

BEFORE THE SUPREME COURT COMMITTEE ON PROFESSIONAL CONDUCT

**IN RE: KENNETH ALAN HARPER
ARKANSAS BAR ID No. 89022
CPC Docket No. 2013-010**

FINDINGS & ORDER

The formal charges of misconduct upon which this Findings and Order is based arose from information filed by Steve Conley, a Tennessee-licensed attorney, who represented Abernathy Motorcycle Sales, concerning the registration and collection on a foreign judgment in Drew County, Arkansas.

Kenneth Alan Harper is an attorney licensed in 1989 to practice law in the State of Arkansas and assigned Arkansas Bar Number 89022. Steve Conley, a Tennessee-licensed attorney, represented Abernathy Motorcycle Sales in a Tennessee legal matter involving F&F Custom Boats, LLC, an Arkansas-based corporation. On November 16, 2011, Abernathy Motorcycle Sales was granted a judgment against F&F Custom Boats. Mr. Conley contacted Mr. Harper in January, 2012 by telephone to inquire whether Mr. Harper would be willing to represent Abernathy Motorcycles in registering the Tennessee judgment in Arkansas and collecting on the judgment. Mr. Harper agreed to represent Abernathy Motorcycles.

Mr. Conley sent a package containing a letter dated January 3, 2012, a check for the agree-upon retainer fee, and a copy of the Tennessee judgment. Mr. Conley thereafter wrote Mr. Harper on March 7; March 26; May 16; June 4, and June 22, requesting information about the status of the registration of the Tennessee judgment and collection efforts. Mr. Harper failed to respond to each request.

Mr. Conley referred the matter to the Office on Professional Conduct. On August 8, 2012, the Office of Professional Conduct sent a letter to Mr. Harper, outlining the facts as provided by Mr. Conley. The Office requested that Mr. Harper contact Mr. Conley to discuss the status of the matter within ten days of the date of the letter. A copy of the letter was provided to Mr. Conley.

On August 21, 2012, Mr. Conley contacted the Office of Professional Conduct by fax to advise that he had not had contact from Mr. Harper within the time provided in the letter. On August 22, 2012, Stark Ligon, Executive Director, emailed a copy of the August 8, 2012, letter from the Office of Professional Conduct, and the August 21, 2012, letter from Mr. Conley to Mr. Harper at his email address, kah@harperlawfirm.com. Mr. Harper failed to respond to Mr. Ligon's email.

Mr. Harper filed a response to the Formal Complaint and admitted the allegations contained therein.

Upon consideration of the formal complaint and attached exhibit materials, the response, and the Arkansas Rules of Professional Conduct, Panel B of the Arkansas Supreme Court Committee on Professional Conduct finds:

1. Kenneth Alan Harper violated Rule 1.3 when he failed to register a Tennessee judgment as a foreign judgment with the Drew County Circuit Court. Rule 1.3 requires that a lawyer act with reasonable diligence and promptness in representing a client.

2. Kenneth Alan Harper violated Rule 1.4(a)(3) when he failed to keep his client, Abernathy Motorcycle Sales, a Tennessee client who was represented by counsel, Steve Conley,

informed about whether a Tennessee judgment had been registered in Arkansas. Rule 1.4(a)(3) requires that a lawyer keep the client reasonably informed about the status of the matter.

3. Kenneth Alan Harper violated Rule 1.4(a)(4) when he failed to respond to requests for information on March 7, 2012; March 26, 2012; May 16, 2012; June 4, 2012; June 22, 2012; and telephone calls from Steve Conley, attorney for Abernathy Motorcycle Sales, about whether a Tennessee judgment had been registered in the State of Arkansas as a foreign judgment. Rule 1.4(a)(4) requires that a lawyer promptly comply with reasonable requests for information.

4. Kenneth Alan Harper violated Rule 8.1(b) when he failed to respond to an August 8, 2012, letter from the Office of Professional Conduct requesting that he contact Steve Conley, attorney for Abernathy Motorcycle Sales, to advise of the status of the registration of the Tennessee judgment and when he failed to respond to an August 22, 2012, email from Stark Ligon, Executive Director of the Office of Professional Conduct, requesting that he respond to the request for information. Rule 8.1(b) requires that an applicant for admission to the bar, or a lawyer in connection with a bar admission application or in connection with a disciplinary matter, shall not fail to disclose a fact necessary to correct a misapprehension known by the person to have arisen in the matter, or knowingly fail to respond to a lawful demand for information from an admissions or disciplinary authority, except that this rule does not require disclosure of information otherwise protected by Rule 1.6.

WHEREFORE, it is the decision and order of the Arkansas Supreme Court Committee on Professional Conduct, acting through its authorized Panel B, that KENNETH ALAN HARPER, Arkansas Bar No. 89022, be, and hereby is, CAUTIONED; fined the sum of FIVE HUNDRED

DOLLARS (\$500.00); directed to pay restitution in the amount of FIVE HUNDRED DOLLARS (\$500.00) to Abernathy Motorcycle Sales; and, assessed costs in the amount of FIFTY DOLLARS (\$50.00) for his conduct in this matter. The fine, restitution, and costs totaling ONE THOUSAND AND FIFTY DOLLARS (\$1,050.00) 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: /s/ Henry Hodges, Chair, Panel B

Date: July 17, 2013

Original filed with the Arkansas Supreme Court on
August 13, 2013.