

BEFORE THE SUPREME COURT COMMITTEE ON PROFESSIONAL CONDUCT
PANEL A

IN RE: DONALD COLSON, Respondent
Arkansas Bar ID#2005166
CPC Docket No. 2010-025

FILED

MAY 27 2010

**LESLIE W. STEEN
CLERK**

CONSENT FINDINGS AND ORDER

The formal charges of misconduct upon which this Findings and Order is based arose from information provided to the Committee by Lauri Williams in an Affidavit dated March 11, 2010. The information related to the representation of Lauri Williams by Respondent in 2009.

On March 16, 2010, Respondent was served with a formal complaint, supported by affidavit from Lauri Williams. A response was filed. The Respondent, through counsel, and the Executive Director negotiated a discipline by consent proposal, which was submitted to this Panel.

The information before the Panel reflected that Donald W. Colson, an attorney practicing primarily in Benton, Saline County, Arkansas, was hired by Ms. Williams to represent her in an EEOC / discrimination matter. Ms. Williams had pursued a discrimination claim with the EEOC. She contacted Mr. Colson about the matter and discussed it with him in June 2009. When she received her Right to Sue Notice, she delivered it to Mr. Colson.

Based on Mr. Colson's request, Ms. Williams paid Mr. Colson \$1050. This amount represented both a retainer for attorney's fees and costs associated with representing Ms. Williams in this matter.

Mr. Colson was provided documents that Ms. Williams had in her file related to the discrimination proceeding she wished to pursue in federal court. After making payment and

delivering documents to Mr. Colson, Ms. Williams found that she was unable to make contact with him. Mr. Colson did not return calls nor did he initiate any to Ms. Williams.

Finally, because no lawsuit had been filed on her behalf, Ms. Williams filed one pro se. After filing the lawsuit, Ms. Williams made request to Mr. Colson to return the unused funds and the contents of the file she delivered to him. Since being served with the formal disciplinary complaint, Mr. Colson has located the file contents which Ms. Williams delivered to him and they will be delivered to the Office of Professional Conduct by his counsel for return to Ms. Williams. In addition, Mr. Colson is returning the entire portion of the fee paid to him through his counsel as well.

After receipt of the grievance form from Ms. Williams, Mr. Colson was contacted by letter sent to his address of record with the Supreme Court Clerk's office. The letter was not returned to the Office of Professional Conduct. Mr. Colson submitted no response to the letter. Because no response was received, Mr. Colson was sent an e-mail attaching a copy of the letter again. Mr. Colson did not respond to the e-mail either.

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

1. That Mr. Colson's conduct violated Rule 1.3 when he did not file a lawsuit for Ms. Williams after receiving the funds to do so and agreeing to do so on Ms. Williams' behalf. Rule 1.3 requires that a lawyer act with reasonable diligence and promptness in representing a client.

2. That Mr. Colson's conduct violated Rule 1.4(a)(3), when he failed to keep Lauri

Williams informed of the status of any actions he had taken or was taking on her behalf with regard to the EEOC /discrimination matter which she hired him to pursue on her behalf. Rule 1.4(a)(3) requires that a lawyer keep the client reasonably informed about the status of the matter.

3. That Mr. Colson's conduct violated Rule 1.4(a)(4), when he failed to comply with requests for information left for him by Ms. Williams after she paid the \$1050 he requested in order to undertake representation of her. Rule 1.4(a)(4) requires that a lawyer promptly comply with reasonable requests for information.

4. That Mr. Colson's conduct violated Rule 1.5(c), because part of his fee contract with Ms. Williams was contingent in nature, but he failed to state the method by which the fee is to be determined, including the percentage or percentages that shall accrue to the lawyer in the event of settlement, trial or appeal, litigation and other expenses to be deducted before or after the contingent fee is calculated. Rule 1.5(c) requires, in pertinent part, that a contingent fee shall state the method by which the fee is to be determined, including the percentage or percentages that shall accrue to the lawyer in the event of settlement, trial or appeal, litigation and other expenses to be deducted from the recovery, and whether such expenses are to be deducted before or after the contingent fee is calculated.

5. That Mr. Colson's conduct violated Rule 1.16(d), because in spite of requests for return of her file contents after she terminated Mr. Colson, he failed to return Lauri Williams' documents to her and in spite of requests for return of the unused portion of the fee and costs paid to Mr. Colson, he failed to make refund to Lauri Williams. Rule 1.16(d) requires that upon termination of representation, a lawyer take steps to the extent reasonably practicable to protect a client's interests, such as surrendering paper and property to which the client is entitled and

refunding any advance payment of fee or expense that has not been earned or incurred.

6. That Mr. Colson's conduct violated Rule 8.1(b) because he failed to respond to the request for information sent to him from the Office of Professional Conduct on January 5, 2010, to his address of record maintained by the Arkansas Supreme Court Clerk's office and he failed to respond to the request for information sent to him by e-mail from the Office of Professional Conduct on February 1, 2010. Rule 8.1(b) requires, in pertinent part, that a lawyer in connection with a disciplinary attorney disciplinary shall not knowingly fail to respond to a lawful demand for information from a disciplinary authority.

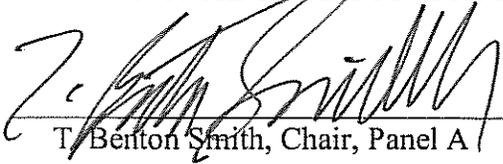
7. That Mr. Colson's conduct violated Rule 8.4(c) because Mr. Colson told Ms. Williams that he had filed a legal proceeding on her behalf after receiving her right to sue notice. He had not done so and did not do so thereafter. Rule 8.4(c) requires that a lawyer not engage in conduct involving dishonesty, fraud, deceit or misrepresentation.

WHEREFORE, it is the decision and order of the Arkansas Supreme Court Committee on Professional Conduct, acting through its authorized Panel A, that DONALD COLSON, Arkansas Bar ID# 2005166, be, and hereby is, REPRIMANDED for his conduct in this matter. In addition, pursuant to Section 18.A of the Procedures, Mr. Colson is ordered to pay the costs of this proceeding in the amount of \$100. Pursuant to his offer and the Committee's acceptance, Mr. Colson is ordered to pay a fine in the amount of \$300. Finally, Mr. Colson is required to make restitution for the benefit of Ms. Williams in the amount of \$1050 in accordance with Section 18.C. of the Procedures. The fine, restitution, and costs assessed herein, totaling \$1450, 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.

ARKANSAS SUPREME COURT COMMITTEE
ON PROFESSIONAL CONDUCT - PANEL A

By:



T. Benton Smith, Chair, Panel A

Date:

May 27, 2010

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