

BEFORE THE SUPREME COURT COMMITTEE ON PROFESSIONAL CONDUCT
PANEL B

IN RE: WILLIAM KURT MORITZ
ARKANSAS BAR ID No. 99021
CPC Docket No. 2016-161

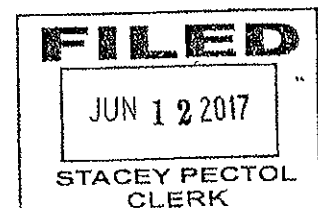
FINDINGS AND ORDER

William Kurt Moritz is an attorney licensed in 1999 to practice law in the State of Arkansas and assigned Arkansas Bar Number 99021. Deborah Dillard employed William Kurt Moritz ("Moritz") to represent her interests along with the interests of her brothers and sister in the probate of their father's estate.

Harry Joe Ritchie died in July 2014. Deborah Dillard ("Dillard"), Joe Jack Ritchie ("Ritchie"), Kelly Faye Ritchie Gonzalez ("Gonzalez"), and Billy Gene Martin ("Martin") are the children of Harry Joe Ritchie. Charlotte Ritchie, the widow of Harry Joe Ritchie, filed a Petition for Probate of Will and Appointment of Personal Representative on August 13, 2014, in Calhoun County Circuit Court. Charlotte Ritchie was named executrix of the estate. Dillard and her siblings wanted to contest the will of Harry Joe Ritchie.

Dillard employed Moritz to represent her and her siblings in the will contest case. There was no written fee agreement. The fee was Nine Thousand Dollars (\$9,000). Moritz received the cashier's check issued by Wells Fargo Bank as is evidenced by Moritz's signature.

In September 2014, Dillard's aunt provided her with a notice that was published by the Ritchie estate. Dillard sent the notice to Moritz by fax on September 3, 2014. On April 2, 2015, Dillard sent Moritz an email asking for information about the case. On April 10, 2015, Dillard sent Moritz another email asking why he wasn't returning her many phone calls, requests for an appointment, and not responding to emails. There was no response from Moritz.



In May 2015, Dillard, her brothers, and sister employed Fredye Long Alford ("Alford") to represent their interests. Alford sent a letter to Moritz by fax to his office instructing Moritz to refund the fee and return the client file. Moritz was provided a week to comply with the request but failed to do so. Alford caused a subpoena to be issued in the Ritchie estate directing Moritz to appear at a deposition on July 2, 2016. Moritz provided his client file which contained no work product, but did have a lengthy, self-serving letter about how he put "boots on the ground" in Calhoun County. The file did not show anything having been filed by Moritz in the Ritchie estate from August 2014 through July 2015.

On July 9, 2016, Alford filed suit against Moritz on behalf of her clients, Dillard, Ritchie, Gonzalez, and Martin. The Hempstead County Circuit Court directed the parties to attend mediation. Mediation was held on January 5, 2016. Following the mediation, Moritz was directed to pay his former clients the sum of Seven Thousand Dollars (\$7,000) by March 16, 2016. Moritz failed to pay the \$7,000 by March 16, 2016. Alford's clients had the option of accepting a judgment or proceeding to trial. Alford's clients chose to go to trial. Trial was set for March 31, 2016.

On March 31, 2016, the parties appeared for trial. Ashley Moritz, wife of Moritz and an Arkansas attorney, appeared on behalf of her husband. It was announced that the parties had agreed to settle for Seven Thousand Six Hundred Dollars (\$7,600) by cash or cashier's check. The money was to be delivered by Moritz or his agent by no later than 4:00 p.m. on March 31 at Ms. Alford's office in Texarkana. Moritz failed to deliver the money to Alford by the close of her business day. Moritz left a note taped to the front door of Alford's office which stated:

"Fredye, I called and still came by. It was probably just after 5:00. I have the money. I can bring it in the morning or whatever. I have it on me."

Moritz left a message on Alford's telephone system stating that he was trying to find her office. The telephone system recorded the message being left at 5:30 p.m.

The next day, April 1, 2016, Moritz spoke with one of Alford's assistants. Moritz stated that he would be at Alford's office in approximately 45 minutes with the money. Moritz did not appear at Alford's office on that date. Alford called Moritz at 4:00 p.m. and informed him that a motion for contempt would be filed if he did not comply by Monday, April 4, 2016. Moritz did not deliver the money to Alford by the end of business on April 4.

