

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

IN RE: Timothy M. Hall, Respondent
Arkansas Bar ID#96043
CPC Docket No. 2006-107

FINDINGS AND ORDER

The formal charges of misconduct upon which this Findings and Order is based arose from information provided to the Committee by Marlys and Don Ball during 2006. The information related to the representation of Mr. & Mrs. Ball by Respondent in late 2005 and early 2006.

On Respondent was served with a formal complaint, supported by affidavits from Marlys Ball and Leslie W. Steen, Clerk of the Arkansas Supreme Court. Respondent filed a response and the matter proceeded to ballot vote pursuant to the Procedures of the Arkansas Supreme Court Regulating Professional Conduct of Attorneys. (Procedures).

The facts before the Committee were as follows: On December 22, 2005, Mr. and Mrs. Ball hired Timothy Mark Hall, an attorney practicing primarily in Huntsville, Arkansas. Mr. Hall was hired to represent them in a matter involving road access to their property. The Balls were landlocked and wanted to have Mr. Hall assist them in obtaining documents to make sure that they had access to their property.

During the meeting with Mr. Hall on December 22, 2005, he requested a fee of \$2500 to handle the matter for Mr. and Mrs. Ball. At no time did he explain the specifics of the fee nor did he provide a written fee agreement to them. He merely told them that he needed \$2500 to undertake the representation.

Mrs. Ball actually had spoken with Mr. Hall about this matter during October 2004.

They had a few brief conversations over the telephone about the matter at that time about the land issue. On December 1, 2005, the access to their home was blocked by a locked gate. After being contacted, Mr. Hall came to the property, reviewed it and advised that he would assist them with the matter. Mrs. Ball provided Mr. Hall the photos of the land, the gate and other items which were blocking their access.

Mr. Hall told them that he would file a matter and seek to have a Judge provide them with a restraining order to keep the road open for access to their property. Mr. Hall advised that it should take no longer than two (2) weeks to get the access opened. That was the last time Mrs. Ball was able to speak with Mr. Hall. Mr. Ball attempted to speak with Mr. Hall since that time but has been unsuccessful as well.

During the month of January 2006, Mrs. Ball called or stopped by the Hall Law Office several times per week seeking to speak with Mr. Hall. She was never allowed to do so. According to the secretary, Mr. Hall was not in the office any of the times Mrs. Ball was present. During the month of February 2006, Mrs. Ball again tried on several occasions to see or speak with Mr. Hall but was unable to do so despite the messages she left for him about the legal matter with which he was entrusted. On January 16, 2006, Mrs. Ball hand-delivered a note to his office seeking to find out what he had done to help with the situation. Mr. Hall did not respond to the letter. In February 2006, Mrs. Ball called the office and asked to speak either to Mr. Hall or his father, W.Q. Hall. W.Q. Hall returned the telephone call and asked Mrs. Ball to stop by the office to discuss her concerns. She did so on February 16, 2006. W.Q. Hall told Mrs. Ball that all they needed was an Affidavit signed by Max Bolinger and then they could obtain full access to their property as they had in the past. It was Mrs. Ball's information that Mr. Bolinger signed the Affidavit, with some corrections, in the law office the following day, but the Balls never received

a copy. That is the last thing that Mrs. Ball knew occurred in the legal matter.

On March 20, 2006, Mrs. Ball wrote another letter and left at the office for Mr. Hall. Mr. Hall did not respond to that letter either. On March 28, 2006, Mrs. Ball sent a certified letter to Mr. Hall. The letter was sent to advise Mr. Hall that his services were terminated. The letter was not signed for by Mr. Hall. The post office returned it. Mr. and Mrs. Ball talked with other counsel to assist them since Mr. Hall has been unavailable to them since receiving the \$2500 retainer fee from us.

Mr. Hall denied the allegations in the formal disciplinary complaint. He asserted that a dispute arose with regard to the course of the representation and also because he was taken off the case. Mr. Hall asserted that he was never paid any monies personally by Mrs. Ball and that she still owed money to the Hall Law Offices.

In Mr. Hall's response to Mrs. Ball's rebuttal to the disciplinary complaint, he asserted that he defended a complaint in District Court by Mrs. Ball which was time consuming and expensive. The records in District Court actually demonstrated that he filed an Answer and Motion to Dismiss (combined in one pleading in Small Claims Court of the City of Huntsville and that he succeeded on a technicality that the funds paid by the Balls were paid to the Law Firm and not to Mr. Hall personally.

