BEFORE THE SUPREME COURT COMMITTEE ON PROFESSIONAL CONDUCT
PANEL B

FILED
SEP 10 2007
LESLIE W. STEEN
CLERK

IN RE: TIMOTHY MARK HALL, Respondent
Arkansas Bar ID#96043
CPC Docket No. 2007-041

FINDINGS AND ORDER

The formal charges of misconduct upon which this Findings and Order is based arose from information provided to the Committee by Mr. Braswell in an Affidavit dated April 16, 2007. The information related to the representation of Mr. Braswell by Respondent in late 2006.

On April 25, 2007, Respondent, through counsel of record, was served with a formal complaint, supported by affidavit from Kenneth Braswell. Respondent failed to file a response to the complaint, which failure to timely respond, pursuant to Section 9.C(4) of the Procedures of the Arkansas Supreme Court Regulating Professional Conduct of Attorneys at Law constitutes an admission of the factual allegations of the formal complaint and extinguishes Respondent's right to a public hearing.

The information before the Panel revealed that on October 17, 2006, Mr. Braswell had an initial meeting with Timothy Mark Hall, an attorney practicing primarily in Huntsville, Arkansas. The meeting lasted approximately two hours. Mr. Hall took down some notes as Mr. Braswell explained his situation. Mr. Braswell inquired of Mr. Hall if he could make a call or write a letter to see if the matter involving Mr. Braswell's ex-employer and the monies owed Mr. Braswell could be solved with litigation. Mr. Hall suggested that Mr. Braswell should try to resolve the matter without his involvement first. Mr. Braswell agreed to try to do so. At the conclusion of their meeting, Mr. Braswell asked Mr. Hall how much he owed for his time. Mr.

Hall advised that he owed nothing at that time. He said he hoped that Mr. Braswell would be able to take care of the situation on his own. During the two hour meeting, they did not merely discuss Mr. Braswell's situation. Mr. Hall also elaborated on his personal life and business life and issues he was facing at the time. Mr. Braswell had known Mr. Hall for a while and he was representing another family member of Mr. Braswell's at that time. They were not strangers meeting for the first time.

The following day Mr. Braswell called Mr. Hall and informed him that he had a scheduled meeting on October 19, 2006, with his former employer. It was Mr. Hall's suggestion that he come along for moral support.

Tim Hall and Mr. Braswell met with the former employer on October 19. Mr. Hall stated to all the people in the meeting room that he had not been hired to represent Mr. Braswell and was there only as a friend. Mr. Braswell's former employer then stated that either Tim Hall leave the room or they would have to meet some other time when everyone's attorney could be present. In order to try and resolve the matter, Mr. Braswell asked Tim Hall to step out of the room. About ten (10) minutes later, Mr. Braswell met with Mr. Hall in a parking lot down the street from the meeting place. Mr. Braswell explained to Mr. Hall that he was definitely going to have to hire him for representation because there was no chance at a settlement. Mr. Hall agreed to take the case and told Mr. Braswell to get back to him on October 23, 2006, to set up a time for them to meet again.

Mr. Hall had time to meet with Mr. Braswell on October 26, 2006. Mr. Hall quoted a fee of $750 that would cover a letter to the former employer and anything else up to the point of filing a lawsuit on Braswell's behalf, if one became necessary. There was no written fee

agreement. Mr. Braswell gave Mr. Hall a check for $750 on that day. The check was negotiated that same day. Mr. Hall assured Mr. Braswell he would get the letter written by the following day and fax him a copy so he could look over it before Hall sent it.

From this point on, over a period of months, Mr. Hall would not receive Mr. Braswell's telephone calls nor the ones his wife made on his behalf. They even attempted calls to his cell phone, but he did not answer them either. At no point did Mr. Hall return their telephone calls. Mr. Braswell left numerous messages with the secretary at the law office, asking her to please have Mr. Hall return the call. Mr. Braswell wanted to know whether Mr. Hall was still working on the legal matter or if he had decided that he did not want to handle it. Mr. Braswell heard nothing. (Mr. Braswell attached his telephone bill for the Committee's review) It was apparent that Mr. Hall answered and returned calls to Mr. Braswell until he paid the fee requested to represent him, and then Mr. Hall did not answer or return the calls for a period of three (3) months. Mr. Braswell's wife attempted to reach Mr. Hall several times as well. She tried to make an appointment, but was informed by the secretary that Mr. Hall made his own appointments. Making one with him was not possible, as the Braswells were unable to reach him by telephone to even speak with him.

On November 29, 2006, Mr. Braswell made the decision that he had no choice but to hire another attorney because he was getting nowhere and his situation with his former employer needed the attention of an attorney. The day he gave Mr. Hall the $750 check he advised that he wanted the matter taken care of as soon as possible. Mr. Hall clearly did not undertake representation of Mr. Braswell in the matter.

On December 12, 2006, Mr. Braswell's wife drove to Mr. Hall's office which is forty

(40) miles from their home. The secretary told her that Mr. Hall was not in the office. Mrs. Braswell told her that his truck was outside. The secretary then proceeded to the back of the office and advised Mr. Hall that Mrs. Braswell was in the office and wanted to see him. Mr. Hall came out about five (5) minutes later. Mrs. Braswell informed Mr. Hall that Mr. Braswell had hired another attorney and they needed a refund check. Mr. Hall told her that he had a lot of time in the legal matter and did not think there was a refund due, but he would look over the file and if there was money due he would get it in the mail in a day or two.

