

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

In the Matter of:)	
)	
Gregory J. Reed,)	Proceeding No. D2016-38
)	
Respondent.)	
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FINAL ORDER PURSUANT TO 37 C.F.R. § 11.24

Pursuant to 37 C.F.R. § 11.24, the Director of the United States Patent and Trademark Office (“USPTO” or “Office”) hereby suspends Gregory J. Reed (“Respondent”) from the practice of trademark and other non-patent matters before the Office for violation of 37 C.F.R. § 11.804(h). This reciprocal discipline is based on his suspension in the State of Michigan, as discussed below.

I. BACKGROUND AND PROCEDURAL HISTORY

At all times relevant to these proceedings, Respondent was admitted to the practice of law in Michigan. (Exhibit A, at 1). As a licensed attorney in good standing in Michigan, Respondent was authorized to practice before the USPTO in trademark and other non-patent matters. *See* 37 C.F.R. § 11.24(a). (Exhibit A, at 1). Respondent was at all times relevant to these proceedings bound by the USPTO Rules of Professional Conduct, found at 37 C.F.R. § 11.101 *et seq.*, which became effective May 3, 2013. (Exhibit A, at 2).

State Disciplinary Proceedings

Respondent became licensed to practice law in the State of Michigan on February 25, 1975. (Exhibit B, at 1).

By Corrected Final Notice of Suspension with Condition dated October 16, 2014, in Case No. 10-140-GA, the Attorney Discipline Board of the State of Michigan¹ (“Attorney Discipline Board”) suspended Respondent from the practice of law in Michigan for a period of 90 days based on ethical grounds. (Exhibit C). The bases for the Michigan suspension consisted of violations of the Michigan Rules of Professional Conduct (“MRPC”). (*Id.*) Specifically, the Attorney Discipline Board found that Respondent failed to seek the lawful objectives of his client through reasonably available means permitted by law, in violation of MRPC 1.2(a); brought or defended a proceeding or asserted or controverted an issue without basis for doing so that is not frivolous, in violation of MRPC 3.1; failed to make reasonable efforts to expedite litigation consistent with the interests of his client, in violation of MRPC 3.2; violated or attempted to violate the Rules of Professional Conduct, knowingly assisted or induced another to do so, or did so through the acts of another, in violation of MRPC 8.4(a); and engaged in conduct that is prejudicial to the administration of justice, in violation of MRPC 8.4(c). (*Id.*) The Attorney Discipline Board also found that Respondent violated Michigan Court Rules (“MCR”) 9.104(1), (2) and (4). (*Id.*)

USPTO Disciplinary Proceedings

On September 22, 2016, the Director of the USPTO’s Office of Enrollment and Discipline (“OED Director”) served a “Request for Notice and Order Pursuant to 37 C.F.R. § 11.24” (“Request for Notice and Order”) on Respondent. (Exhibit D), including a “Complaint for Reciprocal Discipline Pursuant to 37 C.F.R. § 11.24.” (Exhibit A). The OED Director requested that the USPTO Director impose reciprocal discipline on Respondent using the procedures set

¹ The Attorney Discipline Board of the State of Michigan is the adjudicative arm of the Michigan Supreme Court for discharge of its exclusive constitutional responsibility to supervise and discipline Michigan attorneys. See ATTORNEY DISCIPLINE BOARD, <http://www.adbmich.org/> (last visited Jan. 17, 2017).

forth in § 11.24 for violating 37 C.F.R. § 11.804(h), by being suspended on ethical grounds by a duly constituted authority of a State. (*Id.*).

On September 23, 2016, the Deputy General Counsel for General Law, on behalf of the USPTO Director, issued a Notice and Order giving Respondent 40 days to file a response “containing all information that Respondent believes is sufficient to establish, by clear and convincing evidence, a genuine issue of material fact that the imposition of discipline identical to that imposed by the Attorney Discipline Board of the State of Michigan in Case No. 10-140-GA, would be unwarranted, and the reasons for such claim.” (Notice and Order Pursuant to 37 C.F.R. § 11.24) (Exhibit E, at 1-2).

