

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

IN RE:           PHILLIP A. MOON, Respondent  
                  Arkansas Bar ID#84109  
                  CPC Docket No. 2003-137

**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 Phillip A. Moon, through a self-referral on June 20, 2003 and through a Supreme Court referral about the same conduct on September 4, 2003. The information related to the representation of John E. Patrick by Respondent in an appeal to the Arkansas Court of Appeals during 2002.

On October 10, 2003, Respondent was served with a formal complaint, supported by the Per Curiam Referral from the Arkansas Supreme Court. 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 Panel reflects the following:

Phillip A. Moon, an attorney practicing primarily in Harrison, Arkansas, represented John Earl Patrick in his criminal proceeding which was held in Carroll County, Arkansas, Eastern District. A Judgment and Commitment Order was entered on January 8, 2002. Mr. Moon filed a timely Notice of Appeal on February 5, 2002. In the Notice of Appeal, Mr. Moon advised that he had ordered the transcript from Patricia A. Hodge, the Official Court Reporter of the proceeding involving Mr. Patrick. Due to an error on Mr. Moon's part, Ms. Hodge did not begin the preparation of the transcript. There was no extension ever requested for the preparation of the record or to lodge the record with the Clerk of the Arkansas Supreme Court. Mr. Moon admitted that the file was placed in storage by his office staff and therefore, he did not follow up on making certain that Mr. Patrick's record was prepared so that the appeal could be pursued.

Sometime, after January 24, 2003, Mr. Moon learned that the transcript of the trial proceedings had not been prepared nor filed of record with the Clerk. According to Mr. Moon, when he realized this, he contacted

the court reporter in an effort to have the record prepared. On April 28, 2003, Mr. Moon received the transcript of the trial proceedings. Fifty-two (52) days later, Mr. Moon filed a Motion for Belated Appeal, to File Transcript of the Trial Record and For Rule on the Clerk. On that same day, Mr. Moon self-referred his conduct to the Office of Professional Conduct. On September 4, 2003, when the Supreme Court of Arkansas returned from summer recess, the Motion for Rule on the Clerk was granted and Mr. Moon was reported to the Office of Professional Conduct through a Per Curiam referral.

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. Moon's conduct violated Model Rule 1.1 because he was not thorough enough in his representation of Mr. Patrick to be certain that the Court Reporter understood to begin preparation of the record of Mr. Patrick's criminal proceeding for appeal and because he was not thorough enough in his representation of Mr. Patrick to make certain that he pursued the appeal in a timely manner following the filing of the Notice of Appeal. 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. Moon's conduct violated Model Rule 1.3 when he failed to file the record in Mr. Patrick's appeal within ninety (90) days of the date of the filing of the Notice of Appeal; when he failed to seek an Order extending the time for filing Mr. Patrick's record on appeal; and, when he failed to pursue a Motion for Belated Appeal on behalf of Mr. Patrick until fifty-two (52) days had elapsed from his receipt of the record from the court reporter. Model Rule 1.3 requires that a lawyer act with reasonable diligence and promptness in representing a client.
3. That Mr. Moon's conduct violated Model Rule 8.4(d) because his failure to timely

file his client's record with the Supreme Court along with his failure to submit a Motion for Belated Appeal for fifty-two (52) days following his receipt of the record delayed his client's appeal from being considered by the Arkansas Court of Appeals; because his failure to file the record with the Clerk of the Arkansas Supreme Court in a timely manner resulted in a delay in the orderly and timely resolution of appellate proceedings; and, because his failure to file his client's record required the Court to expend additional time and effort which would not have been necessary otherwise. Model Rule 8.4(d) requires that a lawyer 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 A, that PHILLIP A. MOON, Arkansas Bar ID# 84109, be, and hereby is, CAUTIONED for his conduct in this matter. Further, pursuant to Section 18.A of the Procedures of the Arkansas Supreme Court Regulating Professional Conduct of Attorneys at Law, Mr. Moon is ordered to pay costs 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 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: \_\_\_\_\_

Gwendolyn Hodge, Chair, Panel A

Date: \_\_\_\_\_

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