BEFORE THE SUPREME COURT COMMITTEE ON PROFESSIONAL CONDUCT
PANEL B

FILED
AUG 20 2007
LESLIE W. STEEN
CLERK

IN RE: WILLIAM SCOTT DAVIDSON, Respondent
Arkansas Bar ID#81044
CPC Docket No. 2006-155

CONSENT FINDINGS AND ORDER

The formal charges of misconduct upon which this Findings and Order is based were developed from information provided to the Committee by United States Bankruptcy Judge Audrey Evans on October 30, 2006. The information related to the representation of Ms. Jessie King (formerly Vinson), formerly of Jonesboro and now of Clinton, Mississippi, in bankruptcy cases Nos. 06-bk-12088 and 01-bk-32360 by Respondent William Scott Davidson, an attorney practicing primarily in Jonesboro, Craighead County, Arkansas. On November 27, 2006, Respondent was served with a formal complaint. Respondent filed a timely response to the complaint. The matter proceeded to ballot vote. Following receipt of the ballot vote decision, Respondent requested a de novo hearing. Thereafter, the Respondent and the Executive Director negotiated a discipline by consent proposal, which was submitted to this Panel.

This matter was originally brought to the attention of the Office of Professional Conduct (OPC) on January 9, 2006, when Ms. Jessie King (formerly Jessie Vinson) filed a grievance against Mr. Davidson for failing to take action in her behalf in her pending joint Chapter 13 bankruptcy case, No. 01-bk-32360, with her former husband Terry Vinson. OPC had multiple contacts with Ms. King and Mr. Davidson and monitored the matter until Judge Evans' complaint was received.

Using another attorney, Mr. and Mrs. Vinson filed a joint Chapter 13 petition on November 29, 2001, as No. 01-bk-32360. Their plan was confirmed and payments were made on

it for several years. After they divorced, Ms. Vinson moved to Mississippi and remarried. Mr. Vinson remained in Arkansas and continued to make Plan payments. The Vinson's original attorney was permitted to withdraw from their case on October 19, 2005.

After her divorce, Ms. King desired to convert her Chapter 13 case to a Chapter 7 liquidation case. She employed Mr. Davidson for that purpose and paid him his requested fee of $350.00 on September 29, 2005, but he took no action for her. On January 24, 2006, the Office of Professional Conduct (OPC) wrote Mr. Davidson, copying Ms. King, informing him of the filing of Ms. King's grievance against him. He took no action in her matter that she knows of from September 29, 2005, until January 30, 2006, when he filed a Notice to Convert to Chapter 7 for her in the original case, No. 01-bk-32360.

Major changes in the bankruptcy laws became effective on October 17, 2005, complicating and restricting the ability of debtors to make such conversions, according to Judge Evans' comments in the August 30, 2006, hearing. Unable to obtain satisfactory action from him, and after he asked her for another $150 to convert her case from Chapter 13 to Chapter 7, on March 5, 2006, Ms. King wrote Mr. Davidson and asked him to refund her $350 if he did not want to be her attorney, and asked for a reply within ten days. On May 16, 2006, Ms. King e-mailed Mr. Davidson and directed him to discontinue any actions that might currently be in process. Eight days later, and against her specific instructions, on May 24, 2006, Mr. Davidson filed a Motion to Deconsolidate Chapter 13 case for Ms. King in No. 01-bk-32360. The Motion was granted May 25, 2006, and Ms. Vinson-King's now-separated Chapter 13 case continued under a new number, 06-bk-12088. Mr. Davidson failed to file a corrected mailing address for Ms. Vinson-King, so all court documents at this time were being sent to her old Jonesboro

address, burdening her ability to receive these documents and track activity in her file.

By letter dated August 15, 2006, to Mr. Davidson, the Chapter 13 trustee informed him that Terry Vinson's Chapter 13 Plan, in No. 01-bk-32360, had a major problem, that it would not pay out in the allowable sixty months, and his Plan must be modified by September 14, 2006, to meet the "sixty month" requirement of bankruptcy law or be dismissed. Mr. Vinson then obtained new counsel, Joe Barrett, in early September 2006, to represent him in the needed Plan modification. On September 12, 2006, Mr. Barrett filed a Notice of Conversion to Chapter 7 for Mr. Vinson, and filed an amendment to add creditors on October 9, 2006. Mr. Vinson's meeting with creditors was conducted on October 27, 2006, and he received his Chapter 7 discharge on January 5, 2007.

