

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

**PANEL B**

IN RE: RICHARD H. YOUNG, Respondent  
Arkansas Bar ID#94149  
CPC Docket No. 2003-161

**FINDINGS AND ORDER**

The formal charges of misconduct upon which this Findings and Order is based arose from information provided to the Committee by Honorable John W. Martin on June 9, 2003. The information related to the representation of Stan Green by Respondent beginning in March 2003.

On December 16, 2003, Respondent was served with a formal complaint, supported by information from Judge Martin and certain trust account information. Respondent failed to file a response to the complaint within twenty (20) days of the date of service. Respondent made no request for extension of time to respond to the formal disciplinary complaint. Respondent's failure to respond within the time frame allowed, pursuant to Section 9.C(4) of the Procedures, constitutes an admission of the factual allegations of the formal complaint and extinguishes Respondent's right to a public hearing.

The information considered by the Committee was that Richard H. Young, an attorney practicing in Russellville, Arkansas, represented Stan Green in the matter of State of Arkansas v. Stan Green, Ticket No. 014426 in the Brinkley District Court. On March 21, 2003, Mr. Young faxed to the Brinkley District Court Clerk an entry of appearance and a plea of not guilty for his client. A written Order was entered on March 21, 2003, setting the matter for trial on May 14, 2003. The Order was mailed to Mr. Young at the address he provided in his facsimile transmission to the Clerk. Mr. Young was already aware of this date according to the information contained in his facsimile transmission to the Clerk. The Deputy Clerk sent Mr. Young notice of the date and time of the trial along with information regarding the requirement for any Motions for Continuance to be received in writing seven (7) days prior to any scheduled court date.

On May 14, 2003, neither Mr. Young nor his client appeared for trial. In addition, there was no communication from Mr. Young or his office requesting a change of plea or continuance. As a result, a Failure to Appear Warrant was issued for Mr. Young's client. Mr. Young was also cited for contempt and ordered to pay a fine of \$100. Mr. Young was given fourteen (14) days to pay the fine.

Two (2) days after the scheduled court date, Mr. Young contacted the Clerk's office and stated that he had previously forwarded a letter to the Clerk changing the plea to guilty. In addition, Mr. Young advised that he had sent a check for the fine with the change of plea letter. The Clerk's records did not contain a letter from Mr. Young changing the plea of Mr. Green. Further, the facts demonstrate that the May 8, 2003, letter, alleged to have been sent by Mr. Young on that date, was received by the Brinkley Police Department on May 20, 2003, in an envelope postmarked May 16, 2003.

On May 29, 2003, the Clerk contacted Mr. Young again at Judge Martin's direction. In correspondence from the Clerk, Mr. Young was advised that Judge Martin had reviewed the status of the file the previous day and that the fine was delinquent. Further, Mr. Young was advised that his Motion to Change his client's plea would only be considered when properly presented to the Court. Hearing nothing from Mr. Young, Judge Martin wrote him on June 4, 2003 and admonished Mr. Young that if the matter was not resolved immediately, the information would be forwarded to the Committee on Professional Conduct. As of June 6, 2003, Mr. Young had not resolved payment of his fine for contempt. In addition, it was revealed that the check Mr. Young forwarded to pay his client's bond was returned to the Court with a stamp "account closed". The check was drawn on what purported to be Mr. Young's IOLTA trust account.

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

1. That Mr. Young's conduct violated Model Rule 1.3 when on May 13, 2003, neither he nor Mr. Green, his client, appeared for trial, nor was there any communication requesting a change of plea or continuance; when on June 6, 2003, the date the referral was received by the Office of

Professional Conduct from Judge Martin, Mr. Young had failed to pay the fine for contempt; when he failed to submit a timely payment for his client's bond with the Brinkley District Court with a check that would be honored instead of one from an IOLTA account that had been closed; and, when, as of June 6, 2003, Mr. Young had failed to appear to handle the matters related to the notification from the Brinkley District Court Clerk that his fine was delinquent and this his Motion to Change his client's plea would not be considered until properly presented to the Court. Model Rule 1.3 requires that a lawyer act with reasonable diligence and promptness in representing a client.

