

# *2006 Annual Report*

*Arkansas Supreme Court*

*Committee on Professional Conduct  
&  
Office of Professional Conduct*

Justice Building, Room 110  
625 Marshall Street  
Little Rock, AR 72201

(501) 376-0313  
(501) 376-3638 Fax  
1-800-506-6631

Arkansas Judiciary Homepage

<http://courts.state.ar.us/>

Arkansas Attorney Discipline Homepage

<http://courts.state.ar.us/courts/cpc.html>

## ***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 2006, 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 2006 was as follows:

Panel A:        Gwendolyn Hodge, Little Rock, Attorney at Large  
                    Win A. Trafford, Pine Bluff, Attorney, Fourth Congressional District  
                    Phillip Hout, Newport, (Panel Chair) Attorney, First Congressional District  
                    Steve Shults, Little Rock, 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: Henry Hodges, Little Rock, Attorney, Second Congressional District  
J. Michael Cogbill, Fort Smith, Attorney, Third Congressional District  
Harry Truman Moore, (Panel Chair) Paragould, Attorney, First Congressional District  
Valerie L. Kelly, Jacksonville, Attorney at Large  
John L. Rush, Pine Bluff, Attorney, Fourth Congressional District  
Dr. Rose Marie Word, Pine Bluff, Non-attorney at Large  
Sylvia S. Orton, Little Rock, Non-attorney at Large

Panel C: Honorable Kathleen Bell, Helena, Attorney, First Congressional District  
Kenneth R. Mourton, Fayetteville, Attorney, Third Congressional District  
Searcy Harrell, Jr., (Panel Chair), Camden, Attorney, Fourth Congressional District  
Professor Scott Stafford, Little Rock, Attorney, At Large  
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

2006 Executive Committee:

Win A. Trafford, Attorney, Committee Chair  
John L. Rush, Pine Bluff, Committee Secretary  
Phil Hout, Newport, Panel A Chair  
Harry Truman Moore, Paragould, Panel B Chair  
Searcy Harrell, Jr., Camden, 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.

**2007 COMMITTEE MEETING CALENDAR:**

January 19, 2007	Panel A
February 16, 2007	Panel B
March 16, 2007	Panel A
April 20, 2007	Panel B
May 18, 2007	Panel A
June 15, 2007	Panel B
July 20, 2007	Panel A
August 17, 2007	Panel B
September 21, 2007	Panel A
October 19, 2007	Panel B
November 16, 2007	Panel A
December 14, 2007	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 2006-07 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 2006 were Nancie M. Givens - Deputy Director, Michael E. Harmon - Senior Staff Attorney, and Gwendolyn L. Rucker - Staff Attorney.

In calendar 2006, 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 2006 calendar year, the office sent 1,805 grievance forms to complainants requesting one, up from 1,513 mailed out in 2005.

During the 2006 calendar year, the Office received and opened files on 804 grievances on attorneys, down from 826 received in 2005. The great majority of these consisted of informal complaints involving alleged lawyer misconduct. The remainder of grievances received consisted of reports of alleged unauthorized practice of law, applications for financial relief from the client security fund, and administrative matters.

In 2006, following assigned review by staff attorneys of disciplinary complaints received in calendar year 2006 and carry-over cases from previous years, 1,137 files were closed:

802 complaints were found not to have a sufficient basis for a formal complaint; (NPC)\*  
88 complaints were closed after investigation by staff attorneys;  
37 complaints were closed following an informal letter to the reported attorney;  
15 complaints were withdrawn by the complaining party;  
1 complaints had no affidavit from the complaining party returned to the Office;  
3 complaints were referred to outside agencies;  
21 complaints were merged into petitions of surrender of license by the attorney or  
were merged into the order of disbarment  
5 were abated by the death of the attorney;  
8 reinstatement petitions were filed;  
1 interim suspension petition was filed;  
0 petition for transfer to inactive in lieu of discipline was filed;  
7 petitions for surrender were received and approved;  
1 notice of previous disbarment order was sent;  
2 disbarment action was initiated from filed complaints; and,  
156 new formal complaints were filed. (13.7% of files reviewed by staff attorneys,  
down from 17.9% in 2005)

\* default category for staff actions closing grievance files

#### ***IV. Formal Actions Initiated***

In 2006, there were 156 new formal attorney discipline cases opened for the Committee on Professional Conduct for action, down from 159 in 2005. In addition, files were opened for Petitions for Reinstatement (13), Petition for Interim Suspension (1), Petitions to Surrender Law License (5), and two of the 156 formal complaints became disbarment actions.

#### ***V. Final Committee Actions***

Final action was taken in 173 different files involving Arkansas attorneys during Calendar Year 2006 by the Committee on Professional Conduct or, in cases of disbarment, by the Arkansas Supreme Court. Of the 173 finalized cases in 2006, one (1) was from 2002 case, four (4) from 2004 cases, 54 from 2005 cases, and one hundred fourteen (114) from 2006 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 in the following table. A warning is non-public. The other forms of sanction are public.

**1. 2006 COMMITTEE DISPOSITION STATISTICS - see Appendix A for case summaries**

Type Action	Panel A	Panel B	Panel C	Total
No Actions	8	12	0	20
Warnings	23	30	0	53
Cautions	14	15	0	29
Reprimands	17	12	1	30
Suspensions	10	2	0	12
Interim Suspensions	1	0	0	1
Surrenders	4	3	0	7
Merged into Surrender	3	1	0	4
Initiate Disbarment	2	0	0	2
Dismissed on motion	2	0	0	2
Abated by death	0	0	0	0
Voluntary resignations	1	0	0	1
Voluntary Inactive	0	0	0	0
Consents*	34	32	0	66
Consents denied*	2	0	0	2
Reinstatements	6	5	0	11
Reinstatement denied	1	0	0	1
To Involuntary Inactive	0	0	0	0
Reconsideration denied	3	1	0	4
ARLAP Referral	3	0	0	3

\* This number is included in other types of dispositions

Disciplinary Dispositions	No.	%
No Action	19	12.1%
Dismissed on motion	2	1%
Warning	53	33.8%
Caution	29	17.2%
Reprimand	30	19.1%
Suspension	12	8.3%
Surrender or	7	4.5%
Merged into same	4	2.5%
Disbarment	2	1 %
Merged into Order	2	1 %
Abated by death	0	0%
Total	160	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 2001-2006 (Unofficial)

Category	2001	2002	2003	2004	2005	2006
Mail received*	1,114	1,186	1,082	1,070	942	866
Grievance files opened	873	1,028	972	892	826	804
Closed by staff action	691	737	825	796	868	1137
Formal Complaints filed	149	186	200	164	159	156
Supreme Court Referrals	34	45	50	40	34	39
Other Judicial Complaints	13	12	12	8	8	19
Other from Court Records				24	7	16
Formal Complaints closed	135	178	185	211	181	173
No Actions	12	30	15	24	18	19
Warnings	45	53	54	38	33	53
Cautions	14	31	28	53	41	29
Reprimands	26	35	37	36	31	30
Suspensions	19	14	20	9	17	12
Surrenders	13	5	5	11	6	7
Merged into surrender		1	14	29	5	4
Disbarments initiated	6	3	3	3	7	2
Disbarments ordered (SCt)		0	0	3	0	2
Reinstatements granted	3	3	8	10	13	11
Consent dispositions	13	35	54	71	51	64
ArLAP Referrals	N/A	2	0	0	1	3
# Attys Publicly Sanctioned**	57	61	72	101	102	68

\* includes UPL, Client Security Fund, judges (transferred to AJDDC), form requests, etc.

\*\* 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. 2006 - Most Common Rule Violations*

In the 2006 findings of the Committee on Professional Conduct Panels, as in most previous recent years, 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. "Practice Aging" of Attorneys Disciplined (2006)***

Of the 160 final disciplinary actions by the Committee, thirty-six (36) involved attorneys who had been licensed for ten years or less; forty-one (41) involved attorneys who had been licensed for eleven to twenty years; fifty-nine (59) involved attorneys who had been licensed for twenty-one to thirty years; eighteen (18) involved attorneys who had been licensed for thirty-one to forty years and four (4) involved attorneys who had been licensed for more than forty years.

Years licensed	# of attorneys disciplined	Percentage
1-10	36	22.5%
11-20	41	25.6%
21-30	59	36.9%
31-40	18	10.8%
40+	4	2.4%

\*\* Two files involved Attorneys licensed in other states.

## ***VIII. 2006 FINES, RESTITUTION & COSTS ASSESSED***

	Imposed	Collected
1. Fines	\$23,500.00	12,350.00
2. Restitution	\$60,465.86	55,977.87
3. Costs	\$5,668.00	3,675.00
Total	\$89,624.86	72,002.87

(Note: some of the collections in 2006 were assessed in cases finalized in 2005.)

## ***IX. 2006 Trust Account “Overdraft” Reporting***

46 Total reports received in 2006 from all banks and reporters  
(compared to 73 in 2005)

2006 and earlier reports reviewed by staff in 2006:

41 Closed by private letter disposition  
13 Still open files - under investigation  
3 Formal complaints filed  
3 Public sanction

Reasons given or determined for reports closed or that went to formal complaint in 2006  
(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)

4 Caused by admitted Bank error  
16 Caused by Attorney/office bookkeeping error  
4 Caused by attorney error - bank fees or IOLTA interest not taken into account  
9 Attorney used wrong account or wrong account number  
5 “Late” deposits into trust account  
4 Deposited funds not yet cleared by bank for use  
0 Trust account checks stolen - forged by unknown party  
0 Employee theft - misappropriation  
1 Attorney closed practice and started using account as personal account  
0 Complaint abated by attorney death, license surrender or disbarment  
0 IOLTA error  
0 Credit card fee payment “reversed” out of trust account  
2 Unexplained  
1 Commingling of client and non-client funds  
1 Possible conversion of client funds  
1 Federal “Check 21” law issues (electronic banking)

[Note: the numbers do not always “balance” between reports received and reasons for  
complaints as occasionally there will be more than one report on the same occurrence, as where  
more than one check is dishonored, or paid, as a result of the same trust account act or omission.]

**APPENDIX A - 2006 ATTORNEY DISCIPLINE SUMMARIES**  
(Listed alphabetically by attorney name within sanction category)

**DISBARMENT:**

**ROBERT PAUL NEWMAN, Bar No. 95050**, of Rogers, Arkansas, was disbarred by the Supreme Court by Opinion and Order issued March 9, 2006, after his trial for his conduct in several matters that involved a pattern of misconduct involving client fee funds pocketed or hidden by Newman and not reported to or paid over to his law firm. His firm terminated him when the misconduct was discovered, and the firm reported him to the Committee. Newman accepted a \$500 fee from a client (W), cashed the check, and did not report receipt of the fee until asked about it several months later by the firm. Newman accepted a partial fee payment of \$2,500 on a \$5,000 fee in a criminal case, reported the full fee to the firm as \$2,500, deposited the check in his personal account, and did not report receipt of the funds or turn them over to the firm until about seven months later, just as the firm learned from the client (E) of the earlier payment. Newman was to make restitution payment of \$1,500 to the victim auto dealer for a client (C) from funds provided by the client's mother. Newman caused a firm trust check for \$1,500 to be issued and delivered to the prosecutor's office. The check was returned to him with instructions that it be sent directly to the victim's attorney. For some reason Newman had the \$1,500 check canceled and two firm trust checks then issued, one for \$1,000 sent to the victim's attorney and one for \$500 payable to the client, which Newman cashed. (The special judge found no Rule violations in the matter involving C, which the Court upheld based on a determination of witness credibility by the judge, but the Court commented that Newman clearly engaged in questionable behavior in this matter.) Newman accepted a check from a client's mother (B) for \$2,600, deposited it in his personal account, and failed to account to the client and mother for the full amount of the funds or to use the funds for the purpose for which the mother testified she sent the check. Newman represented M on traffic charges, and failed to deliver to the firm \$450 found by the special judge to have been paid to him as a partial fee by the client. The special judge found Newman engaged in, among other Rule violations, criminal conduct (Rule 8.4(b)) and conduct involving dishonesty, fraud, deceit and misrepresentation (Rule 8.4(c)). The Court held that, in spite of much evidence of his good character and work in the community, including favorable testimony from two local circuit judges, Newman's good deeds were clearly overshadowed by his consistent acts of serious misconduct. Multiple violations of Model Rules 1.3, 1.4(b), 1.15(a), 8.4(b) and 8.4(c) were found.

**PAUL E. REVELS, Bar No. 91110**, formerly of DeQueen, was disbarred by Per Curiam Order of the Arkansas Supreme Court on September 7, 2006, in No. 05-1408. The Order of Disbarment was based on a Petition for Default filed by the Office of Professional Conduct. Mr. Revels was served with the Petition for Disbarment, indicated his desire to surrender his law license but failed to submit the appropriate pleadings to do so and failed to file an Answer to the Petition for Disbarment. The disbarment was based upon violation of Model Rules 1.15(a), 1.15(a)(1), 3.4(c), 8.4(b), and 8.4(c) of the Arkansas Model Rules of Professional Conduct. The Petition and attached exhibits on file with the Clerk of the Arkansas Supreme Court demonstrate

that Mr. Revels converted funds of the Estate of Jamilyn Goode for his own use, rather than maintaining them in his trust account as directed by the Probate Court of Sevier County, Arkansas. Ms. Goode, a minor, was killed in an automobile accident. Mr. Revels represented her estate. The settlement funds were deposited in his trust account. Payments were made to the mother of the minor child and to Mr. Revels for attorneys fees, in accordance with orders of the probate court. Over \$38,000 was to be held until the father of the deceased minor could be located. At about the time of his suspension from the practice of law on December 28, 2004, in another Committee case, Mr. Revels removed all of the funds in his trust account, including the funds belonging to the Estate of Jamilyn Goode, and relocated to Texas. There were no orders of the Probate Court allowing him to remove the funds.

#### **SURRENDER:**

**WILLIAM DAVID GOLDMAN, Bar No. 81074**, of Hot Springs, petitioned to surrender his law license in lieu of further disciplinary proceedings before the Committee for “serious misconduct.” The Court accepted his surrender on February 2, 2006. Mr. Goldman entered a guilty plea to a federal misdemeanor charge and was sentenced to ten months in prison and a \$306,454 restitution payment to a bank, arising from a matter involving his misrepresentation to the bankruptcy court on a substantial financial matter involving one of his former clients and a bank loan. He also had pending Committee charges involving his trust account and failure to pay a \$7,159.10 medical lien from 2001 in a former client’s case. Model Rules 1.15(a), 1.15(b), 8.4(b) and others were involved.

**THOMAS J. “T. J.” HIVELY, Bar No. 75060**, of Batesville, Arkansas, surrendered his law license, accepted by the Supreme Court on April 6, 2006, in lieu of disbarment proceedings, as a result of his felony conviction and sentence in federal court on September 20, 2004.

**STEPHEN GREGORY HOUGH, Bar No. 84077**, of Fort Smith, petitioned to surrender his Arkansas law license. The Supreme Court, in No. 06-1012, by Per Curiam Order filed September 28, 2006, accepted the surrender and removed him from the registry of licensed Arkansas attorneys, in lieu of Committee disciplinary proceedings that have been, or would be, filed arising from multiple client complaints.

**WESLEY JOHN “BUTCH” KETZ, JR., Bar No. 76065**, of Batesville, Arkansas, surrendered his law license, accepted by the Supreme Court on May 4, 2006, in lieu of disbarment proceedings, as a result of his felony conviction and sentence in federal court on September 20, 2004.

**JERRY HUDSON SHEPARD, Bar No. 97094**, of Harrison, petitioned to surrender his Arkansas law license. The Supreme Court, in No. 06-1084, by Per Curiam Order filed September 28, 2006, accepted the surrender and removed him from the registry of licensed Arkansas attorneys, in lieu of Committee disciplinary proceedings that would arise from his involvement in a criminal matter.

**RICHARD L. WOMMACK, Bar No. 62028**, of Fayetteville, Arkansas, surrendered his law license, accepted by the Supreme Court on April 13, 2006, in lieu of further disciplinary and disbarment proceedings, as a result of his conversion to personal use of client funds from an estate account over which he exercised fiduciary responsibility. Violations of Model Rules 1.1, 1.3, 1.4(c), 8.4(b), 8.4(c), and 8.4(d) were alleged in the Complaint. Mr. Tourdot died in 1999, and Respondent Wommack opened probate in Madison County, had Ms. Christian appointed administratrix, and served as attorney for the estate with control over the estate bank account and properties until he was relieved of those responsibilities by Judge Michael Mashburn after a hearing on August 15, 2005. Beginning in August 2002 Respondent made written reports of various estate matters to Judge Mashburn. In October 2003, Judge Mashburn entered his Order to Appear and Show cause directed to Respondent, to appear with the personal representative, and explain the status of the Tourdot Estate. On October 29, 2003, Judge Mashburn entered his order directing Respondent to file an accounting in the Tourdot Estate by November 26, 2003. In January 2004, a brother of decedent wrote Judge Mashburn about his unsuccessful efforts to obtain information from Respondent about the status of the Tourdot estate. In May 2004, St. Jude Hospital of Memphis, a beneficiary under the Tourdot will, wrote Judge Mashburn about its lack of communication with Respondent for a period of two years. In June 2004, Ms. Christian filed her Accounting, prepared with Respondent's assistance, showing a balance on hand of \$46,831.27. The matter was set for hearing on all motions in June 2005.