In her new separate case, No. 06-bk-12088, an Order Regarding Deconsolidation Deficiencies was entered May 26, 2006, directing Mr. Davidson to take the actions noted thereon, including filing Ms. King's schedules and statement of financial affairs, or her new case would be dismissed. The Certificate of Service for the Order shows Ms. Vinson's old Jonesboro address still listed as her address of record with the court. A clerk's docket sheet for the period May 26 - June 26, 2006, made available for this case, notes contacts between members of the clerk's office and Mr. Davidson that add detail and insight into what was being communicated at the time.

Ms. King's case was dismissed by Order filed June 26, 2006, for failure to timely file her schedules and statement of financial affairs. On August 10, 2006, Ms. King filed her *pro se* Motion to Set Aside Order Dismissing Case, with six exhibits attached. Her Motion outlines and documents her efforts to deal with Mr. Davidson on this matter since she paid him the $350 in

September 2005. An earlier version of this Motion had been filed on July 27, 2006. At the August 30, 2006, hearing, at which both Ms. King and Mr. Davidson testified, the Court granted her motion and reinstated her separate Chapter 13 case, No. 06-bk-12088, to active status, filing her Order to that effect on September 15, 2006. Thereafter, Mr. Davidson again failed to file the required schedules and statement of affairs for Ms. King, and the case was dismissed again on October 10, 2006, the status in which it remains. Mr. Davidson entered into a thirty (30) day license suspension from another Committee case on November 1, 2006, so he was unable to perform any legal services for Ms. King after that date and until he was reinstated to good standing by the Committee on December 7, 2006.

Mr. Vinson has received a Chapter 7 discharge. Ms. Vinson-King is left out of that case and her new, separate case is now twice-dismissed due to Mr. Davidson's failure to perform for her. Mr. Davidson made a $350 refund to Ms. King at the August 30, 2006, hearing.

Upon consideration of the formal complaint and attached exhibit materials, the response, the consent proposal, and other matters before it, and the Arkansas Model Rules of Professional Conduct, Panel B of the Arkansas Supreme Court Committee on Professional Conduct finds:

A. Mr. Davidson's conduct violated Rule 1.2(a) in that it was his client's stated and specific objective when she hired him in September 2005, that, before the bankruptcy law changed on October 17, 2005, he convert her Chapter 13 case to a Chapter 7 case and seek relief by Chapter 7 discharge for her. His failure to file anything for her until late January 2006 was a failure to abide by her lawful objective in employing him. It was his client's stated and specific objective communicated to him on May 16, 2006, that he cease any efforts on her behalf in her bankruptcy case and not seek to convert it to a Chapter 7 case. On May 24, 2006, he filed a

Motion to Deconsolidate her Chapter 13 case from that of her ex-spouse, in clear contradiction of his client's stated earlier directive to him. Arkansas Rule 1.2 (a) requires that a lawyer shall abide by a client's decisions concerning the objectives of representation, subject to paragraphs (c) and (d), and, as required by Rule 1.4, shall consult with the client as to the means by which they are to be pursued.

B. Mr. Davidson's conduct violated Rule 1.3 in that he was employed on September 29, 2005, and paid by Jessie King (Vinson) to convert her pending Chapter 13 case to a Chapter 7 case, and to file whatever pleadings were need to do so before the bankruptcy law changed on October 17, 2005. He failed to take any action for her until January 30, 2006, an unreasonable delay in acting in this situation. Arkansas Rule 1.3 requires that a lawyer shall act with reasonable diligence and promptness in representing a client.

C. Mr. Davidson's conduct violated Rule 1.4(b) in that if he had advised Jessie King (Vinson) before October 17, 2005, that circumstances and situations not involving her might cause him to fail to take appropriate action to convert her Chapter 13 case to a Chapter 7 case, the client would have had an opportunity to consider employing other counsel to represent the client in the bankruptcy case, and possibly receive the relief the client sought. Arkansas Rule 1.4(b) requires that a lawyer shall explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation

WHEREFORE, it is the decision and order of the Arkansas Supreme Court Committee on Professional Conduct, acting through its authorized Panel A, that the Arkansas law license of **WILLIAM SCOTT DAVIDSON**, Arkansas Bar ID# 81044, be, and hereby is, **SUSPENDED FOR ONE (1) MONTH** for his conduct in this matter, and he is assessed Committee costs of

$100.00. By agreement, the suspension shall become effective on Thursday, November 1, 2007, even though this Findings and Order is filed of record with the Clerk of the Arkansas Supreme Court now. The $100.00 costs 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.

ARKANSAS SUPREME COURT COMMITTEE
ON PROFESSIONAL CONDUCT - PANEL B

By: _____
Henry Hodges, Chair, Panel B

Date: Aug. 20, 2007

(13.M, Rev.1-1-02)