BEFORE THE SUPREME COURT COMMITTEE ON PROFESSIONAL CONDUCT
PANEL A

FILED
FEB 28 2010
LESLIE W. STEEN
CLERK

IN RE: **STEPHEN LEE LEWIS**
Arkansas Bar ID # 2003112
CPC Docket No. 2009-118

FINDINGS AND ORDER

The formal charges of misconduct upon which this Findings and Order is based were developed from information provided to the Committee by Jeremy Smith in October 2007. The information related to the representation of Jeremy Smith in 2004-2007 by Respondent Stephen Lee Lewis, an attorney formerly practicing primarily in Izard County, Arkansas. On October 16, 2009, Respondent was served with a formal complaint, supported by affidavits from Jeremy Smith and Diane Sledge. Respondent filed a timely Response to the complaint.

Jeremy L. Smith, now of Jonesboro, but living in Melbourne, Izard County, Arkansas at the time, owned a newly-purchased motorcycle which he allowed Josh Dockins of Oxford in Izard County, an interested potential purchaser, to test drive on June 22, 2003. Smith had a verbal agreement with Dockins, before witnesses, that if Dockins damaged the cycle during the test drive, Dockins would be financially responsible for the damages. Dockins wrecked the motorcycle that same day in Izard County, causing a total loss estimated by the investigating trooper at about $7,500, the price Smith had just paid for the motorcycle. According to the accident report, Smith claimed Dockins was driving the cycle in a reckless manner.

Smith hired one attorney to take the case. About six months later that attorney informed Smith that he did not have time to pursue the matter and recommended that Smith

go to Lewis, who practiced in the same county. The first attorney gave the file to Lewis. On November 14, 2004, Smith gave Lewis a check for $100.00 for "fees," which Smith understood to be for the case filing fee. The check was cashed on January 5, 2005. The cancelled check bears no indicia of having been deposited in any attorney trust account. For about two years thereafter, whenever Smith was able contact Lewis, he was informed Lewis was working on the matter. Lewis never initiated contact with Smith. For about the next seven to eight months Smith was unable to contact Lewis. In the Spring of 2007, Smith contacted Lewis and was told Lewis was trying to get Smith a court date. Lewis told Smith to be at the Izard County Courthouse on April 11, 2007. Smith drove two hours to court, was met by Smith, and told there would be no court that day. At that meeting, Smith gave Lewis a copy of the accident report and 10-15 pictures of his wrecked cycle.

About six months later, Smith found Lewis's office telephone was disconnected and Smith was unable to contact Lewis. Lewis did not respond to Smith's letters. Smith contacted the clerks for the Izard County District Court and Circuit Court and was informed no lawsuit had ever been filed for him against Dockins over the damaged motorcycle. Smith recalls that Lewis once told him that Lewis had filed a complaint and was only waiting on the defendant to file an answer. The statute of limitations has expired for Smith to file any suit in either District Court or Circuit Court on his loss. Having no collision insurance on the motorcycle, Smith was required to pay off the $7,500 loan. He did eventually sell the motorcycle for salvage for $2,000.

Lewis's Arkansas law license was suspended by the Committee on May 14, 2007, for three months in Case No. CPC 2006-159. Lewis has never applied for reinstatement. Smith's

grievance against Lewis was received at the Office of Professional Conduct (OPC) on October 18, 2007. The next day, OPC wrote to Lewis at his last-known address in Calico Rock, asking him to respond about Smith's complaint. That letter was returned on October 26, 2007, marked "box closed." In late November 2007, inquiry by the OPC Investigator of the clerk in Izard County revealed that Lewis had recently married, to another attorney, and moved to Little Rock. E-mail contact was made by OPC with Lewis, who gave a new address in Little Rock on November 20, 2007. On November 21, 2007, the letter originally sent to Lewis in Calico Rock on October 19, 2007, was remailed to him at 2224 South Oak, Little Rock, AR 72204. On April 10, 2008, OPC again wrote Lewis asking him to respond about the Smith matter. E-mails were sent to Lewis on June 3, 2008, and June 22, 2009, with no response.

On August 17, 2009, OPC personnel went to 2224 South Oak in Little Rock and developed information of the name of the Arkansas attorney to whom Mr. Lewis might be married. Contact was made with that person, who was his spouse. Mr. Lewis called OPC the next day. Lewis came to OPC on August 25, 2009, and visited about pending matters, including that of Jeremy Smith. That same day Lewis wrote Smith, copying OPC. Smith has confirmed the return of the papers and pictures he gave Lewis. Smith has not received the promised refund of the $100 he paid Lewis in November 2004.