At the June hearing, a claim of \$33,438.40 for the decedent's final hospital bill was compromised for \$23,000, approved as a priority claim, and paid. Another hearing was set, and then continued to August 15, 2005. On August 8, 2005, Ms. Christian wrote the court asking for an accounting to the Tourdot Estate from Respondent. The court ordered Respondent to bring with him to the hearing certain "accounting" documents. Following the hearing Judge Mashburn entered his Order relieving Respondent as attorney for the Tourdot Estate, removed him as an authorized party from the bank account of the Estate, directed him to produce other documents, and announced an attorney would be appointed by the court to assist the personal representative in reviewing Estate materials and finalizing the Estate as soon as practical. Judge Mashburn then appointed Fayetteville attorney John Everett to assist Ms. Christian in performing her duties as personal representative. In September 2005, Judge Mashburn wrote to the Office of Professional Conduct, bringing this matter to the attention of that office. The probate case was thereafter transferred to Circuit Judge William Storey for further proceedings.

Judge Storey conducted a hearing on November 21, 2005, and found that Respondent (1) had received funds of \$36,568.67 from the Tourdot estate without any authorization from the Court or in any other fashion; (2) had not petitioned or received approval for any fees he had paid himself; (3) had converted \$36,568.67 from the Estate; and (4) should repay the Tourdot Estate \$36,568.67 by December 15, 2005. As of that date, none of these funds had been repaid by Respondent to the Estate. The transcript of the hearing also shows that in July 2000 Respondent used an Estate check for \$1,228.00 payable to Bank of Fayetteville to purchase a cashier's check, payable to the University of Arkansas, for the same amount, to cover previous personal checks he had given to the University to purchase his football and basketball tickets and that were on



insufficient personal funds. Respondent purchased a cashier's check in December 2000 for \$4,750.29 payable to New South Federal Savings Bank, noted for "house payment," for his personal debt. To purchase this cashier's check, he used an Estate check for \$2,100.00 payable to "cash" and marked "transfer," and a debit item from the Tourdot Estate account for another \$1,400.00.

A summary of the evidence produced at the November 2005 hearing shows Respondent received funds from the Tourdot Estate bank account, on which he had signatory authority, or other Estate-related sources, as follows:

1. From twenty-five (25) items payable to Respondent - \$22,202.00,
2. From nine (9) items payable to "cash" and endorsed by him - \$3,925.00
3. From seven (7) items to "cash" with no endorsement - \$1,963.67
4. "Cash back" held out of five (5) deposits he made - \$4,650.00
5. Items used to purchase two (2) cashiers checks - \$3,328.00
6. One check not deposited but cashed by him - \$500.00

In February 2006, he responded that he did much work for the Tourdot estate and the administratrix; that his fee arrangement with her was for him to work at \$125 per hour; that he regularly sought the input of Ms. Christian, whom he described as a businesswoman; that he properly paid debts and expenses of the estate, often in cash; that he did not receive \$36,568.67; that he could not have taken all the funds he is accused of taking because that would result in the estate having zero expense. He acknowledged writing checks to the University for his athletic tickets from the wrong account, but offset that by his claim that these payments were not in excess of what he claimed the estate owed him. He admitted using estate funds to make his house payment, but claimed he forgot to later reimburse the estate. He claimed many of the trust account checks to his firm were for unitemized legal services to the estate. He claimed the estate funds he used for the tickets and the house payment are available for the estate at any time.

On December 18, 2005, the estate's new attorney filed a Petition to Cite for Contempt against Respondent, claiming he had failed to pay any of the \$36,568.67 by the due date. An Order for Body Attachment was issued and Respondent was jailed after he failed to appear at a hearing on the contempt petition. Respondent paid \$10,000, and was released from jail.

**JOE D. WRAY, Bar No. 81171**, of El Dorado, Arkansas, a former deputy prosecuting attorney for Union County, surrendered his law license, accepted by the Supreme Court on June 22, 2006, in lieu of disbarment proceedings, as a result of his misdemeanor convictions and as a specific term and condition of his "no contest" plea agreement in Union County Circuit Court on April 10, 2006. The original charges of sexual assault (a felony) and public sexual indecency were reduced to three counts of misdemeanor harassment for his plea. The conduct that was originally charged as a felony involved Wray being a "professional," as defined by ACA 12-12-507(b), and occupying a position of trust or authority over the victim, due to her connection with the criminal justice system.

## **INTERIM SUSPENSION:**

**JERRY W. STEWART, Bar No. 75125**, of Benton, was placed on interim suspension effective February 24, 2006. A Petition for Disbarment was filed March 13, 2006, as No. 06-260, alleging Mr. Stewart had been convicted of DWI-4, a felony, in Saline County Circuit Court on January 10, 2006. Conviction of any felony is grounds for disbarment. [Disbarment was ordered on April 12, 2007.]

**WOODSON D. WALKER, Bar No. 76135**, of Little Rock, was placed on interim suspension effective December 8, 2006, as a result of a Committee Panel's decision to initiate disbarment proceedings against him. The Petition for Disbarment was filed December 29, 2006, as No. 06-1493, and is pending.

## **SUSPENSION:**

**WILLIAM SCOTT DAVIDSON, Bar No. 81044**, of Jonesboro, had his law license and privilege to practice law suspended for one (1) month, effective November 1, 2006, and was fined \$1,500 and ordered to pay \$709 restitution by Committee Findings and Order filed August 29, 2006, in Case No. CPC 2005-085, after a public hearing, on a complaint filed by Glenda Tippitt for violations of Model Rules 1.2(a), 1.3, 1.4(a), 1.4(b), 1.16(d), 3.4(c), 5.5(a), and 8.4(d). On August 10, 2004, Ms. Tippitt of Jonesboro hired Mr. Davidson to file a Chapter 7 bankruptcy action for her and paid him the full \$709.00 legal fee and filing fee he requested for the representation. She filled out the forms he offered her at his office. He never filed any bankruptcy for her. She contacted his office repeatedly asking for status reports but got no information. She wrote him August 12, 2005, asking him for the return of her \$709.00 so she could employ another attorney to file her bankruptcy. She did not hear from him and received no refund. She employed Jeanette Robertson of Jonesboro on August 23, 2005, and paid her only the \$230 filing fee. On the same day Ms. Robertson filed her Chapter 7 as No. 05-bk-20916. Ms. Tippitt was granted a discharge by order filed November 23, 2005. Ms. Robertson did not charge Ms. Tippitt a fee for her legal services in view of the experience Ms. Tippitt had earlier.

On September 19, 2005, Ms. Tippitt filed a complaint against Mr. Davidson with the Committee. On October 24, 2005, the Office of Professional Conduct (OPC) wrote him about the complaint. He did not respond to OPC or Ms. Tippitt as a result of that letter. He had not paid his annual Supreme Court law license fees since February 28, 2002. He practiced law in the years 2003, 2004 and 2005 without paying his required law license fee, conduct constituting the unauthorized practice of law in Arkansas. His Arkansas law license was automatically administratively suspended March 2, 2003, for failure to pay his 2003 license fee and remained so suspended until at least November 29, 2005, the date of Ms. Parks' affidavit. Mr. Davidson made a \$709 refund to Ms. Tippitt before the Committee's decision.

**STEPHEN GREGORY HOUGH, Bar No. 84077**, of Fort Smith, Arkansas, was suspended for six (6) months by Committee Findings & Order filed March 7, 2006, on a Complaint filed by

Clara Ashburn in Case No. 2005-116, for violations of Rules 1.1, 1.3, 1.4(a), 1.4(b), 8.4(c), and 8.4(d). The suspension will run concurrent with the twelve (12) month suspension in CPC 2005-118. Ms. Ashburn was injured on May 11, 2002. She hired the Hough firm (specifically his late brother and law partner, who died in January 2004) on her claim. Policy limits of \$25,000 were offered by the tortfeasor's carrier in a series of letters from June 2003 to August 2004, but the offer was not communicated to Ashburn. She moved to Virginia. Her efforts to obtain status information from Hough were unsuccessful. Ashburn and her husband were divorcing and husband's attorney filed discovery for the accident claim information, which was not provided by Hough, delaying the divorce and causing Ashburn extra legal fees in the divorce case. Hough falsely told Ashburn and her Virginia divorce attorney he had filed the personal injury suit in Arkansas, but they could find no evidence of it in area courthouses. Ashburn secured another Arkansas attorney for the personal injury claim, and her new counsel could not obtain information from Hough. Her new counsel filed suit May 10, 2005, to protect the claim, and settled the case on May 11, 2005, for the 2003 offer. Hough claimed his late brother communicated the \$25,000 settlement offer to Ashburn and she refused it. Hough disputed other claims by Ashburn. Hough claims he had a major breakdown in late March 2005 and was incapable thereafter of dealing with his law practice.

**STEPHEN GREGORY HOUGH, Bar No. 84077**, of Fort Smith, Arkansas, was suspended for twelve (12) months and ordered to pay \$2,500.00 restitution by Committee Findings & Order filed March 7, 2006, on a Complaint filed by Harriet Lembi in Case No. 2005-118, for violations of Rules 1.1, 1.3, 1.4(a), 1.15(a), 1.16(d), 3.4(c), 5.5(a), and 8.4(c). The suspension will run concurrent with the six (6)-month suspension in CPC 2005-116. When Ms. Lembi's mother died in California, Ms. Lembi needed an Arkansas attorney to handle transfer of title for Arkansas lands to various trusts. Mr. Hough's late brother and law partner (who died in January 2004) had provided Lembi's family legal services for years in Arkansas. Lembi hired a "Mr. Hough" by telephone in early 2005 to provide the needed services. He told her ancillary probate administration was needed, along with a survey which he would obtain, and quoted her a fee of \$2,500, which she sent by check on March 7, 2005. Hough had not paid his 2005 law license fee and his license was in automatic suspended status as of March 2, 2005. Thereafter Lembi and her California attorney had difficulty contacting Hough and obtaining information about the matter. In late March or early April 2005, Lembi learned Hough had suffered a major personal incident and was not then available. In late April 2005, Lembi communicated to Hough's office that if he did not contact her the next day she would terminate his services, which she did when he did not contact her. Lembi demanded a refund of the \$2,500. She then contacted another Arkansas attorney, who handled the matter by preparation of a deed (for \$101.66). Lembi obtained the survey herself and paid \$225 for it. Lembi had no evidence Hough performed any work for her nor has he returned her funds. Hough responded that during the time referred to in the complaint he was emotionally and physically unable to function, and that he stood ready to make full restitution, which had not occurred as of March 7, 2006.

**STEPHEN GREGORY HOUGH, Bar No. 84077**, of Fort Smith, Arkansas, was suspended for twelve (12) months and ordered to pay \$3,500.00 restitution by Committee Findings & Order

filed April 18, 2006, on a Complaint filed by Jennifer Gooch Elliott in Case No. 2005-151, for violations of Model Rules 1.2(a), 1.3, 1.4(a), 1.15(a), 1.16(d), 3.4(c), 5.5(a), 8.4(c), and 8.4(d). Ms. Elliott was a party to litigation in Union County involving possession of a number of firearms. She desired to change attorneys and was referred to Respondent when she contacted the National Rifle Association. She met him in Little Rock in October 2004, gave him her file, and paid \$3,500 on his retainer by wire transfer to a bank account he identified for her, which was not his trust account. Respondent Hough entered his appearance in her litigation in November 2004. Thereafter she had difficulty contacting Respondent and obtaining information from him on her matter. In March 2005 she sent him a letter discharging him and requesting a refund of her fee and return of her papers. She got a new attorney who quickly resolved the pending litigation. She wrote Respondent again in August and October 2004 requesting return of her papers and a fee refund, but heard nothing from him. She filed a disciplinary complaint, and the Office of Professional Conduct wrote Respondent in September 2005 requesting information on the matter but got no response. Respondent failed to pay his 2005 license fee from March 1, 2005, to August 10, 2005, thereby practicing law in this matter, and others, while his license was administratively suspended for failure to pay his annual license fee. Respondent personally signed for the disciplinary complaint December 21, 2005, but failed to file a Response.

**STEPHEN GREGORY HOUGH, Bar No. 84077**, of Fort Smith, Arkansas, was suspended for twenty-four (24) months by Committee Findings & Order filed April 18, 2006, on a Judicial Complaint by United States Bankruptcy Judge Richard Taylor in Case No. 2005-154, for violations of Arkansas Rules 1.3, 3.4(c), and 8.4(d). Judge Taylor set four hearings in Fort Smith, Respondent's home town, from April through August 2005, on matters involving a client's case. Respondent failed to appear at all the hearings. A "show cause" was set for August 3, 2005, on his failure to appear. Respondent again failed to appear and Judge Taylor sanctioned him \$1,000. Respondent personally signed for the disciplinary complaint December 15, 2005, but failed to file a Response.

**STEPHEN GREGORY HOUGH, Bar No. 84077**, of Fort Smith, Arkansas, was suspended for twelve (12) months and ordered to pay \$759.00 restitution by Committee Findings & Order filed April 18, 2006, on a Complaint filed by Clarence Farrar in Case No. 2005-166, for violations of Model Rules 1.3, 1.4(b), 1.15(a), 1.16(d), 3.4(c), 5.5(a), and 8.4(c). In February and March 2005 the Farrars hired and made payments totaling \$759 to Respondent Hough to file their Chapter 7 bankruptcy. The fee check was not deposited into a trust account and Respondent never filed the bankruptcy petition. Contact could not be made with Respondent. After the Farrar complaint was received, the Office of Professional Conduct wrote Respondent on July 14, 2005, about the matter. On June 20, 2005, a new attorney hired by the Farrars filed their petition and they received a Chapter 7 discharge in September 2005. Respondent's law license was automatically suspended from March 2 - August 10, 2005, due to his failure to pay his 2005 license fee, so he engaged in the unauthorized practice of law during this period on the Farrar's matter. Respondent replied that he had emotional difficulties during this time period, did not deny the allegations, admitted he failed to pay his license fee, and alleged a nervous breakdown in late March 2005 that left him incapable of practicing law.

**PATRICIA J. MADDOX-COOK, Bar No. 92064**, of Blytheville, Arkansas, had her privilege to practice law suspended for eighteen (18) months by Committee Findings & Order filed November 1, 2006, on a complaint filed by Sarah Howell (now Guite) in Case No. CPC 2006-053, for violation of Model Rules 1.15(a), 1.15(b), 3.4(c), 5.5(a), 8.1(b), 8.4(c), and 8.4(d). Ms. Maddox-Cook represented Mr. Whitlock in a 2001 personal injury claim, where Guite's late husband, Dr. Howell, provided chiropractic care for Whitlock totaling \$3,905. Ms. Maddox-Cook wrote Dr. Howell on December 12, 2001, agreeing to protect his bill in any settlement. Dr. Howell died in March 2003 and Ms. Guite was appointed personal representative of his probate estate in Clay County. Ms. Maddox-Cook filed suit for Whitlock in federal court in Jonesboro in December 2003, and settled Whitlock's claims in May 2004 for almost \$85,000. Ms. Maddox-Cook did not inform Ms. Guite or the Howell Estate of the settlement. When Ms. Guite learned of the settlement, she contacted Ms. Maddox-Cook, who told her she needed to open probate and when that was cleared up, Ms. Maddox-Cook would paid over the funds. No payment had been made. The Office of Professional Conduct (OPC) wrote Ms. Maddox-Cook several times asking for information on this matter, and received no reply or cooperation from her. OPC contacted the defense attorney and obtained copies of the settlement checks. It was then learned that one settlement check, for \$1,163, had the name of the Piggott Hospital on it but it had been negotiated without notice or payment to the Hospital. Ms. Maddox-Cook failed to pay her 2004 law license fee until June 4, 2004, meaning she settled the Whitlock case while in suspended status. She also failed to pay her 2005 and 2006 license fees. Ms. Maddox-Cook was served by private process server at her home in Blytheville on June 23, 2006, and failed to file a timely response, extinguishing her right to request a public hearing if she disagreed with the result of the Panel ballot vote.

**LORI A. MOSBY, Bar No. 94016**, of Little Rock, had her law license and privilege to practice law suspended for twelve (12) months by Committee Findings and Order filed August 18, 2006, in Case No. CPC 2005-085, on a complaint filed by Kenny Woods for violations of Model Rules 1.2(a), 1.3, 1.4(c), 1.5(c), 1.15(a), 1.15(b), 1.15(c), and 8.4(c). Mr. Woods contacted Ms. Mosby after his first attorney decided to no longer represent him in his pending matter. Mr. Woods saw Ms. Mosby's ad in the Yellow Pages and selected her law firm because of the Christian symbol in her advertisement. The original fee agreement was for Ms. Mosby to receive 40% of the total recovery she was able to secure. According to the contract, Ms. Mosby would be responsible for the costs until such time as she would receive them back when the matter was settled or recovery received. On May 12, 2003, Ms. Mosby filed a lawsuit for Mr. Woods against Tonya A. Harvey and William D. Powell. During April 2004, Ms. Mosby settled with Tonya Harvey for \$2,000. At the time of settlement, Ms. Mosby advised Mr. Woods that the check should be at her office within a few days. Ms. Mosby never sent Mr. Woods written notice that the check had been received by her in her office. Despite the fee being contingent in nature, there was never a settlement sheet provided to Mr. Woods demonstrating where the \$2000 was paid or to whom.

