

BEFORE THE SUPREME COURT COMMITTEE ON PROFESSIONAL CONDUCT

PANEL A

IN RE: **MICHAEL ANTHONY PRICE**

Arkansas Bar ID #81133

CPC Docket No. 2002-087

FINDINGS AND ORDER

The formal charges of misconduct upon which this Findings and Order is based arose from information provided to the Committee by David Scott Curtis and David Ray Curtis on and after May 15, 2002. The information related to the representation of David Scott Curtis by Respondent in 2001-2002.

On August 5, 2002, Respondent was served with a formal complaint, supported by affidavits from David Scott Curtis, David Ray Curtis and Cliff Lumley. Upon consideration of the formal complaint and attached exhibit materials, the response to it, and other matters before it, and the Arkansas Model Rules of Professional Conduct, Panel A of the Arkansas Supreme Court Committee on Professional Conduct finds:

A. Mr. Price's conduct violated Model Rule 1.3. He was hired in early July 2001, and paid in full by October 3, 2001, to take necessary action on behalf of David Scott Curtis to get him transferred to a less restrictive environment from the APP, yet Mr. Price never commenced any legal proceeding or took any significant action to try to accomplish this goal. Model Rule 1.3 requires that a lawyer shall act with reasonable diligence and promptness in representing a client.

B. Mr. Price's conduct violated Model Rule 1.4(a), when he failed to keep his client David Scott Curtis timely and reasonably informed about the status of the matter Curtis entrusted to Price, and Price failed to respond to his frequent requests for information about the status of his matter from July 2001 through mid-April 2002. Model Rule 1.4(a) requires that a lawyer shall keep a client reasonably informed about the status of a matter and promptly comply with reasonable requests for information.

C. Mr. Price's conduct violated Model Rule 1.4(b), when he contracted with his client to provide him with a review and evaluation by an expert forensic psychiatrist, for which the client's father paid Price \$600.00 on July 3, 2001, yet Price never provided such services to his client through and including April 19, 2002, when Price attempted to have these services provided by a psychologist, and for extra payment. Mr. Price did not confer with his client adequately so the client could determine if the services Price offered him on April 19 were the services which he reasonably needed for this matter and were the services for which he had contracted and paid Price. Model Rule 1.4(b) requires that a lawyer shall explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation.

D. Mr. Price's conduct violated Model Rule 1.15(a) when, between July 3, 2001 and October 3, 2001, he received a total of \$3,200.00 from his client and the client's father for future legal services and a forensic examination. Although required to do so by the Model Rules, Price failed to place and maintain these funds in any attorney trust account, because he had no such attorney trust account at that time or thereafter, as shown in the partial transcript of Price's sworn testimony given on June 21, 2002. Model Rule 1.15(a) requires that a lawyer shall hold property of clients or third persons that is in a lawyer's possession in connection with a representation separate from the lawyer's own property. Funds of a client shall be deposited and maintained in an identifiable trust account.

E. Mr. Price's conduct violated Model Rule 1.16(d) when, on April 19, 2002, after David Scott Curtis had terminated his attorney-client relationship with Price and requested an accounting from Price of the funds Price had received from Mr. Curtis and his father and a refund of any unearned fees or other funds, Mr. Price failed to respond to his client. Mr. Price should be holding at least \$600.00 in a trust account since around July 3, 2001, for his client's future forensic examination, which was never accomplished. Model Rule 1.16(d) requires that upon termination of representation, an attorney shall take steps to the extent reasonably practicable to protect the 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 advanced payment of fee that has not been earned.

F. Mr. Price's conduct violated Model Rule 3.2 in that when David Scott Curtis hired him in early July 2001 to get Curtis released or transferred to a less restrictive environment than the residential lockup program at the Arkansas Partnership Program, Price failed to take any substantial action toward this objective until April 19, 2002, after his services were earlier terminated by the client, when Price attempted to have Curtis examined by a psychologist, who was denied access to the former client due Price's failure to follow APP institutional policy. Mr. Price also never filed any court papers to seek action or relief for his client from July 2001. Model Rule 3.2 requires that a lawyer shall make reasonable efforts to expedite litigation consistent with the interests of the client.

G. Mr. Price's conduct violated Model Rule 7.3(a) when he used another of his clients, Edward King, a patient at the Arkansas Partnership Program, to directly solicit legal clients, including David Scott Curtis, for him from among the other patients at APP. Model Rule 7.3(a) requires that a lawyer shall not solicit, by any form of direct contact, in person or otherwise, professional employment from a prospective client with whom the lawyer has no family or prior professional relationship when a significant motive for the lawyer's doing so is the lawyer's pecuniary gain.

H. Mr. Price's conduct violated Model Rule 8.4(a) when he used another of his clients, Edward King, a patient at the Arkansas Partnership Program, to solicit legal clients for him from among the other patients at APP, in violation of Model Rule 7.3(a). Model Rule 8.4(a) requires that a lawyer shall not violate or attempt to violate the rules of professional conduct, knowingly assist or induce another to do so, or do so through the acts of another.

I. Mr. Price's conduct violated Model Rule 8.4(c) when, by letter on April 19, 2002, he represented to his former client, David Scott Curtis, that Curtis must personally pay Dr. Don Birmingham an additional \$600.00 for Dr. Birmingham's "workup" services, without giving Mr. Curtis any credit for the \$600.00 Curtis' father paid Price on July 3, 2001, for just such future services. Model Rule 8.4(c) requires that a lawyer shall not engage in conduct involving dishonesty, fraud, deceit or misrepresentation.

J. Mr. Price's conduct violated Model Rule 8.4(e) when he told David Scott Curtis he had worked with Judge Mary McGowan, when she was trying to be elected, and that Price was "in good standing" with the judge, that Judge McGowan would be the judge over the special court where any case Price might file for Curtis would be heard, thus leading the client to believe he had a good chance of succeeding with Price as his attorney in Judge McGowan's court. Model Rule 8.4(e) requires that a lawyer shall not state or imply an ability to influence improperly a government agency or official.

WHEREFORE, it is the decision and order of the Arkansas Supreme Court Committee on Professional Conduct, acting through its authorized Panel A, that Michael A. Price, Arkansas Bar ID# 81133, be, and he hereby is, reprimanded for his conduct in this matter, fined \$500.00, ordered to pay restitution of \$2,000.00 to David Scott Curtis and David Ray Curtis, and ordered to pay costs of \$50.00. The fine, restitution, 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.

ARKANSAS SUPREME COURT COMMITTEE ON PROFESSIONAL CONDUCT - PANEL A

By: _____

Win Trafford, Chair, Panel A

Date: _____