

2002 Annual Report

Arkansas Supreme Court

***Committee on Professional Conduct
&
Office of Professional Conduct***

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I. Introduction

Pursuant to the Procedures of the Arkansas Supreme Court Regulating Professional Conduct of Attorneys at Law (“Procedures”), the Committee on Professional Conduct (“Committee”) is granted the authority to investigate all complaints alleging violation of the Arkansas Model Rules of Professional Conduct and impose any sanctions permitted and deemed appropriate. During 2002, major revisions to the Procedures adopted by Per Curiam Order of the Arkansas Supreme Court on July 9, 2001, effective on January 1, 2002, were implemented.

II. Structure

1. COMMITTEE ON PROFESSIONAL CONDUCT

For the year 2002, the Committee was enlarged from two to three panels, each composed of seven members appointed by the Arkansas Supreme Court. Five are lawyers, with one lawyer appointed from each Congressional District and one from the State at large. The remaining two positions are filled by persons who are not lawyers and are selected by the Arkansas Supreme Court from the State at large. Panel membership in 2002 was as follows:

Panel A: Win A. Trafford, Pine Bluff, Attorney and Panel A Chair
Richard A. Reid, Blytheville, Attorney
Bart F. Virden, Morrilton, Attorney
Gwendolyn Hodge, Little Rock, Attorney
Ken R. Reeves, Harrison, Attorney
Dr. Patricia Youngdahl, Little Rock, Non-attorney
Helen Herr, Little Rock, Non-attorney

Panel B: Richard F. Hatfield, Little Rock, Attorney and Panel B Chair
J. Michael Cogbill, Fort Smith, Attorney
Harry Truman Moore, Paragould, Attorney
Valerie L. Kelly, Jacksonville, Attorney
John L. Rush, Pine Bluff, Attorney
Dr. Rose Marie Word, Pine Bluff, Non-attorney
Rita M. Harvey, Little Rock, Non-attorney

Panel C: Justice (Ret.) David Newbern, Little Rock, Attorney and Panel C Chair
Kenneth R. Mourton, Fayetteville, Attorney
Searcy Harrell, Jr., Camden, Attorney
Phillip D. Hout, Newport, Attorney
Robert D. Trammell, Little Rock, Attorney
Beverly Morrow, Pine Bluff, Non-attorney
Sylvia Orton, Little Rock, Non-attorney

2002 Executive Committee:

Bart F. Virden, Morrilton, Committee Chair
Gwendolyn Hodge, Little Rock, Committee Secretary
Win A. Trafford, Pine Bluff, Panel A Chair
Richard F. Hatfield, Little Rock, Attorney and Panel B Chair
Justice (Ret.) David Newbern, Little Rock, Panel C Chair

2003 Executive Committee:

Ken R. Reeves, Harrison, Attorney, Committee Chair
Dr. Patricia Youngdahl, Little Rock, Committee Secretary
Gwendolyn Hodge, Little Rock, Panel A Chair
Richard A. Reid, Blytheville, Panel A Vice-Chair
John L. Rush, Pine Bluff, Panel B Chair
Richard F. Hatfield, Little Rock, Panel B Vice-Chair
Justice (Ret.) David Newbern, Little Rock, Panel C Chair
Robert D. Trammell, Little Rock, Panel C Vice-Chair

On January 1, 2002, a new Reserve Panel, designated as Panel C, became part of the Committee. Panel C primarily serves: (1) as the “discipline by consent” Panel, (2) as the review panel for dismissals of complaints by the staff, (3) as a third hearing panel as needed, and (4) individual Panel C members are used as substitute panel members when a member of Panel A or B is not available or has disqualified in any case on a ballot vote or a hearing.

2003 COMMITTEE MEETING CALENDAR:

January 17, 2003	Panel A
February 21, 2003	Panel B
March 21, 2003	Panel A
April 18, 2003	Panel B
May 16, 2003	Panel A
June 20, 2003	Panel B
July 18, 2003	Panel A
August 15, 2003	Panel B
September 19, 2003	Panel A
October 17, 2003	Panel B
November 21, 2003	Panel A
December 12, 2003	Panel B

2. OFFICE OF PROFESSIONAL CONDUCT

The Committee employs an attorney Executive Director and staff who function as the Office of Professional Conduct, and are housed in the Justice Building located on the Arkansas State Capitol grounds in Little Rock. The Office of Professional Conduct receives all complaints involving attorneys licensed to practice law in the State of Arkansas, investigates the complaints, provides assistance in the preparation of formal complaints, and processes formal complaints for submission to the Committee. The Executive Director for the Committee is Stark Ligon.

The Office of Professional Conduct is staffed by four staff attorneys, an administrative assistant, a secretary, and an investigator. The staff attorneys perform all duties and possess such authority of the Executive Director as the Executive Director may delegate, except for the final determination of sufficiency of formal complaints. The staff attorneys during 2001 were Nancie M. Givens, Senior Staff Attorney; and Michael Harmon and Ann Dodson, Staff Attorneys.

In calendar 2002, the staff presented thirty-five (35) CLE programs or speeches on law-related topics across the state, and one out of state. A listing is attached as Appendix A.

The Arkansas Supreme Court has not authorized the Office of Professional Conduct to give advice or legal opinions, formal or informal, on legal or ethical issues.

The total budget of the Committee and Office for 2002 was slightly more than \$500,000, funded by a portion of the annual license fee paid by Arkansas-licensed attorneys to the Arkansas Supreme Court.

The Office of Professional Conduct also provides staff support for the Supreme Court Unauthorized Practice of Law Committee and the Supreme Court Client Security Fund Committee.

III. Administration

The Office of Professional Conduct receives telephone calls, letters, e-mails and faxes from individuals across the country requesting information on how to initiate complaints against attorneys licensed to practice law in the State of Arkansas. During the 2002 calendar year, the office sent 1,927 grievance forms to complainants requesting one, up from 1,914 in 2001.

During the 2002 calendar year, the Office received 1186 complaints by mail, up from 1114 in 2001. The majority of these consisted of informal complaints involving alleged lawyer misconduct. The remainder consisted of reports of alleged unauthorized practice of law, applications for financial relief from the client security fund, and administrative matters.

Following assigned review by staff attorneys of 843 disciplinary complaints received in calendar year 2002 (up from 806 in 2001), or pending from previous years:

439 complaints were found not to have a sufficient basis for a formal complaint;
140 complaints were closed after investigation by staff attorneys;
39 complaints were closed following an informal letter to the reported attorney;
22 complaints were withdrawn by the complaining party;
3 complaints had no affidavit from the complaining party returned to the Office;
2 complaints were referred to outside agencies;
14 complaints were merged into petitions of surrender of license by the attorney;
3 were abated by the death of the attorney; and,
181 formal complaints were filed. (21.5% of files reviewed by staff attorneys, up from 17.9% in 2001)

IV. Formal Actions Initiated

In 2002, there were 186 total cases opened for the Committee on Professional Conduct for action. Of the 186 cases, 181 were formal complaints and 5 were Petitions for Reinstatement.

V. Final Committee Actions

Final discipline was imposed in 181 different files involving Arkansas attorneys during Calendar Year 2002 by the Committee on Professional Conduct or, in cases of disbarment, by the Circuit Court or Arkansas Supreme Court. Of the 181 finalized cases in 2002, one file was from 1999, 2 were from 2000, 69 were from 2001, and 109 were from 2002. Five files opened involved reinstatement petitions. There are six primary forms of action that the Committee on Professional Conduct may take. Actions of the Committee are shown below. A warning is non-public. The other forms of sanction are public.

1. 2002 COMMITTEE DISPOSITION STATISTICS - see Appendix A for case summaries

	Panel A	Panel B	Panel C	Total
No Actions	17	12	1	30
Warnings	22	21	10	53
Cautions	16	5	10 (1 on Appeal)	31
Reprimands	20	10	5	35
Suspensions	4	4	6	14
Interim Suspensions	6	1	0	7
Surrenders	3	2	0	5
Merged into Surrender	1	0	0	1
Initiate Disbarment	3	0	0	3
Abated by death				3
Voluntary Inactive	1	1	0	2
Consents	2	2	31	35
ARLAP Referral	0	2	0	2

Disposition	No.	%
No Action	30	16.9
Warning	53	30.3
Caution	31	17.4
Reprimand	35	19.7
Suspension	14	7.9
Interim Suspension	7	3.9
Surrender	5	2.8
Disbarment	3	1.6
Total	178	

(Note: Beginning in 2002, surrender is an option available in lieu of disbarment proceedings or for any voluntary reason.)

2. THREE YEAR STATISTICAL COMPARISON

Category	2000	2001	2002
Written complaints received	985	1,114	1,186
Complaints assigned to staff attorney	857	806	1,022
Files closed for insufficient evidence	438	393	409
Files closed for "failure to respond"	138	104	139
Files resolved with informal letter to attorney	75	40	39
Files closed - other categories	181	154	150 est.
Formal Complaints filed	149	149	186
Supreme Court Referrals	38	34	45
Other Judicial Complaints	10	13	12
Formal Complaints closed	132	135	178
No Actions	15	12	30
Warnings	43	45	53
Number of Attorneys Disciplined	148	81	111*

* Multiple Separate Sanctions

- 6 - one attorney
- 5 - one attorney
- 4 - two attorneys
- 3 - three attorneys
- 2 - seventeen attorneys

VI. Common Rule Violations

In the findings of the Committee on Professional Conduct, the most common rule violations involved Arkansas Model Rules 1.3 and 8.4(d). Model Rule 1.3 states that a lawyer shall act with reasonable diligence and promptness in representing a client. Model Rule 8.4(d) states that a lawyer shall not engage in conduct that is prejudicial to the administration of justice. The following listing contains the Arkansas Model Rule alleged and the number of times the Committee found the rule to have been violated.

