

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

In the Matter of

Robert J. Miller,

Respondent

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Proceeding No. D2012- 11

FINAL ORDER

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

The Agreement is hereby approved, and this Final Order sets forth the parties’ stipulated facts, legal conclusions, and sanctions as set forth in the Agreement.

Jurisdiction

1. Respondent of Laurel, Maryland, is an agent registered to practice before the Office and is subject to the USPTO Disciplinary Rules set forth at 37 C.F.R. § 10.20 et seq.
2. The USPTO Director has jurisdiction over this matter pursuant to 35 U.S.C. § 2(b)(2)(D) and 37 C.F.R. §§ 11.20 and 11.26.

Stipulated Facts

3. Respondent did not timely file federal income tax returns for the years 1993 and 1998 through 2008; nor did he timely pay his federal income tax liabilities for those years.
4. Respondent did not timely file state income tax returns for the years 1998 through 2009; nor did he timely pay his state income tax liabilities for those years.
5. Respondent owes federal and state income taxes, interest, and penalties because he did not timely file federal or state income tax returns or timely pay federal or state income taxes. Respondent, however, has made arrangements with the appropriate federal and state authorities to make payments that should eventually eliminate his federal and state income tax delinquencies. Specifically, he has agreed with the United States Internal Revenue Service (“IRS”) to make four semi-annual payments to the IRS each in the amount of \$2,585.14 (“Payment Agreement with IRS”). He has also agreed with the State of Maryland to make monthly payments to the Comptroller of Maryland each in the amount of \$466.13 for eighty-eight months (“Payment Agreement with Maryland”).

6. Respondent represents that he is currently not representing other persons before the Office in patent matters.

Legal Conclusions

7. Based on the information contained in the Stipulated Facts, Respondent admits this conduct violates 37 C.F.R. §§ 10.23(a) (engaging in disreputable conduct) and 37 C.F.R. § 10.23(b)(6) (engaging in conduct that adversely reflects on a practitioner's fitness to practice before the Office).

Sanction

8. Respondent agrees, and it is ORDERED that:

- a. Respondent be, and hereby is, publicly reprimanded;
- b. Respondent be, and hereby is, placed on probation for eighty-eight months commencing on the date this Final Order is signed;
- c. Respondent be, and hereby is, permitted to practice patent law before the USPTO during this period unless he is subsequently suspended or excluded by order of the USPTO Director;
- d. (1) if the OED Director is of the opinion that Respondent, during his probationary period, failed to comply with any provision of this Final Order (e.g., his repayment or reporting obligations) or any Disciplinary Rule of the USPTO Code of Professional Responsibility, the OED Director shall:

(A) issue to Respondent an Order to Show Cause why the USPTO Director should not order that Respondent be immediately suspended for up to twenty-four months for the violations set forth in paragraph 7, above;

(B) send the Order to Show Cause to Respondent at the last address of record Respondent furnished to the OED Director pursuant to 37 C.F.R. § 11.11(a); and

(C) grant Respondent fifteen days to respond to the Order to Show Cause;

and

(2) in the event that, after the fifteen-day period for response and consideration of the response, if any, received from Respondent, the OED Director continues to be of the opinion that Respondent, during his probationary period, failed to comply with any provision of this Final Order or any Disciplinary Rule of the USPTO Code of Professional Responsibility, the OED Director shall:

(A) deliver to the USPTO Director: (i) the Order to Show Cause,

(ii) Respondent's response to the Order to Show Cause, if any, and
(iii) evidence and argument supporting the OED Director's conclusion that Respondent failed to comply with this Final Order (e.g., his repayment or reporting obligations) or any Disciplinary Rule of the USPTO Code of Professional Responsibility during his probationary period, and

(B) request that the USPTO Director immediately suspend Respondent for up to twenty-four months for the violations set forth in paragraph 7, above;

- e. The OED Director publish this 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 publish a notice in the *Official Gazette* materially consistent with the following:

Notice of Reprimand and Probation

This notice concerns Robert J. Miller of Laurel, Maryland, a registered patent agent. The United States Patent and Trademark Office ("USPTO") has publicly reprimanded Mr. Miller and placed him on probation for eighty-eight months for violating 37 C.F.R. §§ 10.23(a) (engaging in disreputable misconduct) and 37 C.F.R. § 10.23(b)(6) (engaging in conduct that adversely reflects on a practitioner's fitness to practice before the USPTO). Mr. Miller is permitted to practice before the USPTO in patent matters while on probation unless he is subsequently suspended or excluded by a Final Order of the USPTO Director.

Mr. Miller did not timely file federal income tax returns for the years 1993 and 1998 through 2008; nor did he timely pay his federal income tax liabilities for those years. Mr. Miller also did not timely file state income tax returns for the years 1998 through 2009, nor did he timely pay his state income tax liabilities for those years. Consequently, Mr. Miller owes federal and state income taxes, interest, and penalties. He, however, has made arrangements with the appropriate federal and state authorities to make payments that would eventually eliminate his federal and state income tax delinquencies.

