

BEFORE THE SUPREME COURT COMMITTEE ON PROFESSIONAL CONDUCT

IN RE: JOHN SKYLAR TAPP

ARKANSAS BAR ID #76123

CPC DOCKET NO. 2000-102

FINDINGS AND ORDER

The formal charges of misconduct upon which this Order is premised arose from the Complaint of Ruby Worley. Following the Committee's ballot vote, John Skylar Tapp, an attorney practicing in Hot Springs, Garland County, Arkansas, requested a de novo hearing pursuant to Section 5 of the Procedures of the Arkansas Supreme Court Regulating Professional Conduct of Attorneys at Law. The de novo hearing was held July 20, 2001. Mr. Tapp appeared on behalf of himself. Ms. Worley was present as a witness for the Office of Professional Conduct. Nancie Givens, Senior Staff Attorney, presented the matter on behalf of Office of Professional Conduct.

Mr. Tapp represented Ms. Worley in a civil matter. Mr. Tapp was initially hired by Ms. Worley's husband during 1995 to defend Ms. Worley in a lawsuit brought against her by Oliver R. Foster, her father. Mr. Tapp admitted that he was paid \$1000 to represent Ms. Worley. He also explained that he agreed to represent Ms. Worley, in part, because she reported herself to be a good friend of Mr. Tapp's mother. Mr. Tapp asserted his belief that he represented Ms. Worley in a professional manner but that she had a severe distrust of the legal process and would not assist him or his staff in her own defense. On November 1, 1996, a Judgment was entered against Ms. Worley in the civil matter as a result of the failure to timely respond to Requests for Admission filed by the opposing party. The Requests had been served on Mr. Tapp, as Ms. Worley's attorney of record. According to Ms. Worley, she was not contacted by Mr. Tapp about the Requests until two (2) days before the hearing on the Motion for Summary Judgment filed by Mr. Foster's attorney. Ms. Worley did admit that Mr. Tapp included in his response to the formal disciplinary complaint a copy of a letter which purported to transmit the Requests for Admission to her for review and response. However, Ms. Worley explained that she did not receive the letter or if she did, she did not read it. Mr. Tapp specifically denied that Ms. Worley was not told about the receipt of the Requests for Admission or the consequence for failing to respond thereto. According to Mr. Tapp, it was difficult to get Ms. Worley to respond or answer any discovery. After the Judgment was entered against her, Ms. Worley obtained a loan and paid the Judgment so that her bank accounts would not be garnished. Mr. Tapp admitted that after Judgment was entered he did not speak to Ms. Worley. He explained that he did not do so because Ms. Worley had already threatened to sue him and so he had filed a Motion to be Relieved as soon as the Judgment was entered against Ms. Worley. Finally, Ms. Worley chose to file a lawsuit against Mr. Tapp. The Complaint was filed on June 24, 1997 and Mr. Tapp filed his Answer on July 28, 1997. Thereafter, Ms. Worley's lawyer filed Requests for Admission to be answered by Mr. Tapp. Because of Mr. Tapp's failure to timely respond to the requests, Ms. Worley's attorney filed a Motion for Summary Judgment. Thereafter, Mr. Tapp filed his responses. After a hearing on the Motion for Summary Judgment, the presiding Judge denied the Motion but did deem the Requests for Admission admitted. In addition to the Requests for Admission, Ms. Worley's attorney served Mr. Tapp with Interrogatories and Requests for Production. Mr. Tapp made no apparent effort to respond or comply with discovery requests. Because of the failure to respond, a Motion to Compel was filed and an Order was entered granting the Motion on November 25, 1998. Mr. Tapp failed to comply with the Order to Compel which resulted in a Motion for Sanctions being filed. The presiding Judge granted the Motion for Sanctions and Mr. Tapp's pleadings were stricken from the record and a Default Judgment was entered in favor of Ms. Worley. Mr. Tapp admitted that he did not properly represent himself in the lawsuit brought by Ms. Worley. He also explained that he paid the highest price because he was not allowed to defend himself and had his pleadings stricken from the record. Pursuant to the Judgment, Mr. Tapp owed Ms. Worley \$13,123.61 plus interest and he owed Ms. Worley's lawyer \$610 for attorney's fees. The Judgment against Mr. Tapp was satisfied sometime after this formal complaint was initiated. The Satisfaction of Judgment was filed of record on November 1, 2000.

Upon consideration of the formal complaint, the response herein, the testimony and evidence introduced at the de novo hearing, and the Arkansas Model Rules of Professional Conduct, the Committee on Professional Conduct unanimously finds:

1. That Mr. Tapp's conduct violated Model Rule 1.1 when he failed to file timely Responses to Requests for Admission served on his client thereby allowing them to be deemed admitted. Model Rule 1.1 requires, in pertinent part, that a lawyer provide competent representation to a client including the thoroughness and preparation reasonably necessary for the representation.
2. That Mr. Tapp's conduct violated Model Rule 1.3 when he failed to timely file responses to the Requests for Admission served on him as attorney of record for Ms. Worley. Model Rule 1.3 requires that a lawyer act with reasonable diligence and promptness in representing a client.

WHEREFORE, it is the decision and order of the Arkansas Supreme Court Committee on Professional Conduct that JOHN SKYLAR TAPP, Arkansas Bar ID #76123 be, and hereby is, CAUTIONED for his conduct in this matter.

ARKANSAS SUPREME COURT COMMITTEE

ON PROFESSIONAL CONDUCT

By:

Bart Virden

Chairman

Date: