



**BOARD OF PROFESSIONAL RESPONSIBILITY**  
of the  
**SUPREME COURT OF TENNESSEE**

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**RELEASE OF INFORMATION**  
**RE: WILLIAM A. COHN, NO. 5873**  
**CONTACT: JESSE D. JOSEPH**  
**BOARD OF PROFESSIONAL RESPONSIBILITY**  
**615-361-7500**

January 10, 2005

**CORDOVA ATTORNEY SUSPENDED BY SUPREME COURT**

William A. Cohn, a Cordova attorney, was suspended from the practice of law for ninety days, by Opinion and Judgment of the Supreme Court of Tennessee filed November 22, 2004. A Petition for Rehearing filed by Cohn was denied by the Supreme Court on December 14, 2004. Pursuant to Section 18.5 of Supreme Court Rule 9, the suspension became effective ten days from the date of the denial of the Petition for Rehearing, or on December 24, 2004.

Cohn's suspension arose out of a Petition for Discipline filed against him on October 28, 1998. A hearing was conducted by a Hearing Committee of the Board of Professional Responsibility on February 25 –26, 2002. By Judgment of the Hearing Panel entered April 8, 2002, the Hearing Panel found that Cohn had violated DR 1-102(A)(1)(4)(5)(6), DR 2-106(A), DR 7-101(A)(3), (A)(4)(c), DR 7-102(A)(3)(8), and DR 7-106(C)(5), and required him to disgorge to the US Bankruptcy Court within sixty days all funds received from the 61 clients identified in the US Bankruptcy Court's Opinion in *In re Phillips*, 219 B.R. 1001 (Bankr. W.D. Tenn 1998). Second, the Panel ruled that should disgorgement not occur within sixty days, Cohn's license to practice should be suspended indefinitely until he presented proof of such payment to the satisfaction of the reinstatement committee. Finally, the Panel ruled that Cohn should receive a public censure and assessed costs against him.

Both Cohn and the Board requested judicial review of the Panel's Judgment by filing petitions for certiorari in the Shelby County Chancery Court. The Chancery Court required Cohn to disgorge \$13,996.73 in post-confirmation attorney fees collected from the 61 clients which gave Cohn credit for \$2,436.85 he had already paid to the Bankruptcy Court in settlement of his clients' active cases as of April, 1998. The Chancery Court also ruled that Cohn violated the disciplinary rules set forth in the Panel's Judgment, reversed the Panel's imposition of an indefinite suspension until Cohn made the required disgorgement, and affirmed the imposition of a public censure.

Both Cohn and the Board appealed the decision of the Chancery Court. The Tennessee Supreme Court in its November 22, 2004 Judgment and Opinion affirmed the findings of both

the Hearing Panel and Chancery Court that Cohn had violated the disciplinary rules ordered by the Board in the Petition for Discipline.

For seven years between 1991 and 1998, Cohn, an experienced bankruptcy attorney, collected post-confirmation attorney fees from his debtor clients using a creditors' procedure which the Bankruptcy Court found improper – by filing creditors' proofs of claim for such fees under 11 U.S.C. Section 1305 rather than detailed fee requests. Cohn was not permitted by Section 1305 of the Bankruptcy Code to file such claims because he obtained no prior approval from the Chapter 13 Trustee for such fees, and because such claims as Cohn's for "routine legal work" were not considered necessary and unforeseen expenses incurred by his debtor clients. This procedure utilized by Cohn subverted the controlling principle inherent in all the workings of the bankruptcy court to the effect that a full review of all attorney fees sought must occur, and was not utilized by Cohn in good faith. Although the Bankruptcy Court acknowledged that both the Chapter 13 Trustee and the Bankruptcy Court itself shared some responsibility for not stopping Cohn's practice earlier, the Hearing Panel and Tennessee Supreme Court found that the primary responsibility should be borne by Cohn for initiating and continuing this improper practice until he was stopped.

Given Cohn's failure to provide meaningful notice of his post-confirmation claims to the Bankruptcy Court, to the Chapter 13 Trustee, and to his clients, his practice of collecting post-confirmation fees in this fashion was not open but was surreptitious and designed to avoid scrutiny – particularly since Cohn fully realized that due to the volume of claims filed in the US Bankruptcy Court for the Western District of Tennessee, his 61 proofs of claim would not be meaningfully reviewed by either the trustee or the bankruptcy court. As to the question of disgorgement, the Tennessee Supreme Court upheld the Chancery Court's Order that Cohn disgorge to the US Bankruptcy Court the \$13,996.73 he received in post-conviction fees from all 61 clients and reasoned that the prudent course is to leave it up to the Bankruptcy Court to decide whether Cohn may re-apply for any of the fees using Section 330 of the Bankruptcy Code.

In light of the aggravating factors – Cohn's four reprimands, his deceptive and clandestine conduct and his substantial experience in the practice of law – and one mitigating factor – that the bankruptcy trustee must share in some responsibility for not stopping the practice earlier – the Tennessee Supreme Court reversed the Chancery Court's imposition of a public censure and suspended Cohn from the practice of law for 90 days.

Cohn is required by Section 18 of Tennessee Supreme Court Rule 9 to notify by registered or certified mail all clients being represented in pending matters, all co-counsel and opposing counsel of the Tennessee Supreme Court's Order suspending his license. Section 18 also requires Cohn to deliver to all clients any papers and property to which they are entitled.

Cohn may resume the practice of law in Tennessee on March 24, 2005 without having to initiate a reinstatement proceeding under Section 19 of Rule 9.

JDJ:mw