On April 21, 2016, Alford filed a motion for contempt. Moritz responded to Alford by email dated April 25, 2016, in which he stated:

"I am in contempt, there is no question. The day of the settlement, I had rounded up the majority of the money by about 6:00 p.m. After returning to my office and paying my one employee and keeping the lights on at my office, I did not have it all."

A contempt hearing was held on April 26, 2016, in Hempstead County Circuit Court. Following the testimony of witnesses and exhibits introduced, the court found Moritz to be in civil contempt for violating the prior orders of the court and not complying with the March 31 order. The court directed the Hempstead County Sheriff's Office to take Moritz into custody and to remain there until the sum of Seven Thousand Six Hundred Dollars (\$7,600) was paid. After being detained, Moritz provided the money and was released from custody.

On January 6, 2017, William Kurt Moritz was served with a copy of the formal complaint in this matter as provided in §9.A(2)(b) of the Procedures of the Arkansas Supreme Court Regulating Professional Conduct of Attorneys at Law ("Procedures"). Moritz had thirty days following the date of service to file a timely response. Moritz failed to file a response to the formal complaint which, pursuant to §9.C(4) of the Procedures, constituted an admission of the factual allegations of the complaint and extinguished his right to a public hearing.

Upon consideration of the formal complaint and attached exhibit materials, Moritz's failure to respond, and the Arkansas Rules of Professional Conduct, Panel B of the Arkansas Supreme Court Committee on Professional Conduct finds:

1. William Kurt Moritz violated Rule 1.3 from August 2014 through July 2015 when he failed to promptly pursue the object of the representation of his clients in a will contest in the case of *In Re: Harry Joe Ritchie, Deceased*, Calhoun County Circuit Court Case NO. 07PR-14-14. Rule 1.3 states that a lawyer shall act with reasonable diligence and promptness in representing a client.

2. William Kurt Moritz violated Rule 1.4(a)(3) when he failed to provide his clients with any information concerning the status of the case during his time as their attorney. Rule 1.4(a)(3) states that a lawyer shall keep the client reasonably informed about the status of the matter.

3. William Kurt Moritz violated Rule 1.4(a)(4) when he failed to respond to emails dated April 2 and April 10, 2015, from his client requesting information about the status of the legal matter. Rule 1.4(a)(4) states that a lawyer shall promptly comply with reasonable requests for information.

4. William Kurt Moritz violated Rule 1.16(d) when he failed to return the client file and the fee of Nine Thousand Dollars (\$9,000) or the unearned portion of the fee to the office of Fredye Long Alford after he was directed to do so by letter dated June 1, 2015, from Ms. Alford that his services as attorney for the children of Harry Joe Ritchie were terminated. Rule 1.16(d) states that upon termination of representation, a lawyer shall take steps to the extent reasonably practicable to protect a client's interests, such as giving reasonable notice to the client, allowing time for employment of other counsel, surrendering papers and property to which the client is entitled and

refunding any advance payment of fee or expense that has not been earned or incurred. The lawyer may retain papers relating to the client to the extent permitted by other law.

5. William Kurt Moritz violated Rule 3.3(a)(1) when he told opposing counsel and the court on March 31, 2016, that he could get Seven Thousand Six Hundred Dollars (\$7,600) within three hours yet failed to provide the money by 4:00 p.m. on March 31, 2016. Rule 3.3(a)(1) states that a lawyer shall not knowingly make a false statement of fact or law to a tribunal.

6. William Kurt Moritz violated Rule 3.4(c) when he failed to comply with the mediation order directing him to provide his former clients with Seven Thousand Six Hundred Dollars (\$7,600) by March 6, 2016, and when he failed to provide his former clients with Seven Thousand Six Hundred Dollars (\$7,600) by 4:00 p.m. on March 31, 2016, as he advised the court he would do. Rule 3.4(c) states that a lawyer shall not knowingly disobey an obligation under the rules of a tribunal except for an open refusal based on an assertion that no valid obligation exists.

7. William Kurt Moritz violated Rule 4.1(a) when, on April 1, 2016, he told an associate of Fredye Long Alford that he was 45 minutes away, that he was gathering his things, and was on his way, yet failed to appear at the law office of Fredye Long Alford on that date. Rule 4.1(a) states that in the course of representing a client a lawyer shall not knowingly make a false statement of material fact or law to a third person.

