BEFORE THE SUPREME COURT COMMITTEE ON PROFESSIONAL CONDUCT
PANEL B

FILED
OCT 15 2010
LESLIE W. STEEN
CLERK

IN RE: **CHARLES V. SUPHAN**
Arkansas Bar ID # 94003
CPC Docket No. 2009-100

CONSENT FINDINGS & ORDER

The formal charges of misconduct upon which this Consent Order is premised, involving respondent attorney Charles V. Suphan of Pulaski County, Arkansas, arose from information brought to the attention of the Committee on Professional Conduct by Jennifer Monterola in September 2008.

On July 3, 2007, Jennifer Monterola of Sherwood, Arkansas, employed and paid Charles Suphan to represent her in obtaining an annulment from her husband Marlon Monterola, an illegal alien when they married and who was later deported from the USA. She gave Suphan a total of $340.00 in cash for part of his legal fee and the case filing fee. By August 29, 2007, Suphan had received an additional $220.00 for Monterola's account in a check from her grandmother. Monterola thereafter was unable to contact Suphan, as his telephone number she had became disconnected at times or out of service at times.

Suphan finally filed a "Complaint for Divorce" for her on March 20, 2008, as Pulaski Circuit No. DR-2008-1277, and he had summons to the defendant issued. Ms. Monterola had to transport Mr. Suphan from his home in Maumelle to the Pulaski County Courthouse and then back home for him to file her case, as he told her he had no available transportation at the time.

Mr. Suphan did not pay his 2008 Arkansas law license renewal fee, due by March 1, until June 13, 2008. His Arkansas law license was in automatic suspension status on March 20, 2008,

when he filed Ms. Monterola's Complaint. He practiced law at a time when his Arkansas law license was suspended in 2008.

On July 28, 2008, Monterola mailed Suphan a check written by her grandmother and payable to The Daily Record for $125.00, but her check had not been reported to her as being negotiated as yet. Ms. Monterola later reported that Mr. Suphan informed her that he had misplaced the $125.00 check and would file the warning order once he located the check. She thereafter continued to have difficulty communicating with Suphan about the status of her case. She found his telephone was disconnected again in August 2008. She did not receive any return calls from Suphan of her numerous calls for six weeks prior to September 24, 2008, when her grievance was received at the Office of Professional Conduct (OPC).

Suphan failed to obtain service of summons on defendant Marlon Monterola within 120 days as required by Court rule. A Dismissal Order Without Prejudice was filed September 17, 2008, in Ms. Monterola's case. She was not notified of this event by Mr. Suphan.

Starting on September 26, 2008, OPC attempted to assist Ms. Monterola by contacting Mr. Suphan, encouraging direct communication between attorney and client, and asking for appropriate and timely action in her case. On October 8, 2008, Mr. Suphan provided an e-mail status report. On December 4, 2008, Mr. Suphan sent OPC a faxed status report. Included in the documents provided by Mr. Suphan to OPC was a copy of an e-mail Suphan sent to Ms. Monterola on October 8, 2008, in which he informed her he was sending the warning order to the Daily Record to be published, a hearing could be set thirty (30) days thereafter, and that he would get her divorce wrapped up without further delay. The warning order was first published on November 28, 2008. In neither of his status reports to OPC, which were promptly forwarded to

Ms. Monterola, did Mr. Suphan disclose that the original Complaint had been dismissed by Court order filed September 17, 2008, for failure to obtain timely service upon the defendant.

It is now known through a review of the case docket that Mr. Suphan filed an Amended Complaint for Ms. Monterola on October 7, 2008, to try to get the same case started again, apparently paying the new filing fee from his funds. Even with the six week delay in publishing the warning order, Mr. Suphan represented to his client that he should have her in a final hearing by about January 1, 2009. No such hearing has been held and Ms. Monterola has not received a divorce as of June 30, 2009

On March 12, 2009, Mr. Suphan filed a new Complaint for Divorce for Jennifer Monterola, as Pulaski Circuit No. DR-2009-001366, paid a $140 filing fee, and had summons issued. No further action is shown by the case docket. Mr. Suphan did not pay his 2009 law license renewal fee, due by March 1, until March 11, 2009. His Arkansas law license was in automatic suspension status from March 2-11, 2009, ending the day before he filed Ms. Monterola's new Complaint. He practiced law at a time when his Arkansas law license was suspended in 2009.

. Since December 4, 2008, OPC has communicated many times with Mr. Suphan requesting that he take appropriate action in Ms. Monterola's matter. By 2010 he was able to function better. He provided his client her file. In June 2010 he made a $540 refund to her. In August 2010 he got reinstated by the CLE Board. He is now working with AJLAP, doing better, and reports he has a stable home environment for the first time in many months, and has slowly returned to a limited law practice in Morrilton.

