

2005 Annual Report

Arkansas Supreme Court

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

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I. Introduction

Authority: 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.

History: Amendment 28 to the Arkansas Constitution was adopted by the voters in 1938. The amendment placed with the Arkansas Supreme Court the authority to regulate the practice of law in Arkansas and to regulate, and thereby discipline, attorneys. In 1939 the Bar Rules Committee, an entity of the Arkansas Bar Association and the forerunner of the present Committee on Professional Conduct, was established. In 1940 the Canons for Professional Conduct of Lawyers was approved. The Arkansas version of the American Bar Association’s Model Code of Professional Responsibility was first adopted by the Arkansas Supreme Court in 1970. A revised version of the Code became effective July 1, 1976. The Arkansas version of the American Bar Association’s Model Rules of Professional Conduct was adopted by the Arkansas Supreme Court and became effective January 1, 1986. Various revisions have been made to the Arkansas version of the Model Rules since 1986. Comprehensive revisions became effective May 1, 2005, as the Arkansas Rules of Professional Conduct, now found at pages 1091-1207 of the 2006 Court Rules Volume of the Arkansas Code.

II. Structure

1. COMMITTEE ON PROFESSIONAL CONDUCT

For the year 2005, the Committee continued to operate in the new model of three Panels established by the January 1, 2002, revisions to the Procedures. Each panel is 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 2005 was as follows:

Panel A: Gwendolyn Hodge, Little Rock, Attorney at Large, Panel A Chair
 Win A. Trafford, Pine Bluff, Attorney, Fourth Congressional District
 Phillip Hout, Newport, Attorney, First Congressional District,
 Bart F. Virden, Morrilton, Attorney, Second Congressional District
 Jerry Pinson, Harrison, Attorney, Third Congressional District
 Dr. Patricia Youngdahl, Little Rock, Non-attorney at Large
 Helen Herr, Little Rock, Non-attorney at Large

Panel B: Richard F. Hatfield, Little Rock, Attorney, Second Congressional District
J. Michael Cogbill, Fort Smith, Attorney, Third Congressional District,
and Panel B Chair
Harry Truman Moore, Paragould, Attorney, First Congressional District
Valerie L. Kelly, Jacksonville, Attorney at Large
John L. Rush, Pine Bluff, Attorney, Fourth Congressional District, Panel B Chair
Dr. Rose Marie Word, Pine Bluff, Non-attorney at Large
Sylvia S. Orton, Little Rock, Non-attorney at Large

Panel C: Justice (Ret.) David Newbern, Little Rock, Attorney at Large and Panel C Chair
Kenneth R. Mourton, Fayetteville, Attorney, Third Congressional District
Searcy Harrell, Jr., Camden, Attorney, Fourth Congressional District
Phillip D. Hout, Newport, Attorney, First Congressional District
Robert D. Trammell, Little Rock, Attorney, Second Congressional District
Beverly Morrow, Pine Bluff, Non-attorney at Large
Rita M. Harvey, Little Rock, Non-attorney at Large

2005 Executive Committee:

Richard F. Hatfield, Attorney, Committee Chair
Valerie Kelly, Little Rock, Committee Secretary
Bart F. Viriden, Little Rock, Panel A Chair
J. Michael Cogbill, Fort Smith, Panel B Chair
Justice (Ret.) David Newbern, Little Rock, Panel C Chair

Panel C primarily serves: (1) as the review panel for dismissals of complaints by the staff, (2) as a third hearing panel as needed, and (3) 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.

2006 COMMITTEE MEETING CALENDAR:

January 20, 2006	Panel A
February 17, 2006	Panel B
March 17, 2006	Panel A
April 21, 2006	Panel B
May 19, 2006	Panel A
June 16, 2006	Panel B
July 21, 2006	Panel A
August 18, 2006	Panel B
September 15, 2006	Panel A
October 20, 2006	Panel B
November 17, 2006	Panel A
December 8, 2006	Panel B

2. OFFICE OF PROFESSIONAL CONDUCT

The Committee employs an attorney Executive Director and staff who function as the Office of Professional Conduct, which is 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 budget of the Committee and Office for 2005-06 is over \$600,000, totally funded by a portion of the annual license fee paid by Arkansas-licensed attorneys to the Arkansas Supreme Court.

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 2005 were Nancie M. Givens - Deputy Director, Michael E. Harmon - Senior Staff Attorney, and Ann R. Dodson - Staff Attorney.

In calendar 2005, the staff presented a number of “continuing legal education” programs or speeches on law-related topics across the state.

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 to anyone. The Office does provide information, where it is available and can be done without being advice or legal opinion.

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 2005 calendar year, the office sent 1,513 grievance forms to complainants requesting one, down from 1,971 mailed out in 2004.

During the 2005 calendar year, the Office received 942 written complaints (18 assigned to UPL), down from 1,070 received in 2004. The great 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.

In 2005, following assigned review by staff attorneys of 826 disciplinary complaints received in calendar year 2005 (up from 801 in 2004), and carry-over cases from previous years:

- 645 complaints were found not to have a sufficient basis for a formal complaint; (NPC)*
- 108 complaints were closed after investigation by staff attorneys;
- 45 complaints were closed following an informal letter to the reported attorney;
- 10 complaints were withdrawn by the complaining party;
- 4 complaints had no affidavit from the complaining party returned to the Office;
- 4 complaints were referred to outside agencies;
- 4 complaints were merged into petitions of surrender of license by the attorney;
- 4 complaints were merged into petitions of disbarment;
- 2 were abated by the death of the attorney;
- 10 reinstatement petitions were filed;
- 2 interim suspension petitions were filed;
- 0 petition for transfer to inactive in lieu of discipline was filed;
- 9 petitions for surrender were received and approved;
- 2 disbarment actions were initiated from filed complaints; and,
- 148 new formal complaints were filed. (17.9% of files reviewed by staff attorneys, down from 20.4% in 2004)

* default category for staff actions closing grievance files

IV. Formal Actions Initiated

In 2005, there were 159 new formal discipline cases opened for the Committee on Professional Conduct for action, down from 164 in 2004. Of the 159 cases, 148 became new formal complaints, 12 were Petitions for Reinstatement, 3 were Petitions for Interim Suspension, 7 were Petitions to Surrender Law License, and 2 of the formal complaints became disbarment actions.

V. Final Committee Actions

Final action was taken in 181 different files involving Arkansas attorneys during Calendar Year 2005 by the Committee on Professional Conduct or, in cases of disbarment, by the Arkansas Supreme Court. Of the 181 finalized cases in 2005, three (3) were from 2002 cases, eight (8) from 2003 cases, fifty-five (55) from 2004 cases, and 115 from 2005 cases. Thirteen (13) 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. 2005 COMMITTEE DISPOSITION STATISTICS - see Appendix A for case summaries

Type Action	Panel A	Panel B	Panel C	Total
No Actions	5	13	0	18
Warnings	11	22	0	33
Cautions	20	21	0	41
Reprimands	14	17	0	31
Suspensions	4	5	0	9
Interim Suspensions	2	6	0	8
Surrenders	4	2	0	6
Merged into Surrender	4	1	0	5
Initiate Disbarment	3	4	0	7
Dismissed on motion	4	0	0	4
Abated by death				2
Voluntary resignations	3	3	0	6
Voluntary Inactive	0	0	0	0
Consents*	21	30	0	51
Consents denied*	1	0	0	1
Reinstatements	8	5	0	13
Reinstatement denied	2	0	0	2
To Involuntary Inactive	0	1	0	1
Reconsideration denied	0	0	0	0
ARLAP Referral	0	0	0	0

* This number is included in other types of dispositions

Disciplinary Dispositions	No.	%
No Action	18	11.7%
Dismissed on motion	4	2.6%
Warning	33	21.4%
Caution	41	26.6%
Reprimand	31	20.1%
Suspension	9	5.8%
Surrender or	6	3.9%
Merged into same	5	3.2%
Disbarment	7	4.5%
Abated by death	0	0%
Total	154	100%

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

2. SIX YEAR STATISTICAL COMPARISON 2000-2005
(Unofficial)

Category	2000	2001	2002	2003	2004	2005
Written complaints rec'd	985	1,114	1,186	1,082	1,070	942
Closed by staff action	832	691	737	825	796	868
Formal Complaints filed	149	149	186	200	164	159
Supreme Court Referrals	38	34	45	50	40	34
Other Judicial Complaints	10	13	12	12	8	8
Other from Court Records					24	7
Formal Complaints closed	132	135	178	185	211	181
No Actions	15	12	30	15	24	18
Warnings	43	45	53	54	38	33
Cautions	29	14	31	28	53	41
Reprimands	24	26	35	37	36	31
Suspensions	12	19	14	20	9	17
Surrenders	5	13	5	5	11	6
Merged into surrender			1	14	29	5
Disbarments initiated	4	6	3	3	3	7
Reinstatements granted	3	3	3	8	10	13
Consent dispositions	N/R	13	35	54	71	51
ArLAP Referrals	N/A	N/A	2	0	0	1
# Attys Publicly Sanctioned*	N/R	57	61	72	101	102

* includes several attorneys with multiple separate sanctions

N/R - not recorded. Some of this information is available from a manual review of old files, but limited staff time and other priorities has not allowed it to be compiled yet.

VI. 2005 - Most Common Rule Violations

In the 2005 findings of the Committee on Professional Conduct Panels, as in 2004, 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, the number of times the Committee found the rule to have been violated, and ranking of the ten most frequently violated Rules.

Arkansas Rule #	# Alleged	# Found	Rank (# Found)
1.1	37	21	8
1.2(a)	47	26	5
1.3	98	64	1
1.4(a)	46	32	3
1.4(b)	23	11	10
1.5(a)	4	2	
1.5(b)	5	4	
1.5(c)	10	7	
1.5(e)	0	0	
1.6	0	0	
1.7(a)	3	1	
1.7(b)	4	1	
1.8(a)	0	0	
1.8(b)	0	0	
1.8(c)	0	0	
1.8(e)	1	1	
1.8(j)	0	0	
1.9(a)	0	0	

1.9(b)	0	0	
1.9(c)	1	1	
1.10(a)	0	0	
1.11	1	0	
1.11(b)	1	0	
1.12(a)	0	0	
1.15(a)	26	22	7
1.15(b)	16	14	9
1.15(c)	2	2	
1.15(d)	1	1	
1.15(f)	0	0	
1.16(a)	0	0	
1.16(b)	0	0	
1.16(d)	19	9	
2.1	1	0	
3.1	3	1	
3.2	10	7	
3.3(a)(1)	7	1	
3.3(a)(2)	0	0	
3.3(a)(4)	2	0	
3.4(a)	0	0	
3.4(b)	0	0	
3.4(c)	42	27	4
3.5(a)	1	0	
3.5(b)	1	0	
3.7	0	0	

4.1(a)	3	2	
4.1(b)	1	1	
4.2	1	1	
4.4	1	1	
5.1	0	0	
5.2	0	0	
5.3	1	1	
5.4(a)	0	0	
5.4(b)	0	0	
5.5(a)	9	7	
5.5(b)	1	1	
7.1(a)	1	0	
7.2(d)	0	0	
7.3	3	0	
7.3(b)	2	0	
7.3(d)	0	0	
8.1	1	1	
8.2(a)	0	0	
8.2(b)	0	0	
8.4(a)	8	2	
8.4(b)	11	7	
8.4(c)	51	25	6
8.4(d)	98	47	2
8.4(g)	0	0	
8.5	0	0	

VII. Number of Attorneys Disciplined (2005)

Of the 181 final disciplinary actions by the Committee, forty-eight (48) involved attorneys who had been licensed for ten years or less; fifty-five (55) involved attorneys who had been licensed for eleven to twenty years; forty-five (45) involved attorneys who had been licensed for twenty-one to thirty years; thirty-one (31) involved attorneys who had been licensed for thirty-one to forty years and two (2) involved attorneys who had been licensed for more than forty years.

Years licensed	# of attorneys disciplined	Percentage
1-10	48	26.5%
11-20	55	30.4%
21-30	45	24.9%
31-40	31	17.1%
40+	2	1.1%

VIII. 2005 FINES, RESTITUTION & COSTS ASSESSED

	Imposed	Collected
1. Fines	\$24,460.00	28,948.99
2. Restitution	\$38,055.71	18,061.38
3. Costs	\$5,308.58	5,708.58
Total	\$67,824.29	52,718.95

(Note: some of the collections in 2005 were assessed in cases finalized in 2004.)

IX. 2005 Trust Account “Overdraft” Reporting

73 Total reports received in 2005 from all banks and reporters

2005 and earlier reports handled by staff:

64 Closed by private letter disposition
9 Still open files - under investigation
4 Formal complaints filed
3 Public sanction

Reasons given or determined for reports closed or that went to formal complaint in 2005
(some of the reports were on the same attorney trust account for repeated problems in close
proximity to each other, usually caused by the same triggering event)

12 Caused by admitted Bank error
17 Caused by Attorney/office bookkeeping error
7 Caused by attorney error - bank fees not taken into account
12 Attorney used wrong account or wrong account number
9 “Late” deposits into trust account
5 Deposited funds not yet cleared by bank for use
3 Trust account checks stolen - forged by unknown party
1 Employee theft - misappropriation
0 Attorney closed practice and started using account as personal account
1 Complaint abated by attorney death, license surrender or disbarment
0 IOLTA error
0 Credit card fee payment “reversed” out of trust account
1 Unexplained
0 Commingling of client and non-client funds

2005 DISCIPLINE CASE SUMMARIES

Final actions from January 1, 2005, through December 31, 2005, by the Committee on Professional Conduct. Summaries prepared by the Office of Professional Conduct. Full text documents are available on-line at <http://courts.state.ar.us/courts/cpc.html>.

