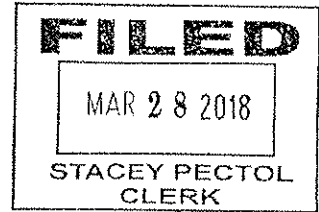


BEFORE THE ARKANSAS SUPREME COURT
COMMITTEE ON PROFESSIONAL CONDUCT
PANEL C



IN RE: **RICHARD LEON MAYS, JR.**, Respondent
Arkansas Bar ID #2010150
CPC Docket No. 2015-094

HEARING FINDINGS AND ORDER

I. INTRODUCTION

The formal charges of misconduct upon which this Findings and Order is based were developed from public media information received by the Office of Professional Conduct in late July 2015 and a resulting investigation. The information related to the conduct of Richard Leon Mays, Jr. (Mays), an attorney practicing primarily in Little Rock, in his public office as a Commissioner of the Arkansas Board of Parole in 2013-2015.

1. On September 23, 2015, a formal Complaint with affidavits from several persons with knowledge of the events and twenty-two (22) exhibits was filed and then served on Mays. Mays filed a response to the Complaint, rebuttal affidavits were filed, the case went to ballot vote before Panel B. Mays then exercised his right to a de novo public hearing, which was conducted before Panel C on January 29-31, 2018, in Little Rock. Patricia Hendrix of Little Rock was the hearing court reporter.

2. The hearing panel consisted of no regular Panel C members, because all had been used at earlier stages of this case through the Committee or were unavailable for these hearing dates. Recalled to committee service by authority and permission of the Arkansas Supreme Court were former committee members L. Scott Stafford (hearing chair), Judge (ret.) Kathleen Bell, Helen Herr, James Ross, Jr., Robert D. Trammell, Sue Winter, plus Panel D member

Kent Hirsch, who served in place of current Panel C members Joe Hickey, James Simpson, Jr., Tonya Patrick, Keith Chrestman, Marshall Ney, Carlton Saffa, and Shelia Brown who were either disqualified, recused, or not available.

3. The Office of Professional Conduct (OPC) was represented by Stark Ligon. Mr. Mays was present and represented by Harold F. Cook of Little Rock.

4. The initial grievance file in this matter was opened July 23, 2015, as a result of information obtained by OPC from public news media concerning the alleged circumstances surrounding the exit mid-term of Mr. Mays from his position as a Commissioner of the Arkansas Parole Board. Mr. Mays was contacted by OPC about the matter, and he responded informally through counsel Cook in mid-August 2015.

5. At the hearing, John Felts, John Belken, Richard Brown, Jr., Jimmy Wallace, Nicholas Stewart, Tamara Salaam, Delores Brown and Respondent Mays testified in the OPC case-in-chief. Dawne Vandiver and Abraham Carpenter testified in Respondent's case-in-chief. Respondent Mays was recalled to testify in the OPC rebuttal case. Exhibits were introduced into evidence, including transcripts of depositions of Felts, Belken, Leroy Brownlee, and Respondent Mays. From the hearing record, evidence and testimony was adduced on following facts.

II. FINDINGS of FACT

6. In 1991, Mays graduated with a BBA degree from Howard University, Washington, D.C. In 1996, Mays obtained an MBA degree from Webster University, St. Louis, MO. In 2001, Mays obtained a J.D. (law) degree from Texas Southern University, Houston, TX.

7. In 2001, Mays began work as a law clerk for Mays-Byrd Law Firm, Little Rock,

while waiting to pass a state bar examination and become licensed.

8. In 2007, Governor Beebe appointed Mays a Commissioner of the Arkansas Parole Board, a full-time, salaried position by state law.

