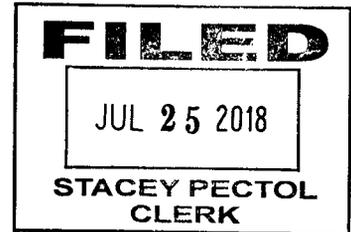


**BEFORE THE ARKANSAS SUPREME COURT  
COMMITTEE ON PROFESSIONAL CONDUCT  
PANEL B**

IN RE: **KEN DAVID SWINDLE**, Respondent  
Arkansas Bar ID # 97234  
CPC Docket No. 2017-023



**FINDINGS & ORDER**

The formal charges of misconduct upon which this Findings and Order is based were developed from information provided to the Committee by attorney Bradley Mullins in January 2015. The information related to the representation of client C.F. in 2014 by Respondent Ken David Swindle ("Swindle"), an attorney practicing primarily in Rogers, Benton County, Arkansas. Respondent Swindle was served with a formal complaint, supported by affidavits from Mullins and Francisco Menendez, to which Swindle filed a timely response.

From the pleadings, Panel B makes the following findings of fact:

1. Bradley Mullins ("Mullins"), licensed to practice law in Arkansas in September 2012, began working at the Swindle Law Firm in Rogers, Arkansas in September 2012, under the proprietor, attorney Ken Swindle. Mullins and Swindle executed an Employment Contract, and left the firm in late May 2014.
2. Swindle had a client, C.F., for whom a \$180,000 settlement was obtained in early 2014.
3. C.F. was referred to Swindle by Rogers accountant and tax-preparer Francisco Menendez ("Menendez"), a non-lawyer.
4. Swindle had an agreement with Menendez that Swindle would give Menendez 10%

of the fee Swindle obtained on client C.F., whom Menendez referred to Swindle.

5. Swindle informed Mullins of this Swindle policy on splitting fees with non-lawyers who referred clients to Swindle.

6. The Swindle firm's Settlement Memorandum with C.F. dated March 19, 2014, shows the \$180,000 settlement recovery and all charges against it. There is no charge listed for Francisco Menendez.

7. By his IOLTA trust account check #4429 dated April 7, 2014, Swindle paid Menendez \$6,000, representing ten percent of Swindle's earned \$60,000 legal fee in the C.F. matter.

8. The Menendez Affidavit confirms the fee-splitting arrangement as shown in the C.F. matter.

9. The Mullins Affidavit confirms the fee-splitting arrangement used at the Swindle law firm and the knowing disregard by Swindle for the professional conduct rules governing such fee arrangements.

Upon consideration of the formal complaint and attached exhibit materials, the response to it, and other matters before it, and the Arkansas Rules of Professional Conduct, Panel B of the Arkansas Supreme Court Committee on Professional Conduct finds:

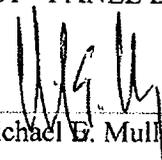
A. The conduct of Ken Swindle violated Arkansas Rule 5.4(a)(2) in that by sending his \$6,000 IOLTA trust check to Francisco Menendez, a non-lawyer, on or about April 7, 2014, as a "referral fee" in the C.F. matter, Swindle improperly, knowingly and deliberately shared his legal fee with a non-lawyer, and no sale or purchase of a law practice was involved. Arkansas Rule 5.4(a)(2) provides that a lawyer or law firm shall not share legal fees with a non-lawyer,

except that a lawyer who purchases the practice of a deceased, disabled or disappeared lawyer may, pursuant to the provisions of Rule 1.17, pay to the estate or other representative of that lawyer an agreed-upon purchase price.

WHEREFORE, it is the decision and order of the Arkansas Supreme Court Committee on Professional Conduct, acting through its authorized Panel B, that Respondent Ken David Swindle, Arkansas Bar ID# 99234 and hereby is, **REPRIMANDED** for his conduct in this matter, fined \$6,000.00, and assessed \$50.00 case costs. In assessing this sanction, Respondent attorney's prior disciplinary record was a factor. The fine and costs assessed herein shall be payable by cashier's check or money order payable to the "Clerk, Arkansas Supreme Court" delivered to the Office of Professional Conduct with thirty (30) days of the date this Findings and Order is filed of record with the Clerk of the Arkansas Supreme Court.

ARKANSAS SUPREME COURT  
COMMITTEE ON PROFESSIONAL  
CONDUCT - PANEL B

By: \_\_\_\_\_

  
Michael E. Mullally

Date: \_\_\_\_\_

Dec 11, 2017