

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

IN RE: TIMOTHY MARK HALL, Respondent
 Arkansas Bar ID#96043
 CPC Docket No. 2006-040

FINDINGS AND ORDER

The formal charges of misconduct upon which this Findings and Order is based arose from information provided to the Committee by Diana Refsell in an Affidavit dated March 22, 2006. The information related to the representation of Ms. Refsell and the Estate of Arthur Mohr by Respondent beginning in August 2004.

During June 2006, Respondent was served with a formal complaint, supported by affidavit from Ms. Refsell. Respondent filed a one page denial of the allegations contained in the Complaint on July 5, 2006.

The information before the Panel reflected that Diana Refsell met Timothy Mark Hall, an attorney practicing primarily in Huntsville, Arkansas, several days after the death of Arthur Mohr, her father. Ms. Refsell's first meeting with Mr. Hall was during August 2004. She asked Mr. Hall if he handled probate and estates because the family needed to find an attorney in the area to assist with the estate. Mr. Hall requested that he be provided the original copy of Mr. Mohr's Will. During the meeting, Mr. Hall advised that Ms. Refsell could remove family heirlooms and mementos for the siblings if she desired to do so. Mr. Hall requested \$1,000 to begin the process of probating Mr. Mohr's estate. A retainer check was given to him in that amount on August 3, 2004.

On August 9, 2004, a second meeting with Mr. Hall was held again in his office in

Huntsville. Mr. Hall explained the probate process and what would need to be done. The Will was admitted to probate on August 9, 2004. Ms. Refsell was also appointed Executrix on that same date. Mr. Hall advised that the main goal was to dispose of property and pay the bills owed by the Estate. Mr. Hall assured Ms. Refsell that most Estates are wrapped up in one year.

On August 11, 2004, Ms. Refsell briefly spoke with Mr. Hall and let him know that one of her sisters wanted a different Executrix appointed as the sister did not trust any of the family members and she was concerned whether she would receive her fair share. Mr. Hall told Ms. Refsell to encourage the siblings to call him if there were concerns because everything would have to be approved by the Probate Court.

Ms. Refsell again met with Mr. Hall on September 9, 2004, in his office. Mr. Hall repeated many times that day that things were going smoothly and that everything was in order. Mr. Hall had only heard from Leslie Mohr, but none of the other siblings. At this time, Ms. Refsell also inquired of Mr. Hall on the status of a signature which Mr. Hall said he would need to receive her father's pension account. Mr. Hall attended the Estate auction on September 11, 2004.

On December 27, 2004, Ms. Refsell met with Mr. Hall in his office. Mr. Hall informed her that he had been busy and that the inventory and other documents were not ready for signature or to be filed. Mr. Hall advised against paying out part of the Estate prior to the Judge's final approval. Mr. Hall told Ms. Refsell to take the Certificate of Deposit out of the bank and place it in the checking account because the Estate would be closing soon. During January and February 2005, Mr. Hall was called several times to see how the final paperwork was progressing. On February 14, 2005, Ms. Refsell spoke with Mr. Hall briefly. He told her

that one of the siblings was concerned about getting her share of the Estate and had hired an attorney to review everything. He did not tell Ms. Refsell that a Petition for Inventory, Accounting and Other Relief had been filed. This was the last time Ms. Refsell spoke with Mr. Hall. She continued to call his office almost weekly and was assured that Mr. Hall would call when he was available. He never did call.

On April 29, 2005, Ms. Refsell's brother, Robin Mohr, called to advise that he had received an e-mail from a Dianne Boyd, who worked with Jim Boyd, an attorney in Fayetteville. Mr. Mohr had spoken with Mr. Hall two (2) days before and Mr. Hall had assured him that everything was in order and being completed. Prior to this time, a court date had been scheduled. Many pleadings had been filed on behalf of several heirs to receive information. At no time did any of the heirs ever request information from Ms. Refsell. All of the requests were sent to Mr. Hall as attorney for the Estate. At no time did Mr. Hall inform Ms. Refsell of these actions or pleadings. She was even unaware of her removal as Executrix of the Estate.