9. On September 8, 2010, Mays was licensed in Arkansas to practice law and assigned Bar #2010150.

10. On April 16, 2013, Ledrew Stagers, represented by Mays, entered a plea and was sentenced to 72 months ADC imprisonment for felony drug possession in Pulaski No. 60cr-09-2167 on a revocation. At the same time, Stagers, represented by Mays, entered a plea and was sentenced to 72 months ADC imprisonment for felony terroristic threatening in Pulaski No. 60cr-12-2403. Mays had a long friendship with the Stagers family.

11. On October 17, 2013, Parole Board investigator Belken interviewed Ledrew Stagers at the East Arkansas Regional Unit near Marianna and completed a written interview/recommendation/vote sheet form, recommending one year denial of parole release. During the interview, an ADC employee found documentation in a unit file that Mays was Stagers' attorney in the underlying criminal case that sent Stagers to ADC.

12. Upon his return to Little Rock that day, Belken discussed the Stagers matter with Parole Board Chair Felts. Felts told Belken that Mays should recuse in the Stagers vote before the Board meeting set for October 24, 2013, at which the Stagers application for parole release was an agenda item. Late on October 23, 2013, Belken checked the Stagers file and noted Board members Mays and Peacock had not yet voted. On October 24, 2013, the Parole Board voted to deny parole release to Stagers for one year.

13. On October 29, 2013, Commissioner Wallace told Belken that Mays was lobbying

for the release of Stagers. Belken checked the Stagers file and found a new vote sheet to “release” signed by Commissioner Brown on October 28, 2013, and prepared by Mays, according to Brown and Wallace. The Board’s internal eOMIS file management system had been accessed to falsely report a “deferred two weeks” recommendation had been approved by the Board on October 24, 2013. Belken reported his Stagers file findings to Chair Felts. The next day Felts told Belken he had reported the Stagers-Mays matter to Governor Beebe’s office, to Chief of Staff Morrill Harriman.

14. A few days, later Mays came to Felts’ office, with Belken present, and discussed Stagers. Mays acknowledged and apologized for his actions. Mays stated he shredded original interview form from Belken in the Stagers file, prepared a new vote sheet, presented it to Commissioner Brown to sign, and Mays then approached other Board members to vote to release his former client Stagers.

15. On November 5, 2013, at Chair Felts’ direction, Belken prepared a new Stagers vote sheet, recommending denial of parole for one year, and placed it in the file. Belken prepared a written report to Chair Felts regarding his investigation of Mays and the Stagers case. Board members voted the new vote sheet and confirmed the one year denial of release recommendation.

16. In late 2013, after a Board meeting, Mays discussed his actions with all Board members present. He confirmed that in the Stagers case he, Mays, had removed the Belken interview and vote sheet document, shredded it, replaced it with a new, inaccurate recommendation-for-release form prepared by Mays, and had taken the new vote form to other commissioners for signature.

17. On a reconsideration request of the denial of parole release, on December 15, 2013, Mays joined other Board members in voting to deny the Staggers reconsideration, instead of recusing.

18. On March 5, 2014, Mays represented Lillian Marshall in her guilty pleas in Pulaski Circuit No. 60cr-2012-3927 (robbery, escape & theft of property) and 60cr-2013-3655 (theft of property) where she received a 72 month sentence of ADC imprisonment. On January 14, 2015, after being told by Chair Felts to not participate in the Board vote on Lillian Marshall, Mays' former client, Mays still voted favorably on her case, voting "yes" to transfer her from ADC to ACC supervision.

19. On March 18, 2014, Mays entered his appearance for Andrew Perry in Pulaski Circuit 60cr-14-469. On July 28, 2014, Mays appeared for final plea for Andrew Perry in Pulaski Circuit 60cr-14-469, who received an 18 month sentence in ADC. On October 19, 2014, Mays voted on a parole board reconsideration request of his former client Andrew Perry.

20. On March 23, 2015, Mays entered his appearance for Cedric Maxwell, Jr. in Jefferson County Circuit No. 35-cr-15-101. On July 1, 2015, Mays appeared for final plea in the Cedric Maxwell case in Pine Bluff.

