

BEFORE THE SUPREME COURT COMMITTEE ON PROFESSIONAL CONDUCT

PANEL A

IN RE: Bruce B. Tidwell, Respondent

Arkansas Bar ID# 96115

CPC Docket No. 2003-067

FINDINGS AND ORDER

The formal charges of misconduct upon which this Findings and Order is based arose from information provided to the Committee by Dr. Bruce L. Safman on August 19, 2002. The information related to the representation of Dr. Safman by Bruce B. Tidwell, Attorney at Law, Little Rock, Arkansas, in 2002.

On May 23, 2003, Bruce B. Tidwell ("Respondent" herein) was served with a formal complaint, supported by an affidavit from Dr. Safman. Respondent filed a timely response on June 9, 2003, and a rebuttal was filed by Dr. Safman on June 24, 2003. The facts giving rise to the formal complaint are that Dr. Safman hired Respondent to resolve some problems he was having with his property flooding in the Carmel Subdivision in west Little Rock. At the time Dr. Safman hired Respondent he let him know that time was of the essence because rainfall increases in the Fall. Dr. Safman stated in his affidavit that he and Respondent agreed that they would try to resolve the problem amicably but if that failed they would litigate the issue. Dr. Safman further stated that around April 22, 2002, Respondent told him that one of the attorneys at his firm was a member of the Carmel Property Owners Association ("Association"), but that Respondent did not elaborate on the significance of the situation. Dr. Safman stated that Respondent suggested to him that he should pay fifty percent of the cost of repairing the drainage problem and that the Association might be more amenable to instituting the correction of the problem if they knew the cost of doing so. Dr. Safman explained to Respondent that he had already hired engineers and landscapers that had determined the problem was entirely that of the Association and it was their responsibility to get the estimate for the repairs.

During subsequent months, very little progress was made on his case. Around July 2002 Dr. Safman told Respondent he wanted to pursue litigation against the Association. Dr. Safman stated that Respondent then told him very tersely that he had a conflict of interest due to his partner in the law firm being involved with the Association, and that he could not pursue the litigation and that Dr. Safman should find another attorney. By this time Respondent had already billed Dr. Safman for almost \$1,500. Dr. Safman stated that he wasted four months and \$1,500 before Respondent explained to him that he could not pursue the case through to completion.

Respondent filed an affidavit stating that Dr. Safman knew from the beginning that he would not pursue litigation but that Respondent would merely try to reach an amicable resolution of the dispute. Respondent also stated that time was not of the essence because to date Dr. Safman has not commenced litigation.

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:

Mr. Tidwell's conduct violated Model Rule 1.4(a) when he failed to adequately explain to Dr. Safman the conflict of interest which was present and which was known earlier in the representation, and when he failed to keep Dr. Safman reasonably informed about the status of the legal matter. 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.

Mr. Tidwell's conduct violated Model Rule 1.7(b) when, after he discovered that one of his co-workers was involved with the adverse party, he failed to terminate his representation of Dr. Safman even though the representation was materially limited. Model Rule 1.7(b) provides that a lawyer shall not represent a client if the representation of that client may be materially limited by the lawyer's responsibilities to another client or to a third person, or by the lawyer's own interests, unless (1) the lawyer reasonably believes the representation will not be adversely affected; and (2) the client consents after consultation.

WHEREFORE, it is the decision and order of the Arkansas Supreme Court Committee on Professional Conduct, acting through its authorized Panel A, that Bruce B. Tidwell, Arkansas Bar ID# 96115, be, and hereby is, CAUTIONED for his conduct in this matter and ordered to pay \$50 in costs, pursuant to Section 18A of the Procedures of the Arkansas Supreme Court Regulating Professional Conduct for Attorneys at Law, for his conduct in this matter. The 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: _____

Gwendolyn D. Hodge, Chair, Panel A

Date: _____