

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

In the Matter of)
)
David N. Oskin,)
)
Respondent)
_____)

Proceeding No. D2015-04

FINAL ORDER

Pursuant to 37 C.F.R. § 11.27(b), the Director of the United States Patent and Trademark Office (“USPTO” or “Office”) received for review and approval from the Director of the Office of Enrollment and Discipline (“OED Director”) an Affidavit of Resignation Pursuant to 37 C.F.R. § 11.27 executed by David N. Oskin (“Respondent”) on October 18, 2014. Respondent submitted the three-page Affidavit of Resignation 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 shall be approved, and Respondent shall be excluded on consent from practice before the Office in patent, trademark, and other non-patent matters commencing on the date of this Final Order.

Jurisdiction

Respondent of Chicago, Illinois, is a registered patent attorney (Registration Number 58,863) and is also registered as an attorney currently active and authorized to practice law in the State of Illinois. Respondent is subject to the USPTO Code of Professional Responsibility, 37

C.F.R. § 10.20 *et seq.*, and the USPTO Rules of Professional Conduct, 37 C.F.R. § 11.101 *et seq.*¹

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 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 October 18, 2014, Affidavit of Resignation that:

1. His consent is freely and voluntarily rendered, and he is not being subjected to coercion or duress.
2. He is aware that, pursuant to 37 C.F.R. § 11.22, the OED Director opened an investigation of allegations that he violated the USPTO Code of Professional Responsibility and/or Rules of Professional Conduct, namely: [REDACTED]. The investigation delved into and obtained information, *inter alia*, about:
 - a. The fact that he was the attorney of record in patent and trademark applications filed with the USPTO.
 - b. That he is currently an active member of the Illinois State Bar Association.
 - c. The Supreme Court of Indiana suspended Mr. Christopher E. Haigh from the practice of law in Indiana, and in a reciprocal disciplinary proceeding, the USPTO suspended Mr. Haigh from the practice of patent, trademark, and other non-patent law before the USPTO for a period of two years, effective August 3, 2009.
 - d. On November 19, 2013, the Hearing Officer for the Supreme Court of the State of Indiana recommended disbarment of Mr. Haigh for contempt of the Court's Suspension Order. On May 7, 2014, the Indiana Supreme Court affirmed that Mr. Haigh engaged in conduct in contempt of the Court's Suspension Order, and held that Mr. Haigh should be disbarred. Specifically, the Court found that while suspended, Mr. Haigh engaged in

¹ The USPTO Code of Professional Responsibility applies to practitioner misconduct that occurred prior to May 3, 2013, while the USPTO Rules of Professional Conduct, 37 C.F.R. § 11.101 *et seq.*, apply to a practitioner's misconduct occurring after May 2, 2013.

the unauthorized practice of law. The Indiana Supreme Court considered such contempt to be aggravated by Mr. Haigh maintaining a presence in the office of Caliber IP, where the practice of law, which was not limited to practice before the USPTO, was conducted and by holding himself out as a paralegal in the office of Caliber IP. Mr. Oskin owns and operates the law office of Caliber IP.

- e. Pursuant to 37 C.F.R. § 11.58(e), a suspended practitioner, such as Mr. Haigh, may act as a paralegal for another practitioner in his or her practice before the USPTO, provided certain requirements are met.
- f. In hiring and supervising Mr. Haigh as a paralegal for Caliber IP while Mr. Haigh was suspended from the practice of law, it is alleged that Respondent did not ensure that the requirements under 37 C.F.R. § 11.58(e) were met.

3. Respondent is aware that the OED Director for the USPTO is of the opinion, based on this investigation, that he violated the following provisions of the USPTO Code of Professional Responsibility: 37 C.F.R. § 10.23(b)(5) (proscribing conduct that is prejudicial to the administration of justice), and 37 C.F.R. § 10.47(b) (proscribing aiding a suspended or excluded practitioner in the practice of law before the Office).

4. Without admitting violating any of the Disciplinary Rules of the USPTO Code of Professional Responsibility and/or Rules of Professional Conduct investigated by the OED Director in [REDACTED], he acknowledges that, if and when he applies for reinstatement under 37 C.F.R. § 11.60 to practice before the USPTO in patent, trademark, and/or other non-patent matters, the OED Director will conclusively presume, for the purpose of determining the application for reinstatement, that (a) the allegations regarding him in [REDACTED] are true and (b) he could not have successfully defended himself against such allegations.

5. He has fully read and understands 37 C.F.R. §§ 11.5(b), 11.27, 11.58, 11.59, and 11.60, and is fully aware of the legal and factual consequences of consenting to exclusion from practice before the USPTO in patent, trademark, and other non-patent matters.

6. He consents to being excluded from practice before the USPTO in patent, trademark, and other non-patent matters.

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). Accordingly, it is hereby 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 practice before the Office in patent, trademark, and other non-patent matters commencing on the date of this Final Order;
3. The OED Director shall electronically publish the Final Order at the Office of Enrollment and Discipline's electronic FOIA Reading Room, which is publicly accessible at <http://e-foia.uspto.gov/Foia/OEDReadingRoom.jsp>;
4. The OED Director shall publish a notice in the *Official Gazette* that is materially consistent with the following:

Notice of Exclusion on Consent

This notice concerns David N. Oskin, a registered patent attorney (Registration No. 58,863). The Director of the United States Patent and Trademark Office ("USPTO" or "Office") has accepted Mr. Oskin's affidavit of resignation and ordered his exclusion on consent from practice before the Office in patent, trademark, and non-patent law.

Mr. Oskin voluntarily submitted his affidavit at a time when a disciplinary investigation was pending against him. The investigation concerned his hiring and supervision of a suspended patent practitioner, Mr. Christopher Haigh. The Indiana Supreme Court disbarred Mr. Haigh for contempt in violating its Suspension Order, by, among other things, engaging in the unauthorized practice of law. The Indiana Supreme Court considered such contempt to be aggravated by Mr. Haigh maintaining a presence in the office of Caliber IP, which was owned and operated by Mr. Oskin. Mr. Oskin acknowledged that the Director of the USPTO's Office of

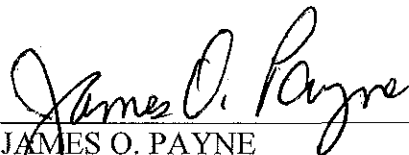
Enrollment and Discipline (“OED Director”) was of the opinion that his conduct violated 37 C.F.R. §§ 10.23(b)(5) (proscribing conduct that is prejudicial to the administration of justice) and 10.47(b) (proscribing aiding a suspended or excluded practitioner in the practice of law before the Office).

While Mr. Oskin did not admit to violating any of the Disciplinary Rules of the USPTO Code of Professional Responsibility as alleged in the pending investigation, 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 OED investigation against him are true and (ii) he 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, available at: <http://e-foia.uspto.gov/Foia/OEDReadingRoom.jsp>.

5. Respondent shall comply fully with 37 C.F.R. § 11.58; and

6. Respondent shall comply fully with 37 C.F.R. § 11.60 upon any request for reinstatement.



JAMES O. PAYNE
Deputy General Counsel for General Law
United States Patent and Trademark Office

DEC 12 2014

Date

on behalf of

Michelle K. Lee
Deputy Under Secretary of Commerce for Intellectual Property and
Deputy Director of the United States Patent and Trademark Office

cc:

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

Mr. David Oskin
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