In June 2004, Ms. Mosby advised Mr. Woods that she needed to change their original fee agreement. She told Mr. Woods that she needed to hire another attorney to assist her with the matter. Based on this need, she convinced Mr. Woods that she needed to increase her percentage of recovery from 40% to 45%.

The decision at the jury trial on the claim against Mr. Powell was a defendant's verdict. During November 2004 when Ms. Mosby and Mr. Woods were discussing an extension of time for an appeal of the unfavorable jury decision, Mr. Woods questioned her about the \$2,000 check. Ms. Mosby told Mr. Woods that she had not cashed a check with his name on it. On September 24, 2004, Ms. Mosby wrote to Beth Kremers, the Court Reporter, and advised Ms. Kremers that she, Ms. Mosby, would be responsible for all costs associated with the appeal. Almost a month later, Ms. Mosby sent Mr. Woods a letter advising him that he needed to send \$2,200 to the Court Reporter for the cost of the transcript.

Mr. Woods ultimately contacted AIG Claims, the insurance company for Tonya Harvey, on December 1, 2004, and learned that the \$2,000 check had issued in April 2004 and was sent directly to the Mosby Law Firm. Mr. Woods then requested and received a copy of the check. The check was endorsed with Mr. Woods's name on it. Mr. Woods advised that he did not authorize Ms. Mosby or anyone else to sign his name to the check. When Mr. Woods called Ms. Mosby to check on the status of the appeal, he was informed that the request for extension of time to pursue the appeal had been denied and that he would not be afforded the opportunity of an appeal of the adverse decision. Ms. Mosby also indicated that she used the \$2,000 toward the thousands of dollars she had spent on Mr. Woods's legal matter. The problem with the appeal was the failure to pay for the transcript. According to Mr. Woods, the fee contract originally had Ms. Mosby paying the costs and then recovering them after settlement or judgment. Ms. Mosby later prepared a document for Mr. Woods to sign which required that he pay for 50% of the costs.

**OSCAR STILLEY, Bar No. 91096**, of Fort Smith, Arkansas, had his Arkansas law license suspended for six (6) months by Committee Findings & Order filed May 4, 2006, on a 4-3 vote after a hearing by Panel B on a Complaint generated by a referral from the Arkansas Supreme Court in Case No. 2002-077, for violations of Model Rules 1.7(b), 3.1, 3.4(c), and 8.4(d). **By separate Order, Panel B stayed the effective date of the suspension pending resolution of Mr. Stilley's appeal to the Arkansas Supreme Court, No. 06-972. Mr. Stilley's Arkansas law license is not suspended at this time.** Respondent Stilley filed an action for his client White on a ballot title case involving a salary "cap" for certain state officials, including justices of the Supreme Court. He requested recusal of all seven justices from hearing his case, arguing they had a personal financial interest in the outcome of the case and they had demonstrated a hostility toward him based on the Court's rulings against him in five cases over a ten-year period. He basically demanded what might be characterized as a "fact-finding" hearing at which he would be able to question the Court members on issues that were of interest to him. The Court held that Stilley's seventy page brief should be stricken in its entirety because of his continued use of disrespectful, strident language and his repeated refusal to recognize and adhere to precedent. The Court's Per Curiam of May 17, 2002, should be read to see the extent and nature of the language the Court found offensive and deserving of referral. Justice Brown dissented in part and recused from the part of the case dealing with the judicial salary "cap." In response, Mr. Stilley addressed each issue raised by the Court. He strongly denied he has violated Ark. Rule of Appellate Procedure 11 ("Rule 11") in any manner that deserved sanction. He argued that the "Rule of Necessity" should not be applied on the recusal issue, based

on the Brickhouse case from 1925, where all sitting justices did recuse in a case dealing with judicial salaries and the Governor appointed a full Court of special justices. He argued that the only authority for striking a brief is in a situation where the comments are disrespectful to a trial court. As to not recognizing and adhering to precedent, he asserted that a lawyer is free to challenge precedent at any time, because the Court does change its mind, citing the reversal of long-standing precedent in a space of less than two years on the “dramshop rule” issue, where Mann v. Orrell, decided unanimously in December 1995, was overruled in June 1997 in Shannon v. Wilson. At a hearing, the Panel unanimously found four Rule violations and found his conduct did not violate three other charged Rules. Final Committee action was delayed for some time by a related suit filed in federal court by Mr. Stilley, and by other procedural matters.

**MARK E. VELASQUEZ, Bar No. 98149**, of Fayetteville, had his law license and privilege to practice law suspended for thirty (30) days, effective September 30, 2006, agreed to and was ordered to pay \$5,547.27 restitution (since paid), and was assessed \$400 in costs by Committee Consent Findings and Order filed September 29, 2006, in Case No. CPC 2006-054, on a complaint filed by Carolyn Young for violations of Model Rules 1.15(a) and 1.15(a)(1).

On December 2, 2004, Farmers Insurance sent Mr. Velasquez a \$15,000 check in settlement of Ms. Young’s claim. The payees listed on the check were Surratt Therapy Services, Scott Van Wilpe, D.C., Medicaid, Carol Young and Mr. Velasquez. Mr. Velasquez deposited the check on December 9, 2004, into his IOLTA trust account. On that same date, he wrote a check payable for the arbitration costs, which check was paid by his bank on January 4, 2005. Mr. Velasquez wrote a check to Dr. Scott Van Wilpe on December 22, 2004, which was paid by his bank on December 24, 2004. These checks are reflected on a settlement statement provided to the Office of Professional Conduct upon request of the Executive Director in November 2005. There are no checks from Mr. Velasquez’ trust account during that period of time for the specific amounts shown on the settlement sheet as owing for attorney’s fees and costs. The monthly bank statement for the period November 30, 2004 through December 30, 2004, confirms the deposit of the \$15,000 check.

Pursuant to the settlement statement Mr. Velasquez created for the Office of Professional Conduct in late 2005, there should have been remaining in his trust account a balance of at least \$5,547.27 until he disbursed the remaining funds to Ms. Young. The monthly statements for his IOLTA account for the period December 31, 2004 through December 31, 2005, demonstrate that this minimum balance was not maintained from January 25, 2005 through December 31, 2005. Mr. Velasquez admitted this fact to the Committee and tendered \$5,547.27 for delivery to Ms. Young as part of the consent to discipline proposal. The shortfall in his trust account was the subject of a prior case and a reprimand filed December 9, 2005, in CPC 2005-127, in which errors by Mr. Velasquez, in the same time frame and resulting from another client case, led to shortfalls which he similarly corrected when they were brought to his attention by that complaint.

**HORACE A. WALKER, Bar No. 82169**, of Little Rock, Arkansas, had his privilege to practice law suspended for three (3) months by Committee Consent Findings & Order filed November 1, 2006, on a complaint filed by Dr. Rodney F. Williams in Case No. CPC 2005-169, for violation of Model Rules 1.2(a), 1.5(c), 1.15(a), 1.15(b), and 8.1(b). In 2003-04 Mr. Walker represented seven

clients (one of whom was Mr. Walker) in personal-injury matters where they were also treated by Dr. Williams, a Little Rock chiropractor. Dr. Williams supplied copies of medical reports and account statements to Mr. Walker for his use in settling these claims, all of which were settled. Mr. Walker failed to pay the accounts at Dr. Williams' office with funds he withheld for that purpose from the client settlements. Mr. Walker admitted he did not deposit all settlements in his trust account. The total amount owed on all accounts was \$9,816.00. Mr. Walker's trust account balance fell to \$430.00 on October 26, 2004, (possibly as a result of a questionable IRS levy) after the last of the settlements. Dr. Williams filed his complaint in mid-August 2005, and Mr. Walker was contacted by the office of Professional Conduct (OPC) about the matter. Mr. Walker sent cashier's checks to Dr. Williams on November 14, 2005, paying all accounts in full from some funding source. Mr. Walker failed to provide OPC with documents requested in the course of the investigation. Mr. Walker's client Jackson was not provided a settlement sheet for her funds.

**WOODSON D. WALKER, Bar No. 76135**, of Little Rock, Arkansas, had his privilege to practice law suspended for three (3) months by Committee Findings & Order filed December 29, 2006, on a complaint filed by Melvin Robinson in Case No. CPC 2005-140, for violation of Model Rules 1.3, 1.4(a), 1.15(a), and 1.15(b) Melvin Robinson hired the law firm of Walker & Dunklin, through Garfield Bloodman, an associate attorney in the firm, in June 2002, on a personal injury claim. Bloodman settled the claim for \$9,500 in November 2002, ran the settlement through Walker's trust account, since Bloodman had no separate trust account, made distribution, and left \$1,195 in the Walker trust account to pay third party provider Pain Care while the client worked on resolving the debt with Pain Care. Mr. Walker's law license was suspended in April 2003 for one year, but he still remains on suspension, not having applied yet for reinstatement. Mr. Bloodman left the firm in September 2003. In October 2003, Mr. Robinson closed a loan on his house and paid off Pain Care. He then tried to contact Walker and Bloodman about the \$1,195. Bloodman wrote Walker in June 2004 that the funds were left in Walker's trust account when Bloodman left Walker's firm. Robinson filed an ethics against Walker in September 2004. On October 21, 2004, after being contacted about the matter by the Office of Professional Conduct, Walker finally sent a cashier's check for the \$1,195 to Bloodman, who sent it on to Robinson. Walker responded that he was unaware until late summer 2004 that Bloodman had placed the Robinson funds in Walker's trust account. Walker also admitted that his trust account balance fell below the Robinson amount that should have been maintained therein (\$1,195), after Bloodman left the firm in September 2003.

#### **REPRIMAND:**

**NORMAN D. ANGELERI, Bar No. 2002040**, of Conway, Arkansas, was reprimanded by Committee Consent Findings & Order filed June 16, 2006, on a complaint by Donna Rush of Little Rock in Case No. 2006-038, for violations of Arkansas Rules 1.3 and 1.4(a)(3). Ms. Rush hired Respondent Angeleri on November 11, 2005, to file a Chapter 7 bankruptcy and eventually paid him \$684 for his fee, the credit counseling fee, and the filing fee. He failed to file for her. She could not contact him, stating his Little Rock office was closed and she did not know where he was. She eventually got a second attorney, who promptly filed a Chapter 13 petition for her on April 7, 2006, for a fee of \$2,550, plus a \$274 filing fee. Respondent refunded \$350 to her in May 2006, and stated



he was not aware she had terminated his legal services until he received the Office of Professional Conduct complaint.

**DELISA K. BLANTON, Bar No. 2000014**, of Benton, Arkansas, was reprimanded and ordered to pay \$185.00 restitution by Committee Consent Findings & Order filed March 21, 2006, on a Judicial Complaint by United States Bankruptcy Judge Audrey Evans in Case No. 2006-005, for violations of Model Rules 1.3, 1.4(a), 1.4(b), 3.2, and 8.4(d). Judge Evans reported Respondent Blanton for problems with three bankruptcy cases. In the Hood case, Respondent failed to give the creditors notice of Respondent's filing of a motion to reinstate, even after the Court wrote Respondent about it. In the Bowdie case, in an adversary proceeding, Respondent and her client failed to appear at a scheduled hearing and summary judgment was granted against her client. Respondent apparently failed to inform her client of the meeting and offered no valid reason why she missed it. Respondent petitioned for rehearing alleging she had not been provided notice of the earlier hearing. There was substantial correspondence to the contrary. In the Harris case, Respondent failed to file clients' bankruptcy petition in face of their notice to her that a foreclosure sale on their home was imminent. Due to the failure to file, the home was sold and Respondent failed to do anything to fix the problem she created. Respondent replied that during this time frame she was under great stress, primarily from dealing with her spouse's major health problems.

**MARCIA M. BRINTON, Bar No. 83030**, of Fayetteville, Arkansas, was reprimanded and ordered to pay \$28,500.00 in restitution by Committee Consent Findings & Order filed May 11, 2006, on a Complaint filed by Paula & Jake Hedden in Case No. 2004-173, for violations of Model Rules 1.1, 1.4(a), 1.5(c), 1.15(a)(3), 1.15(b)(3), and 8.4(c). Respondent Brinton represented the Heddens on a 40% contingent fee basis in a personal injury case arising from an accident in 1994, from which Ms. Hedden eventually lost a leg. In February 1997 the case was settled for \$100,000. Respondent took her \$40,000 fee plus costs, and distributed funds to a number of providers and \$10,000 to Jake Hedden for his consortium claim. Ms. Hedden claimed she has never received any funds from Respondent for her claim. Respondent stated she destroyed her client file and trust account records for the Hedden matter some time ago, and was unable to obtain her trust account records after being notified of the filing of the Hedden grievance, because her then-bank no longer existed.

Ms. Hedden claimed Respondent did not pay, or properly deal with, all her known medical bills. Respondent agreed to a consent judgment in November 1999 on a chiropractic clinic bill of Ms. Hedden's of \$1,560, without the knowledge of Ms. Hedden, and with an alleged questionable signature of Ms. Hedden on the judgment document. Respondent agreed to pay the judgment in installments from Respondent's personal funds over the next two years, to keep the judgment from being publicly recorded. When Respondent did not perform on this obligation, the judgment was recorded in November 2002, and execution attempted against the Heddens' property in February 2003. In November 2000, another provider took a default judgment against Ms. Hedden for \$2,695.32 for an unpaid medical bill from the 1994 accident.

Ms. Hedden had a medical malpractice claim that arose from her injuries in the 1994 accident and Respondent handed that cause of action off to another attorney, Matthews, who pursued it to a

settlement. In the process of his representation of Ms. Hedden in that matter, Matthews corresponded with Respondent asking for an accounting from her for the \$100,000 settlement. He wrote also about the chiropractic bill. Respondent finally sent Matthews an office check for \$1,500 in August 2003 to pay off Ms. Hedden's balance on that judgment obligation. In late 2003 and early 2004 different attorneys wrote Respondent for Ms. Hedden requesting an accounting of the \$100,000 but got no response. The disciplinary complaint followed. In mid-2004 the Office of Professional Conduct wrote Respondent requesting an explanation of the \$100,000 settlement. Respondent responded with her version by letter in August 2004. Respondent listed about fifteen individuals or firms that she recalled received funds from her distribution of the settlement, all totaling very roughly about \$83,000, including her fee and costs and the \$10,000 to Mr. Hedden. Respondent has been unable to offer further explanation for the remaining roughly \$17,000 due to her lack of records. Her attorney, W. H. Taylor, reported he had been unable to obtain the trust account records after an exhaustive search. As part of a "consent" offer which also outlined and documented her serious health problems, Respondent offered to pay \$28,500 to the Heddens, an offer they strongly encouraged the Panel to approve. Upon approval of the consent proposal, the \$28,500, which had been escrowed with OPC, was paid to the Heddens.

**ALVIN D. CLAY, Bar No. 96075**, of Little Rock, Arkansas, was reprimanded and fined \$3,500.00, at a public hearing, by Committee Findings and Order filed February 27, 2006, on a Complaint filed by August Thomas in Case No. 2005-080, for violations of Model Rules 1.5(b), 1.15(a), 1.16(d), and 8.4(c). Mr. Thomas hired Mr. Clay in August 2002, for a \$3,500 flat fee plus \$200 for filing expenses, to prosecute a personal injury claim of Thomas's minor son. No fee agreement exists. Clay hired Jackson, an accident reconstructionist, and sent him Clay's \$1,000 personal check. Clay received a \$1,000 payment from Thomas for Jackson's services on January 20, 2003. Jackson claims Clay's check bounced and Clay failed to make it good until April 2005, after the Thomas complaint was known to Clay to have been filed. Jackson rendered an unfavorable oral report to Clay and on January 29, 2003, sent Clay his billing for \$823.75 and his refund check of \$176.25. Clay claimed the refund as additional fee and did not tell Thomas of it or credit it to Thomas. Clay needed to take depositions and obtained \$1,000 for this purpose from Thomas. One deposition, costing \$180.60 was actually taken. Clay retained the balance of \$819.40 as additional fee and failed to account to Thomas for it. Clay tried the case to a jury in October 2004 and lost. Thomas then ran a small "personals" section notice in the state paper that was negative about Clay as a lawyer. On November 24, 2004, Clay sued Thomas for defamation, and Thomas counterclaimed. Thomas then filed his complaint at OPC. Clay later dismissed his suit. Clay's lawyer sent Jackson a check for \$1,000 for his work in January 2003, when the Clay check had not been honored. The counterclaim was settled prior to trial. Clay did not deposit the two advance payments from Thomas into a trust account.