On October 31, 2016, Respondent submitted via facsimile a timely request for a 15-day extension of time to respond to the Notice and Order (Exhibit F), which was granted on November 1, 2016. (Exhibit G). Respondent was ordered to submit his response to the Notice and Order on or before November 17, 2016. (*Id.*).

On November 15, 2016, Respondent submitted via email a request for an additional 5 days, exclusive of weekend days, to respond to the Notice and Order. (Exhibit H). However, that request was denied on November 16, 2016 because Respondent was provided with sufficient time to prepare his response. (Exhibit I).

On November 16, 2016, Respondent timely filed “Respondent’s Objections for Reciprocal Discipline Pursuant to 37 CFR Sec. 11.24.” (Exhibit J). Subsequently, on November 17, 2016, Respondent timely filed “Respondent’s Objections for Reciprocal Discipline Pursuant to 37 CFR Sec. 11.24 ‘Corrected’” (“Corrected Response”), contesting the imposition of a reciprocal exclusion on multiple grounds. (Exhibit K).

II. LEGAL STANDARD

Pursuant to 37 C.F.R. § 11.24(d), and in accordance with *Selling v. Radford*, 243 U.S. 46 (1917), the USPTO has codified standards for imposing reciprocal discipline based on a State's disciplinary adjudication. Under *Selling*, state disbarment creates a federal-level presumption that imposition of reciprocal discipline is proper, unless an independent review of the record reveals: (1) a want of due process; (2) an infirmity of proof of the misconduct; or (3) that grave injustice would result from the imposition of reciprocal discipline. Federal courts have generally "concluded that in reciprocal discipline cases, it is the respondent attorney's burden to demonstrate, by clear and convincing evidence, that one of the *Selling* elements precludes reciprocal discipline." *In re Kramer*, 282 F.3d 721, 724 (9th Cir. 2002); *In re Friedman*, 51 F.3d 20, 22 (2d Cir. 1995). "This standard is narrow, for '[a Federal court, or here the USPTO Director is] not sitting as a court of review to discover error in the [hearing judge's] or the [state] courts' proceedings.'" *In re Zdravkovich*, 634 F.3d 574, 578 (D.C. Cir. 2011) (quoting *In re Sibley*, 564 F.3d 1335, 1341 (D.C. Cir. 2009)) (second and third alterations in original).

The USPTO's regulation governing reciprocal discipline, 37 C.F.R. § 11.24(d)(1), mirrors the standard set forth in *Selling*:

[T]he USPTO Director shall consider any timely filed response and shall impose the identical public censure, public reprimand, probation, disbarment, suspension, or disciplinary disqualification unless the practitioner clearly and convincingly demonstrates, and the USPTO Director finds there is a genuine issue of material fact that:

- (i) The procedure elsewhere was so lacking in notice or opportunity to be heard as to constitute deprivation of due process;
- (ii) There was such infirmity of proof establishing the conduct as to give rise to the clear conviction that the Office could not, consistently with its duty, accept as final the conclusion on that subject;
- (iii) The imposition of the same public censure, public reprimand, probation, disbarment, suspension or disciplinary disqualification by the Office would result in a grave injustice; or
- (iv) Any argument that the practitioner was not publicly censured, publicly

reprimanded, placed on probation, disbarred, suspended or disciplinarily disqualified.

To prevent the imposition of reciprocal discipline, Respondent is required to demonstrate that there is a genuine issue of material fact as to one of these criteria by clear and convincing evidence. *See* 37 C.F.R. § 11.24(d)(1). As discussed below, however, Respondent has not shown by clear and convincing evidence that there is a genuine issue of material fact with regard to any of the factors set forth in 37 C.F.R. § 11.24(d)(1).

III. ANALYSIS

A. Respondent Failed to Show a Deprivation of Due Process under 37 C.F.R. § 11.24(d)(1)(i).

Respondent argues that he suffered multiple due process violations during his disciplinary hearing before the Hearing Panel² convened by the Attorney Discipline Board, including the improper denial of Respondent's request to call prosecuting attorney Tim McConaghy as a witness or to otherwise disqualify him, the improper prohibition against calling his client Cheryl Janky to serve as a witness during the summary disposition hearing, the improper withholding of the identity of the person who was the source of the Attorney Grievance Commission's complaint against Respondent, and the improper prohibition from cross examining any witnesses. (Exhibit K, at 1, 3). Although Respondent asserts a due process violation, there is no evidence that Respondent was deprived of his substantive due process rights during his participation in the state disciplinary hearing.

