

VIRGINIA :

BEFORE THE VIRGINIA STATE BAR DISCIPLINARY BOARD

IN THE MATTER OF THOMAS WESFORD KINNANE, ESQUIRE

VSB DOCKET NO. 06-000-2276

**ORDER OF REVOCATION**

THIS MATTER came on to be heard on February 24, 2006 before a panel of the Virginia State Bar Disciplinary Board convening at the State Corporation Commission, 1300 East Main Street, Richmond, Virginia 23219, hearing room B. The Board was comprised of Peter A. Dingman, Chair, Theodore Smith, Ph.D., Lay member, Russell W. Updike, Esquire, H. Taylor Williams, IV, Esquire, and Sandra Lea Havrilak, Attorney at Law. Proceedings in this matter were transcribed by Theresa L. McLean, CCR, a registered professional reporter, Post Office Box 9349, Richmond, Virginia 23227, (804) 730-1222. The court reporter was sworn by the Chair, who then inquired of each member of the panel as to whether they had any personal or financial interest or bias which would interfere with or influence that member's determination of the matter. Each member, including the Chair, answered in the negative; the matter proceeded.

The hearing was originally scheduled to be heard at the Lewis F. Powell Courthouse; however, the hearing was moved to the current location at the State Corporation Commission. Notice was posted on the door of the Lewis F. Powell Courthouse courtroom and a clerk of the Virginia State Bar was assigned to the Lewis F. Powell Courthouse courtroom to direct all interested parties to the State Corporation Commission. The Respondent, Thomas Wesford Kinnane, failed to appear. The Chair

directed the Clerk to call the case in the hallway three (3) times and no one responded. The Virginia State Bar appeared by its counsel, Paulo E. Franco, Esquire.

### **I. FINDINGS OF FACT**

This matter came before the Disciplinary Board as a result of the Respondent being disbarred from the practice of law in the State of Maryland, effective December 23, 2005, by order of the Court of Appeals of Maryland, Misc. Docket AG No: 74, decided December 23, 2005. A Rule to Show Cause and Order of Suspension and Hearing was entered on January 27, 2006.

The Board found that all legal notices of the date and time and place of the hearing were timely sent by the Clerk of the Disciplinary System in the manner prescribed by law.

Part Six, §IV ¶ 13.I.7 of the Rules of the Supreme Court of Virginia specifies how the Board is to proceed upon receiving notice of disbarment of a Virginia attorney in another jurisdiction. The Rule states that the Board shall impose the same discipline as was imposed in the other jurisdiction unless the Respondent proves, by clear and convincing evidence, one or more of the following three grounds for an alternative or no sanction being imposed:

(1) That the record of the proceeding in the other jurisdiction clearly shows that such proceeding was so lacking in notice or opportunity to be heard as to constitute a denial of due process.

(2) That the imposition by the Board of the same discipline upon the same proof would result in a grave injustice.

(3) That the same conduct would not be grounds for disciplinary action or for the same discipline in Virginia.

The following items were admitted into evidence:

Exhibit 1 – a certified copy of Mr. Kinnane’s disciplinary record as of February 22, 2006.

Exhibit 2 – a certified copy of the opinion and order in the matter of Attorney Grievance Commission of Maryland v. Thomas W. Kinnane, Misc. Docket AG No: 74, September term, 2004, filed December 23, 2005.

Exhibit 3 – Stipulation of Facts presented in the case of Attorney Grievance Commission of Maryland v. Thomas W. Kinnane, In the Court of Appeals Misc. Docket AG No: 74, September term, 2004.

Mr. Kinnane failed to appear, failed to file a written response to the notice and failed to file any argument in these proceedings.

## **II. DISPOSITION**

After hearing the evidence and argument of the Virginia State Bar, the Board found by clear and convincing evidence that the license of Thomas W. Kinnane to practice law in the State of Maryland has been revoked and that such action has become final. The Board also found that Respondent failed to prove by clear and convincing evidence any of the three grounds, which would permit this Board to impose any sanction other than revocation. Mr. Kinnane failed to produce any evidence whatsoever. Mr. Kinnane did participate in the proceedings in the State of Maryland and stipulated to the facts that warranted his revocation.

Accordingly, it is hereby ORDERED that Thomas W. Kinnane's license to practice to law in the Commonwealth of Virginia be and hereby is, revoked effective February 24, 2006.

It is further ORDERED that Respondent must comply with the requirements of Part Six, § IV, ¶ 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 revocation 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 clients. Respondent shall give such notice within fourteen (14) days of the effective date of the revocation, and shall make such arrangements as are required herein within forty-five (45) days of the effective date of the revocation. The Respondent shall also furnish proof to the Virginia State Bar within sixty (60) days of the effective date of the revocation that such notices have been timely given and such arrangements made for the disposition of these matters.

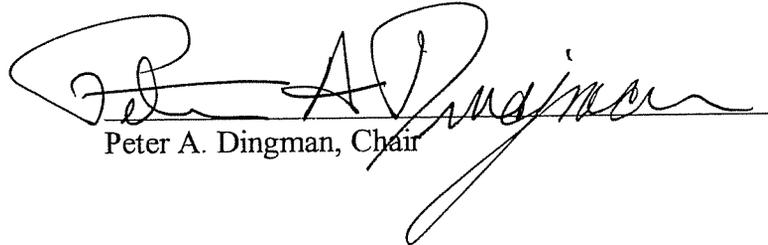
It is further ORDERED that if the Respondent is not handling any client matters on the effective date of the revocation, he shall submit an affidavit to that effect to the Clerk of the Disciplinary System of the Virginia State Bar. All issues concerning the adequacy of the notice and arrangements required by ¶13(M) shall be determined by the Virginia State Bar Disciplinary Board unless the Respondent makes a timely request for hearing before a three (3) judge court.

It is further ORDERED that pursuant to Part Six, §IV, ¶ 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 Thomas Wesford Kinnane, 959 Blue Fox Way, Arnold, Maryland 21012, by certified mail, return receipt requested, and by regular mail to Paulo Franco, Esquire, Assistant Virginia State Bar Counsel, Virginia State Bar, 707 East Main Street, Suite 1500, Richmond, Virginia 23219.

Entered this 3<sup>rd</sup> day of MARCH, 2006.

VIRGINIA STATE BAR DISCIPLINARY BOARD



Peter A. Dingman, Chair