<u>Arkansas Model Rule Alleged</u>	<u>Number of Violations Found</u>
1.1	20
1.2(a)	11
1.3	53
1.4(a)	34
1.4(b)	11
1.5(a)	4
1.5(b)	2
1.5(c)	1
1.5(e)	0
1.7(b)	1
1.8(a)	1
1.8(b)	1
1.8(c)	2
1.15(a)	13
1.15(b)	8
1.15(c)	1
1.15(d)	1
1.16(a)	0
1.16(b)	1
1.16(d)	13

3.1	2
3.2	14
3.3(a)(1)	10
3.4(c)	20
3.4(d)	1
3.7	0
4.1(b)	1
4.3	1
4.4	0
5.1	1
5.3(c)	0
5.5(a)	6
7.2(d)	0
7.3(a)	3
7.3(b)	0
7.3(c)	0
7.3(d)	1
7.4(c)	1
7.5(d)	0
8.3	2
8.4(a)	11
8.4(b)	8
8.4(c)	22
8.4(d)	52
8.4(f)	1

VII. Number of Attorneys Disciplined

Of the 181 final disciplinary actions by the Committee, forty-four (44) involved attorneys who had been licensed for ten years or less; sixty-four (64) involved attorneys who had been licensed for eleven to twenty years; fifty-six (56) involved attorneys who had been licensed for twenty-one to thirty years; eleven (11) involved attorneys who had been licensed for thirty-one to forty years and three (3) involved attorneys who had been licensed for more than forty years.

Years licensed	# of attorneys disciplined	Percentage
0-10	44	25%
11-20	64	36%
21-30	56	31%
31-40	11	6%
40+	3	2%

VIII. 2002 Trust Account “Overdraft” Reporting

(Since July 1, 2002)

44	Total reports received from all banks and reporters
5	Caused by admitted Bank error
12	Caused by Attorney/office bookkeeping error
2	Caused by attorney error - bank fees not taken into account
7	Attorney used wrong account or wrong account number
6	“Late” deposits into trust account
3	Trust account checks stolen - forged
3	Attorney closed practice and started using account as personal account
6	Still under investigation
35	Private letter disposition
2	Formal complaints filed
1	Formal complaint certain to be filed
1	Public sanction (caution and \$15,000 fine)
1	Formal complaint abated by attorney death

APPENDIX A

2002 CONTINUING LEGAL EDUCATION PROGRAMS PRESENTED:

February

- 19 National Business Institute - Little Rock - CLE
- 26 Union County Bar Association (El Dorado) - CLE
- 28 Lonoke County Bar Association (Lonoke) - CLE

March

- 1 Arkansas Case Coordinator's Annual Conference (Hot Springs) - CE
- 7 Benton County Bar Association (Rogers) - CLE
- 7 University of Arkansas School of Law - Professor Judith Kilpatrick's "Solo" Practice Class
- 8 University of Arkansas School of Law - Professor Howard Brill's Professional Responsibility Class
- 12 Southeast Arkansas Legal Institute (Monticello) - CLE
- 13 Washington County Bar Association (Fayetteville) - CLE
- 22 Labor & Employment Law Conference (Hot Springs) - CLE

April

- 10 UALR Bowen School of Law - Professor Goldner's Professional Responsibility Class
- 23 Garland County Bar Association (Hot Springs) - CLE
- 30 Greene County Bar Association (Paragould) - CLE

May

- 1 Law Day Ethics Panel (Little Rock) - CLE
- 3 Arkansas Trial Lawyers Association State Convention (Eureka Springs) - CLE
- 22 Arkansas State University Seminar - Jonesboro - CLE
- 23 Jefferson County Bar Association- Pine Bluff - talk

June

- 13 Arkansas Bar Association (Hot Springs) - CLE
- 24 Arkansas Bar Association "Best of CLE"- Little Rock
- 26 Arkansas Bar Association "Best of CLE" - Little Rock

Jul

- 27 Arkansas Defense Lawyers Association (New Orleans) - CLE

Aug

- 17 Arkansas Bar Association Board of Governors - report - Petit Jean - Winrock Center

Sept

- 13 Third District Trial Practice Seminar - Bentonville
- 25 Shepherd's Center - Little Rock - talk on legal ethics
- 26 Arkansas Criminal Defense Lawyers Association - Little Rock
Garland County Bar - Hot Springs - CLE

Oct

- 4 Arkansas Bar Association Tort Law Section - CLE - Little Rock
- 15 Greater Little Rock Legal Support Professionals Association- Little Rock - CE
- 19 Arkansas Court Reporters Association - Little Rock - CE
- 25 Arkansas Bar Association Fall Legal Institute - Fayetteville (with Professor Howard Brill)

Nov

- 7 Arkansas Bar Association "Bridging the Gap" Seminar - Little Rock - CLE
- 8 Arkansas Trial Lawyers Association - Trial Skills Seminar (North Little Rock) - CLE
- 22 Pope County Bar Association (Russellville) - CLE
- 22 First Judicial Circuit Trial Practice Seminar (Forrest City) - CLE

Dec

- 6 Arkansas Bar Association Federal Practice Institute (Little Rock) - CLE

APPENDIX B

2002 DISCIPLINARY CASE SUMMARIES

Summaries of final actions in 2002 by the Committee on Professional Conduct, prepared by the Office of Professional Conduct staff. Full text case order documents are available on-line at <http://courts.state.ar.us/courts/cpc.html>.

DISBARMENTS INITIATED:

MICHAEL ANTHONY PRICE, Bar No. 81133, of Sherwood, Pulaski County, Arkansas. A petition for disbarment was filed with the Arkansas Supreme Court December 10, 2002, and is pending.

SURRENDERS:

RANDALL WAYNE DIXON, Bar No. 83053, Dardanelle, Arkansas, CPC No. 2001-141. Dixon was placed on interim suspension December 28, 2001 (see Vol. 32, No. 2, page 34). This action included complaints made by Judge Paul Danielson (CPC No. 2001-132, one year suspension imposed), Judge Paul Danielson (CPC No. 2001-136, six month suspension imposed), and Celeste Benefield (CPC No. 2001-141, disbarment to be initiated). Additional formal complaints were to be filed alleging substantial violations of Model Rules dealing with Dixon's attorney trust account, including many checks written for prohibited personal purposes and many overdrafts, and that funds belonging to at least one client were used for improper purposes and are missing. **SURRENDER accepted May 16, 2002**, for violation of Model Rules 1.1, 1.2(a), 1.3, 1.4(a), 1.15(a), 3.4(b), 3.4(c), 8.4(a), and 8.4(d).

LESA GAIL BRIDGES JACKSON, Bar No. 87007, Maumelle, Arkansas, CPC No. 2001-106. Ms. Jackson, a former Assistant United States Attorney in Little Rock, failed to pay her Arkansas and Kentucky bar license fees for many years resulting in her suspension in both states in the late 1980s or early 1990s. Thereafter she falsely certified annually to the Department of Justice that she was in good standing in at least one of these states. **SURRENDER accepted March 7, 2002**, for violations of Model Rules 3.3(a), 5.5(a), 8.4(c) and 8.4(d).

DAVID P. HENRY, Bar No. 71041, of Little Rock, Arkansas, petitioned to surrender his law license in lieu of disbarment in CPC No. 2001-092, on a complaint by Virginia Sparks Strebelow of California. The Supreme Court accepted his surrender on October 10, 2002. Henry acknowledged his conduct violated Model Rules 1.2(a), 1.3, 1.4(a), 1.4(b), 1.8(a), 1.15(a), and 8.4(c) during his dealings with Ms. Strebelow in 1993-2002. He acknowledged he could not account for an estimated \$15,000 belonging to her which he placed in his trust account in 1993, and that these funds were converted to his personal use from his trust account. He entered into a business arrangement with his client regarding realty, self-dealt to his advantage, and made false statements to the client. He told his client he used part of her funds for election expenses in his

unsuccessful campaign for judicial office in 1994. He gave her a series of personal notes thereafter in a failed effort to restore her funds over the following years. The client did not report Henry in 1994 because he told her the only way he could repay her missing funds would be if he could keep his law license.

STEVEN DWAYNE LAWRENCE, Bar No. 88128, of Melbourne, Izard County, Arkansas, petitioned to surrender his law license as a result of his conviction of a Class D felony, Obtaining a Controlled Substance by Fraud. The Supreme Court accepted the surrender of his law license on November 14, 2002. Lawrence had been placed on interim suspension by the Committee in CPC No. 2002-124 on October 8, 2002, because of his guilty plea in federal court and a Committee Panel vote to initiate disbarment proceedings against him.

