

**BEFORE THE SUPREME COURT COMMITTEE ON PROFESSIONAL CONDUCT
PANEL B**

IN RE: MARK E. VELASQUEZ, Respondent
Arkansas Bar ID#98149
CPC Docket No. 2006-054

CONSENT FINDINGS AND ORDER

The formal charges of misconduct upon which this Findings and Order is based arose from information provided to the Committee by Carol Young in February 2005. The information related to the representation of Ms. Young by Respondent.

On May 26, 2006, Respondent was served with a formal complaint, supported by his monthly trust account records and other records related to the representation of Carol Young by Respondent. A response was filed. The Respondent and the Executive Director negotiated a discipline by consent proposal, which was submitted to this Panel.

The information before the Panel reflected that on December 2, 2004, Farmers Insurance Group of Companies sent to Mark E. Velasquez, an attorney practicing primarily in Fayetteville, Arkansas, a \$15,000 check representing the award given Ms. Young following an Arbitration of the personal injury matter involving Ms. Young and Vernon L. Ritchie. The payees listed on the check were Surratt Therapy Services, Scott Van Wilpe, D.C., Medicaid, Carol Young and Mr. Velasquez. Mr. Velasquez deposited the check on December 9, 2004, into his IOLTA trust account. On that same date, he wrote a check payable for the Arbitration Costs. The check to ADR, Inc. was paid by his bank on January 4, 2005. Mr. Velasquez wrote a check to Dr. Scott Van Wilpe on December 22, 2004. That check was paid by his bank on December 24, 2004. These checks are reflected on a settlement statement provided to the Office of Professional Conduct upon request of the Executive Director. At the request of the Office of Professional Conduct, Mr. Velasquez provided a settlement statement during November 2005. There are no checks from Mr. Velasquez' trust account during that period of time for the specific amounts shown on the settlement sheet as owing for attorney's fees and costs. The monthly statement for the period November 30, 2004 through December 30, 2004, confirms the deposit of the \$15,000 check.

Pursuant to the settlement statement Mr. Velasquez created for the Office of Professional Conduct in 2005, there should have been remaining in his trust account a balance of at least \$5,547.27 until he disbursed the remaining funds to Ms. Young. The Arvest Monthly Statements for his IOLTA account for the period December 31, 2004 through December 31, 2005, demonstrates that the minimum balance was not maintained from January 25, 2005 through December 31, 2005. Mr. Velasquez admitted this fact to the Committee in a proposed consent to discipline in this matter. The amount of \$5,547.27 was tendered by Mr. Velasquez for delivery to Ms. Young as part of the consent to discipline proposal.

Upon consideration of the formal complaint and attached exhibit materials, the response, the consent proposal, 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. Velasquez' conduct violated Model Rule 1.15(a) when he failed to hold the \$5,547.27, which was payable to either Carole Young and / or Medicaid until such time as paid to one or both, separate from his own property. Mr. Velasquez removed the funds from his trust account in checks made payable to himself and others. Model Rule 1.15(a) requires that all lawyers 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.
2. That Mr. Velasquez' conduct violated Model Rule 1.15(a)(1) when he failed to maintain the funds of Carole Young and / or Medicaid in his IOLTA trust account after depositing the same therein. He removed over \$5,000 of the \$5,547.27 within forty-seven (47) days of having deposited the same in his trust account. Model Rule 1.15(a)(1) requires that funds of a client be deposited in the state where the lawyer's office is situated, or elsewhere with the consent of the client or third person.

WHEREFORE, it is the decision and order of the Arkansas Supreme Court Committee on Professional Conduct, acting through its authorized Panel B, that the law license of MARK E. VELASQUEZ, Arkansas Bar ID# 98149, be, and hereby is, SUSPENDED FOR A PERIOD OF THIRTY (30) DAYS for his conduct in this matter. The suspension shall become effective on the date this Findings and Order is filed of record with the Clerk of the Arkansas Supreme Court. In addition, pursuant to Section 18.A of the Procedures of the Arkansas Supreme Court Regulating Professional Conduct of Attorneys at Law, Mr. Velasquez is assessed the costs of this proceeding in the amount of \$400. Mr. Velasquez is also ordered to pay restitution in the amount of \$5,547.27 to Carol Young, pursuant to Section 18.C of the Procedures. The 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 within 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: _____
Harry Truman Moore, Chair, Panel B

Date: _____

(13.M, Rev.1-1-02)