BEFORE THE SUPREME COURT COMMITTEE ON PROFESSIONAL CONDUCT
PANEL A

IN RE: DAVID L. DUNAGIN, Respondent
Arkansas Bar ID#84040
CPC Docket No. 2005-068

CONSENT FINDINGS AND ORDER

The formal charges of misconduct upon which this Findings and Order is based arose from information provided to the Committee through Orders of the Arkansas Supreme Court in the matter of *Manuel Bail Bond Co., Inc. v. State of Arkansas*, CR05-261. The information related to the representation of Manuel Bail Bond Company, Inc. by Respondent in 2004 and 2005.

On or about April 25, 2005, Respondent was served with a formal complaint, supported by records from the Arkansas Supreme Court Clerk's Office. A response was filed. The Respondent and the Executive Director negotiated a discipline by consent proposal, which was submitted to this Panel.

The information before the Committee reflected that on October 27, 2004, a Judgment was entered in the Crawford County Circuit Court matter with case number CR-03-418-A. A timely Notice of Appeal was filed on November 23, 2004. Thereafter, on February 23, 2005, David L. Dunagin, an attorney practicing primarily in Fort Smith, Arkansas, tendered the record with the Clerk of the Arkansas Supreme Court. The record was tendered on the ninety second day from the filing of the Notice of Appeal. After being contacted on two (2) occasions by Deputy Clerks, Mr. Dunagin filed his Motion for Rule on the Clerk.

Mr. Dunagin gave no reason in the Motion for Rule on the Clerk for the late filing. He did accept responsibility for the same. On March 31, 2005, the Arkansas Supreme Court delivered an Order denying the Motion for Rule on the Clerk.

Upon consideration of the formal complaint and attached exhibit materials, the response, the consent proposal, 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:

1. That Mr. Dunagin's conduct violated Model Rule 1.1 when he was not thorough enough in his representation of Manuel Bail Bond Company, Inc., to be certain that he filed the record on appeal in a timely manner. Model Rule 1.1 requires that a lawyer provide competent representation to a client, including the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation.

2. That Mr. Dunagin's conduct violated Model Rule 1.2(a) because despite the fact that his client wished to pursue an appeal of the Crawford County Circuit Court's decision, he failed to comply with all the procedural rules to do so and therefore denied Manuel Bail Bond Company, Inc., the opportunity to an appeal of the lower court's decision. Model Rule 1.2(a) requires that a lawyer abide by a client's decisions concerning the objectives of representation, subject to paragraphs (c), (d), and (e), and consult with the client as to the means by which they are to be pursued.

3. That Mr. Dunagin's conduct violated Model Rule 1.3 when he failed to be certain that the record on appeal for his client, Manuel Bail Bond Company, Inc., was filed with the Clerk of the Court within ninety (90) days of the first Notice of Appeal filed in the matter involving Manuel Bail Bond Company, Inc. and Michelle Gann. Model Rule 1.3 requires that a lawyer act with reasonable diligence and promptness in representing a client.

4. That Mr. Dunagin's conduct violated Model Rule 3.4(c) when he failed to adhere to the requirements of Rule 5(a) of the Rules of Appellate Procedure - Civil when he failed to be certain that the record on appeal was filed within ninety (90) days of the filing of the first Notice of Appeal. Model 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 A, that DAVID L. DUNAGIN, Arkansas Bar ID# 84040, be, and

hereby is, CAUTIONED for his conduct in this matter. In addition, Mr. Dunagin is assessed the costs of this proceeding in the amount of $50, pursuant to Section 18.A. of the Procedures of the Arkansas Supreme Court Regulating Professional Conduct of Attorneys at Law (2002). 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 A

By: _____

Bart F. Virden, Chair, Panel A

Date: _____

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