21. On April 1, 2015, Act 895 of 2015 became law when signed by the Governor, due to an emergency clause. The new law prohibited outside employment of APB Commissioners unless it was approved by the Board Chairman. On April 16, 2015, Felts approved the form for Mays to teach a course at a local college. Mays never sought approval to engage in outside law practice.

22. On April 16, 2015, the Governor asked Chair Felts to conduct an investigation of Mays' conduct as a Parole Board member. Felts sent a report to the Governor.

23. On May 27, 2015, Mays received a federal CJA criminal appointment to represent Dorothy Jo Flowers in USDC Case No. 15-cr-38-18.

24. On June 26, 2015, Chair Felts wrote Mays asking for three corrective actions to be taken by Mays.

25. On June 30, 2015, Mays was suspended by Chair Felts, with pay, from acting in his Commissioner position. The specific conduct cited was Mays voting on a Stagers parole application in mid-June 2015. On July 17, 2015, during a meeting with Governor Hutchinson, Mays resigned his Parole Board commissioner position.

26. On July 21, 2015, the Arkansas Democrat-Gazette published an article announcing Mays' resignation. Upon seeing the news article, OPC opened a file. Stark Ligon at OPC contacted Mays and asked if he would desire to submit an informal written response to the general allegations in the parole board matter. Through his attorney, Harold Cook, Mays submitted a response on August 19, 2015. The informal response contained eOMIS action documents from the Ledrew Stagers file that appeared to have been printed out on August 10, 2015.

27. On September 16, 2015, Chair Felts provided OPC with a copy of a joint legal services solicitation letter from Harold Cook and Mays to an ADC inmate. The letter does not identify Mays as an attorney, only as a former parole board Commissioner. The letter to this inmate appears to result from an ADC-generated list of over 3,500 inmates with parole eligibility dates coming up in the next twelve months. The inmate list was generated as a

result of an FOIA request to the ADC in mid-August 2015 by the Cook Law Firm.

28. The specific wording of the “inmate solicitation” letter appears reasonably calculated by the sender to likely to create in the recipient inmate or his or her family an unjustified expectation about the favorable results the sending persons, one identified as a lawyer, can achieve on a parole matter, if employed for the inmate.

29. At the hearing and by his deposition taken January 31, 2017, (Hearing Ex. 38), among other matters, Richard Mays, Jr. testified that:

a. He made a mistake on the Ledrew Staggars matter (in 2013).

b. He did not believe any one Commissioner had the authority to “defer” an inmate matter, as the eOMIS system appears to show happened to Staggars as a result of Board action on October 24, 2013..

c. He had known the Staggars family back to his teen-age years, when he worked as a lifeguard for Stagger’s father, who was the director of the Little Rock city parks department. Mays went to law school in Texas with a brother of Ledrew Staggars.

d. In October 2013, he was doing all he could to support Ledrew Staggars, due to his need for mental health services.

e. As Chair, John Felts gave Mays better annual evaluation scores than had the previous Chair, Leroy Brownlee.

f. Mays did represent Lillian Marshal in her state court criminal case, and then voted on her file in January 2015 as a Board member, even though Chair Felts had instructed him to not vote on Marshall.

30. At the hearing, by his affidavit of April 12, 2016 (Complaint Ex. A), and through

his deposition taken October 13, 2016 (Hearing Ex. 40), among other matters, John Felts testified that:

a. He authorized Board investigator John Belken, also a former Board Commissioner, to do inmate unit interviews in 2013, including that of Ledrew Stagers in October 2013, to deal with a growing backlog of Board business.

b. He received the Belken report of investigation of November 5, 2013 on Mays and Stagers, and Mays later confirmed his conduct reported therein and apologized to Felts and the Board for it.

c. Felts accepted Governor Beebe's action of "counseling" in dealing with the Mays-Stagers matter.

d. In early 2015, Felts reported Mays' further conduct to Governor Hutchinson, who apparently requested or accepted Mays' resignation in mid-July 2015.

e. He authorized Belken to meet with a reporter off-site about Mays conduct at the Board.

f. He provided Commissioner Dennis Young with a copy of the Belkin November 5, 2013, report on Mays and Stagers.

g. Commissioner Carpenter was involved in a family produce business to the extent Felts had to monitor his time after the new law in April 2015, and arranged for a meeting between Carpenter and Governor Hutchinson on the subject of Carpenter's job performance at APB.

