

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

IN RE: **DAVID FRANKLIN MOREHEAD**
Arkansas Bar ID #89143
CPC Docket No. 2007-048

FILED

SEP 26 2007

**LESLIE W. STEEN
CLERK**

FINDINGS AND ORDER

The formal charges of misconduct upon which this Findings and Order is based were developed from information provided to the Committee by Jillian Parker on March 22, 2007. The information related to the representation of Ms. Parker in 2005-2007 by Respondent David Franklin Morehead, an attorney practicing primarily in Pine Bluff, Jefferson County, Arkansas. On May 11, 2007, Respondent was served with a formal complaint, supported by affidavits from Jillian Parker, Cheryl Parker, and Denise Parks. Respondent failed to file a timely response to the complaint, which failure to timely respond, pursuant to Section 9.C(4) of the Procedures, constitutes an admission of the factual allegations of the formal complaint and extinguishes Respondent's right to a public hearing.

Jillian Parker and her mother, Cheryl Parker, then Dermott residents, went to David F. Morehead in September 2005, seeking representation for their financial situation. He advised both to file for Chapter 7 bankruptcy protection and seek a discharge order. He told them that he required a \$208 or \$209 filing fee from each of them and would only charge \$250 for his legal services to each, for a total fee of \$500. Cheryl Parker paid him \$209 cash then for Jillian's case filing fee. At another meeting a short time later, Cheryl paid him \$208 for her filing fee.

On October 15, 2005, he filed the petition for Jillian as No. 05-bk-28354. On October 16, 2005, he filed the petition for Cheryl as No. 05-bk-28486. Cheryl later paid the \$250 for her legal

fee. Cheryl's case proceeded without incident. Mr. Morehead paid Cheryl's \$209 filing fee to the clerk on January 12, 2006. She received her discharge order on January 24, 2006.

He failed to pay Jillian's filing fee and her case was dismissed by order filed November 25, 2005, for failure to pay the filing fee. Thereafter there is no record in Jillian's case of his having taken any action to reopen her case or refile for her, or having paid any filing fee for Jillian. Jillian and Cheryl contacted his office several times for information about the status of Jillian's case, but they received no report, other than it was being worked on. Mr. Morehead was contacted by letter dated December 20, 2006, by the Office of Professional Conduct about Jillian's case, and others. In early January 2007, he contacted Jillian and told her he was working on her case, would get it refiled,, and she would owe him no more money for the matter. There has been no activity in her bankruptcy file since December 6, 2005. By not taking any action in Jillian's case since December 6, 2005, Mr. Morehead abandoned her as his client and effectively terminated the attorney-client relationship. He has failed to refund any unused part of the \$209 filing fee he received, but did not pay to the clerk, for Jillian's case.

Mr. Morehead failed to pay his 2006 Arkansas Supreme Court attorney's license fee, due by March 1, 2006, until June 6, 2006. He failed to pay his 2007 Arkansas Supreme Court attorney's license fee, due by March 1, 2007, until May 16, 2007. As a result of these actions, his Arkansas law license was in automatic suspension status from March 2 - June 6, 2006, and from March 2 - May 16, 2007. He practiced law in court during these periods.

Upon consideration of the formal complaint and attached exhibit materials, 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:

A. Mr. Morehead's conduct violated Rule 1.1 in that he received a \$208 filing fee, filed a Chapter 7 bankruptcy case for Jillian Parker on October 15, 2005, permitted her case to be dismissed on November 25, 2005, for his failure to timely pay her filing fee, and has taken no steps since then to reopen or refile her case and seek the relief she desired, conduct by him reflecting his lack of the legal knowledge, skill, thoroughness and preparation reasonably necessary for her representation. Arkansas Rule 1.1 requires that a lawyer shall provide competent representation to a client. Competent representation requires the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation.

B. Mr. Morehead's conduct violated Rule 1.3 in that he informed Jillian Parker in December 2005 and again in January 2007, that he would take necessary steps to see that her dismissed Chapter 7 bankruptcy case, No. 05-bk-28354, got refiled or otherwise back on track toward completion, yet he took no steps to do so since then. Arkansas Rule 1.3 requires that a lawyer shall act with reasonable diligence and promptness in representing a client.

C. Mr. Morehead's conduct violated Rule 1.4(a)(3) in that since December 2005, he has failed to keep Jillian Parker reasonably informed about the status of her bankruptcy case he was handling, other than to misinform her in January 2007 that he was working on her matter. Arkansas Rule 1.4(a)(3) requires that a lawyer shall keep the client reasonably informed about the status of the matter.

