



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

**IN RE: MARTIN EMMETT LILLY**  
Arkansas Bar ID #90098  
CPC Docket No. 2012-082

**CONSENT FINDINGS & ORDER**

The formal charges of misconduct upon which this Consent Order is premised, involving respondent attorney Martin Emmitt Lilly of Jonesboro, Craighead County, Arkansas, arose from information brought to the attention of the Committee on Professional Conduct by Donald Weaver.

The facts are:

1. On October 16, 2001, Christy McWilliams, age 26, of Blytheville, Arkansas, was killed in an auto-truck collision in Mississippi County, Arkansas. In November 2001, David Rees of Jonesboro was employed to represent the McWilliams estate for a fee of 33% of any recovery.
2. On November 20, 2001, Rees opened probate administration for the estate of Christy McWilliams as Mississippi County Probate No. P2001-158. Her parents, Don and Angela Weaver, were appointed as co-administrators, and the Rees employment agreement was approved. Christy McWilliams was survived by two minor sons, Damian McWilliams (then nine) and Devin McWilliams (then seven), and her estranged husband, Glenn McWilliams of Texas.
3. In August 2002 a pre-litigation settlement was concluded with J. W. Githens, a Missouri road contractor, by which \$1,200,000 was paid to the McWilliams Estate. After legal fees and five cash payments to various family members, the settlement balance was used to purchase structured annuities for the two minor McWilliams sons.
4. On September 13, 2002, Rees filed a civil suit, Mississippi Circuit No. CV-2002-308, for both the McWilliams Estate and for the Guardianship estate of vehicle passenger Randall James against Utley, Inc., which owned the truck that struck the vehicle in which McWilliams, James,

and Deason were riding in October 2001. Utley removed the suit to federal court, as No. 02-cv-383 (ED-AR).

5. By Stipulation filed July 13, 2004, all parties announced that all claims had been settled, and requested dismissal with prejudice. McWilliams probate filings by Lilly in June-August 2004 indicate Utley paid \$150,000 to settle this claim. Of the \$85,000 left after deduction of legal fees and expenses, \$29,750 for each McWilliams minor son was to be deposited into a restricted-access guardianship bank account.

6. Lilly opened a guardianship case, Mississippi Probate No. 2004-149, on December 2, 2004, with Glenn McWilliams and Don Weaver as co-guardians. The \$59,500.00 was ordered deposited into Northeast Arkansas Federal Credit Union (NEAFCU) with an agreement by the NEAFCU that no distributions would be made without a court order. On November 6, 2008, an "Acceptance and Acknowledgment of Deposit" document signed by an NEAFCU representative was filed, accompanied by two "receipts" from NEAFCU indicating Donald Weaver allegedly had opened accounts there for each of the two minor sons, stating a \$29,750 deposit had been received for each account, and showing the separate account numbers for each young man.

7. In Late 2011, after Damian McWilliams turned eighteen, the Weavers contacted NEAFCU about his funds there. They were told there was no record of any such accounts, for either young man. In the further course of their efforts, contact was made with their former attorney, Lilly. Eventually Lilly went to the Weaver residence in Manila, Arkansas in late November-early December 2011, and admitted to the Weavers that he could not find the funds and he was responsible for making good on the missing funds and would do so. The Weavers contacted Blytheville attorney Robert "Bobby" Coleman with this information. Coleman passed it on to the Office of Professional Conduct (OPC), which started an investigation. Lilly was contacted by OPC in October 2012.

8. On November 7, 2012, Lilly conceded to OPC that Lilly could not account for the McWilliams minors' \$59,500.00 actually leaving his client trust account and being deposited into the NEAFCU accounts as court-ordered in late 2004, although he found an unnegotiated Lilly trust check dated June 20, 2005, that purported to show the \$59,500 as being paid out. Lilly admitted his overall trust account balance fell to about \$23,000 by May 2007, when he moved it to another bank. He admitted the McWilliams \$59,500 was not in his trust account after that date, and appeared to have been used by him for other purposes.

9. By letter of November 8, 2012, OPC wrote to Lilly summarizing their recent telephone conversations about Lilly's client trust account and the McWilliams sons' missing \$59,500.00. By e-mail, Lilly acknowledged receipt of this letter and stated he would "make every effort to get this resolved."

10. Lilly was requested to promptly replace the missing \$59,500. On November 28, 2012, by check Lilly tendered \$70,000 in funds to Bobby Coleman as the representative of Don Weaver, as guardian for Damian and Devin McWilliams, for the \$59,500.00 in their funds Lilly admits has been missing since from his client trust account, plus some interest.

Following Respondent Attorney's receipt of the formal complaint, the attorney entered into discussion with the Executive Director which has 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 (2012). 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:

A. The conduct of Martin E. Lilly violated Rule 1.3 in that from the entry of a court order on December 2, 2004, directing Lilly to deposit \$59,500.00 of his clients' funds into a

restricted account at a financial institution, until November 2012, Lilly failed to properly deal with these funds, and in fact either “lost” these funds somewhere along the way, or used them for other purposes, and had to borrow funds in November 2012 to replace the missing client funds. Arkansas Rule 1.3 requires that a lawyer shall act with reasonable diligence and promptness in representing a client.

B. The conduct of Martin E. Lilly violated Rule 1.15(b)(1) in that Lilly had the McWilliams minors’ settlement funds from the “Utley” case in his client trust account, including the \$59,500.00 the court ordered in December 2004 be placed in a restricted bank account, and Lilly failed to maintain the \$59,500.00 in either his client trust account or transfer these funds to a restricted bank account. His overall client trust account balance subsequently dropped as low as about \$23,000 by May 2007. He admits the McWilliams \$59,500.00 was no longer in his client trust account by 2011, and that he was responsible for making good those missing funds, which he did in November 2012 with \$70,000.00 in borrowed funds. Arkansas Rule 1.15(b)(1) funds of a client shall be deposited and maintained in one or more separate, clearly identifiable trust accounts in the state where the lawyer’s office is situated, or elsewhere with the consent of the client or third person.

WHEREFORE, in accordance with the consent to discipline presented by Mr. Lilly and the Executive Director, it is the decision and order of the Arkansas Supreme Court Committee on Professional Conduct that Respondent Martin Emmett Lilly, Arkansas Bar No. 90098, be, and he hereby is, **REPRIMANDED** for his conduct in this matter and assessed \$50.00 costs. The \$50.00 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 Consent 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 Stephen R. Crane  
Stephen R. Crane, Panel B Chairperson

Date 10 - 18 - 14