

VIRGINIA:

BEFORE THE THIRD DISTRICT SECTION III SUBCOMMITTEE  
OF THE VIRGINIA STATE BAR

IN THE MATTER OF  
WILLIAM THEODORE LINKA

VSB Docket No. 07-033-2689

SUBCOMMITTEE DETERMINATION  
PUBLIC DISMISSAL FOR EXCEPTIONAL CIRCUMSTANCES

On August 22, 2008, a meeting in this matter was held before a duly convened Third District Subcommittee consisting of Dennis R. Kiker, Chair, David P. Baugh, Esquire and Margaret E. McDermid, lay person.

Pursuant to Part 6, Section IV, Paragraph 13.G.1.a.4. of the Rules of the Virginia Supreme Court, the Third District Section III Subcommittee of the Virginia State Bar hereby serves upon the Respondent the following Public Dismissal for Exceptional Circumstances:

I. FINDINGS OF FACT

1. Respondent was at all times relevant an attorney licensed to practice law in the Commonwealth of Virginia.

2. The Virginia State Bar received notice that Respondent was counsel of record in three criminal cases before the Supreme Court of Virginia in which each case was dismissed for failure to either properly note or perfect the appeal.

3. Respondent stated at the time that he missed the appeal deadlines leading to dismissal of the cases, his secretary was experiencing difficulty that caused her to not take adequate steps to ensure that all deadlines were met.

4. Respondent cooperated with the Bar's investigation at all times relevant and did not offer his secretary's failure as a defense to his inaction, but instead accepted full responsibility.

5. The missed deadlines occurred during a period of time for which Respondent received a Public Reprimand with Terms by the Virginia State Bar Disciplinary Board for similar conduct to the instant case.

6. Nonetheless, the instant case was not referred to the Bar for action until after the Board issued its Public Reprimand with Terms on July 7, 2006. The Public Reprimand with Terms was issued in the case of In the Matter of William Theodore Linka, VSB Docket Nos. 05-033-0959, 05-033-2226, 05-033-2295, 05-033-2296, 05-033-4283, 06-033-1513 and 06-033-1737.

7. Assistant Bar Counsel has advised the Subcommittee that had he been aware of these cases, he would have included them as part of the overall case that resulted in the Disciplinary Board's Determination of July 7, 2006.

8. The Respondent complied with all of the terms of his Public Reprimand with Terms, and the Bar closed the case on December 20, 2006.

9. The Subcommittee was of the opinion that because the conduct complained of was similar in nature and during the same time period of the misconduct in the other cases, that further action is not warranted and that such exceptional circumstances warrant dismissal under the Subcommittee's authority pursuant to Part 6, Section IV, Paragraph 13.G.1.a.4.

## II. NATURE OF MISCONDUCT

Such conduct by William Theodore Linka constitutes misconduct in violation of the following provisions of the Rules of Professional Conduct:

### RULE 1.3 Diligence

(a) A lawyer shall act with reasonable diligence and promptness in representing a client.

## III. DISMISSAL FOR EXCEPTIONAL CIRCUMSTANCES

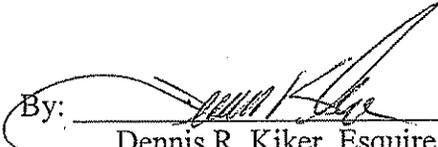
Accordingly, it is the decision of the subcommittee that Respondent receive a Dismissal for Exceptional Circumstances pursuant to Paragraph 13.G.1.a.4. of the Rules of Court.

Pursuant to Paragraph 13.B.8.c., the Clerk of the Disciplinary System shall assess costs.

NOTICE

**Part 6, Section IV, Paragraph 13.G.1.a, a finding of Dismissal for Exceptional Circumstances creates a Disciplinary Record. You have the right to request a hearing before the full District Committee within ten days of the date of this determination.**

THIRD DISTRICT SUBCOMMITTEE  
OF THE VIRGINIA STATE BAR

By:   
Dennis R. Kiker, Esquire  
Subcommittee Chair

CERTIFICATE OF MAILING

I certify that on this 4<sup>th</sup> day of September, 2008, I caused to be mailed by Certified Mail, Return Receipt Requested, a true and complete copy of the Subcommittee Determination PUBLIC Dismissal for Exceptional Circumstances to William Theodore Linka, Respondent, at Richmond Criminal Law, 7 South First Street, Richmond, VA 23219, his last address of record with the Virginia State Bar.

  
Paulo E. Franco, Jr.,  
Assistant Bar Counsel