This action is the result of a settlement agreement between Mr. Miller and the OED Director pursuant to the provisions of 35 U.S.C. §§ 2(b)(2)(D) and 37 C.F.R. §§ 11.20, 11.26, and 11.59. Disciplinary decisions involving practitioners are posted at the Office of Enrollment and Discipline's Reading Room located at:
<http://des.uspto.gov/Foia/OEDReadingRoom.jsp>.

- g. Based on Respondent's representation that he is currently not representing other persons before the Office in patent matters, the probation notification requirements of 37 C.F.R. § 11.20(a)(4) do not apply;

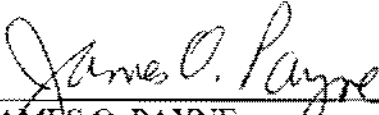
- h. The OED Director shall comply with the notification requirements of 37 C.F.R. § 11.59;
- i. If Respondent is suspended pursuant to the provisions of subparagraph d., above:
 - (1) the USPTO shall promptly dissociate Respondent's name from all USPTO customer numbers and Public Key Infrastructure ("PKI") certificates;
 - (2) Respondent shall not use any USPTO customer number or PKI certificate unless and until he is reinstated to practice before the USPTO;
 - and
 - (3) Respondent may not obtain a USPTO customer number or a PKI certificate unless and until he is reinstated to practice before the USPTO;
- j. In the event that the USPTO Director suspends Respondent pursuant to subparagraph d., above, any review of the suspension shall not operate to postpone or otherwise hold in abeyance the suspension;
- k. Respondent shall comply fully with the Payment Agreement with the IRS, which requires him to make four semi-annual payments to the IRS each in the amount of \$2,585.14;
- l. Respondent shall comply fully with the Payment Agreement with Maryland, which requires him to make monthly payments to the Comptroller of Maryland each in the amount of \$466.13 for eighty-eight months;
- m. If Respondent fails for any reason to make timely payments to the IRS or the Comptroller of Maryland, he shall be in violation of the Agreement and this Final Order, and the OED Director shall issue an Order to Show Cause pursuant to subparagraph d., above;
- n. Commencing on the first business day of the month after this Final Order is signed, and on the first business day of the month every three months thereafter until the end of his probationary period, Respondent shall submit to the OED Director (i) an affidavit attesting to his compliance with the Payment Agreement with IRS and his compliance with the Payment Agreement with Maryland and (ii) corroborating proof of his compliance (e.g., copies of the correspondence and payment remittance sent to the IRS and Maryland);
- o. During his probationary period, Respondent shall submit to the OED Director a copy of all correspondence to and from Respondent and the IRS about the Payment Agreement with IRS within ten business days of the date of such correspondence, including, but not limited to, correspondence concerning modifications, notices of default, or notice of breach of the Payment Agreement with IRS;
- p. During his probationary period, Respondent shall submit to the OED Director a copy of all correspondence to and from Respondent and the State of Maryland about the Payment Agreement with Maryland within ten business days of the date of such correspondence,

including, but not limited to, correspondence concerning modifications, notices of default, or notice of breach of the Payment Agreement with Maryland;

- q. Respondent shall submit to the OED Director by June 1, 2012, and by the first day of June each year thereafter during his probationary period, a copy of his official federal tax return transcript and his official federal tax account transcript (see IRS Form 4506-T (Rev. January 2011)) for the preceding tax year (e.g., by June 1, 2012, Respondent shall submit his official 2011 tax transcripts; by June 1, 2013, Respondent shall submit his official 2012 tax transcripts, etc.);
- r. Nothing in the Agreement or this Final Order shall prevent the Office from seeking discipline against Respondent in accordance with the provisions of 37 C.F.R. §§ 11.34 through 11.57 for the misconduct that caused Respondent to be suspended pursuant to subparagraph d., above;
- s. Nothing in the Agreement or this Final Order shall prevent the Office from considering the record of this disciplinary proceeding, including this Final Order (1) when addressing any further complaint or evidence of the same or similar misconduct against Respondent brought to the attention of the Office, and/or (2) in any future disciplinary proceeding against Respondent (a) as an aggravating factor to be taken into consideration in determining any discipline to be imposed and/or (b) to rebut any statement or representation by or on Respondent's behalf; and
- t. The OED Director and Respondent bear their own costs incurred to date and in carrying out the terms of the Agreement.

MAR 13 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

Robert Miller
332 Eagle Harbor South
Laurel, Maryland 20724

Notice of Reprimand and Probation

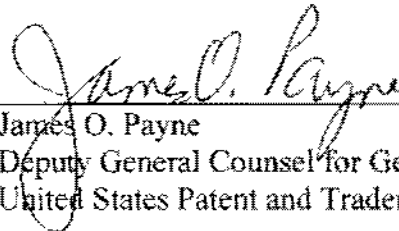
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MAR 13 2012

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