31. At the hearing, by his affidavit of September 11, 2015 (Complaint Ex. B), and through his deposition taken December 2, 2016 (Hearing Ex. 41), among other matters, John

Belken testified that:

a. He affirmed his 2015 affidavit as being accurate.

b. With no legal training, his legal research skills and product, as shown on Complaint Ex. 2, contained several errors regarding the identities of the persons summarized there.

c. After the Staggers matter in late 2013, Chair Felts asked him to watch Mays. As a result, Belken found the Mays-Byrd website materials (Ex. 14) and the Mays “LinkedIn” profile (Ex. 15), and provided the materials to Felts.

d. With prior permission from Felts, he met with reporter Spencer Willems in mid-2015 to discuss the Mays situation, but did not recall giving Willems any Board file documents.

32. At the hearing and by his affidavit of September 11, 2015 (Complaint Ex. C), among other matters, former Commissioner Richard Brown, Jr. testified that:

a. He affirmed his 2015 affidavit as truthful.

b. On or about October 28, 2013, Mays asked Brown to “do me a favor” on the Ledrew Staggers matter when Mays brought the new Staggers vote sheet Mays had created to Brown and other Commissioners.

c. He considered John Belken, a former Commissioner, qualified to conduct inmate unit interviews, as assigned by the Chair, and to make recommendations for Board consideration.

33. At the hearing and by his affidavit of September 16, 2015 (Complaint Ex. D), among other matters, former Commissioner Jimmy Wallace testified that:

a. He affirmed his 2015 affidavit as truthful.

b. He considered John Belken, a former Commissioner, qualified to conduct inmate unit interviews, as assigned by the Chair, and to make recommendations for Board consideration.

c. Any issues he had with then-investigator Belken, that resulted in an argument between them, had been quickly and appropriately resolved.

34. At the hearing, among other matters, Nicholas Stewart testified that:

a. He is an information systems specialist for the combined Arkansas Community Corrections-Arkansas Parole Board data department, and had the ability to look at user names, screen accessed, and files viewed by users.

b. He identified APB employee Delores Jones as the user who accessed the Ledrew Staggars file, especially on August 10, 2015, and obtained screen shots of items in it that were provided to Mays' counsel Cook who attached them to a response Cook sent to OPC on August 19, 2015. (Complaint Ex. 21)

c. He identified APB employee Delores Jones as the user who accessed the Ledrew Staggars file on October , 2013, and entered information on the Board action document

d. The APB's automated eOMIS records/file system was in transitional operation from December 2014 until full electronic voting functionality became available for Commissioners in March 2015.

35. At the hearing Delores Jones testified that:

a. She had been a staff employee of APB from 2008 until March 10, 2017,

when she stated she was terminated for no reason given, but apparently linked to having been interviewed on March 3, 2017, where she admitted printing out Ledrew Staggars file items in August 2015 and providing them upon his request to former Commissioner Mays, whom she described as a workplace friend.

b. She did not recall having made any entry into the Ledrew Staggars file related to a two week deferment action by the Board in late October 2013.

36. At the hearing Tamara Salaam testified that:

a. She has been employed at the APB since 1995, and is an Administrative Assistant with primary oversight responsibility there for inmate files held there and for data entry into the former paper file system.

b. She described the process by which Board members voted inmate papers files in the pre-2015 period.