On January 31, 2005, a Petition for Inventory, Accounting and Other Relief was filed. Mr. Hall was to prepare the Order from the hearing conducted on March 7, 2005, of which he did not inform Ms. Refsell. He did not prepare the Order, so Mr. Boyd, who represented three of Ms. Refsell's siblings did so. On that same date, Mr. Hall's assistant sent Mr. Boyd a fax setting out that Mr. Hall had been delayed in Court but would be delivering an Inventory and Accounting that afternoon. He did not do so. A proposed Order was also sent to Mr. Boyd from the March 7, 2005, Court appearance. Mr. Boyd sent a letter back to Mr. Hall explaining that the Order did not reflect the Agreement. Judge Lindsay, the presiding Judge, signed the Order prepared by Mr. Boyd and filed the same on March 15, 2005. On that same date, Mr. Boyd filed a Petition for

Removal of Executrix. The Petition was served on Mr. Hall. Ms. Refsell did not know of the filing of the pleading at the time of its filing. On April 6, 2005, an Order was filed removing Ms. Refsell as Executrix and appointing a Substitute Administrator. Mr. Hall did not make Ms. Refsell aware of this Order either. On April 4, 2005, Dianne Boyd sent Mr. Hall a letter requesting his entire file on the matter and also requesting that he have Ms. Refsell send her file. Mr. Hall did not advise Ms. Refsell of this letter, nor did he respond to the Boyd Law Firm about it. On April 21, 2005, Dianne Boyd sent another letter to Mr. Hall requesting the information. Ms. Refsell was unaware of this letter too. An Order filed in the Probate proceeding of Arthur Mohr demonstrates that Mr. Hall did not respond to the letter. The Order required that Mr. Hall and Ms. Refsell provide their entire files to the Boyd Law Firm within ten days of the entry of the Order. Mr. Hall did not comply with the Order.

Prior to entry of the Order, Ms. Refsell sent a letter addressed to Mr. Hall, Ms. Boyd, Judge Lindsey, Ms. Mahan of Arvest Bank, and Mr. Ledbetter, the Clerk of the Madison County. In the letter, Ms. Refsell explained that Mr. Hall had all records. On May 16, 2005, Ms. Refsell sent Mr. Hall a letter terminating his representation and informing him that she would pick up a copy of the file on May 18, 2005. On May 19, 2005, Ms. Refsell's husband went to the Hall Law Office to pick up the file. The office staff appeared to not know what he was talking about when he requested the file and stated that the file was not in the office. Ms. Refsell did not receive a copy of the file. On June 7, 2005, an Order was entered directing Mr. Hall to appear on June 16, 2005, and bring the entire Estate file with him. Thereafter, Ms. Refsell retained the services of David Zurborg. An Order Substituting Counsel was filed on June 9, 2005. Mr. Zurborg represented Ms. Refsell at the contempt hearing. She was not found in contempt as she turned

over all files in her possession immediately. Mr. Hall finally turned the files over on the morning of the contempt hearing.

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

1. That Mr. Hall's conduct violated Model Rule 1.3, when he did not act with diligence in his representation of Ms. Refsell or the Estate of Arthur Mohr which he was hired to handle in August 2004. This is evidenced by the fact that he failed to take the actions he agreed to take and failed to turn over the file until ordered to do so by the Court. Model Rule 1.3 requires that a lawyer act with reasonable diligence and promptness in representing a client.

2. That Mr. Hall's conduct violated Model Rule 1.4(a), when he did not keep Ms. Refsell informed of the status of his actions, if any, which were being undertaken in the probate matter he was entrusted to handle for her; when Ms. Refsell contacted him on numerous occasions to request information about the probate action and he failed to comply promptly with her requests for information; and, when failed to explain to Ms. Refsell the need for filing Inventory and Accounting in the probate matter. Model Rule 1.4(a) requires that a lawyer keep a client reasonably informed about the status of a matter and promptly comply with reasonable requests for information.

3. That Mr. Hall's conduct violated Model Rule 1.16(d), because after the Court removed Ms. Refsell as Administratrix of the Estate, he was ordered to turn over the file to counsel for the new administratrix but failed to do so by the deadline ordered; and, because when Ms. Refsell terminated his representation of her, he failed to provide her any of the papers to

which she was entitled with regard to the probate proceeding. Model Rule 1.16(d) requires that upon termination of representation, a lawyer 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 that has not been earned.

4. That Mr. Hall's conduct violated Model Rule 3.4(c) because he was ordered by the Probate Court to provide his entire file on the Arthur Mohr estate to the Boyd Law Firm within ten (10) days of May 3, 2005, an action he did not take. Model 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.

5. That Mr. Hall's conduct Model Rule 8.4(d), because his failure to take action on behalf of the Estate of Arthur Mohr led to an unnecessary delay in the proceeding he was entrusted to handle by Ms. Refsell; and, because his failure to turn over the file to the Boyd Law Firm as directed created the need for further action by the presiding Probate Judge to deal with his contempt. Model 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 SIX (6) MONTHS as a result of Mr. Hall's 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 of the Arkansas

Supreme Court Regulating Professional Conduct of Attorneys at Law, Mr. Hall is assessed the costs of this proceeding in the amount of \$50. Mr. Hall is also fined, pursuant to Section 18.B of the Procedures, in the amount of \$1,000. The costs and fine, totaling \$1,050, 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 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: _____
Harry Truman Moore, Chair, Panel B

Date: _____