A respondent may seek to defeat a presumption that imposition of reciprocal discipline is

² Hearing panels, appointed by the Attorney Discipline Board, are composed of three volunteer attorneys to conduct the trial-level proceedings under Subchapter 9.100 of the Michigan Court Rules, including cases in which the Attorney Grievance Commission has filed a formal complaint alleging that a member of the State Bar of Michigan has committed professional misconduct or should be transferred to inactive status. *See* ATTORNEY DISCIPLINE BOARD, <http://www.adbmich.org/> (last visited Jan. 17, 2017).

proper by showing by clear and convincing evidence that there was such a deprivation of due process as to give rise to a clear conviction that the Office could not, consistently with its duty, accept as final the State's conclusion on that subject. *See* 37 C.F.R. § 11.24(d)(1)(i). Due process violations concern the deprivation of the opportunity to have meaningful participation in the process. "The fundamental requirement of due process is the opportunity to be heard at a meaningful time and in a meaningful manner." *In re Karten*, 293 F.App'x. 734, 736 (11th Cir. 2008) (quoting *Mathews v. Eldridge*, 424 U.S. 319, 333 (1976)). In disciplinary proceedings, an attorney is entitled to due process, such as reasonable notice of the charges before the proceedings commence. *See In re Ruffalo*, 390 U.S. 544, 551 (1968). Due process requirements are satisfied where a respondent "attended and participated actively in the various hearings, and was afforded an opportunity to present evidence, to testify, to cross-examine witnesses, and to present argument." *In re Squire*, 617 F.3d 461, 467 (6th Cir. 2010) (quoting *Ginger v. Circuit Court for Wayne Cty.*, 372 F.2d 620, 621 (6th Cir. 1967)).

Respondent argues that the Hearing Panel convened to hear Respondent's disciplinary proceeding violated Respondent's due process rights by preventing him from calling Mr. McConaghy to serve as witnesses or to otherwise disqualify him, preventing Ms. Janky from providing testimony during his summary disposition hearing, and for allegedly withholding the identity of the person who submitted the complaint against Respondent. (Exhibit K, at 3). However, these claims all relate to the Hearing Panel's rulings on discovery matters and procedural decisions during the discovery process and the conduct of the disciplinary hearing, and does not relate to his meaningful participation in the process. Respondent has not made any arguments that he was deprived of his right to participate fully in the State level proceedings, and there is no evidence that shows otherwise. To the contrary, a review of the State level

proceedings shows that Respondent participated fully, as evidenced by the numerous motions and petitions submitted prior to the commencement of the hearing, and the pretrial conferences held by parties. (Exhibit L, at 2-3). Respondent was also afforded a multi-day trial before the Hearing Panel, where he was represented by counsel and was given the opportunity to provide testimony and submit briefs. (*Id.* at 3). Respondent also availed himself of the opportunity to petition the Attorney Discipline Board to review the Hearing Panel's decision, where his counsel submitted oral arguments and briefs supporting his appeal. (Exhibit L). Mere disagreement with discovery rulings during Respondent's participation in the hearing does not give rise to legitimate due process violations.

Respondent sole argument that could be considered to be a due process violation is his claim that he was "denied any and all opportunity from cross examining any witness" before the Hearing Panel (Exhibit K, at 1). As evidence, Respondent submits an Order dated February 24, 2012 with his Corrected Response. ("February 24, 2012 Order") (Exhibit K, at attachment marked "Exhibit D"). However, an examination of the February 24, 2012 Order does not support Respondent's argument. To the contrary, it shows that Respondent was indeed provided an opportunity to submit evidence as the Order clearly states that "respondent retains the right to introduce any and all rebuttal evidence" in response to the Attorney Grievance Commission's submitted exhibits. (*Id.*). And he did so by providing testimony himself, and also calling Cheryl Janky, Respondent's former client, and Thomas Lewis, local counsel, to provide testimony. (Exhibit L, at 3). Respondent's argument that he was denied the opportunity to cross examine the Attorney Grievance Commission's witnesses is a mischaracterization. Respondent did not have this opportunity because the Attorney Grievance Commission did not in fact call any witnesses (other than Respondent) to testify (*Id.*), and therefore there were no witnesses who

could be cross-examined. But, this does not negate the fact that Respondent had sufficient opportunity to introduce his own witnesses and otherwise provide evidence, as provided in the February 24, 2012 Order. In summary, all of this shows that Respondent had sufficient opportunity to provide evidence in the proceeding, and consequently there was no violation of due process.

