

# ***2012 Annual Report***

***Arkansas Supreme Court***

***Committee on Professional Conduct  
&  
Office of Professional Conduct***

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Arkansas Attorney Discipline Homepage  
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# 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. The Committee again submitted major proposed revisions of the Procedures to the Court on December 15, 2010, which were adopted by the Court in its Per Curiam issued and effective May 26, 2011, found at 2011 Ark. 242.

**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 365-481 of the 2012 Court Rules, Volume 2, of the Arkansas Code. The attorney discipline Procedures implementing these Rules are in the same Volume 2, at pages 319-360. On May 26, 2011, the Supreme Court adopted and made effective significant revisions to the Procedures, in a per curiam found at 2011 Ark. 242. Unfortunately, the publisher of the Arkansas Code failed to pick up these 2011 revisions to the Procedures and did not include them in the 2012 Rules volume.

**Mission:** The purpose of lawyer discipline and disability proceedings is to maintain appropriate standards of professional conduct in order to protect the public and the administration of justice from lawyers who have demonstrated by their conduct that they are unable or are likely to be unable to properly discharge their professional duties. Standard 1.1 of the ABA's 1979 Standards for Lawyer Discipline and Disability Proceedings.

## II. Structure

### 1. COMMITTEE ON PROFESSIONAL CONDUCT

For the year 2012, the Committee continued to operate in the new model of three Panels established by the January 1, 2002, revisions to the Procedures. Late in 2008, the Supreme Court

authorized and selected members for four full panels effective January 1, 2009, hereafter known as Panels A, B, C, and D (Reserve). 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 2012 was as follows:

Panel A: Win Trafford, Pine Bluff, Attorney, Fourth Congressional District  
T. Benton Smith, Jr., Jonesboro, Attorney & Panel Chair, First Congressional District  
Steven Shults, Little Rock, Attorney, Second Congressional District  
Jerry Pinson, Harrison, Attorney, Third Congressional District  
Danyelle Walker, Little Rock, Attorney at Large  
Helen Herr, Little Rock, Non-attorney at Large  
Elaine Dumas, Little Rock, Non-attorney at Large

Panel B: Henry Hodges, Little Rock, Attorney, Second Congressional District  
James Dunham, Russellville, Attorney, Third Congressional District  
Barry Deacon, Paragould, Attorney & Panel Chair, First Congressional District  
Valerie L. Kelly, Jacksonville, Attorney, Attorney at Large  
Stephen Crane, Magnolia, Attorney, Fourth Congressional District  
Sylvia S. Orton, Little Rock, Non-attorney at Large  
Carolyn Morris, Danville, 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., Camden, Attorney & Panel Chair, Fourth Congressional District (replaced by Joseph Hickey of El Dorado in November 2011)  
Scott Stafford, Little Rock, Attorney, At Large  
Michael Mayton, Little Rock, Attorney, Second Congressional District  
Beverly Morrow, Little Rock, Non-attorney at Large  
Mark Limbird, Scranton, Non-attorney at Large

Panel D: Laura E. Partlow, West Memphis, Attorney, First Congressional District  
(Reserve) Joe A. Polk, Little Rock, Attorney, Second Congressional District  
William P. Watkins, III, Rogers, Attorney, Third Congressional District  
James A. Ross, Jr., Monticello, Attorney, Fourth Congressional District  
E. Kent Hirsch, Springdale, Attorney at Large  
Sue Winter, Little Rock, Non-attorney at large  
Ronnie Williams, Menifee, Non-attorney at large

The 2012 Executive Committee consisted of:

Win Trafford, Pine Bluff, Panel A, Committee Chair  
Sylvia Orton, Little Rock, Panel B, Committee Secretary  
Steven Shults, Little Rock, Panel A Chair  
Barry Deacon, Jonesboro, Panel B Chair  
Judge Kathleen Bell, Helena, Panel C Chair

The 2013 Executive Committee will consist of:

Barry Deacon, Jonesboro, Panel B, Committee Chair  
Helen Herr, Little Rock, Panel A, Committee Secretary  
Danyelle Walker, Little Rock, Panel A Chair  
Henry Hodges, Little Rock, Panel B 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. Panel D members are substitutes as needed for members of the other three panels who may not be available or who recuse in a case.

#### **COMMITTEE MEETING CALENDAR:**

Panel A meets on the third Friday of the months of January, March, May, July, September, and November.

Panel B meets on the third Friday of the months of February, April, June, August, October, and the second Friday of December.

Panels C and D meet “on call” for special settings of hearings.

## **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 leased offices at the Rebsamen Corporate Center at 2100 Riverfront Drive, Little Rock, Arkansas 72202. 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 budget of the Committee and Office for 2012-2013 is about \$950,000, totally funded by the Supreme Court 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. In addition to Executive Director Stark Ligon, the Office staff attorneys during 2012 were Nancie M. Givens - Deputy Director, Michael E. Harmon - Senior Staff Attorney, and Charlene A. Fleetwood - Staff Attorney.

In calendar 2012, as in previous years, 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’s Unauthorized Practice of Law Committee and the 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 2012 calendar year, the Office opened new files on 794 grievances on attorneys alleged lawyer misconduct, up from 735 new files opened in 2011.

In 2012, following assigned review by staff attorneys of disciplinary complaints received in calendar year 2012 and carry-over cases from previous years, 646 files were closed, down from 806 files closed in 2011.

### **IV. 2012 Formal Actions Initiated**

In 2012, there were 85 new formal Complaint attorney discipline cases opened for Committee on Professional Conduct panel action, down from the 97 total new formal Complaint cases opened in 2011 and the 119 such Complaints opened in 2010. In 2012, 56 formal Complaint files were closed, compared to 106 closed in 2011.

### **V. 2012 Final Committee Actions**

Final action was taken in 56 formal Complaint files involving Arkansas attorneys during Calendar Year 2012 by the Office and the Committee on Professional Conduct. There are five primary forms of action, or sanction, that the Committee on Professional Conduct may take. The lowest, a warning, is non-public. The other forms of sanction - caution, reprimand, license suspension, and initiating disbarment proceedings - are public sanctions.

## VI. 2012 - Most Common Rule Violations

In the 2012 findings of the Committee on Professional Conduct Panels, as in most previous recent years, the most common rule violations involved Arkansas Rules 8.4(d) (not engaging in conduct prejudicial to the administration of justice), 1.3 (acting with reasonable diligence and promptness in representing a client), and 1.4(a)(3) (keeping the client reasonably informed about the status of the client's matter). The following listing contains the Arkansas Rule alleged, the number of times the Committee found the rule to have been violated, and ranking of the nine most frequently violated Rules in 2012.

Rule	Found	Rank (# Found)
1.1	11	3
1.2(a)	3	7
1.3	25	2
1.4(a)	2	
1.4(a)(3)	5	6
1.4(a)(4)	2	
1.5(a)	2	
1.5(b)	1	
1.5(c)	1	
1.7(a)	1	
1.8(j)	1	
1.10(a)	1	
1.15(a)(1)	3	7
1.15(a)(5)	2	
1.15(b)(1)	3	7
1.15(b)(2)	2	
1.16(a)(2)	1	
1.16(c)	1	
1.16(d)	8	4
3.2	1	
3.3(a)	1	
3.3(a)(1)	1	
3.4(c)	2	
3.5(b)	1	
3.5(d)	1	
4.1	2	
4.4(a)	2	
5.5(a)	2	
8.1(a)	1	
8.1(b)	1	
8.3(a)	1	

8.4(b)	2	
8.4(c)	8	4
8.4(d)	27	1

## VII. “Practice Aging” of Attorneys Disciplined (2012)

Of the 2012 final disciplinary actions by the Committee, based on number of years licensed in Arkansas, attorneys were publicly sanctioned as follows:

Years Licensed	# of attorneys publicly disciplined	Percentage
1-10 (2003-2012)	3	9.7%
11-20 (1993-2002)	15	48.4%
21-30 (1983-1992)	6	19.4%
31-40 (1973-1982)	5	16.1%
41+ (before 1972)	2	6.5 %

(Several attorneys were publicly sanctioned more than once in 2012.)

