

**BEFORE THE SUPREME COURT COMMITTEE ON PROFESSIONAL CONDUCT
PANEL B**

**IN RE: VAUGHN-MICHAEL H. CORDES
ARKANSAS BAR ID No. 2004192
CPC Docket No. 2014-050**

CONSENT FINDINGS AND ORDER

Vaughn-Michael H. Cordes is an attorney from Rogers, Arkansas, licensed in 2004 to practice law in the State of Arkansas, and assigned Arkansas Bar Number 2004192. The basis for the formal complaint arose from a self-report by Mr. Cordes as a result of his representation of numerous clients in the United States Bankruptcy Court for the Western District of Arkansas and an inquiry of his representation by the Honorable Ben Barry, United States Bankruptcy Court Judge.

Between July 19, 2012, and June 2, 2013, Cordes filed 23 bankruptcy cases in the United States Bankruptcy Court for the Western District of Arkansas. In 19 of those cases, an application to pay the filing fee in installments was filed. Each application to pay the filing fee in installments contained the statement by the debtor that “I am unable to pay the filing fee except in installments,” and included the electronic signatures of each debtor and Cordes.

Rule 1008 of the Federal Rule of Bankruptcy Procedures requires that “[a]ll petitions, lists, schedules, statements and amendments thereto shall be verified or contain an unsworn declaration as provided in 28 U.S.C. §1746.” Administrative Procedures for Electronically Filed Cases and Related Documents, U.S. Bankruptcy Court for the Eastern and Western District of Arkansas, Section II(D)(6)(b) (Version 6, January 20, 2010) requires that “Petitions, lists, schedules, statements, amendments, pleadings, affidavits, and other documents that must contain original signatures or require verification under Federal Rule of Bankruptcy Procedure 1008 or

an unsworn declaration as provided in 28 U.S.C. § 1746 may be filed electronically by attorneys registered in the ECF System. The attorney who files such a pleading or other document shall retain the originally executed document for audit purposes for a period of no less than three years after the case has been closed.”

On June 25, 2013, Judge Barry, concerned about the number and frequency of applications for payment of filing fee in installments filed by Cordes, ordered Cordes to appear before the court on July 29, 2013, at 9:00 a.m., and to produce by no later than July 24, 2013 at 3:00 p.m. the following documents: (1) the original Application to Pay Filing Fee in Installments personally signed by each debtor and (2) the receipts or other evidence of amounts and dates of money paid by the debtors to Cordes for attorney fees and costs, including the filing fee, for each bankruptcy case listed in the court’s order of June 25, 2013.

Though required to maintain records for three years after the case is closed, Cordes did not provide the court with all the documentation that was requested by the court’s deadline of July 24, 2013, at 3:00 p.m. Cordes did file the ordered applications to pay the filing fees in installments electronically in nineteen of twenty-three cases. In those nineteen cases, Cordes provided copies of personally signed applications in only ten cases. Of those ten cases, Cordes admitted that five of the applications were not signed by the debtors prior to being filed with the court.

Judge Barry scheduled a hearing for July 19, 2013. At the hearing, the court examined the following cases: *In Re: Barney Minor*, U.S Bankruptcy Court Case No. 5:12-bk-73000; *In Re: Julie K. Snodgrass*, U.S. Bankruptcy Court Case No. 5:12-bk-73839; *In Re: Susan D. Nichols*, U.S. Bankruptcy Court Case Nos. 5:12-bk-73685 and 5:12-bk-74333; and *In Re: Lisa*

M. Oberlies, U.S. Bankruptcy Court Case No. 5:13-bk-71103.

Concerning the *Minor* case, Cordes filed the bankruptcy petition on August 3, 2012, with Minor's electronic signature, though Cordes knew that Minor had not personally signed the petition. Though Minor already paid the filing fee to Cordes, Cordes filed an application to pay the filing fee on the same day he filed the bankruptcy petition. The filing fee was due prior to the first meeting of creditors which was scheduled for September 17, 2012. As the filing fee had not been paid by Cordes to the court by September 17, 2012, Minor's bankruptcy case was dismissed on September 18, 2012. Cordes stated that he filed a second Minor bankruptcy case on November 7, 2012. Cordes knew Minor had not personally signed the bankruptcy petition and application because of Minor's illness. Minor's bankruptcy plan was confirmed on June 7, 2013. Concerning the *Snodgrass* case, Cordes stated in his testimony that Snodgrass signed her bankruptcy petition. Snodgrass' father paid Cordes' attorneys fee, the filing fee, and \$70 in miscellaneous expenses. Cordes then filed the bankruptcy petition on October 11, 2012, and filed an application to pay the filing fee in installments. Cordes admitted that he filed the Application to Pay the Filing Fee in Installments without Snodgrass' permission. On November 20, 2012, Cordes paid the filing fee. There was an issue with the court's credit card processing system, however, which did not complete the payment. As a result, on November 21, 2012, the court issued an order dismissing Snodgrass's case for failure to pay the filing fee. Cordes contacted the court clerk and notified the clerk of the payment submission. When the matter was brought to the court's attention, it vacated the order dismissing Snodgrass' case on the same day, November 21, 2012.

Concerning the *Nichols* matter, Cordes filed a Bankruptcy Petition and Application for

Nichols on November 20, 2012. Cordes did not have Nichols sign either the Petition or the Application. Cordes paid the filing fee on December 21, 2012, but the case was later dismissed for Nichols' failure to make payments pursuant to the bankruptcy plan.