37. At the hearing, among other matters, Board Commissioner Dawne Vandiver testified that:

a. Mays brought the new Staggars vote sheet he created to her and others; said the inmate had mental health issues; said he had represented Staggars and knew the family; and asked her and other Commissioners to look at the case and approve the new vote sheet, which they did.

b. She never destroyed a vote sheet and then took a new one to a Commissioner without an explanation of what she was doing.

c. Mays apologized the Board for his conduct in the Staggars matter and she thought he was remorseful.

d. She thought Mays was a good Commissioner.

e. Commissioner Peacock was out a long time with illness; this affected workload; and the Commissioners were dealing with at least 1,000 inmates files per month during this time (2013).

38. At the hearing, Board Commissioner Abraham Carpenter, Jr. testified that:

a. He had been a Commissioner for ten years, being appointed by Governor Beebe.

b. Not all Board policies were written; rules changed; there were informal policies; and all Commissioners had shredded mistaken or messy vote sheets and replaced with clean ones.

c. He had outside employment in a family business; he and two Governors discussed it and neither did anything to him about it; he often worked into the evening voting his files to keep up with his workload; and he feels Mays was targeted by Felts and Belken.

d. He does not know about the details of the Complaint here against Mays.

39. Testimony of former Board Chair Leroy Brownlee was available to the panel through his deposition taken January 24, 2017, by Mr. Cook. (Hearing Ex. 39)

40. At the hearing, in his opening and closing statement, Respondent's counsel Cook stated it was uncontroverted that his client Mays made "poor" and "serious" errors in judgment in at least the Staggers matter, and that he had already been punished for them, through loss of his State job and other means.

III. RULE VIOLATION CHARGES

Upon consideration of the formal complaint and attached exhibit materials, the

response to it, evidence produced at the hearing, and other matters before it, and the Arkansas Rules of Professional Conduct, Panel A of the Arkansas Supreme Court Committee on Professional Conduct finds:

A. The Complaint alleged that the conduct of the conduct of Richard L. Mays, Jr. violated Rule 1.11(d) in four instances:

1. As a public officer or employee, a Parole Board commissioner, Mays participated in a Parole Board matter in which Mays participated personally and substantially while in private practice or nongovernmental employment, without the appropriate government agency giving its informed consent, confirmed in writing, namely Mays participated in Board consideration of a pending matter involving his former law client LeDrew Staggars. **By a unanimous vote, the charge was found proven.**

2. As a public officer or employee, a Parole Board commissioner, Mays participated in a Parole Board matter in which Mays participated personally and substantially while in private practice or nongovernmental employment, without the appropriate government agency giving its informed consent, confirmed in writing, namely Mays participated in Board consideration of a pending matter involving his former law client Lillian Marshall. **By a 5-2 vote, this charge was found proven. Voting yes were Herr, Hirsch, Ross, Stafford and Winter. Voting no were Bell and Trammell.**

3. As a public officer or employee, a Parole Board commissioner, Mays participated in a Parole Board matter in which Mays participated personally and substantially while in private practice or nongovernmental employment, without the appropriate government agency giving its informed consent, confirmed in writing, namely Mays

participated in Board consideration of a pending matter involving his former law client Keena Wimley. **At the close of its case in chief, the Chair granted the OPC motion to withdraw this count from consideration and dismiss it.**

4. As a public officer or employee, a Parole Board commissioner, Mays participated in a Parole Board matter in which Mays participated personally and substantially while in private practice or nongovernmental employment, without the appropriate government agency giving its informed consent, confirmed in writing, namely Mays participated in Board consideration of a pending matter involving his former law client Andrew Perry. **By a unanimous vote, the charge was found proven.**

Arkansas Rule 1.11(d) requires that, except as law may otherwise expressly permit, a lawyer currently serving as a public officer or employee: (1) is subject to Rules 1.7 and 1.9; and (2) shall not: (I) participate in a matter in which the lawyer participated personally and substantially while in private practice or nongovernmental employment, unless; the appropriate government agency gives its informed consent, confirmed in writing; or (ii) ...

