

BEFORE THE SUPREME COURT COMMITTEE ON PROFESSIONAL CONDUCT  
PANEL A

IN RE: WILLIAM SCOTT DAVIDSON  
Arkansas Bar ID #81044  
CPC Docket No. 2005-117

FINDINGS AND ORDER

The formal charges of misconduct upon which this Findings and Order is based arose from information provided to the Committee by Milt Clegg on December 2, 2004. The information related to the representation of EPSCO, Inc. in 2000-2005 by Respondent W. Scott Davidson, an attorney practicing primarily in Jonesboro, Craighead County, Arkansas. On September 10, 2005, Respondent was served with a formal complaint, supported by affidavits from Milt Clegg of EPSCO, attorney Angela Gray, and court reporter Laura Bowen. Based on additional information developed from Mr. Davidson's Response and other sources, on October 7, 2005, an Amended Complaint was served on him, containing an additional affidavit from Rene Herndon, Deputy Supreme Court Clerk.

W. Scott Davidson was hired in November 2000 by EPSCO, Inc. (now Wise Staffing Services, Inc.) of Tupelo, MS, to pursue a claim against three individuals and a company ("Chavers") in Jonesboro, AR. He obtained a default judgment for \$18,629 against Gary Chavers and also a judgment, affirmed on appeal, of \$80,360 against sons Reggie and Mark Chavers and the Chavers company. At Davidson's request, in March 2003 EPSCO sent him a \$500 check for expenses for depositions of the Chavers to attempt to discover assets against which the judgments might be collected. EPSCO had difficulty obtaining status reports from Davidson about this matter. In February 2004 he communicated to EPSCO a \$25,000 settlement offer from the Chavers' attorney. EPSCO informed Davidson that to be able to properly evaluate the offer, it needed the information he was to obtain by deposition as to their assets. Davidson finally took the Chavers depositions in June 24, 2004. The transcripts were delivered to him in late July 2004, along with the reporter's billing for \$355.50, which she stated remained unpaid by Davidson as of the date of her affidavit to this complaint, August 28, 2005.

EPSCO again had difficulty obtaining status reports from Mr. Davidson about this matter. In late March 2005, he finally provided copies of the depositions to EPSCO. On April 5, 2005, EPSCO wrote him terminating his services in this matter and directing him to provide the file to Arkansas attorney Angela Gray, which he did not do for some time. The Office of Professional Conduct wrote him about EPSCO's complaints on December 31, 2004, and July 6, 2005, requesting his cooperation with the client/former client. On October 3, 2005, Davidson tendered a non-trust account check for \$108.66 to EPSCO for the unused balance of the \$500.00 cost advance with his Response to the Complaint. He paid the court reporter \$355.50 for the depositions about the time he filed his response on October 3, 2005. There is no indication on the client's \$500.00 check endorsement that he deposited this client advance of expenses into a trust account. He misinformed the client in a letter of November 21, 2003, that he had garnished the Chavers brothers' wages, when in fact no garnishments are shown as issued for them by the case docket until March 24, 2005.

Mr. Davidson failed to pay his annual Arkansas law license renewal fee to the Arkansas Supreme Court for the years 2003, 2004 and 2005. The annual license fee was due by March 1 each year. An Arkansas attorney who does not timely pay this annual license fee automatically has his or her Arkansas law license administratively suspended on March 2 of the year. He actively represented EPSCO, Inc. and provided it legal services in Arkansas during 2003-2005, including participating on its behalf in an appeal, when his Arkansas law license was suspended and he was not permitted to practice law as a result. Upon consideration of the formal complaints and attached exhibit materials, the response, and other matters before it, and the Arkansas Model Rules of Professional Conduct, Panel A of the Arkansas Supreme Court Committee on Professional Conduct finds:

A. Mr. Davidson's conduct violated Model Rule 1.2(a), in that his client directed and paid him \$500.00 in March 2003 to take asset discovery depositions of the Chavers, and he failed to do so until June 2004. After the large judgment was affirmed in February 2003, the client directed him to issue garnishments for the debtors and he failed to timely do so. Model Rule 1.2 (a) requires that a lawyer shall abide by a client's decisions concerning the objectives of representation, subject to paragraphs (c), (d) and (e), and shall consult with the client as to the means by which they are to be pursued.

