

BEFORE THE SUPREME COURT COMMITTEE ON PROFESSIONAL CONDUCT

PANEL B

IN RE: ROBERT L. SCULL, III, Respondent
 Arkansas Bar ID#87155
 CPC Docket No. 2005-069

CONSENT FINDINGS AND ORDER

The formal charges of misconduct upon which this Findings and Order is based arose from information provided to the Committee by Patrech Jones in an Affidavit, dated April 26, 2005. The information related to the representation of Patrech Jones by Respondent beginning in 1997.

On May 4, 2005, Respondent was served with a formal complaint, supported by affidavit from Patrech Jones. A response was filed. The Respondent and the Executive Director negotiated a discipline by consent proposal, which was submitted to this Panel.

The information before the Panel reflected that during February 1997, Patrech Jones hired Robert L. Scull, III, to pursue a personal injury matter. Mr. Scull was practicing in Little Rock, Arkansas, at that time. The fee agreement was for Mr. Scull to receive one-third of the settlement after the medical bills were paid on Patrech Jones' behalf. No fee contract was ever signed with Mr. Scull.

Mr. Scull advised Patrech Jones to contact Metro Physical Therapy for treatment. All medical bills or any other claims were to be sent to Mr. Scull's office. There was never any correspondence provided to Patrech Jones during the time that Mr. Scull handled the personal injury matter.

Mr. Scull did not provide his client with a copy of the settlement from the insurance company. He merely explained to Patrech Jones that the matter had settled. Mr. Scull provided Patrech Jones with a check in the amount of \$1200. There was never a settlement statement provided so there was never any indication of how much Mr. Scull received from the settlement nor how much was paid in medical bills.

During January 1999, Patrech Jones was sued in Municipal Court of Sherwood by Metrocentre Physical Therapy. The lawsuit was based upon a bill that Mr. Scull was to have paid. The Complaint was delivered to

Mr. Scull. He advised Patrech Jones not to worry about it that he would take care of the matter. An Answer was filed by Mr. Scull.

Patrech Jones discovered later that Request for Production of Documents, Requests for Admission and Interrogatories were filed by the attorney for Metrocentre. Mr. Scull never advised of this documents and never provided an opportunity to respond to them. On March 15, 1999, a Motion for Summary Judgment was filed against Patrech Jones. The basis for the Motion was the failure to respond to the Requests for Admission in a timely fashion. Mr. Scull did not respond to the Motion. Judgment was entered against Patrech Jones on March 16, 1999.

On December 22, 2004, Linda C. McCormack, attorney for Metrocentre, sent correspondence advising Patrech Jones that there was a balance due on a court judgment. Then in February 2005, Patrech Jones learned that Bank of America had been garnished and was paying Metrocentre the amount held there by Patrech Jones.

Mr. Scull did not contact Patrech Jones about these matters. At no time did he return the messages left for him by Patrech Jones nor did he ever attempt to contact Patrech Jones by letter.

Upon consideration of the formal complaint and attached exhibit materials, the consent proposal, 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. Scull's conduct violated Model Rule 1.3 when he failed to conclude his representation of Patrech Jones in a reasonable and prompt manner since he failed to use the funds which were to be maintained by him from the settlement proceeds to pay the medical providers; when he failed to respond to the Interrogatories in the civil matter brought against Patrech Jones, his client, in Sherwood Municipal Court in 1999; when he failed to respond to the Request for Production of Documents served on him as counsel of record in the civil matter brought against Patrech Jones in Sherwood Municipal Court in 1999; and, when he failed to respond to the Requests for Admission in the Sherwood Municipal Court matter wherein Metrocentre Physical Therapy sued Patrech Jones for the unpaid medical bill. Model Rule 1.3 requires that a lawyer

act with reasonable diligence and promptness in representing a client.

2. That Mr. Scull's conduct violated Model Rule 1.5(c) because although his fee agreement with Patrech Jones was based on a contingency fee agreement, he failed to place the agreement in written form and because he failed to provide his client with a written statement setting forth the outcome of the matter and showing the remittance to the client and the method of determination of each party's share. Model Rule 1.5(c) requires, in pertinent part, that a contingent fee agreement be in writing and requires that upon conclusion of a contingent fee matter, the lawyer provide the client with a written statement stating the outcome of the matter and, if there is a recovery, showing the remittance to the client and the method of its determination.

3. That Mr. Scull's conduct violated Model Rule 1.15(a) because he failed to maintain the monies owing to Patrech Jones' medical provider separate from his own. Model Rule 1.15(a) requires that all lawyers 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.

4. That Mr. Scull's conduct violated Model Rule 1.15(b) because he failed to promptly deliver to the medical provider of Patrech Jones the funds he received which were due and payable to the medical provider. Model Rule 1.15(b) requires, in pertinent part, that upon receiving funds in which a client or third person has an interest, a lawyer shall promptly deliver to the client or third person any funds that the client or third person is entitled to receive and, upon request by the client, shall promptly render a full accounting regarding such property.

5. That Mr. Scull's conduct violated Model Rule 8.4(d) because his lack of action on behalf of Patrech Jones by either remitting the funds he maintained to pay Metrocentre Physical Therapy or by presenting a defense in Sherwood Municipal Court resulted in a Judgment being entered against Patrech Jones and garnishments being pursued. These actions have caused adverse entries on the credit report of Patrech Jones. 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 ROBERT L. SCULL, III, Arkansas Bar ID#87155, be, and hereby is, REPRIMANDED for his conduct in this matter. Pursuant to Section 18.A of the Procedures of the Arkansas Supreme Court Regulating Professional Conduct of Attorneys at Law (2002) (“Procedures”), Mr. Scull is assessed the costs of this proceeding in the amount of \$50. Further, pursuant to Section 18.B of the Procedures, Mr. Scull is ordered to pay a fine in the amount of \$750. Mr. Scull is also ordered, pursuant to Section 18.C of the Procedures, to pay restitution in the amount of \$95.68 to Patrech Jones and \$1,157.69, to Metrocentre Physical Therapy, through its attorney, Linda McCormack. The costs, fine and restitution assessed and ordered 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: _____

J. Michael Cogbill, Chair, Panel B

Date: _____

(13.M, Rev.1-1-02)