Any applicable statute of limitation expired on Smith's claim by June 2009, five years after the loss. By November 2007, Lewis knew from contacts by OPC that Smith was complaining about Smith's matter left in Lewis's care. From November 2007 until August 2009, Lewis failed to respond to OPC's inquiries or provide information requested in this disciplinary investigation.

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

A. The conduct of Stephen L. Lewis violated Rule 1.1, in that (1) Lewis failed to settle Smith's claim or timely file suit to protect his claim, thus causing Smith to lose any chance of pursuing his claim against Dockins legally, and (2) after April 2007, Lewis abandoned Smith as a client, without notice to Smith, both instances involving conduct by Lewis demonstrating a lack of the required the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation. Arkansas Rule 1.1 requires that a lawyer shall provide competent representation to a client. Competent representation requires the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation.

B. The conduct of Stephen L. Lewis violated Rule 1.2(a), in that it was the objective of Lewis's client, Jeremy Smith, that Smith's claim for damages to his motorcycle in June 2003 be pursued to settlement or suit and recovery against Josh Dockins and Lewis failed to do so. Arkansas Rule 1.2 (a) requires that a lawyer shall abide by a client's decisions concerning the objectives of representation, subject to paragraphs (c) and (d), and, as required by Rule 1.4, shall consult with the client as to the means by which they are to be pursued.

C. The conduct of Stephen L. Lewis violated Rule 1.3, in that from at least November 11, 2004, forward, Mr. Lewis failed to act with reasonable diligence and promptness in representing his client Jeremy Smith by failing to settle or file suit for Smith on his claim for damages against Dockins. Arkansas Rule 1.3 requires that a lawyer shall act with reasonable diligence and promptness in representing a client.

D. The conduct of Stephen L. Lewis violated Rule 1.4(a)(3), in that Lewis failed to keep his client Smith reasonably informed about the status of the client's legal matter against Dockins from 2004-2009. Arkansas Rule 1.4(a)(3) requires that a lawyer shall keep the client reasonably informed about the status of the matter.

E. The conduct of Stephen L. Lewis violated Rule 1.4(b), in that if Lewis had advised Smith before the statute of limitations for Smith's claim expired that circumstances and situations not involving Smith might cause Lewis to fail to properly pursue Smith's claim against Dockins, the client Smith would have had an opportunity to consider employing other counsel to represent the client in the Dockins matter and possibly receive the relief the client sought. Arkansas Rule 1.4(b) requires that a lawyer shall explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation.

F. The conduct of Stephen L. Lewis violated Rule 8.1(b), in that from November 20, 2007, through August 25, 2009, Lewis ignored or failed to respond to letter and e-mail requests from the Office of Professional Conduct for information about the Smith matter Arkansas Rule 8.1(a) provides that ..., or a lawyer... in connection with a disciplinary matter, shall not: ... (b) ... , or knowingly fail to respond to a lawful demand for information from an admissions or disciplinary authority, except that this rule does not require disclosure of information otherwise protected by Rule 1.6.

G. The conduct of Stephen L. Lewis violated Rule 8.4(c), in that (1) Lewis informed his client Smith that a lawsuit had been filed for Smith on his damages claim against Dockins, when no such suit was ever filed by Lewis, and (2) after April 2007, Lewis abandoned Smith

as a client, without notice to Smith, both instances of conduct by Lewis involving dishonesty, fraud, deceit or misrepresentation. Arkansas Rule 8.4(c) provides that it is professional misconduct for a lawyer to engage in conduct involving dishonesty, fraud, deceit or misrepresentation.

H. The conduct of Stephen L. Lewis violated Rule 8.4(d), in that Lewis failed to protect his client Smith's interests in his claim for damages against Dockins by settling the claim or filing a lawsuit on the claim, thus forever depriving Smith of his ability to recover on the $5,500 loss Smith sustained by Dockins wrecking Smith's motorcycle in mid-2003, conduct by Lewis depriving Smith of his access to the judicial system. Arkansas Rule 8.4(d) provides that it is professional misconduct for a lawyer to 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 A, that the Arkansas law license of STEPHEN LEE LEWIS, Arkansas Bar ID# 2003112, be, and hereby is, SUSPENDED for SIX (6) MONTHS for his conduct in this matter, he is ordered to pay $5,600.00 in RESTITUTION for the benefit of Jeremy L. Smith, and assessed $50.00 costs. 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 restitution and 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 with thirty (30) days of the date this Findings and Order is filed of record with the Clerk of the Arkansas Supreme Court. In assessing this sanction, the prior disciplinary record of respondent Lewis was a factor.

ARKANSAS SUPREME COURT COMMITTEE ON PROFESSIONAL CONDUCT - PANEL A

By: _____
T. Benton Smith, Jr., Chair, Panel A

Date: January 28, 2010