DISBARMENT ACTIONS FILED:

DARRELL F. BROWN, SR., Bar No. 72012, of Little Rock, disbarment proceeding filed May 31, 2005, as No. 05-592, based on Committee proceedings in CPC 2004-140, a complaint by Nakeia Haslerig, and other matters set out in the Petition for Disbarment. The Petition alleges, *inter alia*, that Haslerig became Brown's client in February 2003, he settled her claim in June 2003 for \$8,000, without her knowledge, deposited the \$8,000 into his trust account on June 12, 2003, and Haslerig has received no part of the settlement funds to date. Brown's trust account records do not show any payment to Haslerig or to any of her medical providers, whose records and bills were in Brown's claim file, and may total about \$3,795. No accounting of the settlement funds has been provided to Haslerig. Third parties with interests in the funds have not been notified of the receipt of the funds or provided their funds. A partial trust account audit by OPC shows Brown's trust account balance several times after June 12, 2003, fell below the minimum level of Haslerig's funds that should still be retained there, falling as low as \$226 on March 2, 2004. Violations of Rules 1.2(a), 1.4(a), 1.4(b), 1.5(c), 1.15(a), 1.15(b), and 8.4(c) are alleged. (The case is still pending.)

ZIMMERY CRUTCHER, Bar No. 74029, of Little Rock, disbarment proceeding filed December 30, 2005, as No. 05-1412, based on the Committee's vote in CPC 2005-134, a complaint by Dalnita Morrison that funds were missing from the settlement of her matter handled by Crutcher. (The case is still pending.)

FRED D. DAVIS, III, Bar No. 72033, of Pine Bluff, disbarment proceeding filed May 9, 2005, as No. 05-501, based on Davis's felony conviction in Jefferson County Circuit Court. (The case is still pending.)

THOMAS JAMES HIVELY, Bar No. 75060, of Batesville, disbarment proceeding filed May 27, 2005, as No. 05-584, based on Hively's felony conviction in United States District Court. (Mr. Hively's surrender of license was accepted by the Court's Per Curiam in early 2006.)

WESLEY JOHN KETZ, JR., Bar No. 76065, of Batesville, disbarment proceeding filed May 27, 2005, as No. 05-585, based on Ketz's felony conviction in United States District Court. (Mr. Ketz's surrender of license was accepted by the Court's Per Curiam in early 2006.)

PAUL REVELS, Bar No. 91110, of DeQueen, disbarment proceeding filed December 29, 2005, as No. 05-1408, based on the Committee's vote in CPC 2005-080, on a complaint (CPC 2005-053) developed by the Office of Professional Conduct from information gathered in another

complaint, on an allegation that about \$38,000 in third party funds are missing from Revel's trust account. (The case is still pending.)

SURRENDER:

DENNIS ARNOLD CAMERON of Hot Springs, Bar No. 95038. On March 31, 2005, in No. 05-280, the Supreme Court accepted the surrender of Mr. Cameron's law license on the basis of his conviction by a jury of two counts of felony theft in Garland County Circuit Court on January 26, 2005. Mr. Cameron received a twenty (20) year sentence. The charges involved his misappropriation from his trust account or accounts over which he had control of approximately \$233,000 belonging to the Estate of Tanya Zander and the Estate of Megan Ungerer. Rules 8.4(b) and 8.4(c).

TROY R. DOUGLAS, Bar No. 68015, of Fort Smith, surrendered his law license in lieu of pending disbarment proceedings and his offer was accepted by the Court in a Per Curiam issued October 6, 2005. The matter came from a referral by Circuit Judge Norman Wilkinson on a case in his court. Douglas handled funds of client Campbell while his client was in prison. Douglas received \$25,000 in July 2001, which went into his trust account. Douglas was later asked for an accounting by client and could not account for \$20,050. Campbell sued Douglas. In court on March 18, 2005, Douglas admitted the \$20,050 was missing from his trust account and judgement was entered against him. Douglas has failed to pay any of the judgment. Douglas also failed to timely pay his 2005 bar license fee and was in suspended status. Douglas responded that he was not requested to produce trust account records, only to respond to an accounting, which he did in court. He claims the \$25,000 was a "loan" to him by client to draw 8% interest. Douglas produced no note evidencing a loan from his client. Douglas denied he committed theft of the client's funds. He took the position that by consenting to judgment he has "accounted" to client for the missing funds. He claims his failure to pay his license fee was an oversight. Finding violations of Rules 1.15(a), 1.15(b), 3.4(c), 5.5(a), 8.4(b), and 8.4(c), the Panel voted to initiate disbarment, which was filed as No. 05-871 on August 10, 2005.

JIMMY EUGENE DOYLE of Searcy, Bar No. 2000013. On March 31, 2005, in No. 05-312, the Supreme Court accepted the surrender of Mr. Doyle's law license on the basis of four (4) disciplinary proceedings he faced before the Committee, and three recent public sanctions he had received, including two reprimands and a suspension of three months issued December 1, 2004. Rules in the pending cases are 1.2(a), 1.3, 1.4(a), 3.2, 3.4(c), and 8.4(d).

LUTHER VANCE MARKER, Bar No. 92234, of Little Rock, surrender in lieu of disbarment proceedings accepted May 26, 2005, by the Court's Per Curiam, in No. 05-549. Disbarment proceeding had been filed May 9, 2005, as No. 05-502, based on Marker's felony conviction in Pulaski County Circuit Court.

JANNA FAYE WITHERS of North Little Rock, Bar No. 96025. On February 10, 2005, in No. 05-120, the Supreme Court accepted the surrender of Ms. Withers' law license on the basis

of her guilty plea on January 7, 2005, to a felony count of mail fraud in the United States District Court. Ms. Withers admitted to dishonest and criminal conduct in applying for several loans on the same property she owned, and in preparing and filing false releases of mortgage liens as part of her efforts to secure new loans. She was ordered to pay restitution of about \$51,000 to the ultimate victim of her conduct. Rules 8.4(b) and 8.4(c).

HARRY LAWRENCE YANCEY, Bar No. 77150, of Little Rock. On September 8, 2005, the Supreme Court accepted the surrender of Mr. Yancey's law license in lieu of disbarment proceedings for serious misconduct in CPC No. 2004-111, involving Rules 1.15(a), 8.4(b), and 8.4(c). Mr. Yancey was a long-time partner in a three partner firm and often acted as the partner overseeing firm financial matters, especially during 1999-2003. In August 2003 the other partners noticed financial irregularities and started an audit of the firm account and trust account. Yancey then resigned from the firm. The three former partners later agreed that Yancey had taken \$235,000 without authority. Yancey repaid this amount to the firm and agreed to pay the tax liability penalty the firm had incurred due to his failure to pay certain firm obligations. This amount was later determined to be \$21,813.98, which he did pay. Yancey improperly removed about \$107,000 from the firm trust account for personal use. He converted about \$100,000 from firm funds through his use of inaccurate attorney collection sheets. He also cancelled legal fees of about \$30,000 owed by some of his clients to the firm in exchange for personal benefits from these clients. He acknowledged these allegations, and others, denied he committed theft, and added that his own audit of the firm financial records indicates that on at least four occasions his withdrawals from the firm trust account left it with less total funds than the total of client funds that should have been in the trust account. He acknowledged he breached his fiduciary duty to the firm and his partners.

INTERIM SUSPENSION:

DARRELL F. BROWN, SR., Bar No. 72012, of Little Rock, in CPC 2005-062, on a complaint by Nakiea Haslerig, was placed on Interim Suspension by Committee Order filed April 29, 2005, and still in effect pending resolution of the disbarment proceeding in No. 05-592.

ZIMMERY CRUTCHER, JR., Bar No. 74029, of Little Rock, Arkansas, was placed on interim suspension on December 9, 2005, pending filing of disbarment proceedings, based on a Complaint filed by Dalnita Morrison in Case No. 2005-134, alleging violations of Model Rules 1.5(c), 1.15(a), 1.15(b), and 8.4(c). A Petition for Disbarment was filed as No. 05-1412 in the Arkansas Supreme Court alleging, among other matters, that Crutcher converted to his own use from his trust account \$2,800 from the settlement he obtained for Ms. Morrison.

CIRCUIT JUDGE FRED D. DAVIS, III of Pine Bluff, Bar No. 72033, in No. 2005-022, by Committee Order filed February 18, 2005, was placed on Interim Suspension, pending filing of formal disciplinary action, based on his conviction of a Class C felony, involving attempt to evade or defeat a tax, in Jefferson Circuit No. CR-2004-869-2 by jury verdict rendered January 19, 2005, and a Judgment filed February 2, 2005.

REGINALD SHELTON McCULLOUGH of Little Rock, Bar No. 85012, in No. 2003-166 (Mark Latta) and 2004-009 (Regina Hayes), by Committee Order filed February 18, 2005, was placed on Interim Suspension, pending resolution of the pending disbarment action against him in Arkansas Supreme Court No. 04-1395, which is based on prior Committee cases. The two new cases will be added as additional counts to the disbarment petition by amendment.

PAUL E. REVELS, Bar No. 91110, of DeQueen, in CPC 2005-053, on a complaint developed by the Office of Professional Conduct based on information received concerning the estate of Jamilyn Goode in Sevier County handled by Mr. Revels, was placed on Interim Suspension by Committee Order filed April 18, 2005, and still in effect. The settlement funds were deposited in Revel's trust account. Payments were made to the mother of the minor child in accordance with Orders of the probate court as were attorney fee payments made to Mr. Revels. Over \$38,000 was ordered to be held until the father of the deceased minor could be located. After his suspension in December 2004 from the practice of law in another matter, Mr. Revels depleted all of the funds in his trust account including the funds belonging to the Estate of Jamilyn Goode. There were no Orders of the Court allowing him to remove the funds. Violations of Rules are alleged.

SUSPENSION:

DARRELL F. BROWN, SR., Bar No. 72012, of Little Rock, in CPC 2004-046 on May 19, 2005, by Committee Findings and Order had his privilege to practice law suspended for three (3) months and was ordered to pay \$11,053.58 restitution on a complaint by Carrie White of Texarkana, for violations of Rules 1.3, 1.4(a), 1.15(a), 1.15(b), 1.15(c), 8.4(c). White hired Brown in September 2001 on a "slip-fall" matter. Brown settled the slip-fall in August 2002 for \$37,5000, disbursed to White \$12,096.42, and withheld \$16,153.58 to be applied to her unitemized medical bills, with Brown telling White he would try to negotiate them downward. White claimed Brown told her it would take about eighteen (18) months (until about February 2004) for him to work out all her medicals, either by negotiation or letting the time period within which the providers could file suit to enforce their liens would run out. White had difficulty getting status reports from Brown, writing him several times in vain. Finally, Brown sent her \$2,500 on June 5, 2003, from his trust account, leaving a balance of \$13,653.58 of her settlement funds that should have remained in his trust account. After more contacts for information, on October 8, 2003, Brown sent White another trust account check for \$2,600.00, leaving \$11,053.58 of her settlement funds that should have remained in his trust account. At least twelve (12) monthly trust account statements after the settlement in August 2002 show the balance of total funds in Brown's trust account fell below the amount that should have been there for White's trust account alone. The "shortages" ranged from a low of \$4,043.43 to a high of \$15,650.77. White has no evidence that her medical bills have been paid. Brown's response to the complaint did not deny the trust account shortage allegations and did not state White's medical bills had been paid or otherwise finally dealt with.

DARRELL F. BROWN, SR., Bar No. 72012, of Little Rock, in CPC 2004-103 on May 19, 2005, by Committee Findings and Order had his privilege to practice law suspended for six (6) months, was fined \$1,000, and was ordered to pay \$2,846.25 restitution on a complaint by Ankita Riddle of Georgia, for violations of Rules 1.2, 1.3, 1.4(a), 1.15(a), 1.15(b), 1.16(d), 8.1(b), and 8.4(c). Brown represented Riddle and her two minor children in a motor vehicle collision of May 9, 2001, in Little Rock. Suit was filed, with a trial verdict for Riddle on May 14, 2003, and the \$10,000 was paid to Brown in June 2003. Riddle's settlement sheet shows Brown withheld \$2,846.25 to pay her unitemized medical bills. This is the exact amount she owed Cambridge Rehab Center, which filed a medical lien on May 14, 2001, on Riddle's account. Riddle also owed \$535.00 to Forest Park Medical Center, an affiliate of Cambridge, which amount was apparently not listed in the settlement sheet and remains unpaid. None of this total bill (\$3,406.25) has been paid by Brown, and Riddle has been contacted by a collection agency. Riddle had sustained difficulty contacting Brown for information about her matter. Riddle desired action by Brown for the claims of her minor children but could not get accurate information as to the status of their claims. Brown failed to notify Cambridge of his receipt of settlement funds in which Cambridge had an interest. Brown's trust account balance fell below the minimum amount required under these circumstances at several times since the settlement, getting as low as \$590.15 on August 14, 2003. Brown responded that he did not her medical bills, that he has made arrangements to pay the bills, that he is having his trust account audited, and that he is actively negotiating on the claims of the minors. Riddle replied on September 9, 2004, that she had no information from the medical clinic that any arrangements had been made by Brown to have her medical bills paid.

ZIMMERY CRUTCHER, Bar No. 74029, of Little Rock, was suspended from law practice for three (3) months, fined \$500.00 and ordered to pay \$400.00 restitution by Committee Findings & Order filed November 28, 2005, on a Complaint filed by Crystal Shelton in Case No. 2005-114, for violations of Model Rules 1.2(a), 1.3, 1.4(a), 1.15(a)(1), 1.16(d), 3.4(c), 5.5(a). Ms. Shelton hired Mr. Crutcher during April 2005 to represent her in a divorce proceeding. He accepted \$400 from complainant for the representation on April 11, 2005. He took no action for Ms. Shelton. She terminated his services in late May 2005 and hired another attorney to represent her. Mr. Crutcher did not respond to any requests for information nor did he ever contact Ms. Shelton after receiving the \$400 payment. He cashed the \$400 check instead of depositing it in his IOLTA trust account. He was unable to file the divorce action for Ms Shelton as his license to practice law was suspended for failure to pay his annual license fee during 2005, from March 2 until August 10, 2005, when he paid his 2005 fee. He engaged in the unauthorized practice of law while his license was in suspended status.

