

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

IN RE: **ROY EDWARD THOMAS**
Arkansas Bar ID #73122
CPC Docket No. 2006-071

FINDINGS AND ORDER

The formal charges of misconduct upon which this Findings and Order is based were developed from information provided to the Committee by Billy Foster on April 4, 2006. The information related to the representation of Mr. Foster in 2005-2006 by Respondent Roy Edward Thomas, an attorney practicing primarily in Batesville, Independence County, Arkansas. On July 17, 2006, Respondent was served with a formal complaint, supported by an affidavit from Billy Foster.

Billy Foster of Floral, Arkansas, hired Mr. Thomas on June 23, 2005, to provide legal services involving the affairs of his recently-deceased father and stepmother. He delivered to Mr. Thomas certain documents related to those matters and paid Thomas that day \$600 of the \$1,200 fee Thomas quoted him. Periodically thereafter he contacted Thomas's office asking for information and status reports about these matters. He was unable to get appropriate information from Thomas or his staff. To his knowledge, no small estate probate was ever filed and no action was taken by Thomas on any matter Foster entrusted to him, including two accounts at local banks.

On February 27, 2006, Foster had another local attorney, Eric Hance, write Thomas about these matters. Thomas did not respond to Mr. Hance's letter until June 26, 2006. On April 4, 2006, Mr. Foster filed this complaint against Thomas. On April 11, 2006, the Office of

Professional Conduct wrote Thomas about this matter. No response was received until Thomas's letter of June 26, 2006 to Mr. Hance. In mid-May 2006 Thomas apparently left a message on Mr. Foster's home telephone answering machine. Foster was not able to contact Thomas thereafter when he called Mr. Thomas's office. Foster has now hired Mr. Hance to handle the matters entrusted to Edwards in June 2005. On June 26, 2006, after contacts with Thomas by Mr. Hance and the Office of Professional Conduct, Thomas delivered Mr. Foster's file and a refund check for \$600.00 for Foster to Mr. Hance's office.

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

A. Mr. Thomas's conduct violated Arkansas Rule 1.3 in that from June 23, 2005, until June 26, 2006, he failed to take timely and appropriate action on legal matters he accepted from Billy Foster in June 2005, an unreasonable delay in handling this client's business. Arkansas Rule 1.3 requires that a lawyer shall act with reasonable diligence and promptness in representing a client.

B. Mr. Thomas's conduct violated Arkansas Rule 1.4(a)(3) in that from June 23, 2005, through at least May 2006, he failed to keep his client Billy Foster reasonably informed of the status and progress of the legal matters Foster entrusted to him. Arkansas Rule 1.4(a)(3) requires that a lawyer shall keep the client reasonably informed about the status of the matter.

C. Mr. Thomas's conduct violated Arkansas Rule 1.4(a)(4) in that he failed to respond to Mr. Foster's periodic and reasonable requests for information about the matters he entrusted to Thomas on June 23, 2005, including a letter he had another attorney write Thomas on February

27, 2006, requesting information and cooperation from Thomas. Arkansas Rule 1.4(a)(4) requires that a lawyer shall promptly comply with reasonable requests for information.

D. Mr. Thomas's conduct violated Arkansas Rule 1.16(d) in that he failed to timely return to Billy Foster, as Foster requested, documents Foster delivered to Thomas in June 2005 related to the legal matter he entrusted to Thomas at that time. Thomas failed to promptly refund to Billy Foster the unearned portion of the \$600 fee Foster paid Thomas in June 2005. Arkansas Rule 1.16(d) requires that, upon termination of representation, a lawyer shall take steps to the extent reasonably practicable to protect a 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 advance payment of fee or expense that has not been earned or incurred. The lawyer may retain papers relating to the client to the extent permitted by other law.

E. Mr. Thomas's conduct violated Arkansas Rule 8.4(c) in that Thomas engaged in conduct involving dishonesty, fraud, deceit or misrepresentation by failing, through June 26, 2006, to provide the legal services for which Billy Foster hired and paid Thomas \$600 in June 2005, even after Thomas received a letter from another attorney on Foster's behalf on February 27, 2006, requesting action by Foster, and after receiving a letter from the Office of Professional Conduct on April 11, 2006, notifying Thomas that Foster had filed a complaint against him arising from this matter and requesting action by Thomas. Arkansas Rule 8.4(c) provides that it is professional misconduct for a lawyer to 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 **ROY EDWARD THOMAS**, Arkansas Bar ID# 73122, be, and hereby is, **CAUTIONED** for his conduct in this matter, fined \$500.00, and assessed and ordered to pay \$50.00 costs. The \$500.00 fine and \$50.00 costs, totaling \$550.00, 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 A

By: _____
Phillip D. Hout, Chair, Panel A

Date: _____

(Rev. 3-18-06 SL)