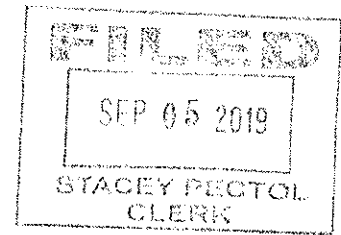


BEFORE THE ARKANSAS SUPREME COURT
COMMITTEE ON PROFESSIONAL CONDUCT
PANEL A



IN RE: **TODD A. VAN ES**, Respondent
Arkansas Bar ID # 2008202
CPC Docket No. 2019-011

FINDINGS & ORDER

The formal charges of misconduct upon which this Findings and Order is based arose from information provided to the Committee by John Craig Moline (Moline) of Bentonville, Arkansas on November 15, 2018. The information related to the representation of Moline by Respondent Todd Van Es (Van Es) of Centerton, Arkansas in 2018.

On April 19, 2019, Respondent Van Es was served with a formal complaint, supported by an affidavit from Moline. Respondent failed to file a response to the complaint, which failure to timely respond, pursuant to Section 9.C(4) of the Procedures, constitutes an admission of the factual allegations of the formal complaint and extinguishes Respondent's right to a public hearing.

1. Moline and his wife employed Van Es to review certain of their legal documents and prepare a deed, paying him \$300 by check on August 14, 2018, for these legal services, a partial payment on a total fee the Molines understood would be \$450.

2. Thereafter Van Es did not complete to the work or meaningfully respond to Moline's efforts to contact him about the legal matter into early November 2018.

3. On November 15, 2018, Moline filed a grievance against Van Es with OPC.

4. OPC contacted or tried to contact Van Es from November 2018 through March 2019 to obtain his informal response to the Moline matter or hopefully get Van Es to fulfill his obligation to the Molines.

5. As of the date this Complaint was filed (April 9, 2019) Van Es had not respond to OPC or to the Molines, or fulfilled his obligation to the Molines, or refunded any unearned fee to the Molines.

Upon consideration of the formal complaint and attached exhibit materials, the lack of any response to it, and other matters before it, and the Arkansas Rules of Professional Conduct, Panel A of the Arkansas Supreme Court Committee on Professional Conduct finds:

A. The conduct of Todd Van Es violated Rule 1.3 in that on August 14, 2018, the Molines engaged Van Es and paid him \$300 of his quoted \$450 fee to perform document reviews and prepare a deed for their use. As of April 2019, Van Es has failed to complete the agreed legal services. Arkansas Rule 1.3 requires that a lawyer shall act with reasonable diligence and promptness in representing a client.

B. The conduct of Todd Van Es violated Rule 1.4(a)(3) in that since August 2018, the Molines have made numerous attempts to obtain information from Van Es about the status of their legal matters entrusted to him and have received little substantive information. Arkansas Rule 1.4(a)(3) requires that a lawyer shall keep the client reasonably informed about the status of the matter.

C. The conduct of Todd Van Es violated Rule 1.4(a)(4) in that since he was engaged and paid in August 2018 by the Molines to perform certain legal services for them, Van Es has failed to promptly comply with reasonable requests for information from his clients the Molines. Arkansas Rule 1.4(a)(4) requires that a lawyer shall promptly comply with reasonable requests for information.

D. The conduct of Todd Van Es violated Rule 1.16(d) in that since being employed and

paid on August 14, 2018, Van Es has failed to complete the agreed legal services for the Molines, has effectively abandoned them as clients in their matter, and has not refunded them any unearned portion of the partial fee they paid him for this work. Arkansas Rule 1.16(d) requires that, upon termination of representation, a lawyer shall take steps to the extent reasonably practicable to protect a 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 advance payment of fee or expense that has not been earned or incurred. The lawyer may retain papers relating to the client to the extent permitted by other law.

E. The conduct of Todd Van Es violated Rule 8.1(b) in that since November 16, 2018, as part of its investigation, OPC has made numerous efforts to and has contacted Van Es to obtain either his version of the Moline complaint or his completion of the legal services the Molines engaged him to perform. Van Es has failed to respond substantively to OPC as of April 2019. Arkansas Rule 8.1(b) provides that ... a lawyer in connection with ... a disciplinary matter, shall not: ... , or knowingly fail to respond to a lawful demand for information from an ... 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 A, that Respondent Todd Van Es, Arkansas Bar Number , be, and hereby is, sanctioned with a CAUTION for his conduct in this matter; assessed \$50.00 costs; ordered to pay \$300.00 restitution for the benefit of John Craig Moline; and assessed an additional sanction of CAUTION for his failure to file a response to the Complaint.

The restitution and costs assessed and ordered 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 A

By: _____


T. Benton Smith, Jr., Chair, Panel A

Date: _____

