

2013 Annual Report

Arkansas Supreme Court

***Committee on Professional Conduct
&
Office of Professional Conduct***

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I. Introduction

Authority: Pursuant to the Procedures of the Arkansas Supreme Court Regulating Professional Conduct of Attorneys at Law (“Procedures”), the Committee on Professional Conduct (“Committee”) is granted the authority to investigate all complaints alleging violation of the Arkansas Model Rules of Professional Conduct and impose any sanctions permitted and deemed appropriate. During 2002, major revisions to the Procedures adopted by Per Curiam Order of the Arkansas Supreme Court on July 9, 2001, effective on January 1, 2002, were implemented. The Committee again submitted major proposed revisions of the Procedures to the Court on December 15, 2010, which were adopted by the Court in its Per Curiam issued and effective May 26, 2011, found at 2011 Ark. 242.

History: Amendment 28 to the Arkansas Constitution was adopted by the voters in 1938. The amendment placed with the Arkansas Supreme Court the authority to regulate the practice of law in Arkansas and to regulate, and thereby discipline, attorneys. In 1939 the Bar Rules Committee, an entity of the Arkansas Bar Association and the forerunner of the present Committee on Professional Conduct, was established. In 1940 the Canons for Professional Conduct of Lawyers was approved. The Arkansas version of the American Bar Association’s Model Code of Professional Responsibility was first adopted by the Arkansas Supreme Court in 1970. A revised version of the Code became effective July 1, 1976. The Arkansas version of the American Bar Association’s Model Rules of Professional Conduct was adopted by the Arkansas Supreme Court and became effective January 1, 1986. Various revisions have been made to the Arkansas version of the Model Rules since 1986. Comprehensive revisions became effective May 1, 2005, as the Arkansas Rules of Professional Conduct, now found at pages 381-503 of the 2013 Court Rules, Volume 2, of the Arkansas Code. The attorney discipline Procedures implementing these Rules are in the same Volume 2, at pages 329-379. On May 26, 2011, the Supreme Court adopted and made effective significant revisions to the Procedures, in a per curiam found at 2011 Ark. 242.

Mission: The purpose of lawyer discipline and disability proceedings is to maintain appropriate standards of professional conduct in order to protect the public and the administration of justice from lawyers who have demonstrated by their conduct that they are unable or are likely to be unable to properly discharge their professional duties. Standard 1.1 of the ABA’s 1979 Standards for Lawyer Discipline and Disability Proceedings.

II. Structure

1. COMMITTEE ON PROFESSIONAL CONDUCT

For the year 2013, the Committee continued to operate in the new model of four Panels authorized by the Supreme Court as of January 1, 2009, designated Panels A, B, C, and D (Reserve). Each panel is composed of seven members appointed by the Arkansas Supreme Court.

Five members are lawyers, with one lawyer appointed from each Congressional District and one from the State at large. The remaining two positions are filled by persons who are not lawyers and are selected by the Court from the State at large. Panel membership in 2013 was as follows:

Panel A: T. Benton Smith, Jr., Jonesboro, Attorney, First Congressional District
Steven Shults, Little Rock, Attorney, Second Congressional District
Jerry Pinson, Harrison, Attorney, Third Congressional District
Michael Boyd, Magnolia, Attorney, Fourth Congressional District
Danyelle Walker, Little Rock, Attorney at Large
Helen Herr, Little Rock, Non-attorney at Large
Elaine Dumas, Little Rock, Non-attorney at Large

Panel B: Barry Deacon, Jonesboro, Attorney, First Congressional District
Henry Hodges, Little Rock, Attorney, Second Congressional District
James Dunham, Russellville, Attorney, Third Congressional District
Stephen Crane, Magnolia, Attorney, Fourth Congressional District
Niki Cung, Fayetteville, Attorney, Attorney at Large
Sylvia S. Orton, Little Rock, Non-attorney at Large
Carolyn Morris, Danville, Non-attorney at Large

Panel C: Honorable Kathleen Bell, Helena, Attorney, First Congressional District
Michael Mayton, Little Rock, Attorney, Second Congressional District
Tonya Patrick, Fayetteville, Attorney, Third Congressional District
Joseph Hickey, El Dorado, Attorney, Fourth Congressional District
Scott Stafford, Little Rock, Attorney, At Large
Beverly Morrow, Little Rock, Non-attorney at Large
Mark Limbird, Scranton, Non-attorney at Large

Panel D: Laura E. Partlow, West Memphis, Attorney, First Congressional District
(Reserve) Joe A. Polk, Little Rock, Attorney, Second Congressional District
William P. Watkins, III, Rogers, Attorney, Third Congressional District
James A. Ross, Jr., Monticello, Attorney, Fourth Congressional District
E. Kent Hirsch, Springdale, Attorney at Large
Sue Winter, Little Rock, Non-attorney at large
Ronnie Williams, Menifee, Non-attorney at large

The 2013 Executive Committee consisted of:

Barry Deacon, Jonesboro, Panel B, Committee Chair
Helen Herr, Little Rock, Panel A, Committee Secretary
Danyelle Walker, Little Rock, Panel A Chair
Henry Hodges, Little Rock, Panel B Chair
Judge Kathleen Bell, Helena, Panel C Chair

The 2014 Executive Committee will consist of:

T. Benton Smith, Jr., Jonesboro, Panel A, Committee Chair
Carolyn Morris, Danville, Panel B, Committee Secretary
Danyelle Walker, Little Rock, Panel A Chair
Stephen Crane, Magnolia, Panel B Chair
Hon. Kathleen Bell, Helena, Panel C Chair

Panel C primarily serves: (1) as the review panel for dismissals of complaints by the staff, (2) as a third hearing panel as needed, and (3) individual Panel C members are used as substitute panel members when a member of Panel A or B is not available or has disqualified in any case on a ballot vote or a hearing. Panel D members are substitutes as needed for members of the other three panels who may not be available or who recuse in a case.

COMMITTEE MEETING CALENDAR:

Panel A meets on the third Friday of the months of January, March, May, July, September, and November.

Panel B meets on the third Friday of the months of February, April, June, August, October, and the second Friday of December.

Panels C and D meet “on call” for special settings of hearings.

2. OFFICE OF PROFESSIONAL CONDUCT

The Committee employs an attorney Executive Director and staff who function as the Office of Professional Conduct, which is housed in offices at the Rebsamen Corporate Center at 2100 Riverfront Drive, Little Rock, Arkansas 72202. The Office of Professional Conduct receives all complaints involving attorneys licensed to practice law in the State of Arkansas, investigates the complaints, provides assistance in the preparation of formal complaints, and processes formal complaints for submission to the Committee. The budget of the Committee and Office for 2013-2014 is about \$950,000, totally funded by the Supreme Court by a portion of the annual license fee paid by Arkansas-licensed attorneys to the Arkansas Supreme Court.

The Office of Professional Conduct is staffed by four staff attorneys, an administrative assistant, a secretary, and an investigator. The staff attorneys perform all duties and possess such authority of the Executive Director as the Executive Director may delegate, except for the final determination of sufficiency of formal complaints. In addition to Executive Director Stark Ligon, the Office staff attorneys during most of 2013 were Michael E. Harmon - Deputy Director, Charlene Fleetwood - Senior Staff Attorney, and Jaletta Smith - Staff Attorney.

In calendar 2013, as in previous years, the staff presented a number of “continuing legal education” programs or speeches on law-related topics across the state.

The Arkansas Supreme Court has not authorized the Office of Professional Conduct to give advice or legal opinions, formal or informal, on legal or ethical issues to anyone. The Office does provide information, where it is available and can be done without being advice or legal opinion.

The Office of Professional Conduct also provides staff support for the Supreme Court's Unauthorized Practice of Law Committee and the Client Security Fund Committee.

III. Administration

The Office of Professional Conduct receives telephone calls, letters, e-mails and faxes from individuals across the country requesting information on how to initiate complaints against attorneys licensed to practice law in the State of Arkansas. During the 2013 calendar year, the Office opened new files on 714 grievances on attorneys alleged lawyer misconduct, down from 794 new files opened in 2012. See attached Exhibit A.

