

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

IN RE:           N. DONALD JENKINS, JR., Respondent  
                  Arkansas Bar ID#94231  
                  CPC Docket No. 2006-074

**FINDINGS AND ORDER**

The formal charges of misconduct upon which this Findings and Order is based arose from information provided to the Committee by Jeffrey and Lori Sexton on May 25, 2006, related to the representation of the Sextons by Respondent in May 2005.

On August 10, 2006, Respondent was served with a formal complaint, supported by affidavit from Jeff and Lori Sexton. Respondent filed a timely response. Thereafter the matter proceeded to ballot vote before Panel A pursuant to the Procedures of the Arkansas Supreme Court Regulating Professional Conduct of Attorneys at Law (2002). Mr. Jenkins requested a public *de novo* hearing before Panel B. The *de novo* hearing was set to begin at 10:30 a.m. on Friday, February 16, 2007. Immediately, upon the commencement of the hearing, Mr. Jenkins, with his counsel, Mr. A. J. Kelly, made a plea offer to Panel B in an effort to conclude the matter.

The information before the Committee reflected that on May 16, 2005, Jeff and Lori Sexton hired N. Donald Jenkins, Jr., an attorney practicing in Alma, Arkansas, to represent Lori in an Internal Revenue matter. The Sextons hired Mr. Jenkins to assist them in stopping the garnishment that had been placed on Lori's payroll check and to deal with the IRS on their behalf with regard to other tax issues. The Sextons found Mr. Jenkins in the Yellow Pages of the telephone book under Tax Law. After explaining their situation with the IRS, Mr. Jenkins stated that he could help them. Mr. Jenkins requested a fee of \$900, the only fee he ever requested.

The Sextons explained to Mr. Jenkins that they did not have the \$900 all at once. Mr. and Mrs. Sexton actually met with Donald Jenkins, Sr., in Jonesboro, not Jr. at the time of the initial consultation.

Mr. Jenkins, Sr. presented Lori Sexton with an injured spouse form to complete and also a power of attorney form so that Mr. Jenkins, Jr. could contact the IRS on their behalf. The forms were completed and returned to Mr. Jenkins, Sr. at some later date. Mr. and Mrs. Sexton were not provided copies of the completed forms.

On May 16, 2005, Mr. Jenkins was paid \$300 of the \$900 quoted fee. On May 27, 2006, Mr. Sexton went to Mr. Jenkins Sr's Office and paid another \$300. At that time, Mr. Sexton was able to speak with Mr. Jenkins, Sr. After several weeks went by, and the Sextons had heard nothing, Mr. Jenkins was again contacted. The Sextons left messages for Mr. Jenkins to call and let them know what was going on. He never called either one of them to talk about the matters. During this time, the garnishment was still on Lori's check.

When they first considered contacting Mr. Jenkins, the Sextons asked their landlord, who works for Simmons Bank in Jonesboro, what she knew of Mr. Jenkins. She told them that the bank had used him for certain matters and that she had no reason not to recommend him for our problem. After a few months, the Sextons commented to their landlord that Mr. Jenkins had not stopped the garnishment and had not contacted them about the matter. Mrs. Pickering then wrote a letter to Mr. Jenkins on behalf of the Sextons. After Mr. Jenkins received the letter, he contacted the Sextons. It was during this conversation that Mr. Jenkins advised that he had not undertaken any efforts because the fee had not been paid in full.

Lori Sexton took the final \$300 payment to Mr. Jenkins, Sr. on September 29, 2005. The Sextons admit that at that time one of them was calling once a day leaving a message with Mr. Jenkins' answering service requesting a return call because they had not heard anything from him nor had they received any information from him. Finally, Mr. Jenkins said that when he had something to report, he would call and for the Sextons to quit calling him.

At the time the Affidavit of Complaint was prepared and filed the garnishment was still on Lori's check. No information had been received from Mr. Jenkins. No paperwork or correspondence had been received by the Sextons from Mr. Jenkins either. The Sextons contacted the IRS in January 2006. It was reported to them at that time that there was no record that anyone had filed a Power of Attorney on their behalf, nor had anyone filed an "injured spouse" form for any years of their back taxes.

In responding to the formal disciplinary complaint, Mr. Jenkins admitted that the Sextons were advised that they could make payments while he was preparing the paperwork but explained that they were also told that the fee would have to be paid in full before they could be provided legal services or copies of legal work. Mr. Jenkins denied that the Sextons returned signed copies of the documents, including the Attorney-Client agreement, by September 25, 2005. Mr. Jenkins advised that all the times the Sextons called between May 27, 2005 and September 25, 2005, they were told that nothing could be done until they had "retained" the firm, which meant returning the documents sent to them on May 13<sup>th</sup> and paying the agreed fee in full.

Mr. Jenkins provided copies of letters which he sent during September 2005 concerning the tax issues. Mr. and Mrs. Sexton denied receiving the letters.

Mr. Jenkins voluntarily offered to refund to Mr. and Mrs. Sexton the entire fee of \$900 paid to his office. In addition, Mr. Jenkins agreed to send the Sextons a letter of apology and to return to them the records or files which were delivered to his Jonesboro office during 2005.

Upon consideration of the formal complaint and attached exhibit materials, the response to it, and the plea made to them by Mr. Jenkins, Jr., and the Arkansas Model Rules of Professional Conduct, Panel B of the Arkansas Supreme Court Committee on Professional Conduct unanimously finds:

1. That Mr. Jenkins' conduct violated Rule 1.4(a)(4), since he was hired in May 2005, he failed to return the messages from Mr. Sexton and from Mrs. Sexton seeking information about the legal matter with which he was entrusted. Rule 1.4(a)(4) requires that a lawyer 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 B, that N. DONALD JENKINS, JR., Arkansas Bar ID# 94231, be, and hereby is, CAUTIONED for his conduct in this matter. Further, pursuant to Section 18.A. of the Procedures, Mr. Jenkins is assessed the costs of this matter in the amount of \$50. In addition, pursuant to Section 18.B. of the Procedures, Mr. Jenkins is ordered to pay restitution to Jeff and Lori Sexton in the amount of \$900. 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 thirty (30) days of the date this Findings and Order is filed of record with the Clerk of the Arkansas Supreme Court. In addition, Mr. Jenkins is to deliver to the Office of Professional

Conduct the letter of apology to Mr. and Mrs. Sexton so that it can be delivered to them, along with the records and files which were delivered to the Jenkins Law Firm in Jonesboro by the Sextons in 2005.

ARKANSAS SUPREME COURT COMMITTEE  
ON PROFESSIONAL CONDUCT - PANEL A

By: \_\_\_\_\_  
Henry Hodges, Chair, Panel B

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