BEFORE THE SUPREME COURT COMMITTEE ON PROFESSIONAL CONDUCT
PANEL B

FILED
AUG 21 2009
LESLIE W. STEEN
CLERK

IN RE: **JIMMY RAY BAXTER, Respondent**
Arkansas Bar ID# 78012
CPC Docket No. 2009-059

CONSENT FINDINGS AND ORDER

The formal charges of misconduct upon which this Findings and Order is based arose from information provided to the Committee by Ms. Judy Reed in an Affidavit dated April 28, 2009. The information related to the representation of Ms. Judy Reed by Jimmy Ray Baxter, in 2008.

On May 19, 2009, Respondent was served with a formal complaint, supported by an affidavit from Ms. Judy Reed. A response was filed. The Respondent and the Executive Director negotiated a discipline by consent proposal, which was submitted to this Panel.

The information before the Panel reflected that on or about January 18, 2008, Jimmy Ray Baxter, an attorney practicing primarily in Saline County, Arkansas, met with Ms. Reed to discuss probate of her deceased aunt's will. There was a dispute with a relative as to real property left to Ms. Reed in the will. Ms. Reed paid Mr. Baxter $670.00 for his representation. After Ms. Reed paid Mr. Baxter, she had very little contact with him. Ms. Reed sent several emails to Mr. Baxter in an attempt to get a status update on her case. She finally emailed a request to Mr. Baxter for a refund of the money paid to him, and for Mr. Baxter to return the will. There has been no probate matter filed with the Saline County Circuit Clerk to date.

Mr. Baxter failed to respond to Ms. Reed's request for return of the will she gave him and any refund of her money paid. In Mr. Baxter's response to a request for information letter sent to him by the Office of Professional Conduct, he stated that he did not have a phone number

or address for Ms. Reed. Mr. Baxter also stated that Ms. Reed took the entire content of her file back home with her, which Ms. Reed denies.

An annual license fee is required of every attorney actively licensed to practice law in the State of Arkansas. The license fee is to be paid annually to the Clerk of the Arkansas Supreme Court and no later than March 1 of each year. As of May 5, 2009, Mr. Baxter had not paid his license fee for calendar year 2009. However, information has been obtained subsequent to the formal complaint that Mr. Baxter paid his calendar year 2009 license fee on June 5, 2009.

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:

1. That Mr. Baxter's conduct violated Rule 1.3 because he failed to initiate the probate matter for Ms. Reed within a reasonable amount of time. Ms. Reed hired Mr. Baxter in January 2008 and no probate matter has been filed in Ms. Reed's case. Rule 1.3 requires that a lawyer act with reasonable diligence and promptness in representing a client.

2. That Mr. Baxter's conduct violated Rule 1.4(a)(3) because he failed to keep Ms. Reed advised of the status of her matter, despite her several attempts through email and by telephone to contact Mr. Baxter. Rule 1.4(a)(3) requires that a lawyer keep the client reasonably informed about the status of the matter.

3. Mr. Baxter's conduct violated Rule 1.4(a)(4) because he failed to provide Ms. Reed information about her case despite her frequent calls and emails to him. Rule 1.4(a)(4) requires that a lawyer promptly comply with reasonable requests for information.

4. Mr. Baxter's conduct violated Rule 1.16(d) because he failed to return Ms. Reed's file

to her and refund any unearned fees as requested by Ms. Reed. 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, surrending 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.

5. Mr. Baxter's conduce violated Rule 3.4(c) because he failed to pay his calendar year 2009 attorney license fee by March 1 as required by Rule VII of the Arkansas Rules Governing Admission to the Bar.

WHEREFORE, it is the decision and order of the Arkansas Supreme Court Committee on Professional Conduct, acting through its authorized Panel B, that JIMMY RAY BAXTER, Arkansas Bar ID# 78012, be and hereby is, CAUTIONED for his conduct in this matter. Pursuant to Section 18.A of the Procedures of the Arkansas Supreme Court Regulating Professional Conduct of Attorneys at Law (2002), Mr. Baxter is assessed the costs of this proceeding in the amount of $50. In addition, pursuant to Section 18.B of the Procedures, Mr. Baxter is ordered to pay restitution in the amount of $670. The costs assessed and restitution ordered herein, totally $720, 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 Consent 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: Valerie L. Kelly
Valerie Kelly, Chair

Date: 8/21/09