In 2013, following assigned review by staff attorneys of disciplinary complaints received in calendar year 2013 and carry-over cases from previous years, 478 files were closed, down from 646 files closed in 2012.

IV. 2013 Formal Actions Initiated

In 2013, there were 67 new formal Complaint attorney discipline cases opened for Committee on Professional Conduct panel action, down from the 85 total new formal Complaint cases opened in 2012. In 2013, 78 formal Complaint files were closed, compared to 74 closed in 2012.

V. 2013 Final Committee Actions

Final action was taken in 58 formal Complaint files involving Arkansas attorneys during Calendar Year 2013 by the Office and the Committee on Professional Conduct. There are five primary forms of action, or sanction, that the Committee on Professional Conduct may take. The lowest, a warning, is non-public. The other forms of sanction - caution, reprimand, license suspension, and initiating disbarment proceedings - are public sanctions.

VI. 2013 - Most Common Rule Violations

In the 2013 findings of the Committee on Professional Conduct Panels, as in most previous recent years, the most common rule violations involved Arkansas Rules 1.3 (acting with reasonable diligence and promptness in representing a client), 8.4(d) (not engaging in conduct prejudicial to the administration of justice), and 1.4(a)(3) (keeping the client reasonably informed about the status of the client's matter). The following listing contains the Arkansas Rule alleged, the number of times the Committee found the rule to have been violated, and ranking of the nine most frequently violated Rules in 2013.

Rule	Found	Rank (# Found)
1.1	11	5
1.2(a)	3	
1.3	17	1
1.4(a)(1)	4	
1.4(a)(3)	13	3
1.4(a)(4)	8	7
1.4(b)	2	
1.5(a)	1	
1.7(a)	2	
1.8(a)	2	
1.8(e)	1	
1.15(a)(1)	1	
1.15(a)(5)	1	
1.16(a)(1)	1	
1.16(d)	11	4
3.2	1	
3.3(a)(1)	2	
3.4(c)	2	
3.5(b)	1	
4.4(a)	1	
5.5(a)	1	
7.3(a)	1	
8.1(b)	2	
8.3(a)	1	
8.4(b)	2	
8.4(c)	9	6
8.4(d)	15	1

VII. “Practice Aging” of Attorneys Disciplined (2013)

Of the 2013 final disciplinary actions by the Committee, based on number of years licensed in Arkansas, attorneys were publicly sanctioned as follows:

Years Licensed	# of attorneys publicly disciplined	Percentage
1-10 (2004-2013)	4	13.33%
11-20 (1994-2003)	10	33.33%
21-30 (1984-1993)	4	13.33%
31-40 (1974-1983)	8	26.67%
41+ (before 1974)	4	13.33 %

(Several attorneys were publicly sanctioned more than once in 2013.)

VIII. 2013 Fines, Restitution & Costs

	Imposed in 2013	Collected in 2013
Fines:	13, 800.00	8,000.00
Restitution:	17,950.00	7,740.00
Costs:	4,675.86	1,050.00
Total:	36,425.16	16,790.00

(Note: some of the collections in 2013 were assessed in cases finalized in earlier years. Costs in disbarment cases are rarely collected.)

IX. 2013 Trust Account “Overdraft” Reporting

- 52 Total reports were received in 2013 from all banks and reporters (compared to 50 in 2012). Most of these files were closed after a summary investigation and explanation by the attorney involved.
- 5 2013 files are still “open” to some extent, such as awaiting additional documentation from the attorney.
- 0 Of these 2013 reports have resulted in filing a formal Complaint to date.
- 3 Number of 2012 reports still “open” that are potential cause for some concern, although no client funds are believed to be unaccounted-for.

The overwhelming majority of overdraft reports were due to some for of “attorney/firm error” such as bookkeeping math mistakes, failure to make timely deposits of settlement

funds, release of settlement checks to clients and third parties before settlement funds were available in the trust account, depositing checks into the wrong account, failure to account for IOLTA interest withdrawals or bank service fees, client fee and expense checks bouncing, etc. Some admitted bank errors are reported.

X. Summaries of 2013 Public Sanctions

Please see attached Appendix B.

Appendix A

THIRTEEN YEAR STATISTICAL COMPARISON 2001-2013 (Unofficial - as of 12-31-13)

Category	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017
Files opened	873	1,028	972	892	826	804	819	859	861	888	735	794	714				
Closed by staff	691	737	825	796	868	1137	784	786	742	845	806	646	478				
Complaints filed	149	186	200	164	159	156	140	114	144	119	97	85	67				
Appellate Refers	34	45	50	40	34	39	50	33	41	18	17	40	7				
Judicial Refers	13	12	12	8	8	19	6	4	4	6	10	18	3				
Other/by Attys				24	7	16	9	15	15	7	14	38	37				
Complmts closed	135	178	185	211	181	173	182	122	128	119	106	74	78				
No Actions	12	30	15	24	18	19	13	10	11	10	7	4	4				
Warnings	45	53	54	38	33	53	41	37	46	26	20	13	8				
Cautions	14	31	28	53	41	29	34	20	28	15	24	8	10				
Reprimands	26	35	37	36	31	30	26	14	14	19	20	11	11				
Suspensions	19	14	20	9	17	12	23	12	10	10	11	9	12				
Surrenders	13	5	5	11	6	7	1	6	5	3	14	8	3				
Merge/surrender		1	14	29	5	4	0	6	18	6	9	1	1				
Disbar initiated	6	3	3	3	7	2	1	1	2	1	2	1	4				
Disbarments		0	0	3	0	2	2	2	4	3	0	0	5				
Reinstated	3	3	8	10	13	11	6	0	6	2	2	5	9				
Consents	13	35	54	71	51	64		45	50	28	29	18	7				
Refer to ArJLAP	N/A	2	0	0	1	3	0	0	0	0	0	0	0				
# Attys Public Sanctioned*	57	61	72	101	102	68	67	49	44	44	60	29	30				

* includes several attorneys with multiple separate sanctions

N/R - not recorded. Some of this information is available from a manual review of old files, but limited staff time and other priorities has not allowed it to be compiled yet.

2013 ANNUAL REPORT - APPENDIX B

ATTORNEY “PUBLIC” DISCIPLINE SUMMARIES

DISBARRED:

ALICE WARD GREENE, Bar #95197, of Little Rock, Arkansas, was disbarred in Arkansas by the Arkansas Supreme Court on January 10, 2013, in a Per Curiam Order of Disbarment filed in No. 11-1114. After being served, Ms. Greene failed to respond to the Petition for Disbarment alleging violations of Rules 1.2(a), 1.3, 1.4(a)(3), 1.4(a)(4), 1.16(d), 8.1(b), and 8.4(d), based on a complaint filed by Lee Vernon Jernigan of Hot Springs. The Special Judge found Greene committed serious misconduct and was in default for failing to respond after proper service and notice. Jernigan hired Greene to assist him with legal issues he had with his property owner’s association. Green was paid fees by Jernigan, failed to file an action on Jernigan’s behalf, did not respond to Jernigan’s requests for information, failed to address his issues with him, and did not advise him when she left the law office location where he had met her. Greene failed to respond to any of the requests for information to her from the Office of Professional Conduct. She was also found to have multiple violations of Rule 3.4(c) for failing to pay fines, restitution, and costs ordered in several prior committee cases.

NEWTON DONALD JENKINS, JR., Bar No. 94231, of Van Buren, AR, was disbarred on May 30, 2013, by per curiam opinion, at 2013 Ark. 239, and a judgment for costs and expenses of \$3,130.35 was issued. Jenkins was found by the special judge on the case to have engaged in “serious” misconduct involving dishonesty, deceit, fraud, or misrepresentation in at least eight violations in the disbarment case, along with having a prior disciplinary history of numerous other similar violations, and that ten aggravating and no mitigating factors existed. Jenkins filed a general denial to the disbarment charges and then failed to defend and attend any hearings, the trial, or to file any brief, as appellant, before the court. Jenkins had three prior state license suspensions before this final action.