D. Mr. Morehead's conduct violated Rule 1.4(a)(4) in that Jillian Parker has requested information from him and his office several times since December 2005 about the status of her bankruptcy case, and he failed to reasonably provide her appropriate information. Arkansas Rule 1.4(a)(4) requires that a lawyer shall promptly comply with reasonable requests for information.

E. Mr. Morehead's conduct violated Rule 1.16(d) in that he effectively abandoned Jillian Parker as a bankruptcy client sometime after December 2005, yet he has failed to refund to her, or her mother who paid him, the \$209 filing fee he received in September 2005, but did not expend in her case. Arkansas Rule 1.16(d) requires that, upon termination of representation, a lawyer shall 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 or expense that has not been earned or incurred. The lawyer may retain papers relating to the client to the extent permitted by other law.

F. Mr. Morehead's conduct violated Rule 3.4(c) in that he failed to pay his 2006 Arkansas law license fee by March 1, 2006, and he failed to pay his 2007 Arkansas law license fee by March 1, 2007, both as required by Arkansas Supreme Court Rule VII.C, Rules Governing Admission to the Bar. Arkansas Rule 3.4(c) requires that a lawyer shall 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.

G. Mr. Morehead's conduct violated Rule 5.5(a) in that he failed to pay his 2006 Arkansas law license fee by March 1, 2006, as required by Arkansas Supreme Court Rule VII.C, Rules Governing Admission to the Bar, resulting in the automatic suspension of his Arkansas law license from March 2, 2006, until June 6, 2006, when he paid his 2006 license fee. He practiced law, including on cases for Carla Borkins (No. 06-bk-11050) and Lawrence and Marzella Smith (No. 06-bk-12012) while his license was suspended during this period. He

failed to pay his 2007 Arkansas law license fee by March 1, 2007, as required by Arkansas Supreme Court Rule VII.C, Rules Governing Admission to the Bar, resulting in the automatic suspension of his Arkansas law license from March 2, 2007, to May 16, 2007, when he paid his 2007 fee. He practiced law, including on cases for Freda Owen (No. 07-bk-11094), Dana Trotter (No. 07-bk-11110), and Winburn and Mary Tucker (No. 07-bk-11445), while his license was suspended during those periods. Arkansas Rule 5.5(a) provides that a lawyer shall not practice law in a jurisdiction in violation of the regulation of the legal profession in that jurisdiction, or assist another in doing so.

H. Mr. Morehead's conduct violated Rule 8.4(c) in that he accepted employment and a filing fee in a bankruptcy matter for Jillian Parker, filed her petition in October 2005, failed to pay her filing fee, allowed her case to be dismissed for failure by him to pay her filing fee, told her he would take steps to reinstate or reopen her case, have failed to do so since December 2005, and effectively abandoned her as a client thereafter, while from time-to-time informing her he was working on her matter, conduct by him involving dishonesty, fraud, deceit or misrepresentation. Arkansas Rule 8.4(c) provides that it is professional misconduct for a lawyer to engage in conduct involving dishonesty, fraud, deceit or misrepresentation.


I. Mr. Morehead's conduct violated Rule 8.4(d) in that he accepted Jillian Parker as a Chapter 7 bankruptcy client, filed her petition in October 2005, and allowed it to be dismissed for his failure to pay her filing fee, after he had already been provided funds in September 2005 with which to pay her fee. He has taken no action since December 2005 in her case, and she now is without any ready legal means to obtain the relief she sought in her case when she employed him. By this conduct, and by effectively abandoning her as his client, he engaged in conduct that is

prejudicial to the administration of justice. Arkansas Rule 8.4(d) provides that it is professional misconduct for a lawyer to 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 Arkansas law license of **DAVID F. MOREHEAD**, Arkansas Bar ID#89143, be, and hereby is, **SUSPENDED FOR TWO (2) MONTHS** for his conduct in this matter, he is **FINED \$1,500.00**, he is **ORDERED TO PAY \$209 RESTITUTION** for the benefit of Jillian Parker, and he is assessed Committee case costs of \$50.00. The suspension shall become effective on the date this Findings and Order is filed of record with the Clerk of the Arkansas Supreme Court, and shall be concurrent from its effective date with any other suspension on Respondent now in effect. The fine, restitution, and costs assessed herein, totaling \$1,759.00, 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: _____

August 29, 2007