8. William Kurt Moritz violated Rule 8.4(c) when Moritz received Nine Thousand Dollars (\$9,000) from his former clients to represent them in the case of *In Re: Harry Joe Ritchie*, Calhoun County Circuit Court Case No. 07PR-14-14, yet failed to file any pleadings on their behalf; when, following mediation, Moritz agreed to provide his former clients with Seven Thousand Dollars (\$7,000) by March 6, 2016, yet failed to comply with the agreement; when, on March 31, 2016, he entered into an agreement to pay Seven Thousand Six Hundred Dollars (\$7,600) to his former

clients by 4:00 p.m. on March 31, 2016, and failed to do so; when on March 31, 2016, he left a note on the door of Alford's office that he would bring the money to her the following day and failed to do so; when he called Alford's office and advised that he was 45 minutes away and was on his way, yet failed to appear; and, when Moritz was found to be in civil contempt of the March 31, 2016, order when he failed to provide his former clients with Seven Thousand Six Hundred Dollars (\$7,600) by 4:00 p.m. on March 31, 2016. Rule 8.4(c) states that it is professional misconduct for a lawyer to engage in conduct involving dishonesty, fraud, deceit or misrepresentation.

9. William Kurt Moritz violated Rule 8.4(d) when he caused the special judge to address the failure to comply with the mediation agreement in which Moritz was to provide money to his former clients by March 6, 2016; the failure to comply with the March 31, 2016, agreement wherein Moritz was to provide money to his former clients by 4 p.m. on March 31, 2016; and then the contempt issue. Rule 8.4(d) states that it is professional misconduct for a lawyer to engage in conduct that is prejudicial to the administration of justice.

In determining the appropriate sanction to be imposed, the Panel took into consideration the following factors:

1. §7.G of the Procedures allows the Panel to review information from prior disciplinary cases which is relevant for purposes of impeachment or probative of issues pending in the present matter, including, without limitation proof of motive, opportunity, intent, preparation, plan, knowledge, identity, or absence of mistake or accident. In this matter, Moritz was alleged to have violated Rules 1.3, 1.4(a)(3), 1.4(a)(4), and 1.16(d) of the Arkansas Rules of Professional Conduct. Moritz had previously been found to have violated Rule 1.3 in CPC Docket No. 2011-060 when he failed to pursue the object of his client's representation in that matter. Moritz had previously


been found to have violated Rule 1.4(a)(3) in CPC Docket Nos. 2007-065, 2011-060, and 2012-020 when he failed to keep his clients in those cases updated with information about the status of those cases. Moritz had previously been found to have violated Rule 1.4(a)(4) in CPC Docket Nos. 2007-065 and 2011-061 when he failed to comply with requests from his clients for information relating to those cases. Moritz had previously been found to have violated Rule 1.16(d) in CPC Docket Nos. 2007-065, 2011-060, and 2011-061 when he failed to return unearned advanced fees or costs to clients and when he failed to return client files. The specific instances listed in this section demonstrate a continued pattern of misconduct in conformity with the allegations contained in this formal complaint.

2. §19.A(12) and B(1) of the Procedures allows the Panel to consider Moritz's prior disciplinary record, including non-public warnings. Moritz had previously been sanctioned by the Committee on Professional Conduct. His entire prior disciplinary record was considered and was a factor in the sanction imposed in this Findings and Order.

WHEREFORE, it is the decision and order of the Arkansas Supreme Court Committee on Professional Conduct, acting through its authorized Panel B, that WILLIAM KURT MORITZ, Arkansas Bar No. 99021 be, and hereby is, SUSPENDED for a period of SIXTY MONTHS and assessed a fine in the amount of FIVE THOUSAND DOLLARS (\$5,000) and costs of FIFTY DOLLARS (\$50.00). §9.C(3) of the Procedures provide that the failure to provide a written response to a formal complaint may result in the separate imposition of a sanction less than a suspension. The Panel imposes a separate sanction of REPRIMAND for Moritz's failure to respond to the formal complaint and assesses a fine of ONE THOUSAND DOLLARS. The fines and costs herein totaling SIX THOUSAND AND FIFTY DOLLARS (\$6,050) shall be payable by cashier's check or money order payable to "Clerk, Arkansas Supreme Court" and delivered to the

Office of Professional Conduct, 2100 Riverfront Drive, Suite 200, Little Rock, AR 72202 within
thirty (30) days of the filing of this Findings and Order with the Clerk of the Arkansas Supreme
Court.

IT IS SO ORDERED this 25th day of April, 2017.



Michael E. Mally
Panel B Chair