**G. B. COLVIN, III, Bar No. 66014**, of Monticello, Arkansas, was reprimanded by Committee Consent Findings & Order filed December 18, 2006, on a Per Curiam Order referral from the Arkansas Supreme Court in the appeal of *Robert Earl Thompson v. State*, No. CR-06-1014, in Case No. CPC 2006-132, for violation of Arkansas Rules 1.1, 1.3, and 8.4(d). The Court referred Mr. Colvin to the Committee in an Order granting his Motion for Rule on the Clerk. Mr. Colvin filed a Notice of Appeal for Mr. Thompson which was not timely, pursuant to Rule 2 of the Rules of

Appellate Procedure - Criminal. Mr. Colvin acknowledged responsibility and fault in the Motion for Rule on the Clerk, admitting there was negligence on his part in not getting the Notice of Appeal filed on time. He explained that he was home taking care of his wife, who had broken her leg, when the deadline for filing the appeal passed. In addition, Mr. Colvin had spent the first ten to fifteen days after the conviction attempting to find someone to replace him as appellate counsel because of his heavy caseload and number of death penalty cases pending at the time but was unsuccessful in doing so.

**WILLIAM SCOTT DAVIDSON, Bar No. 81044**, of Jonesboro, Arkansas, was reprimanded and fined \$1,000.00 by Committee Findings & Order filed March 6, 2006, on a Complaint filed by Milt Clegg in Case No. 2005-117, for violations of Model Rules 1.2(a), 1.3, 1.4(a), 1.4(b), 1.15(a), 1.16(d), 3.4(c), 5.5(a), and 8.4(c). Mr. Clegg, a Mississippi business owner (EPSCO), hired Mr. Davidson in November 2000 to pursue his claims against the Chavers (father and two sons) and their firm in Jonesboro. Respondent obtained a default judgment for \$18,269 against the father, and judgment, affirmed on appeal in February 2003, against the sons for \$80,360. Clegg asked Davidson to pursue collection. Clegg sent Respondent \$500 in March 2003 to pay for depositions. Clegg and EPSCO then began experiencing difficulty obtaining status reports from Davidson. In February 2004, Davidson communicated a \$25,000 settlement offer from the Chavers' attorney to Clegg. Clegg informed Davidson that to properly evaluate the offer he needed the information on the Chavers' assets Davidson was to obtain by deposition. After many requests by EPSCO, Davidson finally took the Chavers depositions in June 2004. Clegg was not provided with the depositions and the reporter was not paid her fee of \$355.50. Clegg requested an accounting for the \$500 but received none. Clegg filed his complaint with OPC on December 2, 2004. OPC wrote Davidson on December 31, 2004. On April 5, 2005, EPSCO terminated Davidson's services, demanded an accounting of the \$500, and a refund of any unused balance. On April 8, 2005, Davidson provided EPSCO's new Arkansas counsel with copies of the Chavers depositions from June 2004. The reporter was paid by Davidson at the time he filed his response to the complaint, and he forwarded the balance of \$108.66 to OPC for EPSCO on his office account check. Davidson failed to pay his 2003, 2004 and 2005 annual law license fee and was engaged in the unauthorized practice of law during those years as a result.

**MARVA JOYCE DAVIS, Bar No. 83046**, of Little Rock, Arkansas, was reprimanded by Committee Consent Findings & Order filed February 21, 2006, on a Complaint filed by Renee' Crater of MCH Physical Therapy Clinic (MCH) in Case No. 2005-170, for violations of Model Rules 1.1, 1.2(a), 1.8(e), 1.15(a), 1.15(b), and 8.4(c). Ms. Davis represented Phillips, Bryant, and two Taylors in personal injury matters. All four were treated by and assigned part of their settlements to pay MCH directly. Davis also advanced or loaned Ms. Taylor, her office employee at the time, \$1,300 against her future settlement possibility, in violation of Rule 1.8(e), and then collected her loan from Taylor's settlement. Davis settled the four claims, paid one Taylor account at MCH, and did not pay the other three, although she withheld funds for that purpose from the other three settlements. Ms. Crater found out about the settlements in September 2004 and made demand for payment, then filed her complaint in mid-2005. OPC contacted Davis, who eventually paid all accounts, totaling \$4,765.55, in full. Davis's trust account balance fell to \$99.66 in June 2005.

**DAVID L. DUNAGIN, Bar No. 84040**, of Fort Smith, Arkansas, was reprimanded by Committee Findings and Order filed February 28, 2006, on a Per Curiam Order Complaint in Case No. 2005-102, for violations of Model Rules 1.2(a), 1.3, 3.4(c) and 8.4(d). The Arkansas Supreme Court referred Mr. Dunagin to the Committee based on his failure to pursue an appeal on behalf of his client, Sherry Childers, in a case where her parental rights had been terminated.. Mr. Dunagin failed to obtain a timely Order extending the time to file the appeal record. Because of this failure, he did not seek to file the record. Mr. Dunagin made the decision to not file a Motion for Rule on the Clerk or Motion for Belated Appeal because he did not believe the Court would grant either because the appeal did not involve a criminal matter. All of the information about Mr. Dunagin's conduct was revealed at the hearing held by the Circuit Court on the issue of attorney error based on a referral by the Arkansas Supreme Court to conduct the hearing. The record showed the Court Reporter did not deliver the record to Mr. Dunagin until one day after the deadline to file the record. Mr. Dunagin admitted that he violated Model Rule 1.2(a) as he did not file the record on appeal within the time allowed. Mr. Dunagin admitted that he was in violation of Model Rules 1.3 and 3.4(c) in that he did not obtain an Order extending the time to file the record on appeal because the Court Reporter told him that she would have the record to him and that she had never been late in her life tendering a record to an attorney. Mr. Dunagin explained that he received the record that day after it was due. Mr. Dunagin also offered that he would have filed a Motion for Rule on the Clerk if the Court was favorably ruling on such, which they were not at the time involving Ms. Childers' appeal.

**OSCAR JEROME GREEN, Bar No. 85062**, formerly practicing in Little Rock, Arkansas, (now of Pell City, Alabama), was reprimanded and ordered to pay \$2,000.00 in restitution by Committee Consent Findings & Order filed May 23, 2006, on a Complaint filed by Robert Antonik in Case No. 2005-126. Mr. Green admitted and the Committee found that his conduct violated Model Rules 1.1, 1.3 and 1.4(a). Mr. Antonik hired Mr. Green to pursue legal action on his behalf against the Heber Springs Water Department. Respondent Green filed a lawsuit for Mr. Antonik in March 2001. Green did not timely respond to pleadings filed by opposing counsel. He did not timely respond to the Motion to Dismiss filed by the Heber Springs Water Department on April 17, 2001. He did not respond to the discovery requests served on him by opposing counsel. He did not respond to the Motion to Compel and did not comply with the Order by Judge Harkey filed on December 23, 2003. He did not file a response to the Motion to Dismiss filed on January 12, 2004, and did not serve the parties sued when he filed an Amended Complaint on Mr. Antonik's behalf in January 2005. Mr. Green also failed to keep Mr. Antonik informed of the status of the lawsuit and the actions and efforts being undertaken on his behalf. Green failed to advise Antonik that discovery requests had been served on him by the defendants in the lawsuit and he failed to advise Antonik that Motions to Dismiss had been filed in his lawsuit. He did not advise Mr. Antonik when his lawsuit was dismissed by Judge Harkey in January 2004. Mr. Green was paid \$4150 as a partial fee for his representation. At the time of the filing of the formal disciplinary complaint, Mr. Green had not refunded any of the funds paid to him by Mr. Antonik.

**KENNARD K. HELTON, Bar No. 80058**, of Dardanelle, Arkansas, was reprimanded and fined \$200.00 by Committee Consent Findings & Order filed April 21, 2006, on a Complaint filed by attorney Keith Coker in Case No. 2005-150, for violations of Model Rules 1.8(a), 1.15(a), and 3.4(c). Respondent Helton was befriended by an elderly widow, Ms. Menhart, in the early 1990s, and he

assisted her in a variety of ways over the years. She sold her house in 1999 and then loaned Respondent \$60,086.43 at zero interest, based on a note Respondent prepared for her. He agreed to pay her monthly rental fee at her assisted living unit until her death, at which time any balance on his note was forgiven. Respondent did not deposit the client's funds in a trust account, but used the funds as a loan and for his personal purposes. Ms. Menhart died in September 2003. Respondent opened probate administration, showing personal property of about \$2,000 as her only estate. He was appointed executor. Questions arose and on May 18, 2005, Respondent was ordered to file an accounting and inventory by June 11, 2005. Helton was removed as executor. He failed to file the accounting and inventory until November 2005. His accounting showed he held \$8,195.76 for the estate, including a large credit back to the estate from Helton. A separate suit by DHS for \$4,831.10 for nursing home services to Ms. Menhart was unresolved, and represented a claim against her estate. Respondent has apparently satisfied any financial obligation he has to the Menhart estate, because Mr. Coker, attorney for an heir, and the one who filed this complaint, has not stated otherwise. Respondent replied that he did not think at the time he was doing anything unethical by entering into this business arrangement with his client. In his response he does not deny the dealing, but called it an unintentional ethical lapse.

**RICKEY H. HICKS, Bar No. 89235**, of Little Rock, Arkansas, was reprimanded and fined \$500.00 by Committee Findings and Order filed January 25, 2006, on a Per Curiam Order Complaint in Case No. 2005-101, for violations of violated Model Rules 1.2(a), 1.3, 3.4(c), and 8.4(d). The Arkansas Supreme Court referred Hicks for his conduct in the appeal of Robert McIntosh, whom Hicks had represented at trial. A timely Notice of Appeal was filed, but Mr. Hicks took no further action to pursue the appeal. Another attorney filed an entry of appearance but also failed to file the record on appeal. Mr. Hicks failed to seek permission to withdraw from representation and therefore remained responsible for the appeal. The Supreme Court appointed a Master to conduct a hearing about the appeal. Despite having notice, Mr. Hicks failed to appear before the Master. He failed to pay his annual law license fee by the date due, as required by Arkansas Supreme Court Rule.

**CHARLES M. "MARC" HONEY, Bar No. 86091**, of Hot Springs, Arkansas, was reprimanded and fined \$3,000.00 by Committee Findings & Order filed April 3, 2006, on a Complaint filed by Harvey Harrington in Case No. 2005-160, for violations of Model Rules 1.15(a), and 1.16(d). Mr. Harrington contacted Respondent Honey about representation in a possible future bankruptcy for his business and personal matters. On March 11, 2005, he paid Respondent \$8,000 cash on a quoted \$10,000 fee to handle these matters. Respondent did not deposit the fee into his trust account. Harrington was able to get his bank to refinance his loans and avoid default and the need for bankruptcy. He communicated to Respondent on April 5, 2005 that they would not be filing any bankruptcy and asked him to return to them their papers and the unearned portion of the \$8,000 paid to Respondent one month before. According to Harrington, Respondent told him he owed Honey no more money, but to just consider him as their family attorney if they needed one in the future. Respondent did not offer any refund. Several calls to Respondent were unsuccessful in obtaining papers or a refund. In September 2005, Mrs. Harrington obtained the papers from Respondent's office in Hot Springs. An accounting of Respondent's work for Harrington was requested but no response was received. In his response, Honey asserted that Harrington first contacted him on

September 2, 2003, and that Respondent stood ready to represent him. Respondent states Harrington contacted him again on March 7, 2005, and paid his retainer four days later. Respondent states he completed bankruptcy filing paperwork for a Chapter 11 petition, which Harrington and his wife signed. After being served with the Complaint, on January 23, 2006, Respondent refunded \$8,000 to Harrington. In his response Respondent admitted not depositing the \$8,000 into a trust account, stating it was for pre-petition work and that the bankruptcy court would probably have approved his fee if the petition had been filed.

**BENJAMIN D. HOOTEN, Bar No. 2001265**, of Hot Springs, was reprimanded by Committee Consent Findings and Order filed July 25, 2006, in Case No. CPC 2006-049, on a complaint brought by the Committee after Mr. Hooten self-referred, on three violations of Model Rule 8.4(c). Mr. Hooten received an undivided interest (along with his brother) in real property from his mother in 1993. Mr. Hooten was the subject of a personal civil judgment for \$110,000 in favor of Phyllis Nash (now Dunning) in 1996. In 2001, he was licensed as an attorney. Before becoming an attorney he had worked in the real estate business. In 2003, he quit-claimed his interest in the realty to his brother and the deed was recorded June 2, 2003. Respondent Hooten prepared and executed a “disclaimer” of interest in the realty and recorded it February 18, 2004. He filed a personal bankruptcy petition on June 4, 2004. His bankruptcy case documents show he engaged in an effort to exempt an interest in the realty through his bankruptcy case. Ms. Dunning objected to the discharge of his large judgment debt to her. The court conducted a hearing and denied Hooten a discharge in bankruptcy on the basis of what the judge found to be false statements and false schedules he had filed. Judge Mixon informed the Office of Professional Conduct that he would not be making a “judicial referral” to the Committee on this matter, having taken what he thought was sufficient punitive action against Mr. Hooten by denying him a discharge in bankruptcy, which left in place a judgment that now may approach \$200,000, with ten years’ interest included.

Mr. Hooten responded that he had not intentionally made false statements in bankruptcy pleadings or his testimony there. He claimed his execution of the disclaimer was based on his reading of case law. He stated he knew little about bankruptcy or real estate law, having only been licensed a short time when these events occurred, and he was the only victim of his conduct. Mr. Hooten has no prior disciplinary complaints or sanctions.

**STEPHEN GREGORY HOUGH, Bar No. 84077**, of Fort Smith, Arkansas, was reprimanded by Committee Findings & Order filed March 7, 2006, on a Per Curiam Order Complaint filed in Case No. 2005-110, for violations of Model Rules 1.1, 1.3, 3.4(c), 5.5(a), and 8.4(d). Mr. Hough represented the appellant in No. CACR 05-15, *Joel Mark Burroughs v. State*. On March 31, 2005, Hough was granted a time extension for his brief but then failed to file one. The State filed to dismiss, Mr. Hough did not file a response, and the motion was granted May 11, 2005. Hough’s 2005 law license fee was not paid until August 10, 2005, so his law license was automatically administratively suspended from March 2 - August 10, 2005.

**STEPHEN GREGORY HOUGH, Bar No. 84077**, of Fort Smith, Arkansas, was reprimanded and ordered to pay \$425.00 restitution by Committee Findings & Order filed March 7, 2006, on a Complaint filed by Rosanna Hayward in Case No. 2005-111, for violations of Model Rules 1.4(a), 1.4(b), 1.16(d), 3.4(c), 5.5(a), and 8.4(c). Ms. Hayward was sued for divorce and hired Hough on March 14, 2005, to represent her and paid him \$425 of his quoted \$850 fee. Hough had not paid his 2005 law license fee and his license was automatically administratively suspended as of March 2, 2005. Hough failed to respond to her requests for information about her case. On March 31, 2005, Mr. Hough suffered a major personal incident. Ms. Hayward read about it in the paper and requested her fee back and a copy of her file so she could retain another attorney. Hough failed to keep an appointment with her for that purpose. On May 17, 2005, the court mailed a trial notice for October 18, 2005, to Mr. Hough and opposing counsel. Hough never returned the confirmation to the judge's office and did not inform Ms. Hayward of her trial date. Hough responded that during late March 2005 and thereafter he was mentally unable to deal with his practice.

**STEPHEN GREGORY HOUGH, Bar No. 84077**, of Fort Smith, Arkansas, was reprimanded and ordered to pay \$750.00 restitution by Committee Findings & Order filed March 7, 2006, on a Complaint filed by Gary T. Williams in Case No. 2005-113, for violations of Model Rules 1.2(a), 1.3, 1.4(a), 1.4(b), 8.4(c), and 8.4(d). Mr. Williams was arrested on multiple traffic charges in late 2003 and hired Mr. Hough. Williams states he and his witness were told by Hough that Williams could have a trial in district court or enter guilty pleas there, appeal to circuit court, and have a possible jury trial there. On December 29, 2003, Hough and Williams appeared in District Court, guilty pleas were entered through Mr. Hough, and Williams thought he would be notified by Hough as to his circuit court trial date on appeal. Hough failed to file any notices of appeal. The District court judgments became final. Williams was stopped several months later, told there were warrants out for him from these cases, and that he owed \$2,625 in fines and costs on them. Williams called Hough on February 24, 2004, told him of the situation, and Williams stated Hough told him he would take care of it, but nothing happened. In October 2004, Williams got a letter from the police about the fines, costs and warrants. He had to serve 59 days in jail in early 2005 to work off these penalties. Williams claimed he lost a job offer at the Post Office due to this situation, and his auto insurance rates have become unaffordable as a result. Hough responded that he did not have access to the file in this matter, and he would have filed the appeals to circuit court if Williams had instructed him to do so and had paid the fees and bond money required.