## VIII. 2012 Fines, Restitution & Costs

	Imposed in 2012	Collected in 2012
Fines:	16,000.00	17,650.00
Restitution:	11,066.00	11,873.00
Costs:	1,650.00	3,000.00
Total:	28,716.00	32,523.00

(Note: some of the collections in 2012 were assessed in cases finalized in earlier years.)

## IX. 2012 Trust Account “Overdraft” Reporting

- 50 Total reports were received in 2012 from all banks and reporters (compared to 64 in 2011). Forty-six of these files were closed after a summary investigation and explanation by the attorney involved.
- 11 Files are still “open” to some extent, such as awaiting additional documentation from the attorney.
- 0 Of these 2012 reports have resulted in filing a formal Complaint to date.
- 6 Number of 2012 reports still “open” that are potential cause for some concern, although no client funds are believed to be unaccounted-for.

The overwhelming majority of overdraft reports were due to some for of “attorney/firm error” such as bookkeeping math mistakes, failure to make timely deposits of settlement funds, release of settlement checks to clients and third parties before settlement funds were available in the trust account, depositing checks into the wrong account, failure to account for IOLTA interest withdrawals or bank service fees, client fee and expense checks bouncing, etc. Some admitted bank errors are reported.

## **X. Summaries of 2012 Public Sanctions**

**Please see attached Appendix B.**



**Appendix A**

**TWELVE YEAR STATISTICAL COMPARISON 2001-2012 (Unofficial - as of 12-31-12)**

Category	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012
Files opened	873	1,028	972	892	826	804	819	859	861	888	735	794
Closed by staff	691	737	825	796	868	1137	784	786	742	845	806	646
Complaints filed	149	186	200	164	159	156	140	114	144	119	97	85
Appellate Refers	34	45	50	40	34	39	50	33	41	18	17	40
Judicial Refers	13	12	12	8	8	19	6	4	4	6	10	18
Other/by Attys				24	7	16	9	15	15	7	14	38
Complints closed	135	178	185	211	181	173	182	122	128	119	106	74
No Actions	12	30	15	24	18	19	13	10	11	10	7	4
Warnings	45	53	54	38	33	53	41	37	46	26	20	13
Cautions	14	31	28	53	41	29	34	20	28	15	24	8
Reprimands	26	35	37	36	31	30	26	14	14	19	20	11
Suspensions	19	14	20	9	17	12	23	12	10	10	11	9
Surrenders	13	5	5	11	6	7	1	6	5	3	14	8
Merge/surrend		1	14	29	5	4	0	6	18	6	9	1
Disbar initiated	6	3	3	3	7	2	1	1	2	1	2	1
Disbarments		0	0	3	0	2	2	2	4	3	0	0
Reinstated	3	3	8	10	13	11	6	0	6	2	2	5
Consents	13	35	54	71	51	64		45	50	28	29	18
Refer to ArJLAP	N/A	2	0	0	1	3	0	0	0	0	0	0
# Attys Public Sanctioned*	57	61	72	101	102	68	67	49	44	44	60	29

\* 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.

## Appendix B - 2012 Disciplinary Summaries

**DISBARRED: None by formal disbarment proceedings**

### **SURRENDER:**

**BROWN, JAMES SCOTT, Bar No. 70082**, of Leawood, KS, in No.11-1156 petitioned the Court to surrender his Arkansas law license, in lieu of probable disbarment proceedings, as a result of his guilty plea in September 2011 in federal court in St. Louis, MO, in No. 11-cr-168, on a felony charge of conspiracy to commit wire and mail fraud. He was involved in an international “Ponzi” type investment scheme of approximately \$50,000,000, where Brown admitted to benefitting personally in excess of \$1,000,000. On August 7, 2012, Brown was sentenced to serve thirty-six (36) months in federal prison and pay \$34,627,714 restitution. On August 14, 2012, his petition was accepted and Mr. Brown was barred from the practice of law in Arkansas.

**JONES, GREGORY D., Bar No. 87095**, formerly of Fayetteville and now of Eureka Springs, in No. 12-589, petitioned the Court to surrender his Arkansas law license, in lieu of disbarment proceedings, as a result his having abandoned his active law practice in July 2011 without notice to his many clients and former clients, resulting in the circuit court there having to appoint a receiver for his client files and the interim suspension of Jones, both in December 2011. In June 2012, after Jones failed to file a response, a Committee Panel voted to initiate disbarment proceedings against him on a complaint from Rob Merry-Ship of Fayetteville arising out of funds for future case expenses being missing from Jones’ client trust account and a failure by Jones to account for an \$85,000 fee paid by Merry-Ship in October 2010 for future legal services in a pending civil case. On August 14, 2012, the petition was accepted and Mr. Jones was barred from the practice of law in Arkansas.

**SHAHAN, MICHAEL R., Bar No. 93175**, of Springdale, Arkansas, in No. 12-799, petitioned the Court to accept the surrender of his Arkansas law license, based on his guilty plea in May 2011 to a felony count of sexual assault in the first degree in Crittenden County Circuit Court. The Court accepted his petition on November 15, 2012, at 2012 Ark. 433, and ordered him barred from practicing law in Arkansas, thereby mooting the pending petition for disbarment filed September 18, 2012.

**STEVENS, HOLLY C., Bar No. 2005017**, of Little Rock, Arkansas, previously licensed in North Carolina in 1998, in No. 12-904, petitioned the Court to accept the surrender of her Arkansas law license based on her prior disbarment in the State of North Carolina on March 4, 2011, for conduct involving fraudulent practices in real estate transactions, and in lieu of facing reciprocal disciplinary proceedings in Arkansas for that serious misconduct. The Court accepted her petition on November 1, 2012, at 2012 Ark. 410, and ordered her barred from practicing law in Arkansas.

## **SUSPENSION:**

**COLSON, DONALD WAYNE, Bar No. 2005166**, of Bauxite, Arkansas, had his Arkansas Law License suspended for a period of thirty-six (36) months by Committee Findings & Order filed September 5, 2012, on a Complaint filed by Shawn Skelton in Case No. CPC 2012-021, for violations of Arkansas Rules 1.3, 1.4(a), 1.16(d), 8.1(b), and 8.4(c). Mr. Colson was also ordered to pay \$650 restitution. Mr. Skelton hired Mr. Colson in September 2010 and paid him \$650 to represent him in a support / paternity / visitation matter so that Mr. Skelton could obtain a regular visitation schedule with his minor child. Thereafter, Mr. Colson took no action on behalf of Mr. Skelton. There was no communication and no court action was filed. Mr. Colson was contacted by the Office of Professional Conduct about this matter twice, before the filing of the formal disciplinary Complaint, but failed to respond to either inquiry. Mr. Colson also failed to respond to the formal disciplinary complaint and a separate sanction of a Reprimand was imposed by the Panel for that failure to respond.

