

BEFORE THE SUPREME COURT COMMITTEE ON PROFESSIONAL CONDUCT
PANEL A

IN RE: EUGENE G. SAYRE, Respondent
Arkansas Bar ID#75111
CPC Docket No. 2006-017

FINDINGS AND ORDER

The formal charges of misconduct upon which this Findings and Order is based arose from information provided to the Committee by Hoa and Co Mac on September 19, 2005. The information related to the representation of Mr. and Mrs. Mac by Respondent beginning in 1999.

During February 2006, Respondent was served with a formal complaint, supported by affidavit from Hoa and Co Mac. Respondent filed a timely response. The matter then proceeded to ballot vote before Panel A of the Committee on Professional Conduct pursuant to the Procedures of the Arkansas Supreme Court Regulating Professional Conduct of Attorneys at Law (2005).

The information before the Committee reflected that during May 1999, Hoa and Co Mac hired Eugene G. Sayre, an attorney practicing primarily in Little Rock, Arkansas, to represent them in a legal matter concerning the audit of sales tax and income tax. Mr. Sayre was hired to help the Macs reconstruct the sale tax that was audited. Mr. Sayre advised his clients that the auditor did not correctly compute the cost of sale on three restaurants which they had at the time of the audit. After Mr. Sayre gathered the information he said he needed, the statute of limitation for challenging the audit had expired. The case Mr. Sayre filed was dismissed both by the Circuit Court of Independence County and by the Supreme Court of Arkansas. Mr. Sayre made the Macs aware of the decision of the Arkansas Supreme Court in a letter dated February 4, 2005. In his letter to Hoa and Co Mac, Mr. Sayre stated that he would undertake every effort to protect them from financial loss because of the decision of the Arkansas Supreme Court.

The ruling of the Arkansas Supreme Court was that Mr. Sayre did not file the Macs' claim on time. After the Supreme Court did not rule in favor of his clients, Mr. Sayre informed them that he would ask the Department of Finance and Administration to reconsider the amount of tax assessed against them. As far as the Macs knew at the time of the filing of the formal disciplinary complaint, Mr. Sayre had only sent one letter on their behalf.

According to Mr. and Mrs. Mac, immediately following the Supreme Court's decision, they called Mr. Sayre at least once a week about the matter. They reported that he promised them each time they spoke that he would work on their issue. As of the date of filing the disciplinary complaint, Mr. and Mrs. Mac had been provided no proof that such work had been undertaken or accomplished by Mr. Sayre on their behalf.

In his response to the disciplinary complaint, Mr. Sayre explained to the Committee his extensive practice in the area of tax law before federal, state or local taxing authorities. Mr. Sayre offered his experience in drafting law before the Arkansas Senate. Mr. Sayre denied that his "good faith" actions were in violation of the Arkansas Model Rules of Professional Conduct in his representation of Mr. and Mrs. Mac. He explained that since May of 2005, he has been working toward the preparation of an Offer in Compromise to submit to the DF&A on behalf of Mr. and Mrs. Mac. He acknowledged that he had not been in regular contact with the Macs but asserted that he has continued to be respond to telephone inquiries.

Upon consideration of the formal complaint and attached exhibit materials, the response to it, 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. Sayre's conduct violated Model Rule 1.3, because in the course of his representation of Hoa and Co Mac, he failed to file an action on their behalf with regard to the audit of the Department of Finance and Administration prior to the expiration of the statute of limitation to do so. Model Rule 1.3 requires that a lawyer act with reasonable diligence and promptness in representing a client.
2. That Mr. Sayre's conduct violated Model Rule 1.4(a) because since the letter of May 31, 2005, to the Department of Finance and Administration concerning the tax liability of Hoa and Co Mac, he has failed to communicate with them about what efforts, if any, he has undertaken on their behalf to assist them with regard to the matter he failed to pursue in a timely manner and because he has failed to respond to requests for information left for him by Hoa and Co Mac since he sent the letter of May 31, 2005, to the Department of Finance and Administration. Model Rule 1.4(a) requires that a lawyer keep a client reasonably informed about the status of a matter and promptly comply with reasonable requests for information.

WHEREFORE, it is the decision and order of the Arkansas Supreme Court Committee on Professional Conduct, acting through its authorized Panel A, that Eugene G. Sayre, Arkansas Bar ID#75111, be, and hereby is, CAUTIONED for his conduct in this matter. Pursuant to Section 18.A. of the Procedures, Mr. Sayre is assessed the costs of this proceeding in the amount of \$50. 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: _____
Phillip D. Hout, Chair, Panel A

Date: _____