SUSPENSIONS:

PHILLIPS D. COOK, JR., Bar No. 93085, of Little Rock, Arkansas, CPC No. 2001-126. Stephen Sipes, Pulaski County Chancery Clerk, provided the Committee information indicating Cook, who was suspended at the time, had, after October 9, 2000, attempting to file a pleading in a filed case and other acts that amounted to the practice of law for his client Bishop in pending litigation. The client, Bishop, also filed an affidavit, outlining instances where Cook had failed to keep him advised of the status of the pending matter or of Cook's October 6, 2000, suspension. **SUSPENDED for EIGHTEEN (18) MONTHS and FINED \$1,000 on May 30, 2002**, for violation of Model Rules 1.4(b), 8.49c) and 8.4(d).

CHARLES J. DOERPINGHAUS, JR., Bar No. 81049, Little Rock, Arkansas (formerly practicing in Benton), CPC No. 2001-076 (Collie) and No. 2001-123 (Heinicke). Jerry and Wanda Collie complained that they hired Doerpinghaus in 1998 and paid him to assist them in a real property matter in which other family members were making claims against lands the Collies claimed. Doerpinghaus told them he was working on the matter and it would take about three months to complete it. He took no action and failed to return their fee money in spite of many requests from the Collies. Gordon Heinicke complained that he hired Doerpinghaus in 1996 to seek modification of a monthly child support obligation of \$850 under a 1995 California post-divorce order. Doerpinghaus registered the California judgment in Arkansas but took no further court action. He advised Heinicke in writing to pay \$35 per week payments, which Heinicke did until May 2001. The Arkansas Office of Child Support Enforcement intervened and secured a judgment of \$38,158.92 on August 6, 2001, while Mr. Heinicke was represented by new counsel. Mr. Heinicke was thereafter able to negotiate a settlement with his former wife for a lump-sum payment of \$10,000, which he was forced to borrow. Mr. Doerpinghaus entered into a discipline by consent with the Committee for both cases. **SUSPENDED for Five (5) Years in each case May 6, 2002**, for violation of Model Rules 1.1, 1.2(a), 1.3, 1.4(a), 1.16(d), 8.4(c) and 8.4(d) [in CPC No. 2001-076, Collie] and 1.3, 1.4(a), 3.2, 8.4(c), and 8.4(d) [in CPC No. 2001-123, Heinicke].

TIMOTHY MARK HALL, Bar No. 96043, Huntsville, Arkansas, CPC No. 2001-066.

Marion Wood complained that Hall represented him in a divorce and did not properly account to Wood in September 1999 for the full net proceeds of \$7,366.16 due Wood from the court-ordered sale of a marital home. Hall sent Wood a check for only \$2,866.16 on September 10, 1999, and failed to account for the balance of \$4,500 until the Fall of 2001, after the formal complaint was served on Hall August 10, 2001, and Wood was forced to sue Hall in a local court. Hall failed to respond to the Committee's complaint, and the allegations therein were deemed admitted. **SUSPENDED April 3, 2002, for six (6) months and fined \$500**, for violations of Model Rules 1.4(a), 1.15(b), and 1.16(d).

CHARLES L. RUDD, Bar No. 89087, Hot Springs, Arkansas, CPC No. 2001-077. Circuit Judge Phillip Shirron of Hot Spring County referred this matter to the Committee, alleging Rudd represented Mr. Thacker in a divorce in Garland County, that Rudd failed to timely file an affidavit of financial means, that Rudd failed to appear for court hearings, that the court had to issue a body attachment for Rudd to get him to appear, that Rudd was found in contempt, and other problems. Rudd claimed Thacker failed to keep appointments, had failed to pay Rudd as required, told Rudd he had reconciled with his wife and that Rudd's services were no longer needed. **SUSPENDED May 20, 2002, for Three (3) Months** for violation of Model Rules 1.1, 1.3, 1.4(a), 1.16(b)(4), 3.3(a)(1), 3.4(c) and 8.4(d).

CHARLES GREGORY ALAGOOD, of Little Rock, Bar No. 84002, in CPC No. 2002-011, on September 16, 2002, was suspended for three (3) years, on discipline by consent, on a self-referral for violations of Model Rules 1.15(a) and 8.4(c) arising out of his dealings with his client Betty Gray in 2000-2001. Mr. Alagood received a total of \$57,500 as an advance for legal fees and costs, did not deposit these funds in a trust account, and commingled them with personal funds. Using a power of attorney, Mr. Alagood also withdrew \$25,000 and \$6,000 from Ms. Gray's personal account in October 2001, without her knowledge or permission. All sums were restored to Ms. Gray in November 2001. Mr. Alagood voluntarily withdrew from the practice of law as of January 1, 2001, and fully cooperated with the Office of Professional Conduct in the investigation of this matter.

RANDALL WAYNE DIXON of Dardanelle, Bar No. 83052, in CPC No. 2001-132, on June 3, 2002, was suspended for one (1) year on complaints from Circuit Judge Paul Danielson and Jeremy Boze for violations of Model Rules 1.1, 1.2(a), 1.3, 1.4(a), 3.4(c) and 8.4(d). Boze retained Dixon as counsel in a felony theft case. A jury trial resulted in a lengthy probation and an amount of restitution to be set by the court if the parties could not agree. The State made an offer of \$30,000 to Dixon but the offer was never communicated to the client. The matter was set for hearing and Dixon failed to appear. The hearing resulted in an order by the court fixing restitution at \$66,500. Boze thereafter contacted Dixon, who advised him not to pay the restitution for several months, almost resulting in a revocation petition being filed by the probation office. Dixon failed to respond to the Committee's complaint. [Dixon's surrender of his license was accepted by the Supreme Court on May 16, 2002.]

RANDALL WAYNE DIXON of Dardanelle, Bar No. 83052, in CPC No. 2001-136, on June 3,

2002, was suspended for six (6) months on a referral from Circuit Judge Paul Danielson for violations of Model Rules 1.1, 1.3, 3.4(c) and 8.4(d). Dixon represented Mr. Curtis in Scott County Circuit Court on a criminal charge that was set for pre-trial on July 30, 2001. Dixon failed to appear without being excused or an excuse, although his client was present. A contempt hearing was set for November 5, 2001, at which Dixon appeared, was found to be in contempt, and was fined \$50.00.

RODNEY P. OWENS of Bentonville, Bar No. 86138, in CPC No. 2002-107, on September , 2002, was placed on interim suspension by the Committee by an order filed September 9, 2002, pursuant to Sections 15.C, and 16.A(1) and (2) of the Arkansas Supreme Court Procedures Regulating Professional Conduct of Attorneys at Law, as a result of his being convicted on August 2, 2002, of a Class D felony violation of Arkansas Code Section 26-18-202, failure to pay tax.

DENNIS A. CAMERON, Bar No. 95038, of Hot Springs, Garland County, Arkansas, was placed on interim suspension by Committee Order filed November 21, 2002, in CPC No. 2002-161 for conduct involving alleged misappropriation of client funds and a finding by the Committee that there is a substantial threat of serious harm to the public and to the lawyer's clients. Cameron was charged by information in Garland County Circuit Court on October 28, 2002, with felony theft arising out of the disappearance from his attorney trust account of approximately \$198,000 in settlement funds from a matter in which he had represented Megan Ungerer, then a minor, since 1998.

DENNIS A. CAMERON, Bar No. 95038, of Hot Springs, Garland County, Arkansas, in CPC No. 2001-107, on a complaint by Bob Stillwell, by Order filed December 31, 2002, was suspended from the practice of law for one (1) year for violations of Model Rules 1.3, 1.4(a), 1.15(a), 1.15(b), and 8.4(c), and was assessed costs of \$50.00. Stillwell and others retained Cameron to pursue their claims following a 1999 motor vehicle collision. The case settled and Cameron retained part of the funds to pay client medical bills. All the medical bills were not paid and some were turned over to a collection agency. One client did not receive the full amount of her settlement share. The clients were unable to contact Cameron, whose law office appeared to be closed. They had to hire another attorney to help them contact Cameron. Cameron replied that a former paralegal at his office miscalculated amounts to be paid, overpayments were made to his clients, and sufficient funds were not held back from the settlement to pay all medical bills. He denied receiving calls from his clients or their new attorney regarding this matter.

MICHAEL ANTHONY PRICE, Bar No. 81133, of Sherwood, Pulaski County, Arkansas, was placed on interim suspension as a result of a Committee Order filed December 9, 2002, following the Committee vote to initiate disbarment proceedings in Committee cases No. 2002-112, a complaint by Summer Emley and Timothy Stallings, and No. 2002-119, a judicial referral by United States District Judge Susan Webber Wright. A Petition for Disbarment was filed December 10, 2002, and is pending in the Arkansas Supreme Court.

JAMES S. SCOTT, Bar No. 87154, of North Little Rock, Arkansas, in CPC No. 2002-128, by Order filed October 25, 2002, was placed on interim suspension as a result of his conviction of a felony, sex abuse in the first degree (ACA 5-14-108), in Pulaski County Circuit Court on August 2, 2002. The Committee directed that disbarment proceedings be initiated.

MALCOLM ANGELA SIMMONS, Bar No. 91243, of Little Rock, Arkansas, in CPC No. 2002-083, on a complaint from Cecilia Renee Crater, a physical therapist for MCH Physical Therapy Clinic of Little Rock, by Order filed December 26, 2002, was suspended from the practice of law for three (3) months, fined \$250.00 and assessed costs of \$50.00 for conduct violating Model Rules 1.15(b) and 8.4(c) in 2000-2002. In September 2000, Simmons' client granted a lien in favor of MCH Clinic on any settlement of his claim from a motor vehicle collision. The claim settled with the insurance company in November 2000; MCH was not notified; the settlement check was issued to the client, Simmons and MCH Physical Therapy, but Simmons deposited it into his trust account without any endorsement or authority of MCH and without paying MCH on its lien. Thereafter MCH sued Simmons' client and the case resulted in a consent judgment and payment to MCH of its \$2,036.25 lien claim by a cashier's check that was attached to the client's answer to the suit. The Panel found Simmons' conduct in depositing a settlement check without the authority of MCH was dishonest, fraudulent, and deceitful.

