

BEFORE THE SUPREME COURT COMMITTEE ON PROFESSIONAL CONDUCT
PANEL B

IN RE: WILLIAM KURT MORITZ
ARKANSAS BAR ID No. 99021
CPC Docket No. 2011-061

FILED

FEB 17 2012

**LESLIE W. STEEN
CLERK**

CONSENT FINDINGS AND ORDER

The formal charges of misconduct upon which this Consent Findings and Order is based arose from information provided in a grievance filed by Robert and Kathy Hogan of Hot Springs, Arkansas. The conduct related to representation of the Hogans in a civil matter filed in Garland County Circuit Court and a subsequent bankruptcy action filed in United States Bankruptcy Court for the Western District of Arkansas.

William Kurt Moritz is an attorney licensed to practice law in the State of Arkansas and was practicing law in Hot Springs, Arkansas, when he was employed by Kathy Hogan to represent her the case of *Washington National Insurance Company v. Kathy Hogan*, Garland County Circuit Court Case No. CIV 2006-753. Ms. Hogan was served with a copy of the lawsuit and thereafter consulted with Mr. Moritz. Ms. Hogan paid Mr. Moritz Two Hundred Dollars for the consultation. No answer was filed on Ms. Hogan's behalf within the time required by the Arkansas Rules of Civil Procedure, and on November 15, 2006, a judgment was entered against Ms. Hogan in the amount of \$43,539.46.

Following entry of the judgment against her, Ms. Hogan returned to Mr. Moritz, who suggested that she and her husband file for bankruptcy. On July 2, 2007, Ms. Hogan paid Mr. Moritz Eight Hundred Dollars (\$800.00) to file bankruptcy on behalf of her and her husband, Robert. On the same day, she provided Mr. Moritz with a list of all creditors, account numbers,

balances, and addresses. Ms. Hogan then completed a pre-filing certificate of financial counseling required by the Bankruptcy Code.

After the Hogans employed Mr. Moritz to represent them in the bankruptcy, Ms. Hogan and her husband attempted to contact Mr. Moritz. The Hogans were able to talk to Mr. Moritz at first as they called Mr. Moritz every month for six months. On one occasion, Mr. Moritz told the Hogans that he was waiting for a court hearing date. On each occasion thereafter, Mr. Moritz gave the Hogans different excuses.

Mr. Moritz had, in the meantime, relocated his home and offices from Hot Springs, Arkansas, to Hope, Arkansas. Mr. Moritz stated that after his relocation, he lost the Hogans' file and was unaware that the Hogans attempted to contact him.

At no time was a bankruptcy petition ever filed on the Hogans' behalf by Mr. Moritz.

Following service of the formal complaint, Mr. Moritz entered into discussion with the Executive Director which 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 (2011). Mr. Moritz has paid the Hogans Two Thousand Three Hundred Dollars (\$2,300.00) for the costs of an attorney to represent them in a bankruptcy matter and that matter is currently pending in the United States Bankruptcy Court.

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 B of the Committee on Professional Conduct, and the Arkansas Rules of Professional Conduct, the Committee on Professional Conduct finds:

1. William Kurt Moritz's conduct violated Rule 1.1 when he failed to demonstrate

competent representation on behalf of his client, Kathy Hogan, by failing to file an answer on her behalf in the case of *Washington National Insurance Company v. Kathy Hogan*, Garland County Circuit Court Case No. CIV 2006-753 resulting in a \$43,539.46 judgment against Ms. Hogan, and when he failed to demonstrate competent representation on behalf of his clients by failing to file a Petition for Bankruptcy on their behalf following his employment and payment by them in July, 2007. Rule 1.1 requires that a lawyer provide competent representation to a client. Competent representation requires the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation.

2. William Kurt Moritz's conduct violated Rule 1.3 when he failed to timely file a response to a lawsuit filed against his client, Kathy Hogan, in the case of *Washington National Insurance Company v. Kathy Hogan*, Garland County Circuit Court Case No. CIV 2006-753 resulting in a \$43,539.46 judgment against Ms. Hogan, and when he failed to file a Petition for Bankruptcy on behalf of his clients. Rule 1.3 requires that a lawyer act with reasonable diligence and promptness in representing a client.

3. William Kurt Moritz's conduct violated Rule 1.4(a)(4) when he failed to respond to requests of his clients, Robert and Kathy Hogan, about the status of their legal matter. Rule 1.4(a)(3) requires that a lawyer promptly comply with reasonable requests for information.

4. William Kurt Moritz's conduct violated Rule 1.16(d) when he failed to refund the unearned advanced fee he was paid by his client, Kathy Hogan, to handle a bankruptcy case to conclusion and discharge and then terminated his representation by abandoning his client. Rule 1.16(d) requires that upon termination of representation, a lawyer shall take steps to the extent reasonably practicable to protect a client's interests, such as giving reasonable notice to the

client, allowing time for employment of other counsel, surrendering papers and property to which the client is entitled and refunding any advance payment of fee or expense that has not been earned or incurred. The lawyer may retain papers relating to the client to the extent permitted by other law.

WHEREFORE, it is the decision and order of the Arkansas Supreme Court Committee on Professional Conduct, acting through its authorized Panel A, that WILLIAM KURT MORITZ, Arkansas Bar No. 99021, be, and hereby is, REPRIMANDED and ordered to pay costs in the amount of FIFTY DOLLARS (\$50.00) for his conduct in this matter. All fines 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: 
Barry Deacon, Chairman

Date: 2/17/12