

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

FILED

FEB 21, 2011

**LESLIE W. STEEN
CLERK**

IN RE: CARL W. HOPKINS, Respondent
Arkansas Bar ID#94215
CPC Docket No. 2010-097

CONSENT FINDINGS AND ORDER

The formal charges of misconduct upon which this Findings and Order is based arose from information provided to the Committee by Tamra Chastain in an Affidavit dated October 25, 2010. The information related to the representation of Raymond and Tamra Chastain by Respondent beginning in December 2006.

During November 2010, Respondent was served with a formal complaint, supported by affidavit from Tamra Chastain. A response was filed. The Respondent, through counsel, and the Executive Director negotiated a discipline by consent proposal, which was submitted to this Panel.

The information before the Panel explained that during December 2006, Raymond and Tamra Chastain went to Carl Hopkins' law office located then in Fort Smith to follow up on a previous meeting with Mr. Hopkins about filing a bankruptcy. They delivered all of their paperwork and the requested \$999 to Mr. Hopkins on December 29, 2006. The \$999, consisting of fees and costs, was delivered in the form of cash. Mr. Hopkins' IOLTA trust account records showed that the entire \$999 was not deposited into the trust account when received. Only \$900 of the cash delivered to him was deposited into the trust account. Further, by January 4, 2007, the balance in the trust account had fallen below the amount necessary for the \$299 filing fee paid by the Chastains. The funds which still belonged to the Chastains at that time were not maintained nor safeguarded by Mr. Hopkins. In addition, Mr. Hopkins was requested to provide the trust account records when first contacted by OPC about this matter. Although he responded to portions of the request, he did not

supply trust account records as requested nor address that issue in his responsive correspondence.

The Chastains wanted to file for protection pursuant to Chapter 7 of the bankruptcy code. After they paid Mr. Hopkins, they completed their credit counseling. Months went by after they provided proof of completion of the credit counseling with no action taken.

Finally in August 2007, seven months after Mr. Hopkins was hired and paid, the Chastains were able to sign paperwork to begin the bankruptcy process. This was after the Chastains had to complete another credit counseling because their first certificate had expired. By October 2007, the Chastains had not received any court papers, so Mrs. Chastain e-mailed Mr. Hopkins and asked what the status was of the bankruptcy. She received no response. She also did not receive return telephone calls when she left messages for Mr. Hopkins.

Sometime in December 2007, one year after hiring Mr. Hopkins to file bankruptcy for them, Mrs. Chastain received an e-mail advising that Mr. Hopkins had moved to the Jenkins Law Firm. The Chastains were finally able to get in contact with the office staff after many unreturned telephone calls. There were many e-mails but none of them provided substantive information to the Chastains nor did they cause action to be taken on the Chastains' behalf in an expeditious manner. In March 2008, the Chastains signed papers for a second time and were told that they would have to do their credit counseling again after receipt of their court papers. No court pleadings were ever delivered to the Chastains. Several more telephone calls were made with messages left that were not returned. Finally someone at the Jenkins Law Firm advised the Chastains that Mr. Hopkins had moved again. The Chastains were also informed that Mr. Hopkins had signed a release to keep their file when he left. After more months, on September 11, 2008, the Chastains received a refund check from Mr. Hopkins in the amount of \$549. According to Mr. Hopkins, this refund was the \$299 filing fee (which was not maintained in a trust account) and a fee refund of \$250.

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

1. That Mr. Hopkins' conduct violated Rule 1.3 when he did not take timely action with regard to the bankruptcy filing for the Chastains after being hired and paid in December 2006 to pursue such a filing. Rule 1.3 requires that a lawyer act with reasonable diligence and promptness in representing a client.

2. That Mr. Hopkins' conduct violated Rule 1.15(a)(1) because upon receipt of the \$999 retainer from the Chastains, which was for services to be rendered in the future and also any costs and expenses associated with the representation, Mr. Hopkins failed to place the entirety of the funds in his IOLTA trust account. Rule 1.15(a)(1) requires that a lawyer hold property of clients or third persons, including prospective clients, that is in a lawyer's possession in connection with a representation separate from the lawyer's own property.

3. That Mr. Hopkins' conduct violated Rule 1.15(b)(1) because by January 3, 2007, the balance in Mr. Hopkins' IOLTA trust account had fallen to \$179.72 , clearly below the \$299 amount necessary to pay the filing fee for the Chastain bankruptcy. Mr. Hopkins did not safeguard nor maintain their funds in his trust account until used. Rule 1.15(b)(1) requires that funds of a client shall be deposited and maintained in one or more separate, clearly identifiable trust accounts in the state where the lawyer's office is situated, or elsewhere with the consent of the client.

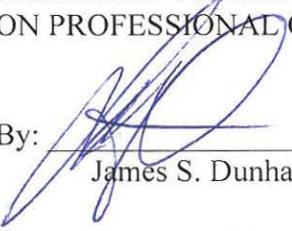
4. That Mr. Hopkins' conduct violated Rule 8.1(b) because on January 28, 2010, Mr. Hopkins was written and requested to respond to a request for information made pursuant to Rule 8.1(b) of the Arkansas Rules of Professional Conduct. Mr. Hopkins responded in part. However, part of the information requested were specific records from his IOLTA trust account. Mr. Hopkins

failed to respond to this portion of the request. Rule 8.1(b) requires, in pertinent part, that a lawyer in connection with a disciplinary attorney disciplinary shall not knowingly fail to respond to a lawful demand for information from a disciplinary authority.

WHEREFORE, it is the decision and order of the Arkansas Supreme Court Committee on Professional Conduct, acting through its authorized Panel B, that CARL W. HOPKINS, Arkansas Bar ID#94215, be, and hereby is, CAUTIONED for his conduct in this matter.

Further, pursuant to Section 18.A of the Procedures of the Arkansas Supreme Court Regulating the Professional Conduct of Attorneys at Law, Mr. Hopkins is assessed the costs of this proceeding in the amount of \$50. In addition, pursuant to Section 18.C of the Procedures, Mr. Hopkins is ordered to pay restitution for the benefit of Raymond and Tamra Chastain in the amount of \$450. The restitution and costs assessed herein, **totaling \$500**, 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 B

By: 
James S. Dunham, Chair, Panel B

Date: 2-18-2011

(13.M, Rev.1-1-02)