

BEFORE THE SUPREME COURT COMMITTEE ON PROFESSIONAL CONDUCT
PANEL A

FILED

IN RE: **ROY EDWARD THOMAS**
Arkansas Bar ID # 73122
CPC Docket No. 2007-025

AUG 24 2007

LESLIE W. STEEN
CLERK

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 Fred D. Jones on January 23, 2007. The information related to the representation of Mr. Jones and his company in 2004 by Respondent Roy Edward Thomas, an attorney practicing primarily in Batesville, Independence County, Arkansas. On March 16, 2007, Respondent was served with a formal complaint, supported by affidavits from Fred D. Jones, Marsha Lynn Jones, Floyd Pederson, and Denise Parks.

Fred D. Jones of Batesville, who was the President of The Electric Company, Incorporated, consulted with Mr. Thomas in March 2004 about filing a business bankruptcy. Mr. Jones paid Mr. Thomas his requested fee of \$1,200.00 for the bankruptcy service on May 13, 2004. Since then Mr. Jones has not heard from Mr. Thomas directly about the status of this matter, although he has attempted to obtain information from Mr. Thomas and his office. A search of bankruptcy records for the Eastern District of Arkansas via PACER reveals no bankruptcy case filed for either Fred D. Jones or The Electric Company, Incorporated by Mr. Thomas or anyone else. Mr. Thomas has not communicated with Mr. Jones since May 2004 that Thomas would not represent Jones in this matter, nor has Thomas refunded to Jones the unearned fee.

In mid-2004, Sanders Plumbing Supply, Inc. a major creditor of the company, filed suit against Mr. Jones and The Electric Company, Inc., on a business debt that Mr. Jones intended to

have discharged in the bankruptcy that Mr. Thomas was employed to file. On August 13, 2004, the creditor obtained a default judgment against Mr. Jones and the corporation for over \$65,000, which Mr. Jones was not able to satisfy.

On January 27, 2007, the Office of Professional Conduct (OPC) wrote and faxed Mr. Thomas about the Jones complaint. On February 16, 2007, OPC faxed Mr. Thomas the January 27, 2007, letter again. Mr. Thomas responded to the Office of Professional Conduct on February 19, 2007.

By Court Rule, the annual Arkansas Supreme Court license fee for attorneys is due and payable by March 1 each year. The attorney's license is automatically suspended on March 2 if timely payment is not received. Mr. Thomas failed to make his 2004 payment until May 11, 2004. When he met with Fred Jones in March 2004 to discuss this matter, Mr. Thomas's Arkansas law license was in suspended status. Thereafter, while Mr. Thomas continued to practice law, his law license was also in suspended status from March 1-28, 2006, and it was in that status from March 2, 2007, until March 20, 2007, when he paid his 2007 license fee, shortly after he received the Complaint in this case.

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 A of the Arkansas Supreme Court Committee on Professional Conduct finds:

A. The conduct of Roy E. Thomas violated Model Rule 1.2(a) in that when Fred Jones employed and paid him on May 13, 2004, it was Jones's specific objective that Thomas file a bankruptcy petition for The Electric Company, Incorporated, within a reasonable time thereafter, which Thomas has failed to do as of March 9, 2007, almost three years later. Model Rule 1.2 (a) requires that a lawyer shall abide by a client's decisions concerning the objectives of representation,

subject to paragraphs (c), (d) and (e), and shall consult with the client as to the means by which they are to be pursued.

B. The conduct of Roy E. Thomas violated Model Rule 1.3 in that Fred Jones employed and paid Thomas on May 13, 2004, to file a bankruptcy petition for The Electric Company, Incorporated. As of March 9, 2007, Thomas had failed to file any bankruptcy for the company, an unreasonable delay of almost three years. Model Rule 1.3 requires that a lawyer shall act with reasonable diligence and promptness in representing a client.

