

BEFORE THE SUPREME COURT COMMITTEE ON PROFESSIONAL CONDUCT

PANEL B

IN RE: DARRELL F. BROWN, SR.

Arkansas Bar ID #72012

CPC Docket No. 2004-103

FINDINGS AND ORDER

The formal charges of misconduct upon which this Findings and Order is based arose from information provided to the Committee by Ankita Riddle of Virginia on February 24, 2004. The information related to the representation of Mrs. Riddle by Respondent in 2001-2003.

On July 23, 2004, Respondent Darrell F. Brown, Sr., an attorney practicing primarily in Little Rock, was served with a formal complaint, supported by affidavits from Ankita Riddle and Dr. Jon Dodson, Sr., and copies of Respondent's trust account records. The factual allegations are that Mr. Brown represented Ms. Riddle and her two minor children with regard to their claims arising from a motor vehicle collision of May 9, 2001, in Little Rock. Suit was filed and a \$10,000.00 trial verdict returned for Ms. Riddle on May 14, 2003. The \$10,000 was paid to Respondent in June 2003. The Riddle settlement sheet demonstrates Respondent withheld \$2,846.25 to pay her unitemized medical bills. This is the exact amount she owed Cambridge Rehabilitation Center, which filed a medical lien on May 14, 2001 on Riddle's account. Ms. Riddle also owed \$535.00 to Forest Park Medical Center, an affiliate of Cambridge, which amount was apparently not listed in the settlement sheet and remains unpaid. As of April 4, 2004, none this total bill (\$3,406.25) has not been paid by Respondent from the \$2,846.25 he withheld, and Ms. Riddle has been contacted by a collection agency. Ms. Riddle has had sustained difficulty contacting Respondent for information about her matter and specifically her unpaid medical bills. Ms. Riddle has sought action by Respondent for the claims of her minor children but has not received accurate information as to the status of their claims. Respondent failed to notify Cambridge of his receipt of settlement funds in which Cambridge had an interest. Respondent's IOLTA trust account balance fell below the minimum amount required under these circumstances several times since settlement, getting as low

as \$590.15 on August 14, 2003. Mr. Brown responded that he did not pay the medical bill, that he has made arrangements to pay this bill, that he is having his trust account audited, and that he is actively negotiating on the claims of the minors. Mrs. Riddle replied on September 9, 2004, that she has no information from the medical clinic that any arrangements have been made by Respondent to have her medical bills paid.

Upon consideration of the formal complaint and attached exhibit materials, the response to it, rebuttal information, other matters before it, and the Arkansas Model Rules of Professional Conduct, Panel B of the Arkansas Supreme Court Committee on Professional Conduct finds:

A. Mr. Brown's conduct violated Model Rule 1.2 in that it was his client Ankita Riddle's decision, communicated to him at the time, that he withhold \$2,846.25 from her personal injury settlement in June 2003 to pay her medical bills. Mr. Brown withheld said sum and failed to pay her medical bills at Forest Park Medical Clinic and Cambridge Rehabilitation Center, actions contrary to his client's decision. When she hired him in May 2001, it was the decision of his client Ankita Riddle that he also represent the interests and claims of her two minor children, Braleen and Breanna Riddle arising from the same motor vehicle collision in which Ms. Riddle was injured. Mr. Brown has neither settled their claims nor filed suit to protect their claims now more than three (3) years after the incident giving rise to the children's claims, thereby causing their claims to possibly now be barred by the applicable statute of limitations in Arkansas, an action not abiding by his client's decision. 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. Brown's conduct violated Model Rule 1.3 in that his failure to timely pay or otherwise take care of Ms. Riddle's treatment bills at Forest Park Medical Clinic and Cambridge Rehabilitation Center since the settlement of her case in June 2003 has resulted in collection efforts to be started against her personally on April 7, 2004. Model Rule 1.3 requires that a lawyer shall act with reasonable diligence and promptness in representing a client.

