

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

In the Matter of:)	
)	
Aaron J. Scalia,)	
)	Proceeding No. D2012-09
Respondent)	
)	
_____)	

FINAL ORDER

Pursuant to 37 C.F.R. § 11.27, the Director of the United States Patent and Trademark Office (“USPTO” or “Office”) received for review and approval from the USPTO’s Deputy General Counsel for Enrollment and Discipline and Director of the Office of Enrollment and Discipline (“OED Director”) an Affidavit of Resignation Pursuant to 37 C.F.R. § 11.27 executed by Aaron J. Scalia (“Respondent”). Respondent, who is a registered patent agent, submitted the affidavit to the USPTO for the purpose of being excluded on consent pursuant to 37 C.F.R. § 11.27.

For the reasons set forth herein, Respondent’s Affidavit of Resignation dated December 21, 2011, shall be approved, and Respondent shall be excluded on consent from practice before the Office effective on the date of this Final Order.¹

Jurisdiction

Respondent is a registered patent practitioner (Registration No. 52,193). Respondent is subject to the USPTO Code of Professional Responsibility and Disciplinary Rules. See 37 C.F.R. § 11.19(a). Accordingly, pursuant to 35 U.S.C. §§ 2(b)(2)(D) and 32, and 37 C.F.R. § 11.27, the USPTO Director has the authority to approve Respondent’s

¹ Respondent is a patent agent, not a patent lawyer. Therefore, he is not entitled to practice trademark or other non-patent law before the Office. See 37 C.F.R. § 11.5(a). Nevertheless, this Final Order encompasses the practice

Affidavit of Resignation and to exclude Respondent on consent from the practice of patent, trademark, and other non-patent law before the Office.

Respondent's Affidavit of Resignation

Respondent acknowledges in his Resignation Affidavit that:

1. His consent is freely and voluntarily rendered, and he is not being subjected to coercion or duress.
2. He is aware that there is a disciplinary complaint pending against him (USPTO Disciplinary Proceeding No. D2012-09) and that the complaint is comprised of allegations of misconduct predicated upon certain acts and omissions that culminated in his pleading guilty to, and being convicted of, conspiracy to commit securities fraud.
3. He is aware that the OED Director is of the opinion that, by engaging in acts and omissions culminating in his pleading guilty to, and being convicted of, conspiracy to commit securities fraud, he violated the following Disciplinary Rules of the USPTO Code of Professional Responsibility:
 - a. 37 C.F.R. § 10.23(a) (proscribing engaging in disreputable or gross misconduct);
 - b. 37 C.F.R. § 10.23(b)(3) via 37 C.F.R. § 10.23(c)(1) (conviction of a criminal offense involving moral turpitude, dishonesty, or breach of trust);
 - c. 37 C.F.R. §10.23(b)(4) (proscribing engaging in conduct involving dishonesty);
 - d. 37 C.F.R. § 10.23(b)(5) (proscribing engaging in conduct that is prejudicial to the administration of justice);
 - e. 37 C.F.R. § 10.23(b)(6) (proscribing engaging in any other conduct that adversely reflects on a practitioner's fitness to practice before the USPTO);
 - f. 37 C.F.R. § 10.57(b)(1) (proscribing knowingly revealing a confidence or secret of a client);

of patent, trademark, and other non-patent law before the Office.

- g. 37 C.F.R. § 10.57(b)(2) (proscribing knowingly using a confidence or secret of a client to the disadvantage of the client); and
- h. 37 C.F.R. § 10.57(b)(3) (proscribing knowingly using a confidence or secret of a client for the advantage of the practitioner or of a third person, unless the client consents after full disclosure).

4. Without admitting to violating any of the Disciplinary Rules of the USPTO Code of Professional Responsibility as alleged in USPTO Disciplinary Proceeding No. D2012-09, he acknowledges that, if and when he applies for reinstatement under 37 C.F.R. § 11.60, the OED Director will conclusively presume, for the limited purpose of determining the application for reinstatement, that (i) the allegations set forth in the disciplinary complaint pending against him are true and (ii) he could not have successfully defended himself against such allegations.