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

1. That Mr. Hall's conduct violated Rule 1.1 when he was not thorough enough in his representation of Mr. and Mrs. Ball to seek to assist them in gaining access to their property as he was hired to do in December 2005. Rule 1.1 requires that a lawyer provide competent

representation to a client, including the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation.

2. That Mr. Hall's violated Rule 1.2(a) because despite the fact that he was hired to seek immediate assistance for Mr. and Mrs. Ball so that they would continue to have the access to their property that they had in the past, he failed to take action as he agreed to take when hired and paid \$2500 on December 22, 2005. Rule 1.2(a) requires that, subject to paragraphs (c) and (d), a lawyer abide by a client's decisions concerning the objectives of representation, and, as required by Rule 1.4, consult with the client as to the means by which they are to be pursued.

3. That Mr. Hall's conduct violated Rule 1.3 when he did not act with diligence in his representation of Mr. and Mrs. Ball after he was hired in December 2005 and paid \$2500 to undertake to assist them in obtaining access to their property, in that he failed to take any of the action he advised them he would take when he was paid \$2500 in December 2005. Rule 1.3 requires that a lawyer act with reasonable diligence and promptness in representing a client.

4. That Mr. Hall's conduct violated Rule 1.4(a)(1) when he failed to advise Mr. and Mrs. Ball when his license to practice law in Arkansas became suspended on March 2, 2006, for failure to pay his annual license fee and thereby prevented them from knowing that he could not take action for them while your license was suspended. Rule 1.4(a)(1) requires that a lawyer promptly inform the client of any decision or circumstance with respect to which the client's informed consent, as defined by Rule 1.0(e), is required by these Rules.

5. That Mr. Hall's conduct violated Rule 1.4(a)(3) when he failed to keep Mr. and Mrs. Ball informed of the efforts, if any, he undertook for them with regard to the legal matter in which he was entrusted and for which he was paid \$2500. Rule 1.4(a)(3) requires that a lawyer keep the client reasonably informed about the status of the matter.

6. That Mr. Hall's conduct violated Rule 1.4(a)(4) when he failed to respond to the telephone messages left for him by Mr. and Mrs. Ball after he was hired to assist them with their legal matter in December 2005; when he failed to respond to the correspondence left at his office by Mrs. Ball on January 16, 2006; and when he failed to respond to the correspondence left at his office by Mrs. Ball on March 20, 2006. Rule 1.4(a)(4) requires that a lawyer promptly comply with reasonable requests for information.

7. That Mr. Hall's conduct violated Rule 1.16(d), because since his representation of Mr. and Mrs. Ball was terminated, he failed to return to them the photos which they provided in December 2005 related to the land issue which they hired him to assist them in correcting and because he failed to return to them the unearned portion of the advanced payment of the \$2,500 fee delivered on December 22, 2005. Rule 1.16(d) requires, in pertinent part, that upon termination of representation, a lawyer take steps to the extent reasonably practicable to protect a client's interests, such as 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.

8. That Mr. Hall's conduct violated Model Rule 3.4(c) because Rule VII.A, Arkansas Supreme Court Rules Governing Admission to the Bar, requires all Arkansas licensed attorneys to pay an annual license fee as set by the Court not later than March 1 of each year. Mr. Hall did not obey this obligation of the Court. Instead, he failed to pay his 2006 annual license fee until May 18, 2006. Rule 3.4(c) requires that a lawyer not knowingly disobey an obligation under the rules of a tribunal except for an open refusal based on an assertion that no valid obligation exists.

9. That Mr. Hall's conduct violated Rule 8.4(d) because his failure to take action on behalf of Mr. and Mrs. Ball led to an unnecessary delay in seeking the relief which they hired him to pursue on their behalf. 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, acting through its authorized Panel B, that the law license of TIMOTHY MARK HALL, Arkansas Bar ID#96043 be, and hereby is, SUSPENDED FOR A PERIOD OF THREE (3) 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. Further, pursuant to Section 18.A of the Procedures, Mr. Hall is assessed the cost of this proceeding in the amount of \$50. Mr. Hall is ordered to pay a fine in the amount of \$1000 pursuant to Section 18.B of the Procedures. In addition, Mr. Hall is ordered to make restitution to Mr. and Mrs. Ball in the amount of \$2500 in accordance with Section 18.C of the Procedures. The fine, restitution, and costs assessed herein, totaling \$3550, shall be payable by cashier's check or money order payable 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: _____
Henry Hodges, Chair, Panel B

Date: _____