C. The conduct of Roy E. Thomas violated Model Rule 1.4(a) in that until February 19, 2007, Thomas and his office failed to keep Fred Jones reasonably informed about the status of the bankruptcy matter he entrusted to Thomas in May 2004. Through February 19, 2007, Thomas and his office failed to comply with requests for information from Fred Jones about the status of the bankruptcy matter he entrusted to Thomas in May 2004. 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.

D. The conduct of Roy E. Thomas violated Model Rule 1.16(d) in that Fred D. Jones of Batesville, President of The Electric Company, Incorporated, employed Thomas to file a business bankruptcy petition for the company, and paid Thomas his requested fee of \$1,200.00 on May 13, 2004. As of March 9, 2007, Thomas had neither filed any bankruptcy petition for The Electric Company, Incorporated in the Eastern District of Arkansas nor refunded any unearned fee to Mr. Jones. Model Rule 1.16(d) requires that upon termination of representation, an attorney shall take steps to the extent reasonably practicable to protect the 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 advanced payment of fee that has not been earned.

E. The conduct of Roy E. Thomas violated Model Rule 3.4(c) in that he failed to pay his 2004 Arkansas law license fee by March 1, 2004, as required by Arkansas Supreme Court Rule VII.C, Rules Governing Admission to the Bar. He failed to pay his 2006 Arkansas law license fee by March 1, 2006, as required by Arkansas Supreme Court Rule VII.C, Rules Governing Admission to the Bar. He failed to pay your 2007 Arkansas law license fee by March 1, 2007, as required by Arkansas Supreme Court Rule VII.C, Rules Governing Admission to the Bar.

Model Rule 3.4(c) requires that a lawyer shall not knowingly disobey an obligation under the rules of a tribunal except for an open refusal based on an assertion that no valid obligation exists.

F. The conduct of Roy E. Thomas violated Model Rule 5.5(a) in that he met with Fred Jones in March 2004 to discuss a potential business bankruptcy filing, and thereafter received legal documents dated March 8, 2004, from Fred Jones related to that matter, all at times after Thomas's Arkansas law license was administratively suspended on March 2, 2004, due to his failure to timely pay his 2004 license fee, which was paid on until May 11, 2004. Model Rule 5.5(a) provides that a lawyer shall not practice law in a jurisdiction where doing so violates the regulation of the legal profession in that jurisdiction.

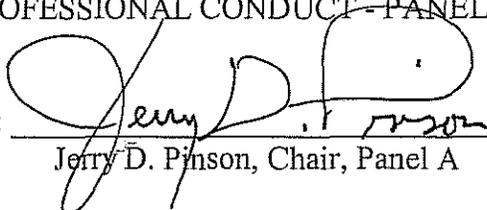
G. Information concerning prior disciplinary sanctions against an attorney is normally not to be divulged to the Committee until after a finding of misconduct has been made in the present complaint. Pursuant to Section 7.G of the Supreme Court Procedures Regulating the Professional Conduct of Attorneys at Law (Rev. 2002), information relevant for such purposes as proof of motive, opportunity, intent, preparation, plan, knowledge, identity, or absence of mistake or accident (see Ark. R. Evid. 404(b)) may be divulged to the Committee prior to a finding of misconduct. In this

case, it was relevant for purposes of all the foregoing criteria that the Committee Panel know that Respondent Roy Edward Thomas was cautioned and fined by the Committee on December 29, 2006, in case No. CPC 2006-071, on a complaint by Billy Foster for conduct of a similar nature as that alleged here, failure over an extended time period to deliver the legal services paid for by the client.

WHEREFORE, it is the decision and order of the Arkansas Supreme Court Committee on Professional Conduct, acting through its authorized Panel A, that **ROY E. THOMAS**, Arkansas Bar ID# 73122, be, and hereby is, **REPRIMANDED** for his conduct in this matter, assessed Committee costs of \$50,.00, and ordered to pay restitution of \$1,200.00 for the benefit of Fred D. Jones. The 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.

ARKANSAS SUPREME COURT COMMITTEE ON
PROFESSIONAL CONDUCT - PANEL A

By: _____


Jerry D. Pinson, Chair, Panel A

Date: _____

May 29, 2007