**DAVIS, FRED D., III, Bar No. 72033**, of Jefferson County, in Supreme Court disbarment proceeding No. 05-501, on November 29, 2012, at 2012 Ark. 440, was assessed a five (5) year prospective suspension of his law license by the Court as a result of an adjudication of his guilt by a jury in early 2005 of the Class C felony offense of attempting to evade or defeat a tax. The trial resulted three year suspended imposition of sentence, an outcome affirmed on appeal in 2006. Davis was found to have violated Arkansas Model Rules 8.4(b) (criminal conduct) and 8.4(c) (conduct involving dishonesty, fraud, deceit, or misrepresentation. In October 2002, Davis, then a sitting circuit judge, purchased a new truck, but failed to properly license it or pay the state sales tax on it. In June 2004, Davis was arrested for DWI and his failure to pay the state vehicle sales tax was discovered. He promptly paid all tax and penalty, but was soon charged with the felony. Davis resigned his judicial office in March 2005. The disbarment case was filed in May 2005, and Davis was thereafter on interim suspension until the Supreme Court ruled.

**DAVIS, LISA D., Bar No. 2001072**, of Piggott, Arkansas, on March 22, 2012, in No. CPC 2011-078, on a complaint by Gary Dalton of Tennessee, on ballot vote was sanctioned with a three (3) month license suspension for violations of Arkansas Rules 1.2(a), 1.3, 1.5(b), 4.1, 8.1(a), and 8.4(c) and also ordered to pay \$3,500 restitution to Dalton and a \$2,500 fine. In 2003, Gary Dalton and his brother B.W. Dalton (of Georgia) acquired a farm of about 117 acres in Clay County, Arkansas, as tenants in common, each owning an undivided one-half interest. Problems arose between the brothers over the farm. In August 2008, Gary Dalton employed Davis to file suit for the partition of the farm, and paid her the flat fee of \$3,500 she quoted for this service plus \$150.00 for costs of the suit. From November 2008 through May 2010, Davis or her staff informed Dalton that Davis had filed suit for him in 2008 and they were awaiting a court date, and then that they were awaiting a mediation date for the case. Dalton was not provided with a copy of any lawsuit Davis had allegedly filed for him.

Gary Dalton filed his grievance at the Office of Professional Conduct (OPC) on June 4, 2010. Within a week, Stark Ligon of OPC contacted Ms. Davis by e-mail, notified her of the filing of the Dalton grievance, and asked Davis to respond. In subsequent e-mails through July 31, 2010, Ligon asked Davis for a copy of the suit she had filed for Dalton. On August 2, 2010, Davis faxed Ligon copies of a Petition for Partition, file stamped August 21, 2008, as Case No. CV-2008-23 in Clay County Circuit Court, styled "Gary and Helene Dalton v. B. W. Dalton," along with a copy of a purported Answer for B. W. Dalton file stamped September 4, 2010, and showing on its face that the Answer was filed by Paragould attorney King Benson.

On August 14, 2010, Ligon requested the OPC Investigator to obtain directly from the Clay County Circuit Clerk the docket sheet, Complaint, and Answer in No. CV-2008-23, or find out if the case did not exist there. On August 18, 2010, the Investigator obtained from the Court Clerk copies for the docket sheet, Complaint, and Answer for No. CV-2008-23, showing the actual case filed was styled "Eugene and Terry Slaten v. Mark and Leana Mann," and file stamped April 21, 2008, being filed approximately four months before Gary Dalton employed Lisa Davis. The Slatens were represented by Lisa Davis. King Benson of Paragould represented the Manns.

The Clerk also provided OPC with a copy of the docket sheet, Petition for Partition, and Answer filed in No. CV-2010-48, file stamped July 29, 2010, at 2:21 p.m., in the new partition action styled "Gary & Helene Dalton v. B. W. Dalton," which appears to be the same pleading as that submitted by Ms. Davis to OPC as allegedly being filed in August 2008 as No. CV-2008-23, except for the case number. The Answer in No. CV-2010-48 for B. W. Dalton was filed by Piggott attorney David Copelin on August 13, 2010. Ligon e-mailed Ms. Davis on August 14, 2010, and she replied on August 17, 2010, stating, "My client decided to non-suit the stagnant case, as I was unable to get it transferred. We then refiled, with me paying the costs...." In fact, the "stagnant case," presumably her "Dalton v. Dalton" No. CV-2008-23, was never filed as the Dalton partition case, but was an unrelated case Davis filed, which she passed off on her client Gary Dalton and then on OPC as having been filed in August 2008, which was a false statement to Dalton and then to OPC.

On August 14, 2010, Ligon contacted King Benson about the "2008 Dalton" case, and sent him copies of the pleadings provided to OPC by Davis. Benson denied ever having a client named B. W. Dalton, or ever having filed the alleged Answer for him in the purported "Dalton v. Dalton" No. CV-2008-23, or that the signature purporting to be his on the 2008 Answer was made by him. Ligon explained the situation to Gary Dalton, who then made a decision to continue with Davis as his attorney, having paid her the full fee, in hopes she would get the farm dispute with his brother settled in an early mediation, sale of the farm, or court resolution, and then OPC could do what it determined needed to be done with Davis. By November 30, 2010, a deal by which brother B. W. Dalton would purchase Gary Dalton's interest in the farm had fallen through. Thereafter Davis pursued a setting for the court-ordered mediation of the dispute. The mediation was conducted by June 1, 2011, and was not successful. On June 6, 2011, Davis sent Gary Dalton a Statement for an additional \$8,793.75, supposedly for 70.25 hours of time, at \$175.00 per hour, reduced by his initial \$3,500 payment. Dalton questioned the additional billing, asked for an itemization, and did not pay any of it. Dalton continued to push Davis to get his lawsuit a prompt court date.

By mid-July 2011, Dalton had received, through Davis, an offer from an area buyer for his interest in the farm. Becoming increasingly concerned about Davis and her fee issues, Dalton sought the services of another area attorney. In mid-July 2011, Dalton employed H. T. Moore of Paragould to replace Davis, and then Dalton terminated the services of Davis. Moore took over, arranged for a partition of the farm by exchange of deeds between the Dalton brothers, got the sale of Gary Dalton's now separate land closed on September 8, 2011, and dismissed the Dalton v. Dalton partition suit, No. CV-2010-48.

**DENDY, JAMES M., Bar No. 81045**, of Maumelle, had his Arkansas Law License suspended for a period of twenty-four (24) months by Committee Findings & Order filed September 21, 2012, for violations of Arkansas Rules 1.1, 1.4(a)(3), 1.5(a), 1.16(d), 8.3(a), 8.4(c), and 8.4(d) CPC 2012-033, on a referral on February 16, 2012, by United States District Judge Susan Wright that Mr. Dendy had apparently abandoned his federal criminal defendant client, Mark Quattlebaum, in mid-case, after a guilty plea but before sentencing. After a hearing, Judge Wright relieved Mr. Dendy and appointed attorney John Wesley Hall, Jr. to represent Mr. Quattlebaum. Mr. Hall filed a grievance with OPC on April 18, 2012, stating that his investigation revealed that Mr. Dendy had been assisted in the Quattlebaum case by former (license surrendered in 2003) attorney Kenneth G. Fuchs, that Quattlebaum had generally met with both Dendy and Fuchs on his case, and had actually made all of his cash fee payments for Dendy to Fuchs. In 2010-2011, Mr. Dendy was practicing law from an address in Mayflower, Arkansas, and became the retained attorney of record for Mark Quattlebaum of Conway by October 14, 2010, in USDC Case No. 10-CR-188. A billing statement from Dendy to Quattlebaum dated November 1, 2011, shows a \$7,500 fee was charged to Quattlebaum by Dendy on August 2, 2010, and three cash payments on Quattlebaum's account, totaling \$6,600, were credited between August 7, 2010 - January 27, 2011.

