

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

IN RE: Charles J. Doerpinghaus, Respondent

Arkansas Bar ID#81049

CPC Docket No. 2001-123

CONSENT FINDINGS AND ORDER

The formal charges of misconduct upon which this Findings and Order is based arose from information provided to the Committee by Gordon Heinicke in an Affidavit dated November 9, 2001. The information related to the representation of Gordon Heinicke by Respondent in 1996 and 1997.

On November 19, 2001, Respondent was served with a formal complaint, supported by the affidavit from Mr. Heinicke. A response was filed. The Respondent and the Executive Director negotiated a discipline by consent proposal, which was submitted to this Panel.

The formal complaint demonstrated that during 1996, Mr. Heinicke hired Respondent to seek a modification of the \$850 per month child support obligation to which Mr. Heinicke was subject as the result of a California divorce decree. Mr. Heinicke was divorced in 1993 and ordered to pay the \$850 per month in child support by an order entered July 10, 1995. When Mr. Heinicke relocated to Arkansas in 1996, he did not have the income to justify this level of support, hence, the reason for hiring Respondent. On June 27, 1997, Respondent registered the California judgment in Arkansas but took no further action in the case except for filing a petition for reduction in Mr. Heinicke's child support obligation. Respondent filed the California judgment in Saline County, a fact which confused Mr. Heinicke since he had never resided in Saline County. Respondent failed to obtain a Court Order modifying the child support to a level indicative of Mr. Heinicke's reduced income. Respondent did not advise Mr. Heinicke that there had been no court action or order. Instead, Respondent wrote Mr. Heinicke and advised him that he should start making child support payments of \$35 per week instead of the \$850 per month. Respondent advised Mr. Heinicke to begin making this payment through the Saline County Chancery Clerk and "not to worry about it after that." Mr. Heinicke made this reduced payment weekly until May 2001.

Mr. Heinicke continued to receive monthly statements from the California child support agency and the Pulaski County child support agency showing an ever growing arrearage. Respondent advised Mr. Heinicke not to worry about it because the judge in Arkansas had dismissed all the arrearage. Mr. Heinicke was also assured by Respondent that he would receive a copy of the paperwork. However, Respondent never sent Mr. Heinicke any paperwork as none existed.

On numerous occasions, Mr. Heinicke attempted to discuss this matter with Respondent but he never received any clear answers. Mr. Heinicke finally hired new counsel when he realized that Respondent had not handled his case appropriately. The Arkansas Office of Child Support Enforcement intervened in Mr. Heinicke's legal matter seeking judgment for a large arrearage. A hearing was held in May 2001, concerning Mr. Heinicke's failure to pay the proper amount of child support. At the hearing, Mr. Heinicke was found to owe an arrearage of \$38,158.92. A judgment for this amount was entered against Mr. Heinicke on August 6, 2001. The same judgment reduced Mr. Heinicke's child support payments to \$101.00 per week beginning May 31, 2001. Mr. Heinicke was not held in contempt since the Court was satisfied that Mr. Heinicke had followed Respondent's instructions in good faith and paid his support obligation as he believed it to be at the time. Through new counsel, Mr. Heinicke was able to negotiate a settlement with his former wife on all unpaid support in the amount of \$10,000. Mr. Heinicke was able to pay this lump sum with borrowed funds on September 13, 2001.

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 C of the Arkansas Supreme Court Committee on Professional Conduct finds:

1. That Mr. Doerpinghaus' conduct violated Model Rule 1.3 because he was employed in mid-1996 but did not register the foreign judgment from California until June 1997 and then failed to obtain an appropriate order for almost four (4) years thereafter, all to his client's detriment. Model Rule 1.3 requires that a lawyer shall act with reasonable diligence and promptness in representing a client.
2. That Mr. Doerpinghaus' conduct violated Model Rule 1.4(a), to wit: From June 1997, he failed to keep his client advised that he had failed to obtain an order that would reduce his child support obligation from the ordered \$850 per month to the \$35 per week he advised his client to pay starting in December 1997. Model Rule 1.4(a) requires that a lawyer shall keep a client reasonably informed about the status of a matter and promptly comply with reasonable requests for information.
3. That Mr. Doerpinghaus' conduct violated Model Rule 3.2 since he filed a pleading in June 1997, and thereafter failed to take any action to move the litigation forward for almost four (4) years. Model Rule 3.2 requires that a lawyer shall make reasonable efforts to expedite litigation consistent with the interests of the client.
4. That Mr. Doerpinghaus' conduct violated Model Rule 8.4(c) when he falsely advised his client, Mr. Heinicke, in writing in December 1997 that Mr. Heinicke should reduce his child support payment from \$850 per month to \$35 per week, knowing no court order had been entered authorizing such change, and Respondent failed to correct this deceitful direction for almost four years, to his client's substantial financial detriment. Model Rule 8.4(c) requires that a lawyer shall not engage in conduct involving dishonesty, fraud, deceit or misrepresentation.
5. That Mr. Doerpinghaus' conduct violated Model Rule 8.4(d), to wit: His failure to obtain an appropriate court order in 1997 regarding modification of his client's child support obligation required additional court proceedings in 2001 to address the situation he created. Model Rule 8.4(d) requires that a lawyer shall not engage in conduct that is prejudicial to the administration of justice.

WHEREFORE, it is the decision and order of the Arkansas Supreme Court Committee on Professional Conduct, acting through its authorized Panel C, that CHARLES DOERPINGHAUS, JR. Arkansas Bar ID# 81049, be, and hereby is, **SUSPENDED FOR A PERIOD OF FIVE (5) YEARS** for his conduct in this matter. The suspension shall become effective on the date this Findings and Order is filed of record with the Clerk of the Arkansas Supreme Court. The suspension shall run concurrent with the five (5) year suspension imposed in CPC Docket No. 2001-073.

By: _____

David Newbern, Chair, Panel C

Date: _____

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