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

IN RE: **S. GRAHAM CATLETT**
Arkansas Bar ID #77029
CPC Docket No. 2011-051

FINDINGS AND ORDER

The formal charges of misconduct upon which this Findings and Order is based were developed from information provided to the Committee by Charles Vestal in October 2005. The information related to activities of representatives of Vestal Gourmet Foods, Inc. in mid-2005, including by Respondent S. Graham Catlett, an attorney practicing primarily in Little Rock, Arkansas. In June 2011 Respondent was served with a formal complaint, supported by an affidavit from Sarah Anne Vestal (formerly Charles H. Vestal). Respondent filed a response to the Complaint, Ms. Vestal filed an Affidavit of Rebuttal, and the matter went to ballot vote on September 16, 2011.

As a result of an October 2009 Arkansas court order recognizing a change of sex. Charles H. Vestal, formerly of Little Rock, is now legally Sarah Anne Vestal, and now residing and working in California. After passing a federal government background check, Ms. Vestal has been employed since mid-2009 with the Internal Revenue Service, first as a Tax Compliance Officer and now as a Revenue Agent. As the acts alleged following generally occurred before the gender change, Ms. Vestal will be referred to herein as Mr. Vestal or Ms.

Vestal as time-appropriate.

Mr. Vestal had started a wholesale organic tomato production business in Arkansas in 2002, as Vestal Greenhouse, Inc. ("VGI"). In December 2003, Vestal secured a USDA-NOP organic producer certificate, QAI #103660-B, for his tomato greenhouse site near Sheridan, Arkansas. In July 2004, Mr. Vestal and his long-time attorney S. Graham Catlett, and others, incorporated Vestal Gourmet Foods, Inc. ("VGFI"), an Arkansas business corporation, to operate and expand the wholesale organic tomato production business. VGFI basically took over Vestal's former VGI. Vestal, also a CPA, was the experienced farmer. Graham Catlett was the lawyer, business adviser, and developer of sources of project financing. The idea was that Vestal and Catlett would each own 50% of the corporate stock. Vestal's shares were in recognition of his \$321,900 for creation and startup of the business and his farm management efforts, and Catlett would generally earn his shares by obtaining a minimum of \$1,000,000 in capital infusion. In April 2005, a loan closed whereby VGFI borrowed \$770,000 in SBA guaranteed funds from Arkansas Capital Corporation. Greenhouse expansion plans of VGFI were then implemented in April 2005 when a \$486,393 contract for construction of a new greenhouse for VGFI was signed.

On or about June 4, 2005, the VGFI greenhouse tomato crop failed. The VGFI field tomato crop being raised was not mature and ready for market at the time, leaving VGFI without a source of organic tomatoes to supply to its many retail customers in central Arkansas. By July 5, 2005, the field tomato crop had also failed. Vestal, Catlett, and others involved in VGFI discussed the emergency situation. A plan was devised by which VGFI would purchase non-organic tomatoes at Arkansas markets, mainly in Warren, label these

tomatoes as “organic” using the company’s USDA (United States Department of Agriculture) organic labels, and continue to sell them as “organic” products, which commanded a higher price from retail customers, until a source of organic tomatoes could be developed or a new crop could be raised at the VGFI facility. Between June 5 - July 11, 2005, VGFI agents, delivered 103 shipments of mis-labeled “organic” tomatoes to retail customers in the little Rock area, as detailed in the USDA Report of Investigation.

By August 2005, major problems had arisen between Vestal and Catlett over the management and ownership of VGFI. In early October 2005, Vestal sued Catlett and others involved in VGFI. In September 2006, this state court litigation was settled.

In December 2005, Mr. Vestal reported the mislabeled tomato sales matter to both the USDA and the FBI. The USDA conducted an investigation. In January 2007, a Report of Investigation was issued by USDA. In June 2009, an adverse Decision was issued by the Administrator of the Agricultural Marketing Service and served on Catlett and Vestal, basically revoking the VGFI organic certification but not imposing any financial penalties. The Decision found that the mislabeling scheme in which Catlett participated involved 103 willful violations of the OFPA and NOP regulations. In late June 2009, Catlett waived any appeal rights from the Decision, ending any resistance by the Catlett parties to the Decision.

In early January 2010, Ms. Vestal waived any appeal rights from the Decision, ending any resistance by her to the Decision. In a separate and personal settlement agreement, the USDA agreed with Vestal that she had been the “whistleblower” in the VGFI case and had been in compliance with NOP (National Organic Program) regulations at all relevant times. Ms. Vestal self-reported the USDA investigation to the IRS as part of her employment

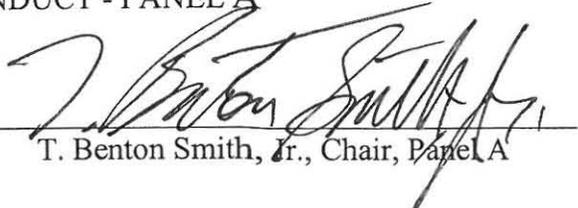
process. In January 2010, the IRS closed the file without action and she continued in her IRS employment position.

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

A. The conduct of S. Graham Catlett violated Rule 8.4(c), in that (1) during June-July 2005, Mr. Catlett knowingly participated in a plan and scheme to sell non-organic tomatoes, falsely labeled as organic tomatoes, to customers of Vestal Gourmet Foods, Inc., and (2) during June-July 2005, Mr. Catlett knowingly participated in a plan and scheme to sell non-organic tomatoes, falsely labeled as organic tomatoes, to customers of Vestal Gourmet Foods, Inc., a plan and scheme which the USDA found to result in 103 willful violations of the OFPA and NOP regulations. Arkansas Rule 8.4(c) provides that it is professional misconduct for a lawyer to engage in conduct involving dishonesty, fraud, deceit or misrepresentation.

WHEREFORE, it is the decision and order of the Arkansas Supreme Court Committee on Professional Conduct, acting through its authorized Panel A, that **S. GRAHAM CATLETT**, Arkansas Bar ID #77029, be, and hereby is, **REPRIMANDED and FINED \$1,500.00** for his conduct in this matter and assessed \$50.00 costs. The fine and costs assessed herein, totaling \$1,550.00, shall be payable by cashier's check or money order payable to the "Clerk, Arkansas Supreme Court" delivered to the Office of Professional Conduct with 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: 
T. Benton Smith, Jr., Chair, Panel A

Date: September 23, 2011