SURRENDER:

MARK E. BARTON, Bar #96248, of El Dorado, Arkansas, had his petition for surrender of law license accepted by the Arkansas Supreme Court on January 10, 2013, in No. 12-1097. Barton represented Susan Bonner in civil litigation in circuit court. Barton advised Bonner that he had recovered a Judgment for her, which was not true. He then sent payments from his own funds to Bonner until he was no longer financially able to do. Barton missed the statute of limitations on the claim of another client, so he paid her a “settlement” of \$20,000, without advising her to seek independent counsel. Barton advised that he suffered from anxiety and depression and wished to surrender his law license.

STEVEN R. JACKSON, Bar #97142, of Lowell, Benton County, Arkansas, petitioned to surrender his law license based on his plea to a felony forgery offense in Washington County

Circuit Court on November 16, 2012, a violation of Rules 8.4(b) (criminal conduct). In June 2012, Jackson forged a court order changing child custody to his client, and gave it to the client for use in getting the child back. Once the forgery was discovered, the father returned the child. Jackson was placed on three years probation and fined in his criminal case. The Court accepted the petition on January 10, 2013, and ordered Jackson disbarred.

CHARLES L. STUTTE, Bar No. 83174, of Fayetteville, AR, after being served with a formal Complaint by the Office of Professional Conduct following an audit of his client trust account, petitioned to surrender his law license, in No. CV-13-505, the Court accepted his petition on June 27, 2013, and barred him from the practice of law, in lieu of probable disbarment proceedings. See per curiam at 2013 Ark. 293. Stutte was charged with conversion of over \$100,000 of funds belonging to two clients over a period of time from late 2010 through mid-2012. Stutte repaid the clients before he petitioned to surrender.

DISBARMENT PROCEEDING INITIATED:

JOHN SKYLAR “SKY” TAPP, Bar #76123, of Hot Springs, had disbarment proceedings initiated against him on March 12, 2013, in Case No. 13-150, as a result of Committee panel actions in December 2012 in CPC 2012-047, a referral by United States Bankruptcy Judge Richard Taylor, and in CPC 2012-049, a complaint related to his handling of \$6,611 in his client trust account for a divorce client. The panel also voted to impose an interim suspension during the pendency of the disbarment action, but that suspension was stayed by the Supreme Court until it decides a writ of certiorari filed by Tapp challenging the interim suspension, also in No. 13-150, an issue still pending at publication closing time.

LISA D. DAVIS, Bar No. 2001-072, of Piggott, AR, at the direction of a Committee panel, on May 20, 2013, had a petition for disbarment filed against her, as No. D-13-428, on the basis of complaints from Jerry Bracken (No. CPC 2012-77, about an adoption) and Connie Brown and Josh Crenshaw (No. CPC 2012-083, about their civil matters). An order of interim suspension has been issued and remains in effect. On June 21, 2013, a panel reviewed three more complaints against Davis, from a circuit judge and Ronald Lack (No. CPC 2013-016, about an estate), from Linda Franks (No. CPC 2013-024, default judgment allowed for failure to file any response in a civil suit), and from Kacey Johnson (No. CPC 2013-022, failure to appear and defend in a divorce temporary custody hearing), to which complaints Davis did not file any responses. The panel directed that the new three matters be added to the disbarment case by amended petition which is in the process of being done.

ROBERT BRENT CREWS, Bar No. 91237, of Jonesboro, AR, was placed on interim suspension and Panel B directed that disbarment proceedings be initiated by the Executive Director in action on December 19, 2013, in Case Nos. CPC 2013-017 (complaint by Paula Rondell), CPC 2013-108 (complaint by James Houston), CPC 2013-019 (complaint by Warren Graddy), CPC 2013-023 (complaint by Georgia McCabe), and CPC 2013-029 (complaint by Thomas Ashcraft, Jr.)

KENNETH ALAN HARPER, Bar No. 89022, formerly of Monticello and now Star City, AR, in CPC No. 2013-054, was placed on interim suspension and Panel B directed that disbarment proceedings be initiated by the Executive Director in action on December 17, 2013, based on a complaint brought by Simitrio Saldivar.

SUSPENSION:

LISA D. DAVIS, Bar #2001072, of Piggott, Clay County, Arkansas, in CPC 2012-067, on a complaint by Summer Wolfenbarger, on March 26, 2013, received a twenty-four (24) month license suspension for violations of Rules 1.1, 1.2(a), 1.4(b), 1.4(a)(3), 1.16(d), 8.4(c), and 8.4(d). In mid-2009 Ms. Wolfenbarger, a poultry grower for Tyson, was required to update her poultry houses. She obtained bank financing of about one million dollars. She contracted with Southern Poultry (“Southern”), of Arkansas, for the job. Contracts were signed in December 2009, and work began soon thereafter, with an explicit understanding that “time was of the essence” to complete the job, so as to not interrupt the Tyson poultry delivery cycle. Problems arose with Southern’s performance on the first contract, involving two houses. On advice of her lawyer Davis, Wolfenbarger made written demands on Southern to take corrective action. When such action did not occur, on advice of Davis Wolfenbarger had her bank withhold the final \$21,000 on the first contract. Wolfenbarger later terminated Southern for breach of contract. She then contracted with Modern Poultry of Alabama to complete or redo work on the first two houses and to do all the work on the last two houses. Modern completed the work on the first contract for about \$21,000, and completed all work on the last two houses.

In October 2010, Southern sued Wolfenbarger and her husband in Cleburne County, home of Southern, for \$146,562 plus attorney’s fees. Davis filed an Answer for the Wolfenbargers, but no counter-claim, although Wolfenbarger had specifically requested Davis file a counter-claim for at least the \$21,000 she had to pay Modern to complete/fix what Southern did not do or do correctly on the first contract. Problems caused by Southern’s performance caused delay and project cost overruns, which also would have been relief sought in a counter-claim. In early 2011, Southern had to file a motion to compel against Davis when she did not timely respond to discovery. The case was set for jury trial during March 22-30, 2012.

On March 22, 2012, Davis’s law license was suspended for three months in another matter. Davis notified Wolfenbarger of the suspension but assured her either (a) she would have her license back by the time the case actually went to trial, if Wolfenbarger would seek a continuance, or (b) Davis would have an attorney friend step in to assist the Wolfenbargers. Davis then directed Wolfenbarger to make a \$2,500 “fee” payment in cash to a former Davis office employee, which Wolfenbarger did.

The trial was continued until June 12-15, 20102, and then to July 25, 2012. To obtain the last continuance without an objection by Southern, Wolfenbarger had to agree to waive a jury. Davis’ suspension was up by June 22, 2012. Her petition for reinstatement was filed on July 11, 2012. Due to a response filed by OPC, Davis was reinstated on August 20, 2012. With Davis’ law office closed, on July 16, 2012, Wolfenbarger attempted to contact Davis to find what to do about her upcoming trial. On July 24, Davis informed Wolfenbarger that Davis was not reinstated and Davis’ attorney friend was not available for court on July 25. Davis suggested that

Wolfenbarger use a claim of illness to try to get another trial continuance. Wolfenbarger declined to do so, and then unsuccessfully tried to locate an attorney who could go to court with her the next day. Wolfenbarger obtained her case file from Davis that same evening, and she and her husband went to trial the next day without legal representation.

At the bench trial Summer was not able to get her evidence into the record, generally because Davis had failed to file any counter-claim. Judgment for \$159,062, including \$12,500 in attorney's fees, was granted against the Wolfenbargers. Wolfenbarger tried unsuccessfully to appeal. Wolfenbarger filed her grievance against Ms. Davis on August 10, 2012. OPC sent Ms. Davis a copy of the grievance on August 28, 2012, and e-mailed Ms. Davis four times thereafter asking her for her version of these events or for documents in the matter. Davis failed to respond.

