

**UNITED STATES
PATENT AND TRADEMARK OFFICE
BEFORE THE ADMINISTRATIVE LAW JUDGE**

In re RICHARD F. MORTON,)	
)	Proceeding No. 04-08
Respondent)	
)	

FINAL ORDER

The Director of the Office of Enrollment and Discipline (OED Director) of the United States Patent and Trademark Office (USPTO) and Richard F. Morton, Respondent, have submitted a settlement agreement in the above-identified proceeding that meets the requirements of 37 C.F.R. § 10.133(g).

In order to resolve the case without the necessity of a hearing, the OED Director and Respondent have agreed to certain stipulated facts, legal conclusions and sanctions, all of which are set forth below. It was further agreed between the OED Director and Respondent that this agreement resolves any and all disciplinary action by the USPTO arising from the allegations set forth in the Complaint.

Pursuant to that agreement, this Final Order sets forth the following stipulated facts, agreed-upon legal conclusions and sanctions.

STIPULATED FACTS

1. On October 1, 1999, the Hearing Board ("Hearing Board") of the Illinois Attorney Registration and Disciplinary Commission ("ARDC") issued a decision in a disciplinary proceeding involving Respondent (98 CH 24).
2. The Hearing Board found that Respondent had engaged in the following activities in violation of the rules of attorney conduct for the Supreme Court of Illinois:
 - a. entering into a business transaction with a client without making proper disclosures (134 Ill. 2d R 1.8(a));
 - b. conduct involving dishonestly, fraud, deceit or misrepresentation (155 Ill. 2d R 8.4(a)(4));
 - c. conduct prejudicial to the administration of justice (155 Ill. 2d R. 8.4(a)(5));
 - d. conduct which tends to defeat the administration of justice or bring the courts or the legal profession into dispute (134 Ill. 2d R. 771);

- e. failure to act with reasonable diligence and promptness in representing a client (134 Ill. 2d R. 1.3);
 - f. failure to keep a client reasonably informed about the status of a matter (134 Ill. 2d R. 1.4(a)); and
 - g. failure to deliver to his client all papers and property to which the client is entitled (134 Ill. 2d R. 1.16(d)).
3. Based on these factual findings, the Hearing Board suspended Respondent from practice in Illinois. Respondent's suspension was further conditioned on Respondent providing restitution to a former client and successfully completing ethics training with the Illinois Institute of Professional Responsibility ("Illinois Institute").
 4. Thereafter, Respondent filed exceptions to the Hearing Board's factual findings, and the case was presented to the Review Board of the ARDC.
 5. On October 30, 2001, the Review Board issued a Report and Recommendation, which affirmed the Hearing Board's findings of fact, and the Hearing Board's recommendation as to discipline.
 6. On March 22, 2001, the Supreme Court of Illinois entered an order which suspended Respondent from the practice of law for one year and until Respondent both provided restitution to a former client and successfully completed training with the Illinois Institute.
 7. On November 16, 2001, Respondent completed training with the Illinois Institute.
 8. In December 2001, the United States District Court for the Northern District of Illinois, Eastern Division, suspended Respondent from practice.
 9. As of the settlement agreement between Respondent and the USPTO, Respondent has not yet provided the ARDC with any evidence that he has paid restitution to his former client as ordered by the Supreme Court of Illinois.
 10. On May 22, 2001, two months after his suspension from practice by the Supreme Court of Illinois, Respondent filed two trademark applications with the USPTO: U.S. Serial Nos. 78/064,987 ("the '987 application") and 78/064,997 ("the '997 application").
 11. Respondent was listed as the attorney of record in the '987 application when the application was filed.
 12. Respondent was not replaced as the attorney of record in the '987 application until February 25, 2002, when a Power of Attorney naming another attorney was filed in the application.

13. Respondent was also listed as the attorney of record in the '997 application when the application was filed.
14. On August 22, 2001, Respondent conducted a telephone interview with the Trademark Examiner in the '997 application.
15. On March 19, 2002, a Notice of Allowance issued in the '997 application. The notice was also mailed to Respondent, who was still listed as the attorney of record in the '997 application.
16. Since March 19, 2002, Respondent has voluntarily ceased all practice of trademark or other non-patent law before the USPTO
17. All charges against Respondent under Rule 10.23(c)(16) have been withdrawn.

LEGAL CONCLUSIONS

Based upon the foregoing stipulated facts, Respondent acknowledges that his conduct violated the following Disciplinary Rules of the USPTO Code of Professional Responsibility:

18. Rule 10.23(b)(5), in that Respondent engaged in conduct that is prejudicial to the administration of justice because Respondent prosecuted a trademark application while suspended from the practice of law.
19. Rule 10.23(b)(6), in that Respondent engaged in conduct that adversely reflects on the practitioner's fitness to practice before the USPTO.
20. Rule 10.23(c)(5), in that Respondent was suspended from practice as an attorney on ethical grounds by the Supreme Court of Illinois.

SANCTIONS

Based on the foregoing, it is:

21. **ORDERED** that the Final Order incorporates the facts stipulated in Paragraphs 1-17 above.
22. **ORDERED** that Respondent is suspended from practicing trademark or other non-patent law before the USPTO for one (1) year from the date that Respondent provides proof of being readmitted to practice in the State of Illinois.

23. **ORDERED** that the OED Director publish the following Notice in the Official Gazette:

Notice of Suspension

In settlement of a complaint, the General Counsel, on behalf of the Director of the United States Patent and Trademark Office, has ordered that Richard F. Morton, of Chicago, IL, be suspended from practice for a period of one year after the date he is readmitted to practice by the Illinois Supreme Court. This action is taken pursuant to the provisions of 35 U.S.C. § 32 and 37 C.F.R. 10.133(g).

24. **ORDERED** that the OED Director give notice to appropriate employees of the USPTO, courts, and authorities of any State in which Respondent is known to be a member of the bar; and any appropriate bar association. 37 C.F.R. § 10.159(a).

25. **ORDERED** that all parties shall bear their own costs.

On behalf of Jon W. Dudas,
*Under Secretary of Commerce For Intellectual
Property and Director of the United States Patent
and Trademark Office*

3/22/05
Date


James A. Toupin
General Counsel
United States Patent and Trademark Office

cc: Harry I. Moatz
OED Director

Richard F. Morton