In sum, Respondent's arguments that he suffered a due process violation is unsupported and he does not put forth any specific evidence or argument meeting the standard of proof under 37 C.F.R. § 11.24(d)(1)(i). Consequently, Respondent has not shown by clear and convincing evidence that a genuine issue of material fact exists as to whether there was any deprivation of due process in the disciplinary proceedings.

B. Respondent Failed to Show an Infirmity of Proof of the Misconduct under 37 C.F.R. § 11.24(d)(1)(ii).

Respondent makes several arguments challenging the validity of the Attorney Discipline Board's Corrected Final Notice of Suspension with Condition ("Corrected Final Notice") arguing that it was a "defective" notice that was "not true or accurate." (Exhibit K, at 1-2). Respondent does not clearly assert this argument under one of the factors set forth in 37 C.F.R. § 11.24(d)(1), thus for the purposes of this Final Order, it is most appropriately reviewed under the "infirmity of proof" criteria set forth at 37 C.F.R. § 11.24(d)(1)(ii). A respondent may seek to defeat a presumption that imposition of reciprocal discipline is proper by showing by clear and convincing evidence that there was such an infirmity of proof establishing the conduct as to give rise to a clear conviction that the Office could not, consistently with its duty, accept as final the State's conclusion on that subject. *See* 37 C.F.R. § 11.24(d)(1)(ii).

To successfully invoke infirmity of proof as a defense to reciprocal discipline,

Respondent must do more than simply challenge the fact finder's weighing of the evidence; he must demonstrate that there was "such an infirmity of proof" establishing the charges against him "as to give rise to the clear conviction" that accepting the state discipline would be "[in]consistent with [our] duty." *In re Zdravkovich*, 634 F.3d at 579 (alterations in original). "This is a difficult showing to make. . . ." *Id.* For reasons set forth below, Respondent's arguments fail to satisfy the requirements of 37 C.F.R. § 11.24(d)(1)(ii).

Here, Respondent argues that the Corrected Final Notice was defective because it was not based on sound evidence and did not accurately reflect the misconduct that Respondent allegedly violated. (Exhibit K, at 1). Respondent argues that the Attorney Grievance Commission, which served as the investigative and prosecutorial arm of the State of Michigan Bar, "failed to produce one witness to testify or by affidavit to corroborate its Complaint and the charges filed" and based its decision on "hearsay exhibits, [that were] not authenticated." (*Id.*). Respondent seems to suggest that the disciplinary action was without any basis, however, the facts supporting the State level discipline are properly supported through the 27 exhibits, consisting of pleadings, papers and opinions and orders, submitted by the Attorney Grievance Commission. The Attorney Discipline Board disciplined Respondent for violation of various provisions of the Michigan Rules of Professional Conduct (MRPC) and the Michigan Court Rules (MCR) for misconduct committed during the representation of his client Cheryl Janky in three legal actions filed against the Lake County Convention & Visitors Bureau, located in the State of Indiana, for copyright infringement. (Exhibit L, at 1). Based on the 27 exhibits, the Attorney Discipline Board found that Respondent violated several provisions of the MRPC and MCR. (*Id.*). Respondent put forth one argument claiming that he did not file an uncontroverted claim without the basis for doing so, in violation of MRPC 3.1, however, this argument was not supported by

any legal argument or documentary evidence. Rather than challenging the substantive evidence supporting the state discipline, Respondent argues that the exhibits submitted by the Attorney Grievance Commission was “not authenticated.” However, this argument has no merit. During the Attorney Discipline Board’s review of the Hearing Panel’s decision, the Respondent admitted that he stipulated to the authenticity of the exhibits, stating “there’s nothing more than a stipulation as to authenticity of these documents but not their admissibility.” (Exhibit L, at 4-5, 6, 7). Here, the Respondent does not contest the admissibility of the 27 exhibits, which was an issue raised before the Attorney Discipline Board. It is noteworthy that the Attorney Discipline Board found that Respondent did in fact stipulate to the admissibility, concluding that “this case can be decided upon the finding by the panel that respondent did in fact stipulate to the admissibility of petitioner’s exhibits 1-27.” (Exhibit L, at 9).

