

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

**PANEL A**

IN RE:           JOSEPH DEWEY HUGHES, Respondent  
                  Arkansas Bar ID#97021  
                  CPC Docket No. 2003-039

**CONSENT FINDINGS AND ORDER**

The formal charges of misconduct upon which this Findings and Order is based arose from information provided to the Office of the Executive Director by Raymond M. Volner, Jr. on May 13, 2002. Thereafter the information was provided to the Committee through an Affidavit executed by Mr. Volner on March 21, 2003. The information related to the representation of Mr. Volner by Respondent beginning March 26, 2001.

On March 28, 2003, Respondent was served with a formal complaint, supported by an affidavit from Mr. Volner. A response was filed. The matter proceeded to ballot vote before a different Panel of the Committee. Pursuant to the Procedures of the Arkansas Supreme Court Regulating Professional Conduct of Attorneys at Law (2002) (Procedures), Respondent requested a de novo hearing before Panel A of the Committee. Thereafter, the Respondent, through his counsel, and the Executive Director negotiated a discipline by consent proposal, which was submitted to this Panel.

The information contained in the consent proposal submitted to the Panel reveal the following:

Mr. Volner hired Respondent, Joseph Dewey Hughes, an attorney practicing primarily in Paragould, Arkansas, on March 26, 2001, to represent him on criminal charges for drug possession. Mr. Volner had previously posted bail through a bail bondsman and been released from custody. Mr. Volner did not actually meet with Respondent when he hired him, but instead met with Respondent's paralegal, Amy Forbs. A court date related to Mr. Volner's criminal charge was initially set for March 30, 2001. According to Mr. Volner, Ms. Forbs advised him that the court date would be postponed. She further advised that Respondent or someone in the office would notify Mr. Volner of the new court date, when one was scheduled. Ms. Forbs told Mr. Volner that it might be a while before another court date was actually scheduled. Mr. Volner paid \$500 to the Hughes

Law Firm and was to pay an additional \$1,000 when Respondent notified him of the rescheduled court date. Thereafter, on or around April 4, 2001, the bail bondsman, who had obtained Mr. Volner's release from custody following his arrest, contacted Mr. Volner's wife. The contact was made because Mr. Volner did not appear for court on March 30, 2001. Mrs. Volner suggested to the bondsman that he contact Respondent's office because they were supposed to postpone the court date.

Subsequently, on Thursday, January 3, 2002, Mr. Volner was driving through St. Francis County and was stopped by an Arkansas Game Warden. During the stop, it was learned that there was a warrant for Mr. Volner's arrest for failure to appear in court on March 30, 2001, in Craighead County. Mrs. Volner contacted Respondent's office on Friday, January 4, 2002, to advise Ms. Forbs of the arrest. At that time it was determined that the March 30, 2001, court date was never postponed by Mr. Hughes or anyone in his office. Ms. Forbs told Mrs. Volner that the \$1,000 balance would need to be taken care of before anyone in the office attempted to obtain a new court date for Mr. Volner. Ms. Forbs also assured Mrs. Volner that Respondent would take care of obtaining Mr. Volner's release from jail. Mrs. Volner was instructed to check back later. Though Mrs. Volner repeatedly called Mr. Hughes' office after this conversation with Ms. Forbs, Respondent was never available to take her calls or speak with her about the situation.

Respondent never attempted to secure Mr. Volner's release. As such, on Monday, January 14, 2002, Mr. Volner was taken back to court. Mr. Volner's bail was set at \$5,000. Mrs. Volner contacted Respondent's office in an attempt to obtain a refund of the previously paid \$500 so she would have the funds to post bail for Mr. Volner. The only action Respondent took was to file a motion to quash the bench warrant on January 9, 2002, however, Mr. Volner had already been in jail for eight days by that time. Respondent's office refused to refund the \$500 paid for representation which did not occur. The same bail bondsman bonded Mr. Volner out again. Thereafter, Mr. Volner hired a new attorney to assist him with his criminal charges. Mr. Volner never heard from Respondent or anyone in his office again.

In defending himself, Respondent stated that Mr. Volner's arrest was caused by a DWI charge and not just the failure to appear during March 2001. He also stated that he did follow the procedures in his district for

obtaining a continuance. Mr. Hughes denied it was his fault that Mr. Volner was arrested a year later. Further, Respondent explained that he was out of town at the time Mr. Volner hired him, that his paralegal handled the continuance for him and that she followed the instructions of the Circuit Clerk on how to handle the same.

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. Hughes' conduct violated Model Rule 1.3 when no action was taken until the day before Mr. Volner's scheduled court appearance when a fax cover sheet was sent asking that Mr. Volner's case be postponed and then failed to inquire further with regard to the status of the request for continuance, and as a result Mr. Volner was arrested for failure to appear; and, when he failed to take any action to obtain the release of his client even though Mrs. Volner called Mr. Hughes' office repeatedly to request such action. Model Rule 1.3 requires that a lawyer shall act with reasonable diligence and promptness in representing a client.

2. That Mr. Hughes' conduct violated Model Rule 5.3(b), when he failed to be available for his client when Mr. Volner and his wife called Mr. Hughes' office repeatedly, or when they initially hired him. As a result, Hughes' paralegal, for whose conduct with regard to her employment Mr. Hughes is responsible, proceeded to dispense legal advice including advising Mr. Hughes' client to not appear in court. Model Rule 5.3(b) requires that with respect to a non-lawyer employed or retained by or associated with a lawyer, the lawyer having direct supervisory authority over the non-lawyer shall make reasonable efforts to ensure that the person's conduct is compatible with the professional obligations of the lawyer.

3. That Mr. Hughes' conduct violated Model Rule 5.5(b), when his paralegal, Amy Forbs, met with Mr. Volner, in Hughes' office, accepted his fee on Hughes' behalf and advised Mr. Volner he did not have to appear in court; and, when his paralegal, Amy Forbs, sent a fax on Hughes' fax cover sheet to the clerk in an effort to obtain a postponement of Mr. Volner's case. Model Rule 5.5(b) provides that a lawyer shall not assist a person who is not a member of the bar in the performance of activity that constitutes the

unauthorized practice of law.

WHEREFORE, it is the decision and order of the Arkansas Supreme Court Committee on Professional Conduct, acting through its authorized Panel A, that Joseph D. Hughes, Arkansas Bar ID# 97021, be, and hereby is, SUSPENDED FOR A PERIOD OF SIXTY (60) DAYS for his conduct in this matter. The suspension shall become effective on the date this Findings and Order is filed of record with the Clerk of the Arkansas Supreme Court. Further, pursuant to Section 18.A. of the Procedures, Mr. Hughes 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. Finally, the Committee orders that Mr. Hughes be placed on a period of probation, pursuant to Section 17.D.(7) of the Procedures. Pursuant to Section 17.E.(7), the conditions of the probation shall be placed in a separate written document signed by Respondent and his supervising attorney. The term of the probation shall be for a period of six (6) months beginning February 1, 2004. On August 1, 2004, at the end of the six (6) months period, Respondent shall comply with the requirements of Section 17.E(7) of the Procedures. The probation will be terminated only upon compliance with those provisions.

ARKANSAS SUPREME COURT COMMITTEE ON  
PROFESSIONAL CONDUCT - PANEL A

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

Gwendolyn Hodge, Chair, Panel A

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