

BEFORE THE SUPREME COURT COMMITTEE ON PROFESSIONAL CONDUCT

PANEL B

IN RE: **VANDELL BLAND, SR.**

Arkansas Bar ID #92062

CPC Docket No. 2004-148

CONSENT FINDINGS & ORDER

The formal charges of misconduct upon which this Consent Order is premised, involving respondent attorney of Vandell Bland, Sr., of West Helena, Phillips County, Arkansas, arose from information brought to the attention of the Committee on Professional Conduct by Joyce Davenport on June 30, 2004.

Joyce Davenport of Forrest City became Mr. Bland's client in a matter arising from her motor vehicle collision on May 20, 2000. She was treated by Traylor Chiropractic Clinic and Dr. Thomas Hayde of Forrest City for injuries sustained in that event. Mr. Bland and she signed a medical lien in May 2000 in favor of Traylor, agreeing to withhold from any recovery Bland made on her behalf funds to pay Traylor's account for her directly. By his settlement accounting letter dated August 22, 2000, Mr. Bland settled her claim with GEICO Insurance for \$8,500 and withheld \$3,000.00 to pay Traylor. He failed to notify Traylor of the settlement and did not pay Traylor until September 13, 2004, after being notified by the Office of Professional Conduct that a complaint had been filed against him arising from this matter. Traylor made repeated unsuccessful efforts after May 2000 until December 2003 to learn of the status of this claim Bland was handling from him and his office. Either Bland's office or Bland provided inaccurate information as to the status of the matter to Traylor. In December 2003, Traylor learned of the 2000 settlement from an insurance company. While Bland should have held the \$3,000 in his trust account from the settlement on August 22, 2000, until he paid Traylor by check dated September 13, 2004, his trust account balance fell below \$3,000 on several occasions during this period, including to a low of \$319.20 on January 21, 2003, a shortage of \$2,680.80 of client or third person funds.

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 Model Rules of Professional Conduct, the Committee on Professional Conduct finds:

A. Mr. Bland's conduct violated Model Rule 1.2(a) in that by failing to pay Ms. Davenport's account with Traylor Chiropractic Clinic, as he agreed to do, from funds Mr. Bland received and withheld from her settlement from August 22, 2000, until September 13, 2004, he thwarted his client's objective to have this obligation of hers paid. Model Rule 1.2 (a) requires that a lawyer shall abide by a client's decisions concerning the objectives of representation.

B. Mr. Bland's conduct violated Model Rule 1.3 in that he failed to act with reasonable diligence by failing to pay Ms. Davenport's account with Traylor Chiropractic Clinic, as Mr. Bland agreed to do, from funds he received and withheld from her settlement from August 22, 2000, until September 13, 2004, when he finally paid Traylor. Model Rule 1.3 requires that a lawyer shall act with reasonable diligence and promptness in representing a client.

C. Mr. Bland's conduct violated Model Rule 1.15(a) in that from August 22, 2000, to September 13, 2004, when he issued his trust check No. 1435 for \$3,000.00 to Traylor, he should have held a minimum balance at all times in his IOLTA trust account at Helena National Bank of not less than \$3,000.00. His trust account balances fell below this amount on at least the following dates:

Date	Balance	Trust Account "shortage"
January 21, 2003	\$319.20	\$2,680.80
March 31, 2003	\$699.16	\$2,300.84
August 6, 2004	\$462.02	\$2,537.98
August 25, 2004	\$596.30	\$2,403.70
August 31, 2004	\$767.71	\$2,232.29

Model Rule 1.15(a) requires that an lawyer shall hold property of clients or third persons that is in a lawyer's possession in connection with a representation separate from the lawyer's own property. Funds shall be kept in a separate account maintained in the state where the lawyer's office is situated, or elsewhere with the

consent of the client or third person.

D. Mr. Bland's conduct violated Model Rule 1.15(b) in that upon receiving the Davenport settlement funds on or about August 22, 2000, he failed to promptly notify Traylor Chiropractic Clinic, a third person he knew had an interest in part of the settlement funds, of Bland's receipt of those funds. Model Rule 1.15(b) requires that upon receiving funds or other property in which a client or third person has an interest, a lawyer shall promptly notify the client or third person. Except as stated in this Rule or otherwise permitted by law or by agreement with the client, a lawyer shall promptly deliver to the client or third person any funds or other property that the client or third person is entitled to receive and, upon request by the client or third person, shall promptly render a full accounting regarding such property.

E. Mr. Bland's conduct violated Model Rule 8.4(c) in that from August 22, 2000, until September 13, 2004, over four years, and without any good reason, he withheld any payment to Traylor Chiropractic Clinic on its \$3,781.00 account on Joyce Davenport, while having the funds from her settlement with which to pay this account, and after having agreed with Ms. Davenport on August 22, 2000, that he would pay her account at Traylor. Model Rule 8.4(c) requires that a lawyer shall not engage in conduct involving dishonesty, fraud, deceit or misrepresentation.

WHEREFORE, in accordance with the consent to discipline presented by Mr. Bland and the Executive Director, it is the decision and order of the Arkansas Supreme Court Committee on Professional Conduct that Respondent Vandell Bland, Sr., Arkansas Bar No. 92062, be, and hereby is, reprimanded for his conduct in this matter, assessed \$50.00 costs, and fined \$1,000.00. The fine and 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 with 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 _____

J. Michael Cogbill, Chairperson, Panel B

Date _____