Mr. Dendy came in contact with former Arkansas-licensed attorney, Kenneth G. Fuchs in 2010 through Quattlebaum. While in jail custody pursuant to a contempt order of the Supreme Court of Arkansas in June 2003, Mr. Fuchs surrendered his Arkansas law license rather than face disciplinary proceedings alleging serious misconduct. The Per Curiam Order entered June 12, 2003, in Case No. 03-633, accepting his petition to surrender, also barred and enjoined Mr. Fuchs from engaging in the practice of law in this state. Section 22, "Restrictions on Former Lawyers," of the Supreme Court's Procedures defines a "former attorney" as one who has surrendered his law license, applicable to Mr. Fuchs. Section 22.G provides a former attorney shall have no contact with clients of any attorney by any means. Section 22.H provides a former attorney shall have no contact with client funds or property. Section 22.L provides that no attorney shall aid a former attorney in the unauthorized practice of law or in violation of the restrictions in Section 22. Section 22.L also provides that an attorney shall have an obligation, as under Arkansas Rule 8.3, to report any violation of Section 22 by a former attorney. Section 22.N provides that the maximum punishment for violation of Section 22 by an attorney may be disbarment. A former attorney who violates Section 22 may be deemed to be in contempt of the Supreme Court and may be punished accordingly.

Mr. Quattlebaum's Affidavit of May 2012, clearly sets out the involvement of Fuchs in Dendy's representation of Quattlebaum in the federal case. Quattlebaum was informed by them

or led to understand that Dendy and Fuchs would be jointly representing Quattlebaum. Quattlebaum actually made his three cash fee payments to Fuchs. When Quattlebaum had difficulty contacting Dendy, he would go through Fuchs to find Dendy. He stated Fuchs actually was in court with Dendy in October 2010 when Quattlebaum entered a not guilty plea. Problems with mail service between the clerk's office and Dendy had arisen by December 2011. Dendy failed to appear at a hearing on February 3, 2012, and Judge Wright had to appoint Quattlebaum a new attorney to finish his case. In setting his sanction, the Panel found his lack of a prior disciplinary history was a factor. Mr. Dendy failed to file a response, and was sanctioned for that with an additional reprimand.

**INGLE, MARGARET, Bar No. 2011287**, of Austin, Texas, on September 21, 2012, had her Arkansas Law License suspended for a period of thirty (30) days as a result of a Reciprocal Action by Committee Reciprocal Order in No. CPC 2012-043. Ms. Ingle self-reported to the Committee that she had been disciplined by an Agreed Judgment of Partially Probated Suspension in a disciplinary case in Texas, where she is licensed with Texas Bar Card No. 24050805. By letter dated July 19, 2012, the Office of the Chief Disciplinary Counsel for the State Bar of Texas provided a certified copy of the Agreed Judgment of Partially Probated Suspension in Case No. A0041113710, Commission for Lawyer Discipline vs. Margaret A.H. Ingle, before the District 9 Grievance Committee Evidentiary Panel 9-3, State Bar of Texas, filed April 23, 2012. By the Texas settlement order, Ms. Ingle agreed to a suspension of her Texas law license for four (4) years, with one month to be active suspension and the remaining time probated suspension on conditions. Pursuant to Section 14 of the Arkansas Procedures Regulating Professional Conduct of Attorneys at Law, the Committee imposed a like sanction of the active thirty day suspension of Ms. Ingle's Arkansas Law License.

**JENKINS, NEWTON DONALD, JR., Bar No. 94231**, of Van Buren, had his Arkansas Law License suspended for a period of twenty-four (24) months by Committee Findings & Order filed August 17, 2012, on a complaint by Leslie Rose, for violations of Arkansas Rules 1.1, 1.2(a), 3.3(a), 4.1(a), and 8.4(c). In February 2004, Ms. Rose was purchasing a 35 acre farm in far eastern Oklahoma on a contract of sale, seller-financed at \$500 per month, for six plus years. She married Joshua Greb (Greb). After fixing up the farm for occupancy, in mid-2007 they moved their legal residence to the farm and obtained Oklahoma driver's licenses in July 2007. Both worked in Arkansas. In August 2008, mounting expenses plus medical bills caused them to consult Mr. Jenkins at the Jenkins Law Firm in Crawford County, Arkansas, related to a possible bankruptcy. Rose paid the JLF \$1,500 in August 2008 for services for a Chapter 7 bankruptcy case.

After reviewing their financial information, Jenkins counseled that their tax returns for several previous years needed to be amended, specifically to add into the income and expense mix a "horse farm operation" to meet the "means testing" eligibility for a Chapter 7 filing. In early 2009, the Jenkins Law Firm prepared amended federal returns for Rose and Greb for the years 2006 and 2007. The Jenkins Law Firm also prepared amended state returns for them for the years 2006 and 2007. The amended 2006 state return was for Arkansas where they lived the entire year, at the Arkansas residence address of her parents. The amended 2007 state return was

for Arkansas where they lived part of 2007, before relocating to their Oklahoma farm. Rose later learned no amended 2007 Oklahoma state return was filed. The original 2008 federal and Arkansas returns were prepared by Jenkins Law Firm on April 29, 2009, and again both listed the Arkansas address, although Rose had notified the firm by e-mails during April 28-May 4, 2009, that they definitely lived in Oklahoma and both had Oklahoma drivers licenses.

On June 16, 2009, Jenkins filed their Chapter 7 in Arkansas, as No. 09-bk-72969, using the Arkansas address of Rose's parents for the debtors. Jenkins did not disclose in the bankruptcy filing that Rose was buying the 35 acre farm in Oklahoma or that either debtor had any interest in real property. Jenkins listed the \$500 monthly farm contract payment by Rose as being "rent or mortgage" payments but did not link it to any disclosed ownership interest. On July 24, 2009, Greb and Rose appeared with Jenkins in Fort Smith before the Chapter 7 Trustee for their "341(a)" examination. The partial transcript shows them producing their 2007 Oklahoma driver's licenses and then Jenkins explaining that away by stating they really resided in Arkansas and that he had their tax returns to prove it. Greb and Rose basically followed Jenkins' lead in responding to the Trustee's questions. The Trustee was misled as to their actual state of residence, on the issue of ownership of any real property, and possibly on their ability to claim Arkansas state exemptions, if they were not Arkansas residents.

In preparing and supposedly filing their 2009 Oklahoma tax return in April 2010, Jenkins failed to have the return filed, causing Rose to later have to pay penalty and interest. Rose had to go to another tax preparer in December 2010 to prepare and file an amended 2009 Oklahoma state return. In preparing and filing their 2009 Arkansas tax return in April 2010, Jenkins failed to have the required 2009 US tax return filed with it, causing Rose to later be assessed and have to pay penalty and interest. Rose had to go to another tax preparer in January 2011 to prepare and file an amended 2009 Arkansas state return. In preparing and filing their 2009 U.S. tax return, Jenkins used the horse farm as a going business for purpose of deducting business expenses to lower their income to meet the Chapter 7 "means test." In January 2011, Rose had to go to another tax preparer to prepare and file an amended 2009 U.S. tax return to remove all farm expense and "losses" Jenkins had claimed for them, stating there "was no farm in 2009," and to correct their address to Oklahoma.