JANIE M. EVINS, Bar #92068, of Hot Springs, in CPC 2012-014, on February 20, 2013, had her law license suspended for one month by "discipline by consent," on a complaint by Darlene Carvin for violating Rule 1.8(a), which prohibits or restricts certain business dealings between attorney and client. In 1997, while representing Carvin on legal matters, Evins borrowed \$142,000 from her client's company to buy an office building in Hot Springs, from another Evins client. It was Carvin's understanding that the property would also be renovated from the loan proceeds and then commercially financed by Evins so Carvin would get her money back. There was no indication Evins advised Carvin of her need to consult independent counsel before entering into such a financial deal with Evins. Problems arose, Carvin was not repaid, and in early 2002 a settlement agreement was executed between Evins and Carvin, now represented by new counsel. Carvin got title to the property and had the burden of reselling it. Evins failed to honor commitments she made in the settlement agreement. In June 2007 Carvin filed suit against Evins for breach of contract. That suit and a subsequent suit were each dismissed without prejudice. A third suit was filed in April 2011. After trial in late 2011, judgment was entered for Carvin and against Evins for about \$166,000. The judgment was reversed and dismissed in 2013 for violation of the "two dismissals" rule. Evins' law license was reinstated by the Committee on March 22, 2013.

WILLIAM KURT MORITZ, Bar No. 99021, of Hope, Arkansas, in CPC 2012-020, was suspended from representing clients before the Arkansas appellate courts twelve (12) months for violations of Rules 1.1, 1.3, 1.4(a)(3), and 8.4(d). Moritz was paid \$5,000 to represent Michael Anderson in a criminal case, where his brother, Myron was a co-defendant. After a joint trial, both Andersons were found guilty and sentenced to prison. On October 18, 2007, a joint Notice of Appeal was filed by Moritz. After the court denied the a motion for new trial, co-counsel filed an Amended Notice of Appeal on behalf of his client only. Myron's appeal brief was filed, but no brief was filed for Michael. The Arkansas Court of Appeals affirmed Myron's conviction in early 2009. Michael wrote the Clerk about his appeal, and was told no brief had been filed for him. Moritz filed a Motion for Belated Brief and stated in the motion that since the Andersons were tried together, he understood a single brief would be filed on behalf of both Andersons. The Supreme Court granted the motion and set a deadline for Michael's brief. Moritz tendered a brief to the Clerk, who rejected the brief. Moritz corrected the error and submitted a new brief. Moritz was ordered to rebrief the case. The Court suggested that Moritz had simply duplicated

the abstract and addendum of Myron's brief. The Court of Appeals affirmed Michael's conviction, stated that the entire argument failed to cite authority, and found the argument to be frivolous.

DONALD W. COLSON, Bar No. 2005166, of Benton, AR, in No. CPC 2012-085, had his law license suspended for twelve (12) months and ordered to pay \$1,000 restitution by Committee Findings & Order filed June 3, 2013, on a complaint filed by Debbie Andrews, for violations of AR Rules 1.4(a)(4) (responding to client requests for information) and 1.16(d) (failure to provide the client the file). Andrews employed Colson and paid him \$1,000 in February 2011 to defend her in a paternity/custody/visitation case. Andrews' previous attorney provided Colson his file of about 200 pages, including many original documents. A judgment of paternity was entered. The father's visitation was suspended when he was incarcerated. He was released and sought to reinstate his visitation, and Colson filed a response. Andrews then became unable to contact Colson and hired new counsel, who sought the client's file from Colson. Colson failed to respond to either and did not provide the file. For his failure to file a response to the Complaint, Colson was also separately reprimanded and fined \$500.

TERRY F. WYNNE, Bar No. 77148, of Pine Bluff, AR, in No. CPC 2012-050, on a self-report, had his Arkansas law license suspended for one year from July 1, 2013, by Findings and Order filed July 1, 2013, after he withdrew his request for a public hearing. Wynne self-reported that he personally retained from firm clients fees that belonged to his law firm, had repaid certain amounts to the firm, and had violated AR Rule 8.4(c). Wynne left the firm in February 2012. After audits, the sum of such fees was determined to possibly be about \$29,520, a number Wynne disputed, with Wynne having repaid \$5,820. The amount of funds retained by Wynne was also elsewhere calculated at about \$20,950 and involved payments by twelve clients. Wynne explained his conduct as being related to his gambling problem, need for funds, and his emotional state during the terminal illness and death of his wife in 2011.

DONALD W. COLSON, Bar No. 2005166, of Bauxite, AR, had his law license suspended for forty-eight (48) months in CPC No. 2013-008 by Committee Findings & Order filed July 9, 2013, on a complaint by Brenda C. Reed for violations of AR Rules 1.3, 1.4(a)(4), 1.16(d), 8.4(c), and 8.4(d). Colson was ordered to pay \$1,000 restitution to Ms. Reed. Colson failed to respond to the formal complaint and for that conduct was also issued a Reprimand and fined an additional \$1,000.00. Reed employed Colson in February 2012 to represent her in a bankruptcy matter and paid him \$1,000, which included a \$306 filing fee. Colson filed a Chapter 7 Petition for Reed but failed to pay her filing fee. Colson advised Reed that he usually waited until after the meeting of creditors to complete the payment. Reed's bankruptcy case was dismissed on September 10, 2012, for failure to pay the filing fee. Reed was thereafter unable to contact Colson. Reed informed the bankruptcy court of the situation and a hearing was set for November 15, 2012. Reed appeared and Colson did not. The bankruptcy case was reopened. Colson sent a letter to the court advising that he had been suspended from the practice of law on September 5, 2012, by the Committee on Professional Conduct in another matter Colson had not informed Reed of his suspension from the practice of law.

BRIAN PATRICK HAYES, Bar No. 2000044, of Fort Smith, AR, had his law license suspended for sixty (60) months in CPC No. 2012-069 by Committee Findings & Order filed August 8, 2013, on a self-report for violations of AR Rule 8.4(b). Hayes was charged in Sebastian County Circuit Court with felony possession of a controlled substance and of drug paraphernalia. He plead guilty on each charge. The court placed Hayes on a five year suspended imposition of sentence.

JOHN SKYLAR TAPP, Bar No. 76123, of Hot Springs, Arkansas, after a hearing on July 19, 2013, was suspended for a period of ninety (90) days and fined \$10,000.00 in CPC No. 2012-045 by Committee Hearing Findings & Order filed August 16, 2013, on a complaint by Nita Bargaen, for violations of AR Rules 1.7(a), 1.9(a), 8.4(a), 8.4(c), and 8.4(d). The case generally involving a conflict of interest where Tapp briefly represented Bargaen in a child custody and support matter in 2006 and then represented the father in the same matter briefly in 2012 until he was disqualified by trial court order. The committee panel stayed the suspension and fine pending appeal by Tapp to the Supreme Court of Arkansas, as No. CV-13-1055.

KENNETH ALAN HARPER, Bar No. 89022, formerly of Monticello and now Star City, AR, had his law license suspended for a period of thirty-six (36) months in CPC No. 2013-32, was ordered to pay restitution of \$1,680 and costs in the amount of \$50, by a Findings and Order filed November 26, 2013, on a complaint by Stephanie Jones. Mr. Harper failed to act in furtherance of the interests of his client, failed to provide a response to requests for information on behalf of his client, failed to hold property of his client separate from his own, and failed to return any unearned fees after termination of representation. Mr. Harper was found to have violated AR Rules 1.3 (diligence), 1.4(a)(3) (communication), 1.15(a)(1) (safekeeping property and trust accounts), and 1.16(d) (declining or terminating representation).

KENNETH ALAN HARPER, Bar No. 89022, formerly of Monticello and now Star City, AR, had his law license suspended for a period of thirty-six (36) months in CPC No. 2013-033, was ordered to pay restitution in the amount of \$650 and costs in the amount of \$50, by a Findings and Order filed November 26, 2013, on a complaint by Jason L. Ward. Mr. Harper was unable to be located during the period of representation, failed to respond to requests for information by his client, and, despite receiving fees for representation, failed to take any action towards the representation. Mr. Harper was found to have violated AR Rules 1.1 (competence), 1.4(a)(3) (communication), and 8.4(c) (misconduct).

