



BEFORE THE ARKANSAS SUPREME COURT  
COMMITTEE ON PROFESSIONAL CONDUCT  
PANEL A

IN RE:           **JEFFREY M. GRAHAM**, Respondent  
                    Arkansas Bar No. 81075  
                    Docket No. CPC-2020-005

**CONSENT FINDINGS & ORDER**

The formal charges of misconduct upon which this Consent Order is premised, involving respondent attorney Jeffrey M. Graham of Little Rock, Arkansas, arose from information brought to the attention of the Committee on Professional Conduct by his client Janice Samms.

1. On September 6, 2016, Janice Samms (Samms) was injured when the vehicle in which she was a passenger was rear-ended by another vehicle. Prior to her dealings with Graham in 2016, the only time Samms can recall that she used the services of a lawyer was in a personal bankruptcy in 2013.

2. Samms was referred to Little Rock attorney Jeffrey Graham (Graham) for legal representation. Graham and Samms met and eventually agreed to a contingency fee representation as set out in their Employment Contract dated January 4, 2017. Their agreement does not mention loans and or advances from Graham to Samms, only that Samms is responsible for payment of all litigation and other expenses reasonably incurred by her attorney in the prosecution of her case and that such expenses would be deducted from her share of the recovery.

3. From June 2017 through August 2019, on at least thirty (30) documented occasions, when Samms needed money for personal expenses Graham gave Samms an "advancement on the expenses of my case" from his personal funds. Samms signed receipts for the funds. Graham

later totaled the advances as being \$15,050.00. The Graham receipt forms signed by Samms contain language that the advance is repayable upon demand, and not upon the conclusion of her legal matter and only from any recovery obtained for her. The “advancements” from Graham to Samms were for Samms’ personal use and unrelated to any costs or expenses of the legal representation.

4. To Samms’ knowledge and information, Graham took no substantive action to conclude her claim or to file suit to protect her claim as the three year statute of limitation got close in mid-2019, and Samms became concerned about her fate. Graham’s office prepared a pro se Complaint which Samms filed on September 6, 2019, and Samms paid the \$165 filing fee from her funds.

5. Graham negotiated a policy-limits \$25,000 settlement with Progressive Insurance, the at-fault driver carrier. Progressive issued its check dated December 16, 2019, payable to Samms, Graham and others, and delivered the check to Graham. Difficulties arose between Samms and Graham regarding the settlement funds. Graham wrote Progressive on January 10, 2020, asserting his statutory attorney’s lien on the settlement funds, but not copying Samms on the letter.

6. By letter of January 12, 2020, Samms terminated Graham’s legal representation in the matter in her letter to Progressive, and stated she had requested Graham return the settlement check to Progressive so it could be reissued. Email exchanges on January 13, 2020, between Samms and Graham show their positions on the settlement funds.

7. By letter of January 15, 2020, to Samms, Graham set out his version of how the \$25,000 should be divided, confirming he had advanced Samms \$14,500, it turned out he had

overfunded her based on the eventual settlement, and Samms now actually owed him \$1,997.09. Graham proposed to cut his contract fee by \$4,629.55 and let Samms repay him \$4,550 in monthly installments so Samms could receive a settlement check of \$7,599.08.

8. Samms complained to the Arkansas Attorney General's Office on January 21, 2020, and was referred to the Office of Professional Conduct.

9. On February 5, 2020, Samms wrote Graham setting out her position in their dispute. Samms and Graham exchanged text/emails on February 6-7, 2020, further setting out their views of their dispute. In his last one, Graham asserts there is a difference between "loans," which he claims to have never made to a client, and "advances" from his P.A., which he claims are authorized under his contingency fee agreement with Samms. Final settlement between Graham and Samms and distribution of the \$25,000 recovery remains unresolved as of this date.

10. In his Response, Graham claims he or his law firm will have to pay income taxes on the unrepaid \$15,050.00 he advanced to Ms. Samms.

