

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

In the Matter of	)	
	)	
Robert M. Seto,	)	Proceeding No. D2011-59
	)	
Respondent	)	

**FINAL ORDER**

The Director of the Office of Enrollment and Discipline (“OED Director”) for the United States Patent and Trademark Office (“USPTO” or “Office”) and Robert M. Seto (“Respondent”) have submitted a Proposed Settlement Agreement to the Under Secretary of Commerce for Intellectual Property and USPTO Director for approval.

The Proposed Settlement Agreement, which resolves all disciplinary action by the USPTO arising from the stipulated facts set forth below, is hereby approved. This Final Order sets forth the parties’ stipulated facts, legal conclusions, mitigating factors, and sanctions to which the OED Director and Respondent have agreed in order to resolve voluntarily the disciplinary complaint against Respondent.

**Jurisdiction**

1. At all times relevant hereto, Respondent of Virginia Beach, Virginia, has been an attorney registered to practice before the USPTO and is subject to the Disciplinary Rules of the USPTO Code of Professional Responsibility set forth at 37 C.F.R. § 10.20 *et seq.* Respondent’s registration number is 25,375.

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2. The USPTO Director has jurisdiction over this matter pursuant to 35 U.S.C. §§ 2(b)(2)(D) and 32 and 37 C.F.R. § 11.26.

**Stipulated Facts**

**Background**

3. At all times relevant hereto, Respondent of Virginia Beach, Virginia, has been registered as an attorney to practice before the Office and is subject to the Disciplinary Rules of the USPTO Code of Professional Responsibility. Respondent’s registration number is 25,375. Respondent has been admitted to practice as an attorney in the States of Missouri since April 27, 2007 (Bar Number 19659) where he is presently on Inactive status, and Hawaii since October 19, 1971 (JD Number 1108) and is presently Inactive – Emeritus Non Renew status. He is also admitted to practice in the District of Columbia since being admitted on February 2, 1979.

4. OED received information that Respondent assisted his son, Jeffrey Seto, in continuing to represent clients in patent and trademark applications before the Office after his son's employment as a patent examiner began in June of 2008.

5. Jeffrey Seto, a registered patent agent, operated Seto Patents, a private firm engaged in the practice of patent law before the Office, until he began work as a patent examiner with the USPTO in June 2008. Under 37 C.F.R. § 11.11(c), upon becoming employed by the Office, Jeffrey Seto was required to administratively inactivate his registration to practice before the Office and withdraw from all matters then pending before the Office. Jeffrey Seto failed to withdraw from the representation of his clients before the Office.

6. While aware of his son's federal employment, Respondent assisted his son in providing patent preparation and prosecution services for a number of Jeffrey Seto's clients in contravention of 37 C.F.R. §§ 11.10(d) and (e) and 18 U.S.C. §§ 203 and 205, which preclude employees of the Office from prosecuting or aiding in any manner in the prosecution of any patent application before the Office.

7. Jeffrey Seto was not a member of any bar and, after June 2008, Respondent assisted clients of Jeffrey Seto in providing services in connection with applications for federal trademark registration, in contravention of 18 U.S.C. §§ 203 and 205, which statutes preclude employees of the Office from prosecuting or aiding in any manner in the prosecution of any application for trademark registration. *See also* 37 C.F.R. § 2.17(a) ("Only an individual qualified to practice under §11.14 of this chapter may represent an applicant, registrant, or party to a proceeding before the Office in a trademark case.")

8. Respondent collected legal fees in connection with the patent and trademark legal services and shared the collected fees with his son.

### **Legal Conclusions**

9. Based on the information contained, above, in Paragraphs 3 through 8, Respondent acknowledges that his conduct violated the following Disciplinary Rules of the USPTO Code of Professional Responsibility:

- a. 37 C.F.R. § 10.23(a) which prohibits a practitioner from engaging in disreputable or gross misconduct;
- b. 37 C.F.R. § 10.23(b)(4) which prohibits a practitioner from engaging in conduct that involves dishonesty, fraud, deceit, or misrepresentation;
- c. 37 C.F.R. § 10.23(b)(5) which prohibits a practitioner from engaging in conduct that is prejudicial to the administration of justice;
- d. 37 C.F.R. § 10.23(b)(6) which prohibits a practitioner from engaging in conduct that adversely reflects upon the practitioner's fitness to practice before the Office;

- e. 37 C.F.R. § 10.37 which prohibits a practitioner from dividing a fee with another who is not a partner or associate of the practitioner's law firm without the consent of the client after full disclosure and the total fee is not excessive and is shared proportionally to the services performed by each; and
- f. 37 C.F.R. § 10.47(c) which prohibits a practitioner from aiding a non-lawyer in the unauthorized practice of law before the Office.

