

VIRGINIA :

**BEFORE THE FOURTH DISTRICT - SECTION I COMMITTEE
OF THE VIRGINIA STATE BAR**

**IN THE MATTER OF
SCOT PETER GEORGE COWAN, ESQ.
VSB Docket No. 01-041-0082**

**COMMITTEE DETERMINATION
(PUBLIC) ADMONITION**

On May 12, 2004, a hearing in this matter was held before the duly convened Fourth District--Section I Committee of the Virginia State Bar, consisting of Debra D. Fitzgerald-O'Connell, Esq., John Miles Powell, Esq., David Alan Sattler, Esq., Mary Ellen Craig, Esq, and Jerry K. Emrich, Esq., presiding.¹

Pursuant to Part 6, §IV, ¶ 13(H) of the Rules of the Supreme Court of Virginia, the Fourth District--Section I Committee of the Virginia State Bar hereby serves upon the Respondent the following (Public) Admonition, as follows:

I. FINDINGS OF FACT

1. At all times relevant hereto Scot Peter George Cowan, Esq., (hereafter "Respondent") was an attorney licensed to practice law in the Commonwealth of Virginia, although he is not currently in good standing.

2. On or about June 12, 1997, Mr. Willie S. Ford (hereafter "Complainant") retained the Respondent to represent him in a Chapter 13 proceeding to be instituted on the Complainant's behalf in the United States Bankruptcy Court for the Eastern District of Virginia. One of the

¹ As noted on the record, due to unavailability, no lay member of the Committee was present on

Complainant's chief objectives in pursuing relief from the bankruptcy court was to protect against the loss of his home to foreclosure.

3. The Respondent subsequently filed the required bankruptcy petition, and the Complainant was afforded protection of the bankruptcy court under a Chapter 13 payment plan confirmed by the court on September 17, 1997.

4. In November, 1997, counsel for the Complainant's mortgage company filed a Motion for Relief from Automatic Stay alleging, *inter alia*, that the Complainant had failed to comply with the Chapter 13 plan. The Respondent filed a written Response to the said Motion, and the court thereafter entered an Order by consent on December 5, 1997, protecting the Complainant against foreclosure provided he make certain payments specified in the Order.

5. The Complainant was thereafter late in making his scheduled mortgage payments, and the mortgage company moved the court for entry of an order lifting the stay of foreclosure, at which proceeding on January 5, 1998, the Respondent did not appear.

6. On or about March 26, 1999, the Chapter 13 Trustee sent a letter to the Complainant, with a copy to the Respondent, advising that he, the Trustee, would cease making payments to the mortgage company in view of its intention to foreclose on the Complainant's property. At or near that same time, the Complainant telephoned the Respondent's Arlington, Virginia, office, and was referred to a telephone number in Culpeper, Virginia. The Complainant reached the Respondent at the Culpeper telephone number and discussed what was transpiring with the mortgage company.

7. The Respondent informed the Complainant that the Complainant would have to obtain

the panel which heard this matter.

new legal counsel in the matter, inasmuch as the Respondent was now outside the Eastern District of Virginia. The Respondent discussed with the Complainant conversations he had had with both the Trustee's Office and the Complainant's mortgage company's attorney regarding the status of the consent Order.

8. The Complainant thereafter contacted the Chapter 13 Trustee, and learned that Respondent remained counsel of record for the Complainant, and that Respondent had not sought leave of court to withdraw as Complainant's counsel.

9. The Complainant thereafter telephoned the Respondent, and received a recorded message referring him to a telephone number with a Tennessee area code. The Complainant reached an individual at the Tennessee telephone number, who advised the Complainant that he was the Respondent's brother, and that the Respondent would be given the Complainant's message. The following day the Respondent returned the call, leaving a message with the Complainant's daughter.

II. NATURE OF MISCONDUCT

The Committee finds that the following Disciplinary Rules have been violated:

DR 2-108. Terminating Representation.

- (C) In any court proceeding, counsel of record shall not withdraw except by leave of court after notice to the client of the time and place of a motion for leave to withdraw. In any other matter, a lawyer shall continue representation, notwithstanding good cause for terminating the representation, when ordered to do so by a tribunal.
- (D) Upon termination of representation, a lawyer shall take reasonable steps for the continued protection of a client's interests, including giving reasonable notice to the client, allowing time for employment of other counsel, delivering all papers and property to which the client is entitled, and refunding any advance payment of

fee that has not been earned. The lawyer may retain papers relating to the client to the extent permitted by applicable law.

DR 6-101. Competence and Promptness.

- (B) A lawyer shall attend promptly to matters undertaken for a client until completed or until the lawyer has properly and completely withdrawn from representing the client.

III. (PUBLIC) ADMONITION

Accordingly, it is the decision of the Committee that Respondent receive a (Public) Admonition pursuant to Part 6, §IV, ¶ 13(H)(2)(l)(2)(c) of the Rules of the Supreme Court of Virginia, and the Respondent is hereby admonished.

IV. COSTS

Pursuant to Part 6, § IV, ¶ 13(B)(8)(c) of the Rules of the Supreme Court of Virginia, the Clerk of the Disciplinary System shall assess costs against the Respondent.

**FOURTH DISTRICT - SECTION I COMMITTEE
OF THE VIRGINIA STATE BAR**

By _____
Jerry K. Emrich, Esq.
Chair/Chair Designate

CERTIFICATE OF SERVICE

I certify that I have this _____ day of May, 2004, mailed a true and correct copy of the foregoing Committee Determination ([Public] Admonition) by CERTIFIED MAIL, RETURN RECEIPT REQUESTED, to the Respondent, Scot Peter George Cowan, Esq., 770 Dickinson Street, Memphis, TN 38107, his address of record with the Virginia State Bar, and to Scot Peter George Cowan, Esq., 9236 Herring Hill Road, Millington, TN 38053.

Seth M. Guggenheim
Assistant Bar Counsel