Following Respondent Attorney's receipt of the formal complaint, the attorney entered

into discussion with the Executive Director in 2009 and again in 2010, which has resulted in an agreement to discipline by consent pursuant to Section 20.B of the Arkansas Supreme Court Procedures Regulating Professional Conduct of Attorneys at Law (2002). Upon consideration of the formal complaint and attached exhibits, admissions made by the respondent attorney, the terms of the written consent, the approval of Panel B of the Committee on Professional Conduct, and the Arkansas Rules of Professional Conduct, the Committee on Professional Conduct finds:

A. Mr. Suphan's conduct violated Rule 1.1, in that he has been unable to handle a simple uncontested divorce, in which he could have filed a complaint for divorce in the Fall of 2007, obtained service by publication of warning order could have been obtained in the Fall of 2008, and secured a divorce for Jennifer Monterola by the end of 2007 or early 2008, conduct showing a significant lack of the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation, and he has been unable to timely publish a warning order to obtain service for Ms. Monterola's divorce after filing new complaints for her in March 2008 and March 2009, conduct showing a significant lack of 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. Mr. Suphan's conduct violated Rule 1.2(a) in that when she employed and paid Mr. Suphan in July 2007 to obtain a divorce for her from her deported spouse, it was Ms. Monterola's objective that Mr. Suphan obtain her divorce within a reasonable time period, and not that she still not be divorced over two years later. 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. Mr. Suphan's conduct violated Rule 1.3 in that he has not acted with reasonable diligence and promptness in representing his client, Jennifer Monterola, by failing to obtain a final divorce decree for her in a simple and uncontested divorce for two years. Arkansas Rule 1.3 requires that a lawyer shall act with reasonable diligence and promptness in representing a client.

D. Mr. Suphan's conduct violated Rule 1.4(a)(3) in that he has failed to keep his client Jennifer Monterola reasonably informed about the status of her divorce case since July 2007, when he began representing her. Arkansas Rule 1.4(a)(3) requires that a lawyer shall keep the client reasonably informed about the status of the matter.

E. Mr. Suphan's conduct violated Rule 1.4(a)(4) in that he failed to promptly comply with reasonable requests for information on her divorce matter from his client Jennifer Monterola. Arkansas Rule 1.4(a)(4) requires that a lawyer shall promptly comply with reasonable requests for information.

F. Mr. Suphan's conduct violated Rule 1.15(a)(2) in that he lost or misplaced a $125.00 check provided to him by his client Jennifer Monterola after July 2008, a check intended by her to be used to pay the Daily Record for publication of the warning order in her divorce case. Arkansas Rule 1.15(a)(2) requires that property, other than funds of clients or third persons, shall be identified as such and appropriately safeguarded.

G. Mr. Suphan's conduct violated Rule 3.4(c) in that he failed to pay his 2008 Arkansas bar license fee by March 1, 2008, as required by Arkansas Supreme Court Rule VII.C, Rules Governing Admission to the Bar, not paying same until June 13, 2008, and he failed to pay his

2009 Arkansas bar license fee by March 1, 2009, as required by Arkansas Supreme Court Rule VII.C, Rules Governing Admission to the Bar, not paying same until March 11, 2009. Arkansas Rule 3.4(c) requires that a lawyer shall not knowingly disobey an obligation under the rules of a tribunal except for an open refusal based on an assertion that no valid obligation exists;

H. Mr. Suphan's conduct violated Rule 5.5(a) in that he failed to pay his 2008 Arkansas Bar license fee by March 1, 2008, as required by Arkansas Supreme Court Rule VII.C, Rules Governing Admission to the Bar, resulting in the automatic suspension of his Arkansas law license until June 13, 2008, when he did paid his 2008 license fee. He practiced law, including on Jennifer Monterola's matter, while his Arkansas law license was suspended during this period. Mr. Suphan failed to pay his 2009 Arkansas Bar license fee by March 1, 2009, as required by Arkansas Supreme Court Rule VII.C, Rules Governing Admission to the Bar, resulting in the automatic suspension of his Arkansas law license until March 11, 2009, when he did paid his 2009 license fee. He practiced law by continuing to represent Jennifer Monterola in her divorce matter while his Arkansas law license was suspended during this period. Arkansas Rule 5.5(a) provides that a lawyer shall not practice law in a jurisdiction in violation of the regulation of the legal profession in that jurisdiction, or assist another in doing so.

I. Mr. Suphan's conduct violated Rule 8.4(d) in that his delay and inability to accomplish the simple task of publishing a warning order to obtain service on a defendant has caused the judicial system to have to expend unnecessary time in dismissing one case and filing a second case in Mrs. Monterola's effort to obtain a divorce, and his unnecessary delay has caused Ms. Monterola to not receive her day in court on her divorce for almost two years. 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, in accordance with the consent to discipline presented by Mr. Suphan and the Executive Director, it is the decision and order of the Arkansas Supreme Court Committee on Professional Conduct that Respondent **CHARLES V. SUPHAN,** Arkansas Bar No. 94003, be, and hereby is, **REPRIMANDED** for his conduct in this matter, and ordered to pay restitution of $540.00 (previously paid), costs of $50.00. 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 B

By Steve R. Crane
Steve R. Crane, Chairperson, Panel B

Date 10-15-10