**JOSEPH D. HUGHES, Bar No. 97021**, of Paragould, Arkansas, was reprimanded and ordered to pay \$5,000.00 restitution by Committee Consent Findings and Order filed February 21, 2006, on a Complaint filed by Doris A. Scott in Case No. 2005-129, for violations of Model Rules 1.1, 3.3(a)(1), 3.3(a)(4), 4.1(a), 8.4(c), and 8.4(d). Doris Scott filed a grievance alleging she paid Mr. Hughes a \$5,000 retainer, that he did not handle her federal discrimination case against the United States Postal Service properly, and that he did not tell her he was withdrawing from her appeal before the Eighth Circuit. Hughes filed an affidavit, signed by Ms. Scott and notarized, to his response to motion for summary judgment. Ms. Scott denied the signature was made by her. Hughes admitted he signed her signature. Ms. Scott's case in the District Court was dismissed on Summary Judgment because she failed to exhaust her administrative remedies. The Eighth Circuit affirmed,

after Hughes withdrew from her representation two weeks before her brief was due and with telling her of his action.

**BARBARA A. KETRING-BEUCH, Bar No. 97074**, of Hot Springs, Arkansas, was reprimanded and ordered to pay \$500.00 restitution by Committee Consent Findings & Order filed February 10, 2006, on a Complaint filed by Dennis Fulmer, in Case No. 2005-168, for violations of Model Rules 1.1, 1.3, and 8.4(d). Fulmer was terminated at work and hired Respondent in September 2003 to file suit. He paid her a \$1,500 retainer to cover future costs and expenses. The representation was on a contingent fee basis, but Fulmer was provided no written fee agreement by Respondent. Suit was filed in federal court in October 2003 and assigned an October 18, 2004, trial date. The employer filed a motion for summary judgment in August 2004 and Respondent failed to file a response. Summary judgment was granted September 13, 2004, and Respondent did not disclose this action to Fulmer. The employer filed a motion for costs, Respondent failed to respond, and judgment was entered against Fulmer October 19, 2004, for \$1,141.70. Respondent did not inform Fulmer of this action. Prior to October 18, Fulmer contacted Respondent about the trial date and was told the case had been passed for resetting. He later independently learned of the summary judgment, was told by Respondent that his case was not worth appealing, he fired Respondent, and demanded a refund. Respondent sent him a refund of \$736.75 in January 2005. Respondent admitted violating Rules 1.1, 1.3, and 8.4(d), and denied she failed to respond to requests for information (1.4(a)), that she failed to adequately explain matters to the client (1.4(b)), and that she falsely told Fulmer in October 2004 that his trial had been reset (8.4(c)).

**WALTER CRAIG LAMBERT, Bar No. 87100**, of Little Rock, Arkansas, was reprimanded by Committee Consent Findings & Order filed October 17, 2006, in the Rule 37 proceeding of Ledell Lee in Case No. CPC 2006-097, on information obtained from the Arkansas Supreme Court file in Case No. CR99-1116, *Ledell Lee v. State of Arkansas*, for violations of Model Rules 1.1, 1.16(a)(2), and 8.4(d). On June 29, 2006, the Arkansas Supreme Court recalled its mandate that affirmed denial of Ledell Lee's request for post-conviction relief in his death-sentence case, and remanded his case to the circuit court for a new post-conviction proceeding. Mr. Lambert had earlier filed a Motion to Withdraw with the United States District Court - Eastern District of Arkansas, in Mr. Lee's case, requesting that he be allowed to withdraw based on the admission that he was impaired during Lee's even earlier state Rule 37 hearing and had failed to render adequate representation there to Mr. Lee.

**PHILLIP A. MOON, Bar No. 84109**, of Harrison, Arkansas, was reprimanded and fined \$500.00 by Committee Findings & Order filed October 31, 2006, on a Per Curiam Order referral from the Arkansas Supreme Court in the appeal of *Paul Barron v. State*, No. CR-06-506, in Case No. CPC 2006-070, for violation of Model Rules 1.1, 1.2(a), 1.3, 3.4(c) and 8.4(d). The Court referred Mr. Moon to the Committee in an unpublished Per Curiam Opinion issued June 1, 2006, based upon his failure to pursue the appeal for Paul Barron, Sr., after Mr. Moon filed a timely Notice of Appeal on Mr. Barron's behalf in January 2002 from a criminal conviction. Mr. Moon failed to take any action to perfect the appeal for Mr. Barron, abandoning his client and the appeal. At no time was Mr. Moon relieved of his obligation to perfect the appeal. Mr. Moon's failure to perfect the appeal violated Arkansas Rule of Appellate Procedure 16. Four (4) years after the record was due to be filed with



the Clerk of the Court, Mr. Barron filed a Motion for Rule on the Clerk or in the alternative Motion for Leave to File a Belated Appeal, requesting that the Court compel Mr. Moon to perfect the appeal. In the Per Curiam, the Court set out that it is well settled that under no circumstances may an attorney who has not been relieved by the Court abandon an appeal. Mr. Moon was directed by the Court to file a Petition for Writ of Certiorari within thirty (30) days of June 1, 2006. In the Petition, Mr. Moon asserted that Mr. Barron failed to tender any funds to pay the Court Reporter for the record at any time after the Notice of Appeal was filed. Mr. Moon also asserted that Mr. Barron discharged Mr. Moon from representing him. Mr. Moon denied failing in any duties to Mr. Barron. There was no explanation in his Petition by Mr. Moon of his failure to seek to be relieved from the representation of Mr. Barron as is required pursuant to Rule 16 of the Arkansas Rules of Appellate Procedure - Criminal.

**PHILLIP A. MOON, Bar No. 84109**, of Harrison, Arkansas, was reprimanded and fined \$1,000.00 by Committee Findings & Order filed March 14, 2006, on a Complaint filed by Bonnie Streeper in Case No. 2005-142, for violations Model Rules 1.1, 1.3, 1.4(a), 3.4(c), and 8.4(d).

Ms. Streeper hired Respondent Moon to defend her in a lawsuit after an accident, when her insurance company denied the claim. Moon filed an Answer on her behalf and then did nothing else. He failed to respond to Requests for Admission, other discovery requests, a Motion to Deem Admissions Admitted, and a Motion for Summary Judgment. He did not advise Ms. Streeper when Judgment was entered against her. She did call his office from time to time. Ms. Streeper reported that the last time she called Mr. Moon's office and spoke with him was during May 2003, when Moon advised her that nothing was going on in the lawsuit. He failed to keep Ms. Streeper informed of the status of her legal matter; when he failed to advise Ms. Streeper when the Summary Judgment was entered against her; and when he failed to advise Ms. Streeper or explain to her that there were certain duties required of her after the Summary Judgment was granted against her.

**LORI A. MOSBY, Bar No. 94016**, of Little Rock, Arkansas, was reprimanded by Committee Findings & Order filed April 21, 2006, on a Complaint filed by Rickey L. McCraw in Case No. 2005-044, for violations of Model Rules 1.15(a), 1.15(b), 1.15(c), and 8.4(c). Respondent Mosby represented Mr. McCraw in a personal injury matter. When the matter was settled in April 2003, Ms. Mosby agreed to pay all expenses from her portion of the attorney's fees recovered in the matter, including \$7,805.86 owed to Technical Advisory Service for Attorneys (TASA) for an expert witness. Ms. Mosby did not pay that expense although her settlement statement prepared for her client reflects that she was to do so. Investigation of Ms. Mosby's trust account records showed that the funds owing to TASA (or in dispute between Ms. Mosby and TASA) were not maintained in her trust account after deposit of the settlement funds.

Upon receiving the settlement funds from McCraw's personal injury matter, Ms. Mosby failed to promptly notify TASA, a third party whom she knew to have an interest in the funds, and failed to promptly deliver to TASA the funds TASA was entitled to receive in the McCraw matter. After Ms. Mosby received the settlement funds in the McCraw matter, she failed to keep separate the funds in which she and TASA both claimed an interest until the dispute could be settled. The Committee found that Ms. Mosby was dishonest with Mr. McCraw when she advised him in two

separate documents she signed that she would pay all expenses, other than medical bills, incurred in his legal matter from the portion she retained of his settlement funds but she did not do so.

**CAROLE DIANE SEXTON, Bar No. 92053**, of Fort Smith, Arkansas, was reprimanded by Committee Findings and Order filed February 10, 2006, on a Judicial Complaint, in Case No. 2004-048, for violations of Model Rules 1.1, 1.4(b), 1.5(a), 1.7(a), 1.7(b), 3.1, 3.4(c), 8.4(c), and 8.4(d). Bankruptcy Judge James Mixon filed a Judicial Complaint against Ms. Sexton for her conduct in the proceeding styled *In Re: Stephen A. Griffin*. The information sent to the Committee contained an Order entered by Judge Mixon with regard to Ms. Sexton and her conduct before Judge Mixon. Ms. Sexton was found to not understand the basic principles of bankruptcy law during her representation of her clients. She was found to have not explained matters to her client, Mary McGehee, preventing Ms. McGehee from making informed decisions about the representation by Ms. Sexton. Ms. Sexton was also found to have charged unreasonable fees to Ms. McGehee. Ms. Sexton attempted to represent more than one party in interest in the bankruptcy proceeding. Ms. Sexton also placed her own interests and the interests of Barbara Griffin, another of her clients, ahead of those of her client, Mary McGehee. Ms. Sexton filed numerous pleadings that were found to be frivolous and to have no basis in fact. Ms. Sexton violated the Rules of the Bankruptcy Court and also an Order of Judge Mixon during the course of her representation of Ms. McGehee.

**JAMES BAXTER SHARP III, Bar No. 92114**, of Brinkley, Arkansas, was reprimanded by Committee Findings & Order filed October 18, 2006, on a complaint filed by Preston Earl Hedden in Case No. CPC 2006-045, for violation of Arkansas Rules 8.4(c) and 8.4(d). Mr. Sharp represented Mr. Hedden's ex-spouse in a child support matter in Monroe County. An agreement was read into the record before Judge Bell on September 6, 2005, with an attorney's fee of \$70.00 to be paid by Mr. Hedden, who was represented by David Carruth. The Agreed Decree was carried, allegedly by Mr. Sharp, to the clerk's office and filed, where it showed up with the \$70.00 fee changed to a fee of \$700.00. Mr. Carruth saw the change and asked for and got an immediate hearing before Judge Bell. She recalled seeing \$70.00 when she approved the decree. Witnesses were called. The hearing inquiry indicated Mr. Sharp as the most likely person to have altered the decree after the judge signed it. Mr. Sharp denied any alteration. He claims the agreed fee was to have been \$700.00, and that is the amount he put in the blank in the Agreed Decree out in the courthouse hallway.

**DAVID W. TALLEY, JR., Bar No. 82155**, of Magnolia, Arkansas, was reprimanded and fined \$1,000.00 by Committee Findings & Order filed November 28, 2006, on a complaint filed by Charles Burdine, Jr. in Case No. CPC 2006-044, for violation of Model Rules 1.1, 3.3(a)(1), 3.3(a)(2), 3.4(c), 8.4(c), and 8.4(d). Charles Burdine, Jr.'s late father was a client of Mr. Talley, where several wills were prepared and executed prior to Burdine, Sr.'s death on September 8, 2000. W. B. "Buster" Guthrie, a former attorney, and later part-time pastor, who surrendered his Arkansas law license in 1983 as he started to serve a prison sentence for felony theft of client funds, worked as a paralegal in Mr. Talley's office, and apparently befriended Burdine, Sr., whose will named Guthrie as executor without bond. Mr. Talley knew of Guthrie's past, and he apparently allowed Guthrie to continue to physically work in his office until January 1, 2002, when the Supreme Court Rule about such employment changed and Guthrie was required to move and work off-site thereafter.

According to both Mr. Talley and Guthrie, much later when the truth came out in May 2004, only Guthrie had access to the Estate bank account and documents on the account. Mr. Talley opened probate in September 2000, probated one of the wills, and served as counsel for Guthrie, the Executor, until both resigned in May 2004, when the truth about Guthrie's personal use of estate funds came out. Without notice or any court approval, Guthrie gave Mr. Talley two estate account checks totaling \$7,000, marked as being for "legal fees," in December 2000 and January 2001. Guthrie filed a first accounting on September 12, 2001, listing cash in the bank of \$21,726.12, attorney's fees of \$4,712.18 owed, and no mention of the \$7,000 in payments to Mr. Talley for legal fees. A final accounting was filed by Guthrie on October 23, 2002, listing cash in hand of \$9,372.74, the same amount of legal fees still owed, no mention of the earlier payments to Mr. Talley, and it had a certificate of service signed by Talley.

Burdine, Jr.'s attorney, Mr. Pratt, finally obtained the estate account bank records directly from the bank in April 2004 and discovered the account balance was only \$617.68 as of September 6, 2001, and the account was closed by Guthrie on October 10, 2001. Guthrie had written a series of checks to himself totaling \$29,207.31 between January 8 and October 10, 2001, which he later characterized as "loans" to himself, as evidenced by copies of promissory notes he later produced. No one allegedly knew of Guthrie's loans to himself until April 2004, and his "explanation" to Mr. Talley came shortly thereafter. Guthrie was charged in October 2004 with felony theft in the matter. He entered a plea on February 2, 2006, got a five year probated sentence, and repaid an agreed \$17,358.24 as restitution to the estate. Mr. Talley repaid the estate the \$7,000 in late 2004, after demand was made for payment by the attorney for the Burdine children/ heirs. Mr. Talley claimed he had no idea what Guthrie was doing with the estate funds until Mr. Pratt got the bank records in April 2004. Mr. Talley apparently never raised a question or concern when Guthrie handed him the two "fee" checks in late 2000-early 2001.

**MORRIS W. THOMPSON, Bar No. 80145**, of Little Rock, Arkansas, was reprimanded, fined \$4,000.00 and assessed \$378 costs by Committee Findings & Order filed June 30, 2006, on a complaint by Leon Gooden of Jonesboro in Case No. 2005-067, after a public hearing before Panel B, for violations of Model Rules 3.1 and 4.4. Affirmed on appeal March 8, 2007, in No. 06-1069.

Leon Gooden entered into a contract with Gamble Construction Company ("Gamble") for the construction of a small office building on Gooden's property at 213 N. Allis in Jonesboro. When the building was not completed as set forth in the contract, Gooden refused to pay the balance. Mr. Thompson filed suit against Mr. Gooden in Circuit Court, and also filed a lis pendens notice with the Circuit Clerk listing eleven (11) parcels of property owned by Mr. Gooden, including the one where the construction was done. According to Mr. Thompson, he did not provide a copy of the notice to Mr. Gooden. During the summer of 2003, Mr. Gooden negotiated a sale of property of one of the parcels listed in the lis pendens, but not the 213 N. Allis property, for the purpose of paying the balance of a loan with a bank. The lis pendens prevented the sale of property as Mr. Gooden was unable to provide clear title. As a result contract dispute between Gamble and Mr. Gooden, the bank initiated foreclosure on the property Mr. Gooden was trying to sell.

Mr. Gooden went to a local lawyer friend, Snellgrove, who reviewed documents Gooden obtained at the courthouse. Mr. Snellgrove called Mr. Thompson and asked that the lis pendens be removed from the other properties, because Thompson could not file a lis pendens against every parcel of property owned by Mr. Gooden. According to Mr. Thompson, Mr. Gooden was represented by attorney Stanley, and Snellgrove had not entered an appearance in the case. Mr. Thompson stated that as Mr. Snellgrove and Mr. Stanley were not in the same law firm and Mr. Snellgrove had not entered an appearance, he did not want to talk about the case. Following the telephone conversation, Mr. Snellgrove wrote a letter to Mr. Thompson asking that the lis pendens be removed from Mr. Gooden's properties. Mr. Snellgrove testified that he never received a response from Mr. Thompson.

Mr. Gooden testified that he went to Mr. Stanley's office in January, 2004, to talk about the lis pendens. According to Mr. Stanley, he made several attempts to telephone Mr. Thompson but was not sure if he ever spoke with him. As a result he sent a letter to Mr. Thompson on January 16, 2004, asking Mr. Thompson to release the lis pendens filed against Mr. Gooden's other properties. Mr. Stanley offered a reasonable period of time for Mr. Thompson to act. Mr. Stanley stated that he never received a response from Mr. Thompson. On February 11, 2004, Mr. Stanley filed a Second Amended Counterclaim, and a Cross Claim against Mr. Thompson directly. Unbeknownst to Mr. Stanley, on February 11, 2004, Thompson had filed a release of the lis pendens on nine of the eleven properties listed in the May 30, 2003, filing.

Mr. Thompson testified that he had experienced difficulty prior to filing suit discussing the legal matter with Mr. Gooden as it related to his client, Gamble Construction, did not have a good address for Mr. Gooden, and that Mr. Gooden avoided service of process. Mr. Thompson stated that he had discussed with Christopher Mercer, Attorney at Law, Little Rock, Arkansas, about whether he could file a lis pendens against all properties owned by a party to a lawsuit involving a breach of a construction contract. Mr. Thompson was told that he could, and on May 30, 2003, Mr. Thompson filed the lis pendens notice on all properties owned by Mr. Gooden.

