

BEFORE THE SUPREME COURT COMMITTEE ON PROFESSIONAL CONDUCT

PANEL A

IN RE: ROY EDWARD THOMAS

Arkansas Bar ID #73122

CPC Docket No. 2004-025

CONSENT FINDINGS & ORDER

The matter of the attorney trust account, or lack of one, of Respondent Roy E. Thomas came to the attention of the Office of Professional Conduct through information received from the Arkansas Judicial Discipline and Disability Commission and correspondence between the Executive Director and Respondent related to Respondent's trust account and handling of certain funds in which clients or third persons had an interest.

Following Respondent Attorney's receipt of the formal complaint, the attorney and his counsel 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 (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. Thomas' conduct violated Model Rule 1.15(a) in that he failed to have an IOLTA attorney trust account from July 1997 to September 2001, although he knew he was required to have one, as evidenced by the fact he had such an account from 1975 to July 1997, and from September 2001 forward. Mr. Thomas handled settlement funds in December 1997 of \$4,500.00 from CNA Insurance in a matter involving Roger and Glenda Birdsong that were deposited in an account in the name of "Roy Edward Thomas, Attorney at Law, Payroll Account," at Citizens Bank of Batesville, Arkansas, that was not an IOLTA or other type of trust account. Mr. Thomas handled funds in January 1998 of \$1,500.00 that were deposited in an account in the name of "Roy Edward Thomas, Attorney at Law, Payroll Account," at Citizens Bank of Batesville, Arkansas, that was not an

IOLTA or other type of trust account, on January 21, 1998, and were distributed on January 20, 1998, by his checks for \$750.00 to Eric Hance and for \$750.00 to William Downs, representing one-half to each gentleman of the sales proceeds of a mobile home. Model Rule 1.15(a) requires that an 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 shall be kept in a separate account maintained in the state where the lawyer's office is situated, or elsewhere with the consent of the client or third person. 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. Thomas' conduct violated Model Rule 8.4(a) in that he failed to have an IOLTA attorney trust account from July 1997 to September 2001, although he knew he was required to have one, as evidenced by the fact he had such an account from 1975 to July 1997, and from September 2001 forward, and that he deposited funds in which clients and third persons had an interest into his office account. 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.

WHEREFORE, in accordance with the consent to discipline presented by Mr. Thomas and Executive Director, it is the decision and order of the Arkansas Supreme Court Committee on Professional Conduct that Respondent Roy Edward Thomas, Arkansas Bar No. 73122, be, and hereby is, CAUTIONED for his conduct in this matter, assessed costs of \$50.00, and ordered to pay a \$500.00 fine. 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 _____