SAM WHITFIELD, JR., Bar No. 82056, of Helena, Phillips County, Arkansas, in CPC No. 2002-070, on a complaint by Karen Williams of Ponca City, Oklahoma, by Order filed November 12, 2002, consented to a four (4) month suspension, to run concurrently with suspensions in two other cases, and agreed to pay restitution of \$710.00, for violations of Model Rules 1.1, 1.3, 1.4(a), 1.4(b), 1.5(b), 1.15(a), 8.4(a), 8.4(b), 8.4(c) and 8.4(d), for his conduct in 1999-2002 while representing Mrs. Williams in a probate matter. Whitfield failed for almost four (4) years to take any action in his client's matter.

SAM WHITFIELD, JR., Bar No. 82056, of Helena, Phillips County, Arkansas, in CPC No. 2002-081, on a complaint by the Office of Professional Conduct, by Order filed November 12, 2002, consented to a four (4) month suspension, to run concurrently with suspensions in two other cases, for violations of Model Rules 1.1, 1.3, 1.4(a), 1.4(b), 1.5(b), 1.15(a), 8.4(a), 8.4(b), 8.4(c) and 8.4(d). Whitfield, a district judge at the time, was represented by attorney Dion Wilson in post-divorce child support litigation. Whitfield accepted a cash gift of \$1,800 from Wilson to pay child support to avoid being jailed in September 2001.

SAM WHITFIELD, JR., Bar No. 82056, of Helena, Phillips County, Arkansas, in CPC No. 2002-086, on a complaint by Lillie Simpson of Newport, Arkansas, by Order filed November 12, 2002, consented to a four (4) month suspension, to run concurrently with suspensions in two other cases, and agreed to pay restitution of \$975.00, for violations of Model Rules 1.2(a), 1.3, 1.4(a), 1.4(b), 3.2, 8.4(c) and 8.4(d), for his conduct in 1998-2002 while representing Mrs. Simpson in a litigated real estate matter in Jackson County. After Whitfield failed to take any action for over one year in the suit he filed for Ms. Simpson, the court dismissed it without

prejudice for failure to prosecute. He deceitfully failed to tell his client of this event, failed to consult with or respond to his client's many requests for information, and delayed the administration of justice through his inaction.

REPRIMANDS:

JAN ROSE CROMWELL, Bar No. 75024, Fort Smith, Arkansas, CPC No. 2001-095. Judge Jim Spears filed a complaint alleging attorney failed to appear for a scheduled court hearing, and then offered an unusual explanation for her absence when brought to court later by his bailiff. Attorney responded that she must have been confused due to lack of sleep from case preparation when she gave her explanation to the court, and she apologized to the court and the Committee. Her conduct was found to have been prejudicial to the administration of justice by causing delay in the resolution of her court matter. **Reprimand** February 25, 2002, for violating **Model Rules 1.3 and 8.4(d)**. Attorney's concurrent petition for voluntary transfer to inactive status was approved by the Committee.

ANN C. DONOVAN, Bar No. 78043, Fayetteville, Arkansas, CPC No. 2001-057. J. D. Moon, an attorney, and his counsel Steven Jackson, complained that respondent attorney agreed to collect delinquent accounts of Moon on a contingency fee arrangement but never reduced the fee agreement to writing, as she said she would. They claim attorney did not provide status reports, return files or provide a full accounting of funds collected, as requested by the client and later by his counsel. Attorney disputed many of the assertions of complainants. **Reprimand** February 19, 2002, for violating **Model Rules 1.4(a), 1.5(c), 1.15(b), and 1.16(d)**.

DONNY GENE GILLAPSIE, Bar No. 61010, El Dorado, Arkansas, CPC No. 2001-080. According to a Per Curiam of May 10, 2001, attorney was counsel of record for Dennis Burnett on a criminal appeal. The notice of appeal was timely filed, but attorney failed to perfect the appeal by bringing up the remainder of the record necessary for the appeal, even after being directed to by the Court. Attorney failed to get an extension of time to file the record beyond the initial ninety (90) day limit, failed to file a motion for belated appeal as directed by the Court, and caused delay in the orderly processing of his client's appeal. Attorney failed to respond to the Committee's complaint. **Reprimand** January 16, 2002, for violating **Model Rules 1.3, 3.4(c), and 8.4(d)**.

JAMES PROCTOR MASSIE, Bar No. 75084, Little Rock, CPC No. 2001-082. A complaint from Circuit Judge John Plegge alleged attorney failed to appear for a scheduled jury trial in June 2001 in a criminal case. Attorney consented to discipline, and accepted a **Reprimand** filed February 25, 2002, for violating **Model Rule 8.4(d)**. Attorney's concurrent petition for voluntary transfer to inactive status was approved by the Committee.

MARQUIS E. JONES, Bar No. 74089, Little Rock, Arkansas, CPC No. 2001-113. The complaint of Courtney Walls alleged attorney filed a petition for probate administration with will annexed on behalf of an illegitimate daughter of complainant's father. Complainant later filed to

probate a will that did not acknowledge the illegitimate daughter or provide for her. Attorney failed to file a required inventory in his probate proceeding and failed to respond to discovery requests in the proceeding filed by complainant. The court later admitted the second will, finding it revoked the one filed by attorney. The attorney thereafter allegedly filed pleadings not provided for by law and engaged in frivolous tactics designed to cause delay in the probate proceedings. Attorney is alleged to have failed to properly and timely comply with court orders regarding accounting for rent funds he received from estate property. Attorney disputed the allegations, and asserted he vigorously represented his client. The Committee found attorney filed motions and asserted positions with no basis in law for support; that his tactics were dilatory and designed to unnecessarily frustrate the opposing party; that he disobeyed a court order by failing to timely deposit estate funds in the court registry; that he failed to timely respond to discovery; and that his conduct caused unnecessary delay to the administration of justice. **Reprimand February 27, 2002**, for violating **Model Rules 3.1, 3.2, 3.4(c), 3.4(d), and 8.4(d)**.

BRUCE JAMISON BENNETT, Bar No. 92140, Bentonville, Arkansas, CPC No. 2001-091. Circuit Judge William Storey of Washington County complained about Bennett's conduct in his representation of William Robert Taylor in a criminal case. The Committee found Taylor failed to appear for court July 5, 2001, on either the advice or suggestion of Bennett that Taylor leave the courthouse. **REPRIMAND March 14, 2002**, for violations of Model Rules 3.3(a)(1), 3.4(c), 8.4(c) and 8.4(d).

MICHAEL DENNIS BOOKER, Bar No. 89053, Little Rock, Arkansas, CPC No. 2001-121. Donna Banks of Virginia complained that Booker failed to probate the estate of Mabel Dupins after being paid \$700 up front to do so in June 2000. Booker failed to return calls from his client, failed to file any pleadings to open the estate, and told Ms. Banks he did not know where the file was when she terminated his services in February 2001. Booker stated he returned her file and gave her a full fee refund on March 1, 2001. **REPRIMAND April 24, 2002**, for violation of Model Rules 1.3 and 1.4(a).

GREGORY E. BRYANT, Bar No. 82024, Little Rock, Arkansas, CPC No. 2002-004. The Supreme Court referred this matter to the Committee by Per Curiam on December 13, 2001, for Bryant's failure to file a revised criminal appeal brief with a proper addendum, after the Court had granted the Attorney General's motion on the first brief requesting Bryant comply with Supreme Court Rule 4-3(h). The revised brief failed to comply with the addendum requirement, and the Clerk refused to file the revised brief. A motion for belated brief was granted for the client, Darwin Shields, who was on a sentence to life without parole from Pulaski Circuit Court for capital murder. **REPRIMAND May 30, 2002**, for violation of Model Rules 3.4(c) and 8.4(d).

DALE W. FINLEY, Bar No. 67017, Russellville, Arkansas, CPC No. 2002-030. The Supreme Court referred this matter to the Committee by Per Curiam on January 31, 2002, for failure to follow the wishes of his criminal client, Mr. Martin, to appeal from a conditional plea to the trial court. A belated appeal was granted. **REPRIMAND May 30, 2002**, for violation of Model Rules 1.2(a), 1.3, 3.4(c) and 8.4(d).

KENNETH GEORGE FUCHS, Bar No. 81063, Conway, Arkansas, CPC No. 2001-084. Jim Walker consulted Fuchs about harassment by a creditor after Walker filed bankruptcy. Fuchs agreed to look into the matter for Walker. Thereafter Walker could get no response from Fuchs, terminated the relationship, and sought return of his papers. Walker complained that Fuch's office told him it could not find Walker's documents. Fuchs failed to respond to the complaint, leaving the allegations deemed admitted. **REPRIMAND March 27, 2002**, for violations of Model Rules 1.15(a)(2), 1.16(d), and 8.4(d).