B. The Complaint alleged that the conduct of the conduct of Richard L. Mays, Jr. violated Rule 7.1 in four instances:

1. In his public-access on-line LinkedIn profile in 2014, Mays states he has been an attorney since 2001, when he was first licensed to practice law in October 2010, a false or misleading communication about the lawyer or the lawyer's services. **By a unanimous vote, the charge was found proven.**

2. In the Exhibit 22 inmate solicitation letter, Mays communicates to potential inmate clients information about his background as a Commissioner of the Arkansas Parole

Board for eight years that is likely to create an unjustified expectation about the results the lawyer can achieve. **By a unanimous vote, the charge was found proven.**

3. In the Exhibit 22 inmate solicitation letter, Mays communicates to potential inmate clients information about his background as a Commissioner of the Arkansas Parole Board for eight years that compares Mays' services with other lawyers' services, a comparison cannot be factually substantiated. **By a 5-2 vote, this charge was found not proven. Voting no were Bell, Hirsch, Ross, Stafford and Trammell. Voting yes were Herr and Winter.**

4. In the Exhibit 22 inmate solicitation letter, Mays fails to communicate or disclose to potential inmate clients material information about his background as a Commissioner of the Arkansas Parole Board, specifically that he resigned in July 2015 when requested to do so as a result of an investigation at the Parole Board about his misconduct as a Commissioner. This non-disclosed information is particularly material and misleading here because Mays' association with or name on an inmate parole application packet might lead to unfavorable Board action for the inmate client. **By a unanimous vote, the charge was found not proven.**

Arkansas Rule 7.1 provides that a lawyer shall not make a false or misleading communication about the lawyer or the lawyer's services. A communication is false or misleading if it: (a) contains a material misrepresentation of fact or law, or omits a fact necessary to make the statement considered as a whole not materially misleading; (b) is likely to create an unjustified expectation about the results the lawyer can achieve, or states or implies that the lawyer can achieve results by means that violate the rules of professional conduct or other law; (c) compares the lawyer's services with other lawyers' services, unless

the comparison can be factually substantiated; or (d) contains a testimonial or endorsement.

C. The Complaint alleged that the conduct of the conduct of Richard L. Mays, Jr. violated Rule 7.2(e) in two instances:

1. In his public-access on-line LinkedIn profile in 2014, while stating he practices in the areas of state and federal criminal defense, Mays states that he has been a Commissioner of the Arkansas State Parole Board since July 2007, and that he is responsible for reviewing all pardon and commutation applications and making non-binding recommendations to the Governor. These statements clearly lead a reader, client, or potential client to have an unreasonable expectation about the results the lawyer may be able to obtain if employed for criminal defense work or for post-conviction applications that go before the Parole Board or the Governor. **By a unanimous vote, the charge was found not proven.**

2. In the Exhibit 22 inmate solicitation letter, Mays communicates to potential inmate clients information about his background as a Commissioner of the Arkansas Parole Board for eight years that is is likely to create an unjustified expectation about the results the lawyer may be able to obtain. **By a unanimous vote, the charge was found not proven.**

Arkansas Rule 7.2(e) provides that advertisements may include photographs, voices or images of the lawyers who are members of the firm who will actually perform the services. If advertisements utilize actors or other individuals, those persons shall be clearly and conspicuously identified by name and relationship to the advertising lawyer or law firm and shall not mislead or create an unreasonable expectation about the results the lawyer may be able to obtain...