Following Respondent Attorney's receipt of the formal complaint, the attorney entered into discussion with the Executive Director which has resulted in an agreement to discipline by consent pursuant to Section 20.B of the Arkansas Supreme Court Procedures Regulating Professional Conduct of Attorneys at Law (2012). Upon consideration of the formal complaint and attached exhibits, admissions made by the respondent attorney, the terms of the written consent, the approval of Panel A of the Committee on Professional Conduct, and the Arkansas Rules of Professional Conduct, the Committee on Professional Conduct finds:

A. The conduct of Jeffrey Graham violated Rule 1.3 in that between January 2017 and early September 2019, Graham did not take the actions needed to either settle

Samms' 2016 claim or protect her claim by filing suit, causing Samms to have to file a pro se suit on the last available date, September 6, 2019, to legally protect her claim. Arkansas Rule 1.3 requires that a lawyer shall act with reasonable diligence and promptness in representing a client.

- B. The conduct of Jeffrey Graham violated Rule 1.8(a) in that in the manner in which Graham entered into multiple "advance of funds" arrangements with his client Samms, Graham had his client execute Advance Form documents which obligated his client to repay the advances or loans upon demand. In dealing with his client Samms on these advances, Graham failed to ensure the transactions, and terms of the loans on which he then had an interest, were fair and reasonable to Samms were (1) fully disclosed and transmitted in writing in a manner that can be reasonably understood by the client; (2) that Samms was advised in writing that she could seek the advice of independent legal counsel of her choice in the transaction; and (3) that Samms gave informed consent, in a writing signed by her, to the essential terms of the transaction and to Graham's role in the transaction. Arkansas Rule 1.8(a) requires that a lawyer shall not enter into a business transaction with a client or knowingly acquire an ownership, possessory, security or other pecuniary interest adverse to a client unless: (1) the transaction and terms on which the lawyer acquires the interest are fair and reasonable to the client and are fully disclosed and transmitted in writing in a manner that can be reasonably understood by the client; (2) the client is advised in writing of the desirability of seeking and is given a reasonable opportunity to seek the advice of independent legal counsel in the transaction; and (3) the client gives informed consent, in a writing signed by the

client, to the essential terms of the transaction and the lawyer's role in the transaction, including whether the lawyer is representing the client in the transaction.

C. The conduct of Jeffrey Graham violated Rule 1.8(e) in that on at least thirty (30) occasions from June 2017 through August 2019, when Samms needed money Graham gave Samms "advances" on "expenses" from his funds in her case and she signed receipts for the funds. Graham later totaled the advances as being \$14,550.00, and demanded repayment as a condition of his making final settlement distribution to Samms. Arkansas Rule 1.8(e) requires that a lawyer shall not provide financial assistance to a client in connection with pending or contemplated litigation, except that: (1) a lawyer may advance court costs and expenses of litigation, the repayment of which may be contingent on the outcome of the matter; and (2) a lawyer representing an indigent client may pay court costs and expenses of litigation on behalf of the client.

D. The conduct of Jeffrey Graham violated Rule 1.15(a)(5) in that since receiving the Progressive \$25,000 settlement check in late December 2019, Graham has refused to make final settlement with Samms and give her the portion of the funds to which Samms is entitled. Arkansas Rule 1.15(a)(5) requires that upon receiving funds or other property in which a client or third person has an interest, a lawyer shall promptly notify the client or third person in writing. Except as stated in this Rule or otherwise permitted by law or by agreement with the client, a lawyer shall promptly deliver to the client or third person any funds or other property that the client or third person is entitled to receive and, upon request by the client or third person, shall promptly render a full written accounting regarding such property to the client or third persons.

WHEREFORE, in accordance with the consent to discipline presented by Mr. Graham and the Executive Director, it is the decision and order of the Arkansas Supreme Court Committee on Professional Conduct that Respondent **JEFFREY M. GRAHAM**, Arkansas Bar No. 81075, be, and hereby is, **CAUTIONED** for his conduct in this matter, and ordered to pay \$50.00 case costs. The 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 within thirty (30) days of the date this Findings and Order is filed of record with the Clerk of the Arkansas Supreme Court.

ARKANSAS SUPREME COURT COMMITTEE  
ON PROFESSIONAL CONDUCT - PANEL A

By Mark L. Martin  
Mark L. Martin, Chairperson

Date 1.19.21