

BEFORE THE SUPREME COURT COMMITTEE ON PROFESSIONAL CONDUCT

PANEL A

IN RE: M. KEITH WREN

Arkansas Bar ID # 94107

CPC Docket No. 2005-125

FINDINGS AND ORDER

The formal charges of misconduct upon which this Findings and Order is based arose from information provided to the Committee by Larry C. Horn, D.C. of El Dorado, Arkansas, on July 12, 2005. The information related to the representation of Joko Gaston of El Dorado and his two minor children by Respondent M. Keith Wren, an attorney practicing primarily in Little Rock, Pulaski County, Arkansas, in 2003-2005. On September 30, 2005, Respondent was served with a formal complaint, supported by affidavits from Larry C. Horn, D.C. and Joko Gaston. Respondent filed a timely response to the complaint, and the case was submitted to Panel A on a ballot vote on November 18, 2005.

Mr. Wren represented Joko Gaston and his two minor children in their claims against one Morris, an insured of Farmers Insurance, arising from an incident on April 12, 2003. Dr. Larry Horn, an El Dorado Chiropractor, treated all three Gastons, resulting in bills of \$592.34 for Joko, \$402.34 for Kiera, and \$385.00 for Marquis, totaling \$1,379.68. Dr. Horn provided his reports and bills on all three to Wren, and Wren used them in his settlement negotiations with Farmers. On December 29, 2004, Wren wrote Dr. Horn acknowledging his balances on the three clients, and requesting Dr. Horn take reductions in his bills down to \$394.89 (Joko), \$268.23 (Kiera), and \$256.67 (Marquis), totaling \$919.79, to facilitate settlement of the Gaston claims. Dr. Horn declined to accept the reductions. Farmers settled the claims by checks dated January 20, 2005, to Wren for Joko (\$6,200.00), Joko for Kiera (\$2,000.00), and Joko for Marquis (\$1,800.00). On or about February 1, 2005, Petitions for Approval of Compromise Settlement were filed by Wren in Union County Circuit Court No. CV-2003-0564-6, seeking approval of the settlements of the two minors and stating

they had incurred medical bills that included Horn Chiropractic Clinic for Kiera (\$402.34) and Marquis (\$385.00) and that the settlement funds should be distributed as set out in the petitions.

. The Panel finds that the language Respondent used in the related Probate Petitions and Orders for the Gaston minors created an interest for Dr. Horn in their respective settlement proceeds. Mr. Wren wrote to Dr. Horn that Wren's client, Joko Gaston, had directed Wren to not pay Dr. Horn from the settlement proceeds, that Mr. Gaston would pay Dr. Horn himself. Neither Wren nor Gaston has paid Dr. Horn on these three accounts. Some other third party medical providers to the Gastons from the same incident were paid by Mr. Wren from the settlements of the minors.

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. Wren's conduct violated Model Rule 1.15(b) in that by letter of December 29, 2004, he advised Horn Chiropractic Clinic that he was attempting to negotiate settlements in the three Gaston claims, in which Horn had an interest. Wren settled the three claims and received checks dated January 20, 2005, yet he failed to notify Horn of his receipt of these settlement funds in which Horn claimed an interest. Wren disbursed the Gaston settlement funds on February 16, 2005, without any notice to Horn. Horn did not learn of the settlements until May 2005. Model Rule 1.15(b) 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. 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 accounting regarding such property.

B. Mr. Wren's conduct violated Model Rule 3.4(c) in that the Petition for Approval of Compromise Settlement he filed on or about February 1, 2005, in Union County Circuit Court No. CV-2003-0564-6, for Joko Gaston as guardian of Kiera Gaston, reflected a medical bill owed to Horn Chiropractic Clinic for Kiera of \$402.34, and stated that the settlement proceeds should be distributed "as set forth in this petition." By not

paying Horn Chiropractic Clinic \$402.34, or any amount, for Kiera's bill from her settlement, Wren failed to obey an obligation he stated to the Court that he and his client recognized. The Petition for Approval of Compromise Settlement Wren filed on or about February 1, 2005, in Union County Circuit Court No. CV-2003-0564-6, for Joko Gaston as guardian of Marquis Gaston, reflected a medical bill owed to Horn Chiropractic Clinic for Marquis of \$385.00, and stated that the settlement proceeds should be distributed "as set forth in this petition." By not paying Horn Chiropractic Clinic \$385.00, or any amount, for Marquis's bill from his settlement, Wren failed to obey an obligation he stated to the Court he and his client recognized. Model Rule 3.4(c) requires 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.

WHEREFORE, it is the decision and order of the Arkansas Supreme Court Committee on Professional Conduct, acting through its authorized Panel A, that **M. KEITH WREN**, Arkansas Bar ID# 94107, be, and hereby is, **CAUTIONED** for his conduct in this matter, and assessed Committee costs of \$50.00. 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 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: _____

Bart F. Virden, Chair, Panel A

Date: _____