

BEFORE THE SUPREME COURT COMMITTEE ON PROFESSIONAL CONDUCT
PANEL A

IN RE: STEPHEN GREGORY HOUGH

Arkansas Bar ID #84077

CPC Docket No. 2005-118

FINDINGS AND ORDER

The formal charges of misconduct upon which this Findings and Order is based arose from information provided to the Committee by Harriet Jo Lembi of California in July 2005. The information related to the representation of Ms. Lembi in 2005 by Respondent Stephen Gregory Hough, an attorney practicing primarily in Fort Smith, Sebastian County, Arkansas. In September 2005 Respondent was served with a formal complaint, supported by affidavits from Harriet Lembi, Thomas Zovich, Charles Harwell and Denise Parks.

Respondent failed to pay his 2005 Arkansas license fee on March 1, 2005, and his Arkansas law license was automatically suspended from March 2, 2005, until he paid the 2005 fee on August 10, 2005. He practiced law in Arkansas and received fee funds on this matter while his law license was in suspended status.

Harriet Lembi of California hired Respondent on March 7, 2005, to transfer title to Arkansas lands from one trust to another and to get an appraisal on the land. He told her ancillary probate administration would be required in Arkansas to accomplish the title transfer, legal advice that was not accurate. She told him time was of the essence in completing the matter and he accepted the employment. She paid Hough \$2,500 for his services, the appraisal, and any costs associated with the matter. He did not place the funds in a trust account to be held until the expenses were incurred and he earned the legal fees. After paying him, Ms. Lembi tried repeatedly without success to contact him and obtain information from him about this matter. She terminated his services on April 28, 2005, by letter and telephone call to his office and demanded a refund of the \$2,500 upon not having evidence he had done anything he told her he would. She contacted attorney Charles Harwell who transferred title by means of a recorded deed for a total \$101.66 in fees and costs. Ms. Lembi personally made arrangements for an appraisal and paid \$225.00 for it. Mr. Hough performed no services and incurred no expense in this matter and has failed to make any refund to Ms. Lembi.

Upon consideration of the formal complaint and attached exhibit materials, the response to it, 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. Hough's conduct violated Model Rule 1.1, in that he demonstrated his lack of legal knowledge when he mistakenly told Ms. Lembi ancillary probate administration was required in Arkansas to transfer title to land from one trust to another, and charged her a fee of almost \$2,500 to attempt to effect such a transfer. A deed was all that was required to make such a transfer of title. Model Rule 1.1 requires that a lawyer shall provide competent representation to a client. Competent representation requires the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation.
- B. Mr. Hough's conduct violated Model Rule 1.3, in that his client told him on March 7, 2005, that time was of the essence in her new legal matter and yet he took no action on it up to the time she discharged him April 28, 2005. Model Rule 1.3 requires that a lawyer shall act with reasonable diligence and promptness in representing a client.
- C. Mr. Hough's conduct violated Model Rule 1.4(a), in that Ms. Lembi and Mr. Zovich tried repeatedly to contact him and obtain information from him in March-April 2005, yet he failed to return their calls or provide appropriate information. 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. Hough's conduct violated Model Rule 1.15(a), in that he failed to place Ms. Lembi's advance payment of the appraisal fee and other costs in his trust account until these costs were expended. He failed to place Ms. Lembi's advance payment of fees for his legal services in his trust account until these fees were earned by him. 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. Funds of a client shall be deposited and maintained in one or more identifiable trust accounts in the state where the lawyer's office is situated, or elsewhere with the consent of the client or third person.
- E. Mr. Hough's conduct violated Model Rule 1.16(d), in that he failed to return the unearned legal fee portion of the \$2,500 paid him by Ms. Lembi when she terminated his services. He failed to return the portion of the \$2,500 paid him by Ms. Lembi for the property appraisal and any other costs associated with the legal matter when she terminated his services. 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.
- F. Mr. Hough's conduct violated Model Rule 3.4(c), in that he failed to pay his 2005 Arkansas bar license fee by March 1, 2005, as required by Arkansas Supreme Court Rule VII.C, Rules Governing Admission to the Bar. 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.
- G. Mr. Hough's conduct violated Model Rule 5.5(a), in that he failed to pay his 2005 Arkansas Bar license fee by March 1, 2005, as required by Arkansas Supreme Court Rule VII.C, Rules Governing Admission to the Bar, resulting in the automatic suspension of his Arkansas law license from March 2, 2005, until August 10, 2005, when he paid his 2005 license fee. He practiced law, including on Ms. Lembi's matter, while his license was suspended during this time period. 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.
- H. Mr. Hough's conduct violated Model Rule 8.4(c), in that he accepted employment and fees from a new client after his Arkansas law license was in suspended status and did not tell the client of this suspension and that he could not practice law for her during this time. Model Rule 8.4(c) requires that a lawyer shall not engage in conduct involving dishonesty, fraud, deceit or misrepresentation.

WHEREFORE, it is the decision and order of the Arkansas Supreme Court Committee on Professional Conduct, acting through its authorized Panel A, that Stephen Gregory Hough, Arkansas Bar ID# 84077, be and his privilege and Arkansas license to practice law is hereby suspended for twelve (12) months for his conduct in this matter. He is ordered to pay \$2,500.00 restitution for the benefit of Harriet Jo Lembi. He is ordered to pay Committee costs of \$50.00. Respondent

is also referred to, ordered to report within thirty (30) days to, and ordered to participate in the Arkansas Lawyer Assistance Program (ArLAP), and to authorize ArLAP to provide to the Committee, through the Office of Professional Conduct, all information in his ArLAP file. Failure to comply with the ArLAP referral order and the ArLAP program designed for Respondent may be treated as a contempt of this Committee Order and of the Supreme Court under Section 27 of the Supreme Court's Procedures Regulating Professional Conduct of Attorneys at Law. The suspension shall become effective on the date this Findings and Order is filed of record with the Clerk of the Arkansas Supreme Court. The costs and restitution 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: _____