**KEARNEY, JEFFREY H., Bar No. 91249**, of Pine Bluff, Arkansas, in Committee Case No. CPC 2012-024, by Findings and Order filed July 10, 2012, in regards to his representation of Peter Daniels, Jr., on a civil appeal, and on his prior disciplinary record, was suspended for a period of two (2) months. Mr. Kearney lodged the record with the Court of Appeals and his brief was due by November 7, 2011. On November 1, 2011, Mr. Kearney telephoned the Supreme Court Clerk and was granted a seven day "clerk's" extension of time, making his brief due on November 14. Mr. Kearney did not file his brief when it was due. On November 17, Mr. Kearney filed Appellant's Motion for Expansion of Time requesting an additional fourteen (14) days, or until November 30, in which to file his brief. He then filed a Motion for Belated Brief on November 29, repeating the request he made in his November 17 Motion. In between these two Motions, Mr. Kearney did not submit a brief. On December 8, 2011, Appellee's attorney filed a Response to Kearney's Motion for Belated Brief and a Motion to Dismiss. The Court granted Mr. Kearney's Motion for Belated Brief on December 14, giving Kearney until December 20 to file

his brief. Mr. Kearney failed to file his brief on December 20, and instead filed a Motion for Further Belated Brief. On December 29, Appellee's attorney filed another Motion to Dismiss. On January 11, 2012, the Appeals Court denied Mr. Kearney's Motion for Further Belated Brief and granted Appellee's Motion to Dismiss the appeal.

**REECE, DANA A., Bar No. 87142**, of Little Rock, Arkansas, in Case No. CPC 2012-051, was suspended (**appellate work only**) for a period of thirty-six (36) months specifically only from representing clients before the Arkansas Supreme Court or the Arkansas Court of Appeals by Panel B of the Committee on Professional Conduct on November 28, 2012, for violation of Rules 1.1, 1.3, and 8.4(d). Ms. Reece represented Cristobal Mancia, an inmate at the Arkansas Department of Correction, in a Rule 37 Petition for Post-Conviction Relief. The petition was denied on March 7, 2011, and Mr. Mancia informed Ms. Reece that he wished to appeal the denial. Ms. Reece filed a notice of appeal on March 7, 2011. The record was timely filed and Ms. Reece filed two Motions for Extension of Time. Both motions were granted and a brief was due to be filed by August 25, 2011. No brief was filed, and the State of Arkansas filed a Motion to Dismiss. On October 27, 2011, the Arkansas Supreme Court granted the State's motion. On November 4, 2011, Ms. Reece filed a Motion to Reconsider Dismissal and Reinstate Appeal and Motion to File Belated Brief. The Arkansas Supreme Court granted the motion and reinstated the appeal on December 1, 2011. The matter was then referred to the Committee on Professional Conduct.

Ms. Reece had been sanctioned previously in six other disciplinary matters involving appeals to the Arkansas Supreme Court and Court of Appeals. This suspension applies only to matters involving appeals to the Arkansas Supreme Court and Court of Appeals and the Panel directed that the suspension be effective from April 24, 2012, the date of the filing of the Findings and Order in the case of *In Re: Dana A. Reece*, CPC Docket No. 2011-085, and run concurrently with the similar "appellate" suspension in that matter.

**WEINBERG, SUSAN MADELINE, Bar No. 77191**, of Boca Raton, Florida, was reciprocally suspended for ninety-one (91) days in Arkansas on February 17, 2012, in No. CPC 2011-096, based on an Order for a similar suspension by the Supreme Court of Florida filed September 20, 2011, which Ms. Weinberg reported to the Arkansas authority. Believing they were shielding an adult family member with significant, long-term medical issues from an embarrassing paper trial of prescriptions, Ms. Weinberg admitted she had filled in her name prescriptions, replicated by her physician husband from other prescriptions from another provider, that were intended for use by the family member, thus engaging in insurance fraud. The family member had no medical insurance and the prescriptions were submitted to Ms. Weinberg's health insurer, which paid \$6,795 in such billings. The insurance company was repaid in full, and Ms. Weinberg consented to the Florida suspension for violating Rule 8.4(c) regarding conduct involving dishonesty, fraud, deceit, or misrepresentation.



## **REPRIMAND:**

**CLOUETTE, JAMES P., Bar No. 74025**, of Little Rock, Arkansas, in No. CPC 2010-002, on remand by the Court for a new sanction hearing, (see 2011 Ark. 68), was assessed a Reprimand and probation on April 15, 2011. The Executive Director took a second appeal, asserting that a suspension of license was required. The Court affirmed the reprimand on January 26, 2012, in 2012 Ark. 21, stating that although Clouette had been adjudicated guilty of a felony possession of controlled substance offense at a bench trial, but with no entry of a judgment of conviction, the “very limited circumstances” exception in Section 17.E(4) of the [attorney discipline] Procedures allowing the Committee to impose a reprimand for “serious misconduct” was an available sanction in this case on its facts, as found by the Committee Panel.

**COLLINS, MICHAEL DAVID, Bar No. 97078**, of Fort Smith, Arkansas, in No. CPC 2012-025, was Reprimanded by Panel B of the Committee on Professional Conduct on July 20, 2012, for violation of Arkansas Rules 1.1, 1.3, and 1.5(a) on a Complaint filed by the Virginia State Bar and Tammy Hamby of Van Buren, Arkansas. Mr. Collins represented Hamby & Hamby Wellness Clinic, PLLC Jeffrey Hamby, MD, who were named defendants in a suit filed November 16, 2009, in state court in Bland County, Virginia. Mr. Collins filed a “late” Answer to the Complaint even though he had not applied for *pro hac vice* status in Virginia. On March 8, 2010, a default judgment was entered against the Hamby defendants for \$163,388.33, plus interest and attorney’s fees of \$40,847.08. The Hamby defendants learned of the Virginia judgment when a local sheriff’s deputy appeared at the clinic and informed the Hambys that the clinic would be subject to an upcoming sale. To prevent the sale, the Hamby defendants filed for Chapter 11 Bankruptcy protection on November 15, 2010. The Hamby defendants were involved in separate case in Crawford County Circuit Court concerning a materialman’s lien. Mr. Collins filed an answer for the Hambys and was served with Interrogatories, Requests for Production, and Requests for Admissions. A Motion to Compel was filed by opposing counsel. On April 12, 2010, the Court directed the Hamby defendants to respond to the Interrogatories and Production of Documents within fifteen days of the Order. Mr. Collins filed a response on May 25, 2010. The Requests served on the Hambys were deemed as admitted against them when no timely response was filed. A Motion for Partial Summary Judgment was filed, but no response was filed by Mr. Collins within the time allowed. The trial court issued a letter opinion stating that the Hambys had admitted that there was an outstanding balance owed to the Plaintiff. After employing new counsel, a hearing was held and the trial court entered a judgment here against the Hambys for \$30,947.25.

**HARRELSON, JEFFREY S., Bar No. 96118**, of Texarkana, Arkansas, was Reprimanded in CPC 2011-088 for violations of Rules 1.1 and 8.4(d) of the Arkansas Rules of Professional Conduct in a Findings and Order filed February 29, 2012. The Arkansas Supreme Court referred Mr. Harrelson to the Committee for his failure to comply with the Supreme Court directives dealing with appellant’s briefs in Rule 37 appellate matters. Mr. Harrelson was appointed to represent Derek Sales in a post-conviction matter involving denial of a Rule 37 petition following conviction in a capital case. The brief filed by Mr. Harrelson was found to be deficient

and not in compliance with Supreme Court requirements. Because Mr. Harrelson had previously been cautioned in another Rule 37 appeal in a capital case about being thorough, he was again referred to the Committee. Justice Brown delivered a Concurring Opinion wherein he stated that Mr. Harrelson should be relieved from representation of Mr. Sales because of his casual disregard for his obligations in the representation.

