

BEFORE THE SUPREME COURT COMMITTEE ON PROFESSIONAL CONDUCT
PANEL B

IN RE: ALVIN SCHAY, RESPONDENT

Arkansas Bar ID No. 75176

CPC Docket No. 2004-155

CONSENT FINDINGS AND ORDER

The formal charges of misconduct upon which this Findings and Order is based arose from a referral of the Arkansas Supreme Court in the case of Billie Baxter v. State of Arkansas, CR 2004-759. The information related to the representation of Billie Baxter by Alvin Schay, Attorney at Law, Little Rock, Arkansas, in an appeal from Clark County Circuit Court.

On April 8, 2004, a Judgment and Commitment Order was entered in Clark County Circuit Court against Billie Baxter. A timely Notice of Appeal was filed and the record in the lower court proceedings were to be filed on or before July 8, 2004. No extension of time to file the record was requested or obtained. The record was tendered on July 13, 2004.

On July 13, 2004, Schay filed a Motion for Rule on the Clerk. The Arkansas Supreme Court granted the Motion on September 9, 2004, and referred the matter to the Office of Professional Conduct.

Upon consideration of the formal complaint and attached exhibits, the response, the consent proposal, and other matters before it, and the Arkansas Model Rules of Professional Conduct, Panel B of the Arkansas Supreme Court Committee on Professional Conduct finds:

1. That Respondent Alvin Schay violated Model Rule 1.3 when he failed, in a timely manner, to file to obtain an Order extending the time to file the record on appeal beyond the initial ninety (90) day limit and when he failed to file the record of the lower court proceedings with the Arkansas Supreme Court in a timely manner on behalf of his client, Billie Baxter. Model Rule 1.3 requires that a lawyer act with reasonable diligence and promptness in representing a client.

2. That Respondent Alvin Schay violated Model Rule 8.4(d) when his failure to file the record in a timely manner with the Arkansas Supreme Court resulted in a delay of the orderly and timely resolution of appellate proceedings and when his failure to timely file his client's record required the Arkansas Supreme Court to expend additional time and effort which would not have been necessary otherwise. Model Rule 8.4(d) requires that a lawyer not engage in conduct that is prejudicial to the administration of justice.

WHEREFORE, it is the decision and order of the Arkansas Supreme Court Committee on Professional Conduct, acting through its authorized Panel B, that ALVIN SCHAY, Arkansas Bar No. 75176, be, and hereby is, CAUTIONED for his conduct in this matter and is assessed a fine in the amount of TWO HUNDRED FIFTY DOLLARS (\$250.00) and costs in the amount of FIFTY (\$50.00) DOLLARS. 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 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 B

By: _____
J. Michael Cogbill, Chair, Panel B

Date: _____