5. He has fully read and understands 37 C.F.R. §§ 11.27, 11.58, 11.59, and 11.60, and is fully aware of the legal and factual consequences of requesting and consenting to exclusion from practice before the USPTO.

6. He consents to being excluded from practice before the USPTO.

Exclusion on Consent

Based on the foregoing, the USPTO Director has determined that Respondent's Affidavit of Resignation complies with the requirements of 37 C.F.R. § 11.27(a). Hence, it is ORDERED that:

- 1. Respondent's Affidavit of Resignation shall be, and hereby is, approved;
- 2. Respondent shall be, and hereby is, excluded on consent from the practice of patent, trademark, and other non-patent law before the Office beginning on the date this Final Order is signed;
- 3. The OED Director shall publish this Final Order at the Office of Enrollment and

Discipline's Reading Room found at: <http://des.uspto.gov/Foia/OEDReadingRoom.jsp>;

4. The OED Director shall publish the following notice in the *Official Gazette*:

Notice of Exclusion on Consent

This notice concerns Aaron J. Scalia, a registered patent agent (Registration No. 28,792). The Director of the United States Patent and Trademark Office ("USPTO" or "Office") has accepted Mr. Scalia's affidavit of resignation and ordered his exclusion on consent from the practice of patent, trademark, and non-patent law before the Office.

Mr. Scalia voluntarily submitted his affidavit at a time when a disciplinary complaint was pending against him. He acknowledged that the Director of the USPTO's Office of Enrollment and Discipline ("OED Director") was of the opinion that Mr. Scalia's conduct violated 37 C.F.R. §§ 10.23(a), 10.23(b)(3) via 37 C.F.R. § 10.23(c)(1), 10.23(b)(4), 10.23(b)(5), 10.23(b)(6), 10.57(b)(1), 10.57(b)(2), and 10.57(b)(3) in connection with certain acts and omissions culminating in his pleading guilty to, and being convicted of, conspiracy to commit securities fraud. While Mr. Scalia did not admit to violating any of the Disciplinary Rules of the USPTO Code of Professional Responsibility as alleged in a pending disciplinary complaint, he acknowledged that, if and when he applies for reinstatement, the OED Director will conclusively presume, for the limited purpose of determining the application for reinstatement, that (i) the allegations set forth in the disciplinary complaint are true and (ii) Mr. Scalia could not have successfully defended himself against such allegations.

This action is taken pursuant to the provisions of 35 U.S.C. §§ 2(b)(2)(D) and 32, and 37 C.F.R. §§ 11.27 and 11.59. Disciplinary decisions involving practitioners are posted for public reading at the Office of Enrollment and Discipline Reading Room located at: <http://des.uspto.gov/Foia/OEDReadingRoom.jsp>.

5. Respondent shall comply fully with 37 C.F.R. § 11.58;
6. The OED Director, in accordance with 37 C.F.R. § 11.59, shall give notice of the public discipline and the reasons for the discipline to disciplinary enforcement agencies in the State where the practitioner is admitted to practice, to courts where the practitioner is known to be admitted, and the public;
7. Respondent shall comply fully with 37 C.F.R. § 11.60 upon any request for


reinstatement;

8. The OED Director and Respondent shall bear their own costs incurred to date and in carrying out the terms of this agreement; and

9. The OED Director shall move to dismiss the pending disciplinary complaint within fourteen days of the date of this Final Order.

FEB - 3 2012

Date



JAMES O. PAYNE
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

cc:

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

Michael L. Lipman,
Barbara Howe Murray
Duane Morris LLP
Suite 900
101 West Broadway
San Diego, CA 92101-8285
Counsel for Respondent

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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