C. Mr. Brown's conduct violated Model Rule 1.4(a) in that Ankita Riddle contacted his office numerous times since her settlement trying, without success, to get information about the status of her unpaid

medical bills he withheld from settlement funds to pay for her. Model Rule 1.4(a) requires that a lawyer shall keep a client reasonably informed about the status of a matter and promptly comply with reasonable requests for information.

D. Mr. Brown's conduct violated Model Rule 1.15(a) in that his IOLTA trust account at The Capital Bank of Little Rock should have had a minimum balance of no less than \$2,846.25 at all times since June 2003, when he deposited Ms. Riddle's \$10,000.00 settlement check. The account statements show the account balance fell below this required level on August 14, 2003 (\$590.15), September 4, 2003 (\$1,034.39), and January 9, 2004 (\$2,542.04), indicating he had on those dates converted funds belonging to Ms. Riddle to other purposes. 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 of a client shall be deposited and maintained in one or more identifiable trust accounts in the state where the lawyer's office is situated, or elsewhere with the consent of the client or third person.

E. Mr. Brown's conduct violated Model Rule 1.15(b) in that he failed to promptly notify third person medical lienors Forest Park Medical Clinic and Cambridge Rehabilitation Center when he received settlement funds in the matter of Ankita Riddle, funds in which he had known since July 9, 2001, these entities had an interest. He failed to promptly deliver funds to third person medical lienors Forest Park Medical Clinic and Cambridge Rehabilitation Center after he received settlement funds in the matter of Ankita Riddle, funds in which he had known since July 9, 2001, these entities had an interest. 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.

F. Mr. Brown's conduct violated Model Rule 1.16(d) in that by taking no known action to pay his client Ankita Riddle's medical bills since the settlement in June 2003, he effectively terminated his representation of her in this matter and have failed to refund to her the unearned \$2,846.25 he withheld from her settlement to pay her medical bills. Model Rule 1.16(d) requires that upon termination of representation, an attorney shall take steps to the extent reasonably practicable to protect the 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 advanced payment of fee that has not been earned.

G. Mr. Brown's conduct violated Model Rule 8.1(b) in that the Office of Professional Conduct, a disciplinary authority, made a lawful demand for information on him by means of the letter of May 12, 2004. The letter advised him of Ms. Riddle's efforts to contact his office for information about her matters being handled there including the claims of her children, for information on her unpaid medical bills, that he had withheld \$2,846.25 from her settlement for payment of her unitemized medical bills, that he should check his trust account balances on three specified dates, and asked him for a response to these issues. He failed to respond to the letter in any fashion. Model Rule 8.1(b) requires that a lawyer, in connection with a disciplinary matter, shall not knowingly fail to respond to a lawful demand for information from a disciplinary authority, except that this rule does not require disclosure of information otherwise protected by Rule 1.6.

H. Mr. Brown's conduct violated Model Rule 8.4(c) in that in June 2003 he represented to his client Ankita Riddle and on her settlement sheet that he would pay her medical bills with the \$2,846.25 he withheld from her settlement. This became a misrepresentation, as he failed after June 2003 to either pay her medical bills or refund the \$2,846.25 to her. He deceitfully failed since June 2003 to pay the medical bills of his client Ankita Riddle with the \$2,846.25 he withheld from her settlement, after assuring her in the settlement sheet that he would pay the bills for her with these funds. Model Rule 8.4(c) requires that a lawyer shall not engage in conduct involving dishonesty, fraud, deceit or misrepresentation.

WHEREFORE, it is the decision and order of the Arkansas Supreme Court Committee on Professional Conduct, acting through its authorized Panel B, that law license and privilege to practice law of **DARRELL F. BROWN, SR.**, Arkansas Bar ID# 72012, be, and hereby is, suspended for a period of six (6) months for his conduct in this matter. The suspension shall become effective on the date this Findings and Order is filed of record with the Clerk of the Arkansas Supreme Court. Panel B also orders Mr. Brown to pay a \$1,000.00 fine, pursuant to Section 18.B of the Procedures, \$2,846.25 restitution for the benefit of Ankita Riddle pursuant to

Section 18.C of the Procedures, and \$50.00 costs pursuant to Section 18.A of the Procedures, all 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, Chair, Panel B

Date: _____