BEFORE THE ARKANSAS SUPREME COURT
COMMITTEE ON PROFESSIONAL CONDUCT
PANEL B

IN RE: **LISA DIANE DAVIS**, Respondent
Arkansas Bar ID # 2001072
CPC Docket No. 2013-016

BALLOT VOTE FINDINGS & ORDER

The formal charges of misconduct upon which this Findings and Order is based were developed from information provided to the Committee by Circuit Judge Pamela Honeycutt and Ronald Lack in February 2013. The information related to the representation of the Estate of Bernard Leon Lack in Clay County, Arkansas, by Respondent Lisa Diane Davis, an attorney practicing primarily in Piggott, Clay County, Arkansas. On May 7, 2013, Respondent Davis was personally served by a deputy sheriff with a formal complaint, supported by Judge Honeycutt's referral letter and affidavits from Ronald Lack and Clay County Probate Clerk Pat Poole. Respondent Davis failed to file a response to the complaint, which failure to timely respond, 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. This file was considered and voted upon at the Panel B meeting on June 21, 2013.

As more particularly detailed in Judge Honeycutt's letter and the Affidavits, the factual basis for the Complaint is:

1. Bernard Leon Lack, late of Clay County, Arkansas, died in Jonesboro, Arkansas on September 14, 2011, leaving as his heirs and devisees under his Will his son, Ronald Lack of Georgia and his daughter Denise Lack Burrows of Michigan.

2. Ronald Lack generally handled this probate matter for he and his sister.

3. In November 2011, Ronald Lack employed Piggott attorney Lisa D. Davis to probate the Bernard Lack estate, paying her a fee of $1,500.00 by check on November 25, 2011, for her future legal services.

4. The Bernard Lack probate case file, Clay Probate No. PR-2012-18, was opened on March 20, 2012, by Lisa Davis when she filed the Petition for Probate of Will and Appointment of Personal Representative. The initial Petition recites Mr. Lack actually died in a Jonesboro hospital on September 4, 2011. The Petition also recites that Mr. Lack's Will dated March 29, 2011, has been filed with the Petition. No Will was filed until December 17, 2012.

5. Lisa Davis caused a Summons addressed to Bernard Leon Lack, at a nursing home in Campbell, Missouri, to be issued on March 20, 2012. This Summons was never returned to the probate clerk's office as "served" or "not served." It is not recorded on the case docket sheet. Based on the Petition prepared and filed by Ms. Davis's office, Mr. Lack died months before the case was opened or the Summons issued.

6. Between March 20, 2012, and December 17, 2012, nothing was filed and there was no activity in the file, based on the clerk's records.

7. Ron Lack was in fairly regular contact with Ms. Davis by e-mail between November 2011 and March 27, 2012.

8. Between late March and early August 2012, Ron Lack had no contact with Ms. Davis.

9. Lisa Davis's law license was suspended for three months on March 22, 2012, in

another case. Her law license was reinstated effective August 20, 2012.

10. Davis failed to inform her client Ron Lack of her license suspension.

11. On August 2, 2012, Mr. Lack attempted e-mail contact with Ms. Davis. She responded on August 22, 2012, claiming her delay in responding to Lack was due to a knee injury (torn ACL).

12. By December 2012, Mr. Lack was becoming increasingly frustrated with his inability to contact Lisa Davis and with the lack of progress in the probate case. The Lack Estate was a very simple legal matter to Mr. Lack, consisting of about $3,000 in an account at Piggott State Bank and a life insurance policy of about $5,000.00. Having no more contact, Lack tried again by e-mail on October 15, 2012. He was finally able to contact Davis in mid-December 2012.

13. On December 10, 2012, Ms. Davis contacted the chambers of Judge Pamela Honeycutt in Jonesboro, with the Order for Approval of Final Distribution and Discharge of Personal Representative to be approved by the judge. The Lack case file was in the courthouse in Piggott, two counties away, and Judge Honeycutt had no opportunity to review the clerk's file before considering the Order from Ms. Davis.

