

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

In the Matter of:

Brandon D. Ross,

Respondent

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Proceeding No. D2016-40

FINAL ORDER PURSUANT TO 37 C.F.R. § 11.24

Pursuant to 37 C.F.R. § 11.24, the exclusion of Brandon Ross (“Respondent”) is hereby ordered for violation of 37 C.F.R. § 11.804(h).

Background

On September 19, 2016, the Supreme Court of the State of New Hampshire issued an order in *In the Matter of Brandon D. Ross, Esquire*, LD-2016-0013, disbarring Respondent from the practice of law in New Hampshire on ethical grounds.

On January 26, 2017, a “Notice and Order Pursuant to 37 C.F.R. § 11.24” (“Notice and Order”) was mailed by certified mail (receipt no. 70160910000045134515) notifying Respondent that the Director of the Office of Enrollment and Discipline (“OED Director”) had filed a “Complaint for Reciprocal Discipline Pursuant to 37 C.F.R. § 11.24” (“Complaint”) requesting that the Director of the United States Patent and Trademark Office (“USPTO or Office”) impose reciprocal discipline upon Respondent identical to the discipline imposed by the Supreme Court of the State of New Hampshire in *In the Matter of Brandon D. Ross, Esquire*, LD-2016-0013. The Notice and Order was sent to Respondent at the most recent address provided to the OED Director pursuant to 37 C.F.R. § 11.11(a). The Notice and Order provided Respondent an opportunity to file, within forty (40) days, a response opposing the imposition of

reciprocal discipline identical to that imposed by the Supreme Court of the State of New Hampshire in *In the Matter of Brandon D. Ross, Esquire*, LD-2016-0013, based on one or more of the reasons provided in 37 C.F.R. § 11.24(d)(1).

Pursuant to USPS tracking records, the Notice and Order addressed to Respondent's address of record was forwarded to an address in Port Orange, Florida where it was delivered to an individual on February 9, 2017. Exhibit 1. Respondent is believed to reside at and/or receive mail at that address as there is no evidence to the contrary. Exhibit 2. Although the Notice and Order was not published in the Official Gazette, in an effort to maintain the confidentiality of the proceedings at this stage, the actions here satisfy the service requirements in 37 C.F.R. §§ 11.24 and 11.35. The Notice and Order was sent to Respondent's address of record. Though that address may not be his current address, he is obligated to "notify the OED Director of [his] postal address for [his] office . . . as well as every change to any of said addresses . . . within thirty days of the date of the change." 37 C.F.R. § 11.11(a). It does not appear that Respondent carried out this obligation and thus any fault in not receiving the Notice and Order lies with Respondent. Considering all the facts, Respondent was properly served under 37 C.F.R. §§ 11.24¹ and 11.35.² Despite this service, Respondent has not filed a response to the Notice and Order.

Analysis

In light of Respondent's failure to file a response, it is hereby determined that there is no genuine issue of material fact under 37 C.F.R. § 11.24(d) and Respondent's exclusion from the practice of patent, trademark and other non- patent law before the USPTO is the appropriate

¹ 37 C.F.R. § 11.24(b) requires that the notice be served on Respondent "in accordance with [37 C.F.R.] § 11.35[.]"

² 37 C.F.R. § 11.35(a)(2) permits service on a registered practitioner, such as Respondent, by "Priority Mail Express®, first-class mail, or any delivery service that provides ability to confirm delivery or attempted delivery to: (i) A respondent who is a registered practitioner at the address provided to OED pursuant to § 11.11[.]"

discipline.

ACCORDINGLY, it is hereby **ORDERED** that:

1. Respondent is excluded from the practice of patent, trademark and other non-patent law before the USPTO, effective the date of this Final Order;
2. The OED Director publish the following Notice in the *Official Gazette*:

NOTICE OF EXCLUSION

This notice concerns Brandon D. Ross of Manchester, New Hampshire, who is a registered patent attorney (Registration Number 64,189). In a reciprocal disciplinary proceeding, the Director of the United States Patent and Trademark Office ("USPTO") has ordered that Mr. Ross be excluded from practice before the USPTO in patent, trademark, and other non-patent matters for violating 37 C.F.R. § 11.804(h), predicated upon being disbarred on ethical grounds from the practice of law by a duly constituted authority of a State.

On September 19, 2016, the Supreme Court of the State of New Hampshire disbarred Mr. Ross from practice of law in New Hampshire for conduct that violated New Hampshire's Rules of Professional Conduct 1.1, 1.3, 1.4, 1.15, 3.3, 8.1(b), 8.4(c), and 8.4(a). Specifically, Mr. Ross violated these rules by misappropriating funds from a special needs trust, failing to account for client funds in his possession, filing false trust accounting certificates, and failing to respond to the New Hampshire Attorney Discipline Offices lawful demand for information.

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: <http://e-foia.uspto.gov/Foia/OEDReadingRoom.jsp>.

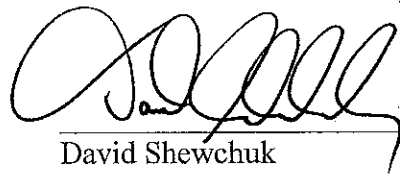
3. The OED Director give notice pursuant to 37 C.F.R. § 11.59 of the public discipline and the reasons for the discipline to disciplinary enforcement agencies in the state(s) where Respondent is admitted to practice, to courts where Respondent is known to be admitted, and to the public;
4. Respondent shall comply with the duties enumerated in 37 C.F.R. § 11.58;
5. The USPTO dissociate Respondent's name from any Customer Numbers

and the public key infrastructure ("PKI") certificate associated with those Customer Numbers; and

6. 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.

5 May 2017

Date



David Shewchuk
Deputy General Counsel for General Law
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:

OED Director
Mr. Brandon Ross