

**BEFORE THE SUPREME COURT COMMITTEE ON PROFESSIONAL CONDUCT
PANEL C**

IN RE: **JONATHAN B. HUBER**, Respondent
Arkansas Bar ID# 2008037
CPC Docket No. 2012-003

HEARING FINDINGS AND ORDER

The formal charges of misconduct upon which this Findings and Order is based arose from information provided to the Committee by Circuit Judges Robert McCallum and Charles Yeargan during October 2011. The information related to certain criminal conduct of Respondent Huber. The information before the Panel shows that Jonathan Brian Huber (“Huber”) of Arkadelphia is an attorney with Arkansas Bar ID#2008037, who was granted the privilege to practice law in Arkansas by the Arkansas Supreme Court on April 9, 2008.

1. On January 29, 2012, Respondent was served with a formal complaint, supported by documents from the criminal case file involving Huber. A timely response was filed and the matter proceeded to ballot vote before Panel A of the Committee on May 18, 2012.

2. Huber requested a public hearing, and one was conducted November 4, 2013, before Panel C at Little Rock. The hearing panel consisted Panel C regular members Judge Kathleen Bell (hearing chair), Joe Hickey, Beverly Morrow, Mark Limbird, Tonya Patrick, and Panel D members Laura Partlow and Kent Hirsch. Partlow and Hirsch served in place of regular Panel C members Mike Mayton and Scott Stafford who were either not available that date or recused from serving.

3. At the hearing evidence was admitted and testimony was received from witnesses

Blake Austin, Roy Bethell, Pete Dixon, Nancy Stowell, Pae-Ventrice Cannon, and Jonathan Huber.

4. Witness Austin testified about: (a) his involvement in August-September 2011 with Katie Lavender and Huber in discussions through on-line social media about a meeting of the three in Arkadelphia in which sex acts would be performed for money, (b) a meeting on the evening of September 29-30, 2011, in Arkadelphia which led the misdemeanor criminal charges against all three actors, and (c) he also provided the information that Ms. Lavender had died March 18-19, 2013, in Hot Springs.

5. Witness Dixon testified about his involvement in the investigation and charging of Huber, Austin, and Lavender in Arkadelphia District Court over their activities of September 29-30, 2011. He identified many pages of sexually-explicit FaceBook screen shots messages he retrieved from Lavender's FaceBook account.

6. Cannon testified as to unsolicited sexually-explicit cell phone text messages she received on February 26, 2013, from Huber's cell number and her contacts with Office Bethell who investigated the matter.

7. Bethell confirmed his contact with Cannon on February 26, 2013, his knowledge of the text messages that appeared on her cell phone from Huber's number, and identified paper printouts of those text messages he retrieved..

8. Stowell testified that she met Huber through an on-line social media service P.O.F (Plenty of Fish), they exchanged sexually-explicit messages, and agreed to meet in a Malvern motel on the evening of March 18, 2013, where sex activities would take place in exchange for money. She testified the meeting took place as planned, Huber gave her cash to rent the room,

she had intercourse with Huber there, and he did not pay her, as she became anxious and left hurriedly.

9. Huber testified he was a married man with three small children; he had a sexual addiction; he had consensual sex with Lavender on three occasions, with two meetings being before the September 29-30, 2011, meeting; he had not raped Lavender; he has been in counseling since October 2011 after the Arkadelphia incident with Lavender and Austin; he sent the text messages to Cannon; he met and had sex with Stowell on March 18, 2013, at a Malvern motel where they had sex; he took full responsibility for his conduct; and he was trying to turn his life around from his previous sexual activities.

From the evidence and testimony adduced from the exhibits and the hearing, Panel C of the Arkansas Supreme Court Committee on Professional Conduct finds:

10. Beginning in September 2011, Respondent Huber, using a false name, Bryan Treadway, engaged in a lewd conversation which involved Respondent soliciting two other individuals, Lavender and Austin, into performing sexual acts in his presence for money.

11. The charged criminal encounter occurred on or around midnight September 29, 2011. Respondent Huber, still using the name of Bryan Treadway, met Katie Lavender (age 19) and her boyfriend, Blake Austin (age 20), at a vacant, unfurnished rental property in Arkadelphia owned or managed by Huber Rental Properties, a business owned by Huber. Following this encounter, Lavender reported to the police that, during a brief time when Austin left the house, she had engaged in sexual intercourse with Huber under circumstances in which she felt endangered by Huber if she did not do so, and she complied with his request for sex. Huber was interviewed on October 4, 2011, by the police and stated then, and at the hearing, that he had met

Lavender twice previously in Arkadelphia and they had engaged in consensual sex with no exchange of money, and the third encounter was of the same consensual nature once Austin stepped out. Huber later stated Austin made threats to him at the scene on September 29, 2011, that if Huber did not pay them money they would claim Huber used forcible compulsion on Lavender, for the purpose of extorting money from Huber.

