

BEFORE THE SUPREME COURT COMMITTEE ON PROFESSIONAL CONDUCT

PANEL A

IN RE: JOSEPH DEWEY HUGHES, Respondent
 Arkansas Bar ID#97021
 CPC Docket No. 2003-075

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 Professional Conduct by Randy Price on September 18, 2002. The information was thereafter provided to the Committee in the form of an Affidavit executed by Mr. Price on June 3, 2003. The information related to the representation of Mr. Price by Respondent beginning November 3, 2000.

On June 11, 2003, Respondent was served with a formal complaint, supported by affidavit(s) from Randy Price and Joyce Stanley, Deputy Circuit Clerk of Greene County, Arkansas. A response was filed. The matter proceeded to ballot vote before Panel B of the Committee. Respondent was served with a Findings and Order from the ballot vote taken by Panel B. Respondent requested a de novo hearing in a timely matter pursuant to the Procedures of the Arkansas Supreme Court Regulating Professional Conduct of Attorneys at Law (Procedures). The Respondent, through counsel, and the Executive Director negotiated a discipline by consent proposal, which was submitted to this Panel.

The facts presented to Panel A of the Committee reveal the following:

On November 3, 2000, Mr. Price was attacked by Mr. Kenny Smith of Paragould. Mr. Price reported the incident to the police. He was also treated at a local emergency room for the injuries he suffered as a result of the attack. Later, on November 3, 2000, Mr. Price met with Bryan P. Griffin, an associate attorney in the office of Joseph D. Hughes & Associates, P.A, wherein Respondent attorney is the principal. Mr. Hughes practices primarily in Paragould, Arkansas. After consultation, Mr. Price hired the Joseph D. Hughes Law Firm to represent him in a personal injury action against Mr. Smith. The contract Mr. Price signed with the Hughes Law Firm provided that the firm would receive between 33 1/3 percent to 45 percent of the gross recovery, if

any. The contract also contained language setting forth that if the firm was awarded fees by any court or agency, the amount awarded would not be deducted from the percentage of the gross amount recovered to which the law firm was entitled.

After November 3, 2000, Mr. Price was never able to make contact with Mr. Hughes or anyone in his law office to discuss the legal matter in which he had entrusted the Hughes Law Firm. Mr. Price advised that he tried to contact Mr. Hughes on numerous occasions to no avail. Mr. Price eventually requested the return of his file so that he might seek other counsel to pursue his remedies, if any, however, Mr. Hughes failed to honor Mr. Price's request. The result being that the statute of limitations expired on any claims Mr. Price might have had against Mr. Smith.

In defending himself, Mr. Hughes stated that the associate, with whom Mr. Price met, eventually left the firm in March 2001. Mr. Hughes initially asserted he was never informed of the Price file. However, it was his responsibility to be aware of the files maintained in his office. It was reflected in Mr. Price's rebuttal that Mr. Griffin personally introduced Mr. Price to Mr. Hughes at the same time Mr. Price signed the contract to hire the Hughes Law Firm to represent him. Mr. Price stated that after Mr. Griffin left the firm, he contacted Mr. Hughes on several occasions concerning the status of his case and requesting his file. Mr. Hughes did not respond to the requests made by Mr. Price.

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 he failed to take any action on Mr. Price's claim and allowed the statute of limitations to expire for filing such an action. Model Rule 1.3 requires that a lawyer act with reasonable diligence and promptness in representing a client.
2. That Mr. Hughes' conduct violated Model Rule 1.4(a) when he failed to keep Mr. Price informed about the status of his case. 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.

3. That Mr. Hughes' conduct violated Model Rule 1.5(a) when he had Mr. Price sign a contract giving the firm 33 1/3 to 45 percent of the gross recovery plus any fees awarded in the case, a fee arrangement that was not reasonable. Model Rule 1.5(a) requires, in pertinent part, that a lawyer's fee be reasonable.

4. That Mr. Hughes' conduct violated Model Rule 1.16(d) when he failed to surrender Mr. Price's file to him upon request. Model Rule 1.16(d) requires, in pertinent part, that upon termination of representation, an attorney shall take steps to the extent reasonably practicable to protect the client's interests, such as surrendering papers and property to which the client is entitled.

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: _____

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