

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

**PANEL B**

IN RE: David Lewis Clark, Respondent  
Arkansas Bar ID# 95093  
CPC Docket No. 2003-053

**FINDINGS AND ORDER**

The formal charges of misconduct upon which this Findings and Order is based arose from information provided to the Committee by Mr. Conway Leeper on September 18, 2002. The information related to the representation of Mr. Leeper by Respondent, David Lewis Clark, an attorney practicing in Amity, Arkansas, beginning August 3, 2001.

On May 9, 2003, Respondent was served with a formal complaint, supported by an affidavit from Mr. Leeper. Respondent failed to file a response to the complaint, which failure to timely respond, pursuant to Section 9.C(4) of the Procedures of the Arkansas Supreme Court Regulating Professional Conduct of Attorneys at Law, constitutes an admission of the factual allegations of the formal complaint and extinguishes Respondent's right to a public hearing.

The allegations upon giving rise to the formal complaint are that Mr. Leeper hired Mr. Clark on August 3, 2001, to settle a boundary dispute. He paid Mr. Clark his quoted fee of \$250 in full. Following payment, Mr. Clark gave Mr. Leeper a letter of agreement. Approximately every three months Mr. Leeper called Mr. Clark's office and Mr. Clark's secretary would answer. Mr. Leeper stated that he spoke with Mr. Clark once by phone and once in person regarding the status of the case over the next several months. He stated that Mr. Clark told him that he was waiting on the other party to return his call. Mr. Leeper stated that after May 2002, he would only get the answering machine when he contacted Mr. Clark's office. Mr. Leeper went by the office again on August 2, 2002, and it appeared that the building had been vacated. Mr. Leeper has been unable to determine that Mr. Clark ever took any action on his behalf.

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

1. That Mr. Clark's conduct violated Model Rule 1.3 when he accepted Mr. Leeper's case to handle a boundary line dispute but failed to take any action on Mr. Leeper's behalf. Model Rule 1.3 requires that a lawyer act with reasonable diligence and promptness in representing a client.
2. That Mr. Clark's conduct violated Model Rule 1.4(a) when after Mr. Leeper requested status updates on his case, Mr. Clark repeatedly told him he was waiting on a return call and then he cut off all communication with Mr. Leeper. Model Rule 1.4 requires that a lawyer keep a client reasonably informed about the status of a matter and promptly comply with reasonable requests for information.
3. That Mr. Clark's conduct violated Model Rule 1.4(b) when he failed to comply with Mr. Leeper's request for a status update and he cut off all communication with Mr. Leeper. Model Rule 1.4(b) requires that a lawyer explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation.
4. That Mr. Clark's conduct violated Model Rule 1.16(d) when he moved his office and failed to take any action on Mr. Leeper's case thereby terminating his representation without any notice to Mr. Leeper and without refunding the fees. Model Rule 1.16(d) requires that upon termination of representation, an attorney shall take steps to the extent reasonably practicable to protect the client's interests, such as giving reasonable notice to the client, allowing time for employment of other counsel, surrendering papers and property to which the client is entitled and refunding any advanced payment of fee that has not been earned.
5. That Mr. Clark's conduct violated Model Rule 3.2 when after he was hired by Mr. Leeper he failed to take any action on behalf of Mr. Leeper. Model Rule 3.2 requires that a lawyer make reasonable efforts to expedite litigation consistent with the interests of his client.
6. That Mr. Clark's conduct violated Model Rule 8.4(a) when after he was hired Mr.

Mr. Leeper and accepted payment of the fee, he failed to take any action on Mr. Leeper's behalf and failed to refund the fee. Model Rule 8.4(a) requires that a lawyer not violate or attempt to violate the rules of professional conduct, knowingly assist or induce another to do so, or do so through the acts of another.

7. That Mr. Clark's conduct violated Model Rule 8.4(c) when after he was hired Mr.

Mr. Leeper and accepted payment of the fee, he failed to take any action on Mr. Leeper's behalf and failed to refund the fee. Model Rule 8.4(c) requires that lawyer not engage in conduct involving dishonesty, fraud, deceit or misrepresentation.

8. That Mr. Clark's conduct violated Model Rule 8.4(d) when after he was hired Mr.

Mr. Leeper and accepted payment of the fee, he failed to take any action on Mr. Leeper's behalf and failed to refund the fee. 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 B, that David Lewis Clark, Arkansas Bar ID# 95093, be, and hereby is, REPRIMANDED in addition, pursuant to Section 18.A of the Procedures, Mr. Clark is ordered to pay costs in the amount of \$50. He is also fined in the amount of \$500 in accordance with Section 18.B. of the Procedures. For his failure to respond, Mr. Clark is suspended for a period of three (3) months pursuant to Section 9C(3) of the Procedures. As an additional sanction for his failure to respond, Mr. Clark is ordered to pay an additional fine in the amount of \$500. 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 fines 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 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 B

By: \_\_\_\_\_

John L. Rush, Chair, Panel B

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