D. The Complaint alleged that the conduct of the conduct of Richard L. Mays, Jr. violated Rule 8.4(c) in five instances:

1. In the Ledrew Stagers matter at the Arkansas Parole Board, Mays removed from Stagers' official Parole Board file and destroyed an October 2013 interview document generated by investigator Belken that recommended a denial of the Stagers parole request for one year, conduct by Mays that involved dishonesty, fraud, deceit or misrepresentation. **By a 5-2 vote, this charge was found proven. Voting yes were Herr, Hirsch, Ross, Stafford and Winter. Voting no were Bell and Trammell.**

2. In the Ledrew Stagers matter at the Arkansas Parole Board, Mays prepared a false document recommending parole release for Stagers; had Commissioner Brown sign same; and placed the false document into the Stagers file and the Board's EOMIS case system, conduct by Mays that involved dishonesty, fraud, deceit or misrepresentation. **By a unanimous vote, the charge was found proven.**

3. In the Ledrew Stagers matter at the Arkansas Parole Board, Mays used the false October 2013 interview document Mays prepared that recommended approval of Stagers parole request, had Commissioner Brown sign it, and lobbied his fellow Commissioners to sign the falsified document, which three members did before discovering the problem. This was conduct by Mays that involved dishonesty, fraud, deceit or misrepresentation. **By a unanimous vote, the charge was found proven.**

4. In the Ledrew Stagers matter at the Arkansas Parole Board in late 2013, although having a clear conflict of interest in having represented Stagers on his criminal

cases that placed him in ADC, Mays voted on requests by Staggers for release from ADC. This was conduct by Mays that involved dishonesty, fraud, deceit or misrepresentation. **By a unanimous vote, the charge was found not proven.**

5. After Act 895 of 2015 became law on April 1, 2015, Mays knowingly continued to engage in the private practice of law, and in representing criminal clients, even though the new law prohibited outside employment for Parole Board Commissioners unless it was limited employment and approved in writing by the Board Chair. Mays had knowledge of the new law, and did not have approval from the Board Chair to continue his law practice. This was conduct by Mays that involved dishonesty, fraud, deceit or misrepresentation. **By a unanimous vote, the charge was found not proven.**

Arkansas Rule 8.4(c) provides that it is professional misconduct for a lawyer to engage in conduct involving dishonesty, fraud, deceit or misrepresentation.

E. The Complaint alleged that the conduct of the conduct of Richard L. Mays, Jr. violated Rule 8.4(d) in five instances:

1. In the Ledrew Staggers matter at the Arkansas Parole Board, Mays removed from Staggers' official Parole Board file and destroyed an October 2013 interview document generated by investigator Belken that recommended a denial of the Staggers parole request for one year, conduct by Mays that is prejudicial to the administration of justice. **By a 4-3 vote, this charge was found proven. Voting yes were Herr, Ross, Stafford, and Winter. Voting no were Bell, Hirsch, and Trammell.**

2. In the Ledrew Staggers matter at the Arkansas Parole Board, Mays prepared

a false document recommending parole release for Staggers; had Commissioner Brown sign same; and placed the false document into the Staggers file and the Board's EOMIS case system, conduct by Mays that is prejudicial to the administration of justice. **By a 5-2 vote, this charge was found proven. Voting yes were Herr, Ross, Stafford, Trammell, and Winter. Voting no were Bell and Hirsch.**

3. In the Ledrew Staggers matter at the Arkansas Parole Board, Mays used the false October 2013 interview document Mays prepared and had Commissioner Brown sign, that recommended approval of Staggers parole request, and lobbied his fellow Commissioners to sign the falsified document, which three members did before discovering the problem, conduct by Mays that is prejudicial to the administration of justice. **By a 5-2 vote, this charge was found proven. Voting yes were Herr, Ross, Stafford, Trammell, and Winter. Voting no were Bell and Hirsch.**

4. In the Ledrew Staggers matter at the Arkansas Parole Board in late 2013, although having a clear conflict of interest in having represented Staggers on his criminal cases that placed him in ADC, Mays voted on requests by Staggers for release from ADC, conduct by Mays that is prejudicial to the administration of justice. **By a 5-2 vote, this charge was found proven. Voting yes were Herr, Ross, Stafford, Trammell, and Winter. Voting no were Bell and Hirsch.**