B. Mr. Davidson's conduct violated Model Rule 1.3, in that he failed to act with reasonable diligence and promptness in deposing Mark and Reggie Chavers. He failed to act with reasonable diligence and promptness in garnishing Mark and Reggie Chavers. Model Rule 1.3 requires that a lawyer shall act with reasonable diligence and promptness in representing a client.

C. Mr. Davidson's conduct violated Model Rule 1.4(a), in that he failed to timely respond to numerous requests from his client EPSCO for status reports and information about the pending legal matter. Model Rule 1.4(a) requires that a lawyer shall keep a client reasonably informed about the status of a matter and promptly comply with reasonable requests for information.

D. Mr. Davidson's conduct violated Model Rule 1.4(b), in that he failed to advise EPSCO before March 2003 that circumstances and situations not involving EPSCO might cause him to not depose the Chavers until June 2004, and then not provide copies of the depositions to EPSCO until March 2005, causing the client to lose the opportunity to consider employing other counsel to represent the client in the matter and possibly receive the relief the client sought earlier. He failed to advise EPSCO before November 2003 that circumstances and situations not involving EPSCO might cause him to fail to issue garnishments on the Chavers sons as the client desired until March 2005, causing the client to lose the opportunity to consider employing other counsel to represent the client in the garnishments and possibly receive the relief the client sought earlier. Model Rule 1.4(b) requires that a lawyer shall explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation.

E. Mr. Davidson's conduct violated Model Rule 1.15(a) in that he failed to deposit into a trust account the \$500 check from EPSCO for advance expense of depositions he was to take for EPSCO. Model Rule 1.15(a) requires that a 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.

F. Mr. Davidson's conduct violated Model Rule 1.16(d), in that after EPSCO terminated his services on April 5, 2005, he failed to account for or refund to the client the \$500.00 in advance expense payment he received from the client in March 2003 for the Chavers' depositions, which he had not paid for at the time. After EPSCO terminated his services on April 5, 2005, he failed to timely provide a copy of the client's file to new counsel, as requested by the client. Model Rule 1.16(d) requires that upon termination of representation, an attorney shall take steps to the extent reasonably practicable to protect the client's interests, such as giving reasonable notice to the client, allowing time for employment of other counsel, surrendering papers and property to which the client is entitled and refunding any advanced payment of fee that has not been earned.

G. Mr. Davidson's conduct violated Model Rule 8.4(c), in that since July 29, 2004, he failed to pay the court reporter's \$355.50 bill for the Chavers' depositions he took in June 2004, even though your client sent you \$500.00 in March 2003 to pay such expense. By letter of November 21, 2003, he advised his client that he had garnished the Chavers' wages, when he had not taken such action then and have not since then. Model Rule 8.4(c) requires that a lawyer shall not engage in conduct involving dishonesty, fraud, deceit or misrepresentation.

H. Mr. Davidson's conduct violated Model Rule 3.4(c), in that he failed to comply with Rule VII of the Arkansas Supreme Court Rules Governing Admission to the Bar by failing to pay his annual license fee for the year 2003. He failed to comply with Rule VII of the Arkansas Supreme Court Rules Governing Admission to the Bar by failing to pay his annual license fee for the year 2004. He failed to comply with Rule VII of the Arkansas Supreme Court Rules Governing Admission to the Bar by failing to pay his annual license fee for the year 2005. Model Rule 3.4(c) requires that a lawyer shall not knowingly disobey an obligation under the rules of a tribunal except for an open refusal based on an assertion that no valid obligation exists.

I. Mr. Davidson's conduct violated Model Rule 5.5(a), in that he practiced law in Arkansas from March 2, 2003, to at least October 7, 2005, at all times when his Arkansas law license was administratively suspended due to his failure to pay the required annual Supreme Court license fee. Model Rule 5.5(a) provides that a lawyer shall 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 A, that W. Scott Davidson, Arkansas Bar ID# 81044, be, and hereby is, reprimanded for his conduct in this matter, fined \$1,000.00, and assessed Committee costs of \$50.00. 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: \_\_\_\_\_

Phillip D. Hout, Chair, Panel A

Date: \_\_\_\_\_