By January 16, 2007, the Braswells had heard nothing from Mr. Hall nor received any information or refund from him. Mrs. Braswell called the office on that date and told the secretary that she was going to drive to Mr. Hall's office the following day and wait until she could speak with Mr. Hall. The following day at approximately 7:30 a.m., Mr. Hall called Mr. Braswell's cell phone and said that he was busy the whole day but to have Mrs. Braswell come to his office on the 18th of January and he would meet with her. Mr. Braswell explained that both of them would be there. On the 18th as they were heading to Mr. Hall's office, his secretary called and said that he had a seminar to attend and would have to meet with them on January 22 at 10 a.m. Mr. Braswell and his wife had both taken off work on the 18th, so that they could finally meet with Mr. Hall and talk about the situation. However, that meeting did not happen.

On January 22, 2007, Mr. Hall kept the appointment. Mr. Braswell met with Mr. Hall at his office and he gave Mr. Braswell a letter and a cashier's check. Mr. Braswell asked Mr. Hall why he had not written the letter or even gone ahead and filed a lawsuit. Mr. Hall stated that he had written the letter, however, he did not provide Mr. Braswell a copy of it if he did so.

Mr. Hall provided Mr. Braswell with $150 refund. Mr. Braswell's agreement with Mr.

Hall was for the $750 to be for a letter to be written, reviewed by Mr. Braswell and then sent to his former employer. It was for all action up to the point of filing a lawsuit. Mr. Hall never mentioned that it was for the office visit, phone calls, nor meeting with my former employer, all of which occurred before he quoted the fee. Up to that point in time, Mr Hall said that Mr. Braswell did not owe him anything.

Mr. Hall's lack of action delayed pursuit of any action on Mr. Braswell's behalf against his former employer. He was not honest with Mr. Braswell and did not undertake representation as he said he would.

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

1. That Mr. Hall's conduct violated Rule 1.1, because he was not thorough enough in his representation of Mr. Braswell to write and mail the letter to his former employer after he was paid to do so. Rule 1.1 requires that a lawyer provide competent representation to a client, including the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation.

2. That Mr. Hall's conduct violated Rule 1.2(a), because despite the request of Mr. Braswell that an immediate letter be sent to his former employer concerning the unpaid funds owed, he failed to send the letter as agreed upon between he and Mr. Braswell to his former employer. Rule 1.2(a) requires that, subject to paragraphs (c) and (d), a lawyer abide by a client's decisions concerning the objectives of representation, and, as required by Rule 1.4, consult with the client as to the means by which they are to be pursued.

3. That Mr. Hall's conduct violated Rule 1.3 when he did not act with diligence in his representation of Mr. Braswell after being paid $750 to represent him, and, although he was advised that the letter to Mr. Braswell's former employer needed to be sent as soon as possible after he was paid on October 26, 2006, he did not send the letter on Mr. Braswell's behalf. Rule 1.3 requires that a lawyer act with reasonable diligence and promptness in representing a client.

4. That Mr. Hall's conduct violated Rule 1.4(a)(3), when he failed to keep Mr. Braswell informed of the efforts, if any, he undertook for Mr. Braswell with regard to the legal matter involving his former employer or whether he had sent the letter to his former employer. Rule 1.4(a)(3) requires that a lawyer keep the client reasonably informed about the status of the matter.

5. That Mr. Hall's conduct violated Rule 1.4(a)(4) when he failed to respond to the telephone messages left for him by Mr. Braswell, after being paid $750 to contact his former employer in writing on Mr. Braswell's behalf. Rule 1.4(a)(4) requires that a lawyer promptly comply with reasonable requests for information.

6. That Mr. Hall's conduct violated Rule 1.5(b) because although he had not regularly represented Mr. Braswell in any legal matters before he contacted Mr. Hall about the issue with his former employer, Mr. Hall failed to place the fee agreement in written form, and because he failed to explain the rate or basis of his fee to Mr. Braswell before or within a reasonable time after being hired to represent him, and because he did not explain to Mr. Braswell that the was charging for time spent prior to payment, nor did he explain until after being terminated that he was charging Mr. Braswell an hourly rate of $125 per hour. Rule 1.5(b) requires that the scope of the representation and the basis or rate of the fee and expenses for which the client will be

responsible shall be communicated to the client, preferably in writing, before or within a reasonable time after commencing the representation, except when the lawyer will charge a regularly represented client on the same basis or rate.

7. That Mr. Hall's conduct violated Rule 8.4(c) when he was not honest with Mr. Braswell when he advised on October 26, 2006, at the time he accepted a fee payment of $750, that he would have the letter written to Mr. Braswell's former employer by the following day and would fax Mr. Braswell a copy so he could look it over before he sent it to the former employer. Rule 8.4(c) requires that a lawyer not engage in conduct involving dishonesty, fraud, deceit or misrepresentation.

8. That Mr. Hall's conduct violated Rule 8.4(d) because his failure to take action on behalf of Mr. Braswell, as he advised he would do, led to an unnecessary delay in seeking the relief which Mr. Braswell wanted from his former employer. Rule 8.4(d) requires that a lawyer not 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 TIMOTHY MARK HALL, Arkansas Bar ID#96043, be, and hereby is, REPRIMANDED for his conduct in this matter. In addition, pursuant to Section 18.B of the Procedures, Mr. Hall is ordered to pay restitution to Mr. Braswell in the amount of $600. Pursuant to Section 9C(3) of the Procedures, Mr. Hall is sanctioned additionally for his failure to respond in the form of a Reprimand and imposition of a fine in the amount of $1,000 pursuant to Section 18.C. of the Procedures. Mr. Hall is also ordered to pay the costs of this proceeding, pursuant to Section 18.A. of the Procedures, in the amount of $50. The fine, restitution and costs assessed herein, totaling $1,650, 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
Henry Hodges, Chair, Panel B

Date: 6-26-07