ANN C. DONOVAN, Bar No. 78043, of Fayetteville, in CPC No. 2005-020, on a judicial complaint from Circuit Judge Mark Lindsay of Washington County, in *Schines v. Graham*, Circuit Court No. CV2003-2055, by Committee Findings & Order filed September 13, 2005, had her law license suspended for three (3) months for violation of Rules 1.1, 1.3, 1.4(b), 3.4(c) and 8.4(d). Judge Lindsay reported Ms. Donovan for her conduct in a case pending before him in Washington County Circuit Court. She failed to comply with discovery requests, failed to follow

proper procedural guidelines when pursuing an appeal to Circuit from District Court, failed to bring the record from District Court to Circuit Court after being ordered to do so and failed to advise her client the serious nature of the Court's Order about responding to discovery. Donovan was allowed to withdraw from representation by the Court because he did not believe her client had received competent representation from Donovan

JOHNNY E. GROSS, Bar No. 95156, of Bentonville, in CPC 2004-040 on May 11, 2005, by Committee Findings and Order had his privilege to practice law suspended for three (3) months and was fined \$2,000 on a complaint by Circuit Judge Tom Keith of Benton County, for violations of Model Rules 1.1, 1.2(a), 1.3, 1.4(a), 3.4(c), 8.4(c), 8.4(d). Judge Keith reported Mr. Gross for his conduct in the representation of Terry Kuelper, a defendant in a criminal matter. A hearing was held before Judge Keith wherein Mr. Kuelper and Daniel Hash, an attorney practicing in Bentonville, testified that Mr. Kuelper requested Mr. Gross file an appeal of Mr. Kuelper's criminal convictions immediately following sentencing. Mr. Gross did not do so. In addition, Judge Keith made a part of the record a newspaper article and an Affidavit of Tracy Neal, the reporter who prepared the article. In the article, Mr. Gross is quoted as saying an appeal would be taken. Mr. Kuelper also testified that he was unable to communicate with Mr. Gross following his sentencing and incarceration in the county jail.

E. LEON NICHOLSON, Bar No. 83134, of Heber Springs, No. 2005-020, on a complaint from Kevin Gardner, by Committee Findings & Order filed September 13, 2005, had his law license suspended for three (3) months for violation of Rules 4.1(a), 4.1(b), 4.3, 8.4(a), 8.4(c), and 8.4(d). Kevin Gardner purchased a summer home at Heber Springs, the closing was handled by Ozark Title Services, Inc., and E. Leon Nicholson was the attorney handling the closing. Nicholson is also the President of Ozark Title Services and was also representing the interests of his business partner, Mr. Benton, regarding easements on the subject property, easements undisclosed to the Gardners. Mr. Nicholson told the Gardners the one easement they knew about was not any good, he failed to disclose a second easement, and he prepared, executed, and recorded a third easement that benefitted his partner Benton, without the Gardner's knowledge.

REUBEN C. "JAY" PINKSTON, JR., Bar No. 83145, of Bryant, Arkansas, in CPC No. 2004-185, on information made available to the Committee in *Scoggins v. Estate of Streff*, No. CA-04-802, by Committee Findings & Order filed August 8, 2005, had his law license suspended for three (3) months for violation of Rules 1.2(a), 1.3, and 8.4(d). Pinkston represented a client in an attempted civil appeal. The appeal record was timely filed but no brief was filed by him for his client, even though Pinkston obtained an order for one extension of time to file the brief. A motion to dismiss was filed, he failed to respond, motion was granted, appeal dismissed, and his client's right to appeal was extinguished.

PAUL E. REVELS of DeQueen, Bar No. 91110, in No. 2002-053, by Committee Findings and Order filed December 30, 2004, on information developed by the staff of the Office of Professional Conduct in another investigation, had his law license suspended for three (3) months effective December 28, 2004, and was fined \$2,500 for violations of Rules 1.15(a), 1.15(a)(1),

and 8.4(c). The suspension was ordered, on an appeal taken by the Office of Professional Conduct from the Committee's Order, by the Arkansas Supreme Court in No. 04-808, by its Opinion issued December 9, 2004. The Committee issued a reprimand and a \$2,500 fine to Revels. The Court found his 'serious misconduct' required a suspension from practice, and affirmed the fine. Mr. Revels represented Carl Hunter, a minor who was also a relative, in a personal injury matter on a contingent fee basis (for which there was no written fee agreement produced, as required by Rule 1.5). Revels settled Hunter's claim and was to pay approximately \$23,000 in medical bills from proceeds he withheld, according to Revel's settlement sheet. Some of Carl Hunter's medical bills for which Revels claimed credit for payment against Carl's funds Revels withheld were duplications or were bills for Carl's sister Brandy, who was injured in the same incident and whose claim had been settled by Revels. Records of Revels' IOLTA trust account reveal that he improperly commingled client and non-client funds (his) in the trust account. Revels deposited in his trust account personal cash funds and some of his salary and expense checks as DeQueen City Attorney. Revels failed to remove earned legal fees from his trust account. His trust account balance fell far below the amount that should have been there to represent all client and third person funds he should have had in trust at various times. On two occasions his trust account had a negative balance. Revels claimed his negative balances occurred when he mistakenly deposited client funds into his office account. Regarding Revels' trust account, the Supreme Court Opinion, at page 4, stated, "In part, the confusing nature of this case is due to Revels' failure to keep sufficient records. The records do not permit one to fully understand what activity was occurring in his trust account."

WOODSON D. WALKER, Bar No. 76135, of Little Rock, Arkansas, was suspended for three (3) years by Committee Findings and Order filed December 16, 2005, after a public hearing, on a Complaint filed by Reeshema Britt in Case No. 2005-083, for violations of Model Rules 1.4(a), 1.4(b), 5.5(a), 8.4(c) and 8.4(d). Mr. Walker's law license had been suspended by the Committee in April 2003, and he has not petitioned for nor been reinstated from that suspension. Ms. Britt was injured in a motor vehicle incident on February 8, 2001. She became the client of Mr. Walker and his firm of Walker & Dunklin during August 2002. In June 2003, Walker conveyed to Britt a \$5,500 settlement offer, which she declined. Walker then wrote Hayes that he was turning the matter over to his partner Dunklin to handle from there on. No action was taken and the statute of limitations ran on Britt's claim. Britt consulted with another attorney in April 2004. She was then able to meet with Walker in May 2004, when he told her he would try to get the earlier offer reinstated and her medical bills taken care of in some fashion, with him to receive a fee of one-third of any recovery. She declined his offer and hired another lawyer, who filed suit for Britt against Walker and Dunklin and obtained a default judgment of \$75,000 against them on April 14, 2005. **(Case now on appeal to the Arkansas Supreme Court.)**

CLAUDELL WOODS of Magnolia, Bar No. 83188, in No. 2004-015, by Committee Findings and Order filed March 1, 2005, on a complaint by Circuit Judge Larry Chandler of Columbia County, had his law license suspended effective March 1, 2005, for three (3) months and was fined \$1,000 for violations of Rules 1.1, 1.3, 1.15(a), 1.15(a)(3), 3.1, 3.3(a)(1), 3.4(c), 5.5(b), and 8.4(d). Woods represented Ruby Monk Pickens, the administratrix of the estate of David Monk,

No. P-92-76, in Columbia County Probate Court from 1992 into 2003. The petition for appointment of Ms. Pickens, a sibling, as administratrix, prepared by Mr. Woods, stated on her oath that David Monk had two sons, Alvino and Terry, one daughter, Jean, and eight siblings. Decedent's land was reported sold by the estate to Tony Smith, a great-nephew of decedent, for the appraised value of \$30,000, based on a two year old appraisal that was not filed until after the sale was reported and approved. The net sales proceeds were reported to the Court as being deposited in the estate bank account, which did not exist. It was later discovered the sales price was actually \$24,000, but the missing \$6,000 was never collected from the purchaser Smith, who got his deed. The Court found a fraud had been committed on the Court and estate heirs. Smith allegedly made a loan to the estate in 2003 but there was no written record of it nor was it disclosed to the heirs. Pickens filed her first accounting in 2001, after a Court order to do so. Two subsequent accountings were filed. All accountings showed the estate received \$30,000 from sale of the land. The Court found all three to be false and fraudulent. The Court found proper notice was not given to the heirs. In 1994 Ms. Pickens was authorized to employ attorneys to pursue a wrongful death claim for the estate against Tyson Foods, Inc. In 2000 a \$100,000 settlement was approved. After deducting attorney's fees, Ms. Pickens got \$5,000 and \$70,000 was deposited with the court clerk. With no explanation as to why Pickens got \$5,000, the Court ordered her to restore those funds to the Clerk. Mr. Woods repaid the \$5,000 from his escrow account. Following a hearing on her accountings, the Court ordered Ms. Pickens to restore \$12,913 to the estate. After allowance for credits and other payments, he ordered her to repay the net sum of \$4,850, plus the \$6,000 "discount" he found she improperly gave to the purchaser on the real property sale. Woods was authorized to receive \$3,437.50 as his fee. He had received \$5,500.. He was ordered to repay \$2,063 to the estate. Ms. Pickens failed to repay her sums, and Woods paid her balance from his office account. The Court ordered Woods to deliver to the Clerk copies of all his banking records for any account into which estate funds had been deposited. He failed to timely comply. Woods admitted he never had an estate account and did not have proper records to establish the income and expenses of the Monk estate, some records having been misplaced. Ms. Pickens testified she never handled any of the estate funds or signed any checks. She stated that was all done by Woods. Ms. Pickens was ordered to restore her approved fee of \$3,300 plus expenses of \$645 to the Monk estate. She failed to do so and was taken into custody pending payment. Nine years after filing her first petition to open the estate, Ms. Pickens testified that Alvino, Terry and Jean were not children of David Monk. She was unable to explain her conflicting positions on the three children. The Court found they were his children and that a likely cause of her later denial of their status was the receipt of the wrongful death settlement funds. The Court found Woods' handling of the Monk estate was grossly unprofessional. Woods repaid \$12,913 pursuant to the agreement reached in January 2003 between the parties and the Court.

REINSTATEMENT:

CHARLES GREGORY ALAGOOD, Bar No. 84002, of Little Rock, was reinstated to the practice of law, after a three-year suspension ordered September 16, 2002, by Committee Order filed October 11, 2005.

JOHNNY E. GROSS, Bar No. 95156, of Bentonville, was reinstated to the practice of law, after a six-month suspension ordered May 11, 2005, by Committee Order filed November 22, 2005.

REPRIMAND:

RICHARD ATKINSON, Bar No. 88066, of Conway, Arkansas, was reprimanded by Committee Consent Findings and Order filed December 9, 2005, on a Complaint filed by Timothy Ausbrooks in Case No. 2005-123, for violations of Model Rules 1.3, 1.4(a) and 8.4(c). Mr. Ausbrooks hired Mr. Atkinson in November 2003, to file a lawsuit for him against the builder of his home. Mr. Atkinson agreed to do so and accepted the fee. Mr. Atkinson was not available to Mr. Ausbrooks on many occasions when Mr. Ausbrooks wanted information about his legal matter. Mr. Atkinson did not keep Mr. Ausbrooks honestly informed of the status of his legal matter. Mr. Atkinson advised Mr. Ausbrooks that a lawsuit had been filed and that they were merely waiting on a trial date to be set by the Court. In his Consent to Discipline proposal, Mr. Atkinson explained that he thought that was the status of the matter because he had prepared a Complaint to be filed against the builder of Mr. Ausbrooks' home and directed his staff to file it. Mr. Ausbrooks learned later that no suit had ever been filed. Mr. Atkinson later discovered this situation, wrote Ausbrooks about it, and returned the fee to Mr. Ausbrooks.

VANDELL BLAND, SR., Bar No. 92062, of West Helena, in CPC 2005-025, by Committee Consent Findings & Order filed April 15, 2005, on a complaint by Thomas M. Hayde, D.C., was reprimanded and fined \$1,000 for violations of Rules 1.2(a), 1.3, 1.15(a), 1.15(b), and 4.1(a). Mr. Bland represented Mr. Sanders starting in 2001 in a personal injury claim. Sanders was treated by Dr. Hayde, a chiropractor, with a final account balance of \$4,206.00. Dr. Hayde got an insurance payment of \$1,487.00, which he credited to Sanders' account, leaving a balance of \$2,719.00. In July 2001 Dr. Hayde obtained a medial lien signed by both Sanders and Bland. Bland settled Sanders' claim in April 2002 for \$5,513, of which he withheld \$2,000, without consulting Dr. Hayde, to pay Dr. Hayde's clinic, Traylor Chiropractic. Bland did not inform Dr. Hayde of the settlement. Dr. Hayde learned of the settlement in December 2003 from the paying insurance carrier. From April 2002 to Dec 2003, Bland's office mislead Hayde on the status of Sanders' legal claim Bland was handling. After learning of the ethics complaint, on January 31, 2005, Bland paid Traylor/Hayde \$1,504.34. During the interim period, Bland's trust account balance fell below \$2,000 on several occasions, falling as low as \$319.20 on January 21, 2003, while he should have been holding Sanders' \$2,000 in funds for payment of Traylor. Bland paid Dr. Traylor the difference between \$1,504 and the full Sanders account balance of \$2,719 in February 2005.

VANDELL BLAND, SR., Bar No. 92062, of West Helena, in CPC 2005-049, by Committee Consent Findings & Order filed April 15, 2005, on a complaint by Charles Robinson, was reprimanded and fined \$1,000 for violations of Rules 1.15(b), 1.15(c), 8.4(c). Mr. Bland represented Charles Robinson in a personal injury matter. Bland settled the matter in May 2004 for Mr. Robinson. Dr. Thomas Hayde of Traylor Chiropractic Clinic was one of the medical

providers for Mr. Robinson. Bland advised Mr. Robinson that he was paying the medical provider, but he did not do so in a timely manner. Bland provided copies of checks to Robinson to demonstrate payment but he did not deliver the checks. Bland finally paid Dr. Hayde over nine months after the settlement funds were received. In February 2005, Bland delivered a check to Dr. Hayde which was not sufficient at the time, but asserted that he would make a deposit so that the funds would be in the account when the check reached it. Dr. Hayde was finally paid in full in March 2005.

