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Nail Down Your CLE Hours Don't Round Them Up

OKAY, SO CLE is a real drag and we all resent somebody else telling us we have to have so many hours of courses or else. So who's going to care if we cut a few corners and "round up" on some of our calculations? Just ask South Carolina lawyer Darrell Diggs. In a recent South Carolina Supreme Court decision,¹ Mr. Diggs was severely disciplined for providing false information on a notarized CLE compliance certificate.

In December 1997, Mr. Diggs submitted a compliance report claiming several hours of credit for programs that were not scheduled until January 1998. The South Carolina CLE commission advised Mr. Diggs that he needed to actually attend the courses listed and that he should re-execute the report once he had earned the hours claimed. After the courses were given in January, Mr. Diggs resubmitted the same certificate. When the

commission attempted to verify his attendance, it learned from the seminar sponsor that there was no record of his attendance.

Mr. Diggs responded that he had registered for the seminar and had paid the fee but did not arrive until after the seminar ended due to a scheduling error. He claimed that he did not understand that a late arrival at a seminar would nullify the credit for attendance.

Mr. Diggs also pointed out that it was his understanding that it was common practice for lawyers to receive full CLE

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credit when all they did was pay the registration fee, show up to sign the list of attendance and then leave. The disciplinary authorities in South Carolina recommended that Mr. Diggs be given a public reprimand, the equivalent of a censure in Arizona.

The Supreme Court of South Carolina disagreed and threw the book at Mr. Diggs. It held that Mr. Diggs had knowingly made a false statement of material fact to a tribunal and had engaged in conduct involving dishonesty, fraud, deceit and misrepresentation in violation of South Carolina's version of the Model Rules of Professional Conduct.² The court said that Mr. Diggs initially had made a false statement under oath when he claimed to have attended programs that had not yet taken place. The court also found that Mr. Diggs had made two additional false statements in that he did not attend the CLE seminar and, because he had used the same certification with a December 1997 notary, the statement bore a notary date prior to the date he claimed to have

attended the programs. It then suspended Mr. Diggs from the practice of law for 90 days. The court held that any attorney who provides false information on a notarized CLE compliance report commits a false swearing to a tribunal, which in turn constitutes perjury.

In view of this precedent, it is probably a good idea to be as accurate as possible on

your CLE compliance certificates should your CLE hours be audited. ⚠

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1. *In re Diggs*, 2001 WL 286844 (S.C.).
 2. These are the same rules that apply in Arizona and are found in ER 3.3(a)(1) and ER 8.4(c), Rule 42, ARIZ.R.S.Ct.

