BEFORE THE SUPREME COURT COMMITTEE ON PROFESSIONAL CONDUCT
PANEL B

IN RE: CHARLES J. GARDNER, Respondent
Arkansas Bar ID#76036
CPC Docket No. 2007-074

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 Joyce Harvey in an Affidavit dated June 26, 2007. The information related to the representation of Ms. Harvey by Respondent in 2005.

On July 10, 2007, Respondent was served with a formal complaint, supported by affidavit from Joyce Harvey and a letter from Respondent. A response was filed. The Respondent, through counsel, Edwin K. Lowther, Jr., and the Executive Director negotiated a discipline by consent proposal, which was submitted to this Panel.

The information before the Panel reflected that on January 11, 2005, Joyce Harvey met with Charles J. Gardner, an attorney practicing primarily in Blytheville, Arkansas to pursue a bankruptcy proceeding on her behalf. Mr. Gardner agreed to represent Ms. Harve and he was paid $194 after he agreed to pursue a bankruptcy petition on Ms. Harvey's behalf.

Ms. Harvey explained to Mr. Gardner that time was of the essence in filing the bankruptcy petition because her home was scheduled for foreclosure sale on February 9, 2005. All information Mr. Gardner requested of Ms. Harvey was delivered to his office in a timely manner. However, Mr. Gardner failed to file the bankruptcy petition until February 21, 2005. The filing was after the date of the foreclosure sale. Because it was filed after the foreclosure sale, the mortgage company filed a Motion for Relief from the Stay in the bankruptcy petition

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OCT 19 2007
LESLIE W. STEEN
CLERK

which was granted. They were then able to obtain possession of Ms. Harvey's home.

After conference with Mr. Gardner, the bankruptcy proceeding was dismissed. Ms. Harvey met with Mr. Gardner with regard to the damages she suffered with regard to his late filing of the bankruptcy proceeding but they have not been able to reach a settlement of the issues.

Mr. Gardner acknowledged that Ms. Harvey did provide the additional information to his office before the date of the foreclosure sale. However, Mr. Gardner was unaware of this fact because he was not advised by his assistant that she had provided the information. Mr. Gardner offered that his conduct was not wilful or intentional but rather negligent in that he was unaware that the information had been received in his office.

Upon consideration of the formal complaint and attached exhibit materials, the consent proposal, and 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. Gardner's conduct violated Rule 1.3, when he failed to file Ms. Harvey's petition for bankruptcy relief in a timely fashion after being provided the information necessary for doing so and caused it to be filed after the date of the foreclosure sale despite being aware that Ms. Harvey wished to have it filed before that date. Rule 1.3 requires that a lawyer act with reasonable diligence and promptness in representing a client.

WHEREFORE, it is the decision and order of the Arkansas Supreme Court Committee on Professional Conduct, acting through its authorized Panel B, that CHARLES J. GARDNER, Arkansas Bar ID#76036, 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

Professional Conduct of Attorneys at Law, Mr. Gardner is assessed the costs of this proceeding in the amount of $100. Mr. Gardner is also ordered, pursuant to Section 18.C., to pay restitution to Ms. Harvey in the amount of $194. The costs and restitution assessed herein, totaling $294, 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: _____
Henry Hodges, Chair, Panel B

Date: 10-19-07

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