MICHAEL DENNIS BOOKER, Bar No. 89053, of Little Rock, Arkansas, was reprimanded and ordered to pay \$4,000 restitution, after a public hearing, by Committee Findings & Order filed December 1, 2005, on a Complaint filed by Linda S. Hayes in Case No. 2005-040, for violations of Model Rules 1.2(a), 1.3, 1.4(a), 1.4(b), 8.4(c), and 8.4(d). Ms. Hayes went to Mr. Booker for representation in a personal injury claim. He got her file from her first attorney in August 2002, with about twenty-one (21) months left on her statute of limitation. She thereafter had difficulty contacting him and obtaining information about her legal matter. Hayes said that at all times Booker's office had her cell number and she kept his office updated on her address changes. Hayes filed a complaint with OPC in January 2004. The statute of limitations expired on May 25, 2004. OPC contacted Booker by telephone first and then not later than November 15, 2004, by letter about the Hayes matter. Booker confirmed Hayes was his client. Booker contacted her on February 18, 2005, to set an appointment with her at his office on February 24, 2005. At that time Booker briefly encountered Hayes as he left "for the airport," and instructed her to see his receptionist. The receptionist gave Hayes his office account check for \$2,601.78 and a release, that included the underlying liability party and Booker, to sign. This amount equaled Hayes' medicals of \$1,601.78 plus \$1,000 for her other claims, all of which Booker paid from his own funds.

MARK B. CHADICK of Pine Bluff, Bar No. 77030, in Case No. 2004-072, by Committee Consent Findings and Order filed January 21, 2005, on a complaint by Roy L. Thompson, was reprimanded and fined \$500 for violations of Rules 1.3 and 8.4(d). Mr. Chadick represented Thompson on a 1996 railroad FELA personal injury claim and settled the claim in 2000 for \$200,000. Thompson was disabled after October 1996 from the incident. From 1999 on Chadick represented Thompson on his claim for disability benefits through the Railroad Retirement Board. In May 2002 Thompson was granted benefits from September 6, 2001, forward, but not prior to that date. Chadick told Thompson he would appeal the ruling, but failed to timely file the notice of appeal. Reconsideration was requested but denied, and Chadick appealed this ruling. In March 2004 the Board affirmed the denial by the hearing officer, ending Thompson's chances for receiving benefits for the period from October 1996 to September 2001.

ZIMMERY CRUTCHER, Bar No. 74029, of Little Rock, was reprimanded, fined \$1,500.00 and ordered to pay \$750.00 restitution by Committee Findings & Order filed November 28, 2005, on a Complaint filed by Thermon Lee Beard in Case No. 2005-096, for violations of Model Rules 1.3, 1.4(a), 1.16(d), 3.4(c), and 8.4(c). Mr. Beard hired Mr. Crutcher to represent him in a matter involving his brother. His brother and he had purchased property together and

later complainant had signed a quitclaim deed to his brother. Complainant wished to have the deed set aside and title to the property quieted. Mr. Crutcher agreed to represent complainant, and quoted him a fee of \$750 which was paid in installments. Mr. Beard made the final payment on February 3, 2005, and Mr. Crutcher advised that he would be filing the Complaint. He never provided Mr. Beard with a filed copy, because Mr. Crutcher did not file the complaint. No action had been filed on behalf of complainant as of June 20, 2005. Mr. Crutcher was automatically administratively suspended from the practice of law for failure to pay his annual license fee on March 2, 2005.

ZIMMERY CRUTCHER, JR., Bar No. 74029, of Little Rock, Arkansas, was reprimanded, fined \$1,500.00 and ordered to pay \$750.00 restitution by Committee Findings & Order filed November 28, 2005, on a Complaint filed by Thermon Lee Beard in Case No. 2005-096, for violations of Model Rules 1.3, 1.4(a), 1.16(d), 3.4(c) and 8.4(c). Mr. Beard hired Mr. Crutcher to represent him in a matter involving his brother. His brother and Beard had purchased property together and Beard later signed a quitclaim deed to his brother. Mr. Beard wished to have the deed set aside and title to the property quieted to him. Mr. Crutcher agreed to represent Mr. Beard, and quoted Mr. Beard a fee of \$750, which was paid in installments, with the final payment on February 3, 2005. At that time, Mr. Crutcher advised that he would be filing the Complaint for Mr. Beard against his brother. He provided Mr. Beard with a copy of the Complaint that he said was being filed, but which Crutcher did not file. No action had been filed on behalf of Mr. Beard as of June 20, 2005. Mr. Crutcher did file a Complaint for Mr. Beard approximately one (1) week after he was served with the formal disciplinary complaint in this matter. Mr. Crutcher advised the Committee that the reason he did not file the Complaint until August 11, 2005, was because Mr. Beard had not approved the contents of the pleading. Mr. Beard denied this and stated that he approved it the day he made his final installment payment to Mr. Crutcher. In addition, Mr. Crutcher was suspended from the practice of law for failure to pay his annual license fee on March 2, 2005. Mr. Crutcher admitted that he did not pay his 2005 annual license fee until August 10, 2005.

JUDITH L. DEASON, Bar No. 92232, of Fort Smith, in CPC No. 2005-061, on a complaint by Larry and Sandra Vaughn, by Committee Findings & Order filed September 13, 2005, was reprimanded, fined \$500, and ordered to pay \$1,000 restitution to the Vaughns for violation of Rules 1.16(d). Ms. Deason was hired and paid \$1,000 to obtain grandparent visitation rights established for the Vaughns. Ms. Deason failed to file anything or do any work on the case and closed her office without notice to the Vaughns. The Vaughns had worked out an agreement to visit the children and when they told Ms. Deason about it she advised them they didn't need to file anything or go to court. Ms. Deason never refunded any of the fee money. Visitation was never established and now the Vaughns are back where they started before they went to Deason.

JOHN F. GIBSON, JR., Bar No. 66021, of Monticello, in CPC No. 2005-018, on information that came to the attention of the Committee in *Cleghorn v. State*, No. CACR-04-614, by Committee Findings & Order filed August 1, 2005, was reprimanded and fined \$5,000.00 for violation of Rules 1.2(a), 1.3, 1.4(a), 1.4(b), 3.4(c), and 8.4(d). Mr. Gibson represented Rebecca

Cleghorn at trial where she was convicted of second degree murder and sentenced to thirty (30) years, which she is serving. He filed the record on appeal but then never filed a brief or sought an extension of time to file a brief. Gibson did not respond to the Motion to Dismiss filed by the State. On August 25, 2004, the Arkansas Court of Appeals granted the State's Motion to Dismiss. Ms. Cleghorn was unaware that the appeal was dismissed, and she was not provided a copy of the Mandate which had been mailed to attorney for her. Mr. Gibson got her appeal reinstated after he was served with the Committee's complaint, and both parties have now filed briefs.

DON G. GILLASPIE, Bar No. 61010, of El Dorado, in CPC No. 2005-042, on information provided to the Committee regarding his representation of Stanley Herring, by Committee Findings & Order filed August 23, 2005, was reprimanded and placed on supervised probation for one year for violation of Rules 1.3 and 8.4(d). Gillaspie represented Stanley Herring in Jefferson Circuit Court. After his conviction, a timely Notice of Appeal was filed. Gillaspie filed Motions for Extension of Time to file a brief on behalf of his client. The last deadline to file the brief was April 2, 2004. Attorney failed to file a brief by the deadline. The State of Arkansas filed a Motion to Dismiss the appeal, which was granted, and the appeal was dismissed.

JAMES RUSSELL GREEN, Bar No. 73043, of Heber Springs, in CPC 2004-181, by Committee Findings & Order filed June 6, 2005, on a complaint by Ada M. Johnson, was reprimanded and fined \$500 for violations of Rules 1.1, 1.2(a), 1.3, 1.4(a), 8.4(c), 8.4(d). Mr. Green represented Mrs. Johnson and her husband in pursuit of their claims arising out of an automobile accident. Shortly after Green was hired, Mr. Johnson died and Green opened an estate on him. Green did not actively pursue their injury claims and did not communicate with the agents of the insurance company with regard to the claims. Green filed a lawsuit for Mrs. Johnson but failed to have the defendant served and allowed the case to be dismissed. The statute of limitation expired. Mrs. Johnson has no remedies available to her with regard to her claims or those asserted on behalf of her husband. Green never advised Mrs. Johnson that the lawsuit was dismissed nor that the statute of limitation had expired.

OSCAR JEROME GREEN, Bar No. 85062, of Little Rock, in CPC 2005-005, by Committee Consent Findings & Order filed April 15, 2005, on a Per Curiam referral from the Arkansas Supreme Court in No. CR04-1127, *Teresa Edwards v. State*, was reprimanded for violations of Rules 1.3 and 3.4(c). Green failed to timely perfect his client's criminal appeal in 2003, and therefore failed to act with diligence. He failed to pay his annual bar license fees for 2003 and 2004. He failed to obey a rule of the Court. He was found guilty of contempt by the Supreme Court, fined \$250, and referred to the Committee for action..

OSCAR JEROME GREEN, Bar No. 85062, of Little Rock, in CPC 2005-074, by Committee Consent Findings & Order filed June 27, 2005, on a second Per Curiam referral from the Arkansas Supreme Court in No. CR04-1127, *Teresa Edwards v. State*, was reprimanded and fined \$100 for violation of Rule 3.4(c). Green was ordered to pay a fine of \$250 for contempt of the Court and to pay his delinquent law license fees for the two years. Green again failed to obey

his obligations to a Court He paid his delinquent license fees with a check that was returned for insufficient funds and he failed to pay his \$250 fine. The court issued a show cause order for March 10, 2005. Mr. Green plead guilty and the matter was again referred to the Committee..

JOHNNY E. GROSS of Bentonville, Bar No. 95156, in Case No. 2003-171, by Committee Findings and Order filed February 2, 2005, on a complaint by Circuit Judge Jay Finch of Benton County, was reprimanded and assessed costs of \$214.85 for violations of Rules 1.3 and 8.4(d). Gross represented Kevin McPherson of Little Rock in a post-divorce change-of-custody proceeding in Benton County. McPherson was unable to attend a hearing on February 27, 2003, due to inclement weather. Both Gross and McPherson agree McPherson contacted Gross and advised of his inability to get to court in Benton County. Gross then went into the hearing, moved to dismiss his client's counter-petition for modification of custody and child support, and moved for a continuance on other pending motions. Both motions were granted and the case was reset for March 26, 2003. The day before this hearing Gross filed a motion to withdraw as McPherson's attorney, claiming McPherson failed to appear at the previous hearing date, but failing to set out that the reason was inclement weather and the court had granted a continuance on that basis. No order was ever entered on Gross's motion to withdraw. McPherson refiled his petition *pro se*, but it was later dismissed because he did not obtain proper service. Gross and McPherson disagree on whether McPherson authorized or knew of Gross's action to dismiss McPherson's petition. McPherson claimed he learned of Gross's action later from his ex-wife, after having difficulty contacting Gross.

MARCELIERS "MARK" HEWETT, Bar No. 87081, of Little Rock, was reprimanded by Committee Findings & Order filed November 9, 2005, on a Complaint filed by Noel Bryant, Esq. in Case No. 2005-063, for violations of Rules 1.1, 1.7(a), and 1.7(b). The mother of Mia Inmon, a minor, died in May 2000 and left Mia about \$70,000 in insurance benefits. Mr. Hewett helped Mia's father get appointed her guardian, without bond, in February 2001 to handle her funds until she turned 18, which would be in less than a year. Mr. Hewett obtained a court order directing that the funds were "to be deposited in a trust account in a local bank," which the guardian father did not do. The guardian put the funds in a checking account he controlled with the insurance company and proceeded to spend most of it for items that were generally for his benefit, rather than for Mia's. Mia turned 18 in August 2001, requested her funds, and her father refused to tender them or account for them. Mia got an attorney, Noel Bryant, who sued the guardian father and finally got an accounting, which showed more than \$25,000 of Mia's funds had been improperly spent by her guardian. Mr. Hewett failed to ensure the guardian complied with the court order to place Mia's funds in a trust account in a local bank. Mr. Hewett failed to follow state law that requires a bond of a guardian unless the funds are kept in a "locked" account at a bank, subject to disbursement only by court order. Mr. Hewett failed to correct the "trust account" situation when given a check by the father from his guardian account in July 2001 for his later services to Mia in a juvenile case. The father was removed as guardian by the Court. Mr. Hewett represented the former guardian for a time, until challenged by Mr. Bryant, in the action brought by Bryant for Mia against the guardian for the accounting of her funds, with Mr. Hewett knowing there was a conflict in Hewett's representing the former guardian. In October 2003 the

Court found the former guardian had misappropriated \$20,894.51 from the ward's funds he held. Mia got judgment against the former guardian, which was paid off when he refinanced his home.

WILLIAM M. HOWARD, JR., Bar No. 87087, of Pine Bluff, in CPC No. 2005-103, on a Per Curiam referral from the Arkansas Supreme Court in a criminal case involving James Lee Jackson, by Committee Consent Findings & Order filed September 7, 2005, was reprimanded for violation of Rules 1.1, 1.3, and 8.4(d). Howard was substituted as counsel on appeal. His second extension of time to file his brief was designated as a "final" extension. He tendered a timely brief that was not accepted due to errors. He received an extension to correct his brief. He tendered a corrected brief but it was also not accepted due to errors. He filed a motion to file a belated corrected brief. His motion was granted and he was given ten days to file his belated corrected brief. The Court ordered him to appear at a "show cause" hearing. Upon Mr. Howard's plea of not guilty to contempt, a special master was appointed, a hearing was conducted, and the master found the more probable reason Mr. Howard did not comply with the Court's requirements was that he did not devote the necessary time to the task. Howard was found to be in contempt of the Supreme Court and fined \$500 for failing to perfect his client's appeal.

WILLIAM M. HOWARD, JR., Bar No. 87087, of Pine Bluff, in CPC No. 2005-079, on a Per Curiam referral from the Arkansas Supreme Court in a criminal case involving Michael Smith, by Committee Findings & Order filed September 21, 2005, was reprimanded and fined \$500 for violation of Rules 1.3 and 8.4(d). Howard obtained an extension of time to file his appellant's brief, but failed to file a brief. The Attorney General's motion to dismiss the appeal was granted on May 11, 2005. Howard asserted in his response to the complaint that he did not take action in the appeal because his client failed to take care of the client's monetary obligation in the appeal to Howard, indicating the client was not sincere in his appeal.

