

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

IN RE: J. REBECCA HASS, Respondent
Arkansas Bar ID#2000172
CPC Docket No. 2011-097

FILED

OCT 19 2012

**LESLIE W. STEEN
CLERK**

FINDINGS AND ORDER

The formal charges of misconduct upon which this Findings and Order is based arose from information provided to the Committee by Stephen D. May in an Affidavit dated December 11, 2011. The information related to the representation of Mr. May by Respondent in 2010.

On or about December 22, 2011, Respondent was served with a formal complaint, supported by affidavit from Stephen D. May. Respondent, J. Rebecca Hass, filed a timely Response. The matter thereafter proceeded to ballot vote before Panel A of the Committee pursuant to the Arkansas Supreme Court Procedures Regulating Professional Conduct of Attorneys at Law.

The information in Mr. May's Affidavit before the Panel demonstrated that J. Rebecca Hass, an attorney practicing primarily in Fayetteville, Washington County, Arkansas, was hired by Mr. May in February 2010 to represent him in a divorce matter. Ms. Hass requested \$1,300 as a fee initially but as matters progressed the total paid went to \$3,000.

Ms. Hass filed a divorce complaint for Mr. May in Washington County Circuit Court, with case number DR2010-270-5, on February 17, 2010. An Answer and Counterclaim were filed on March 1, 2010. A trial date was set for June 17, 2010. On June 14, 2010, Ms. Hass filed a Motion for Continuance and Notice of the opposing party's bankruptcy. An Order was entered on June 22, 2010, to remove the matter from the pending docket, causing the divorce proceeding

to sit in limbo.

Mr. May continued to provide the funds to Ms. Hass for an agreed amount of child support, which she was to provide to the opposing party. Then later he was unable to make contact with Ms. Hass. He tried calling and went by her office, but she was not available to him.

During May 2011, Mr. May went by the office building to look for Ms. Hass. He wanted to find out something about the divorce and also let Ms. Hass know that child support enforcement had filed a complaint against him. Ms. Hass was not at the building. Mr. May spoke with Jason Boyeskie who agreed to help Mr. May with his legal matters.

Mr. Boyeskie wrote Ms. Hass on May 4, 2011, and explained that Mr. May's file was needed and also the information about the child support payments that Mr. May had been voluntarily making through Ms. Hass, even though there was no divorce or temporary order requiring the payment. Ms. Hass did not respond to Mr. Boyeskie so he sent her a second letter. Ms. Hass responded to Mr. Boyeskie on May 18, 2011. Although she said she would be getting the file to Mr. Boyeskie, Ms. Hass did not do so. Mr. Boyeskie responded and asked about the file again and also asked about the \$3,000 fee and whether any was remaining. Mr. Boyeskie again wrote Ms. Hass on June 7, 2011. Since no response was received and no file was delivered to Mr. Boyeskie as requested, Mr. May filed his grievance with the Office of Professional Conduct the following month.

On August 5, 2011, correspondence was sent to Ms. Hass with regard to Mr. May's grievance and requested to provide information. Her first response was sent on August 25, 2011. Ms. May explained that she had closed her offices and moved her files into her home and storage.

Her next response was received on September 1, 2011. Ms. Hass asserted that she did not obtain the file to send to Mr. Boyeskie as she said she would earlier in 2011.

Ms. Hass also advised that at no time did she place any of the funds given her by Mr. May into an IOLTA trust account except for the child support payments he delivered to her. Ms. Hass went on to explain that a portion of the retainer was non-refundable.

Finally, Ms. Hass explained that she would send the file to Mr. Boyeskie and also a check to Mr. May for the funds she was holding as child support payments. There was no accounting of the child support payments which Ms. Hass was entrusted with by Mr. May and no demonstration of what funds were delivered to opposing counsel. She has failed to account for those funds. There is a large balance in her trust account above the amount allowed by the Rules if the funds are those of Ms. Hass, which they appear to be since she says she has closed her law office but she continues to withdraw checks made payable to her or her law firm.

On October 6, 2011, Mr. Boyeskie confirmed that he had not received the file nor the check promised to Mr. May from Ms. Hass. On November 12, 2011, Mr. Ligon, Executive Director of the Office of Professional Conduct, wrote Ms. Hass concerning the file and the check that Ms. Hass was to send to her client, Mr. May. Following the e-mail, it was learned that Ms. Hass did deliver a trust account check on October 10, 2011 for \$900 to Mr. Boyeskie representing the monies she held in her trust account which were for child support payments of Mr. May. On Tuesday, November 15, 2011, Ms. Hass responded to Mr. Ligon and advised that the Stephen May file was delivered to Mr. Boyeskie's office that day. Ms. Hass failed to return the file of her former client, Mr. May, until months after the first request and only after being contacted by the Executive Director of the Office of Professional Conduct.

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

1. That Ms. Hass' conduct violated Rule 1.3, because while still representing Mr. May, as she has not been relieved as counsel, nor sought to be, Ms. Hass failed to return the file contents to Mr. May or his desired new counsel since the first written request by Mr. Boyeskie in May 2011, until finally doing so after contact by the Office of Professional Conduct in November 2011. Rule 1.3 requires that a lawyer act with reasonable diligence and promptness in representing a client.

2. That Ms. Hass' conduct violated Rule 1.15(a)(5), because 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. Rule 1.15(a)(5) requires, in pertinent part, that except as stated by 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 written accounting regarding such property to the client or third persons.

3. That Ms. Hass' conduct violated Rule 1.15(b)(2), because 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 included fees not yet earned and expenses to be paid in filing and serving the divorce complaint. Rule 1.15(b)(2) requires that a lawyer shall

deposit into a client trust account legal fees and expenses that had been paid in advance, to be withdrawn by the lawyer only as fees are earned or expenses incurred.

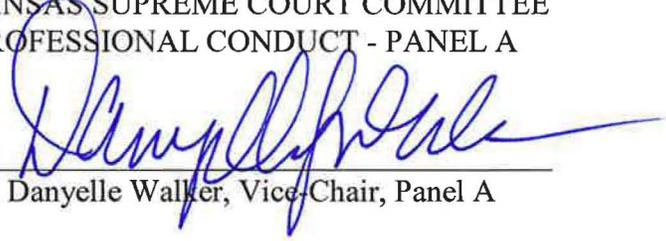
4. That Ms. Hass' conduct violated Rule 1.16(d) because in spite of requests for return of his file contents after Ms. Hass ceased to represent Mr. May, Ms. Hass failed to return Stephen May's documents to him from May 2011 until November 2011, and then only after contact by the Executive Director of 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. Rule 1.16(d) requires that upon termination of representation, a lawyer take steps to the extent reasonably practicable to protect a client's interests, such as surrendering paper and property to which the client is entitled and refunding any advance payment of fee or expense that has not been earned or incurred.

WHEREFORE, it is the decision and order of the Arkansas Supreme Court Committee on Professional Conduct, acting through its authorized Panel A, that J. REBECCA HASS, Arkansas Bar ID# 2000172, be, and hereby is, CAUTIONED for her conduct in this matter. Pursuant to Section 18.A of the Procedures, Ms. Hass is ordered to pay costs in the amount of FIFTY DOLLARS. 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

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 A

By: _____


Danyelle Walker, Vice-Chair, Panel A

Date: _____

May 30, 2012

(11.A, Rev 5-26-11)