

BEFORE THE SUPREME COURT COMMITTEE ON PROFESSIONAL CONDUCT

PANEL A

IN RE: ROBERT RAGON WHITE

Arkansas Bar ID # 72111

CPC Docket No. 2004-092

CONSENT FINDINGS & ORDER

The formal charges of misconduct upon which this Consent Order is premised, involving respondent attorney Robert R. White of Fayetteville, Washington County, Arkansas, arose from information initially brought to the attention of the Committee on Professional Conduct by a trust account overdraft notice from his bank.

Following Respondent Attorney's receipt of the formal complaint, the attorney entered into discussion with the Executive Director which has resulted in an agreement to discipline by consent pursuant to Section 20.B of the Arkansas Supreme Court Procedures Regulating Professional Conduct of Attorneys at Law (2002). Upon consideration of the formal complaint and attached exhibits, admissions made by the respondent attorney, the terms of the written consent, the approval of Panel A of the Committee on Professional Conduct, and the Arkansas Model Rules of Professional Conduct, the Committee on Professional Conduct finds:

A. Mr. White's conduct violated Model Rule 1.15(a) in that he deposited personal funds of \$250,476.34 (July 12, 2001) and \$20,000.00 (November 7, 2001) into his IOLTA attorney trust account, thereby impermissibly commingling personal funds with clients funds in his trust account. He failed to comply with the requirement to keep "complete records" of trust account funds in that he maintained no client account ledgers during this period that would show the precise status of each client's trust funds at any point in time. He impermissibly paid personal expenses and other personal items, such as gifts and loans to others, directly from funds in his IOLTA trust account as follows:

1. June 25, 2001 - Check No. 2020 for \$385.00, to Steve Martin for "show band fee."

2. August 16, 2001 - \$11,753.00 Debit, to pay your late wife's medical bills.

3. August 30, 2001 - Check No. 2056 for \$2,500.00 to Vicki Bratcher for "personal" purposes.

4. September 27, 2001 - Check No. 2068 for \$14,545.16 to Thomas McNair & McIlroy Bank, for a personal loan to a friend.

5. December 14, 2001 - Check No. 2102 for \$342.03 to Countrywide Home Loans to pay an obligation of a friend named Joyce Wheelless on a residence.

6. January 3, 2002 - debit of \$14,006.50 to pay Highlands Oncology Clinic for a medical bill.

7. January 14, 2002 - Check No. 2116 for \$342.03 to Countrywide Home Loans to pay an obligation of a friend named Joyce Wheelless on a residence.

8. January 24, 2002 - Check No. 2123 for \$5,000.00 to Bank of Fayetteville for cashier's check to Colorado River Nissan to pay on a Pathfinder vehicle he purchased.

9. January 29, 2002 - a debit for \$44,894.89 to pay off the balance of an obligation of a friend named Wheelless owed Countrywide Home on Ms. Wheelless' residence.

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. The lawyer or law firm may not deposit funds belonging to the lawyer or law firm in any account designated as the trust account, other than the amount necessary to cover bank charges, or comply with the minimum balance required for the waiver of bank charges. Other property shall be identified as such and appropriately safeguarded. Complete records of such account funds and other property shall be kept by the lawyer and shall be preserved for a period of five years after termination of the representation.

B. Mr. White's conduct violated Model Rule 1.15(d) in that:

1. On July 3, 2002, his trust account check No. 2186 for \$225.00 payable to the Fayetteville District Court was presented to his bank and was paid, even though there was only \$120.82 in his trust account

at the time, resulting in an account balance at the time of -\$104.18. ;2. On July 5, 2002, his trust account check No. 2175 for \$105.00 payable to the Frank Morledge was presented to his bank and was paid, even though the account balance was -\$120.82 at the time, resulting in an account balance at the time of -\$225.82.

3. On August 20, 2002, a debit on his trust account for \$500.00 was presented to his bank and was paid, even though the account balance was \$384.81 at the time. According to his bank, payment of the debit resulted in an account balance at the time of -\$115.19, which trust account overdraft Mr. White self-reported to the Office of Professional Conduct.

4. On February 10, 2003, his trust account check No. 2244 for \$940.00 payable to the Sheriff of Baxter County, Arkansas, was presented to his bank and was returned because there was only \$72.52 in his trust account at the time.

Mode Rule 1.15(d) provides that when a properly payable instrument is presented against a lawyer trust account containing insufficient funds, whether the instrument is honored by the bank or not, the bank shall report the insufficiency to the Office of Professional Conduct.

WHEREFORE, in accordance with the consent to discipline presented by Mr. White and the Executive Director, it is the decision and order of the Arkansas Supreme Court Committee on Professional Conduct that Respondent Robert R. White, Arkansas Bar No. 72111, be, and hereby is, **cautioned** for his conduct in this matter, fined \$500.00, and assessed costs of \$411.60. 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 A

By _____
Gwendolyn D. Hodge, Chairperson, Panel A

Date _____