14. Presuming the Order to be correct, on December 14, 2012, Judge Honeycutt signed the Order and had her office fax a signed copy to Ms. Davis, at Davis's request.

15. On December 17, 2012, at 10:05 a.m, Lisa Davis caused to be filed the Order for Approval of Final Distribution and Discharge of Personal Representative, Exhibit 4. This is a faxed copy received by her from the judge's office. The original Order signed by Judge Honeycutt from Jonesboro was never tendered or filed with the clerk's office.

16. On December 17, 2012, at 1:06 p.m., Letters Testamentary to co-personal representatives of the Lack Estate were issued by the clerk.

17. On December 17, 2012, the clerk's office notified Ms. Davis's office that there was no Will of Bernard Lack in the file. The same day such a Will was brought over for Ms. Davis and filed

18. The clerk's review of this file on December 17, 2012, revealed no order approving the Will, no order appointing the co-personal representatives, and no publication of the required newspaper notice to the public and creditors of the opening of the estate, and other items required to be filed by the Arkansas Probate Code.

19. Shortly thereafter, Judge Honeycutt got a call from Clay County Probate Clerk Pat Poole informing the Judge of the issues and problems with the state of the Lack probate file. After further investigation, Judge Honeycutt withheld the original signed Order from being officially filed.

20. Shortly after December 17, 2012, Ron Lack received two letters dated that date from Ms. Davis. One letter transmitted copies of the Letters Testamentary. The other informed him that Davis's representation had ended with the letter.

21. Exhibits 1 - 6 constitute the entire Lack Estate case file in the clerk's office as of February 25, 2013.

22. Brandy Jackson was working as Ms. Davis's office legal assistant in December 2012 when all this activity in the Lack Estate and with the clerk's office and Judge Honeycutt's chambers was going on.

23. Mr. Lack has now had to employ substitute counsel, David Copelin, to actually do

the probate matter correctly, and has agreed to pay Copelin an extra $750.00 when the matter is completed.

Upon consideration of the formal Complaint and attached exhibit materials, the lack of any response to it, and other matters before it, and the Arkansas Rules of Professional Conduct, Panel B of the Arkansas Supreme Court Committee on Professional Conduct finds:

A. The conduct of Lisa D. Davis violated Rule 1.1, in that after opening the Bernard Lack probate case on March 20, 2012, Ms. Davis failed to adhere to the requirements of the Arkansas Probate Code when she failed to publish notice to creditors in the newspaper, failed to file poof of service, failed to file the Will of Bernard Lack, failed to obtain an order approving the Will and appointing an Executor, failed to have letters testamentary issued to the named co-personal representatives, and then presented to the judge an order for approval of final distribution and discharge of the personal representative which totally misled the Judge as to the true status of the Lack estate, conduct by Ms. Davis showing a lack of the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation in a small, simple estate matter. 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 Lisa D. Davis violated Rule 1.3 in that the Bernard Lack estate was opened in March 2012, and no activity was thereafter undertaken in the case by Ms. Davis until December 2012, a failure by her to act with reasonable diligence and promptness in representing a client, even taking into account her law license was suspended from March 22

to August 20, 2012. Arkansas Rule 1.3 requires that a lawyer shall act with reasonable diligence and promptness in representing a client.

C. The conduct of Lisa D. Davis violated Rule 1.4(a)(3) in that from April 2012 until December 2012, Davis generally failed to keep her client, Ronald Lack, reasonably informed about the status of the Bernard Lack Estate matter. Arkansas Rule 1.4(a)(3) requires that a lawyer shall keep the client reasonably informed about the status of the matter.

D. The conduct of Lisa D. Davis violated Rule 1.4(a)(4) in that from April 2012 until December 2012, Davis generally failed to promptly comply with reasonable requests for information from her client, Ronald Lack. Arkansas Rule 1.4(a)(4) requires that a lawyer shall promptly comply with reasonable requests for information.

