

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

**IN RE: RAYMOND TIMOTHY "R. T." STARKEN**

Arkansas Bar ID # 99003

CPC Docket No. 2004-010

**FINDINGS AND ORDER**

The formal charges of misconduct upon which this Findings and Order is based arose from information provided to the Committee by Sharon Knight on December 22, 2003. The information related to events in 2003. On January 23, 2004, Respondent was served with a formal complaint, supported by an affidavit from Sharon Knight. Respondent filed a timely response to the Complaint.

Mr. Starken has been married since 1994 to Karen R. Starken, formerly Karen R. Alexander. His spouse holds an Arkansas law license and has Bar No. 89066. His spouse has also been previously licensed in Iowa (1990) and Missouri. On June 26, 2002, Mrs. Starken applied for readmission to the Arkansas Bar under Rule XIII of the Rules Governing Admission to the Bar. Her Arkansas law license has been suspended several times since 1989. According to the Arkansas Supreme Court Opinion issued October 23, 2003, in Case No. 03-777, *In Re: Karen Alexander Starken, Ark. Bar ID #89066*, which denied her motion for readmission to the Arkansas Bar, her Arkansas law license was first suspended, automatically, for her failure to pay her annual license fee for 1994. Her Arkansas license was further suspended in 1998 due to her failure to meet the Arkansas requirement for continuing legal education (CLE). In 1998 her Arkansas law license was indefinitely suspended a third time, by reciprocity, based on her indefinite suspension by the Iowa Supreme Court. She was disbarred in Missouri because of the Iowa suspension. On March 14, 2000, Ms. Starken was reinstated in Iowa. In her Arkansas readmission proceeding, Ms. Starken has stated that she plans to apply for readmission in Missouri, following her attempt at readmission in Arkansas.

The Arkansas Board of Law Examiners conducted a hearing January 25, 2003, on Ms. Starken's motion for readmission. On May 29, 2003, the Board found, by a 7-4 vote, that Ms. Starken should be readmitted. Her motion was then filed with the Arkansas Supreme Court pursuant to Rule XIII. The motion was unanimously denied by the Court in its Per Curiam Order of October 23, 2003. Ms. Starken's Arkansas law license has been in suspension status for one or more reasons at all times since at least 1994.

Mr. Starken maintains his law office at Hardy, in Sharp County, Arkansas. The CenturyTel telephone directory for his area did not contain any display advertisement for him or his law office in the edition that was in use for the year up to September 2003. The next area directory, in use until September 2004, contains a display advertisement on page 7 of the business ad section holding out to the public the "Starken Law Office" and "R. T. Starken & Karen R. Starken Attorneys at Law" at his one office location, providing legal services there, and giving one telephone number. The Arkansas law license of Karen R. Starken was in suspended status at the time he contracted for and placed this advertisement, and remains in suspension now.

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:

A. Mr. Starken's conduct violated Model Rule 5.1(a) in that his law firm advertised the availability of Karen R. Starken as an attorney to firm clients and potential clients, but she is not, and was not at the time the advertisement was ordered, permitted to practice law in Arkansas, as his ad infers, because at all relevant times her Arkansas law license was in a suspended status. Model Rule 5.1(a) requires that a lawyer in a law firm shall make reasonable efforts to ensure that the firm has in effect measures giving reasonable assurance that all lawyers in the firm conform to the rules of professional conduct.

B. Mr. Starken's conduct violated Model Rule 5.1(c)(1) in that public advertising by Karen R. Starken, in association with his law office, that she is available to provide legal services in Arkansas to clients at times when her Arkansas Law license was in suspended status, is a violation by her of Model Rule 5.5(a), regarding the unauthorized practice of law in Arkansas. He had knowledge of her conduct in being included in his ad.

Model Rule 5.1(c)(1) provides that a lawyer shall be responsible for another lawyer's violation of the rules of professional conduct if the lawyer orders or, with knowledge of the specific conduct, ratifies the conduct involved.

C. Mr. Starken's conduct violated Model Rule 5.1(c)(2) in that public advertising by Karen R. Starken, in association with his law office, that she is available to provide legal services in Arkansas to clients at times when her Arkansas law license was in suspended status, is a violation by her of Model Rule 5.5(a), regarding the unauthorized practice of law in Arkansas. He had knowledge of her conduct in being included in his ad, while her motion for readmission to the Arkansas Bar was pending, yet he failed to take appropriate remedial action regarding the ad. Model Rule 5.1(c)(2) provides that a lawyer shall be responsible for another lawyer's violation of the rules of professional conduct if the lawyer is a partner in the law firm in which the other lawyer practices, or has direct supervisory authority over the other lawyer, and knows of the conduct at a time when its consequences can be avoided or mitigated but fails to take reasonable remedial action.

D. Mr. Starken's conduct violated Model Rule 5.5(b) in that by placing an ad in the local telephone directory advertising her availability as an Arkansas lawyer practicing in his law firm, he assisted Karen R. Starken in the performance of activity that constitutes the unauthorized practice of law. Model Rule 5.5(b) provides that a lawyer shall not assist a person who is not a member of the bar in the performance of activity that constitutes the unauthorized practice of law.

E. Mr. Starken's conduct violated Model Rule 7.1(a) in that the statement to the public in his ad in his area CenturyTel telephone directory in 2003 and continuing, implying that Karen R. Starken is an Arkansas lawyer in good standing, as is Mr. Starken, is a false and misleading communication about Ms. Starken and the legal services available from her and his law firm. Model Rule 7.1 requires that a lawyer shall not make a false or misleading communication about the lawyer or the lawyer's services. A communication is false or misleading if it: (a) contains a material misrepresentation of fact or law, or omits a fact necessary to make the statement considered as a whole not materially misleading.

F. Mr. Starken's conduct violated Model Rule 8.4(a) in that he assisted Karen R. Starken in violating Model Rule 7.1 when he assisted her in placing a false and misleading communication intended for the public in the telephone directory ad for his law office. Model Rule 8.4(a) requires that a lawyer shall not violate or attempt to violate the rules of professional conduct, knowingly assist or induce another to do so, or do so through the acts of another.

G. Mr. Starken's conduct violated Model Rule 8.4(c) in that his conduct in placing a substantial public display ad in his area telephone directory in 2003 was conduct involving deceit or misrepresentation, in that Karen R. Starken, his spouse, while advertised as an Arkansas lawyer was at all relevant times a lawyer whose Arkansas license was suspended. Model Rule 8.4(c) requires that a lawyer shall not engage in conduct involving dishonesty, fraud, deceit or misrepresentation.

WHEREFORE, it is the decision and order of the Arkansas Supreme Court Committee on Professional Conduct, acting through its authorized Panel A, that Raymond Timothy Starken, Arkansas Bar ID# 99003, be, and hereby is, **cautioned** for his conduct in this matter, **assessed costs of \$50.00**, and **fined \$500.00**. The fine and costs assessed herein, totaling \$550.00, 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: \_\_\_\_\_