

BEFORE THE SUPREME COURT COMMITTEE ON PROFESSIONAL CONDUCT
PANEL A

IN RE: OSCAR JEROME GREEN, Respondent
Arkansas Bar ID#85062
CPC Docket No. 2005-126

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 Robert Antonik in an Affidavit dated September 13, 2005. The information related to the representation of Mr. Antonik by Respondent in a civil proceeding beginning in 2000.

On October 11, 2005, Respondent was served with a formal complaint, supported by affidavits from Mr. Antonik and attorney Jeannette Denham. A response was filed. The Respondent, through counsel, and the Executive Director negotiated a discipline by consent proposal, which was submitted to this Panel.

The facts before the Panel reflect that on October 25, 2005, Mr. Antonik hired Oscar Jerome Green, an attorney then practicing primarily in Little Rock, Arkansas, to represent him in a discrimination lawsuit Mr. Antonik wished to pursue. The agreed upon fee was for Mr. Antonik to pay Mr. Green \$5000 and then for Mr. Green to receive a percentage of any recovery which might be obtained. Mr. Antonik paid Mr. Green \$4150 of the total amount of the agreed upon fee.

On March 28, 2001, Mr. Green filed a lawsuit for Mr. Antonik against Don Knight, in his official capacity as Water Superintendent of Heber Springs, Arkansas, and The Heber Springs Water Department. Following service of the Complaint, the Heber Springs Water Department filed a Motion to Dismiss. Mr. Green did not respond to the Motion to Dismiss for almost two (2) months. Approximately one month after Mr. Green filed his Response to the Motion to Dismiss, he filed Plaintiff's First Amended Complaint. An Answer to the Complaint was filed on July 25, 2001. Another Motion to Dismiss was filed as well. The Motion to Dismiss was based on the failure to serve the defendants within 120 days of the filing of the lawsuit. Mr. Green filed a Response to the Motion to Dismiss on September 19, 2001.

After the filing of the Response to the Second Motion to Dismiss, there was no activity in the lawsuit for almost two (2) years. Mr. Green allowed the matter to sit idle. During the same two (2) year time frame, Mr. Green closed his law office and Mr. Antonik was unable to locate him.

Because Mr. Antonik was afraid that his lawsuit would be dismissed, he filed a Motion for Stay of Proceedings. The stated purpose of the Motion was to allow Mr. Antonik time to locate other counsel. The Separate Defendants filed a Reply to the Motion and pointed out that there had been no activity in the litigation since September 2001. Thereafter, Mr. Antonik filed a pleading asking that the matter be set for trial. At that point, Mr. Green became involved again and filed a pleading asking that the Motions be heard before discovery was to be completed.

On September 13, 2003, Mr. Green was served with discovery requests by the defendants. Mr. Green, as counsel for Mr. Antonik, did not respond to the requests nor seek an extension of time in which to do so. On December 17, 2003, a Motion to Compel was filed. Mr. Green filed no response to the Motion to Compel. On December 23, 2003, an Order was filed by Judge John Norman Harkey directing that responses be provided within (10) days. Mr. Green did not file responses nor did he respond in any manner to the Order.

Another Motion to Dismiss was filed on January 12, 2004. Mr. Green did not file a response to that Motion either. An Order was entered on January 20, 2004, dismissing Mr. Antonik's lawsuit. One month later, Mr. Green filed a Motion to Reopen the Case. The reply which was filed on March 9, 2004, was the last pleading filed in the lawsuit until Mr. Green filed an Amended Complaint with the Cleburne County Circuit Court on January 13, 2005. Mr. Green did not serve the opposing parties with the Amended Complaint when filed.

In responding to the formal disciplinary complaint, Mr. Green affirmatively explained that he was ill and unable to maintain an active practice from the middle of 2001 until the end of 2002. According to Mr. Green, Mr. Antonik was aware of Mr. Green's illness and inability to actively practice law. Mr. Green asserted that he did not know of Motions that were filed. He also stated that Mr. Antonik experienced no harm and that all fees paid were earned. However as part of a Consent to Discipline agreement, Mr. Green agreed to repay to the benefit of Mr. Antonik the sum of \$2,000.

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. Green's conduct violated Model Rule 1.1 because he was not thorough enough in his representation of Mr. Antonik to be certain that he responded to pleadings filed by the opposing counsel. 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. Green's conduct violated Model Rule 1.3 because he did not timely respond to the Motion to Dismiss filed by the Heber Springs Water Department on April 17, 2001; he did not respond to the discovery requests served on him by Ms. Denham on behalf of the Heber Springs Water Department; he did not respond to the Motion to Compel filed by Jeannette Denham on behalf of the Heber Springs Water Department; he did not comply with the Order entered by Judge Harkey and filed of record on December 23, 2003; he did not file a response to the Motion to Dismiss filed on January 12, 2004, by Ms. Denham; and he did not serve the parties sued when he filed an Amended Complaint on Mr. Antonik's behalf in January 2005. Model Rule 1.3 requires that a lawyer act with reasonable diligence and promptness in representing a client.
3. That Mr. Green's conduct violated Model Rule 1.4(a) because he failed to advise Mr. Antonik that discovery requests had been served on him by the defendants in the lawsuit; he failed to advise Mr. Antonik that Motions to Dismiss had been filed in his lawsuit; and he did not advise Mr. Antonik when his lawsuit had been dismissed by Judge Harkey. 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 OSCAR JEROME GREEN, Arkansas Bar ID#85062, be, and hereby is, REPRIMANDED 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 (2002), Mr. Green is assessed the costs of this proceeding in the amount of \$100. Further, pursuant to Section 18.C. of the Procedures, Mr. Green is ordered to pay restitution to Mr. Antonik in the amount of \$2,000. The

restitution and 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 ninety (90) days of the date this Findings and Order is filed of record with the Clerk of the Arkansas Supreme Court. As part of the consent agreement, accepted by this Panel, Mr. Green will make three (3) equal monthly installments of \$700 to the Office of Professional Conduct in order to pay the entire amount owed within ninety (90) days.

ARKANSAS SUPREME COURT COMMITTEE ON PROFESSIONAL CONDUCT - PANEL A

By: _____

Phil Hout, Chair, Panel A

Date: _____

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