

BEFORE THE SUPREME COURT COMMITTEE ON PROFESSIONAL CONDUCT

PANEL B

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

Arkansas Bar ID #92062

CPC Docket No. 2005-025

CONSENT FINDINGS & ORDER

The formal charges of misconduct upon which this Consent Order is premised, involving respondent attorney Vandell Bland, Sr. of West Helena and Forrest City, Arkansas, arose from information brought to the attention of the Committee on Professional Conduct by Thomas M. Hayde, D.C. of Forrest City.

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).

Tyrone Sanders, then of Forrest City, became Mr. Bland's client in a matter arising from a motor vehicle collision on June 25, 2001. Sanders was treated by Traylor Chiropractic Clinic ("Traylor") and Dr. Thomas Hayde of Forrest City for injuries sustained in that event. Mr. Sanders and Bland signed a medical lien in July 2001 in favor of Traylor, agreeing to withhold from any recovery Bland made on Sanders' behalf funds to pay Traylor's account for him directly. By Bland's settlement accounting letter dated August 18, 2002, to Mr. Sanders, Bland settled his claim with Nationwide Insurance for \$5,513.00 and withheld \$2,000.00 to pay Traylor. Bland failed to notify Traylor of the settlement and did not pay Traylor until January 31, 2005, and then only \$1,504.34, 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 July 2002 until December 2003 to learn from Bland and his office staff of the status of this claim they were handling. Either Bland's office or Bland provided inaccurate information as to the status of the matter to Traylor. In December 2003, Traylor learned from Nationwide of the "April 15, 2002," settlement. While Bland should have held the

\$2,000 in his trust account from the settlement deposit on April 29, 2002, until he paid Traylor by check dated January 31, 2005, his trust account balance fell below \$2,000 on several occasions during this period, including to a low of \$319.20 on January 21, 2003, a shortage of \$1,680.80 of client or third person funds. (In February 2005, Bland paid Traylor the full remaining balance on the Sanders account.)

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 Mr. Sanders' account with Traylor Chiropractic Clinic (hereafter "Traylor"), as he agreed to do, from funds he received and withheld from Sanders' settlement from April 29, 2002, until January 31, 2005, Bland thwarted his client's objective to have this obligation of his paid. Model Rule 1.2 (a) requires that a lawyer shall abide by a client's decisions concerning the objectives of representation, subject to paragraphs (c), (d) and (e), and shall consult with the client as to the means by which they are to be pursued.

B. Mr. Bland's conduct violated Model Rule 1.3 in that he failed to act with reasonable diligence by failing to pay Mr. Sanders' account with Traylor, as Bland agreed to do, from funds he received and withheld from Sanders' settlement from April 29, 2002, until January 31, 2005, when Bland finally paid Traylor \$1,504.34. 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 April 29, 2002, to January 1, 2005, when he issued his trust check No.1471 for \$1,504.34 to Traylor, Bland should have held a minimum balance at all times in his IOLTA trust account at Helena National Bank of not less than \$2,000.00. His trust account balances fell below this amount on at least five dates. 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 offices 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 Sanders settlement funds on or about April 29, 2002, Bland failed to promptly notify Traylor, a third person Bland 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 4.1(a) in that from April 2002 through at least December 2003, he or his staff knowingly made false statements of material fact to Dr. Thomas M. Hayde or his staff about the status of the claim of Tyrone Sanders Bland was handling, telling them the matter was still pending or in litigation, when Bland knew the matter had been settled and he had received the settlement proceeds on or about April 29, 2002. Model Rule 4.1(a) requires that in the course of representing a client, a lawyer shall not knowingly make a false statement of material fact or law to a third person.

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. , be, and hereby is, reprimanded for his conduct in this matter, fined \$1,000.00, and assessed costs of \$50.00. 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 _____

H.T. Moore, Vice Chair, Panel B

Date _____