

VIRGINIA:

BEFORE THE VIRGINIA STATE BAR DISCIPLINARY BOARD

IN THE MATTER OF GERALD MANLY BOWEN

VSB Docket No. 05-000-3792

ORDER

On May 20, 2005 this matter came on for a show cause hearing why Gerald Manly Bowen's license to practice law should not be suspended for failure to comply with an order of the Virginia State Bar Disciplinary Board. A hearing was held before a duly convened panel of the Virginia State Bar Disciplinary Board consisting of James L. Banks, Jr., Chair, W. Jefferson O'Flaherty, lay member, Glenn M. Hodge, Ann N. Kathan and H. Taylor Williams, IV.

All notices required by law were sent by the Clerk of the Disciplinary System.

Gerald Manly Bowen (Respondent) failed to appear. His *Guardian ad litem*, Alan Bruce Plevy, appeared and participated in the proceeding

Noel D. Sengel appeared as counsel for the Virginia State Bar.

Donna T. Chandler, RPR, RMP, of Chandler & Halasz, Registered Professional Reporters, P. O. Box 9349, Richmond, Va., 23227, (804) 730 1222, having been duly sworn reported the hearing.

The Chair opened the hearing by polling all members of the panel as to whether there existed any conflict or other reason why any member should not sit on the panel. Each, including the Chair, responded in the negative.

Thereafter, Bar Counsel presented the Order of November 2, 2002 requiring the Respondent to undergo a psychiatric examination (VSB Ex. 1) and evidence of the Bar's unsuccessful attempts to obtain compliance with the order by the Respondent (VSB Ex. 1A & 2-7). No evidence was presented on behalf of the Respondent to show that he had complied with the order.

Findings of Fact

The Board makes the following findings of fact on the basis of clear and convincing evidence:

1. Gerald Manly Bowen, Esquire is an attorney licensed to practice law in the Commonwealth of Virginia.

2. By Order entered on November 5, 2002, the Virginia State Bar Disciplinary Board ordered the Respondent to undergo a psychiatric evaluation to be conducted by Dr. Richard H. Ratner (see VSB Exhibit #1). The Order was properly served upon the Respondent at his last address of record with the Virginia State Bar (see VSB Exhibit #1.).

3. Since the entry of the November 5, 2002 Order, the Virginia State Bar has attempted to schedule an appointment for the Respondent with Dr. Ratner through the Respondent's *Guardian ad litem*, Alan Bruce Plevy, Esquire.

4. Mr. Bowen refused to talk with his *Guardian ad litem* unless all conversations with Mr. Plevy were transcribed by a court reporter. By letter dated February 21, 2003, Mr. Plevy sought permission from the Bar to hire a court reporter to transcribe his conversations with the Respondent at Bar expense (see VSB Exhibit #2). The Bar agreed to pay for a court reporter to transcribe conversations between the

Respondent and Mr. Plevy, and the Respondent was so informed. The Respondent still refused to cooperate with his *Guardian ad litem* in scheduling an appointment with Dr. Ratner.

5. In an effort to advise the Respondent of his need to heed the Board's Order and facilitate the scheduling of the appointment with Dr. Ratner, the Virginia State Bar had Dr. Ratner and Mr. Plevy appear at the Virginia State Bar Office on February 3, 2005 at 11:00a.m. The Bar subpoenaed the Respondent to appear at the same time and place to meet with Mr. Plevy and Dr. Ratner.

6. The Respondent appeared on February 3, 2005 pursuant to the subpoena but still refused to schedule an appointment with Dr. Ratner or to discuss his case in private with Mr. Plevy (see VSB Exhibit #3).

7. The Respondent's license to practice has been administratively suspended since October of 2000 (see VSB Exhibit #4).

8. The Bar is concerned that if the Respondent were reinstated by meeting his financial and Mandatory Continuing Legal Education obligations, the Respondent would again engage in the practice of law while he suffers from a probable impairment.

Disposition

Following closing argument by Bar Counsel and the *Guardian ad litem* at the conclusion of the evidence regarding the Motion to Show Cause, the Board recessed to consider the matter. The Board reviewed the foregoing findings of fact and the exhibits presented by Bar Counsel on behalf of the VSB. After due deliberation the Board reconvened and stated its findings as follows:

The Board determined that the Bar had proven by clear and convincing evidence that the Respondent had failed to comply with the terms of the November 5, 2002 order. It further appears that the Bar's concern that if the Respondent were reinstated by meeting his financial and Mandatory Continuing Legal Education obligations, the Respondent would again engage in the practice of law while he suffers from a probable impairment is well founded and that the public should be protected from that happening.

Accordingly, it is ordered that the Respondent's license to practice law is suspended, effective May 20, 2005, until such time as he has complied with the Order of November 5, 2002 and the results of the examination have been reported to the Bar.

It is further ORDERED that the Respondent must comply with the requirements of Part Six, § IV, Paragraph 13.M. of the Rules of the Supreme Court of Virginia. The Respondent shall forthwith give notice by certified mail, return receipt requested, of the suspension of his license to practice law in the Commonwealth of Virginia, to all clients for whom he is currently handling matters and to all opposing attorneys and presiding judges in pending litigation. The Respondent shall also make appropriate arrangements for the disposition of matters then in his care in conformity with the wishes of his client. Respondent shall give such notice within 14 days of the effective date of the suspension, and make such arrangements for the disposition of matters.

It is further ORDERED that if the Respondent is not handling any client matters on the effective date of suspension, he shall submit an affidavit to that effect to the Clerk of the Disciplinary System at the Virginia State Bar. All issues concerning the adequacy of the notice and arrangements required by Paragraph 13.M. shall be determined by the

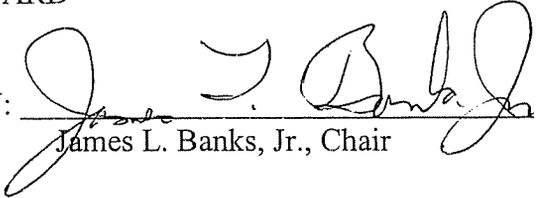
Virginia State Bar Disciplinary Board, unless the Respondent makes a timely request for hearing before a three-judge court.

It is further ORDERED that pursuant to Part Six, § IV, Paragraph 13.B.8.c. of the Rules of the Supreme Court of Virginia, the Clerk of the Disciplinary System shall assess all costs against the Respondent.

It is further ORDERED that the Clerk of the Disciplinary System shall mail an attested copy of this order to Respondent at his address of record with the Virginia State Bar, being 3174 Kirkwell Place, Herndon Virginia, 22071-3309, by certified mail, return receipt requested, and by regular mail to Alan Bruce Plevy, Respondent's *Guardian ad Litem*, 5th Floor, 8045 Leesburg Pike, Vienna, Virginia, 22182 and to Noel D. Sengel, Senior Assistant Bar Counsel, Virginia State Bar, Suite 310, 100 North Pitt Street, Alexandria, Virginia, 22314.

ENTERED this 15th day of June, 2005.

VIRGINIA STATE BAR DISCIPLINARY
BOARD

BY: 

James L. Banks, Jr., Chair

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