RONALD D. JONES of Benton, Bar No. 92132, in Case No. 2004-159, by Committee Findings and Order filed March 1, 2005, on a complaint by Teri Hays, was reprimanded and ordered to pay restitution of \$1,536.78 to the State of Arkansas for violations of Rules 5.5(a) and 8.4(c). Jones signed a contract with the State, through the Administrative Office of the Courts (AOC), effective July 1, 2003, to provide attorney dependency-neglect services to AOC selected clients for \$1,536.78 per month. The contract provided that any full-time employment he had with the State would be a conflict of interest with his AOC contract. Jones became a full-time deputy prosecuting attorney in January 2004, but did not notify the AOC. Jones' law license was suspended by the Committee from April 2, 2004, through May 24, 2004 (in case No. 2003-164). Jones did not inform the AOC of his suspension. The AOC learned of his suspension on August 9, 2004, in the Arkansas Lawyer magazine. His AOC contract was cancelled August 11, 2004. He either provided legal services to AOC clients, or supervised other attorneys who provided the services under his AOC contract during the period of his suspension. Jones was found to have engaged in the unauthorized practice of law while his law license was suspended and to have engaged in dishonest and deceitful conduct toward AOC.

BARBARA A. KETRING-BEUCH, Bar No. 97074, of Hot Springs, formerly of North Little Rock, was reprimanded and ordered to pay \$67.50 in restitution by Committee Consent Findings & Order filed October 11, 2005, on a Complaint filed by Arnetta Fry in Case No. 2005-097, for violations of Rules 1.3 and 1.4(a). Ms. Ketring-Beuch was hired and paid \$200 to represent Ms. Fry in a contempt action against a former husband who had failed to pay medical bills as ordered in a divorce decree. Communication difficulties arose and Ms. Fry requested a refund of her fee, as she did not see that any action had been taken on her matter. Ms. Ketring-Beuch told Ms. Fry she would make a refund but failed to do so. After the disciplinary complaint was served on her, Ms. Ketring-Beuch refunded \$132.50 to Ms. Fry.

BARBARA A. KETRING-BEUCH, Bar No. 97074, of Hot Springs, Arkansas, was reprimanded by Committee Consent Findings and Order filed December 19, 2005, on a Complaint filed by Deborah Hope, in Case No. 2005-119, for violations of Model Rules 1.1 and 1.3. Hope hired Ketring-Beuch in June 2004, and paid her the \$150 filing fee, to pursue a right-to-sue letter from EEOC in federal court against PAM Trucking, a publicly-held corporation headquartered in northwest Arkansas. Hope was not informed if any federal suit was filed, Ketring-Beuch's North Little Rock office was closed in early 2005, and Hope claimed she could not contact Respondent. The clerk's records show suit was actually filed July 22, 2004, but service was never obtained, even after a court order extending the service time, and the case was dismissed by the court on January 25, 2005. Ketring-Beuch responded that she never could get a good service address, she communicated appropriately with Hope, she tried to return her file but mail to C was returned unclaimed, and Respondent otherwise acted appropriately.

STEPHANIE L. MAYS, Bar No. 97055, formerly of Hot Springs, now of Missouri, was reprimanded, fined \$500.00 and ordered to pay \$4,000.00 restitution by Committee Findings & Order filed October 11, 2005, on a Complaint filed by Shirley Chandler in Case No. 2004-049, for violations of Model Rules 1.1, 1.3, 1.4(a), 1.4(b), 1.15(b), 1.16(d), 8.4(c). Ms. Chandler hired attorney Mays to represent her son in a criminal appeal. Mays accepted \$4,000 in fees and costs from Ms. Glenn. Complainant was not able to make contact with attorney to determine how things were progressing. Mays asked complainant for \$500 for the deposit to be paid to the Court Reporter to start preparation of the transcript. Complainant paid the funds to attorney along with the advanced payment of fees for services to be provided through the appeal. Mays did not pay the funds to the Court Reporter despite the fact that she told the complainant that she had done so and despite the fact that the Court Reporter had left messages for her about the necessity of having the deposit. Complainant delivered the deposit to the Court Reporter herself after seeking the assistance of another attorney. Attorney's representation of John Michael Chandler has been terminated yet attorney has failed to remit the costs not used or the advanced payment of fees not earned.

PHILLIP A. MOON of Harrison, Bar No. 84109, in Case No. 2004-132, by Committee Findings and Order filed January 4, 2005, on a complaint by Josephine Perry, was reprimanded for violations of Rules 1.1, 1.2(a), 1.3, and 8.4(d). Moon was hired by Ms. Perry in December 2000 to represent her son Billy Kerr in a federal habeas corpus proceeding, and later with an

executive clemency application. After Moon filed the habeas proceeding in March 2001, Ms. Perry had difficulty contacting Moon about her son's matters. Moon never visited with Mr. Kerr. Perry was able to meet with Moon in October 2001 and was told everything was proceeding. Perry later contacted the federal court clerk and learned that on April 2, 2001, the judge had ordered Moon to serve a copy of the habeas papers on the respondent and Moon did not comply. After further noncompliance by Mr. Moon with court orders, on April 2, 2002, an order was filed dismissing Kerr's matter without prejudice. Moon did not inform Ms. Perry of this event. In April 2003 Moon advised Ms. Perry the case was still pending and he was working on it. When she showed him the dismissal order, he told her he would take care of it, but he did nothing. Moon apparently took no action on the request that he assist in an executive clemency application. Moon responded to the Committee complaint that the fee paid was for other legal matters, not just those of Mr. Kerr. He claimed he was waiting on information from Ms. Perry to be able to complete the clemency forms. The Committee found Moon did not provide competent representation to Kerr in the habeas matter, did not provide information to the client, did not abide by the client's wishes on the objective of the representation, failed to act diligently, and caused delay in the administration of justice.

LORI A. MOSBY of Little Rock, Bar No. 94016, in Case No. 2003-182, by Committee Findings and Order filed January 10, 2005, on a complaint by Kenneth E. Davis, was reprimanded, fined \$500, and ordered to pay \$1,000 restitution to Mr. Davis for violations of Rules 1.4(a), 1.15(a)(1), 1.15(b), 1.16(d), 3.4(c), and 8.4(c). In 2002 Davis and three others were subpoenaed as witnesses by Mosby to attend a federal court trial (Townsend). All attended but none were paid the witness fee and their mileage as required by federal court rules. Mosby claimed the process server misplaced or lost the checks and that some witnesses rejected the checks when presented with them. Davis loaned her a copy of a union contract to review for the Townsend matter. She has since failed to return these materials to Davis in spite of his several requests. Mosby also was asked to represent Davis in similar litigation. For his own matter against the same defendants (Kroger), Davis provided Mosby with a large binder of materials he had amassed, including his EEOC "right to sue" letter. She declined to accept his representation, but failed to return his binder and materials, claiming she had misplaced it at home. Davis filed another EEOC claim in Memphis. After he received a "right to sue" letter, Mosby agreed to represent him. He provided her another binder of materials and paid her \$1,000 for expenses on August 15, 2002, when the contract for representation was signed. Davis paid another \$1,000 for expenses a month later. Davis thereafter experienced difficulty in communicating with Mosby. Davis claims he never got an accounting for funds he gave Mosby. She claims he got one in documents attached to her response to the Committee complaint. In December 2002 Mosby wrote Davis requesting an additional \$6,000. Davis scheduled a meeting with Mosby which she did not keep. He left her a letter requesting her to non-suit his action so he could obtain other counsel. She did so in January 2003, and made a refund, less her expenses, in March 2003. Davis disagreed with her expenses. Mosby claimed Davis did get his file from her staff and that it was her belief that his binder became her property when delivered to her, as agreed by Davis and her. The Committee found she failed to keep Davis properly informed in his matter, failed to deposit the \$2,000 paid for expenses into her trust account, failed to properly account for the client's

property, failed to return the client's property when the representation was terminated, failed to comply with the Federal Rules of Civil Procedure by not tendering witness fees and expenses to several trial witnesses, and was dishonest and deceitful when she failed to pay witnesses as required by court rule.

ROBERT L. SCULL, III, Bar No. 87155, of Little Rock, in CPC 2005-048, by Committee Consent Findings & Order filed April 15, 2005, on a complaint by Carla Coleman, was reprimanded, fined \$500, and ordered to pay \$2,003.73 restitution for violations of Rules 1.3, 1.4(a), 1.5(c), 1.15, 1.15(a)(1), 1.15(b), 8.4(c). Carla Coleman reported Scull for failing to pay her medical providers after settlement of her personal injury claim in 1998. Mr. Scull failed to place the settlement check in a trust account, failed to pay the medical providers, failed to maintain the funds necessary to pay the medical providers, and failed to communicate with his client about the unpaid medical bills. She sued him, he admitted his conduct, allowed a Judgment to be entered against him, but then failed to satisfy the Judgment. Scull signed his client's endorsement to the settlement check. He failed to place the fee agreement in written form and failed to provide his client with a settlement statement.

ROBERT L. SCULL, III, Bar No. 87155, of Little Rock, in CPC 2005-069, by Committee Consent Findings & Order filed June 27, 2005, on a complaint by Patrech Jones, was reprimanded, fined \$750, and ordered to pay \$95.68 restitution to Jones and \$1,157.69 to MetroCenter Physical Therapy for violations of Rules 1.3, 1.5(c), 1.15(a), 1.15(b), and 8.4(d). Mr. Jones reported Scull for failing to pay the medical providers after settlement in the late 90's of Jones' personal injury claim. Scull failed to pay the medical providers, failed to maintain the funds necessary to pay the medical providers, and failed to communicate with his client about the unpaid medical bills. Jones was sued by the medical provider in Municipal Court. Scull represented Jones in this action, failed to respond to discovery requests, and allowed a Summary Judgment to be granted against Jones. Scull did not contact Jones about these matters and has never paid the medical providers as agreed upon by the two parties. Scull did not have a written fee agreement with Jones on the personal injury matter, despite his fee agreement being contingent on the outcome of the matter.

RICK C. SHUMAKER, Bar No. 82211, of Texarkana, Texas, in CPC 2005-012, by Committee Consent Findings & Order filed June 6, 2005, on a complaint by Phillip Brown, was reprimanded and ordered to pay \$750 restitution for violations of Rules 1.3, 1.15(a)(1), and 5.5(a). Mr. Brown hired Mr. Shumaker on March 2, 2004, to assist him in attempting to stop the sale of his home at a Commissioner's sale set for March 16, 2004. Shumaker accepted \$750 from Brown and placed none of it in his trust account. Shumaker took no action for Brown. Shortly before the scheduled sale, Shumaker advised Brown that there was nothing he could do to help him. Since the sale was to occur within the hour, Brown was unable to seek financial arrangements so that he could purchase the home at the Commissioner's Sale. Shumaker has not refunded any of the funds he accepted from Brown. Mr. Shumaker's Arkansas law license was in suspended status for his failure to pay his annual license fee at the time he accepted payment and employment from Mr. Brown.

ALVIN L. SIMES of Forrest City, Bar No. 89188, in Case No. 2004-129, by Committee Findings and Order filed December 15, 2004, on information obtained from the Arkansas Supreme Court Opinion in No. 03-1249, *Bobby Jones v. Phillips County Election Commission*, was reprimanded for violations of Rules 1.1 and 8.4(d). Mr. Simes represented Jones, a school board candidate in 2003. The trial court ordered that Jones not be certified as the winner of the election, and Simes appealed for Jones. On May 12, 2004, the Court ordered rebriefing and reabstracting to correct flagrant deficiencies to comply with Court rules. His substituted brief filed May 26, 2004, failed to include in the addendum his basic pleading and his petition for writ of mandamus and declaratory judgment. The Court affirmed the lower court based on the uncorrected deficiencies, thereby depriving the client of his right to an appeal. Mr. Simes responded that the lower court should have ruled in favor of his client, who ran again in 2004 and was elected to the same school board, where he now serves and has not complained about Simes.

HERBERT C. SOUTHERN, Bar No. 99105, of Fayetteville, Arkansas, was reprimanded by Committee Consent Findings and Order filed December 9, 2005, on a Complaint filed by Ules E. Holder, in Case No. 2005-122, for violations of Model Rules 1.2(a), 1.3, 1.4(a), 1.15(a), and 1.15(b). While Mr. Southern was representing Holder in a bankruptcy matter, an issue arose concerning funds Mr. Holder owed to the Arkansas Department of Finance and Administration (DFA). The funds were delivered to Mr. Southern by Mr. Holder for remittance over to DFA. Mr. Southern did not place the funds in his IOLTA trust account, nor did he deliver the funds to DFA. Mr. Southern stated that although he did not actually place the cash delivered to him by Mr. Holder in the trust account, there were funds credited from other matters in his trust account representing the funds of Mr. Holder which were to be paid to DFA. Mr. Southern also stated that he wrote a check to DFA and sent it to them and did not know that the funds had not been received by DFA. Mr. Southern did not return telephone messages left by Mr. Holder for him. Mr. Holder sought the assistance of another attorney, who had to sue Southern in order for the funds to be returned to Mr. Holder. It was only after Mr. Southern was served with the Complaint that he returned the funds paid to him to Mr. Holder and also paid the other attorney hired by Mr. Holder the costs associated with filing the lawsuit.