### **Mitigating Factors**

- 10. Respondent has no prior disciplinary history before the Office during the over fifty (50) years he has been registered as a patent practitioner.
- 11. Respondent has suffered a debilitating stroke that impaired him both physically and emotionally in 2005.
- 12. Respondent has had a distinguished career as an attorney, as a registered practitioner, a respected member of the Federal bench, and an educator.
- 13. Respondent was motivated to assist both his son and his son's clients, although admittedly misguided in his efforts to do so.
- 14. Respondent has not heretofore been the subject of any disciplinary history since becoming a lawyer in 1970.
- 15. Respondent has fully cooperated with the investigation of this matter.

### **Agreed-Upon Sanction**

16. Respondent agreed, and it is ORDERED that:

- a. Respondent be, and hereby is, suspended from the practice of patent, trademark, and other non-patent law before the Office for a period of four years from the date the Final Order is signed;
- b. Respondent be, and hereby is, granted limited recognition to practice before the Office beginning on the date the Final Order is signed and expiring forty five (45) days after the date the Final Order is signed with the limited recognition being granted for the sole purpose of facilitating Respondent's compliance with the provisions of 37 C.F.R § 11.58(b);
- c. Respondent shall comply with 37 C.F.R. § 11.58;
- d. The USPTO shall promptly dissociate Respondent's name from all USPTO customer numbers and Public Key Infrastructure ("PKI") certificates; Respondent shall not use any USPTO customer number or PKI certificate unless and until he is reinstated to practice before the USPTO; and

Respondent may not obtain a USPTO customer number or a PKI certificate unless and until he is reinstated to practice before the USPTO;

- e. The OED Director shall publish the Final Order at the Office of Enrollment and Discipline's Reading Room electronically located at:  
<http://des.uspto.gov/Foia/OEDReadingRoom.jsp>;
- f. The OED Director shall publish a notice that is materially consistent with the following Notice of Exclusion in the *Official Gazette*:

#### Notice of Suspension

Robert M. Seto of Virginia Beach, Virginia, registered patent attorney (Registration Number 25,375). Mr. Seto has been voluntarily suspended for four years from practice before the Office by the United States Patent and Trademark Office ("Office") for violating 37 C.F.R. § 10.23(a), which prohibits a practitioner from engaging in disreputable or gross misconduct; 37 C.F.R. § 10.23(b)(4), which prohibits a practitioner from engaging in conduct that involves dishonesty, fraud, deceit, or misrepresentation; 37 C.F.R. § 10.23(b)(5), which prohibits a practitioner from engaging in conduct that is prejudicial to the administration of justice; 37 C.F.R. § 10.23(b)(6), which prohibits a practitioner from engaging in conduct that adversely reflects upon the practitioner's fitness to practice before the Office; 37 C.F.R. § 10.37, which prohibits a practitioner from dividing a fee with another who is not a partner or associate of the practitioner's law firm without the consent of the client after full disclosure and the total fee is not excessive and is shared proportionally to the services performed by each; and 37 C.F.R. § 10.47(c), which prohibits a practitioner from aiding a non-lawyer in the unauthorized practice of law before the Office.

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Mr. Seto assisted his son in the unauthorized practice of patent and trademark law while his son was employed as a patent examiner at the Office. Mr. Seto collected fees from the clients and shared those fees with his son while his son was in the employ of the Office.

This action is the result of a settlement agreement between Mr. Seto and the OED Director pursuant to 35 U.S.C. §§ 2(b)(2)(D) and 32, and 37 C.F.R. §§ 11.26 and 11.59. 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>.

- g. Pursuant to 37 C.F.R. § 11.59, the OED Director shall give notice of the public discipline and the reasons for the discipline to disciplinary enforcement agencies in the states where Respondent is admitted to practice, to courts where Respondent is known to be admitted, and to the public;



cc:

Director of the Office of Enrollment and Discipline  
U.S. Patent and Trademark Office

Robert M. Seto  
4457 Clemsford Drive  
Virginia Beach, VA 23456

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OCT 11 2011

Date



WADE NORMAN

Acting Deputy General Counsel for General Law  
United States Patent and Trademark Office

on behalf of

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