KENNETH ALAN HARPER, Bar No. 89022, formerly of Monticello and now Star City, AR, had his law license suspended for a period of thirty-six (36) months in CPC No. 2013-034, was ordered to pay restitution of \$500 and costs in the amount of \$50, by a Findings and Order filed November 26, 2013, on a complaint by Christopher and Delano Agpaoa. Mr. Harper was unable to be located during the period of representation of his client, failed to respond to requests for information about that status of his client's legal matter, and failed to return any unearned fees after termination of representation. Mr. Harper was found to have violated AR Rules 1.1

(competence), 1.4(a) (communication), and 1.16(d) (declining or terminating representation).

KENNETH ALAN HARPER, Bar No. 89022, formerly of Monticello and now Star City, AR, had his law license suspended for a period of thirty-six (36) months in CPC No. 2013-035, was ordered to pay restitution of \$750 and costs in the amount of \$50, by a Findings and Order filed November 26, 2013, on a complaint by Cody Daniel. Mr. Harper was unable to be located during a period of representation of his client, failed to respond to requests for information about the status of his client's legal matter, failed to keep his client informed about the status of the legal matter, and failed to return any unearned fees after termination of representation. Mr. Harper was found to have violated AR Rules 1.1 (competence), 1.3 (diligence), 1.4(a)(3) (communication), and 1.16(d) (declining or terminating representation).

KENNETH ALAN HARPER, Bar No. 89022, formerly of Monticello and now Star City, AR, had his law license suspended for a period of thirty-six (36) months in CPC No. 2013-036, was ordered to pay restitution in the amount of \$1,500 and costs in the amount of \$50, by a Findings and Order filed November 26, 2013, on a complaint by Patrick Lee Miller. Mr. Harper was unable to be located during the period of representation, failed to keep his client informed about the status of his legal matter, and failed to return any unearned fees after termination of representation. Mr. Harper was found to have violated AR Rules 1.1 (competence), 1.4(a)(3) (communication), and 1.16(d) (declining or terminating representation).

JONATHAN B. HUBER, Bar No. 2008037, of Arkadelphia, AR, had his law license suspended for twelve (12) months, was fined \$2,500, and was assessed costs of \$3,956.24 in CPC No. 2012-003, after a hearing, by Committee Hearing Findings & Order filed December 17, 2013, on a complaint by Circuit Judge Robert McCallum, for violations of AR Rules 8.4(b), and 8.4(c). Huber entered a plea to a misdemeanor charge of sexual solicitation in Arkadelphia district court in October 2011 (8.4(b) - criminal conduct), and created and operated a FaceBook profile using a fictitious name to make contact with women, including the woman involved in the district court case (8.4(c) - conduct involving dishonesty, fraud, deceit, or misrepresentation). Huber waived his right to appeal and accepted the suspension, which began on January 1, 2014.

PHILIP K. LYON, Bar No. 67036, of Nashville, TN and Jasper, AR, had his Arkansas law license suspended for twelve (12) months in CPC No. 2013-044 on October 8, 2013, by Committee Order Approving Reciprocal License Suspension, based on earlier action in Tennessee that was effective there on March 22, 2013. Lyon self-reported and Tennessee reported his Tennessee license suspension. In the Tennessee proceeding, Lyon was found to have violated Rules 1.15(b) and (d) (safekeeping property and funds) and 8.4(a), (b), and (c) (misconduct), involving client David Harp's funds, Lyon's Tennessee law license was ordered suspended for one year and he was ordered to make \$42,500 restitution to the client. The Tennessee Board found Harp's funds were deposited into Lyon's client trust account for safekeeping, were transferred by Lyon to Lyon's operating account, and the funds were not available when Harp requested the funds.

REPRIMAND:

LISA D. DAVIS, Bar #2001-072, of Piggott, Arkansas, by Findings & Order filed March 1, 2013, in CPC 2012-053, a complaint by Tiffany Branson, was reprimanded for violations of Rule 1.2(a). Branson went to Davis on December 1, 2010, to discuss a divorce. On January 3, 2011, Branson gave Davis \$2,715 for the divorce, service fees, and filing fees. Branson filed a pro se Petition for Order of Protection, as Case No. DR-2011-3 and hearing was set for February 3, 2011. Davis filed an unverified Petition for Divorce for Branson as Case No. DR-2011-4, but never took steps to have Mr. Branson served. The Bransons reconciled about two weeks later, and Ms. Branson told Davis she wished to drop the divorce.

On February 3, 2011, Mr. and Mrs. Branson appeared, told the judge they wished to drop the matter, and they and their attorneys signed the Order. Davis did not dismiss the pending divorce case, but the Court finally did so in early March 2012, for inaction. After February 3, 2011, Tiffany Branson contacted Davis several times asking for an itemized billing and a refund of unearned fees paid. Sometime after March 22, 2012, Ms. Branson learned that Ms. Davis' law license had been suspended on that date. On June 3, 2012, Branson wrote Davis again requesting an accounting and refund of fee. Branson received no response or refund from Davis.

LISA D. DAVIS, Bar #2001-072, of Piggott, Arkansas, by Findings & Order filed March 1, 2013, in CPC 2012-042, a complaint by Katy Knighten, was reprimanded for violations of Rules 1.4(a)(4), 1.5(a), and 8.4(c). Knighten, of Cherokee Village, Arkansas, was a young single mother of two small children involved in a Sharp County, Arkansas, custody case. In April 2011 she moved to Pascagoula, Mississippi. Knighten had a court date of December 13, 2010, in Arkansas, needed an attorney, and Davis of Piggott was recommended. She made the two hour with her friend, and met with Davis on December 1, 2010, at 3:00 p.m. for two hours. Davis quoted a fee \$3,500, requiring payment of \$1,750, one-half, up front. Knighten then called her mother in Mississippi. When Knighten was unable to come up with the \$1,750, Davis told Knighten to go to court without a lawyer and then contact Davis and let her know what happened.

Knighten called Davis after court on December 13, 2010, told her the children had been taken away from Knighten, she wanted to hire Davis, but had to come up with the \$1,750. Knighten called Davis' office in January 2011 to inform her of what was said in court that month. Responding to an inquiry from the Office of Professional Conduct (OPC) in 2012, Davis sent a copy of a "Statement" dated February 3, 2011, addressed to Knighten in Cherokee Village. Knighten stated she never saw the Statement before OPC showed it to her in 2012.

Knighten did not call Davis again until Knighten had a court date on December 14, 2011. Unable to meet with Davis before court, Knighten and her mother went to court on December 14. Knighten did not get custody of her children or any visitation with them. Money for the fee was borrowed from a friend and an appointment was made with Davis for December 20. Upon arrival in Piggott for the appointment, Davis' office informed them that Davis had been detained in Louisiana and could not make it due to bad weather. Davis was contacted by her staff by text messaging. Ms. Wood paid \$1,750 in cash to retain Davis.

Davis provided OPC a May 30, 2012, time billing to Knighten, which Knighten disputed

as being accurate. From December 2011 to the end of April 2012, Knighten's phone records show sixteen short calls she placed to Davis' number in an attempt to contact Davis. On April 26, 2012, Knighten mailed Davis a letter asking if Davis was going to appear with Knighten in court at a May 9 hearing. On May 7, 2012, as Knighten and her mother were making the nine hour drive from Mississippi to Arkansas, Davis called them on her cell phone, informed them that her law license had been suspended in March 2012, and Davis was unaware that Knighten had retained her. Davis claimed that she thought the \$1,750 was to pay for the visit in December 2010, and later consultations. Unable to find another attorney on a day's notice, Knighten went to court on May 9, 2012, and did not get her children returned to her.

