT - PANEL A

By: _____

Phillip D. Hout, Chair, Panel A

Date: _____