Respondent also argues that the Corrected Final Notice was defective because it did not accurately reflect that he was not found to have violated MRPC 8.3(a) for failing to report attorney for misconduct. (Exhibit K, at 2). While Respondent is correct that the Attorney Discipline Board found that Respondent did not violate MRPC 8.3(a), the Corrected Final Notice clearly and accurately reflects this fact. The Corrected Final Notice specifically states that the Board “did not find that respondent had violated MRPC 8.3(a).” (Exhibit C). Furthermore, the OED Director’s complaint for reciprocal discipline is predicated on Respondent’s violation of the MRPC 1.2(a), 3.1, 3.2, 8.4(a) and 8.4(c) and violation of the MCR 9.104(1), (2), and (4); it did not include a violation of MRPC 8.3(a) as a basis for the disciplinary action. (Exhibit A). Therefore, this argument is not relevant in this proceeding.

In sum, Respondent did not provide any specific evidence that the Attorney Discipline Board failed to consider or considered improperly any fact surrounding her matter.

Consequently, Respondent has not shown by clear and convincing evidence that a genuine issue of material fact exists as to whether there was any infirmity of proof in the disciplinary proceedings.

C. Imposition of a Reciprocal Suspension Would Not Result in a Grave Injustice under 37 C.F.R. § 11.24(d)(1)(iii).

Respondent argues in his Corrected Response that the disciplinary action against him is retaliation for actions taken by Respondent's client Cheryl Janky against attorney Timothy Jordan, who served as opposing counsel in Ms. Janky's copyright infringement matter. (Exhibit K, at 2-3). Respondent also makes a separate argument that claims that the OED Director improperly imposed reciprocal discipline on Respondent because this misconduct is not subject to the USPTO Rules of Professional Conduct. (Exhibit K, at 1). Because Respondent does not expressly assert these arguments under one of the factors set forth in 37 C.F.R. § 11.24(d)(1), for the purposes of this Final Order, they are most appropriately reviewed under the "grave injustice" criteria set forth at 37 C.F.R. § 11.24(d)(1)(iii).

Respondent has not shown by clear and convincing evidence that there is genuine issue of material fact that a reciprocal reprimand would result in a grave injustice. The grave injustice analysis for this factor focuses on whether the severity of the punishment "fits" the misconduct and allows for consideration of various mitigating factors. *See In re Thav*, 852 F. Supp. 2d 857, 861-62 (E.D. Mich. 2012); *see also In re Kramer*, 282 F.3d at 727 (on challenge to imposition of reciprocal discipline, "we inquire only whether the punishment imposed by [the first] court was so ill-fitted to an attorney's adjudicated misconduct that reciprocal disbarment would result in grave injustice"); *In re Attorney Discipline Matter*, 98 F.3d 1082, 1088 (8th Cir. 1996) (no grave injustice where disbarment imposed by the state court "was within the appropriate range of

sanctions”); *In re Benjamin*, 870 F. Supp. 41, 44 (N.D.N.Y. 1994) (public censure within range of penalties for misconduct and thus censure was not a grave injustice).

