

BEFORE THE SUPREME COURT COMMITTEE ON PROFESSIONAL CONDUCT
PANEL B

IN RE: CHARLES M. "MARC" HONEY
Arkansas Bar ID # 86091
CPC Docket No. 2005-160

FINDINGS AND ORDER

The formal charges of misconduct upon which this Findings and Order is based arose from information provided to the Committee by Harvey Harrington of Pine Bluff on November 7, 2005. The information related to the representation of Mr. Harrington in 2005 by Respondent Charles M. "Marc" Honey, an attorney practicing primarily in Hot Springs, Garland County, Arkansas. On December 22, 2005, Respondent was served with a formal complaint, supported by an affidavit from Harvey Harrington.

On March 11, 2005, Harvey and Debra Harrington of Pine Bluff paid Mr. Honey in cash \$8,000.00 of Honey's quoted \$10,000 fee to represent them in a bankruptcy, if they decided they needed to file one. The Harringtons were able to rework their bank loans and avoided the need to file bankruptcy. They communicated this to Honey by April 8, 2005, and asked him to return the records they had left with him and the unearned portion of the \$8,000.00 they paid him one month earlier. According to Honey, he told Mr. Harrington that Honey would thereafter just be their family lawyer, if they ever needed one in the future. They repeated their request to Honey for a refund and return of papers on several occasions. On September 9, 2005, they wrote Honey with this same request. They did finally get their papers back. As of the date of the Complaint, Honey had failed to provide them an accounting or refund any unearned fee. Honey's failure to provide the Harringtons an accounting and a refund of the unearned portion of the \$8,000 partial fee they paid him was strongly indicative of Honey having failed to place the partial fee in a trust account until earned. In his response, Mr. Honey stated that the Harringtons first came to him on September 3, 2003, and that he did some work on their possible bankruptcy at that time. Honey stated he was available to the Harringtons for information and advice at any time from September 2003 until they next returned to him on March 7, 2005. Mr. Honey acknowledged he did not deposit the \$8,000.00 fee into his trust account when received. By check dated January 23, 2006, Mr. Honey refunded \$8,000.00 to Mr. Harrington.

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 B of the Arkansas Supreme Court Committee on Professional Conduct finds:

A. Mr. Honey's conduct violated Model Rule 1.15(a) in that on March 11, 2005, his client paid him \$8,000.00 cash on a quoted \$10,000.00 fee for a possible future representation on a bankruptcy case the clients might direct him to file for them. He failed to deposit this partial advance fee into a trust account, as required by the circumstances, until he performed work for the client that entitled Honey to part or all of the fee. 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.

B. Mr. Honey's conduct violated Model Rule 1.16(d) in that since his services were terminated by his client in early April 2005, and until after he was served with the Complaint in this matter, he failed to provide the client the requested accounting for the \$8,000.00 advance fee paid. Since his services were terminated by his client in early April 2005, and until he was served with the Complaint in this matter, he failed to refund to the client the unearned portion of the \$8,000.00 advance fee paid. 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.

WHEREFORE, it is the decision and order of the Arkansas Supreme Court Committee on Professional Conduct, acting through its authorized Panel B, that CHARLES M. "MARC" HONEY, Arkansas Bar ID# 86091, be, and hereby is, REPRIMANDED, fined \$3,000.00, and assessed Committee costs of \$50.00 for his conduct in this matter. The fine 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: _____
H. T. Moore, Chair, Panel B

Date: _____