

**BEFORE THE SUPREME COURT COMMITTEE ON PROFESSIONAL CONDUCT
PANEL B**

IN RE: **JIMMY RAY BAXTER**
Arkansas Bar ID # 78012
CPC Docket No. 2007-034

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 Mary and Larry Ballard on January 31, 2007. The information related to the conduct of Respondent Ray Baxter, an attorney practicing primarily in Benton, Saline County, Arkansas. On April 12, 2007, Respondent was served with a formal complaint, supported by an affidavit from the Ballards.

On March 8, 2006, Mary and Larry Ballard met with Ray Baxter in his Benton office to discuss a lawsuit against the Gulfstream RV manufacturer for its failure to repair problems with the Ballard's coach. The Ballards informed Baxter that time was of the essence, as their warranty was due to expire in May 2006. No fee agreement or other written contract for legal services has been provided to this office for this representation. After they paid a total of \$2,500.00 on March 9, 2006, for Baxter's services, the Ballards began calling to check on the status of their case, and they left several messages; however, their calls were not returned. By May 1, 2006, the Ballards had made additional payments, for the full \$5,000.00 fee originally quoted them in the matter. On July 31, the Ballards met with Mr. Baxter again regarding their case. Uneasy about how this meeting went, the Ballards decided to terminate Mr. Baxter's services. They called his office on August 3 and informed the staff of their decision. They also sent a letter informing Mr. Baxter that his services were terminated and requesting a refund of the balance remaining on their \$5,000 retainer. To date,

no refund has been tendered.

Responding to a March 12 letter from this office, on March 20, 2007, Mr. Baxter wrote stating (1) he did work on the case to some extent; (2) he would refund 100% of the Ballards' \$5,000.00 retainer just as soon as he obtained funds to make a refund; and (3) he had some personal medical issues he had been dealing with, including a back surgery he endured after a motor vehicle collision in which he was injured on July 17, 2006. With this letter were copies of certain medical reports indicating that Mr. Baxter has suffered from spinal problems since at least 2002.

Following Respondent Attorney's receipt of the formal complaint, the attorney entered into discussion with the Executive Director which has resulted in an agreement to discipline by consent pursuant to Section 20.B of the Arkansas Supreme Court Procedures Regulating Professional Conduct of Attorneys at Law (2002). Upon consideration of the formal complaint and attached exhibits, admissions made by the respondent attorney, the terms of the written consent, the approval of Panel B of the Committee on Professional Conduct, and the Arkansas Rules of Professional Conduct, the Committee on Professional Conduct finds:

A. Mr. Baxter's conduct violated Rule 1.4(a)(4) in that he failed to promptly comply with the Ballards' reasonable requests for information related to their matter. Rule 1.4(a)(4) requires that a lawyer shall promptly comply with reasonable requests for information.

B. Mr. Baxter's conduct violated Rule 1.16(d) in that he failed to refund the unearned portion of the \$5,000.00 retainer fee paid by the Ballards after they terminated his services and Baxter had not performed all the services for which he had been hired. 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, surrendering 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.

WHEREFORE, it is the decision and order of the Arkansas Supreme Court Committee on Professional Conduct, acting through its authorized Panel B, that **RAY BAXTER**, Arkansas Bar ID# 78012, be, and hereby is, **CAUTIONED** for his conduct in this matter, and he is ordered to pay \$50.00 Committee case costs and restitution of \$5,000.00 for the benefit of Mary and Larry Ballard. Within sixty (60) days of the filing of this Order, Mr. Baxter shall deliver to the Office of Professional Conduct a \$5,000 cashier's check or money order to "Mary and Larry Ballard." Likewise, the costs assessed herein shall be payable by cashier's check or money order 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: _____
Valerie Kelly, Vice-Chair, Panel B

Date: _____