Here, Respondent’s 90-day suspension by the State was within the allowable range of penalties for his offenses. Michigan Rule 9.106 clearly states that a suspension is within the range of available sanctions for attorney misconduct. Allowable sanctions include a “suspension of the license to practice law in Michigan for a specified term, not less than 30 days, with such additional conditions relevant to the established misconduct as a hearing panel, the board, or the Supreme Court may impose.” Michigan Rule 9.106. When the Attorney Discipline Board imposed Respondent’s 90-day suspension from the practice of law, it considered the nature of Respondent’s misconduct and applied a sanction that was consistent with precedent. (Exhibit L, at 15). The Attorney Discipline Board reviewed the Hearing Panel’s decision and found that their 90-day suspension was appropriate. (*Id.* at 16). The Board stated that it “traditionally does not disturb a panel’s assessment unless it is clearly contrary to fairly uniform precedent for very similar conduct or is clearly outside the range of sanctions imposed for the type of violation at issue.” (*Id.* at 15). In this matter, the Board did not make this finding, and found the 90-day suspension appropriate. (*Id.* at 16).

As an attempt to circumvent reciprocal discipline, Respondent argues that the disciplinary action was initiated against him in retaliation for actions taken by Respondent’s client Cheryl Janky against opposing counsel Timothy Jordan. In 2007, Ms. Janky filed a disciplinary complaint against Mr. Jordan for “racial ethnic remarks and for unethical conduct” during the litigation of her copyright infringement matter. (Exhibit K, at 2). In response, Respondent claims that Mr. Jordan allegedly retaliated by filing a disciplinary complaint against Respondent. (*Id.*). Respondent also suggests the existence of a conflict of interest between Todd McConaghy,

who served as the prosecuting attorney for the Attorney Grievance Commission in Respondent's disciplinary matter, and Mr. Jordan because both were members of the Michigan Bar's Standing Committee on Character and Fitness, and thus were in "alliance." (*Id.*) Respondent suggests that collusion between Mr. Jordan and Mr. McConaghy is evidenced by the fact that the complaint drafted by Mr. McConaghy's office "mirrored" Mr. Jordan's complaint letter. (*Id.*) Respondent, however, provides no documentary evidence of any retaliation, collusion, or conflict of interest other than newspaper articles reporting on Mr. McConaghy's appointment as Chair of the Standing Committee on Character and Fitness, and on the recent firing of the Administrator of the Attorney Grievance Commission. (Exhibit K, at attachments marked "Exhibit A" and "Exhibit J"). Both of these articles contain no evidence supporting Respondent's claims. Also, the fact the complaint contained language similar to that in Mr. Jordan's letter is irrelevant. Thus, Respondent's argument that the Attorney Grievance Commission's true motivation for filing the disciplinary complaint against Respondent was retaliatory in nature is speculative and unsupported by any facts in the record.

Respondent also argues that the OED Director improperly imposed reciprocal discipline on Respondent because the misconduct that the disciplinary action is predicated upon occurred in 2003, prior to the 2013 effective date of the USPTO Rules of Professional Conduct. (Exhibit K, at 2). Respondent argues that the USPTO Rules of Professional Conduct do not apply to his action, citing the provisions of 37 C.F.R. § 11.901(b), which state that "[n]o practitioner shall be subject to a disciplinary proceeding under this part based on conduct engaged in before the effective date hereof if such conduct would not have been subject to disciplinary action before such effective date." However, Respondent misunderstands the basis for the OED Director's imposition of discipline. The OED

Director's discipline is predicated upon being suspended from the practice of law by a duly constituted authority of a State, pursuant to 37 C.F.R. § 11.804(h), and is not based on a disciplinary investigation of misconduct initiated by the OED Director. The State of Michigan's Attorney Discipline Board issued its order disciplining Respondent in October 16, 2014, well after the effective date of the USPTO Rules of Professional Conduct. It is that state discipline that violates USPTO's rules and is the basis for reciprocal discipline under § 11.24. Thus, Respondent is unequivocally subject to the USPTO Rules and the OED Director was proper in seeking reciprocal discipline of Respondent.

In the alternative, Respondent argues that he "does not practice before the USPTO and others (sic) non-patent matters," and therefore is not subject to the USPTO Rules of Professional Conduct. (Exhibit K, at 1). However, Respondent's argument is without merit as evidence shows Respondent does in fact practice before the Office. Section 11.19(a) of the USPTO Rules of Professional Conduct clearly states that "[a]ll practitioners engaged in practice before the Office... are subject to the disciplinary jurisdiction of the Office." Section 11.1 defines practitioner as "[a]n individual authorized under 5 U.S.C. 500(b), or otherwise as provided by § 11.14(a), (b), and (c), to practice before the Office in trademark matters or other non-patent matters." Respondent clearly states in the "Factual Background" section of his Corrected Response that he "[a]dmit[s] his office is the attorney of record of two pending applications before the Office." (Exhibit K, at 1). Therefore, based on Respondent's own admission, he meets the definition of "practitioner" under the regulations. Because Respondent meets the definition of practitioner, he is subject to the USPTO Rules of Professional Conduct.