**HURST, Q. BYRUM, JR., Bar No. 74082**, of Hot Springs, Arkansas, in Committee Case No. CPC 2012-008, by Findings and Order filed on May 22, 2012, on conduct related to the representation of Richard Federick in a criminal appeal from a conviction in Saline County Circuit Court, for violation of AR Rules 1.3 and 8.4(d), was reprimanded and fined \$1,000.00. Mr. Federick entered a conditional plea of guilty and a timely notice of appeal was filed on October 11, 2011. The deadline for filing the record on appeal was January 9, 2012, pursuant to Rule 4(b) of the Arkansas Rules of Appellate Procedure—Criminal. Mr. Hurst tendered the record to the Arkansas Supreme Court Clerk on January 10, 2012. On January 11, 2012, Mr. Hurst filed a Motion for Rule on the Clerk. The motion was granted and the Arkansas Supreme Court referred Hurst to the Committee on Professional Conduct. Mr. Hurst stated that his office had installed a new time management system program which crashed, resulting in the loss of previously entered dates and deadlines. Mr. Hurst's prior disciplinary record included four prior sanctions involving missed appeal deadlines.

**MORITZ, WILLIAM KURT, Bar No. 99021**, of Hope, Arkansas, was Reprimanded by Panel B of the Committee on Professional Conduct on February 17, 2012, in No. CPC 2011-060, for violation of Rules 1.3, 1.4(a)(3), and 1.16(d) on a Complaint filed by Virginia Huckabee. Huckabee employed Moritz in 2008 to transfer title to property which had remained titled in her father's name since his death in 1969. Huckabee paid Moritz \$3,500. Moritz prepared a Petition for Appointment of Administrator and Estate as well as a waiver for heirs to sign. Huckabee obtained the signatures and provided the documents to Moritz. Moritz called Huckabee in 2009 and had her meet him at the courthouse. Moritz told Huckabee that he met with the judge and obtained a quitclaim deed. Huckabee was told that she would receive the deeds in a couple of weeks. Huckabee did not receive the deeds and contacted Moritz's office. After not hearing from Moritz, Huckabee wrote Moritz and demanded her file and a refund of unearned advanced fees. Moritz failed to reply in writing but stated in his response that he spoke to Huckabee before and after the letter was received. Huckabee employed other counsel and obtained the results she sought shortly thereafter. Huckabee wrote Moritz again and asked for a refund but again received no response. After service of the formal complaint, Moritz refunded Huckabee \$2,000, conditionally admitted to violation of the Rules of Professional Conduct, and proposed a disciplinary sanction. The Committee Panel accepted the proposed consent to discipline and the Consent Findings and Order was filed on February 17, 2012.

**MORITZ, WILLIAM KURT, Bar No. 99021**, of Hope, Arkansas, was Reprimanded by Panel B of the Committee on Professional Conduct on February 17, 2012, in No. CPC 2011-061, for violation of Rules 1.1, 1.3, 1.4(a)(4), and 1.16(d) on a Complaint filed by Kathy Hogan. Hogan went to Moritz in 2006 after she was served with a lawsuit filed in Garland County Circuit

Court. Hogan paid Moritz \$200 for a consultation. No answer was filed on Hogan's behalf and a judgment in the amount of \$43,539.46 was entered against her. Hogan then returned to Moritz who suggested that she and her husband file bankruptcy. Hogan paid Moritz \$800 to file bankruptcy and provided him with a list of all creditors, account numbers, balances and addresses. Hogan thereafter completed the pre-filing certification required by the Bankruptcy Code. Hogan maintained contact with Moritz every month for six months. Moritz then relocated his home and office from Hot Springs, Arkansas, to Hope, Arkansas. Moritz stated that during the move, he lost Hogan's bankruptcy file and was unaware that Hogan had made efforts to contact him. No bankruptcy petition was ever filed by Moritz on behalf of Hogan. After service of the formal complaint, Moritz provided Hogan with \$2,300 for Hogan to obtain new counsel to represent her in a bankruptcy matter, conditionally admitted to violation of the Rules of Professional Conduct, and proposed a disciplinary sanction. The Committee Panel accepted the proposed consent to discipline and the Consent Findings and Order was filed on February 17, 2012.

**REECE, DANA A., Bar No. 87142**, of Little Rock, Arkansas, in Committee Case No. CPC 2011-085, by Findings & Order filed April 24, 2012, on conduct related to the representation of Bruce Pennington in an appeal from the denial of post-conviction relief in Poinsett County Circuit Court, for violation of AR Rules 1.1, 1.3, 5.5(a), and 8.4(d), was reprimanded and fined \$1,000.00. Ms. Reece was also reprimanded and fined another \$1,000 for failing to file a timely response to the Complaint. Ms. Reece was also suspended for a period of thirty-six months from representing clients before the Arkansas Supreme Court or Arkansas Court of Appeals. On November 3, 2010, the Poinsett County Circuit Court denied Bruce Pennington's Petition for Rule 37 Post-Conviction Relief. Ms. Reece filed a timely notice of appeal on November 4, 2010. The record was timely filed on January 26, 2011, and pursuant to Rule 4-3 of the Arkansas Rules of Supreme Court, a brief was to be filed on or before March 7, 2011. On March 2, 2011, Ms. Reece's Arkansas license to practice law was suspended for failure to pay the annual license fee. On March 4, 2011, Ms. Reece filed a Motion for Extension of Time to File Brief in the Pennington matter. The motion was granted and a brief was due to be filed on April 6, 2011. On April 6, 2011, Ms. Reece filed a second Motion for Extension of Time to File Brief. Ms. Reece was notified that her license had been suspended on March 2, 2011, and that she was to pay her license fee and a motion for belated brief. On April 7, 2011, Ms. Reece paid her license fee and was reinstated. She also filed a Motion for Belated Brief but failed to tender a brief along with the motion. On May 5, 2011, the Arkansas Supreme Court denied the motion as there was no brief tendered. Ms. Reece filed a second Motion for Belated Brief on May 11, 2011 and again failed to tender a brief with the motion. The Court again denied the motion. On August 31, 2011, Ms. Reece filed a third Motion for Belated Brief along with a tendered brief. The Court granted the motion and referred her conduct to the Committee on Professional Conduct. Ms. Reece was served with the Complaint, and failed to file a timely response. Ms. Reece's prior disciplinary record included five prior sanctions involving missed appeal deadlines.

**SINGLETON, JEFFREY L., Bar No. 99173**, of Little Rock, Arkansas was reprimanded by Committee Findings and Order filed December 10, 2012, on a self-referral made by Mr.

Singleton, and report of Honorable Mackie Pierce and Attorney James Keever, in Case No. CPC 2011- 083, for violations of Rules 4.4, 8.4(a) and 8.4(d). Singleton self-reported his conduct in a civil matter pending in Pulaski County Circuit Court. During the course of his representation (defense) of a doctor in a medical malpractice action, Mr. Singleton sent the doctor an e-mail suggesting that he think of “backdoor ways” to cause the Plaintiff’s medical expert to decide he did not want to testify in the litigation. He was specific to the point of mentioning the expert’s university employer as someone to be contacted to cause the decision to be made to not testify. Relying on Mr. Singleton’s suggestion, his client, Dr. Kravatz, sent e-mails which were improper and which caused much activity and additional hearings before Judge Pierce in the pending litigation. There was no legitimate, ethical purpose for the e-mails or for the suggestion to engage in conduct in an effort to find “backdoor ways” to put pressure on Plaintiff’s named expert.

