

BEFORE THE SUPREME COURT COMMITTEE ON PROFESSIONAL CONDUCT

PANEL A

IN RE: FREDYE MAC LONG ALFORD

ARKANSAS BAR ID #76165

CPC DOCKET NO. 2002-111

**FINDINGS AND ORDER**

The formal charges of misconduct upon which this Order is premised arose from the Complaint of Elizabeth Millwood. Fredye Mac Long, an attorney practicing in Texarkana, was hired during August 2001, to represent Ms. Millwood in a divorce proceeding. A fee agreement was executed between Ms. Millwood and Ms. Long on August 13, 2001. Three (3) days later a divorce complaint was filed on Ms. Millwood's behalf. Two (2) weeks after she filed the Complaint, Ms. Long filed Plaintiff's First Set of Interrogatories to Defendant and Plaintiff's Request for Production or Inspection of Documents. Ms. Millwood's recollection is that Ms. Long appeared to be aggressive when they first met to discuss the divorce proceeding, however, several weeks into Ms. Millwood's legal situation, Ms. Long began to soften and changed her strategies. She was no longer assertive but rather became passive.

The documentation presented by Ms. Millwood demonstrated that just a few days after Ms. Long filed the initial complaint, she sent a letter requesting a final hearing date. None of the discovery had been completed but Ms. Long requested that the matter be set for final hearing. On September 18, 2001, Ms. Long sent a settlement offer to the opposing counsel, Edwin Alford. After the matter had been set for final hearing, Ms. Long requested that the matter be changed from final hearing to "temporary" hearing. This was done without any input from Ms. Long's client. Ms. Long requested that the temporary hearing be changed to November 28 or December 12, 2001. Before either of those dates arrived, Ms. Long requested that she be allowed to withdraw from Ms. Millwood's case.

Ms. Millwood wanted a tort action to be brought against her estranged husband. However, Ms. Long would not even discuss the possibility of such an action with Ms. Millwood.

Before she sought withdrawal from representing Ms. Millwood, Ms. Long and Mr. Alford arranged a settlement meeting. All parties met at the courthouse in Howard County. Mr. Alford offered no settlement. Even though no settlement was reached, Ms. Long sent a letter to the presiding Judge and canceled the hearing which had been set for October 31, 2001.

Thereafter, on November 12, 2001, Ms. Long sent a letter to Mr. Alford demanding that all written discovery should be in her office no later than the following Monday or she would have to file a Motion to Compel. The Interrogatories had been served on Mr. Alford around the beginning of September but Ms. Long had taken no action to get them answered until the November 12, 2001, letter. It was in this same letter that Ms. Long addressed for the first time the fact that she may file a Motion for Withdrawal if settlement is not reached. Ms. Millwood had no prior knowledge that such a withdrawal was being contemplated until she received the letter on the afternoon of November 15. Even though the answers to the discovery were incomplete, Ms. Long never followed through with a Motion to Compel on behalf of her client.

Ms. Long filed a Motion for Withdrawal of Counsel on November 19, 2001. The only reason given for the withdrawal is that good cause exists for the withdrawal. Ms. Long set out in the Motion that Ms. Millwood had ten (10) days to object in writing to the Motion. However, Ms. Long presented and had signed the Order granting the withdrawal the day following the filing of the Motion. Ms. Millwood was not given ten (10) days to object, she was not even given two (2) days to do so.

Following the entry of the Order allowing Ms. Long to withdraw, Mr. Alford requested that the matter be set for final hearing. A final hearing was set but Ms. Millwood wrote the Judge and explained that she was not in a position to hire an attorney to represent her at the time. The final hearing was then reset for July 31, 2002. Ms. Millwood borrowed funds and hired Kelvin Wyrick to represent her. On July 30, 2002, the day before the final hearing, Judge Capehart informed Mr. Wyrick that Mr. Alford was going to withdraw because he and Ms. Long had married.

In responding to the Complaint, Ms. Long denied that she had violated any of the Model Rules as alleged in the formal disciplinary complaint. Ms. Long explained that she spoke with Mr. Long for the first time in her life on August 30, 2001, to inquire whether he would accept service for Bill Millwood, Ms. Millwood's estranged husband. Mr. Alford agreed to do so and then continued the conversation by providing Ms. Long with a "long and sordid history" of her client. Ms. Long explained that one of the issues in the divorce was a prenuptial agreement that had been signed in Nevada. She conducted research on that issue and determined that the agreement was enforceable under Nevada law. According to Ms. Long, she never intended for the hearing on October 31, to be a final hearing that this was merely an error in the correspondence requesting the hearing.