Respondent attempts to argue that the Attorney Discipline Board's decision would cause a grave injustice, but Respondent does not put forth any specific evidence or argument meets the standard of proof under 37 C.F.R. § 11.24(d)(1)(iii). Thus, Respondent has failed to show by clear and convincing evidence that a "grave injustice" would result.

ORDER

ACCORDINGLY, it is:

ORDERED that Respondent is suspended from the practice of trademark and other non-patent matters before the USPTO for a period of ninety (90) days, effective the date of the Final Order;

ORDERED that the OED Director shall make public the following Notice in the Official Gazette:

Notice of Suspension

This notice concerns Gregory J. Reed of Detroit, Michigan, who is authorized to practice before the Office in trademark and non-patent matters. In a reciprocal disciplinary proceeding, the Director of the United States Patent and Trademark Office ("USPTO") has ordered that Mr. Reed be suspended for a period of 90 days from practice before the USPTO in trademark and other non-patent matters for violating 37 C.F.R. § 11.804(h), predicated upon being suspended from the practice of law by a duly constituted authority of a State. Mr. Reed is not authorized to practice before the Office in patent matters.

On October 16, 2014, the Attorney Discipline Board of the State of Michigan suspended Mr. Reed from the practice of law in Michigan for a period of 90 days for conduct that violated the Michigan Rules of Professional Conduct ("MRPC"). Specifically, the Attorney Discipline Board found that Mr. Reed failed to seek the lawful objectives of his client through reasonably available means permitted by law, in violation of MRPC 1.2(a); brought or defended a proceeding or asserted or controverted an issue without basis for doing so that is not frivolous, in violation of MRPC 3.1; failed to make reasonable efforts to expedite litigation consistent with the interests of his client, in violation of MRPC 3.2; violated or attempted to violate the Rules of Professional Conduct, knowingly assisted or induced another to do so, or did so through the acts of another, in violation of MRPC 8.4(a); and engaged in conduct that is prejudicial to the administration of justice, in violation of MRPC 8.4(c). The Attorney Discipline Board also found that Gregory J. Reed

violated Michigan Court Rules (“MCR”) 9.104(1), (2) and (4).

This action is taken pursuant to the provisions of 35 U.S.C. § 32 and 37 C.F.R. § 11.24. Disciplinary decisions are available for public review at the Office of Enrollment and Discipline’s FOIA Reading Room, located at: <https://e-foia.uspto.gov/Foia/OEDReadingRoom.jsp>.

ORDERED that the OED Director give notice pursuant to 37 C.F.R. § 11.59 of the public discipline and the reasons for the discipline to disciplinary enforcement agencies in the State(s) where Respondent is admitted to practice, to courts where Respondent is known to be admitted, and to the public;

ORDERED that the USPTO dissociate Respondent’s name from any Customer Numbers and the public key infrastructure (“PKI”) certificate associated with those Customer Numbers; and

ORDERED that Respondent shall not apply for a USPTO Customer Number, shall not obtain a USPTO Customer Number, nor shall he have his name added to a USPTO Customer Number, unless and until he is reinstated to practice before the USPTO.

Pursuant to 37 C.F.R. § 11.57(a), review of the final decision by the USPTO Director may be had by a Petition filed with the U.S. District Court for the Eastern District of Virginia under 35 U.S.C. § 32 “within thirty (30) days after the date of the order recording the Director’s action.” *See* E.D.Va. Local Civil Rule 83.5.

[signature page follows]

2/15/17

Date



Sarah T. Harris
General Counsel
United States Patent and Trademark Office

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

cc:

VIA EMAIL AND HAND DELIVERY

OED Director
U.S. Patent and Trademark Office

VIA CERTIFIED MAIL and EMAIL

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