MARK E. VELASQUEZ, Bar No. 98149, of Fayetteville, Arkansas, was reprimanded and fined \$400 by Committee Consent Findings and Order filed December 9, 2005, in Case No. 2005-127, for violations of Model Rules 1.8(e), 1.15(a), and 1.15(d) on a Complaint developed by the Office of Professional Conduct after receiving a trust account “overdraft” notice from his bank on February 22, 2005. The notice showed that his trust check \$33,008.00 to his client CK, in full settlement, was dishonored when presented to his bank for payment, as his trust account balance was only \$16,234.26 at the time. Mr. Velasquez received a written request from OPC for an explanation for this “overdraft” situation. Through exchanges of correspondence, e-mails, and documents, information was developed that CK was his client in a workers compensation claim that settled on February 9, 2005, for \$40,000.00. His February-April 2005 bank statements did not reflect the deposit of what would appear to be any CK settlement check into his trust account. In a “settlement sheet” RA later reconstructed for OPC, he showed that, among other charges, he deducted \$5,000.00 he had “advanced” CK on January 10, 2005, by his trust check, leaving her a

net settlement of \$33,008.00. Since there were no funds in his trust account on January 10, 2005, that belonged to CK, to pay her \$5,000 that meant he either converted \$5,000.00 in funds belonging to another client or used earned fees he had not promptly removed from his trust account as earned. He explained that he also “most likely” deposited four “earned fees” totaling \$15,827.14 into his trust account from February 1-11, 2005. In a further explanation of the status of his overdrawn trust account, he showed the deposit into his trust account on or about February 14, 2005, of a check from Franklin Templeton Investments for \$14,316.27, payable to his wife, which deposit was necessary to bring his account balance back to the level at which CK’s check would be paid when presented again on February 16, 2005, according to his bank statement.

DONALD E. WARREN, Bar No. 99077, of Pine Bluff, was reprimanded by Committee Findings & Order filed October 18, 2005, on a Per Curiam Order Complaint in Case No. 2005-093, for violations of Rules 1.1, 1.3, 3.4(c), and 8.4(d). Warren represented Mario Clark on a criminal appeal. He filed a first brief, but the court ordered him to file another brief that complied with Supreme Court Rule 4-3(j)(1). He filed a motion for extension of time to file his brief and the extension was granted. A second brief was filed but rejected for noncompliance with several Rule requirements. A third brief was rejected by the Clerk as it contained no references to the abstract or addendum and the pages were not numbered correctly. A fourth brief was tendered November 1, 2004, but was rejected as untimely. Warren filed a motion to file belated brief, which was granted November 17, 2004. Warren filed a motion to withdraw, which was granted May 4, 2005. In allowing him to withdraw, and appointing other counsel, the Court stated that the substandard work on the brief caused it concern, that further efforts to direct warren to file a brief that complied with Rule 4-3(j)(1) would be of no avail, and referred the matter to the Committee.

B. DALE WEST, Bar No. 89192, of Monticello, in CPC 2005-056, by Committee Consent Findings & Order filed June 27, 2005, on a Per Curiam referral from the Arkansas Supreme Court was reprimanded and fined \$750 for violations of Rules 1.2(a), 1.3, 3.4(c), and 8.4(d). The Court referred West to the Committee after granting Steven Pinell’s *pro se* Motion for Belated Appeal. Mr. West was retained to represent Pinell in the re-sentencing of his criminal conviction. He did so, filed a timely Notice of Appeal, and then took no further action to preserve the appeal. West did not seek to be relieved from representation of Mr. Pinell. He failed to comply with the requirements of Rule 16 of the Arkansas Rules of Appellate Procedure - Criminal. The Court granted the *pro se* Motion and ordered West to complete the appeal.

ROBERT R. WHITE of Fayetteville, Bar No. 72111, in Case No. 2004-172, by Committee Consent Findings and Order filed March 18, 2005, on a complaint by William “Bill” Bartz, was reprimanded and fined \$250 for violations of Rules 1.3 and 1.4(a). Bartz, an employee of the University of Arkansas Razorback athletic department, in August 2002 was referred to White by the head football coach for assistance with a possible medical malpractice claim Bartz had against a Fayetteville physician, who also happened to be one of the football team physicians. Communications difficulties arose between Bartz and White. White failed to take any legal action or find another attorney to do so for Bartz. Bartz got his file from White in the Spring of

2004 and took it to another attorney, who advised Bartz on May 21, 2004, that the statute of limitations had run on any medical malpractice action.

CAUTION:

RICHARD W. ATKINSON, Bar No. 88066, of Conway, in CPC 2005-064, by Committee Consent Findings & Order filed June 27, 2005, on a complaint by Rita Sklar, was cautioned for violations of Rules 1.1, 1.2(a), and 1.3. Ms. Sklar, on behalf of the ACLU of Arkansas, filed a complaint against Mr. Atkinson for his representation of Alicia Bennett, arising out of his appointment to represent Ms. Bennett in a parental termination matter in Faulkner County. Mr. Atkinson appeared at a hearing on Ms. Bennett's behalf after she was ordered incarcerated by the Circuit Judge, following Bennett's positive drug test, for the duration of her pregnancy. Ms. Bennett began to try to contact Mr. Atkinson following her incarceration and following the Order terminating her parental rights. Mr. Atkinson did not contact or communicate with Ms. Bennett or her family. On one occasion when another attorney accompanied Mr. Atkinson to the jail to see Ms. Bennett, Mr. Atkinson advised Ms. Bennett that he would pursue habeas corpus relief on her behalf to seek to secure her release from custody but he never did so. Atkinson never took any action to appeal the adverse rulings against Ms. Bennett.

GARY J. BARRETT, Bar No. 2000071, of Stuttgart, in CPC 2005-045, by Committee Consent Findings & Order filed June 6, 2005, on a complaint by Mrs. Bernie Tate, was cautioned and fined \$450 for violations of Rules 1.1, 1.3, and 1.4(a). Mrs. Tate hired Mr. Barrett to pursue a medical malpractice action against a doctor for mis-diagnosis of her husband. Barrett did not file the action for some period of time and then did so on the wrong theory. He failed to file the suit on behalf of the proper party. He did not inform Mrs. Tate when a Motion to Dismiss was filed, nor did he respond to the Motion. He did not communicate with Mrs. Tate and did not keep her advised of any actions taken on her behalf.

TOD C. BASSETT of Fayetteville, Bar No. 80007, in Case No. 2004-160, by Committee Consent Findings and Order filed February 18, 2005, based on information from the orders of the Arkansas Court of Appeals, was cautioned for violations of Rules 1.1, 1.3, and 8.4(d). Mr. Bassett represented a hospital in its appeal of a workers compensation case. The appeal record was lodged with the Clerk two days late. His Motion for Rule on the Clerk was denied and his client lost its right to an appeal.

DARRELL F. BROWN, SR. of Little Rock, Bar No. 72012, in Case No. 2004-014, by Committee Findings and Order filed March 10, 2005, on a complaint by Renee Crater, a physical therapist, and Stephen Kelley, III, Mr. Brown's client, was cautioned, fined \$1,000, and ordered to pay restitution of \$166.21 to Mr. Kelley and \$444.50 to MEMS Ambulance of Little Rock for violations of Rules 1.2(a), 1.3, 1.4(a), 1.15(a)(1), 1.15(b), and 8.4(c). In December 2001 Brown began representing Kelley in a personal injury matter. Kelley had bills arising from the incident with St. Vincent Medical Center, Dr. Archie Hearne, MEMS Ambulance and MCH Physical Therapy (Ms. Crater) totaling \$2,943.72. This amount was withheld by Brown from Kelley's

settlement funds on April 30, 2002. Brown's office did not respond to requests from the providers or Kelley for status reports or for payment. These bills remained unpaid until mid-November 2003, when Crater and Brown complained to the Office of Professional Conduct, which contacted all providers. St. Vincent sued Kelley, got a judgment, and garnished his wages for several pay periods while Kelley attempted to get Brown to resolve the matter. Brown paid Dr. Hearne and MCH by the end of 2003. He paid almost all of the Kelley debt plus garnishment costs to St. Vincent in early 2004, leaving Kelley \$166.21 short of being made whole there. MEMS remains unpaid. Brown's trust account balance fell to a low of \$245.46 on July 8, 2002, indicating a shortage of the funds he should have been holding there for the Kelley providers he agreed to pay.

JOHN M. BURNETT, Bar No. 95082, of Albuquerque, NM, formerly of Eureka Springs, in CPC 2002-123, by Committee Consent Findings & Order filed June 29, 2005, on a complaint by Carroll County Circuit Clerk Ramona Wilson, was cautioned and fined \$1,250 for violation of Rule 5.3(b). At issue was whether an answer had been timely filed by Burnett's office in a divorce case. No original filed answer could be located. Burnett denied having personal knowledge of any irregularity in the questioned date stamp, but did acknowledge he did not properly supervise his staff to insure that an answer was timely filed and a copy served on opposing counsel.

ALVIN D. CLAY, Bar No. 96075, of Little Rock, in CPC No. 2005-042, on a Per Curiam referral from the Arkansas Supreme Court, by Committee Consent Findings & Order filed August 8, 2005, was cautioned for violation of Rules 1.3, 3.4(c), and 8.4(d). Clay represented Rodell Avery, Jr. at trial in Calhoun County Circuit Court, where Avery was found guilty and sentenced to the Arkansas Department of Correction. Clay did not file a timely Notice of Appeal. He filed a motion to vacate the judgment on October 14, 2003 and the Circuit Court denied the motion in an order filed on November 13, 2003. On November 20, 2003, Attorney filed a notice of appeal. The notice of appeal stated that the matter appealed was the denial of the motion to vacate the judgment. In an appeal brief filed on August 23, 2004, Attorney cited three points for reversal pertaining to the judgment of conviction and one pertaining to the denial of the motion to vacate judgment. The Court directed Attorney to file a substituted brief on or before December 8, 2004. No substituted brief was filed, and the Court dismissed the appeal.

STEPHEN L. CURRY of Little Rock, Bar No. 81041, in Case No. 2004-030, by Committee Consent Findings and Order filed March 18, 2005, on a complaint by Toni Holderfield, was cautioned and assessed costs of \$250 for violations of Rules 1.1, 1.3, 1.4(a), and 1.5(b). In 2001 Curry started representing Holderfield in a wrongful termination matter. She had increasing difficulty contacting Curry over time about litigation he was hired to file for her. By early 2003 she learned he was no longer with his former firm. She then learned her case had been dismissed in October 2002. Curry failed to respond to discovery requests and orders to compel, resulting in dismissal of her suit. Curry was found to have not acted in a competent manner, not been diligent, failed to appropriately communicate with his client, and to not have a written fee agreement with the client which explained the basis for his fees.

ROBERT L. DEPPER, JR., Bar No. 81046, of El Dorado, in CPC 2004-186, by Committee Findings & Order filed May 25, 2005, on a complaint developed from Orders of the Arkansas Court of Appeals in No. CA-04-819, *Goffin v. Wackenhut*, was cautioned and fined \$250 for violations of Rules 1.2(a), 1.3 and 8.4(d). Mr. Depper represented Mr. Goffin on a workers' compensation case appeal to the Court of Appeals. Depper filed the record and got an extension from the clerk to file his brief. He failed to file a brief, the other side filed a motion to dismiss, Depper did not respond, and the motion was granted, ending his client's appeal without a chance for a decision on the merits. Depper responded that the failure was an oversight in "calendar" on his part. Depper stated the likelihood of success on appeal for his client was small. Depper stated he continues to represent client and his spouse in bankruptcy, even after they were made aware of his problem on this appeal.

DAVID L. DUNAGIN, Bar No. 84040, of Fort Smith, in CPC 2005-041, by Committee Consent Findings & Order filed June 28, 2005, on a complaint developed from orders of the Arkansas Court of Appeals in No. CACR-04-948, *Sehorn v. State*, was cautioned for violations of Rules 1.2(a), 1.3, 3.4(c) and 8.4(d). The Arkansas Court of Appeals dismissed the appeal of his client, Raymond Earl Sehorn. Mr. Dunagin failed to file a brief for his client. The Attorney General's Motion to Dismiss, to which Dunagin did not respond, was granted. Dunagin did finally file a Motion for Extension of Time to File the Brief on March 2, 2005, which was the date the appeal was dismissed. Dunagin's motion to reinstate the appeal was granted May 23, 2005.

DAVID L. DUNAGIN, Bar No. 84040, of Fort Smith, in CPC 2005-068, by Committee Consent Findings & Order filed June 28, 2005, on a complaint developed from Orders of the Arkansas Supreme Court in No. CR-05-261, *Manuel Bail Bond Co., Inc. v. State of Arkansas*, was cautioned for violations of Rules 1.1, 1.2(a), 1.3, and 3.4(c). Mr. Dunagin represented Manuel Bail Bond Company, Inc. in a civil appeal from a decision of the Crawford County Circuit Court. He failed to file the record with the Supreme Court within ninety (90) days of the filing of the Notice of Appeal. He filed a Motion for Rule on the Clerk accepting responsibility for the late filing, but the Court denied his motion, leaving his client without the opportunity to seek appellate review of the lower court's decision.

GREG R. GILES of Texarkana, Bar No. 87067, in Case No. 2005-015, by Committee Consent Findings and Order filed March 18, 2005, on a complaint based on information from the orders of the Arkansas Court of Appeals, in a workers' compensation civil appeal involving his client Shandi Allen, was cautioned for violations of Rules 1.3 and 8.4(d). Giles failed to timely lodge the appeal record, being one day late, and filed a Motion for Rule on the Clerk. The Motion was denied and the client lost the right to an appeal.

KATHY L. HALL of Little Rock, Bar No. 98110, in Case No. 2004-051, by Committee Findings and Order filed January 4, 2005, on a referral by the Arkansas Supreme Court in the appeal of Donald Strom, was cautioned for violations of Rules 1.3 and 8.4(d). Hall represented Strom on an appeal of denial of his Rule 37 petition. She obtained an extension of time to file his

brief, but failed to timely file the brief. Her Motion to File Belated Brief was granted, her brief accepted, and the appeal went forward. The Court referred the matter to the Committee.

K. DANIEL HASH of El Dorado, formerly of Bentonville, Bar No. 2000009, in Case No. 2003-193, by Committee Findings and Order filed January 11, 2005, on a complaint by Jackie “Sonny” Goff, was cautioned and ordered to pay \$150 restitution to Goff for violations of Rules 1.3, 1.4(a), 1.4(b), 1.16(d), 8.4(c) and 8.4(d). In March 2002 the Goffs hired Hash to represent them in a suit and file a counterclaim for injury to their horse by a veterinarian. Hash requested and was paid a \$150 retainer fee. The Goffs later had difficulty communicating with Hash. Hash did not provide the name of any expert witness and failed to respond to requests for admission, which were later deemed admitted. A motion for summary judgment was filed against the Goffs. Their counterclaim was dismissed. Hash responded that the Goffs’ case was the first one he handled, and he was inexperienced. He stated he took on too many matters, many from attorney Johnny Gross, and could not handle them, as he also had health and financial problems. He has left private practice and is employed in a more structured public service legal environment now. Hash was found to have failed to act diligently, failed to communicate appropriately with his clients, failed to return their property upon termination, and to have misrepresented the true facts of their situation to the clients.

