BEFORE THE SUPREME COURT COMMITTEE ON PROFESSIONAL CONDUCT
PANEL A

IN RE: DONALD W. COLSON, Respondent
Arkansas Bar ID#2005166
CPC Docket No. 2009-020

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 Randall Wright in an Affidavit dated February 23, 2009. The information related to the representation of Mr. Wright by Respondent, Donald Colson, in 2008.

On February 27, 2009, Respondent was served with a formal complaint, supported by affidavit from Mr. Wright. A response was filed. The Respondent and the Executive Director negotiated a discipline by consent proposal, which was submitted to this Panel.

The information before the Panel reflected that on November 22, 2008, Donald W. Colson, an attorney practicing primarily in Benton, Saline County, Arkansas, met with Mr. Wright to see floors in his home. Mr. Wright was experiencing a problem and wanted the home builder to fix the problem. Mr. Colson advised Mr. Wright that he would send a letter to the home builder asking him to fix the floors. Mr. Colson asked for $500 to accomplish this task and was paid on that date. Mr. Colson advised Mr. Wright and his wife that he would have a letter prepared for review the week of December 1. This was because Mr. Colson knew that time was of the essence in the matter. He requested that all contacts previously had with the home builder about the problems be sent to him at his office. Mr. Wright provided those documents.

On December 5, 2008, Mr. Wright sent an e-mail requesting information about the status

of the letter. There was no response received from Mr. Colson.

On December 8, 2008, Mr. Wright left a telephone message for Mr. Colson. Again, he did not respond. On December 10, 2008, another e-mail was sent to Mr. Colson and asked for the return of the $500 because he had not taken the action that he said he would take and he had not been in communication with his client, Mr. Wright. Once again, there was no response from Mr. Colson. A letter was sent the following day setting out the information included in the e-mail. Because of the problems still existing with the floors, Mr. Wright began to try to hire other counsel to assist in getting the matter addressed promptly. There was no response to the letter.

On December 16, 2008, another phone message was left for Mr. Colson. He did not respond. Mr. Wright called again on December 18, 2008, and also sent another e-mail. Yet again there was no response.

At the end of December, Mr. Colson was sent a certified letter. The letter was signed for on December 31, 2008. As of the date of his Affidavit, Mr. Wright had received no communication from Mr. Colson. In spite of numerous phone calls, e-mails and letters, Mr. Colson failed to contact his client, failed to perform the services requested and failed to return the fee and property delivered to him.

In mitigation, Mr. Colson offered that he delivered the documents given to him by Mr. Wright to his new counsel's office on January 12, 2009. On that same date, Mr. Colson advised that he left a check for $500 to refund the fees paid to him.

Upon consideration of the formal complaint and attached exhibit materials, the response, the consent proposal, 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 violated Rule 1.2(a), because he failed to abide by Mr. Wright's objective of representation, in that he did not send a letter to the home builder seeking remedial action with regard to the floors with which Mr. Wright and his family were experiencing problems. Rule 1.2(a) requires that a lawyer 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.

2. That Mr. Colson's conduct violated Rule 1.3, because although he advised Mr. Wright, he would send a letter to the home builder about the floors in his home by December 1, he had not done so by late December when his representation was terminated. Rule 1.3 requires that a lawyer act with reasonable diligence and promptness in representing a client.

3. That Mr. Colson's conduct violated Rule 1.4(a)(3), when he failed to keep his client informed about the status of the matter entrusted to Mr. Colson after he was paid $500 to write a demand letter on his client's behalf. Rule 1.4(a)(3) requires that a lawyer keep the client reasonably informed about the status of the matter.

4. That Mr. Colson's conduct violated Rule 1.4(a)(4), when he failed to return the telephone messages left for him by Mr. Wright seeking information about the matter he hired Mr. Colson to undertake on his behalf and when he failed to respond to the letters Mr. Wright sent seeking information about the matter Mr. Colson was to undertake on his behalf. Rule 1.4(a)(4) requires that a lawyer promptly comply with reasonable requests for information.

WHEREFORE, it is the decision and order of the Arkansas Supreme Court Committee on Professional Conduct, acting through its authorized Panel A, that DONALD W. COLSON, Arkansas Bar ID#2005166, be, and hereby is, CAUTIONED for his conduct in this matter.

Further, pursuant to Section 18.A. of the Procedures of the Arkansas Supreme Court Regulating Professional Conduct of Attorneys at Law (2002), Mr. Colson is assessed the costs of this proceeding in the amount of $50. In addition, pursuant to Section 18.B of the Procedures, Mr. Colson is ordered to pay a fine in the amount of $250. The costs assessed and fine ordered herein, totally **$300**, 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: Steven Shults
Steven Shults, Chair, Panel A

Date: May 19, 2009

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