Mr. Thompson stated that he did have a conversation with Mr. Snellgrove on December 16, 2003, about the lis pendens filed against Mr. Gooden's properties. Mr. Thompson testified that he did not do anything regarding the lis pendens notice after the telephone call or after receipt of a letter from Mr. Snellgrove. Upon receipt of a letter from Mr. Stanley in January, 2004, Mr. Thompson stated that he then researched the matter and found out that Mr. Stanley's position had merit. As a result, Mr. Thompson filed a release of lis pendens to nine of the eleven properties on February 11, 2004.

**JAMES F. VALLEY, Bar No. 96052**, of Helena, Arkansas, was reprimanded and fined \$500.00 by Committee Findings & Order filed November 28, 2006, on a complaint filed by Beverly Gillespie in Case No. CPC 2005-121, for violation of Model Rules 1.1, 1.3, and 1.4(a). He was also reprimanded and fined an additional \$500.00 for failure to file a response to the complaint. Mr. Valley represented Ms. Gillespie in a divorce matter filed in Phillips County on February 20, 2004. The case was later transferred to Woodruff County and served on Ms. Gillespie's husband.

Ricky Gillespie filed an answer to the Complaint and a Counter-Claim on March 23, 2004. No answer to the Counter-Claim was filed by Mr. Valley. A hearing was set in Woodruff County Circuit Court for May 25, 2004. Neither Ms. Gillespie nor Mr. Valley, appeared. According to Ms. Gillespie, she had not been informed that a hearing had been scheduled. On June 1, 2004, a Divorce Decree was entered. A hearing was scheduled for June 22, 2004, on any remaining issues, such as property and debt, costs and attorney's fees. In the Divorce Decree, the Court stated that "non-appearance by any party...may give rise to the court's award of a default judgment to the appearing party." Neither Ms. Gillespie nor Mr. Valley appeared for this hearing. Again, Ms. Gillespie stated that she had not been informed about a hearing on June 22, 2004. The Court made findings concerning the property and debt issues and an Order was entered on July 9, 2004. The Court ordered that the parties' marital home be sold. On July 29, 2004, Mr. Gillespie and a member of the Augusta Police Department, appeared at Ms. Gillespie's home and demanded possession of items listed in the Divorce Decree. Ms. Gillespie was unaware of the issuance of the Order of July 9, 2004. On August 3, 2004, a Petition for Contempt was filed by Mr. Gillespie against Ms. Gillespie for her failure to comply with the Order of July 9, 2004. Mr. Valley filed a Rule 60 Motion to Amend the Order of July 9, 2004. In the Motion, Mr. Valley admitted that he was responsible for his failure to appear for the scheduled hearings, that he failed to notify his client of the court dates, and that he chose not to file an answer to the Counter-Claim filed by Ms. Gillespie's husband.

**DAVID JOHN WOOD, Bar No. 81169**, of Little Rock, was reprimanded by Committee Consent Findings and Order filed July 14, 2006, in Case No. CPC 2005-128, on a complaint filed by Jeanne Murphy, M.D., for violations of Model Rules 1.2(a), 1.7(a), and 1.7(b). In early 1993 Mr. Wood was both an attorney and a C.P.A., and had been designated a tax specialist by the Arkansas Board of Specialization. Since 1983 he had provided legal and tax services and advice to spouses Dr. Bruce Murphy and Dr. Jeanne Murphy and to their various business entities. Marital difficulties arose between the Murphys in early 1993. Thereafter, Dr. Bruce Murphy approached Wood about assisting Dr. Murphy in alleged real estate investment plans in the Destin, Florida area. As a part of the plan, Wood allowed Dr. Murphy to place large amounts of his income into or through Wood's attorney trust account over a several year period. Wood also opened a bank account for Dr. Bruce Murphy in a Florida bank and had the account statements mailed to Wood's law office. These actions were taken without the knowledge of Dr. Jeanne Murphy.

Dr. Bruce Murphy filed for divorce on July 23, 1997. On July 29, 1997, Dr. Jeanne Murphy had a telephone conversation with Wood in which she asked Wood if Dr. Bruce Murphy had assets that were hidden from her in off-shore accounts or secret bank accounts. In that conversation, Wood provided Dr. Jeanne Murphy, also then his client, no information about Dr. Bruce Murphy's separate financial dealings through Wood. In a discovery deposition in October 1997 in the Murphy divorce case, Dr. Bruce Murphy denied the existence of any off-shore accounts. In November 1997, Wood prepared amended joint personal tax returns for the Murphys for the years 1994, 1995, and 1996, which reflected previously undisclosed interest income from a Murphy business entity. The substantial assets Dr. Bruce Murphy had hidden from his wife were eventually discovered in the divorce case and equitably distributed there. Dr. Jeanne

Murphy sued Wood and his law firm for negligence, conflict of interest, constructive fraud, and fraud. At a jury trial in March 2003, a general verdict was returned in her favor and against Wood and his law firm for \$38,000 in compensatory damages and \$175,000 in punitive damages. Mr. Wood did not appeal. The \$213,000 judgment was paid in full, with Mr. Wood personally paying \$123,000.

**RICHARD H. YOUNG, Bar No. 94149**, of Russellville, Arkansas, was reprimanded and fined \$500.00 by Committee Findings and Order filed January 13, 2006, on a Trust Account Complaint, in Case No. 2005-131, for violations of Model Rules 1.15(a) and 5.3(b). Young, a solo practitioner, permitted his non-lawyer wife to manage the firm trust account. He did not properly train and supervise his wife on trust account operations. She wrote trust checks for personal obligations, made deposits of non-client funds into the trust account, and overdrafts of the account were reported to OPC five times from August-November 2004. Young's law license was in suspended status by Committee action from March 30, 2004, to December 13, 2004. He responded that no client funds were improperly applied.

**CAUTION:**

**ROBERT M. ABNEY, Bar No. 80001**, of Des Arc, Arkansas, was cautioned by Committee Consent Findings & Order filed December 15, 2006, on a Per Curiam Order complaint from the Arkansas Supreme Court in the civil appeal of *Heathscott v. Cessna*, No. 06-984, in Case No. CPC 2006-129, for violation of Arkansas Rule 1.3. Mr. Abney admitted that his conduct with regard to the attempted appeal for Ms. Heathscott violated Rule 1.3. Mr. Abney failed to file the record on appeal for Ms. Heathscott within ninety (90) days of the filing of the Notice of Appeal and he was required to file a Motion for Rule on the Clerk. Mr. Abney filed the record on the 100<sup>th</sup> day. The Arkansas Supreme Court denied the Motion for Rule on the Clerk on September 21, 2006, ending the client's opportunity for appellate review of the lower court's decision. Mr. Abney explained that he miscalculated the date for tendering the record on appeal. Mr. Abney provided information that his client was made aware by him of the loss of the right to appeal.

**THOMAS W. BYARLAY, Bar No. 86029**, of Little Rock, was cautioned by Committee Consent Findings and Order filed August 1, 2006, in Case No. CPC 2006-052, on a complaint filed by United States Bankruptcy Judge Audrey Evans, for violations of Arkansas Rules 1.1, 3.2, and 3.4(c). Mr. Byarlay represented debtor Donald Wayne Hamilton in a Chapter 13 Bankruptcy Petition filed on September 29, 2005. An application to pay filing fee in installments was filed. Mr. Byarlay was notified that the filing fee must be paid in full by the date first set for the meeting of creditors, which was November 2. The filing fee was paid by the client to Mr. Byarlay prior to November 2, 2005, but was not forwarded to the bankruptcy court by Mr. Byarlay. The case was dismissed for failure to pay the filing fee. Mr. Byarlay then filed a second bankruptcy petition on Mr. Hamilton's behalf on November 17, 2005. Between the filing of the first and second bankruptcy petitions, changes in the bankruptcy law took effect. One of the changes was that the automatic stay in bankruptcy was good for only thirty (30) days, unless a motion for stay is filed and an order is entered. On November 17, 2005, a Motion to Extend

Automatic Stay was filed but it failed to list the case number, stated the wrong chapter of bankruptcy, failed to state the reason the pleading was filed, failed to state that the filing was made in good faith and failed to have a certificate of service attached. On November 29, 2005, the Court entered an Order striking the Motion to Extend the Automatic Stay. On December 9, 2005, Attorney filed a second Motion to Extend the Automatic Stay and Notice of Opportunity to Object. No hearing was requested and the thirty (30) day period for having an order extending the Automatic Stay expired. On January 5, 2006, a routine motions hearing day was held and the Court granted the Motion. On February 22, 2006, the Court issued an Order withdrawing its January 5 Order, and vacated the Order of Dismissal in the first bankruptcy case, thereby permitting Mr. Hamilton to proceed under the old bankruptcy code provisions.

**ANDREW L. CLARK, SR., Bar No. 73018**, of Little Rock, Arkansas, was cautioned and ordered to pay restitution in the amount of \$1,108.40 by Committee Consent Findings & Order filed April 21, 2006, on a Supreme Court Per Curiam Order in Case No. 2006-020, for violations of Arkansas Rules 1.1, 1.3 and 8.4(d). Mr. Clark filed a Motion for Rule on the Clerk in the matter of *Montroy v. Montroy*, 06-00096, admitting that he failed to file the record on appeal within the time allowed him in the Order Granting Extension of Time. Clark filed the record two days late even though he had the date properly marked on his calendar and the Court Reporter contacted him on the date the record was due to be filed and advised that it was completed and ready to be filed. Mr. Clark accepted the Court Reporter's statement that the time for filing the record on appeal did not expire until two (2) days later. The Supreme Court denied the Motion for Rule on the Clerk, and Clark's client lost his right to an appeal.

**MICHAEL E. CRAWLEY, JR., Bar No. 97016, and GEORGE MICHAEL DELOACHE, Bar No. 90210**, of Jonesboro, Arkansas, were cautioned by Committee Consent Findings & Order filed February 23, 2006, on a Complaint filed by Hugh Steimel in Case No. 2005-153, for violations of Model Rules 7.3(b), 7.3(b)(4), 7.3(b)(5), 7.3(b)(6), and 7.3(d). The attorneys sent a letter of solicitation to Teresa Steimel. Ms. Steimel was not the defendant in any collection proceeding as alleged in their letter. She is not known to be in need of legal services in a particular matter. The advertising letter failed to contain the phrase "Advertisement" in all capital letters as required by the Model Rules. The letter failed to begin with the correct statement and failed to contain the statement in all capital letters about complaints being sent to the Committee, as required by the Supreme Court's advertising rules. The letter failed to disclose how the attorneys obtained the information about the legal matter set out therein. The attorneys admitted that the advertising letter did not comply with the requirements set forth by the Arkansas Supreme Court. They explained that they failed to comply with the most recent additions to the Model Rules.

**MARK J. FREEMAN, Bar No. 90217**, of Fayetteville, was cautioned by Committee Consent Findings and Order filed August 18, 2006, in Case No. CPC 2006-060, on information obtained from the Arkansas Court of Appeals in No. CA05-543, *Richard Watson v. Cargill, Inc.*, for violations of Arkansas Rules 1.3 and 8.4(d). Mr. Freeman entered his appearance to pursue a *pro se* appeal filed in the Court of Appeals by Richard Watson in a worker's compensation case. Mr. Freeman took no action in the appellate matter after filing his entry of appearance. The appellee

filed a Motion to Dismiss and in response Mr. Freeman filed a Motion to File Belated Brief, which was granted. Mr. Freeman then tendered a brief, which was rejected for failure to comply with the appellate court rules. Mr. Freeman was advised to file a Motion for Time to file a corrected brief. Mr. Freeman did not file the Motion, nor did he file a corrected brief, before the appellee filed a Motion to Dismiss. Mr. Freeman did not respond to the Motion to Dismiss, which was granted, dismissing the appeal. Mr. Freeman filed a Motion for Reconsideration of Order of Dismissal, Motion to Reopen Case, and Motion for Extension of Time to Make Corrections. The Motions were denied by the Court on July 26, 2006, and Mr. Watson got no appeal.

**JOHN FRANK GIBSON, JR., Bar No. 66021**, of Monticello, was cautioned and fined \$1,000 by Committee Consent Findings and Order filed August 2, 2006, in Case No. CPC 2005-147, on a complaint filed by Cindy Forrest, for violation of Arkansas Rule 8.4(d). Ms. Forrest, on behalf of Monticello Pools, a recreational association of subdivision property owners, was a defendant in a matter involving Mr. Gibson's clients attempt to obtain a road easement through property owned in the subdivision by the business of Ms. Forrest and her husband. Court-appointed viewers were sent to the property to make an independent report of the best location for the easement. Mr. Gibson had contact with one of the initial viewers in an *ex parte* nature and also provided information to the viewer without notice to Mrs. Forrest's attorney. Due to the contact, new viewers had to be appointed to re-view the property and further proceedings had to be had before the Judge of the County Court. The Committee specifically found that Mr. Gibson's conduct in communicating with the court-appointed viewer in an *ex parte* manner about the subject matter of the proceeding he brought on behalf of his clients created the need for additional pleadings, hearings, and appointment of new viewers before the tribunal where the proceeding was being pursued. Such actions would not have become necessary but for his *ex parte* communication with the court appointed viewer.

**IAN J. GILBERT, Bar No. 2003012**, of Fayetteville, Arkansas, was cautioned by Committee Consent Findings & Order filed October 25, 2006, on a complaint filed by Glenn Wandrey on behalf of his wife, Judy Wandrey, in Case No. CPC 2006-113 for violations of Model Rules 1.2(a), 1.3, and 8.4(d). Ms. Wandrey retained Mr. Gilbert in May 2003 to file a petition for modification of custody and for approval to relocate. Following a hearing, the Boone County Circuit Court, on August 17, 2004, issued a order denying Wandrey's petition and awarding her ex-husband full custody of the parties' minor son. Ms. Wandrey sought to appeal, and paid Mr. Gilbert \$6000 to handle the appeal. On August 20, 2004, Mr. Gilbert faxed to the Boone County Circuit Clerk the Notice of Appeal, which stated that the appeal was taken from the August 17, 2004, ruling and designated the entire record of the trial. The fax cover sheet asked the clerk to file the Notice, and noted that a self-addressed, stamped envelope would follow via U.S. Mail for the return of the file-marked copy. A "message confirmation" indicated that the fax was sent and received by the clerk's office without problem on August 20, 2004. Mr. Gilbert never received a file-marked copy in the return envelope, nor did he inquire with the clerk as to why he had not received it. For unknown reasons, the August 20, 2004, faxed Notice of Appeal was never file-marked by the clerk's office. Mr. Gilbert was not



made aware of this problem until November 18, 2004. He immediately filed a “Rule 60 motion to correct misprision of clerk and amended notice for extension of time to lodge transcript.” In this motion, Mr. Gilbert requested the court to enter an order directing that the notice of appeal be entered *nunc pro tunc* to reflect that the notice was received and filed as of the date faxed, in order to correct the “clerical error” of not filing the notice. The court issued an order on that same date denying the request for the *nunc pro tunc* order, indicating in part that, in addition to the fact that the clerk had not received the faxed copy of the notice of appeal, there was no evidence that the original copy of the notice had ever been received by that office. Mr. Gilbert thereafter filed a motion for rule on clerk in the Arkansas Supreme Court. That motion was denied by Per Curiam Order issued January 13, 2005. The Arkansas Supreme Court delivered an opinion on June 23, 2005, finding that the Boone County Circuit Court did not abuse its discretion in denying the motion to enter a *nunc pro tunc* order.

**JEFFREY DENNIS HALL, Bar No. 95260**, of Conway, Arkansas, was cautioned and ordered to pay restitution in the amount of \$3,384.20 by Committee Consent Findings & Order filed April 21, 2006, on a Supreme Court Per Curiam Order in Case No. 2006-019, for violations of Arkansas Rules 1.1, 1.3 and 8.4(d). Mr. Hall attempted to file an appeal for his client Robert Hightower with regard to an Order of Guardianship entered in March 2005. Mr. Hall failed to file the second Order of Extension of Time before the time granted in the first Order of Extension of Time expired. A Motion for Rule on the Clerk denied. Two (2) months later, Mr. Hall filed a Motion for Reconsideration which was also denied. Mr. Hall’s failure to properly and timely file the Second Order of Extension of Time caused his client to be denied the opportunity to appellate review of the Order of Guardianship.

**W. Q. HALL, Bar No. 57009**, of Huntsville, was cautioned and fined \$750 by Committee Findings and Order filed September 21, 2006, in Case No. CPC 2006-003, on a complaint filed by Paul Prater, for violations of Arkansas Rules 5.5(a) and 8.4(d). Mr. Hall was separately cautioned for failing to file a response to the complaint. On April 30, 2003, at his request, Mr. Hall was transferred to “voluntary inactive status,” by the Arkansas Supreme Court Clerk, and without any petition by Mr. Hall to or any action by the Committee on Professional Conduct. He did not thereafter pay the annual law license fees required by the Arkansas Supreme Court for 2004 and 2005 until December 20, 2005.

