

BEFORE THE SUPREME COURT COMMITTEE ON PROFESSIONAL CONDUCT

PANEL B

IN RE: LORI A. MOSBY

ARKANSAS BAR ID #94016

CPC DOCKET NO. 2002-151

FINDINGS AND ORDER

The formal charges of misconduct upon which this Order is premised arose from information submitted by Brad Hendricks, an attorney practicing in Little Rock, on behalf of his client, Gordon Henicke. On July 3, 2002, a solicitation letter was mailed to Mr. Henicke by Lori Mosby, an attorney practicing in Little Rock as a result of an automobile accident in which Mr. Henicke had been involved. Although the Arkansas Model Rules of Professional Conduct require that such a letter of solicitation include a disclosure of how the information contained therein was obtained, the letter to Mr. Henicke did not include such a disclosure.

In her response to the Complaint, Ms. Mosby accepted full responsibility for the letter to Mr. Henicke, explaining that she had made changes in her internal procedures after the rule requiring such disclosure became effective in May of 1999, and had intended to comply fully with the rules. However, she did not comply with the disclosure requirement, although she stated that she had since modified her solicitation letters to include the required disclosure. She denied that she had engaged in any intentional misconduct or violation of the Rules, and averred that her intent is to bring honor and dignity to the legal profession, concluding her response with the observation that one cannot please all the people all the time.

Subsequent to a ballot vote in this matter, a *de novo* hearing was conducted by Panel B of the Committee on Professional Conduct, at which hearing Ms. Mosby appeared *pro se* and the Office of Professional Conduct was represented by Nancie M. Givens. In her testimony, Ms. Mosby stated that the error resulted from saving her solicitation letters on computer diskette and a failure, through innocent oversight, to incorporate the Model Rule changes in the form letters on diskette. She testified further that since the mailing of the solicitation letter in this matter, her office has been networked and that appropriate measures had been instituted to avoid a recurrence of this type of error.

Ms. Mosby also conceded that although her signature had been rubber-stamped on the letter to Mr. Henicke, she was ultimately responsible for its contents and for the failure to comply with the Model Rules requirements. She offered her opinion that the public had not been harmed in any manner from the mailing of this solicitation letter, and contended that there was no proof that Mr. Henicke, the intended recipient, had ever read the letter and that he may have merely delivered it to his attorney who then realized an apparent violation of the disclosure provision of the Model Rules.

Upon consideration of the Formal Complaint and exhibits thereto, the Response filed herein, the testimony given in the *de novo* hearing, the Model Rules of Professional Conduct and other matters and things before it, Panel B of the Arkansas Supreme Court Committee on Professional Conduct finds:

That Ms. Mosby's conduct violated Model Rule 7.3(d) due to the failure of her solicitation to Mr. Henicke disclosing how the information prompting the communication had been obtained. Model Rule 7.3(d) requires that any written communication prompted by a specific occurrence involving or affecting the intended recipient of the communication or a family member shall disclose how the lawyer obtained the information prompting the communication.

WHEREFORE, it is the decision and order of the Arkansas Supreme Court Committee on Professional Conduct, through Panel B, that LORI A. MOSBY, Arkansas Bar ID #94016 be, and hereby is, CAUTIONED for her conduct in this matter. In addition, pursuant to Section 18A of the Procedures of the Arkansas Supreme Court Regulating Professional Conduct of Attorneys at Law, Panel B imposes costs in the amount of \$77.50. Said costs shall be due and payable within thirty (30) days from the filing of this Findings and Order with the Clerk of the Arkansas Supreme Court. The cashier's check or money order in the amount of \$77.50 should be made payable to the "Clerk, Arkansas Supreme Court" and delivered to the Office of Professional Conduct.

ARKANSAS SUPREME COURT COMMITTEE

ON PROFESSIONAL CONDUCT - PANEL B

By:

John L. Rush, Chair, Panel B

Date:
