

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

IN RE: Michael W. Frey, Respondent

Arkansas Bar ID# 96022

CPC Docket No. 2002-140

**FINDINGS AND ORDER**

The formal charges of misconduct upon which this Findings and Order is based arose from information provided to the Committee by Yvonne Young on August 19, 2002. The information related to the representation of Ms. Young by Respondent in March 2002.

On October 23, 2002, Respondent was served with a formal complaint, supported by an affidavit from Yvonne Young. Respondent filed a timely response on November 15, 2002, and Complainant filed a rebuttal on December 1, 2002. The facts giving rise to the complaint are that Complainant hired Respondent in March 2002, to file a Chapter 7 bankruptcy for her. Respondent claimed the agreed fee was \$850 and Complainant claimed the fee was \$800. Complainant paid Respondent \$800 in three installments. Respondent filed the bankruptcy petition on March 12, 2002. A meeting of the creditors was to be held May 1, 2002, but it was later canceled because some or all of the required documents had not been filed with the Clerk of the Court. Complainant called Mr. Frey's office on May 28, 2002, to update them on her new address because she was moving to Pineville, Louisiana, to confirm the June 5, 2002, hearing date, and to make arrangements to pay the final installment. Complainant spoke with Mrs. Frey and was informed that she was not on the schedule for June 5, 2002, and to go ahead and send the final payment and that they would send Complainant a rescheduled date for the hearing. The Bankruptcy Clerk dismissed Complainant's case on June 10, 2002, for failure to timely file the schedules. Complainant said she attempted many times to contact Mr. Frey but only spoke with Mrs. Frey and that Mr. Frey never returned her calls.

Respondent denied violating any Model Rules and stated in his response that Complainant failed to verify that all creditors had been identified, failed to sign the schedules, and failed to finish paying for the legal services until after her case had already been dismissed. Complainant filed a rebuttal stating that prior to relocating to Louisiana, she met with Mrs. Frey to verify all creditors and to sign the schedules and that the fee agreement was \$800, not \$850. Complainant stated that at no time was she informed by Complainant or his wife that schedules would not be filed until payment was received in full for legal services. Complainant further stated that she provided all the requested information to Complainant in a folder prior to her case being dismissed. Complainant further stated that Respondent never spoke with her regarding the notices from the court. There was no evidence that Respondent ever communicated with Complainant regarding any fees owed, any documents he claims he was waiting on, or that he needed her verification.

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

That Mr. Frey's conduct violated Model Rule 1.1 when he failed to file the required documents including statements, schedules and/or lists. Model Rule 1.1 requires that a lawyer shall provide competent representation to a client. Competent representation requires the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation. That Mr. Frey's conduct violated Model Rule 1.3 when he was notified by the bankruptcy court that the case was being dismissed due to his failure to file the proper documents, yet he still failed to complete the paperwork and submit the proper documents. Model Rule 1.3 requires that a lawyer shall act with reasonable diligence and promptness in representing a client.

That Mr. Frey's conduct violated Model Rule 1.4(a) when he failed to return Mrs. Young's phone calls and failed to provide information to her regarding hearing dates or the true reason why her case was dismissed. 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.

That Mr. Frey's conduct violated Model Rule 1.4(b) when he failed to return Complainant's phone calls or to provide information to her regarding hearing dates or the true reason why her case was dismissed. Model Rule 1.4(b) requires that a lawyer shall explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation.

That Mr. Frey's conduct violated Model Rule 3.2 when he was notified by the bankruptcy court that the case was being dismissed due to his failure to file the required documents, and he still failed to file the documents. Model Rule 3.2 requires that a lawyer shall make reasonable efforts to expedite litigation consistent with the interests of the client.

That Mr. Frey's conduct violated Model Rule 8.4(a) when he failed to file the requisite documents even after notice had been given by the Bankruptcy Clerk that the case would be dismissed without those documents. Model Rule 8.4(a) requires that a lawyer shall 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.

WHEREFORE, it is the decision and order of the Arkansas Supreme Court Committee on Professional Conduct, acting through its authorized Panel B, that Michael W. Frey, Arkansas Bar ID# 96022, be, and hereby is, CAUTIONED for his conduct in this matter, and is ordered to pay restitution of \$800, a \$1,000 fine and \$50 in costs. The fine, 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 with thirty (30) days of the date this Findings and Order is filed of record with the Clerk of the Arkansas Supreme Court.

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

Richard F. Hatfield, Chair, Panel B

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