

BEFORE THE SUPREME COURT COMMITTEE ON PROFESSIONAL CONDUCT

PANEL B

IN RE: OSCAR JEROME GREEN, Respondent
Arkansas Bar ID#85062
CPC Docket No. 2003-054

FINDINGS AND ORDER

The formal charges of misconduct upon which this Findings and Order is based arose from information provided to the Committee by John H. Robinson, Jr. on December 13, 2002. The information related to the representation of Mr. Robinson by Respondent, Oscar Jerome Green, beginning in October 2000.

On May 27, 2003, Respondent was served with a formal complaint, supported by affidavit from Mr. Robinson. On June 12, 2003, Respondent, through counsel, requested an extension of time in which to respond. An extension was granted until July 1, 2003. The extension was confirmed in correspondence to Respondent and his counsel on June 13, 2003. Respondent failed to file a timely response to the complaint, which failure to timely respond, pursuant to Section 9.C(4) of the Procedures of the Arkansas Supreme Court Regulating the Professional Conduct of Attorneys at Law, constitutes an admission of the factual allegations of the formal complaint and extinguishes Respondent's right to a public hearing. Information was not received from Respondent or his counsel until August 8, 2003.

The information provided by Mr. Robinson and deemed admitted by Mr. Green's failure to timely respond as required by the Procedures, revealed that during October 2000, Mr. Robinson attended a church conference in Memphis, Tennessee. Mr. Robinson stayed at a hotel in Memphis while attending the conference. On Thursday, October 5, 2000, after Mr. Robinson retired for the evening, he felt something biting him. He got out of the hotel bed and checked to see if there was anything in the bed but could find nothing. The following morning Mr. Robinson reported the incident to the hotel management. On Saturday morning, when Mr. Robinson awoke he was suffering from severe itching and pain and his body was covered in red blotches. The hotel doctor advised Mr. Robinson that he was suffering from a rash. Being unsure of this diagnosis, Mr.

Robinson made an appointment with his own doctor when he returned to Little Rock. At this time, Mr.

Robinson was diagnosed with a severe parasitic infection. Based upon this diagnosis, Mr. Robinson determined that he should consult with an attorney.

On October 10, 2000, Mr. Robinson contacted Mr. Green and personally met with him at his office. Mr. Green expressed his opinion to Mr. Robinson that he believed Mr. Robinson had a legitimate claim against the hotel. The fee arrangement was for Mr. Green to receive 33 and 1/3% of the total recovery. A fee agreement was executed, however, Mr. Green never provided Mr. Robinson with a copy of the document. Mr. Green also requested \$500 for "lawsuit expenses". Mr. Robinson paid Mr. Green this amount in cash on October 13, 2000. On that same date, Mr. Robinson sent a letter to the Registered Agent for the hotel chain giving them notice of the intent to sue.

Mr. Robinson executed a Medical Authorization in favor of Mr. Green which was used on November 2, 2000, for Mr. Green to obtain a copy of Mr. Robinson's medical records. The medical record were thereafter provided to an agent for the insurance company representing the hotel chain. Those were the only pieces of correspondence Mr. Robinson received from Mr. Green other than the notice about the statement to be given to the insurance company.

On January 10, 2001, Mr. Robinson gave his statement to the insurance agent over the telephone from Mr. Green's office. Following the statement, Mr. Robinson did not hear anything else from Mr. Green for the remainder of the week. Mr. Green called the office on January 15, 2001, to check on the progress, if any, of his claim. During that telephone contact, Mr. Green's office administrator, told Mr. Robinson that Mr. Green needed an additional \$1500 before he could perform any other services. This was not our agreement and Mr. Robinson advised the office administrator of this fact. Mr. Robinson requested that Mr. Green contacted him as soon as possible.

Mr. Green did not return Mr. Robinson's telephone call. Mr. Robinson called the office often over the period of several weeks. When he was finally able to speak with Mr. Green, he was advised that these things take time. That was the last communication Mr. Robinson had with Mr. Green, despite repeated telephone calls

to his office and home, attempted visits and letters. Mr. Robinson had not moved since his first contact with Mr. Green nor had his telephone number changed.

Mr. Robinson learned after filing his grievance with the Office of Professional Conduct that following his statement given on January 10, 2001, the insurance company denied his claim. The insurance company sent Mr. Green a letter on February 2, 2001, denying the claim. Their file was closed on February 19, 2001. Mr. Green never provided Mr. Robinson with a copy of the letter nor did he ever advise Mr. Robinson that the claim had been denied and the file closed.

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

1. That Mr. Green's conduct violated Model Rule 1.4(a) when he did not keep Mr. Robinson informed of the actions, if any, he was taking on the legal matter related to the incident at the La Quinta Inn in Memphis Tennessee; when, despite numerous attempts Mr. Robinson made to request information about the proceeding Mr. Green was hired to pursue, he failed to promptly comply with the requests for such information; when he failed to advise Mr. Robinson that Kemper Insurance Company had denied his claim with regard to the incident at the La Quinta Inn in Memphis Tennessee; and, when at no time did he advise Mr. Robinson that he would no longer be representing him with regard to his legal matter against La Quinta Inns. Model Rule 1.4(a) requires that a lawyer keep a client reasonably informed about the status of a matter and promptly comply with reasonable requests for information.
2. That Mr. Green's conduct violated Model Rule 1.4(b) because he failed to advise Mr. Robinson when Kemper Insurance Company denied his claim so that he could discuss with Mr. Green and make a decision on how to proceed with his legal matter and because he failed to discuss with Mr. Robinson or to even advise him of Mr. Green's apparent decision to no longer represent him on his legal matter, thereby denying Mr. Robinson of the timely opportunity to discuss his

legal matter with another attorney. Model Rule 1.4(b) requires that a lawyer explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation.

3. That Mr. Green's conduct violated Model Rule 1.16(d) because at the time he apparently elected to no longer represent Mr. Robinson with regard to La Quinta Inns, he failed to provide reasonable notice to Mr. Robinson of the decision; when he failed to return the funds he collected from Mr. Robinson for his lawsuit expenses despite the fact that he did not file a lawsuit on Mr. Robinson's behalf; when he failed to provide Mr. Robinson with notice of his apparent decision to no longer represent him and thereby denied him reasonable time for employment of other counsel with regard to the legal matter; and, when he failed to surrender the papers and property, including medical records, which are in his possession with regard to the legal matter, to Mr. Robinson. Model Rule 1.16(d) requires that upon termination of representation, a lawyer take steps to the extent reasonably practicable to protect a 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 advance payment of fee that has not been earned.
4. That Mr. Green's conduct violated Model Rule 8.4(d) because his lack of effort on Mr. Robinson's behalf after he was hired and his failure to timely advise Mr. Robinson of his apparent decision to no longer represent him created an unnecessary delay in the relief Mr. Robinson was seeking to pursue. 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 B, that OSCAR JEROME GREEN, Arkansas Bar ID# 85062, be, and hereby is, REPRIMANDED for his conduct in this matter. Further, pursuant to Section 18.C. of the Procedures, Mr. Green is ordered to repay to Mr. Robinson the amount of \$500 which is the amount paid to

Mr. Green by Mr. Robinson. Mr. Green is also ordered to pay costs in the amount of \$50. For his failure to respond, the Committee, pursuant to Section 9C.(3) of the Procedures imposes the separate sanction of a thirty (30) day suspension along with a \$500 fine pursuant to Section 18.B. 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 fine, 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 B

By: _____

John Rush, Chair, Panel B

Date: _____