

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

IN RE: CHARLES D. MATTHEWS, Respondent

Arkansas Bar ID#64026

CPC Docket No. 2002-170

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 Harryetta Bailey on November 4, 2002. The information related to Charles D. Matthews' contact and legal advice to Mrs. Bailey during the summer of 2002.

On December 10, 2002, Respondent was served with a formal complaint, supported by affidavit(s) from Harryetta M. Bailey. 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 Committee demonstrated that Mr. Matthews, an attorney who was suspended from the practice of law for a period of sixty (60) months effective November 28, 2000, hosted a Retirement Planning Seminar in Bentonville, Arkansas, during August 2002. Mrs. Bailey attended the seminar and met Mr. Matthews at that time. During the course of the seminar, Mr. Matthews provided advice on several aspects of retirement and estate planning. At the conclusion of the seminar, Mr. Matthews offered a free consultation to those who had attended. Mrs. Bailey scheduled a consultation. Mr. Matthews requested that Mrs. Bailey bring copies of her existing estate planning documents.

During their first meeting, Mrs. Bailey mentioned to Mr. Matthews that she intended to make certain changes in her estate planning documents with regard to the succession of trustees, executors and power of attorney holders. Mrs. Bailey did not intend for Mr. Matthews to make these changes but merely mentioned them to him. A second meeting occurred between Mrs. Bailey and Mr. Matthews during September 2002. At this second meeting, Mr. Matthews produced drafts of certain estate planning documents. The drafts were in error with regard to successor trustees. Also at the second meeting, Mr. Matthews provided Mrs. Bailey with written documentation setting out his investment advice for her.

A few days following the second meeting, Mrs. Bailey received a package in the mail from Mr. Matthews. The package included correspondence from Mr. Matthews, as well as originals and copies of numerous estate planning documents to include trust amendments, powers of attorney, healthcare powers of attorney, wills, and a memorandum related to the disposition of personal property. Shortly thereafter Mrs. Bailey received a statement from Mr. Matthews requesting payment of \$500 for consultations and preparation of the estate planning documents.

Mrs. Bailey learned at a later date that Mr. Matthews is an attorney whose license to practice law has been suspended. At no time during their consultations, did Mr. Matthews offer this information to her.

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:

That Mr. Matthews' conduct violated Model Rule 1.4(b) when he failed to advise Mrs. Bailey when he initially met with her that he could provide financial information to her but was prohibited from providing legal advice or drafting legal documents on her behalf since he was suspended from the practice of law for a period of 60 months effective November 28, 2000. Model Rule 1.4(b) requires that a lawyer explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation.

That Mr. Matthews' conduct violated Model Rule 5.5(a) when he provided legal advice and information to Mrs. Bailey with regard to probate matters at a time when his license to practice law in Arkansas was suspended by the Committee and Court Order and when he prepared legal documents for Mrs. Bailey at a time when his license to practice law in the State of Arkansas was suspended by Committee and Court Order. Model Rule 5.5(a) requires that a lawyer not practice law in a jurisdiction where doing so violates the regulation of the legal profession in that jurisdiction.

WHEREFORE, it is the decision and order of the Arkansas Supreme Court Committee on Professional Conduct, acting through its authorized Panel B, that CHARLES D. MATTHEWS, Arkansas Bar ID# 64026, be, and hereby is, SUSPENDED for a period of THREE (3) YEARS 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. Matthews is ordered to pay costs in this matter in the amount of \$250. Further, the Committee imposes a fine in the amount of \$2500 to be paid by Mr. Matthews pursuant to Section 18.B. of the Procedures. 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 B

By: _____

John Rush, Chair, Panel B

Date: _____