5. After Act 895 of 2015 became law on April 1, 2015, Mays knowingly continued to engage in the private practice of law, and in representing criminal clients, even though the new law prohibited outside employment for Parole Board Commissioners unless it

was limited employment and approved in writing by the Board Chair. Mays had knowledge of the new law and did not have approval by the Board Chair to continue his law practice. This was conduct by Mays that is prejudicial to the administration of justice. **By a 6-1 vote, this charge was found proven. Voting yes were Bell, Herr, Hirsch, Stafford, Trammell, and Winter. Voting no was Ross.**

Arkansas Rule 8.4(d) provides that it is professional misconduct for a lawyer to engage in conduct that is prejudicial to the administration of justice.

F. The Complaint alleged that the conduct of the conduct of Richard L. Mays, Jr. violated Rule 8.4(e) in that in his public-access on-line LinkedIn profile in 2014, while stating he practices in the areas of state and federal criminal defense, Mays states that he has been a Commissioner of the Arkansas State Parole Board since July 2007, and that he is responsible for reviewing all pardon and commutation applications and making non-binding recommendations to the Governor. These statements clearly would lead a client or potential client to believe that if Mays was employed for criminal defense work or for post-conviction applications that go before the Parole Board or the Governor Mays had or implied an ability to influence improperly a government agency or official; or to achieve results by means that violate the Rules of Professional Conduct or other law. Arkansas Rule 8.4(e) provides that it is professional misconduct for a lawyer to state or imply an ability to influence improperly a government agency or official; or to achieve results by means that violate the Rules of Professional Conduct or other law. **By a unanimous vote, the charge was found not proven.**

IV. SANCTIONS

1. In compliance with Section 11.D of the Procedures, after the hearing OPC prepared a proposed order, including findings and summary witness testimony, and presented it to Respondent's counsel, who has had the opportunity to offer objections and alternatives to the proposed language, and which, if offered, have been considered and decided upon by the panel hearing chair.

2. As sanctions, panel members Bell, Hirsch, Stafford, and Trammell voted for a reprimand. Members Herr, Ross, and Winter voted for a three month license suspension. Members Bell, Hirsch, Stafford, and Trammell voted to impose a \$10,000.00 fine. Costs have been assessed as set out in a Petition for Costs filed by OPC and finally approved as to allowed amount by the hearing panel chair.

WHEREFORE, it is the **Decision and Order** of the Arkansas Supreme Court Committee on Professional Conduct, acting through its authorized Panel C, that Respondent Richard L. Mays, Jr., Arkansas Bar ID# 2010150, violated Arkansas Rules 1.5(c), 1.8(a), and 3.3(a), and he hereby is, **REPRIMANDED** for his conduct in this matter, ordered to pay a \$10,000.00 fine, and assessed and ordered to pay costs totaling \$2,247.00. The fine and costs assessed herein shall be payable by cashier's check or money order payable to the "Clerk, Arkansas Supreme Court" delivered to the Office of Professional Conduct with thirty (30) days of the date this Findings and Order is filed of record with the Clerk of the Arkansas Supreme Court.

Either party shall have the right to appeal this final Order to the Arkansas Supreme

Court by filing a notice of appeal with the clerk at the Office of Professional Conduct within thirty (30) calendar days after the filing of this Panel final written order, as provided in Section 12 of the Procedures governing appeals and cross-appeals.

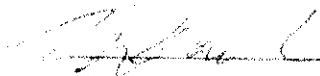
ARKANSAS SUPREME COURT
COMMITTEE ON PROFESSIONAL
CONDUCT - PANEL C

By: 
L. Scott Stafford, Chair, Panel C

SV
Prepared by Stark Ligon, ABN 75077

Date: MARCH 28, 2018

Approved as to form only:


Harold F. Cook, Respondent's counsel