DAVIS H. LOFTIN, Bar ID # 79196, of West Memphis, Arkansas, was reprimanded by Committee Findings and Order filed January 16, 2013, on a complaint filed by Gennie White, in case number 2012-057, for violations of Rules 1.1, 1.3, and 8.4(d). In addition, Mr. Loftin was ordered to pay a fine in the amount of \$5,000 and pay restitution for Mrs. White in the amount of \$1,100. Mrs. White and her husband hired Davis Loftin to represent them in a bankruptcy proceeding. Mr. and Mrs. White wished to have reaffirmation agreements for their two vehicles and furniture. Mr. Loftin failed to be certain that the Reaffirmation Agreement for the Ford Explorer belonging to Mr. and Mrs. White was filed in the bankruptcy prior to discharge. As a result, the Explorer was repossessed. Additional actions had to be taken in the bankruptcy to reopen it and Mr. and Mrs. White were out more sums of money to recover their vehicle.

MONICA MASON, Bar #98104, of Sherwood, Arkansas, by Consent Findings & Order filed February 15, 2013, in CPC 2012-028, agreed to a reprimand on a complaint by Circuit Judge Alice Gray for violations of Rules 1.7(a), 3.3(a), and 8.4(d). The complaint involved the attempted adoption of BBW, a newborn, by each of two couples, E and H, and multiple concurrent conflicts of interest of Mason. In August-September 2011, at the same time Mason represented as counsel the birth mother (BM), got herself court-appointed as guardian of the person of the newborn infant (BBW) on his date of birth, represented as counsel another potential adoptive couple who were seeking to adopt BBW and were paying BM's expenses, and Mason has also advanced \$744 of her own funds to the BM. Mason failed to disclose all of her relationships to the court when seeking the guardianship order. Mason failed to disclose to the court that there was another adoptive couple, Couple H, of whom Mason had knowledge on September 14, 2011, prior to Mason actually filing the signed guardianship order.

The birth mother earlier placed another male baby for adoption through an agency (ABBA). Couple H adopted this baby. On March 7, 2011, BM signed a document with ABBA to place her unborn baby (BBW) for adoption. ABBA arranged for Couple H to adopt BBW, BM agreed with this placement, and Couple H began paying BM's expenses. The putative father signed a similar document in favor of ABBA, for BBW's adoption by Couple H through ABBA. By August 2011, Monica Mason had become the attorney for Couple E who were seeking to adopt an infant, BBW, who was expected to be born in mid-September 2011. By August 2011, Monica Mason had become the attorney for BM.

In August 2011, BM allegedly gave notice to ABBA that she was cancelling her arrangement with ABBA regarding adoption of BBW. In August 2011, as attorney for Couple E,

Mason proceeded to have necessary background checks and home studies done for Couple E as adoptive parents for BBW. On September 7, 2011, BM executed her Relinquishment of Parental Rights to her attorney, Mason, approving Mason being guardian for BBW, and identifying the couple (E) BM wanted to adopt her child.

Starting early on September 14, 2011: BBW was born by “C-section;” Mason filed a petition for appointment of Mason as temporary guardian of BBW, pending a proposed adoption by a couple selected by BM; representatives of ABBA, the hospital social workers, the father, and Mason were all in and out of the room of BM discussing the situation and various consents; Judge Gray held a conference call with Mason on the petition to appoint Mason as guardian; Mason claimed to have drafted documents for BM and father to revoke their previous adoption consents in favor of ABBA and Couple H; Mason filed the Order of Guardianship.; father revoked his consent for ABBA to the BBW adoption; BM signed a Release of BBW to ABBA and she left hospital “against medical advice.” BM then signed revoking any previous consent to ABBA for adoption of BBW.

Mason physically placed BBW with Couple E. ABBA filed a petition to intervene in Mason’s BBW “guardianship” case, and Couple H filed a petition to adopt BBW. Couple E then filed a petition to adopt BBW. In a conference call, Mason admitted that at the time she placed the baby with Couple E, she was aware of the other adoptive couple, Couple H. Judge Gray conducted a conference call and learned Mason had personally paid expenses for her client, BM, and that Mason had previously secured the adoptive Couple E prior to their filing of an adoption petition on September 20, 2011. On October 6, 2011, Judge Gray entered her Order removing Mason as guardian for BBW, due to Mason’s failure to disclose potential conflicts of interest. DHS was allowed to proceed with its dependency-neglect petition. In 2012, Couple H finalized their adoption of BBW.

JIMMIE L. WILSON, Bar #73128, of West Helena, Arkansas, by Consent Findings & Order filed February 1, 2013, in CPC 2012-022, on a complaint by Moses Watts, Sr. of Pine Bluff, was reprimanded and ordered to pay \$2,500 restitution for violations of Rules 1.3, 1.4(a)(4), 1.4(b), and 1.16(d). In August 2010, Mr. Watts met with Mr. Wilson West Helena, employed Wilson to handle an employment matter against International Paper Company, and made an initial \$500 payment on a fee shown as \$2,500 on the receipt he received. Watts states there is no written employment contract or fee agreement between them, to his knowledge. On September 3, 2010, Mr. Watts paid an additional \$750 on the fee, leaving a \$1,250 balance. According to Mr. Watts, their agreement was that Watts would have to pay the \$2,500 in full before Mr. Wilson would start his claim. Watts paid the balance of the full fee by October 29, 2010. They met in Wilson’s West Helena office in December 2010, and Wilson told Watts the documents would be sent to Watts soon for his review. Watts never received any documents from Wilson thereafter. Mr. Watts has no evidence that Mr. Wilson did any work in Watts’ matter. Mr. Watts wrote Mr. Wilson on March 30, June 3, and October 26, 2011, inquiring about the status of his matter and finally requesting a refund of his fee so Watts could employ another attorney in the matter. Mr. Watts received nothing in response. He now believes the time within which any claim for him could have been filed has expired.

ANDREW L. CLARK, Bar No. 73018, of Little Rock, AR, in CPC No. 2013-002, was reprimanded and ordered to pay \$50 costs by Committee Consent Findings & Order filed April 24, 2013, on a referral by the Supreme Court in a criminal appeal involving William Sellers, for violating AR Rules 1.3 (diligence), 1.4(a)(1) (failure to communicate with client), and 8.4(d) (conduct prejudicial to the administration of justice). Clark failed to communicate with his client Sellers about the client's desire to take an appeal, and failed to timely file the notice of appeal. The court granted his motion for belated appeal and referred the matter to the Committee.

DONALD W. COLSON, Bar No. 2005166, of Benton, AR, in No. CPC 2012-079, was reprimanded by Committee Findings & Order filed June 3, 2013, on a complaint filed by Lorene Williams, for violations of AR Rules 1.16(d) and 8.1(b). Williams contacted Colson about his pursuing a civil matter for her and took him her medical records which she had paid to acquire. Colson quoted her a nonrefundable fee which she decided she could not afford. She requested the return of her medical records, heard nothing for a time, then got a letter from Colson in June 2011 that he had relocated his office and would try to locate her records in his file storage. OPC got involved and contacted Colson, who finally turned her records over to Williams after October 2011. Colson was also separately reprimanded and fined \$500 for failure to file a response to the Complaint.

SUSAN G. GUNTER, Bar No. 81-78, of Little Rock, AR, in No. CPC 2012-026 was reprimanded by Committee Consent Findings & Order filed May 17, 2013, on a complaint by client Darlene Carvin, for violating Model Rules 1.8(a) (entering into business arrangement with client) and 1.16(d) (return of client files). Carvin had employed another attorney for representation in the late 1990s. In 1997, that attorney borrowed \$142,000 from her client Carvin, and failed to repay the loan. By 2000, Carvin had employed Gunter for legal services on a variety of matters, including collection of the \$142,000. Gunter negotiated a settlement in early 2002 with the former attorney, and in 2007 filed suit for Carvin when the former attorney failed to pay and fulfill the terms of the 2002 settlement agreement.