E. The conduct of Lisa D. Davis violated Rule 3.4(c) in that the Arkansas law license of Lisa Davis went into suspension status for three (3) months in late March, and she failed to inform her client Ronald Lack in writing of the suspension, as required by Court Procedures, Section 21.A (2011). 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.

F. The conduct of Lisa D. Davis violated Rule 8.4(c) in that:

(1) in mid-December 2012, in the Estate of Bernard Lack, Davis presented to Judge Honeycutt by mail a proposed Order for Approval of Final Distribution and Discharge of Personal Representative, despite knowing at the time that she had failed to accomplish several required tasks for filings in the Estate which were required by the Arkansas Probate Code, conduct by Davis involving dishonesty, fraud, deceit or misrepresentation to Judge

Honeycutt;

(2) on December 10, 2012, by mail Davis presented Judge Honeycutt with a proposed Order for Approval of Final Distribution and Discharge of Personal Representative which contained a material false statement of which Davis had knowledge. Paragraph four of the Order stated "[t]hat no creditors have made any claims against this estate and the statutory time for so doing has lapsed." The notice to creditors required by the probate code was never published in any newspaper, therefore no creditors received the required notice that would alert them to the opportunity to file a claim. This false statement was conduct by Davis involving dishonesty, fraud, deceit or misrepresentation to Judge Honeycutt;

(3) on December 17, 2012, Davis presented and filed with the Clay County Probate Clerk a faxed photocopy of the Order for Approval of Final Distribution and Discharge of Personal Representative signed December 14, 2012, by Judge Honeycutt, knowing at the time the legal requirements for issuance of such a final order had not been complied with by Davis in the Lack Estate, conduct by Davis involving dishonesty, fraud, deceit or misrepresentation on the clerk, the legal system, and on Davis's client;

(4) by letter dated December 17, 2012, Davis informed her client Ron Lack that her representation of him in the Bernard Lack estate matter was ended, knowing full well she had not taken the required steps to legally probate the Will and obtain the Order for final distribution that she obtained by ruse or misrepresentation from Judge Honeycutt on December 14, 2012, and filed on December 17, 2012, and represented to her client Ron Lack as the valid and final order; and

(5) by e-mail dated August 22, 2012, to Ron Lack, Davis falsely told him she

had not been able to attend to his legal matter due to a knee injury (torn ACL), when her real reason for not attending to Lack's matter was her undisclosed license suspension from March 22 - August 20, 2012.

Arkansas Rule 8.4(c) provides that it is professional misconduct for a lawyer to engage in conduct involving dishonesty, fraud, deceit or misrepresentation.

G. The conduct of Lisa D. Davis violated Rule 8.4(d) in that Davis's failure to properly attend to the Bernard Lack Estate, by failing to accomplish many tasks required by law before trying to close the Estate, have now required the client to have to obtain and pay for the services of a second attorney to do what Davis failed to do, and have and will continue to require additional time and resources from the court to properly deal with the Estate, conduct by Davis that is prejudicial to the administration of justice. 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 B, that **DISBARMENT PROCEEDINGS** shall be initiated against the Arkansas law license of **LISA DIANE DAVIS**, Arkansas Bar ID# 2001072, for her "serious" conduct in this matter. In assessing this sanction, Respondent's prior disciplinary record was a factor, as well as her failure to file any response. Since Davis is currently the Respondent in a pending disbarment proceeding, Case No. D-13-428, initiated by this Committee, the charges contained herein shall be added to that proceeding by amended petition for disbarment. Davis is also currently under an **ORDER OF INTERIM SUSPENSION** in No. D-13-428.

ARKANSAS SUPREME COURT
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By: /s/ Henry Hodges, Chair, Panel B

Date: June 27, 2013

Original filed with the Arkansas Supreme Court
on November 21, 2013.