

BEFORE THE SUPREME COURT COMMITTEE ON PROFESSIONAL CONDUCT

**IN RE: JACOB STEM POTTER
ARKANSAS BAR ID No. 2011144
CPC Docket No. 2014-010**

FINDINGS AND ORDER

The formal charges of misconduct upon which this Findings and Order is based arose from information provided to the Committee by Theresa Lynn Reynolds. The information related to the representation of Ms. Reynolds in a domestic relations matter in Miller County, Arkansas

Theresa Lynn Reynolds is married to Phenie Reynolds. On September 19, 2013, Ms. Reynolds' father-in-law informed her that she would need to leave her home as her husband would be filing for divorce. Ms. Reynolds looked in the Texarkana telephone directory and saw that Jacob Potter offered free legal consultations.

On September 20, 2013, Ms. Reynolds and her son went to the Potter Law Firm and met with Jacob Potter. Ms. Reynolds advised Mr. Potter that she did not want a divorce as she did not have any money, did not have a job, and had no place to live. Ms. Reynolds stated that she advised Mr. Potter that she only wanted answers to some questions she had as to the property she and her husband owned and whether she could receive spousal support. Mr. Potter advised Ms. Reynolds that she would not likely be awarded spousal support and that she would likely be homeless. Mr. Potter advised Ms. Reynolds that if she wanted him to file a divorce case for her, he would need One Hundred Sixty-Five Dollars (\$165.00) to file the divorce and he would then serve Mr. Reynolds with the Complaint for Divorce. Ms. Reynolds left the office but did not

sign a fee agreement and did not pay Mr. Potter any fees.

On November 12, 2013, Mr. Potter filed a Complaint for Divorce in Miller County Circuit Court. Mr. Potter stated that he did this after he sincerely, albeit mistakenly, thought he had been hired by Ms. Reynolds. After the complaint was filed, Mr. Potter attempted to contact Ms. Reynolds but could not reach her and was, therefore, unable to provide her with a copy of the complaint. Mr. Potter attributed the filing of the Complaint for Divorce as an honest mistake and had no intention of misrepresenting any authority to act on Ms. Reynolds' behalf.

Ms. Reynolds, who was expecting to be served with a divorce complaint filed by her husband, called the Miller County Circuit Clerk to see whether Mr. Reynolds had filed suit. The clerk informed Ms. Reynolds that her husband had not filed suit but she had. Ms. Reynolds was shocked as she did not want the divorce in the first place. Ms. Reynolds went to the Miller County Circuit Clerk's office and obtained a copy of the Complaint for Divorce.

Ms. Reynolds went to Mr. Potter's office but was not able to speak to him there. Ms. Reynolds called Mr. Potter's office and spoke to him on the phone. Ms. Reynolds wanted to know why he filed for divorce on her behalf when she did not want the divorce. Mr. Potter stated that he would have the complaint dismissed as soon as possible. He stated that it was his intent to give her a copy of all pleadings when the order of dismissal was entered. Mr. Potter believed that he attempted to contact Ms. Reynolds to stop by his office and pick up a copy of the documents but he does not remember for certain.

Ms. Reynolds went to Lone Star Legal Aid and sought assistance from them. Legal Aid informed her that court records reflected that she had an attorney and, therefore, Lone Star could

not assist her in her legal matter.

Mr. Potter filed a motion to dismiss the divorce complaint on December 17, 2013, and that motion was granted on January 6. Ms. Reynolds did not know the divorce case was dismissed until January 17, 2014, when she was informed of this by the Office of Professional Conduct.

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. Jacob Stem Potter violated Rule 1.2(a) when, despite Theresa Lynn Reynolds' expressed statement that she only wanted information about spousal support and division of property in a possible divorce action, Potter exceeded the scope of authorization when he filed a Complaint for Divorce on behalf of Ms. Reynolds with the Miller County Circuit Court Clerk. Rule 1.2(a) requires that a lawyer abide by a client's decisions concerning the objectives of representation, and, as required by Rule 1.4, shall consult with the client as to the means by which they are to be pursued. A lawyer may take such action on behalf of the client as is impliedly authorized to carry out the representation.

2. Jacob Stem Potter violated Rule 1.3 when he failed to provide Theresa Lynn Reynolds with a copy of the Motion for Voluntary Nonsuit / Dismissal in a reasonable period of time following the December 17, 2013, filing of the complaint with the Miller County Circuit Clerk and when he failed to provide Theresa Lynn Reynolds with a copy of the Order of Dismissal in a reasonable period of time following its January 6, 2014, entry. Rule 1.3 requires that a lawyer act

with reasonably diligence and promptness in representing a client.

3. Jacob Stem Potter violated Rule 1.4(a)(3) when he failed to inform Theresa Lynn Reynolds that on November 17, 2013, he filed a Complaint for Divorce on her behalf; when he failed to inform Theresa Lynn Reynolds that he filed a Motion for Nonsuit / Dismissal on December 17, 2013; and, that the Miller County Circuit Court dismissed the divorce action on January 6, 2014. Rule 1.4(a)(3) requires that a lawyer keep the client reasonably informed about the status of the matter.

4. Jacob Stem Potter violated Rule 8.4(c) when he filed a Complaint for Divorce on behalf of Theresa Lynn Reynolds which was a misrepresentation of any authority he had to act on her behalf. Rule 8.4(c) states that it is professional misconduct for a lawyer to engage in conduct involving dishonesty, fraud, deceit or misrepresentation.

5. Jacob Stem Potter violated Rule 8.4(d) when he filed a Complaint for Divorce on behalf of Theresa Lynn Reynolds though he was never employed by her which prevent her from obtaining legal assistance in a matter in which she discovered she was an unwilling party. Rule 8.4(d) states that it is professional misconduct for a lawyer to engage in conduct that is prejudicial to the administration of justice.

WHEREFORE, it is the decision and order of the Arkansas Supreme Court Committee on Professional Conduct, acting through its authorized Panel B, that JACOB STEM POTTER, Arkansas Bar No. 2011144, be and hereby is, CAUTIONED and assessed costs in the amount of FIFTY DOLLARS (\$50.00) for his conduct in this matter. The costs awarded shall be payable by cashier's check or money order, issued to the "Clerk, Arkansas Supreme Court," and 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/ Steve R. Crane, Chairman

Date: April 28, 2014

Original filed with the Arkansas Supreme Court
Clerk on May 27, 2014.