In January 2004, Gunter borrowed \$100,000 from Carvin for use by Gunter in a residential real estate purchase in North Little Rock, with Gunter preparing the Note. In January 2007, Gunter purportedly executed a Replacement Promissory Note of \$100,000 for the original 2004 Note. Relations grew strained between Carvin and Gunter, and by October 2008, Carvin was writing Gunter requesting the return of Carvin's files from Gunter and repayment of the \$100,000 loan.

Carvin employed an attorney who wrote Gunter in March and April 2009, about the \$100,000 loan and the files Carvin needed to take possession of from Gunter. Gunter did not respond, these issues were not resolved, and on July 1, 2009, lawsuits were filed in Pulaski County Circuit Court for Carvin against Gunter on the \$100,000 loan in 2004 and for the return of the client files. Over the next two plus years efforts by Carvin's attorney and the OPC resulted in the return of most of Carvin's files. Carvin's suit against Gunter on the \$100,000 loan was settled on June 1, 2011, with Gunter giving Carvin a new Note for \$100,000 due in full on June 1, 2012, and a mortgage on a suitably valued property as security. When Gunter failed to pay, a foreclosure suit was filed for Carvin in December 2012. After a ballot vote, Gunter requested a

hearing, which was set for May 17, 2013. In late April 2013, Gunter settled in full with Carvin on the 2011 note, and entered into a consent by discipline disposition.

HENRY DAVIS LOFTIN, Bar No. 79196, of West Memphis, AR, in CPC No. 2013-005, was reprimanded, assessed a \$1,000 fine, \$50 costs, and \$300 restitution by Committee Consent Findings & Order filed June 21, 2013, on a complaint by Jonathan and Sarah Demuth, for violating AR Rules 1.1 (competence), 1.3 (diligence), 1.4(a)(4) (communication), and 8.4(d) (conduct prejudicial to the administration of justice). The Demuths employed Loftin in 2008 to represent them in a Chapter 13 bankruptcy. In August 2012, Loftin filed a plan modification for the Demuths. The Trustee filed an Objection to the Modification. An Order was entered granting Loftin twenty-one (21) days to file a compliant Modification. Loftin failed to timely file a Modification and the Trustee filed a Motion to Dismiss. During the twenty-one day time frame, Loftin failed to return telephone messages left by Mr. Demuth and, consequently, Mr. Demuth was unable to obtain information concerning the bankruptcy proceeding. The Demuths terminated Loftin's representation after the Motion to Dismiss was filed by the Trustee. Subsequently, Loftin filed a Modification and a Motion to Withdraw. Loftin failed to comply with bankruptcy procedure when he filed his Motion to Withdraw because he did not submit a corresponding Order to the Judge. Over a month after filing his Motion to Withdraw, the presiding Judge entered an Order directing Loftin submit such an Order.

PAT MARSHALL, Bar No. 2001012, of Little Rock, AR, in CPC No. 2013-001, was reprimanded and ordered to pay \$1,000 restitution by Committee Findings & Order filed June 4, 2013, on a complaint by Linda Stokes, for violating AR Rules 1.3 (diligence), 1.4(a)(1) (failure to inform client), 1.4(a)(3) (Failure to keep client informed), 1.4(a)(4) (replying to client requests for information), 3.2 (expediting litigation), 3.4(c) disobeying a court obligation), and 8.4(d) (conduct prejudicial to the administration of justice). Ms. Marshall represented Stokes in a divorce. Marshall failed to respond to a proposed settlement agreement offer in the case, which was set for final hearing October 19, until late in the afternoon before the hearing, sought a continuance, and failed to notify her client of the final hearing. Marshall and her client failed to appear at the October 19 final hearing and a divorce was granted. Opposing counsel submitted a proposed decree to the court, Marshall tried to get it modified and failed. The decree entered changed custody from Marshall's client to joint/split custody with the father. The client obtained new counsel, moved to modify, and the court changed custody back to the way it had been originally.

ROBERT BRENT CREWS, Bar No. 91237, of Jonesboro, AR, was reprimanded and fined \$2,500.00 in CPC No. 2011-067 by Committee Findings & Order filed July 2, 2013, on a Complaint filed by Heath Gephart, for violations of AR Rules 1.7(a) and 7.3(a). In 2009 and thereafter, Crews was the city attorney for Walnut Ridge. He also had a private law practice with offices in Jonesboro and Walnut Ridge. On July 20, 2009, Heath Gephart of Pennsylvania was piloting a small plane which landed at the Walnut Ridge Airport. At the request of federal officials who were tracking the plane, Walnut Ridge city police arrested Gephart and his

passenger Sweigart after discovery of a large quantity of marijuana in the plane. Gephart eventually was charged in both state and federal courts with felony drug possession with intent to deliver or similar charges. While Gephart was a prisoner in the Walnut Ridge jail, Crews went to the jail and directly solicited Gephart as a client, without being first contacted by Gephart. Gephart's mother paid Crews \$15,000 for legal representation on the drug charges.

In September 2009, Gephart and Sweigart were charged in federal court in Little Rock. Crews appeared with Gephart at his arraignment on September 22, 2009. Gephart states Crews then became hard to contact. Gephart's federal jury trial was set and then reset for September 21, 2010. In mid-2010, while on the internet, Gephart discovered that Crews was involved with the law enforcement officers who had arrested Gephart, through Crews' position as Walnut Ridge City Attorney, which would make Crews the primary legal advisor to the Walnut Ridge Police Department. Gephart communicated this information to the federal judge, who set a conference, which took place on August 2, 2010, and which Crews attended. Gephart obtained and substituted in as his new counsel, Christopher Nolen. A hearing was set in Little Rock for September 28, 2010, on the issue of the attorney's fee paid by Gephart to Crews. Crews failed to attend the hearing. On October 25, 2010, Judge Wilson reset the hearing for November 18, 2010, and issued a "show cause" order to Crews to appear, which he did. Gephart participated by conference call from his home in Pennsylvania. Judge Wilson ordered Crews to refund Gephart \$12,500 of the \$15,000 fee. Crews paid the refund. Gephart's state and federal charges remained pending as of October 2011.

CAUTION:

RONALD L. GRIGGS, Bar #72046, of El Dorado, Arkansas, was cautioned by Committee Findings and Order filed March 7, 2013, in CPC 2012-055, on a complaint filed by Jason Arrington, for violations of Rules 3.4(c), 3.5(b), 4.4, and 8.4(c). Arrington was involved in a contentious divorce action in Columbia County, Arkansas, where Griggs represented the former Ms. Arrington. During post-Decree matters, Griggs issued a subpoena duces tecum to Mr. Arrington's former employer for certain employment records, with no notice being given to Mr. Arrington that he had done so. Mr. Griggs did not comply with the provisions of the rules of civil procedure with regard to issuance, service and notice of the subpoena.

KENNETH A. OLSEN, Bar #83139, of Bryant, Arkansas, was cautioned by Committee Consent Findings and Order filed February 15, 2013, in CPC 2012-076, for violations of Rules 1.1, 1.2(a), 1.3, 1.4(a)(1), 1.4(a)(3), and 8.4(d). Mr. Olsen filed a Notice of Appeal on behalf of his client James C. Robertson in a Workers' Compensation Commission matter. After the record was filed on appeal, Mr. Olsen requested a 7 day extension of time to file the brief on appeal. Mr. Olsen did not check out the record on appeal until ten days after his deadline for filing the brief. Mr. Olsen did not file a brief nor seek an extension to do so. Mr. Olsen did not volunteer the information to his client, Mr. Robertson. Mr. Robertson did not learn about the missed deadline until he called Mr. Olsen. When he learned of the missed deadline, Mr. Robertson directed that Mr. Olsen seek to file a belated brief but Mr. Olsen did not do so. Mr. Olsen's failure to file a brief resulted in Mr. Robertson not having opportunity to have the Workers'

Compensation Commission decision adverse to him reviewed by the appellate courts.