In the *Oberlies* case, Cordes stated that Oberlies had not signed the Bankruptcy Petition prior to filing. Even though Oberlies paid Cordes' attorney's fee, the filing fee, and other associated fees, Cordes filed an Application to Pay Filing Fee in Installments. Oberlie's bankruptcy case was dismissed on May 14, 2013, for failure to pay the filing fee. Cordes filed a motion to set aside dismissal and reinstate the case on May 21, 2013, and the court granted the motion. On July 22, 2013, Cordes refunded Ms. Oberlies the \$750.00 which he charged her for his fees in the case. Oberlies received a discharge from bankruptcy on September 17, 2013.

On August 20, 2013, the court issued an Order to Show Cause why Mr. Cordes should not be sanctioned for his conduct. Following the hearing, the court on September 24, 2013, issued an Order Imposing Sanctions finding that there was no material evidence presented to the court to contradict or alter the court's previous findings of facts stated in its August 20, 2013, Order. The court also found that Mr. Cordes violated Rule 9011(b) of the Federal Rules of Bankruptcy Procedure and 11 U.S.C. §707(b)(4)(C), as well as Rule 1.15 of the Arkansas Rules of Professional Conduct. As a result, the court placed Mr. Cordes on a six-month probationary period from September 24, 2013, during which he was required to comply strictly with the bankruptcy code, bankruptcy rules of procedure, and other applicable law in all matters before the court; was ordered to pay a fine of Seven Hundred Fifty Dollars (\$750.00); and to complete the Multistate Professional Responsibility Examination with a score of 85% or better.

Cordes and his attorney, Bob Estes of Fayetteville, Arkansas, entered into discussion with

the Office of Professional Conduct about Discipline by Consent. Cordes acknowledged that his conduct violated Rule 3.4(c) of the Arkansas Model Rules of Professional Conduct, specifically when he (1) filed a Bankruptcy Petition and Application to Pay Filing Fee in Installments on August 3, 2012, on behalf of Barney Minor knowing that Minor had not personally signed the Petition or Application; (2) filed an Application to Pay Filing Fee in Installments on behalf of Julie Snodgrass on October 11, 2012, knowing Snodgrass had not personally signed the Application; (3) filed a Bankruptcy Petition and Application to Pay Filing Fee in Installments on behalf of Susan Nichols on September 28, 2012, knowing that Nichols had not personally signed the Petition or Application; and (4) filed a Bankruptcy Petition and Application to Pay Filing Fee in Installments on March 27, 2013, on behalf of Lisa Oberlies knowing that Oberlies had not personally signed the Petition or Application. In addition, Cordes admitted that he failed to provide the Bankruptcy Court with 9 of the 19 original Applications to Pay Filing Fee in Installments before 3:00 p.m. on Wednesday, July 24, 2013, as ordered by the Bankruptcy Court.

Cordes offered in mitigation that he had no prior disciplinary history; that he has verified participation in the Judges and Lawyers Assistance Program; that he has made a timely good faith effort to rectify the consequences of his misconduct; that he offered full and free disclosure to the disciplinary board and exhibited a cooperative and proactive attitude towards the proceedings. Cordes also asserted that the Bankruptcy Court had imposed six months probation, a \$750 fine, and ordered Cordes to take the Multi-State Professional Responsibility Examination and obtain a score of 85% or better, all of which he has done. Cordes further asserted that there was no injury to a client or the public, that there is little likelihood of repetition by the lawyer in that Cordes has not filed any bankruptcy petition for a client in over eighteen months. Cordes

returned his attorney's fees to the Randalls and to Oberlies even though he obtained a bankruptcy discharge for Oberlies. Cordes proposed a sanction of a reprimand and payment of administrative costs in the amount of Fifty Dollars.

Upon consideration of the formal complaint and attached exhibits, admissions made by the respondent attorney, the terms of the written consent to discipline proposal, the approval of Panel B of the Committee on Professional Conduct, and the Arkansas Rules of Professional Conduct, the Committee on Professional Conduct finds:

1. Vaughn-Michael H. Cordes violated Rule 3.4(c) when he (1) filed a Bankruptcy Petition and Application to Pay Filing Fee in Installments on August 3, 2012, on behalf of Barney Minor knowing that Minor had not personally signed the Petition or Application; (2) filed an Application to Pay Filing Fee in Installments on behalf of Julie Snodgrass on October 11, 2012, knowing Snodgrass had not personally signed the Application; (3) filed a Bankruptcy Petition and Application to Pay Filing Fee in Installments on behalf of Susan Nichols on September 28, 2012, knowing that Nichols had not personally signed the Petition or Application; and (4) filed a Bankruptcy Petition and Application to Pay Filing Fee in Installments on March 27, 2013, on behalf of Lisa Oberlies knowing that Oberlies had not personally signed the Petition or Application, all in violation of Rule 1008 of the Federal Rules of Bankruptcy Procedure. In addition, Cordes failed to provide the Bankruptcy Court with 9 of the 19 original Applications to Pay Filing Fee in Installments before 3:00 p.m. on Wednesday, July 24, 2013, as ordered by the Bankruptcy Court. Rule 3.4(c) requires that a lawyer 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.

WHEREFORE, it is the decision and order of the Arkansas Supreme Court Committee

on Professional Conduct, acting through its authorized Panel B, that VAUGHN-MICHAEL H. CORDES, Arkansas Bar No. 2004192, be, and hereby is, **REPRIMANDED** and ordered to pay costs in the amount of FIFTY DOLLARS (\$50.00). All fines, restitution or costs, if any, 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, 2100 Riverfront Drive, Suite 200, Little Rock, Arkansas, 72202, within thirty (30) days of the date this Findings and Order is filed of record with the Clerk of the Arkansas Supreme Court.

It is so ordered.

ARKANSAS SUPREME COURT COMMITTEE
ON PROFESSIONAL CONDUCT - PANEL B

By: /s/ Niki T. Cung, Chair, Panel B

Date: June 19, 2015

Original filed with the Arkansas Supreme Court on
June 22, 2015.