**STRICKER, RALPH THEODOR, Bar No. 80139**, of Jonesboro, Arkansas, in Committee Case No. CPC 2012-007, by Consent Findings & Order filed May 18, 2012, on complaint by Jerry Harrison and Mark Rees, Esq., for violation of AR Rule 1.8(j) was reprimanded and ordered to pay costs of \$50.00. Mr. Stricker represented Leesia Harrison in a personal injury matter that occurred in 2009. Mr. Harrison states that at the time of their February meeting with Mr. Stricker he began giving them unsolicited advice on their marriage. On April 28, 2010, using another lawyer, Ms. Harrison filed for divorce from Mr. Harrison. The personal injury matter was still pending during the Harrison divorce proceeding. In May 2010, a settlement of \$25,000.00 was reached with the Harrison’s insurance company. The settlement had not been finalized and the funds were not disbursed to the Harrisons and Mr. Stricker until July 29, 2010.

On May 15, 2010, Mr. Stricker filed a Complaint on behalf of Ms. Harrison for another motor vehicle accident Ms. Harrison was involved in on April 8, 2010. On May 20, 2010, Mr. Stricker filed a Complaint on behalf of Ms. Harrison against both the owner of the vehicle and driver of the vehicle from the August 2009 motor vehicle accident. In addition, Mr. Stricker also represented Ms. Harrison on her Social Security Disability Claim.

During a hearing held on August 23, 2010, in the Harrison divorce matter, Ms. Harrison testified to her personal relationship with Mr. Stricker, stating that she and her son moved into the apartment over Mr. Stricker’s Law Firm. When asked by Mr. Rees on cross-examination, if she was sexually involved with Mr. Stricker, Ms. Harrison responded, “Yes, I am.” Ms. Harrison also confirmed in her testimony that Mr. Stricker was still representing her on the pending personal injury claims. Ms. Harrison also testified that she took a couple of out of state trips with Mr. Stricker, once to Las Vegas and another to Seattle, Washington. Ms. Harrison testified that Mr. Stricker and she shared a hotel room together. In his written response to an investigation letter, Mr. Stricker admitted that he and Ms. Harrison developed a romantic and sexual relationship, and that he was still representing her in a personal injury civil suit.

**WATLINGTON, GARLAND, Bar No. 95223**, of Jonesboro, Arkansas, in Committee Case No. CPC 2011-072, by Findings and Order filed June 1, 2012, from a complaint prepared following a Panel of the Committee directing that an audit be conducted of Mr. Watlington’s IOLTA trust account, for violations of Rules 1.5(c), 1.15(a)(1), 1.15(a)(5) and 1.15(b)(1), was Reprimanded and fined \$7,500. The audit revealed that Mr. Watlington failed to maintain client funds separate from his own, failed to obtain the proper endorsements on settlement checks, failed to maintain a

minimum balance in his trust account at all times for the benefit of his clients. Mr. Watlington used funds of his clients for purposes other than the permissible one of paying his clients and / or their medical providers. There were overdrafts in his trust account which are never permissible. On at least one occasion Mr. Watlington's trust account balance was over \$90,000 short what should have been present in the account as funds of multiple clients.

**WATLINGTON, GARLAND, Bar No. 95223**, of Jonesboro, Arkansas was Reprimanded by Committee Consent Findings and Order filed September 21, 2012, on a Complaint filed by Tracy Schmiett, in No. CPC 2009-142, for violations of Rules 1.15(a) and 1.15(b)(1). Mr. Watlington was ordered to pay a \$1,000 fine and the order for monthly trust account audits imposed in a previous disciplinary matter was extended for six more months. After settlement of Schmiett's personal injury claim, Mr. Watlington deposited the funds into his trust account but failed to maintain the funds of Ms. Schmiett or her medical providers in the trust account. He often had a negative balance in his trust account after the funds were received and deposited. After contact by the Office of Professional Conduct, Mr. Watlington interpled the funds into the registry of the Baxter County Circuit Court on behalf of Ms. Schmiett or her medical providers, but used someone else's funds to do so because her funds had long since left his trust account.

**WILSON, JIMMIE LEE, Bar No. 73128**, of West Helena, Arkansas, in Committee Case No. CPC 2011-048, by Findings & Order filed April 24, 2012, on a complaint by Byron Freeland, Esq., for violation of AR Rules 1.1, 1.3, 3.2, 3.4(c), 4.4(a), 5.5(a), and 8.4(d), was reprimanded, fined \$1,000.00, and ordered to pay \$2,176.00 restitution for Helena Housing Authority, and also was reprimanded and fined another \$1,000 for failing to file a response to the Complaint. Mr. Wilson, an experienced trial lawyer in both state and federal courts, in September 2005, filed a breach of employment contract suit in state court in Helena for his client Mr. Miller against the Helena Housing Authority, its Executive Director, and others. Wilson never served any of the defendants with the suit, and on April 8, 2009, an order dismissing the suit without prejudice was filed. On April 28, 2010, Wilson filed the identical suit against the same defendants in state court. Helena Housing filed a motion for summary judgment based on the bar of the five year statute of limitations. Wilson neither filed a response to the motion nor appeared at a hearing on it in June 2010. The motion was granted and the 2010 suit was dismissed with prejudice by an Order filed July 16, 2010. Helena Housing asserts it was forced to expend \$2,175.69 in legal fees and costs defending what was clearly time-barred and unsupportable in the second lawsuit filed in 2010.

Mr. Wilson's 2011 Arkansas law license renewal fee was due and payable by March 1, 2011. He paid his 2011 fee on May 20, 2011, and his license was then restored to good standing. As a result of his failure to timely pay the required fee, Mr. Wilson practiced on a suspended law license from March 2 - May 20, 2011. Mr. Wilson practicing law and filed and participated in litigation while his law license was suspended in 2011. Mr. Wilson was "late" in paying his annual law license fee in 2006, 2007, 2008, and 2010, resulting in the license suspensions during parts of those years. In assessing the sanctions, the Panel stated Mr. Wilson's prior disciplinary record was a factor.

**CAUTION:**

**BURNS, THOMAS WILLIAM, Bar No. 2002006**, of Bryant, Arkansas, in Committee Case No. CPC 2011-077, by Findings and Order filed April 13, 2012, from information obtained through Order of the Arkansas Court of Appeals in Case No. CA2011-51, *Capitol City Tree Service and Landscaping v. Bowen*, for violations of Rules 1.1, 1.3, 8.4(c), and 8.4(d), was Cautioned. Mr. Burns' client, Capitol City Tree, had its appeal dismissed after Mr. Burns failed to file a brief in the matter after receiving three (3) extensions of time to do so. In the underlying matter, Mr. Burns failed to comply with the requirements of Rule 9(c)(1) of the Arkansas District Court Rules which resulted in an order dismissing his client's Circuit Court Complaint. It was from the dismissal of the Complaint in Circuit Court that Mr. Burns took the appeal in which he failed to file a brief. When the Appellee filed a Motion to Dismiss, Mr. Burns tendered a Response setting out that his client did not want to pursue an appeal anyway.