2. That Mr. Young's conduct violated Model Rule 1.15 when the bond check he sent on behalf of his client from his IOLTA trust account was returned by the bank stamped "account closed" thereby demonstrating that Mr. Young failed to deposit client funds for the bond into an IOLTA trust account as required by the Arkansas Model Rules of Professional Conduct, since that account was already closed and not subject to receipt of deposits or making withdrawals. Model Rule 1.15(a) requires that a lawyer hold property of clients or third persons that is in a lawyer's possession in connection with a representation separate from the lawyer's own property, with funds of a client being deposited and maintained in one or more identifiable trust accounts in the state where the lawyer's office is situated, or elsewhere with the consent of the client or third person.
3. That Mr. Young's conduct violated Model Rule 3.2 when on May 14, 2003, neither he nor Mr. Green, his client, appeared for trial, nor was there any communication requesting a change of plea; when on May 14, 2003, he was cited for contempt and fined \$100 which he failed to pay in a timely manner; when, after the scheduled court date of May 14, 2003, he contacted the Court Clerk's office and faxed a letter dated May 8, 2003, indicating his client wanted to change his plea and that a check for the bond was being forwarded, but the check was sent on an account which was closed and the envelope was postmarked May 16, 2003; and when Mr. Young failed

to appear with regard to either issue set out in Judge Martin's communication to him concerning his delinquent fine and his client's change of plea. Model Rule 3.2 requires that a lawyer make reasonable efforts to expedite litigation consistent with the interests of the client.

4. That Mr. Young's conduct violated Model Rule 8.4(a) when he failed to appear in court with, or on behalf, of his client on May 14, 2003, as ordered by the Brinkley District Court; when he failed to pay his fine of \$100 for contempt as ordered by the Brinkley District Court; when he failed to place his client's funds for the \$176 bond in an IOLTA account as required by the Arkansas Rules of Professional Conduct; when he sent the Brinkley District Court Clerk a check for his client's bond written on a closed account; and when he failed to appear before June 6, 2003, to take address his delinquent fine and his client's motion to change plea. Model Rule 8.4(a) requires that a lawyer not violate or attempt to violate the rules of professional conduct, knowingly assist or induce another to do so, or do so through the acts of another.
5. That Mr. Young's conduct violated Model Rule 8.4(c) when he was dishonest with the District Court Clerk when he advised that he had sent his client's bond money and correspondence changing his plea to guilty on May 8, 2003 and when he presented a check to the Brinkley District Court on an account that was closed, resulting in dishonor of the check. Model Rule 8.4(c) requires that a lawyer not engage in conduct involving dishonesty, fraud, deceit or misrepresentation.
6. That Mr. Young's conduct violated Model Rule 8.4(d) when he failed to appear in court with, or on behalf, of his client on May 14, 2003, as ordered by the Brinkley District Court; when he failed to pay his fine of \$100 for contempt as ordered by the Brinkley District Court; when he failed to place his client's funds for the \$176 bond in an IOLTA account as required by the Arkansas Rules of Professional Conduct; and when he sent the Brinkley District Court Clerk a check for his client's bond written on a closed account. Model Rule 8.4(d) requires that a lawyer not engage in conduct that is prejudicial to the administration of justice.

WHEREFORE, it is the decision and order of the Arkansas Supreme Court Committee on Professional Conduct, acting through its authorized Panel B, that RICHARD H. YOUNG, Arkansas Bar ID# 94149, be, and hereby is, REPRIMANDED for his conduct in this matter. Further, pursuant to Section 18.A. of the Procedures of the Arkansas Supreme Court Regulating Professional Conduct of Attorneys at Law (2002), Mr. Young is assessed the costs of this proceeding in the amount of \$50. Mr. Young is ordered to pay a fine in the amount of \$500 pursuant to Section 18.B. of the Procedures. For his failure to respond in accordance with the Procedures governing timely responses, Mr. Young is SUSPENDED for a period of THREE (3) MONTHS. The suspension is a separate sanction, which is provided for pursuant to Section 9.C.(1) of the Procedures, and is imposed for the failure to respond in the prescribed time and manner. For his failure to respond Mr. Young is also fined an additional \$500. The suspension shall become effective on the date this Findings and Order is filed of record with the Clerk of the Arkansas Supreme Court. The costs assessed and fines imposed 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 B

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

J. Michael Cogbill, Chair, Panel B

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