K. DANIEL HASH of El Dorado, formerly of Bentonville, Bar No. 2000009, in Case No. 2004-069, by Committee Findings and Order filed January 11, 2005, on a complaint by Terry Lynn Foreman, was cautioned for violations of Rules 1.1, 1.2(a), 1.3, 3.4(c), and 8.4(d). In August 2003 Foreman hired Hash to handle her appeal, which had been initially filed by another attorney. Gross, an attorney with whom Hash was working, conducted the initial interview with Foreman. Hash entered his appearance and the first attorney was relieved. Hash obtained an extension for the brief due date. He failed to file a brief. Hash claims he failed to file a brief because he consulted with Gross, who told him he did not have to file a brief since the client had not paid him yet. A motion to dismiss was filed by appellee and granted. Ms. Foreman later made efforts to have her appeal reinstated but was unsuccessful. Hash explained to the Committee that he had left private law practice and was ill-advised in his selection of Gross as a law practice partner.

RICKEY H. HICKS, Bar No. 89235, of Little Rock, was cautioned and fined \$500.00 by Committee Findings & Order filed October 5, 2005, on a Complaint filed by Lillian Glenn in Case No. 2005-013, for violations of Model Rules 1.1, 1.2(a), 1.3, 1.4(a), and 8.4(d). After volunteering, Mr. Hicks was appointed to represent complainant in a civil rights action in federal district court. Attorney failed to promptly and diligently represent complainant. He did not respond to discovery, did not file a Pretrial Conference Information Sheet, and did not respond to pleadings filed by opposing counsel. He allowed complainant’s action to be dismissed by not responding to a Motion to Dismiss. He did get the litigation reopened but then failed to take any action for the five months between the reopening and his motion to be relieved. Ms. Glenn requested the court appoint another attorney for her, which was done, and Mr. Hicks was permitted to withdraw.

Q. BYRUM HURST, JR., Bar No. 74082, Hot Springs, in CPC No. 2004-153, on a Per Curiam referral from the Arkansas Supreme Court, by Committee Findings & Order filed July 29, 2005, was cautioned and fined \$1,000.00, for violation of Rule 1.3. Hurst represented Milton Morris at trial, where Morris was found guilty of Second Degree Murder and sentenced to twenty (20) years in the Arkansas Department of Correction, with judgment filed on August 7, 2003. A Notice of Appeal was timely filed. On November 5, 2003, a Motion for Extension of Time to file the record was filed, and granted to June 14, 2004. The record is required to be filed within seven months of the entry of the judgment, regardless of the court's order, which due date was on or before March 7, 2004. The record was tendered after March 7, 2004 and not accepted by the Clerk. Attorney filed a Motion for Rule on the Clerk on August 4, 2004. The Arkansas Supreme Court granted the Motion on September 9, 2004 and referred the matter to the Office of Professional Conduct.

STEVEN R. JACKSON, Bar No. 97142, of Fayetteville, in CPC 2004-183, by Committee Findings & Order filed June 6, 2005, on a complaint by Kenneth D. Millican, was cautioned, fined \$500, and ordered to pay \$500 restitution for violations of Rules 1.3, 1.4(a), and 8.4(d). Mr. Millican hired Mr. Jackson in 2000 to handle problems Millican was having obtaining payment from a trucking company. Jackson told Millican he would file suit for Millican, but failed to do so. Millican was unable to contact Jackson and obtain information about his matter. The trucking company later filed bankruptcy and Jackson was then unable to file suit for Millican due to the bankruptcy court automatic stay. Jackson thereafter failed to file a claim in bankruptcy for Millican against the trucking company, which obtained a discharge in June 2002, leaving Millican with no recourse against it.

ROBERT NEAL JEFFREY, Bar No. 89110, of Camden, Arkansas, was cautioned by Committee Findings and Order filed December 28, 2005, on a Per Curiam Order Complaint filed in Case No. 2005-136, for violations of Model Rules 1.3 and 8.4(d). Mr. Jeffrey represented Kentrell Hill at trial, where he received a 135-year sentence, then filed a timely notice of appeal for Hill. An extension of time to file the record was requested and granted, with the Order filed setting the time to September 14, 2005. The maximum time permitted by Supreme Court Rule is seven (7) months from the date of the entry of judgment. In this case, the real last day to file the record was September 1, 2005. Mr. Jeffrey tendered the record "late" on September 8, 2005. Mr. Jeffrey's motion for rule on the clerk was granted and the appeal was allowed to proceed.

CHARLES R. KARR, Bar No. 85062, of Fort Smith, in CPC 2004-161, by Committee Consent Findings & Order filed April 5, 2005, on a complaint by Ida M. Finney, was cautioned and fined \$250 for violations of Rules 1.3, 1.5(b), 1.5(c), and 3.2. Karr was hired to file a nursing home malpractice action against an Oklahoma nursing home for a man who died in a Fort Smith Hospital in 1999. No written fee agreement was provided to the client. Suit was filed by Shane Roughly, Mr. Karr's associate, in Arkansas in June 2001, including a Fayetteville hospital as a defendant, apparently to try to fix jurisdiction in an Arkansas court. In July 2001 Karr's firm sent the client a letter stating that another law firm might be interested in the suit. He then dismissed all defendants from the suit except the Oklahoma nursing home. In November 2001 the Arkansas

case was dismissed for lack of jurisdiction over the Oklahoma nursing home. Karr was fired, an Oklahoma attorney was hired, and he filed the same suit against the nursing home in an Oklahoma court. This suit was dismissed because the statute of limitation expired two months after the Arkansas suit was filed by Karr. Mr. Karr responded to the Committee complaint that at all times he had a good faith belief that there was a reasonable theory for sustaining Arkansas jurisdiction over the Oklahoma nursing home.

JOHN L. KEARNEY, Bar No. 74090, of Pine Bluff, in CPC No. 2005-047, on a complaint by Tyrone Simmons, by Committee Findings & Order filed September 13, 2005, was cautioned and ordered to pay \$1,500 restitution to Simmons for violation of Rule 1.15(b). Mr. Kearney was hired by inmate Tyrone Simmons to retrieve \$2,500 allegedly owed to Mr. Simmons by his previous attorney in another matter and to seek to have Mr. Simmons transferred to another prison unit so he could receive appropriate treatment. Mr. Kearney learned Simmons could be appropriately treated at his present unit. Mr. Kearney obtained the funds from the other attorney but never returned any of the money to Mr. Simmons. Kearney claimed he told Simmons his fee for these services would be \$2,500 and that Simmons never requested a refund.

BARBARA A. KETRING-BEUCH of North Little Rock, Bar No. 97074, in Case No. 2005-019, by Committee Consent Findings and Order filed March 18, 2005, on a referral from the Arkansas Supreme Court in No. CR-04-927, *Quincy Moore v. State*, was cautioned for violation of Rule 1.3. Ketring-Beuch failed to file a notice of appeal. Her client filed a timely notice *pro se*. After learning of the filing of the notice of appeal, she then failed to obtain an extension of time to file the appeal record, which was filed late. She had to file a Motion for Rule on the Clerk, which was granted, saving the appeal.

BARBARA A. KETRING-BEUCH, Bar No. 97074, of Hot Springs, Arkansas, was cautioned by Committee Consent Findings and Order filed December 19, 2005, on a Complaint filed by Pamela J. Austin in Case No. 2005-112, for violations of Model Rules 1.3, 3.4(c), and 5.5(a). Respondent represented Pamela Austin in a child visitation matter in Faulkner County Circuit Court in 2004-2005. In July 2004 Austin and Respondent participated in a mediation. An order was generated at the mediation and signed by those present, to be signed by the Court, filed and distributed to the parties. Ms. Austin did not receive a file-marked copy and attempted to contact Respondent several times over the next few months to get a copy. The order was finally filed May 23, 2005, the Office of Professional Conduct obtained a copy, and provided it to Ms. Austin. Respondent's Arkansas law license was in automatic suspended status from March 2 - May 17, 2005, due to her non-payment of her 2005 license fee by March 1, 2005. She practiced law in Arkansas, on the Pamela Austin matter and others, while her license was in suspended status.

BARBARA A. KETRING-BEUCH, Bar No. 97074, of Hot Springs, Arkansas, was cautioned and ordered to pay restitution in the amount of \$200.00 by Committee Consent Findings and Order filed December 19, 2005, on a Complaint filed by Luther Nelson of Chicago, in Case No. 2005-120, for violating Model Rule 1.4(a). Mr. Nelson hired Respondent and paid her \$500 in

January 2003 to transfer title to Arkansas “heir” property, with eighteen (18) heirs involved. Problems arose with circulation of the deed and it had to be sent around twice. The deed was apparently never completed. Nelson dismissed Respondent in September 2004, and requested a fee refund and return of documents he had provided Respondent. A second attorney was engaged to finish the job. Respondent stated she mailed everything she had back to Nelson, accounted for the fee, he was not due a refund, and that it was problems with names and addresses Nelson provided her that caused the delay and problems with the deed.

JOSHUA E. McHUGHES, Bar No. 67040, of Little Rock, was cautioned and ordered to pay \$300.00 restitution by Committee Findings & Order filed October 21, 2005, on a Complaint filed by Robert Baird in Case No. 2005-098, for violations of Model Rules 4.2, 4.4, 8.4(d). Mr. Baird received a summons from McHughes about a civil litigation that had been filed with regard to an automobile accident involving a Robert Baird. The complainant was not the appropriate defendant. He provided attorney with proof of his driver’s license number and date of birth which clearly were different than the information on the accident report. Several months later, attorney again contacted complainant with a copy of a Motion for Default Judgment. Mr. Baird hired counsel who advised the Court and attorney this was the wrong defendant. Despite being provided the information, attorney continued to contact Complainant. Mr. McHughes responded that he obtained Mr. Burns’ name from an electronic data base, and that this Mr. Baird contacted his office and informed them he was the wrong Robert Baird

JAMES E. McMENIS of El Dorado, Bar No. 73157, in Case No. 2004-065, by Committee Findings and Order filed January 10, 2005, on information obtained from orders of the Arkansas Supreme Court in an appeal involving Lou Ella Benton and others, was cautioned for violations of Rules 1.1, 1.2(a), 1.3, 3.4(c), and 8.4(d). McMenis was co-counsel with Mr. Van Hook on a case where an appeal was sought. The appeal record was not timely lodged and no extension of time was sought. A Motion for Rule on the Clerk was filed by McMenis but denied, depriving the clients of any right to an appeal. McMenis responded that he was “second chair” in the case, but was equally responsible for its conduct, and he failed to ensure that all court rules and deadlines were complied with.

FARRIS MERRITT, Bar No. 2001133, of Hot Springs, was cautioned by Committee Findings & Order filed October 21, 2005, on a Complaint filed by Michael Green in Case No. 2005-106, for violations of Model Rules 1.3, 1.4(a), 1.5(b), 1.15(a)(1), 1.16(d), 3.4(c). Michael and Marsa Green hired Merritt in February 2004 on two separate matters. Merritt was paid \$3,000 for each representation. The funds paid to him were not placed in an IOLTA trust account despite the fact that they were for future services and costs associated with the representations. Merritt failed to act diligently or promptly in either matter. He failed to place the basis or rate of the fee in writing or to explain it to either Mr. Green or his wife. Merritt did not keep complainant or his wife informed of any actions he was taking nor did he return telephone calls when contacted. He did not return the unearned fees when his representation was terminated. He was sued and agreed to pay the complainant and his wife back in installments of \$500 every three months beginning in 2005. He failed to maintain the funds of his clients in his

trust account as evidenced by the installment payments to refund the fees to them. Merritt failed to pay his 2005 annual law license fee as required by Court Rule. He did not pay the fee until May 10, 2005 over two months from when it was due and payable on March 1, 2005. Merritt delivered \$3,000 to Mr. Green after he was served with the formal disciplinary complaint. He also assured the Committee he would deliver the remaining \$3,000 to the Greens.

DAVID E. MORRIS of Fayetteville, Bar No. 82114, in Case No. 2003-194, by Committee Findings and Order filed March 9, 2005, on a complaint by Jon Roberts, was cautioned and ordered to pay restitution of \$1,000 to Mr. Roberts for violations of Rules 1.2(a), 1.3, 1.4(a), 1.4(b), 8.4(c) and 8.4(d). Mr. Roberts hired Mr. Morris in 1997 to come in as the second attorney for him in a civil suit filed in Boone County by another attorney. The written agreement provided Morris was to receive 40% of any recovery. After Morris filed his motion to be added as counsel the Roberts stopped communicating with their previous attorney in the case. The Roberts had difficulty in communicating with Morris. In June 2000 the case was dismissed but Morris did not inform the Roberts. In 2002 Morris told Roberts he had requested a trial in the case, which was not true. Morris did not abide by the client's objective in the representation, was not diligent, failed to keep the client properly informed about the status of the client's matter entrusted to him, was not truthful with his client and caused their case to be dismissed in such a manner that the clients lost the chance to refile because they did not know of the dismissal of their case.

JOHN DOYLE NALLEY of Benton, Bar No. 86132, in Case No. 2004-165, by Committee Findings and Order filed March 1, 2005, on a complaint by Shirley Ryan, was cautioned for violations of Rules 1.5(a), 1.5(c), 1.9(c)(1), and 8.4(c). Nalley was hired by Ryan to represent her in a "slip-fall" personal injury matter for a fee of 40% of any recovery. In a letter to Ryan in August 2004, Nalley told her he would no longer be able to represent her and that he would take no further action on her behalf. Scottsdale Insurance later sent Ryan a letter stating it had \$5,000 in no-fault medical (not liability) coverage and if she wished to have the company consider her medical expenses to send it proof of them. Later Ryan's medical carrier notified her it was pursuing recovery from Scottsdale for its medical paid for Ryan. In October 2004 Nalley sent Ms. Ryan a letter advising her he had a \$5,000 check from Scottsdale, asking her to authorize him to cash the check and send her two-thirds of the amount, reserving one-third to himself as his fee. Ryan wrote Nalley asking why the full \$5,000 did not belong to her medical carrier. Nalley wrote her back asking if she wanted him to pay her portion of the \$5,000 to her carrier. Believing she had no other choice, Ryan authorized Nalley to take the action he proposed. Nalley asserted he received the one-third fee for his efforts in negotiating Medicare whereby Medicare, Ryan and Nalley each received one-third of the \$5,000.