JERRY D. ROBERTS, Bar No. 98208, of Wynne, Arkansas, in CPC 2011-053, by Consent Findings & Order filed January 18, 2013, agreed to a caution for violation of Rules 1.1, 1.3, 1.4(a)(3), 1.4(a)(4), and 8.4(d) in connection with his representation of Ms. Barrie Cobb in a personal injury matter. Roberts filed suit for Ms. Cobb's behalf on August 29, 2005, and the case was set for trial in November, 2007. Ms. Cobb began experiencing difficulties contacting Mr. Roberts. The lawsuit was rescheduled on two occasions when Ms. Cobb wrote Mr. Roberts and asked him to settle the matter if at all possible. Roberts filed a Motion for Nonsuit, which was granted on October 23, 2008. Ms. Cobb inquired of Roberts about the status of her case and he advised that he would send her a letter, which Ms. Cobb never received. In March, 2010 Ms. Cobb discovered that her case had not been refiled within one year of the non-suit. Ms. Cobb filed a claim with Mr. Roberts' malpractice carrier, and upon settlement of that matter Roberts entered into the discipline by consent.

B. MICHAEL EASLEY, Bar No. 74041, of Forrest City, AR, after a hearing in No. CPC 2012-027 was cautioned by Committee Findings & Order filed April 9, 2013, for violating Model Rule 1.8(e) when he provided prohibited financial assistance to clients Smith (guaranteeing a \$20,000+ bank loan) and Gahr (guaranteeing a \$10,000 bank loan) several years before their fen-phen claims settled and paid out in September 2005. The loans were discovered during an OPC inquiry into unrelated matters.

ROBERT D. KLOCK, Bar No. 76066, of Bentonville, AR, in CPC No. 2012-029, by agreement shortly before a hearing was cautioned and ordered to pay \$5,000 restitution by Committee Agreed Findings & Order filed June 21, 2013, on a complaint by Cesar Perez and attorney Nathan Bogart, for violating AR Rule 1.16(d) (failure to turn over the client file). During 2009 Klock represented Perez in an immigration matter, and Perez paid Klock a total of either \$8,200 (per Klock) or \$9,110 (per Perez) for several matters, including a cancellation of removal. Problems arose and Perez sought new counsel. Perez and his new counsel requested from Klock a copy of the Perez file but did not receive it. There were communications about Perez's alleged unpaid account at Klock's office. OPC got involved after the filing of the complaint, and Klock sent Bogart a copy of the Perez file.

PAUL N. FORD, Bar No. 87060, of Jonesboro, Arkansas, was cautioned in CPC No. 2013-046 by Committee Findings & Order filed September 25, 2013, on a complaint filed by Dorothea Rose Finnie, for violations of AR Rules 1.1, 1.3, and 1.4(a)(3). In January 2011, Finnie met with Ford about pursuing a possible medical malpractice claim against an emergency room doctor. Finnie claimed that she had lost all of the hearing in an ear after the doctor treated her in March 2010. Finnie and Ford entered into an "Agreement Upon Investigation," by which Ford agreed to "investigate a potential medical malpractice action against Five Rivers Medical, based upon the potential medical malpractice action stemming from medical treatments rendered on or about 3/27/2010." On January 10, 2011, Ford's legal assistant sent letters to two physicians and Five Rivers Medical Center requesting complete copies of Finnie's entire chart and billing

information.

After her initial consultation, Finnie called and visited Ford's office frequently but was told by a secretary that Ford was not available to speak with her. Ford also failed to return Finnie's phone calls. Finnie filed a grievance with the Office of Professional Conduct (OPC) on January 7, 2013. In response to an OPC inquiry, Ford stated he made efforts to obtain Finnie's medical records and discussed her matter with a doctor. He determined that he did not want to proceed with Finnie's case. In his March 2013 letter to OPC, Ford stated it was his recollection that he discussed this decision with Finnie by phone, however, he cannot confirm this, and there was no letter there was no letter in his file to confirm the recollection of the phone call. He discovered the statute of limitations had run on her claim.

After being informed that OPC did not object to him contacting Finnie, Ford provided Finnie with the contact information for his malpractice insurance carrier by a letter on March 5, 2013. As of the date of her affidavit, Finnie has not filed a malpractice action against Ford.

KENNETH ALAN HARPER, Bar No. 89022, of Monticello, AR, was cautioned in CPC No. 2013-010 by Committee Findings & Order filed August 13, 2013, on a complaint filed by Abernathy Motorcycle Sales and its attorney, Steve Conley of Tennessee, for violation of Rules 1.3, 1.4(a)(3), 1.4(a)(4), and 8.1(b). Harper was ordered to pay a \$500 and \$500 restitution. Abernathy filed suit in Tennessee against F&F Motorcycle Sales, an Arkansas corporation, and was granted judgment. Conley contacted Harper in January, 2012, to see if Harper would represent Abernathy in registering the Tennessee judgment and pursuing collection. Harper agreed and Conley sent a packet of information along with a check for the representation. Conley thereafter requested status updates in March, May, and June 2012, without getting a response from Harper. The Office of Professional Conduct sent a letter and emailed to Harper requesting that he contact Conley. Harper failed to contact Conley.

JOSHUA QUINCY HURST, Bar No. 2004016, of Hot Springs, AR, was cautioned in CPC No. 2013-038 by Committee Findings & Order filed September 19, 2013, on a complaint filed by Cynthia Stone for violation of Rules 1.3 and 1.16(d), and fined \$1,000 and ordered to pay \$1,500 restitution. Stone employed Hurst to represent her daughters, Chauntyl Stone and Candace Spencer, in domestic relations actions. Chauntyl wanted to re-open a paternity case and address visitation. Cynthia paid Hurst \$1,000. A hearing was held and the parties were ordered to undergo family counseling. Thereafter, Chauntyl received a statement showing a balance of \$1,051.93, which included a \$200 fee for a Petition to Seal Record. No such Petition was filed in the Chauntyl's case. Spencer employed Hurst to represent her in a divorce action in June, 2010. Cynthia paid Hurst \$1,500 for the representation. On July 23, 2010, Spencer was served with a Complaint for Divorce by her husband. Spencer checked with the clerk to see if a divorce action had been filed for her by Hurst, but no case had been filed. On July 27, 2010, Hurst was requested to provide proof that a complaint for divorce had been filed by him for Spencer. Hurst did not provide the proof requested and was informed that his representation was terminated. Hurst agreed to return the fees paid but it would take a couple of days. On July 28, 2010, an Answer and Counterclaim was filed by Hurst on Spencer's behalf. Hurst sent Spencer a bill dated July 28 for preparation of a Complaint for Divorce on June 23; a Motion for Temporary Custody,

Support and Suit Money; an Answer and Counterclaim; and July 27 and 28, 2010, letters to the clerk. On August 2, 2010, Hurst filed a second Answer and Counterclaim. On August 19, 2010, Hurst filed a Motion to Withdraw and an order was entered granting the request.

JONATHAN B. HUBER,, Bar No. 2008037, of Arkadelphia, AR, was cautioned in CPC No. 2013-045 by Committee Findings & Order filed December 20 2, 2013, on a Complaint arising from a civil appeal in No. CA 12-255, Huber Rental Properties, LLC v. Allen, (2012 Ark. App. 642) for violations of AR Rules 3.3(a) (misleading and false statements in Huber's brief), 8.4(c) (misleading abstracting of trial testimony, omissions from the abstract, and distortions and inaccuracies in the abstract), and 8.4(d) (conduct prejudicial to the administration of justice).

DENNIS R. MOLOCK, Bar No. 79211, of Stuttgart, AR, was cautioned in CPC No. 2013-059 by Consent Findings and Order filed December 13, 2013, on a Complaint arising from a criminal appeal in the case of State of Arkansas v. Demarlon Coakes, Arkansas Supreme Court Case No. CR-2013-672, for failing to lodge the record with the clerk of the court within seven months of the entry of the sentencing order and for delay in the administration of appellate proceedings, violation of AR Rules 1.3 (diligence) and 8.4(d) (misconduct).