RICHARD L. HUGHES, Bar No. 82081, Little Rock, Arkansas, CPC No. 2001-119. Robert Newcomb complained on behalf of Barbara Monroe, a former client of Hughes, whom Newcomb came to represent later. Monroe hired Hughes to file an ADA discrimination suit against her employer. Defendant employer filed a motion for summary judgment, which was eventually granted because Hughes did not respond. Newcomb stated his opinion that Hughes failure to properly represent his client was due to Hughes suffering from alcoholism at the time. **REPRIMAND April 1, 2002**, for violation of Model Rules 1.1, 1.3, 3.2, and 8.4(d).

WILLIAM BRUCE LEASURE, Bar No. 83109, Little Rock, Arkansas, CPC No. 2001-072. Complainant Yolanda Burnette was involved in a motor vehicle accident in 2000 and contacted the law office of Alvin Clay for representation. Not long thereafter she was approached at home by a man identifying himself as "Carlos." When Ms. Burnette asked if he was there for Mr. Clay, he said yes and she signed papers he brought. She later learned "Carlos" was not from Mr. Clay's office, and that the legal representation contract she signed was with the Leasure Law Firm. Ms. Burnette contacted William Bruce Leasure and tried to get him to release his attorney lien claim on her settlement proceeds. She terminated Leasure by letter and went to Mr. Clay for help. Clay declined to take her case so long as Leasure had an unreleased fee lien. She went back to Leasure, who told her he could settle the case with the insurance company for \$10,000. She asked Leasure for a loan of \$200 until her settlement funds arrived and Leasure gave her a check for the \$200. When the insurance funds were dispersed on August 15, 2001, Leasure gave Ms. Burnette a settlement sheet showing the case settled for \$6,500 and he would withhold \$2,926 to pay her medical bills. Ms. Burnette was thereafter contacted by Liberty Chiropractic and St. Vincent Hospital about her unpaid accounts arising from the accident. Leasure did not paid these providers until September 10, 2001, and then he paid St. Vincent only \$500 of the \$991 he showed it was owed in his settlement sheet. There is no indication who got the remaining \$491. Leasure denied any direct solicitation of Ms. Burnette. **REPRIMAND May 31, 2002**, for violation of Model Rules 1.3, 1.4(a), and 8.4(a) through 7.3(a).

WILLIAM BRUCE LEASURE, Bar No. 83109, Little Rock, Arkansas, CPC No. 2001-143. Complainant Ronald Henry advised the Committee that his minor son Isaac was involved in a motor vehicle accident in April 2001, and man identifying himself as "Curtis" came t the home, stated he was a representative of the Leasure Law Firm and could help Isaac get some money from the accident. Isaac said he told Curtis he was only seventeen, but Curtis signed him to a contract with the Leasure Law Firm. Ronald Henry learned of the matter, called Leasure, and advised Leasure's services were not needed and he would deal with the insurance company

himself. Mr. Henry met with the State farm representative and was told Leasure had filed an attorney's fee lien and would not release it. The Henrys went to Leasure office, where he told them he would release his lien claim for a \$200 cash payment from Henry. Mr. Henry paid the \$200 to Leasure, got the lien released, and then Mr. Henry proceeded to settle with State Farm. Leasure responded that ACA 18-42-102 permits him to contract with a minor for legal services, and that he had a valid lien which had not been voided. **REPRIMAND and FINED \$500 May 31, 2002**, for violation of Model Rules 7.3(a), 8.4(a) and 8.4(c).

WILLIAM BRUCE LEASURE, Bar No. 83109, Little Rock, Arkansas, CPC No. 2002-006. Richard Matthews, D.C. complained to the Committee that attorney Leasure had failed to honor his filed medical lien for services provided by Dr. Matthews to Leasure's client Ms. Fu in 2000. Leasure settled in January 2001 for Ms. Fu and \$1,856 for payment to Dr. Matthews was shown on Leasure's settlement sheet to her. When Dr. Matthews contacted Leasure about the status of his lien, Leasure told him he would send \$700 but Dr. Matthews would have to enforce his lien for the balance. Leasure's IOLTA trust account check to Dr. Matthews for \$1,322.00 on February 5, 2001, was refused at Dr. Matthews' bank for insufficient funds in Leasure's trust account. When the check was resubmitted two weeks later it was honored. Leasure responded to the Complaint that his checking account did not reflect any charge for any insufficient check. **REPRIMAND and FINED \$500 May 31, 2002**, for violation of Model Rules 1.15(b) and 1.15(d)(2).

GAIL LANETTE ANDERSON of Little Rock, Bar No. 95224, in CPC No. 2002-033, on July 23, 2002 was reprimanded on a judicial complaint from Circuit Judge David Bogard for violating Model Rules 1.3, 1.4(a), 3.2, 3.4(c) and 8.4(d). While representing a criminal defendant, Anderson failed to appear for several scheduled court proceedings, could not be contacted by the prosecuting attorney's office or the court for communication of a plea offer, and failed to appear for her client's sentencing hearing, among other allegations. Anderson answered that she had been occupied with her own medical problems and those of her mother during this period, and that she had not listened to her telephone messages or contacted her answering service.

GERALD CARLYLE of Newport, Bar No. 72019, in CPC No. 2001-129, on July 24, 2002, was reprimanded on a complaint by Cathy St. John for violating Model Rules 1.3, 3.2, 3.4(c), and 8.4(d). Carlyle represented Ms. St. John's ex-husband and, after a hearing, failed to timely prepare and submit an amendment to a divorce decree, as directed by the trial judge, thereby causing problems for the exercise of child visitation between the parties. Carlyle answered that personal problems had affected his ability to practice.

GERALD CARLYLE of Newport, Bar No. 72019, in CPC No. 2001-117, on July 24, 2002, was reprimanded on a complaint by Glenn Miller for violating Model Rules 1.2(a), 1.3, 1.4(a), 8.4(c), and 8.4(d). Carlyle failed to file a suit for his client Miller, failed to respond to client requests for information and status reports, caused his secretary to falsely advise the client of a court date in the non-existent suit, and failed to pay an agreed settlement in a small claims action against him by Miller to recover Miller's \$650 fee. Carlyle answered that personal problems had

affected his ability to practice.

RALPH A. DOWNS, III, of Little Rock, Bar No. 94023, in CPC No. 2002–035, on September 3, 2002, was reprimanded and ordered to pay \$500 restitution on a complaint by Matthew Hemphill for violating Model Rules 1.2(a), 1.4(a), 1.5(b), and 1.16(d). Hemphill hired Downs in January 2000 to represent him in pursuing a change of custody situation for his child who lived with Hemphill in California. Downs was slow to take any action, failed to get service on the ex-wife after he did file a petition, and could not be reached by his client for seven months. In March 2002, Hemphill asked for the return of his file and a refund of his retainer, which Downs failed to do.

KENNETH G. FUCHS, of Conway, Bar No. 81063, in CPC No. 2002-031, on September 3, 2002, was reprimanded and fined \$500 on a referral by the Arkansas Supreme Court for violating Model Rules 1.3, 3.4(c) and 8.4(d) in his representation of Warren Looney in CR 2001-1308. Fuchs failed to perfect an appeal he filed for Looney, and he did not get relieved as Looney’s attorney. Fuchs’ motion for belated appeal was granted. Fuchs failed to respond to the Committee’s complaint, so the allegations were deemed admitted.

KENNETH G. FUCHS, of Conway, Bar No. 81063, in CPC No. 2002-009, on September 3, 2002, was reprimanded and fined \$1,000 on a complaint by Paul Wayne McFall for violating Model Rules 3.1, 3.3(a)(1), 8.4(c) and 8.4(d). Mr. Kimble is married to Mr. McFall’s ex-wife. Kimble was charged with felonies in case No. CR-2000-1201. A “no contact” order was entered in domestic violence court requiring Kimble to stay away from McFall and McFall’s minor child. Fuchs filed a motion to intervene in a separate civil case styled *Paul McFall v. Keith Kimbell*, but placed it under docket No. CR-2000-1201. The motion to intervene stated that custody of the child had been changed to McFall’s ex-wife, Kimble had undergone drug treatment, and he no longer posed a danger to anyone. Fuchs never served McFall with the motion to intervene. He presented the motion and an order to the judge who approved it. McFall had to hire an attorney to rescind the order, which the court canceled upon learning of the circumstances. Fuchs failed to respond to the complaint, so the allegations therein were deemed admitted.

RICHARD LANE HUGHES, of Little Rock, Bar No. 82081, in CPC 2002-048, on July 31, 2002, was reprimanded and fined \$1,000.00 on a complaint by Helen Melbourne of Australia for violating Model Rules 1.3, 1.4(a), 1.4(b), 1.5(a), 8.4(a), and 8.4(d), and was fined an additional \$1,500.00 for failure to file a timely response. Hughes was hired by Melbourne in a criminal case in Federal court and quoted and was paid a \$50,000.00 fee, the last \$20,000.00 of the fee was to cover his services through trial. Melbourne’s husband was also charged but had separate counsel. In July 2001 the United States Attorney’s Office reported it was unable to contact Hughes to offer and discuss a misdemeanor plea bargain for Mrs. Melbourne. A new offer was made in October 2001, and Hughes briefly surfaced and then became unavailable again. In November 2001 the court finally authorized another attorney to enter an appearance on behalf of Mrs. Melbourne to complete the case. The final plea agreement required her to plead to a felony immigration offense. Hughes’ \$50,000 fee was held unreasonable, as he did not even assist his

client through the plea stage, much less through any trial.