ROBERT A. NEWCOMB of Little Rock, Bar No. 73087, in Case No. 2004-152, by Committee Findings and Order filed March 29, 2005, on a referral from the Arkansas Supreme Court in the criminal appeal of his client Andre Crawford, was cautioned and fined \$500 for violations of Rules 1.3 and 8.4(d). He failed to timely lodge the record on appeal and had to file a Motion for Rule on the Clerk, which was granted, allowing the appeal to go forward.

ROBERT A. NEWCOMB, Bar No. 73087, of Little Rock, was cautioned by Committee Findings & Order filed November 18, 2005, on a Complaint Before the Committee in Case No. 2005-087, for violations of Model Rules 1.3 and 8.4(d). Mr. Newcomb self-reported his conduct in failing to file a timely appellant's brief with the Arkansas Court of Appeals on behalf of his client in a civil appeal matter. He was required to file a Motion to File Belated Brief in order to have the brief accepted. The Court of Appeals granted the Motion and the brief, tendered with his motion, was been filed.

JAMES M. PRATT, JR. of Camden, Bar No. 74124, in Case No. 2002-173, by Committee Consent Findings and Order filed February 18, 2005, on a complaint by Charles Burdine, Jr. of Texas, was cautioned and ordered to pay costs of \$250 for violations of Rules 1.2(a), 1.3, 1.4(a), 1.4(b), and 3.2. Mr. Burdine, Sr. died September 8, 2000, in Magnolia, and his probate estate was opened the same day. The second of three wills prepared in the law office of David Talley of Magnolia, was admitted to probate, naming William B. "Buster" Guthrie, as executor without bond. Guthrie, a former lawyer who surrendered his law license in 1983 on his way to prison as a result of his felony convictions for thefts from client trust funds, was a paralegal in Talley's law office. Guthrie's appointment was approved and he began marshaling estate assets. The three Burdine children hired Mr. Pratt, whom they had dealt with on family matters in the past, to protect their interests in their father's estate. A third Burdine will surfaced in Talley's office. The second will left Mr. Burdine's residence to a girl-friend. The third will also gave her a Cadillac. Pratt approved a "family settlement agreement" in June 2001, to avoid having to probate the third will. Later, there was a disagreement between his clients and Pratt as to his authority to approve the family settlement agreement. Communications difficulties arose between Pratt and his clients by mid-2001. In September 2001, Guthrie filed his first accounting for the estate, showing a bank account balance of \$21,726.12, when the actual balance was only \$617.68. Guthrie showed executor's fees of \$4,660.56 to himself and attorney's fees of \$4,712.74 to Talley as unpaid liabilities of the Burdine estate. Unknown to the Burdine heirs or Pratt at the time, and until March or April 2004, Guthrie had paid Talley a total \$7,000 from estate funds as attorney's fees in December 2000 and January 2001, and had paid himself a total of \$29,000 from estate funds between December 2000 and October 2001. After Guthrie failed to provide the estate bank records, Pratt obtained them by subpoena from the bank in early 2004 and discovered the apparent misappropriation. Pratt obtained repayment from Talley to the estate of the \$7,000, and continues to represent the Burdine heirs in the matter, now as the attorney for Charles Burdine, Jr., who was appointed executor when Guthrie resigned in May 2004. Criminal charges filed by a special prosecutor are pending against Guthrie, and Pratt has filed a civil suit against Guthrie seeking recovery of the missing estate funds.

SHANE ROUGHLEY, Bar No. 95021, of Fort Smith, in CPC 2004-162, by Committee Consent Findings & Order filed April 5, 2005, on a complaint by Ida M. Finney, was cautioned and fined \$250 for violations of Rules 1.3, 1.5(b), 1.5(c), and 3.2. Please refer to the summary (above) on Charles Karr in No. 2004-161.

L. HOWARD SCHWANDER, III, of Little Rock, Bar No. 92009, in Case No. 2004-063, by Committee Consent Findings and Order filed January 21, 2005, on a complaint by Elizabeth French, was cautioned and ordered to pay \$3,500 restitution to Ms. French for violations of Rules 1.3 and 8.4(d). Mr. Schwander was hired by Ms. French and paid \$3,500 to appeal an adverse decision which changed custody of her two year old to the biological father who lived out of state. Mr. Schwander failed to obtain an order extending the time to lodge the record. He tendered the record to the Clerk six days late. He filed a Motion for Rule on the Clerk but it was denied, costing his client any right of appeal. Mr. Schwander offered to refund the full fee, which was approved by the Committee as part of the consent.

L. HOWARD SCHWANDER, III, Bar No. 92099, of Little Rock, was cautioned by Committee Findings & Order filed October 27, 2005, on a Complaint filed by Jane Thompson in Case No. 2004-191, for a violation of Model Rule 1.4(a). Mr. Schwander was hired by complainant in November 2001 to pursue her claims arising out of an automobile accident in which she was involved during September 2001. Ms. Thompson experienced great difficulty in communicating with Mr. Schwander and receiving any information from him about her claims.

CLARENCE PHIL SHOFFNER, Bar No. 76114, of Searcy, Arkansas, was cautioned by Committee Findings and Order filed December 28, 2005, on a Complaint filed by Robert Burns in Case No. 2005-107, for violations of Model Rules 1.3, 8.4(c), and 8.4(d). Mr. Burns purchased property from the Estate of David L. Cox, which was represented by Mr. Shoffner, who acted as the Settlement Agent at the sale of the property. Despite accepting funds for the purchase of title insurance, Mr. Shoffner failed to comply with the requirements given to him by Jackson County Land Title Services (JCLTS), and no title insurance was secured for Mr. Burns. Mr. Shoffner included a copy of a canceled check made payable to JCLTS dated July 28, 2003, for title insurance on the property, but the check was not paid by Mr. Shoffner's bank until January 26, 2004. Mr. Shoffner also provided the Panel with a copy of a Quiet Title Action he had filed in June 2003 related to the property purchased by Mr. Burns. Mr. Shoffner explained that his then secretary handled the closing in his office, he was not directly involved, so he was unaware of much of this matter. When Mr. Burns attempted to sell the property later, he learned that he had no title insurance on the property and no clear title. Mr. Burns attempted to contact Mr. Shoffner. Mr. Shoffner did not return the telephone calls. Mr. Burns had others attempt to contact Mr. Shoffner on his behalf but they were not successful either. Finally, Mr. Burns hired other counsel to assist him in obtaining clear title and handling of the matters which Mr. Shoffner failed to handle. Mr. Burns paid \$1768.56 to subsequent counsel. Cynthia Nicholson of Independence County Abstract Company explained that when contacted by Mr. Burns in January 2005, she learned that a title policy was never written on the property purchased by Mr. Burns because the requirements in Schedule B-1 of the commitment were never met. Ms. Nicholson contacted Mr. Shoffner's office for Mr. Burns and explained the problem to Mr. Shoffner's secretary. Mr. Shoffner did not contact Ms. Nicholson despite the messages left by her for him. Despite the telephone calls from Mr. Burns and from Ms. Nicholson, Mr. Shoffner advised the Panel that he was unaware that JCLTS had not issued a final policy of title insurance until the filing of the disciplinary Complaint. Along with his response to the formal disciplinary

complaint, Mr. Shoffner tendered for delivery to Mr. Burns a check in the amount of \$1,768.56 to reimburse him for the fees incurred in connection with the quiet title action Mr. Burns initiated with other counsel.

SIMMONS S. SMITH of Little Rock, Bar No. 76119, in Case No. 2004-142, by Committee Findings and Order filed January 11, 2005, on a complaint by Mohammad-Reza Sheikholeslami, M.D., was cautioned for violations of Rules 1.3, 1.4(a), 1.4(b), 3.2, 8.4(a), and 8.4(d). Dr. Sheikholeslami hired Smith to represent him in a motor vehicle accident of February 14, 2003. Dr. Sheikholeslami thereafter moved to California and heard nothing from Smith. His claim remained unresolved at the time the disciplinary complaint was filed. Smith claimed he could not go forward because Dr. Sheikholeslami failed to sign an medical authorization form. Dr. Sheikholeslami replied that Smith never communicated with him about this matter.

LARRY JOE STEELE, Bar No. 78146, of Walnut Ridge, in CPC 2005-033, by Committee Consent Findings & Order filed June 27, 2005, on a complaint by Barbara Batiste, was cautioned and fined \$250 for violations of Rules Rules 3.4(c), 5.5(a), and 8.4(d). Mr. Steele failed to pay his 2004 license fee, due by March 1, 2004, until January 27, 2005, when he paid both his 2004 and 2005 fees, after service upon him of this Committee Complaint. His Arkansas law license was automatically administratively suspended from March 2, 2004, until January 27, 2005. He participated as a lawyer of record in at least two appeals in state court and one federal district court case during this period of suspension. In the federal case, opposing counsel filed a motion, and served Steele, on June 10, 2004, giving the federal court and Steele notice that he had failed to pay his 2004 state law license fee, yet Steele continued to file pleadings in that case. Steele responded that he was only negligent in not paying his 2004 fee, but did not knowingly fail to pay that fee. He stated he confused his 2003 dues payment (paid late on May 2, 2003) for his 2004 dues payment. He stated that upon being served with the Committee complaint he searched his office and found an unopened letter dated April 22, 2004, which notified him his Arkansas license was suspended for not paying his 2004 license fee. He admitted he did not read the (June 2004) federal court pleading closely enough to see the provision there that raised the issue of his problem with non-payment of his 2004 license fee.

KATHERINE SANDERSON STRETT of El Dorado, Bar No. 91245, in Case No. 2004-133, by Committee Findings and Order filed January 10, 2005, on a complaint by Corey Sanders, was cautioned for violations of Rules 1.3, 3.4(c), and 8.4(d). Ms. Strett was appointed to represent Sanders on his Rule 37 petition in Columbia County. Sanders lost and wanted to appeal. Street failed to file a notice of appeal, so Sanders filed one *pro se*. Sanders prepared and filed his own briefs, but the case was affirmed. Strett admitted she was not relieved from Sanders' case and that her failure to perform in his appeal prevented him from having assistance of counsel in the appeal.

JOHN F. STROUD, III of Texarkana, Bar No. 90033, in Case No. 2004-190, by Committee Consent Findings and Order filed February 18, 2005, on information obtained from orders of the Arkansas Court of Appeals in No. CACR02-1005, *Robert Spears v. State*, was cautioned for

violations of Rules 1.1, 1.2(a), 3.4(c), and 8.4(d). In June 2003, the Court ordered Mr. Stroud to rebrief the case for abstracting deficiencies and other reasons. On February 11, 2004, the Court again ordered rebriefing for abstracting deficiencies. On December 15, 2004, the Court affirmed the conviction on the basis of abstracting deficiencies.

JOHN R. VANWINKLE, Bar No. 80154, of Fayetteville, in CPC 2005-076, by Committee Consent Findings & Order filed June 27, 2005, on a Per Curiam referral from the Arkansas Supreme Court was cautioned for violation of Rule 1.3. VanWinkle tendered the appeal record late on behalf of Appellant and admitted doing so in his Motion for Rule on the Clerk, which was granted. He was referred to the Committee for lack of diligence by one judge of the Court of Appeals in a dissenting opinion on the issue of granting VanWinkle a fifth extension of time to file his client's brief.

THOMAS B. WILSON of Russellville, Bar No. 97165, in Case No. 2004-187, by Committee Consent Findings and Order filed February 23, 2005, on information obtained from the orders of the Arkansas Supreme Court in No. 04-970, *Erica Suggs-Rendon v. Arkansas Department of Human Services*, was cautioned for violations of Rules 1.3 and 8.4(d). Wilson represented a mother in three parental rights termination proceedings. Two children were involved in one proceeding and the appeal in their case had no problems. A second and later trial dealt with the third child and a separate, appealable order. The latter case was docketed as a separate appeal, in which Mr. Wilson failed to timely lodge the record. His Motion for Rule on the Clerk was denied, resulting in his client being denied any appeal on her rights with her third child.

GREGORY L. YEATMAN of Little Rock, Bar No. 89008, in Case No. 2004-031, by Committee Consent Findings and Order filed December 30, 2004, on a complaint by Ronnie Dean, was cautioned and ordered to pay \$41,000 restitution to Dean for violations of Rules 1.3, 1.16(d), and 8.4(d). Dean hired Yeatman in January 2000 to pursue an action, on a contingent fee basis, for damages to Dean's crops. A suit in state court was dismissed and Yeatman filed in federal court in January 2002. A first amended complaint was filed in May 2002. A second amended complaint was filed in August 2002. Dean became displeased with Yeatman's services. On May 8, 2002, Yeatman provided Dean a letter to sign terminating Yeatman's services and a gave him large folder of suit papers. A trial scheduling order was sent to Yeatman in December 2002 but Yeatman did not inform Dean. In January 2003 Judge Reasoner entered orders directing both Yeatman and Dean to take certain action, depending on whether Yeatman still represented Dean. Dean did not know of this court action, so he did nothing. Judgment was entered March 14, 2003, for defendants. Yeatman failed to provide Dean a copy of this judgment. Yeatman failed to take action to be removed as Dean's counsel in the federal case, thereby denying Dean the opportunity to receive actual notice of proceedings in his case. The Committee found Yeatman failed to act diligently, failed to take appropriate steps to protect the client's interest upon being terminated from the representation, and engaged in conduct prejudicial to the administration of justice by failing to seek to be relieved as Dean's counsel and failing to send notices to the client. The \$41,000 restitution represented the agreed amount of Dean's crop damage.

