

**UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE DIRECTOR OF THE UNITED STATES PATENT AND
TRADEMARK OFFICE**

In the Matter of:

David Malveaux,

Respondent

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Proceeding No. D2012-17

FINAL ORDER PURSUANT TO 37 C.F.R. § 11.24

Pursuant to 37 C.F.R. § 11.24(d), the suspension of David Malveaux, (Respondent) is hereby ordered for violation of the ethical standard set out in 37 C.F.R. § 10.23(b)(6) via 37 C.F.R. § 10.23(c)(5)(i).

Background

On January 24, 2012, the Supreme Court of California, in an Order issued in *In re David Gillespie Malveaux on Discipline*, Case No. S198032, publicly reprimanded Respondent for violating Business and Professions Code sections 6106 and 6068(k).

On April 18, 2012, a "Notice and Order Under 37 C.F.R. § 11.24" (Notice and Order) mailed by certified mail (receipt no. 70111150000146353905), informed Respondent that the Deputy General Counsel for Enrollment and Discipline and Director of the Office of Enrollment and Discipline (OED DGC) had filed a "Complaint for Reciprocal Discipline Under 37 C.F.R. § 11.24" (Complaint) requesting that the Director of the United States Patent and Trademark Office (USPTO or Office) impose reciprocal discipline upon Respondent identical to the discipline imposed by the the Supreme Court of California. The Notice and Order was delivered to Respondent on April 20, 2012.

The Notice and Order provided Respondent an opportunity to file, within forty days,

a response opposing, based on one or more of the reasons provided in 37 C.F.R. § 11.24(d)(1), the imposition of reciprocal discipline identical to that imposed by the Supreme Court of California. Respondent has not filed a response to the Notice and Order.

Analysis

In light of Respondent's failure to file a response, it is hereby determined that: (1) there is no genuine issue of material fact under 37 C.F.R. § 11.24(d) and (2) suspension of Respondent is appropriate.

ACCORDINGLY, it is hereby **ORDERED** that:

- a. Respondent is suspended from the practice of patent, trademark and other non-patent law before the USPTO for ninety days starting on the date this Final Order is signed;
- b. the OED DGC shall publish the following notice in the *Official Gazette*:

Notice of Suspension

This notice concerns David Malveaux of Long Beach, California, a registered patent attorney (Registration Number 57,356) licensed to practice law in the State of California. In a reciprocal disciplinary proceeding, Mr. Malveaux has been suspended for ninety days from the practice of patent, trademark, and other non-patent law before the United States Patent and Trademark Office ("USPTO") for violating 37 C.F.R. § 10.23(b)(6) via 37 C.F.R. § 10.23(c)(5)(i) by having been suspended on ethical grounds by a duly constituted authority of the state of California.

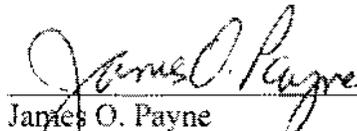
Via a January 24, 2012 order, the Supreme Court of California in *In re David Gillespie Malveaux*, Case No. S198032, suspended Mr. Malveaux for three years, stayed that suspension, placed him on a four-year probation, and suspended him for ninety days of his probation. The discipline was predicated upon two State Bar Court matters, Nos. 10-O-00685 and 11-O-12879. Regarding Case No. 10-O-685, it was stipulated that on December 21, 2009, Respondent faxed to the State Bar a three-page medical report for evaluation of substance abuse in connection with a then pending disciplinary proceeding, No. 07-C-13122; however, Respondent misrepresented to the State Bar that the report had been prepared by a particular doctor. By submitting the medical report which was not authored by the doctor to the State Bar and representing to

the State Bar that the report had been prepared by that doctor, Respondent committed an act involving moral turpitude, dishonesty, or corruption in willful violation of Business and Professions Code section 6106. Regarding Case No. 11-O-12879, on May 20, 2012, the Supreme Court of California had issued a disciplinary order to resolve four prior State Bar matters, placing Respondent on a two-year stayed suspension with conditions, including a three-year probation; however, Respondent failed to comply with the quarterly reporting conditions and the substance abuse conditions of his disciplinary probation. By failing to timely comply with the quarterly reporting conditions and the substance abuse conditions of his disciplinary probation imposed by the Supreme Court Order, Respondent failed to comply with all conditions attached to a disciplinary probation in willful violation of Business and Professions Code section 6068(k).

This action is taken pursuant to the provisions of 35 U.S.C. §§ 2(b)(2)(D) and 32 and 37 C.F.R. §§ 11.24. Disciplinary decisions involving practitioners are posted for public reading at the Office of Enrollment and Discipline's Reading Room located at: <http://des.uspto.gov/Foia/OEDReadingRoom.jsp>.

JUN 22 2012

Date



James O. Payne
Deputy General Counsel for General Law
United States Patent and Trademark Office

on behalf of

David Kappos
Under Secretary of Commerce For Intellectual
Property and Director of the United States Patent
and Trademark Office

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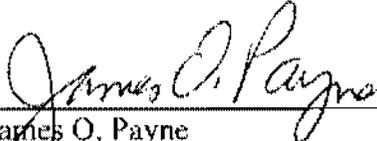
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