JEFFREY H. KEARNEY, of Pine Bluff, Bar No. 91249, in CPC No. 2001-105, on July 25, 2002, was reprimanded on a complaint by Patricia Ann Davis for violating Model Rules 1.1, 1.3, 1.4(a), 1.4(b), 1.5(c) and 8.4(d). In 1996 Mr. Kearney took over from another attorney, now his former law partner, an employment suit filed in Federal court, and which was partially based on a contingency fee arrangement with the client. There was no written contingency fee agreement. A voluntary non-suit was granted in June 1997, on condition that if suit on the same claims was refiled, defendants were to be awarded their costs and attorneys fees for any duplicated work. In June 1998 Mr. Kearney refiled the same claim in state court. At that time the statute of limitations had already run to file the claim in state court. Problems arose in the suit which were not communicated to the client, and motions were not responded to. The state case was dismissed with prejudice in March 1999. The motion for sanctions was not ruled on by the state court.

JOHN L. KEARNEY, of Pine Bluff, Bar No. 74090, in CPC No. 2001-112, on August 28, 2002, was reprimanded, placed on probation with specific conditions for twelve (12) months after his probation in CPC No. 2000-138, through January 3, 2004, and ordered to pay restitution of \$1,500.00 and costs of \$138.94 on a complaint by Patricia Ann Davis for violating Model Rules 1.1, 1.3, 1.4(a), 1.5(c) and 8.4(d). The essential facts in this case are as reported in the matter of Jeff Kearney (above). John Kearney assigned the Davis case to Jeff Kearney.

ROBERT B. LESLIE of Little Rock, Bar No. 69044, in CPC No. 2001-135, on August 26, 2002, consented to a reprimand, payment of Committee costs of \$200.00 and restitution to his client's mother of \$10,000.00 of the fee she paid him to represent her son in an executive clemency matter, for violating Model Rules 1.4(a) and 1.15(a)(1). Jennifer Kerrisk of New Zealand paid Leslie the fee funds in August 1997 to represent her son James Middlebrook in a petition for executive clemency that was to be filed in the near future. Leslie did not place the funds in a trust account. He failed to respond to requests for information and status reports about the matter. Leslie answered that the petition was not to be filed until the client had served 5-6 years of his prison sentence, which started in mid-1997, that the client and his mother understood this, and that he stood ready to continue the representation, if the client so desired.

REGINALD SHELTON McCULLOUGH of Little Rock, Bar No. 85102, in CPC No. 2001-111, on August 22, 2002, consented to a reprimand and a \$500.00 fine on a complaint by Vandora Demery for violating Model Rules 1.3, 1.4(a), 1.4(b), 1.16(d), 3.4(c), and 8.4(d). McCullough was employed in 1999 to represent an unemployed Demery in an employment termination grievance hearing at the Department of Community Punishment. After an adverse administrative decision he filed suit for her in Federal court. Problems arose regarding responding to discovery and her delinquent account with McCullough. Contact problems existed for about a year. Demery checked at the courthouse in early 2001 and learned her suit had been dismissed, without her knowledge, for violations of the scheduling order relating to discovery. McCullough answered that Demery stopped cooperating with him after he filed the Federal suit.

MICHAEL A. PRICE of Sherwood, Bar No. 81133, in CPC No. 2001-145, on August 28, 2002, was reprimanded and fined \$750.00 on a complaint by Cleodis Gatson for violating Model Rules 1.3, 1.4(a), and 1.4(b). Gatson hired Price in March 2001 and paid him \$500.00 to provide Gatson with a detailed written legal memorandum about several issues, including intellectual property matters, concerning the Daisy Gatson Bates Estate, for which Mr. Gatson is the personal representative. No memorandum was every produced. Mr. Gatson had difficulty getting information and status reports from Price, and in getting information Gatson needed to make informed decisions about estate matters. Mr. Price answered that he gave Mr. Gatson sufficient verbal reports on the matter.

ALVIN L. SIMES of Forrest City and West Helena, Bar No. 89188, on July 8, 2002, was reprimanded on a complaint by Bobbie Jo Virgies for violating Model Rules 1.1, 1.3, and 1.4(a). Simes represented Virgies in a racial discrimination action filed in 1993 in Federal Court against an apartment complex and its owners. A jury trial in 1997 resulted in, *inter alia*, verdicts for \$23,000 against the apartment complex. This part of the judgment was set aside on post-trial motion when it was determined Simes had failed to obtain proper service on the complex by either personal service on its agent or by warning order. Simes had the complex owner's fifteen year old son served, but the court found this service ineffective. There was no appeal. The client did not learn this part of the total judgment of \$27,000 had been set aside until after she had filed her disciplinary grievance.

KENNETH E. SUGGS, of North Little Rock, Bar No. 71104, in CPC No. 2002-037, on September 3, 2002, was reprimanded on a complaint by Dorothy George for violations of Model Rules 1.2(a), 1.3, 1.4(a) and 1.8(e). George hired Suggs to represent her in a personal injury matter. After some time, she began to receive excuses for the lack of action in her matter. He never filed suit for her. He agreed to handle matters involving her medical providers from the incident but failed to do so and she was sued by at least one. Suggs filed an answer for her in that suit. When she contacted the insurance company and found Suggs had not been contacting them for some time, she terminated Suggs in both matters and got another attorney. Upon receiving her file from Suggs, she learned that for almost three years Suggs had agreed to make personal \$100 monthly payments to one of her medical providers pending settlement of her claim, but he had failed to make the payments. Suggs responded that George was a friend and his housekeeper, and he only agreed to make the medical payments because she was a friend, not his client. Such payments would constitute improper financial assistance to a client in connection with litigation of a personal injury claim.

J. F. VALLEY of Helena, Bar No. 96052, in CPC No. 2001-096, on July 6, 2002, was reprimanded on a referral by the Arkansas Supreme Court for violating Model Rules 1.3, 3.2, and 8.4(d) in the appeal of Etherly and Simes v. Eddy. Valley requested and received Supreme Court approval for an expedited appeal of this 2000 election contest action. Thereafter Valley was given nine (9) extensions to file appellants' brief but failed to timely file it. His motion to file a belated brief was denied and appellee's motion to dismiss was granted.

SAM WHITFIELD, JR. of Helena, Bar No. 82056, in CPC No. 2001-100, on September 10, 2002, was reprimanded and ordered to pay \$351 restitution and costs of \$25 on a complaint by Ramona Wren for violating Model Rules 1.3, 1.4(a), 1.16(d), and 8.4(c). Whitfield accepted a fee of \$1,000 in February 2001 from Mrs. Wren to represent her husband in an effort to seek a reduction in his sentence from the Jackson County Circuit Court. Whitfield did no work on the matter, never filed any pleadings, never contacted Mr. Wren in prison, and did not maintain contact with Ms. Wren, who hired him. He was terminated by Mrs. Wren, who requested a refund. Whitfield made a partial net fee refund totaling \$649 after being served with the complaint.

JOE KELLY HARDIN, Bar No. 78065, of Benton, Saline County, Arkansas, in CPC No. 2002-099, on a referral by the Supreme Court in No. CR2002-674, James Lord v. State, by Order filed November 12, 2002, for violations of Model Rules 1.3 and 8.4(d), was reprimanded for failing to timely file the appeal transcript.

JOSEPH D. HUGHES, Bar No. 97021, of Paragould, Greene County, Arkansas, in CPC No. 2002-038, by Order filed November 15, 2002, on a complaint by District Judge Dan Stidham of Paragould, was found to have violated Model Rules 1.3, 3.2, 3.3(a)(1), 8.4(a), 8.4(c), and 8.4(d) for his conduct as a public defender and in several criminal cases. He was held in contempt for failure to appear in court. He attempted to get Judge Stidham to recuse in all Hughes' cases in Stidham's court by claiming to have filed a complaint against Judge Stidham with the Arkansas Judicial Discipline and Disability Commission, when no such complaint had been filed.

JOSEPH D. HUGHES, Bar No. 97021, of Paragould, Greene County, Arkansas, in CPC No. 2002-050, by Order filed November 15, 2002, on a complaint by Chase and Jeff Holifield of Paragould, was found to have violated Model Rules 8.4(a) and 8.4(d) for his conduct in what was described as a "road rage" incident on October 27, 2000, on Highway 49 in Craighead County. After a moving encounter, Hughes assaulted Chase Holifield on the roadside, later called him at his workplace, and, after related criminal proceedings in Greene County, contacted Jeff Holifield and made assertions about the probable outcome of the pending criminal case in Craighead County involving Chase Holifield. Hughes was later found guilty of Assault II, a misdemeanor, on Chase Holifield in both Craighead Municipal Court and on appeal in Craighead Circuit Court. Hughes consented to a reprimand and probation for twelve (12) months subject to certain conditions.

JACK KEARNEY, Bar No. 77194, of Little Rock, Arkansas, in CPC No. 2002-002, by Order filed October 3, 2002, on a complaint by Francis Carson of Med-Tech Ambulance Service, for violations of Model Rules 1.3, 1.15(a), and 1.15(b), was reprimanded, fined \$500, and ordered to pay costs of \$60, arising out of his representation in 2001 of two clients in a motor vehicle collision matter in which Kearney settled the case, received funds, retained funds to pay two ambulance bills of \$485 each, failed for five months to notify the ambulance service of the settlement, did not pay the ambulance service until the complaint was filed, and had negative balances in his attorney trust account during the time period when he should have been holding

the \$970 belonging to the ambulance service.