**HASS, J. REBECCA, Bar No, 2000172**, of Fayetteville, Arkansas, was cautioned by Committee Findings and Order filed October 19, 2012, on a complaint filed by Stephen May, a former client of Ms. Hass, in Case No. CPC 2011-097 for violations of Rules 1.3, 1.15(a)(5), 1.15(b)(2) and 1.16(d). In February 2010, Stephen May hired Ms. Hass to represent him in a divorce matter. Ms. Hass was paid for the representation and filed a divorce complaint for Mr. May. Mr. May's estranged wife filed for bankruptcy, so Ms. Hass filed to postpone the divorce matter pending the bankruptcy proceeding. Mr. May continued to provide Ms. Hass with voluntary child support payments to send to Mrs. May through her counsel. At some point, Ms. Hass became completely unavailable to Mr. May. According to him, he continued to try to reach her. According to her, she told Mr. May to find other counsel because she was closing her office. Finally, Mr. May made contact with Jason Boyeskie who agreed to assist Mr. May with his divorce action and a child support matter that had been opened against him. Mr. Boyeskie wrote Ms. Hass and requested the file and any funds owing to Mr. May. There was initially no response and then an assertion that the file would be sent. It was not sent. Ms. Hass was contacted by the Office of Professional Conduct and in response to that inquiry stated that she would be sending the file and a check to Mr. May. Although requested in May 2011 to provide an accounting of funds she was holding for Mr. May's child support payments and volunteering to send a check made payable to him to Mr. Boyeskie of funds she is to have in her trust account, Ms. Hass did not deliver the funds until October 2011 after contact by the Office of Professional Conduct. In addition, Ms. Hass failed to deposit into her client trust account the payment delivered to her by Mr. May when he first hired Ms. Hass to represent him, with such payment including fees not yet earned and expenses to be paid in filing and serving the divorce complaint. In spite of requests for return of his file contents after Ms. Hass ceased to represent Mr. May, Ms. Hass failed to return Stephen May's documents to him from May 2011 until November 2011, and then only after contact by the Office of Professional Conduct, and, in spite of requests in May 2011 for return of funds delivered to Ms. Hass for payment of his child support, Ms. Hass failed to return those funds to Mr. May until October 2011 after contact made by Staff of the Office of Professional Conduct.

**HICKS, RICKEY H., Bar No. 89235**, of Little Rock, Arkansas, in No. CPC 2012-038 was Cautioned by Panel A of the Committee on Professional Conduct on September 18, 2012, for violation of Arkansas Rules 1.3 and 8.4(d), on a referral from the Arkansas Supreme Court. Mr. Hicks represented Steven J. Russell, who was convicted in Pulaski County Circuit Court of Capital Murder and sentenced to life without parole in the Arkansas Department of Correction on February 3, 2012. The record on appeal was not filed with the Arkansas Supreme Court Clerk within the time required by court rule. Mr. Hicks filed a motion for extension of time but no order granting the extension was filed prior to the expiration of the time allowed by Rule. Mr. Hicks and co-counsel filed a Motion for Rule on the Clerk, with Hicks accepting responsibility for the late filing, and the Court granted the motion, allowing the appeal to be filed.

**LANE, JONATHAN T. Bar No. 98172**, of Little Rock, Arkansas, in Committee Case No. CPC 2012-010, by Consent Findings & Order filed April 25, 2012, by self-referral and Arkansas Supreme Court Per Curiam, for violation of AR Rules 1.3 and 8.4(d), was cautioned and ordered to pay costs of \$50.00. Mr. Lane filed the Notice of Appeal in Mr. Lemmond's criminal case on August 4, 2011, making the time to lodge the record with the Arkansas appellate court due on November 2, 2011. Mr. Lane did not file the record until November 3, 2011. On December 8, 2011, the Arkansas Supreme Court granted Mr. Lane's Motion for Rule on the Clerk.. After obtaining an extension, Mr. Lane filed his client's brief on February 23, 2012.

**McCAULEY, RHONDA Bar No. 2000024**, of Fort Smith, Arkansas, in Committee Case No. CPC 2011-033, by Findings and Order filed June 8, 2012, on a complaint filed by Ahmad Alhamwi, for violations of Rules 1.2(a), 1.3, 1.4(a)(3) and 8.4(d) was Cautioned after a hearing. Ms. McCauley represented Mr. Alhamwi and his family in several immigration matters. After the Alhamwis requested asylum and were denied, Ms. McCauley was hired and paid to pursue an appeal to the Board of Immigration Appeals. Ms. McCauley advised the Alhamwis that it could take several years to have a decision. The Alhamwis trusted Ms. McCauley. In October 2009, the Alhamwis learned that the appeal had been dismissed in July 2008. Ms. McCauley did not give notice to them and the Alhamwis hired new counsel to assist them. During the course of her representation of the Alhamwis, Ms. McCauley did not abide by their decisions with regard to the representation, did not act in a diligent fashion and failed to keep them informed of the status of their immigration appeal.

**MORITZ, WILLIAM KURT, Bar No. 99021**, of Hope, Arkansas, was cautioned by Panel B of the Committee on Professional Conduct on February 17, 2012, in No. CPC 2001-059, for violation of Rules 1.3, 1.4(a)(3), and 8.4(d) on a Complaint filed by Edith Stone. Stone employed Moritz to represent her in a bankruptcy and paid \$1,600 for the representation. Moritz stated that he agreed to represent Ms. Stone and filed the bankruptcy petition. The day following the filing of the bankruptcy petition, Moritz amended the petition to include Stone's husband. Stone stated that she wanted to file as a married person filing individually. The bankruptcy court advised Moritz that the filing was deficient and failure to correct could result in the dismissal of the case. The deficiency was not cured and the court dismissed the case. Moritz stated that the dismissal was due to the Stones' failure to cooperate with him. Stone inquired of

Moritz about the status of her case but was not informed that her case had been dismissed until a third party told her. After service of the formal Complaint, Moritz refunded Stone \$1,600, conditionally admitted to violation of the Rules of Professional Conduct, and proposed a disciplinary sanction. The Committee Panel accepted the proposed consent to discipline and the Consent Findings and Order was filed on February 17, 2012.

**SCHMIDT, PAUL A., SR., Bar No. 67048**, of Cabot, Arkansas, in Committee Case No. CPC 2012-015, by Consent Findings and Order filed June 15, 2012, on a complaint filed by Morgan Ash, for violation of Rule 1.10(a), was Cautioned. Morgan Ash was represented by Heath Ramsey of the Schmidt Law Firm in 2006 with regard to a paternity / visitation matter which was filed in Pulaski County Arkansas. The opposing party was and continues to be Marie Calcaterra. Mr. Ramsey represented Mr. Ash through completion of the matter by way of an Agreed Order in 2006. In October 2011, Mr. Ash was served with a Motion to Modify the 2006 Order, filed on behalf of Ms. Calcaterra by Paul Schmidt, Sr., of the Schmidt Law Firm, where Heath Ramsey is still associated. There has been no informed consent, in writing or otherwise, given by Mr. Ash for the representation of Ms. Calcaterra against him. Mr. Ramsey is prohibited from representing Ms. Calcaterra in the same legal matter and the prohibition is imputed to Mr. Schmidt.

**WEST, RICHARD R., Bar No. 87185**, of Marion, Arkansas, was Cautioned in CPC 2011-089 for violations of Rules 1.3, 3.4(c) and 8.4(d) in a Consent Findings and Order filed February 17, 2012. Daniel Dorsey was represented by Mr. West in an appeal to the Arkansas Court of Appeals. Mr. West did not pursue the matter for Mr. Dorsey diligently. During the course of the appellate representation, Mr. West was ordered to re-brief the matter twice. The second time he was ordered to do so, Mr. West failed to file a brief after obtaining two extensions of time to file the re-brief. On October 12, 2011, the Court of Appeals removed Mr. West from representation of Mr. Dorsey, ordered another re-briefing, and appointed new counsel so that the matter would no longer be stalled. Mr. West was referred to the Committee.