12. The FaceBook page created and used by Respondent Huber with the false name of Bryan Treadway was allegedly used for several years for social contact purposes, with Treadway also posing as the owner of "Arkansas Models," a modeling service that was seeking females for photography purposes.

13. On October 18, 2011, an Affidavit was filed in the Clark County District Court setting out Facts and Evidence Alleging Probable Cause for issuing a Warrant of Arrest for Jonathan Huber for the offense of Sexual Solicitation, ACA Section 5-7-102, a Class B Misdemeanor. The Warrant of Arrest was signed by Judge David B. Switzer, from Hot Springs, on October 18, 2011.

14. On October 21, 2011, Respondent Huber entered a Waiver of Arraignment and Entry of Plea of Nolo Contendere to the misdemeanor offense of Sexual Solicitation. On that same date, an Order was entered placing Respondent Huber on probation for a period of six months, a fine of \$500, ninety days in jail suspended on good behavior, mandatory counseling and submission to a D.N.A test.

15. On October 27, 2011, Circuit Judge Robert McCallum provided information to the Office of Professional Conduct concerning Jonathan Huber. Circuit Judge Charles Yeargan joined in the report of Mr. Huber in a letter received in the Office of Professional Conduct on

October 31, 2011.

16. Huber denied that he committed any rape or other sexual activity involving forcible compulsion with Lavender. He asserted that Lavender and Austin made a false report for the purpose of extorting money from him, and that they both later entered pleas to prostitution offenses with regard to the incident involving Huber. Huber also admitted that he used the pseudonym Bryan Treadway but denied that he ever solicited any minors.

17. Mr. Huber expressed his shame and remorse for the action. He also acknowledged that the Committee could find that the Class B Misdemeanor to which he pled guilty could be found to reflect adversely on his reputation for honesty, trustworthiness, or fitness as a lawyer in other respects.

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

1. That the conduct of Jonathan Huber violated Arkansas Rule 8.4(b) because during September 2011, Respondent Huber (while using a fictitious name) engaged in criminal conduct which involved sexual solicitation, a violation of ACA § 5-70-103, a Class B Misdemeanor. This conduct constitutes a criminal act that reflects adversely on the lawyer's honesty, trustworthiness or fitness as a lawyer in other respects. Arkansas Rule 8.4(b) provides that it is professional misconduct for a lawyer to commit a criminal act that reflects adversely on the lawyer's honesty, trustworthiness or fitness as a lawyer in other respects.

2. That the conduct of Jonathan Huber violated Arkansas Rule 8.4(c), because Respondent Huber created and operated a FaceBook profile using a fictitious name to solicit

photos from women and then to ultimately engage in illegal solicitation of the women. Mr. Huber admitted all of the conduct in his statement to the Investigator. Arkansas Rule 8.4(c) requires that it is a professional misconduct to engage in conduct involving dishonesty, fraud, deceit, or misrepresentation

WHEREFORE, it is the decision and order of the Arkansas Supreme Court Committee on Professional Conduct, acting through its authorized Panel C, that the law license of **JONATHAN B. HUBER**, Arkansas Bar ID# 2008037, be, and hereby is, **SUSPENDED FOR TWELVE (12) MONTHS** for his conduct in this matter, **FINED \$2,500.00, ORDERED** to extend his current three year Health Monitoring Agreement with the Arkansas Judge's and Lawyer's Assistance Program (ArJLAP) for an additional five (5) years after the current three year term, and **ORDERED** to pay \$3,606.24 costs of the proceeding, plus the \$350.00 court reporter's all-day appearance fee, for total costs of \$3,956.24, pursuant to Section 18.A of the Court's Procedures.. The suspension shall become effective on the date this Findings and Order is filed of record with the Clerk of the Arkansas Supreme Court. The judgment for costs and fine 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. At the conclusion of the hearing, on oral motion by Respondent, the panel voted to grant a stay of the sanction order pending any appeal timely filed by Respondent. If notice of appeal is not timely filed or any other necessary appellate action is not performed, then this order shall be filed with the Clerk of the Arkansas Supreme Court and shall then become final.

ARKANSAS SUPREME COURT COMMITTEE

ON PROFESSIONAL CONDUCT - PANEL C

By: _____
Hon. Kathleen Bell, Chair, Panel C

Date: _____

Approved as to form:

Stark Ligon, for Petitioner

Jeff Rosenzweig, for Respondent

(11.A, Rev 5-26-11)