Ms. Long admitted that she sent a written settlement offer to Mr. Alford on September 18, 2001 based upon a property settlement that her client had faxed to her. At the same time, Ms. Long sent a letter to her client questioning the reasonableness of her expectations. The settlement was not agreed to by the opposing party.

Ms. Long denied that she did not discuss the fact that the hearing would be temporary not final. She also specifically denied that Ms. Millwood insisted on bringing a tort action against Bill Millwood. According to Ms. Long, she advised Ms. Millwood not to do so until settlement discussions had clearly failed. Ms. Long believed

if the action was taken that it would prevent any possibility of settlement.

It was during this time that Ms. Long and Mr. Alford became friendly. She was undergoing treatments which were making her quiet ill and Mr. Alford showed his concern through e-mails and occasional telephone calls. Also during this time, Mr. Millwood had agreed to settlement except for the issue of credit card debt. It was clear to Ms. Long that Mr. Millwood's position was that he would not give Ms. Millwood any money. Ms. Long also recalled that the discovery requests were complete despite Ms. Millwood's statements to the contrary. It was Ms. Long's assertion that the parties came within \$5000 of settling the divorce at the settlement conference. At this point, according to Ms. Long, her client's stated goal was to delay. Only when her relationship with Mr. Alford become romantic did she decide to withdraw from representation of Ms. Millwood. Ms. Long admitted that the body of the Motion set out that Ms. Millwood had ten (10) days to object. Ms. Long pointed out that to date Ms. Long had filed nothing. She did not address the issue of the Order being presented to the Court the day following the filing of the Motion. Ms. Long also explained that her client did not complain about the relationship which had developed between Mr. Alford and Ms. Long but wanted Ms. Long to use it to Ms. Millwood's advantage.

Upon consideration of the formal complaint, the response herein, and the Arkansas Model Rules of Professional Conduct, the Committee on Professional Conduct, Panel A, finds:

1. That Ms. Long's conduct violated Model Rule 1.3 when she failed to follow through with the matter in which she was entrusted by Ms. Millwood in a diligent manner. Instead she sought withdrawal from the case without the required amount of notice and with no relief having been granted Ms. Millwood. Model Rule 1.3 requires that a lawyer shall act with reasonable diligence and promptness in representing a client.
2. That Ms. Long's conduct violated Model Rule 1.4(b) when she did not advise Ms. Millwood that she was involved in a personal relationship with the opposing counsel, Mr. Alford, and when she did not advise Ms. Millwood of the fact that her relationship with Mr. Alford was continuing so that Ms. Millwood could determine early on in her divorce proceeding whether she should seek other counsel. Model 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.
3. That Ms. Long's conduct violated Model Rule 1.7(b) when she continued to represent Ms. Millwood in her divorce proceeding although she was involved in a serious personal relationship with the opposing counsel, Mr. Alford. Model Rule 1.7(b) requires, in pertinent part, that a lawyer shall not represent a client if the representation of that client may be materially limited by the lawyer's own interests, unless: (1) the lawyer reasonably believes the representation will not be adversely affected; and (2) the client consents after consultation.
4. That Ms. Long's conduct violated Model Rule 8.4(d) when she failed to give her client, Ms. Millwood, sufficient notice of her Motion to Withdraw as counsel so that she could object to the same before signing of the Order the day after the Motion was mailed to Ms. Millwood. Model 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, through Panel A, that FREDY MAC LONG-ALFORD, Arkansas Bar ID #76165 be, and hereby is, REPRIMANDED for her conduct in this matter. In addition, pursuant to Section 18.A. of the Procedures of the Arkansas Supreme Court Regulating Professional Conduct of Attorneys at Law (2002), Mrs. Long-Alford is ordered to pay costs of this proceeding in the amount of \$50. The costs shall be due and payable within thirty (30) days of the date this Order is filed with the Clerk of the Arkansas Supreme Court.

ARKANSAS SUPREME COURT COMMITTEE

ON PROFESSIONAL CONDUCT

By:

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Win Trafford, Chairman, Panel A

Date:

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