CHERYL KATHLEEN SMITH MAPLES, Bar No. 87109, of North Little Rock, Arkansas, in CPC No. 2000-117, on a complaint by John Caldwell, an Arkansas inmate, by Order filed December 27, 2002, for violations of Model Rules 1.2(a), 1.3, 1.4(a), 1.4(b), 1.5(a), 1.16(d), and 3.4(c), arising from her representation of and dealings with Caldwell in 1999-2000, consented to a reprimand, \$800.00 client restitution, a 500.00 fine, and costs of \$50.00. Caldwell hired Maples in March 1999, and paid her to assist him with two medical issues while he was confined. The client had no further contact with counsel thereafter. Maples stated she was experiencing severe personal health problems at the time, and continuing, which prevented her from doing any work for Caldwell, and that she was unable to locate any file on his matter. Caldwell sued Maples in a local municipal court and got a default judgment against her for the amount of the fees he had paid.

JAMES M. PRATT, JR., Bar No. 74124, of Camden, Arkansas, in CPC No. 99-018, on a complaint by Dorothy Byrd of Hampton, Arkansas, by Order filed December 11, 2002, consented to a reprimand and payment of client restitution of \$1,186.96 and costs of \$79.06, for violations of Model Rules 1.1, 1.3, and 1.4(a). Pratt was hired to represent Mrs. Byrd and her husband in late 1994, filed suit for them in January 1996, and the matter was not concluded until a bench trial in June 2002, after a non-suit and many continuances. In the meantime, the husband's material testimony was not preserved and was lost when he died in February 2002, just before a scheduled trial date. The final outcome of the long-delayed trial was unfavorable to Ms. Byrd, based on her lack of evidence. Pratt refunded all his paid fee except actual suit expenses.

MICHAEL ANTHONY PRICE, Bar No. 81133, of Sherwood, Pulaski County, Arkansas, in CPC No. 2002-087, on a complaint by David Scott Curtis and David Ray Curtis, his father, for violations of Model Rules 1.3, 1.4(a), 1.4(b), 1.15(a), 1.16(d), 3.2, 7.3(a), 8.4(a), 8.4(c), and 8.4(e) was reprimanded, fined \$500 and ordered to pay \$2,000 restitution to the Curtises. Price was hired in July 2001 and paid \$3,200 to represent Scott Curtis in an effort to get him removed from residential confinement in the Arkansas Partnership Program of the State Hospital to a less restrictive environment. Price failed to place the client's funds in a trust account, and failed to refund the unearned balance when his services were terminated in April 2002. Price failed to take reasonable and timely action on behalf of his client.

CAUTIONS:

PATTY ANN LUEKEN, Bar No. 89161, Little Rock, Arkansas, CPC No. 2001-019. Attorney advertised briefly on her law firm website that she was "the only board-certified family law specialist in the state of Arkansas," and "1998 - Certification in Family Law (only Board Certified Family Law Specialist in the state of Arkansas)." Attorney is certified in family law by the National Board of Trial Advocacy, but Arkansas does not recognize a family law specialization under the current Arkansas Plan of Specialization. **Caution** January 16, 2002, for violating **Model Rule 7.4(c)**.

REGINALD SHELTON MCCULLOUGH, Bar No. 85102, Little Rock, CPC No. 2001-073. A Per Curiam order of July 9, 2001, granted a motion for rule on the clerk for Mark Latta, attorney's client, for whom attorney admitted responsibility for failing to timely file one of two criminal appeals. Attorney accepted responsibility before the Committee. **Caution** January 25, 2001, for violating **Model Rules 1.3 and 8.4(d)**.

STUART CARL VESS, Bar No. 73124, North Little Rock, Arkansas, CPC No. 2001-078. A Per Curiam issued October 4, 2001, stated attorney filed a timely notice of appeal for his criminal client but failed to perfect the appeal. Attorney responded by stating his client was indigent, could not pay for the transcript, and that the transcript was prepared once the client was found indigent. However, attorney was not notified by the clerk that the record was complete until the filing deadline had passed. The court directed attorney to get the record filed. Attorney admitted to the Committee it was his responsibility, as counsel of record, to get the record timely lodged. **Caution** February 27, 2002, for violating **Model Rules 1.3, 3.2, 3.4(c), and 8.4(d)**.

DANIEL E. WREN, Bar No. 90096, Little Rock. CPC No. 2001-116. A complaint by Phillip Wilson alleged attorney sent a solicitation letter to a workers' compensation client of Wilson, indicating the recipient received the letter because the firm sent them "to nearly all persons who have recent open Workers' Compensation claims. The Committee found the letter failed to properly disclose how the attorney obtained the information that the recipient had a case at the Workers' Compensation Commission. **Caution** February 25, 2002, for violating **Model Rule 7.3(d)**.

STEPHEN RICHARD SMITH, Bar No. 91177, Little Rock, CPC No. 2001-101. A complaint from Jennie Hudson alleged attorney mishandled the settlement of her personal injury suit and proper distribution of funds she was told to expect. She claimed attorney initially told her she would net \$6,922.33 from the \$13,500 settlement after all medical bills were paid and she signed a settlement agreement to this effect. This was confirmed in writing to client when the settlement check (only \$8,500) was received by attorney. Attorney later told client he made a mistake, the medical bills of \$5,000 had not been paid, and would be subtracted from the \$8,500 gross, leaving her to net \$1,900. Client rejected the offer. **Caution** February 28, 2002, for violating **Model Rule 1.1**.

ROBERT R. CORTINEZ, SR., Bar No. 73022, Little Rock, Arkansas, CPC No. 2001-058. Carolyn Russell of Pine Bluff complained that Cortinez charged her an unreasonable legal fee to assist in securing the release of her stroke-victim husband from Jefferson Regional Medical Center in July 2000. The Committee found the total fee of \$5,750 charged and paid was unreasonable for the services shown in the record. **CAUTION March 15, 2002**, for violation of Model Rule 1.5(a).

DALE WINSTON FINLEY, Bar No. 67017, Russellville, Arkansas, CPC No. 2001-090. Finley represented Mr. Brasel in trial of a criminal case and timely filed the notice of appeal. He failed to file the transcript when due and had to file a Motion for Rule on the Clerk, admitting his

error. The motion was granted and the Supreme Court referred the matter to the Committee. **CAUTION April 24, 2002**, for violation of Model Rules 1.3 and 8.4(d).

TIMOTHY ALAN GINN, Bar No. 93108, West Memphis, Arkansas, CPC No. 2001-110. Ginn, a public defender, represented Cannon, the complainant, at trial. They met for the first time on May 1, 1996, the day of trial, when Ginn advised Cannon of the State's twenty year offer. Cannon elected trial but could not obtain any street clothes to wear at trial. Cannon was forced to go to trial in prison clothes, was convicted, and requested an appeal, which Ginn filed. Cannon sought information about the status of his appeal from the appellate court clerk in June 1997, and was informed his conviction had been affirmed because of a flagrantly deficient abstract. Ginn responded to the Committee complaint that the Cannon file was missing from the office, it was his first appeal, and he thought it had been properly prepared because he had followed an example from another appeal done by the public defender's office. **CAUTION April 24, 2002**, for violating Model Rules 1.1, 1.3, 1.4(a) and 8.4(d).

Q. BYRUM HURST, JR., Bar No. 74082, Hot Springs, Arkansas. No. CPC 2001-127. Jacinto Henderson was convicted of capital murder in Craighead County and appealed his conviction, which was affirmed. Hurst represented Henderson in a post-conviction matter, and filed a timely notice of appeal from the trial court's adverse ruling. Hurst failed to lodge the transcript on time and filed a Motion for Rule on the Clerk, which was granted when he accepted responsibility for the error. The Supreme Court referred the matter to the Committee. **CAUTION April 19, 2002**, for violating Model Rules 1.3 and 8.4(d).

ANN C. DONOVAN of Fayetteville, Bar No. 78043, in CPC No. 2001-032, on August 27, 2002, on a complaint by Jim Harrelston for the Child Support Bureau of Texas, LLC, ("CSB") consented to a caution for admitted violations of Model Rules 1.3, 1.4(a), 1.15(a)(1), 1.15(b), 1.15(c), and 5.5(a). In early 2000, CSB retained Donovan, on behalf of its client Faber, to enforce an out of state child support order in favor of Faber. An Arkansas court later determined that the contract between Donovan and CSB was a contingency fee contract. Gross payments were to go first to Donovan, and then CSB was to get its net share from her. Donovan did not place funds ultimately belonging to CSB in any trust account; she did not act with reasonable diligence; she failed to keep her client informed of the status of the matter; she did not promptly deliver funds belonging to her client; and she was practicing law at a time when her license was suspended for failure to pay her annual license fee for the year 2000.

KENNETH G. FUCHS, of Conway, Bar No. 81063, in CPC No. 2002-005, on September 3, 2002, was cautioned and ordered to pay \$500 restitution on a complaint by Susan Summers for violating Model Rules 3.3(a)(1), 8.4(c) and 8.4(d). Without any prior notice or service of any petition on her, Ms. Summers received from Mr. Fuchs an order terminating child support she had been receiving. She had to hire an attorney to get the order set aside. Fuchs responded that a summer intern in his office must have dropped off at the judge's office, along with the petition Fuchs prepared, a "skeletal" order Fuchs was in the habit of preparing in such cases as a "go by" for his secretary to use in preparing the final order after the hearing.