On September 9, 2005, Mr. Hall wrote Joel Boyd (who practices with Mr. Prater), on Hall Law Offices letterhead, on behalf of Juanita Collier, a litigant in a pending circuit court case in Madison County. On that date Mr. Hall filed a Motion to Dismiss for Ms. Collier and signed it as her attorney. On November 1, 2005, Mr. Hall filed an Amended Motion to Dismiss for Ms. Collier, and signed it as her attorney. On November 2, 2005, Mr. Hall wrote Mr. Boyd, on Hall Law Offices letterhead as Ms. Collier’s attorney, and forwarded to him the Amended Motion to Dismiss and Ms. Collier’s Response to Interrogatories and Requests for Production. By these acts, Mr. Hall engaged in the practice of law while his law license was in inactive or administratively suspended status. Mr Hall was never placed in any form of inactive status by the Committee on Professional Conduct. On December 20, 2005, Mr. Hall was reinstated to active

status by the Arkansas Supreme Court Clerk's office by his payment to that office that date of his 2004, 2005, and 2006 law license fee requirements.

**LARRY J. HARTSFIELD, Bar No. 69030**, of Little Rock, Arkansas, was cautioned and fined \$250.00 by Committee Findings & Order filed May 24, 2006, on a Judicial Complaint by United States Bankruptcy Judge Audrey Evans in Case No. 2006-002, for violations of Rule 8.4(d). Eula Mystery Willis ("Willis"), a business woman in Little Rock engaged in property development, management, leasing/rental, and computer software engineering, gave sworn testimony in Bankruptcy Case No. 05-bk-19364 before Judge Evans on November 15, 2005. Prior to July 21, 2005, Willis conferred with Respondent about filing for protection in bankruptcy court, stating she was getting behind in her business obligations in the property development business. She stated she told Respondent she needed to reorganize her business because she had over one million dollars in construction loans. She stated Respondent told her he would put her in a "business Chapter 13." She stated Respondent never gave her an opportunity to look at her bankruptcy petition and schedules before they were filed, and that she did not sign them before they were filed. She stated Respondent failed to advise her as to the requirements and benefits of each bankruptcy "Chapter" available to her. At the time her debts were in excess of the \$307,675 limit for unsecured debts and \$922,975 for secured debts allowable for her to file a Chapter 13 wage-earner petition. The Amended Form B1 Respondent's office filed August 8, 2005, lists her debts as totaling \$1,000,001-10,000,000. The Amended Schedule F, "Creditors Holding Unsecured Non-Priority Claims" Respondent filed August 24, 2005, listed a total of \$616,358.82 in such unsecured debts.

In her testimony in Bankruptcy Court, Willis stated she never asked Respondent to convert the Chapter 13 he filed for her into a Chapter 7 liquidation plan, as she had no intention of liquidating her ongoing businesses. She stated she got a letter from the bankruptcy court informing her that her plan had been converted from a Chapter 13 to a Chapter 7, and she then met with Respondent to try to find out what was going on. She stated Respondent told her the conversion was the result of "computer error." She stated she attended the first creditor's meeting, apparently held prior to September 8, 2005, and the day after the creditor's meeting she terminated Respondent's services. Another attorney moved to substitute in Respondent's place for Ms. Willis on September 8, 2005. Willis stated that at the creditor's meeting she was asked by attorney John Walker if she had signed the petition and she said "no." She stated that at that point Respondent stated on the record that Willis has not signed the schedules and petition he filed for her.

Respondent responded that he had many meetings with Willis; that he or his staff explained everything to Willis the law required to be explained and answered her questions to the best of their ability; that it was explained and she agreed that she did not want a Chapter 7 or 11 petition filed due to the ongoing nature of her business and her claimed equities therein; that she consistently failed to produce requested information and documentation; that she provided Respondent and his staff inaccurate information; that she refused to sign petitions; that Willis demanded a Chapter 13 petition be filed, in Respondent's absence, due to an impending foreclosure against Willis, and a "skeletal" petition was filed; and that Willis demanded Respondent's para-legal, in Respondent's absence, file a conversion for Willis from Chapter 13 to Chapter 7 on July 25, 2005.

**JEANETTE HEIMBAUGH, Bar No. 97040**, of Conway, was cautioned by Committee Findings and Order filed August 11, 2006, in Case No. CPC 2006-009, on a complaint filed by John David Elliott, for violations of Model Rules 1.2(a), 1.3, 1.4(a), 3.4(c) and 8.4(d). In August 2003, Mr. Elliott hired Ms. Heimbaugh to represent him in a post-Decree custody and visitation matter involving his ex-wife and their children. At the conclusion of the hearing on July 1, 2004, Ms. Heimbaugh was directed by the judge to prepare the Order. As of the date of the formal disciplinary complaint in early 2006, Ms. Heimbaugh had not done so. Mr. Elliott attempted to contact Ms. Heimbaugh with no success in the months following the hearing. An objective of the representation was for Ms. Heimbaugh to complete the order setting out his rights and duties as directed by the Court at the conclusion of the hearing on July 1, 2004. As a result, Mr. Elliott did not have his legal matter completed and had no order to be able to enforce his visitation rights with his children. Ms. Heimbaugh failed to pay her annual law license fee in 2005 until May 20, 2005, in violation of Rule VII of the Rules Governing Admission to the Bar, which requires payment by March 1 of each calendar year. As such, she was administratively suspended from the practice of law from March 2, 2005 through May 20, 2005.

**KENNARD K. HELTON, Bar No. 80058**, of Dardanelle, Arkansas, was cautioned by Committee Consent Findings & Order filed December 18, 2006, on a Per Curiam Order complaint from the Arkansas Supreme Court in the appeal of *Jerry Short v. Sandra Short*, No. 06-914, in Case No. CPC 2006-120, for violation of Arkansas Rules 1.3 and 8.4(d). Mr. Helton tendered the record on appeal for his client on August 9, 2006, the 138<sup>th</sup> day from the filing of the first Notice of Appeal in Circuit Court. Mr. Helton was notified of the need for filing a Motion for Rule on the Clerk, which he filed on August 15, 2006. In the Motion, Mr. Helton acknowledged error for failing to seek and obtain an extension of time for filing the record on appeal. He explained that he believed that he had a new appeal time running because of an Amended Decree of Divorce which was entered later and to which he filed a new Notice of Appeal. The Court denied the Motion for Rule on the Clerk, resulting in the denial of the client's opportunity for appellate review of the Decree of Divorce entered in his divorce proceeding. In his Consent to Discipline proposal, Mr. Helton provided information to the Committee demonstrating that he had informed his client in writing that it was his error which caused the appeal to not be able to be pursued. He also provided documentation demonstrating that he had credited his client's account with the amount his client had paid for the transcript for appeal. Further, Mr. Helton provided information that he had waived the amount owed on the billing to his client and had agreed to not charge him for further representation in the post-Decree matters.

**JOSH QUINCY HURST, Bar No. 2004016**, of Hot Springs, was cautioned by Committee Consent Findings and Order filed September 15, 2006, in Case No. CPC 2006-036, on a complaint filed by Melvin Mayweather, for violations of Arkansas Model Rules 1.3, 3.4(c), and 8.4(d). Melvin Mayweather was represented in a criminal trial by Q. Byrum Hurst, Jr. On December 20, 2004, Josh Q. Hurst faxed in a notice of appeal and became attorney of record for the appeal. Mr. Hurst filed a Motion for Extension of Time with the trial court, and the motion was granted. A partial record was filed on March 17, 2005, and a briefing schedule was commenced. Mayweather's brief was due to be filed on April 26, 2005. No brief was filed, and

no motion to extend time was ever filed. On April 27, 2005, Q. Byrum Hurst, Jr. sent a letter to Mr. Mayweather stating that everything was proceeding as normal. On June 13, 2005, the State filed a Motion to Dismiss as neither a brief had been filed nor a motion for extension of time had been granted. On June 15, 2005, another attorney filed a motion to be substituted as Mayweather's counsel and a Response to the Motion to Dismiss Appeal. The Court of Appeals granted the motions and remanded the matter to the trial court to settle the record within thirty (30) days. The record was timely filed and the matter then proceeded through the appellate process.

**CHARLES R. KARR, Bar No. 68027**, of Fort Smith, Arkansas, was cautioned and fined \$250 by Committee Findings & Order filed April 4, 2006, on a Complaint filed by Dora Gillean in Case No. 2005-143, for violation of Model Rule 1.1. Ms. Gillean filed a grievance against Mr. Karr and another lawyer alleging they did not properly handle the case after they were hired for a wrongful death action involving neglect in a nursing home. The lawsuit was dismissed because the wrong party was sued and the case was filed in the wrong state. The attorneys sued the hospital rather than the nursing home, and they allowed the statute of limitations to run before they advised their clients of the problems with the case. The specific 1.1 conduct found by the Panel to have occurred was Karr's failure to open probate of the Olen Gillean estate and have a personal representative appointed to pursue the wrongful death action. When discovery revealed that he had not brought the suit in the names of all decedent's heirs at law, as defined by Arkansas law, (a half-sister was omitted), a motion to dismiss on this basis was filed and granted, and the suit filed was deemed a nullity.

**WALTER CRAIG LAMBERT, Bar No. 87100**, of Little Rock, Arkansas, was cautioned by Committee Consent Findings & Order filed December 15, 2006, on a Per Curiam Order complaint from the Arkansas Supreme Court on the appeal of Jimmy Bumgardner, in Case No. CPC 2006-151 for violations of Model Rule 1.1. Mr. Lambert unsuccessfully petitioned in circuit court to be relieved as trial counsel, and Bumgardner later entered a conditional plea of guilty to possession with intent to deliver methamphetamine and possession of drug paraphernalia. Mr. Lambert did not file an appeal on Mr. Bumgardner's behalf. Instead, Mr. Bumgardner prepared a *pro se* Notice of Appeal and mailed it to Mr. Lambert. Mr. Lambert admittedly reviewed the *pro se* Notice and timely filed it on behalf of his client. The Notice of Appeal mistakenly referenced the "final order . . . entered on March 16, 2005," instead of the actual judgment entered on March 21, 2005. On March 8, 2006, in Case No. CACR05-775, *Jimmy Bumgardner v. State*, the Arkansas Court of Appeals issued an opinion that dismissed the appeal for lack of jurisdiction. Thereafter, Mr. Lambert filed a Motion for Belated Appeal, which the Arkansas Supreme Court granted.

**JOHN D. LIGHTFOOT, Bar No. 85089**, of El Dorado, Arkansas, was cautioned and ordered to pay \$155.00 in restitution by Committee Consent Findings and Order filed January 30, 2006, on a Complaint filed by Billy Joe Miller in Case No. 2005-141, for violations of Model Rules 1.1, 1.3 and 8.4(d). Mr. Miller was represented by Mr. Lightfoot in a bankruptcy matter in 2001, and again in 2002. Mr. Lightfoot failed to be certain that all creditors were listed on Mr. Miller's bankruptcy and was less than diligent in his representation of Mr. Miller. Bankruptcy Judge James Mixon pointed out several errors by Mr. Lightfoot and several instances of lack of diligence in the representation

of Mr. Miller. Judge Mixon found that Mr. Lightfoot caused the Court to expend judicial time and effort which would not have been necessary but for Mr. Lightfoot's lack of diligence. In 2002, when Mr. Miller's bankruptcy was required to be re-opened due to the failure to list all creditors in the first filing, Mr. Lightfoot charged Mr. Miller an additional fee of \$155. As part of the consent to discipline, Mr. Lightfoot repaid that amount to Mr. Miller. Shortly after discharge in 2001, Mr. Miller began to experience difficulties with the creditor who had purchased a settlement annuity which he had been receiving. Mr. Lightfoot advised Mr. Miller that they should file to reopen the bankruptcy and a Motion to Reopen was filed by Mr. Lightfoot on March 1, 2002. It was alleged by a creditor of Mr. Miller that Mr. Miller had perpetrated a fraud on the Court because Settlement Capital Corporation had not been listed as a creditor in the original bankruptcy. Mr. Lightfoot had been made aware of Settlement Capital Corporation at the time, so Mr. Miller was not sure why they were not listed on his bankruptcy. In December 2002, a hearing was held on the Motion to ReOpen before Judge Mixon Mr. Lightfoot acknowledged that the fault in the matter was with him. He accepted responsibility for not having all the information properly filled out in Mr. Miller's bankruptcy. Judge Mixon found that the mistakes were Mr. Lightfoot's, not those of Mr. Miller.

**EUGENE G. SAYRE, Bar No. 75111**, of Little Rock, was cautioned by Committee Findings and Order filed July 25, 2006, in Case No. CPC 2006-017, on a complaint filed by Hoa and Co Mac, for violations of Model Rules 1.3 and 1.4(a). Complainants Mac hired Mr. Sayre in May 1999 to assist them with state tax issues brought about by an audit conducted by the Department of Finance and Administration. Mr. Sayre failed to follow the guidelines set out by statute with regard to filing objections to claims of tax delinquencies. Mr. Sayre filed suit in 2003 but the case was dismissed. The Arkansas Supreme Court affirmed the dismissal and stated that the requirements for the timing of filing such a suit were clear in the statute. Mr. Sayre failed to communicate with the Macs after the Opinion of the Arkansas Supreme Court was delivered. The Committee specifically found that, in the course of his representation of the Macs, Mr. Sayre failed to file an action on their behalf with regard to the audit of the Department of Finance and Administration prior to the expiration of the statute of limitation to do so. In addition, the Committee specifically found that, after he sent a letter of May 31, 2005, to the Department of Finance and Administration concerning the tax liability of the Macs, Mr. Sayre failed to communicate with his clients about what efforts, if any, he undertook on their behalf to assist them with regard to their tax matter, and he failed to respond to requests for information left for him by the Macs.

**MARK A. SEXTON, Bar No. 98152**, of Little Rock, Arkansas, was cautioned and fined \$1,500.00 by Committee Consent Findings & Order filed March 22, 2006, on a Judicial Complaint by Circuit Judge Michael Fitzhugh of Fort Smith in Case No. 2005-092, for violations of Model Rules 3.4(c) and 8.4(d). On October 21, 2004, Mark A Sexton, or someone on his behalf, forwarded to the Sebastian County Circuit Clerk's Office a complaint and summons in the case of *Capital One Bank v. Timothy M. Hartzig*. Deputy Sheriff Ron Morris received the documents for service but was unable to perfect service and noted that fact on the return in the bottom left corner of the Summons, as "unable to serve bad address." The return with the note written on it was given to the Clerk's Office for filing. On January 25, 2005, Mr. Sexton sent a letter to the Court with a proposed Default Judgment and advised the Court that he had contacted the Clerk's office and that service had been made on the Defendant. Before entering the Default Judgment, Judge Fitzhugh reviewed the Clerk's

file and noticed that the return of service submitted by Mr. Sexton did not match the original return of service in the Clerk's file, because although the Sheriff's original return of service indicated that service on the defendant had been obtained, it also had hand-written on the bottom "unable to serve" and the document provided to Judge Fitzhugh did not contain that notation. Judge Fitzhugh set the matter for a hearing and instructed that Mr. Sexton appear and bring anyone in his office who dealt with the documents to explain the difference. Mr. Sexton appeared and brought an affidavit of a firm employee, but not the employee. Judge Fitzhugh took the testimony of several individuals, with no one being able to determine how or where the return came to be altered. Mr. Sexton supplied the copy of the Return of Service that was in his file – that being the altered document – which did not show any evidence of alteration. Judge Fitzhugh did find that Mr. Sexton violated the directive of the Court by not bringing the employee who handled the matter with him to the hearing. The Committee held that Mr. Sexton's failure to be diligent enough to be certain that service had been perfected on Timothy Hartzig and his conduct in providing, or allowing to be provided, to the Court an altered return of service created the need for an additional hearing and proceedings before Judge Fitzhugh in the matter.

**L. T. SIMES, II, Bar No. 75114**, of West Helena, was cautioned and ordered to pay \$2,122.99 restitution by Committee Consent Findings and Order filed September 12, 2006, in Case No. CPC 2005-162, on a complaint filed by Arnold Chandler, for violations of Model Rules 1.3, 1.4(a), 1.15(a), 1.15(b), and 3.4(c). Mr. Simes opened probate administration of the Estate of Quincy Chandler, Deceased, in Phillips County Probate on January 14, 1976. On March 19, 1976, an Order was entered appointing him as administrator of the Chandler Estate. Thereafter he served the Estate as both administrator and attorney until relieved of those duties by order entered May 20, 2005. On July 18, 1986, an order was entered directing that all farm rental income of the Estate was to be paid to him, as administrator. Thereafter he received certain annual rental checks from the tenant on the Estate's farm land. Some of these checks he deposited into his attorney trust account. Some of these checks he did not deposit, and they were found years later by him in his file unnegotiated. He failed to account for these payments to the Estate.