JOHN FRANK GIBSON, JR., of Monticello, Bar No. 66021, in CPC No. 2002-034, on September 3, 2002, was cautioned and fined \$1,000 on a referral from the Arkansas Supreme Court for his handling of the appeal in CR-2001-1327, *Charles Lewis v. State*, for violations of Model Rules 1.3 and 8.4(d). Gibson responded that he sent the appeal transcript to the Clerk by UPS in time for it to be timely delivered, and it was not delivered on the last day. Gibson called the clerk and learned delivery had not been made. He drove another copy to Little Rock but arrived after the close of business on the last day. His motion for belated appeal was granted after he accepted responsibility for the late filing.

ALVIN SCHAY of Little Rock, Bar No. 75176, in CPC No. 2002-019, on July 22, 2002, was cautioned on a referral from the Arkansas Supreme Court for violating Model Rules 1.3 and 8.4(d) in failing to timely file the appeal transcript for his client in Wooten v. State, CR-2001-986 and thereby causing delay in the administration of justice.

JAMES SCOTT ADAMS, Bar No. 81001, of Morrilton, Conway County, Arkansas, in CPC No. 2002-078, on a referral from the Supreme Court, by Order filed October 3, 2002, consented to a caution for violating Model Rules 1.3, 3.4(c), and 8.4(d), arising out of his criminal representation of Robert Wayne Grady, for failing to timely file an appellate brief after three extensions were granted, including one labeled ‘final’ extension by the Court. Adams pled guilty, was found in contempt by the Court, and fined \$250. His brief was filed one week later.

MARVA J. DAVIS, Bar No. 83046, of Little Rock, in CPC No. 2002-061, by Order filed November 19, 2002, on a complaint by Treatha Maxwell, was cautioned, ordered to pay client restitution of \$450 and costs of \$50, for her conduct which violated Model Rules 1.2(a), 1.49a), and 8.4(d) in her representation of Ms. Maxwell in a bankruptcy matter in 2001-2002. Maxwell hired Davis in August 2001 to file a bankruptcy for Maxwell, paid a fee, and then Davis failed to file the petition. Maxwell had difficulty getting information from Davis and her office. In June 2002, Maxwell was getting calls from creditors. After the disciplinary complaint was served on her, Davis refunded Ms. Maxwell’s funds so she could hire another attorney.

DALE W. FINLEY, Bar No. 67017, of Russellville, Pope County, Arkansas, in CPC No. 2002-071, by Order filed November 12, 2002, on a complaint by Sylvia Boen, was cautioned for violations of Model Rules 1.3, 1.4(a), 3.2, 3.4(c) and 8.4(d) for his representation of Boen in a divorce and a bankruptcy in 1993-94.

KENNETH G. FUCHS, Bar No. 81063, of Conway, Faulkner County, Arkansas, in CPC No. 2002-059, on a referral from the Supreme Court in CR2001-1308, *Warren Looney v. State*, by Order filed November 5, 2002, was cautioned for violating Model Rules 3.4(c) and 8.4(d) and fined \$500 for failing to respond to the Committee’s complaint. Fuchs filed the notice of appeal but failed to lodge the appeal record. The defendant filed a pro se motion for belated appeal, which was later granted.

EUGENE B. HALE, JR., Bar No. 63021, of Prescott, Nevada County, Arkansas, in CPC No.

2002-065, by Order filed October 29, 2002, on a complaint by Mary Johnson, was cautioned for violating Model Rules 4.1(b) and 4.3 arising out of his dealings with Ms. Johnson, an unrepresented person, in his representation of her ex-boyfriend Billy Callahan on domestic battery charges. Johnson agreed with Hale's oral proposal for a certain disposition of her criminal charge against Callahan, if Callahan would pay for her medical expenses and \$5,000 for her pain and suffering, which payment Johnson and a witness said Hale assured her he would see took place. The agreement was carried out in the sentencing but Callahan never paid Johnson. Hale was unable to get Callahan to honor the agreement. Johnson obtained a default judgment against Callahan and is having his wages garnished. Hale denied there was an agreement for Callahan to pay Johnson.

JOE KELLY HARDIN, Bar No. 78065, of Benton, Saline County, Arkansas, in CPC No. 2002-080, by Order filed October 8, 2002, on a referral from the Supreme Court, was cautioned for his conduct in the case of Marvin Tull v. State, for violating Model Rules 1.3 and 8.4(d), for failing to timely perfect Tull's appeal by filing the record with the Supreme Court Clerk.

BOBBY D. McCALLISTER, Bar No. 91103, of Benton, Saline County, Arkansas, in CPC No. 2002-115, by Order filed November 15, 2002, on a complaint by Raymond Johnson of Homer, Louisiana, for events in 1998-1999, consented to a caution and payment of costs of \$50 and a fine of \$200, for violations of Model Rules 1.3, 1.4(a), and 3.2. In May 1998, McCallister filed suit in federal court for Johnson for claims arising out of a truck-train collision in Little River County, Arkansas, in May 1995. Johnson was unable to get status information on his matter from McCallister thereafter. McCallister failed to get service on the proper defendant(s), even after the court granted him an extension. In February 1999 the case was dismissed without prejudice, but McCallister failed to notify his client and in December 1999 also failed to inform another Arkansas attorney who contacted McCallister on behalf of Johnson. The statute of limitations ran and Johnson's claim became time-barred.

JENNIFER K. OWENS, Bar No. 2000139, of Little Rock, Arkansas, in CPC No. 2002-074, on a complaint by Mary Bobrowski, by Order filed October 31, 2002, consented to a caution for violating Model Rules 1.3, 1.4(a), 1.16(d), and 8.4(c) in her representation of Mrs. Bobrowski in a post-divorce matter in 2001. Owens failed to communicate with her client, failed to provide her client a copy of an order issued after her hearing, and failed to provide papers to the client upon termination of her private law practice, among other violations.

BYRON COLE RHODES, Bar No. 79186, of Hot Springs, Garland County, Arkansas, in CPC No. 2002-043, on a complaint by Debra Southern, by Order filed November 4, 2002, consented to a caution for violating Model Rules 1.3 and 1.5(a)(4), for failing to act diligently in his representation of Southern in an ancillary probate matter and in charging a \$4,937.00 fee that was not reasonable under the circumstances.

ROBERT L. SCULL, III, Bar No. 87155, of Little Rock, Arkansas, in CPC No. 2002-154, by Order filed on December 4, 2002, consented to a caution on a Per Curiam Order referral from the

Arkansas Supreme Court for failing to file the appeal record in CR 2002-955, Antonio Walker v. State, in a timely manner, thereby delaying appellate proceedings.

KENNETH ROBERT SHEMIN, Bar No. 78138, of Fayetteville, Arkansas, in CPC No. 2002-149, by Order filed on December 10, 2002, consented to a caution and paid a \$15,000.00 fine on a complaint by Lamar Pettus, and on which Shemin self-reported much of the detail, for three violations of Model Rule 1.15 concerning attorney trust accounts. No client funds were lost, and no client complained. Mr. Shemin entered into a settlement agreement for a client with a creditors group which, under the Model Rule, appeared to require him to maintain certain funds in a trust account, which he failed to do. On two occasions he deposited and later withdrew over time substantial sums of personal funds in his trust account, but at times when there were no client funds maintained in the same trust account.

G. CHRISTOPHER WALTHALL, Bar No. 74152, of Malvern, Hot Spring County, Arkansas, in CPC No. 2001-146, by Order filed November 4, 2002, on a self-referral, consented to a caution for violations of Model Rules 1.1 and 1.5(a) arising out of his representation of the Estate of Mary Voss in Hot Spring Probate Court in 1999-2001. Mr. Walthall failed to adequately investigate the actual ownership of a stock account of \$992,936, and included it as an estate asset from which he calculated his attorney fees and those of the co-executors, of which he was one, leading to an overpayment by the estate of attorney fees and executors fees of approximately \$50,000. He also failed to include \$62,484 in proceeds for timber cut from estate lands as an estate asset. He received fees in excess of those allowed by law and made a full refund of the excess fees. Pursuant to a later court ruling in the estate, he disgorged all fees he received from the estate.

ELLIOTT DION WILSON, Bar No. 94014, of Helena, Phillips County, Arkansas, in CPC No. 2002-046, by Order filed November 15, 2002, on a complaint by the Office of Professional Conduct from information in another complaint before the office, was cautioned for violations of 1.8(e), 8.3(b), 8.4(a), 8.4(d), and 8.4(f) for his conduct in 2001 with Sam Whitfield, Jr., a Helena attorney and District Judge. Wilson represented Whitfield in a child support matter in court in September 2001, and gave Whitfield, the local District Judge before whom Wilson and members of the law firm with which he was associated appeared, \$1,800.00 in cash so Whitfield could avoid going to jail for non-payment of child support that day. Wilson provided improper financial assistance to a client in litigation; failed to report misconduct by a judicial officer who accepted a prohibited gift; assisted a judicial officer in violating the Code of Judicial Conduct; and placed the judge in a position where he would likely have to disqualify in cases by members of Wilson's firm, thereby delaying the orderly administration of justice in those cases.