In January 1997, Mr. Simes assumed duties as a full-time Circuit Judge, and was thereafter prohibited by the Arkansas Code of Judicial Conduct from engaging in the private practice of law. He took no action to remove himself as either the administrator or the attorney for the Quincy Chandler Estate. He continued to receive annual rental checks, but he did not account for them to the Estate. By January 2003 an attorney had contacted Judge Simes on behalf of Chandler Estate heirs, asking for an accounting of the annual farm rental payments. The probate court ordered Judge Simes to file a final accounting for the Estate by October 29, 2004, covering the period from March 18, 1976, to date, but he did not timely file such a final accounting. The matter was later the subject of a court hearing September 29, 2005. At the hearing Judge Simes admitted that the same tenant, Mr. Young, had rented the Estate lands from 1989-2002 for an annual rental of \$1,440.00. Judge Simes agreed that he owed the Estate \$1,440.00 annual rent for each of 1989, 1992, 1993, 1994, and 1996. He denied that he owed the Estate rent for the years 1990, 1991, 1998, and 2001, stating he had no data for these years. These checks had voided and Mr. Young replaced them with new checks issued directly to the Estate. Judge Simes denied that he owed the estate interest for any of the years in question. The Court found Judge Simes knew Young was renting the estate lands each of the years

in question, and that he had a duty to collect the rents for the Estate as they became due. The Court found he violated a state code section (ACA 28-52-101(c)) by breaching his duty to the Estate, and that he was therefore liable for the loss to the Estate due to his neglect and unreasonable delay in paying over to the Estate money which was in his hands. The Court found that Judge Simes owed the Estate the annual rent for the years 1989-1994, 1996, 1998, and 2001, plus interest thereon at 6% per annum. The Court also found he owed the Estate interest for the payments for the years 1995, 1997, 1999, 2000, and 2002, the years when he received the rent checks but had not applied them for the benefit of the Estate. In all, the Court found he owed the Estate rentals for nine (9) years totaling \$12,960.00, and interest totaling \$11,178.03, all totaling a judgment of \$24,138.03, which he was ordered to pay within thirty (30) days. Judge Simes timely paid the full amount.

On October 10, 2005, Judge Simes filed a “Petition for Attorneys Fees and Executors Fees,” seeking court approval of \$13,057.50 in legal fees, \$720.00 in Executor’s fees, and \$163.27 in expenses, all totaling \$13,940.77, covering his claimed service to the Estate from January 1976, through March 1998. The Court denied him any legal fees, executor’s fees, and expenses from the Chandler Estate. The Court specifically found that he had not complied with Rules 1.3 (diligence), 1.4(a) (keeping the client reasonably informed), and 1.4(c) (notifying the client of his receipt of funds to which the client is entitled) of the Arkansas Model Rules of Professional Conduct. It was also noted in the Order that he had failed to comply with Judge Bell’s 2004 Order that he file an accounting for the Estate. Judge Simes did not appeal the court’s decisions and orders. The restitution of \$2,22.99 ordered by the Committee was for attorney’s fees expended by the Chandler heirs in pursuing recovery from Judge Simes of the unpaid farm rental payments.

**STEVEN R. SMITH, Bar No. 91177**, of Little Rock, Arkansas, was cautioned by Committee Findings & Order filed June 20, 2006, on a Trust Account Complaint in Case No. 2006-031, for violations of Arkansas Rule 1.15(a)(1). On January 18, 2006, Respondent Smith issued his trust account check to pay the rent deposit on his new office, causing a negative trust account balance and an overdraft notification to OPC. The same day he issued a trust account check to buy an office file cabinet. On January 23, 2006, he issued a trust account check to pay a client’s medical bill, and payment of the check by his bank caused a negative \$154.77 trust account balance. Respondent received a \$140.00 filing fee check from a client on November 11, 2005, failed to timely deposit same into his trust account, and paid her filing fee with a trust account check that had to have been paid with trust funds of other clients.

**JAMES W. STANLEY, JR., Bar No. 75125**, of North Little Rock, Arkansas, was cautioned and fined \$1,500.00 by Committee Findings & Order filed April 3, 2006, on a Supreme Court Per Curiam Order in Case No. 2006-006, for violations of Model Rules 1.3 and 8.4(d). Respondent Stanley failed to obtain a timely extension to lodge his client’s (Jose Lugo) record in a civil appeal, and had to file a motion for rule on the clerk, which was denied April 22, 2004. His client lost all right to an appeal.

**WILLIAM RANDALL MATTHEW STONE, Bar No. 2001143**, of Mountain Home, Arkansas, was cautioned by Committee Consent Findings & Order filed October 25, 2006, on a complaint filed by Darleen Artos in Case No. CPC 2006-076, for violation of Model Rules 1.3, 1.4(a)(3) and 1.4(a)(4). Mr. Stone donated an “estate plan package” to the Mountain Home Lion’s Club for their annual auction in November 2004. Darleen Artos was the winning bidder. It took her until March or April 2005 before she could make contact with Mr. Stone in order to set up an appointment for she and her husband to meet with Mr. Stone to provide all the necessary information. Mrs. Artos and her husband called on numerous occasions during the twenty-three (23) months from the time they placed the winning bid and when Mr. Stone finally properly prepared the documentation, but did not have the majority of their telephone calls returned. Mr. Stone failed to promptly prepare the estate plan documents he offered for preparation after meeting with Mrs. Artos and her husband, during April 2005. After Mr. and Mrs. Artos met with Mr. Stone to provide the information for the preparation of the estate plan documents, Mr. Stone failed to communicate with either or them or to advise if he had taken action on their behalf. Finally by the end of April 2006, Mrs. Artos left a message on Mr. Stone’s answering machine that he had until May 8, 2006 to complete the paperwork or she would contact the Office of Professional Conduct. Once again, her telephone calls were not returned. On May 5<sup>th</sup>, Mrs. Artos called and left a reminder about the matter. Mr. Stone called back and apologized. He promised to work on the documents over the weekend and have them ready on Monday or Tuesday at the latest. As of the date of her Affidavit, July 14, 2006, Mrs. Artos had not received any documents from him nor any further communication. During August 2006, after being served with the formal disciplinary complaint, Mr. Stone met with Mr. and Mrs. Artos to complete the estate plan paperwork. He voluntarily presented Mrs. Artos with the money she had paid at the auction for the preparation of the documents. Mrs. Artos did not request the funds from him. In addition, Mr. Stone presented a document for Mrs. Artos to sign which stated that she had received her documents and was satisfied and that she wished no additional action to be taken against Mr. Stone. Mrs. Artos did not receive the documents at that time, although she signed the document believing she would receive the estate plan immediately thereafter. Mrs. Artos did not receive the properly executed estate plan until October 2006, 23 months after Mr. Stone offered them for auction.

**BOYD ANDERSON TACKETT, JR., Bar No. 70070**, of Conway, Arkansas, was cautioned by Committee Consent Findings & Order filed October 25, 2006, on a Per Curiam Order complaint from the Arkansas Supreme Court in the appeal of Detrick Croston in Case No. CPC 2006-100, for violation of Model Rules 1.2(a), 1.3, and 3.4(c). Mr. Tackett self-reported his failure to file a timely Notice of Appeal on behalf of his client Detrick Croston in a criminal case in Faulkner County Circuit Court. On October 1, 2004, a Judgment and Commitment Order was entered sentencing Mr. Croston to a term of 180 months in the Arkansas Department of Correction on a charge of aggravated robbery as an habitual offender. Rule 2(a)(1) requires that a notice of appeal be filed within thirty (30) days of the date of entry of judgment. No notice of appeal on behalf of Mr. Croston was ever filed by Mr. Tackett. Mr. Croston filed a *pro se* Motion for Belated Appeal on April 19, 2006, requesting a belated appeal pursuant to Rule 2(e) of the Rules of Appellate Procedure—Criminal. On May 11, 2006, the Arkansas Supreme Court issued a *Per Curiam* Order dismissing the request for a belated appeal, as the time limitation of Rule 2(e) requires that a motion



for belated appeal be filed within eighteen months from the date of the entry of judgment. As the entry of Judgment was filed on October 1, 2004, the time for filing a Motion for Belated Appeal lapsed on April 1, 2006.

**ROY EDWARD THOMAS, Bar No. 73122**, of Batesville, Arkansas, was cautioned by Committee Findings & Order filed December 29, 2006, on a complaint filed by Billy Foster, for violation of Arkansas Rules 1.3, 1.4(a)(3), 1.4(a)(4), 1.16(d), and 8.4(c). Billy Foster of Floral, Arkansas, hired Thomas on June 23, 2005, to handle some legal business involving the affairs of his recently-deceased father and stepmother. On that date Foster delivered to Thomas certain documents related to those matters and paid Thomas \$600 of the \$1,200 fee Thomas quoted him. Periodically thereafter Foster contacted Thomas's office asking for information and status reports about these matters. He was unable to get appropriate information from Thomas or his staff. To his knowledge, no small estate probate was ever filed and no action was taken by Thomas on any matter he entrusted to Thomas, including two accounts at local banks. On February 27, 2006, Foster had another local attorney, Eric Hance, write Thomas about these matters. Thomas did not respond to Mr. Hance's letter until June 26, 2006. On April 4, 2006, Mr. Foster filed this complaint. On April 11, 2006, the Office of Professional Conduct wrote Thomas about this matter. No response was received until Thomas's letter of June 26, 2006. In mid-May 2006, Thomas left at least one message on Foster's home telephone answering machine. Foster was not able to contact Thomas thereafter when he called Thomas's office. Foster has since hired Mr. Hance to handle the matters entrusted to Thomas a year previously. On June 26, 2006, after contacts with Thomas by Mr. Hance and the Office of Professional Conduct, Thomas delivered Mr. Foster's file and a refund check for \$600.00 for Foster to Mr. Hance's office. Thomas responded that he needed additional information from Foster, which Foster did not provide, and therefore Thomas could not go forward with the legal work. Thomas also claimed he sent a letter with refund check to Foster twice, in December 2005 and March 2006, before the final attempt was successful. In rebuttal, Foster stated that Mr. Hance was able to resolve the legal matter Foster first engaged Thomas to handle within two months with just another copy of the death certificate and the bank statements.

**MORRIS W. THOMPSON, Bar No. 80145**, of Little Rock, was cautioned by Committee Findings and Order filed September 21, 2006, in Case No. CPC 2006-034, on a complaint filed by Gary Owens, for violations of Arkansas Rules 1.4(b), 1.16(d), 3.3(a)(1), and 8.4(c). In May 2005, Mr. Owens employed Mr. Thompson to represent him in pending discrimination litigation. Mr. Thompson prepared a document titled "Civil Rights Contract of Employment," which Mr. Owens agreed to and signed. Pursuant to the agreement, Mr. Owens was to pay Mr. Thompson \$300.00 per month until \$2,000 was in the trust account, and then Mr. Thompson would enter the suit for Mr. Owens. Their agreement provided that, if Mr. Owens chose not to continue with the lawsuit, Mr. Thompson would be entitled to recover a reasonable attorney's fee from the account. On May 5, 2005, Mr. Owens provided Mr. Thompson with the \$2,000.00 in cash, and Mr. Thompson provided him with a receipt noted as being for "advance against costs." On May 12, 2005, Mr. Owens wrote Mr. Thompson a check in the amount of \$1,500.00, followed by another check for \$300.00. Altogether, Owens paid \$3,800.00 to Mr. Thompson in this matter.

Mr. Thompson entered his appearance on May 10, 2005, in the case of *Owens v. Camden Fairview School District*, No. 05-01026 (Western District of Arkansas). The court then entered a scheduling order with a report deadline of August 29, 2005. Mr. Thompson stated that, during the course of his analysis of the case, his office prepared an entry of appearance to file in court, but that the entry was sent to the court inadvertently, as he had not decided at that point whether the case had merit. On September 12, 2005, Mr. Thompson sent a letter to Mr. Owens stating “after extensive review of the materials.....provided...and the facts as I understand them to be, I do not feel you have a meritorious claim or could prevail if this matter went to trial. Therefore I am withdrawing from representing you in this matter.” The letter further stated that “I have not advised Allen Roberts that I have declined to enter my appearance but I will do so soon.” Mr. Thompson enclosed a \$2,300.00 refund check. The letter stated that the check was a refund of costs advanced to date and that Mr. Thompson was waiving his entitlement to compensation for time spent and the very little costs incurred. Ten days later, on September 22, 2005, Mr. Thompson filed a Motion to Be Relieved as Counsel, stating that he had agreed to look into the matter to determine if he would, in fact, represent Mr. Owens. Mr. Thompson stated that he had researched and investigated the matter and decided that it was not a case he was willing to take. Mr. Thompson stated in the motion that he had refunded Mr. Owens “all monies advanced toward anticipated costs of the litigation and agreed arrangements have been made to return all file materials....” The court granted Mr. Thompson’s motion on September 26, 2005.

**MARK A. VELASQUEZ, Bar No. 98149**, of Fayetteville, was cautioned by Committee Consent Findings and Order filed September 18, 2006, in Case No. CPC 2005-167, on a complaint filed by Juan Mendoza, for violations of Model Rules 1.2(a), 1.3, 1.4(a), 3.4(c) and 8.4(d). Mr. Mendoza received a Notice to Appear dated April 3, 2003, for violations of Section 212 of the Immigration and Nationality Act. He was an alien present in the United States without being admitted or paroled. Mr. Mendoza had been unlawfully present in the United States for an aggregate period of more than one year. One who enters or attempts to reenter the United States under such circumstances faces a lengthy, if not lifetime, bar to entry. Mr. Mendoza received A Notice of Removal Proceedings in May 2003, with a hearing set for on September 9, 2003. Mr. Mendoza retained Mr. Velasquez to represent him in the immigration proceeding. A Notice of Entry of Appearance as Attorney or Representative was filed by Mr. Velasquez on August 19, 2003, and he submitted a Motion for Telephonic Appearance. The Immigration Judge conducted a hearing on September 9, 2003 and found that Mr. Mendoza was not eligible to adjust his status based on a “hardship” waiver, concluding the law carried no waiver. Mr. Velasquez filed a Notice of Appeal on October 6, 2003. A briefing schedule was sent to Mr. Velasquez, but he never filed a brief arguing the merits of the appeal. On February 3, 2005, the Board of Immigration Appeals dismissed the appeal.

Mr. Velasquez never informed the Mr. Mendoza of the Board’s decision or that he had thirty days from the date of the Board’s order in which to depart from the United States. This omission increased the length of time before Mr. Mendoza could possibly legally re-enter the United States, since he did not voluntarily leave during the requisite period of time. Mr. Velasquez never communicated with Mr. Mendoza about any of his options, such as filing an appeal to the Federal Circuit Court. The time limit to file the appeal expired before Mr. Mendoza had an opportunity to

take action. Mr. Mendoza stated that, if he had known in time that the Board of Immigration Appeals had dismissed his appeal there, he would have pursued an appeal to the Federal Circuit Court of Appeals. He was advised by new counsel that such action, even if not ultimately successful, could possibly delay his deportation by up to one year and allow him additional time to pursue other options.

Mr. Velasquez responded that Mr. Mendoza moved and never gave the Velasquez office his new address or telephone number. When Mr. Velasquez received the BIA decision, his office called all numbers they had, but all were disconnected except a number for Mr. Mendoza's mother-in-law. A voice message was left there. However, according to Mr. Velasquez, Mr. Mendoza and his wife were estranged at the time, and the message apparently never reached Mr. Mendoza.

**M. KEITH WREN, Bar No. 94107**, of Little Rock, Arkansas, was cautioned by Committee Findings and Order filed January 4, 2006, on a Complaint filed by Dr. Larry C. Horn, in Case No. 2005-125, for violations of Model Rules 1.15(b) and 3.4(c). Mr. Wren represented Joko Gaston and his two minor children in their personal injury claims that arose April 12, 2003. The three were all treated by chiropractor Dr. Horn (total bills \$1,379.68), and Mr. Gaston was later treated by chiropractor Dr. Eggleston (bill \$693.00). There were other medical providers for all three Gastons. Most of the third party providers (TPP), including Dr. Horn and Dr. Eggleston, filed medical liens with the circuit clerk in early-to-mid 2003. None of the lienors renewed or extended their liens after the first 180 days. Wren wrote Dr. Horn on December 29, 2004, and asked him to take one-third reductions in all three Gaston bills to assist in Wren in reaching a settlement. Dr. Horn declined. Wren settled all Gaston claims on January 20, 2005, for a total of \$10,000, paid Dr. Eggleston, who accepted the reduction to \$462, per Joko Gaston, and gave Gaston the funds that would have gone to Dr. Horn, for Gaston to pay Dr. Horn directly. Wren stated Gaston directed him not to pay Dr. Horn directly, that Gaston would take care of it. In the process of settling, Wren filed petitions in court for approval of the settlements for the two Gaston minors and recited the Dr. Horn debts as to be paid by the father. The orders tracked the petitions. When Dr. Horn learned of the settlement payout, he communicated with Wren demanding payment. Wren told him that Dr. Horn did not have a valid lien at settlement date, that Wren obeyed his client's instructions, and Dr. Horn was not paid. Dr. Horn filed this complaint. Investigation revealed that other TPPs did not have current valid liens and got paid by Wren. Wren knew of a dispute between Dr. Horn and Gaston over part of the settlement and unilaterally arbitrated or settled a dispute between them as to those funds. Wren responded that he obeyed his client's valid instructions and that Dr. Horn had no legal "interest" in the Gaston funds since his lien was not valid at settlement date.