

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

In the Matter of)
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Mark D. Frederiksen)
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Respondent)
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_____)

Proceeding No.: D02-08

FINAL ORDER

The Director of Enrollment and Discipline (Director of OED) and Mark D. Frederiksen, Respondent, having submitted a settlement agreement in the above proceeding that meets the requirements of 37 C.F.R. § 10.133(g), it is:

1. ORDERED that Respondent be suspended for five years from the practice of patent, trademark and other non-patent law before the USPTO. The suspension to begin on the date this Final Order is entered.
2. ORDERED that the OED Director publish the following Notice in the Official Gazette:

Notice of Suspension

Mark D. Frederiksen, of Council Bluffs, Iowa, a patent attorney, registration number 31,357. In settlement of two reciprocal matters, the Director has suspended Frederiksen for five years from practice before the United States Patent and Trademark Office. The Nebraska Supreme Court suspended Frederiksen, who had misappropriated \$15,000 in fees from his own law firm, for three years for conduct involving dishonesty, fraud, deceit, or misrepresentation; and for failing to maintain complete records of all funds of a client coming into his possession. The Nebraska Court concluded that suspension, rather than disbarment, was warranted because no client was harmed, restitution was made, Frederiksen expressed sincere remorse, he was respected by members of the legal profession for his work, and he had the support of members of his new law firm. The Iowa Supreme Court publically reprimanded Frederiksen. The Director concluded that Frederiksen also engaged in conduct reflecting adversely on his fitness to practice. The suspension runs from *(enter date of Final*

Order). Frederiksen will be allowed to request probation after serving two years suspension. This action by the Director is taken pursuant to the provisions of 35 U.S.C. 32, and 37 C.F.R. 10.133(g).

3. ORDERED that the OED director give notice of the suspension to appropriate employees of the Office, courts and authorities of any State in which Respondent is known to be a member of the bar, and any appropriate bar association. 37 C.F.R. § 10.159(a).
4. ORDERED that during the suspension, Respondent shall not engage in the unauthorized practice of patent, trademark and other non-patent law before the USPTO. 37 C.F.R. § 10.159(a).
5. ORDERED that within 30 days of the USPTO Director signing a Final Order, Respondent shall have notified all bars of which he is a member and all clients for whom he is handling matters before the Office, in separate written communications, of the suspension, and shall file a copy of each written communication with the OED Director within the same 30 day period. 37 C.F.R. 10.158(b)(1)
6. ORDERED that within 30 days of the execution of this Final Order, Respondent shall have surrendered all clients active Office case files to (1) that client or (2) the another practitioner designated by that client, and shall file proof thereof with the OED Director within the same 30 day period. 37 CFR § 10.158(b)(2).
7. ORDERED that during the period Respondent is suspended, any communication relating to a client that is addressed to Respondent and/or received by him shall be immediately forwarded to the client or the practitioner designated by the client, and that Respondent will take no other legal action in the matter, enter any appearance, or provide any legal advice concerning the matter that is the subject of the communication. 37 CFR § 10.158(a), (b)(2), (b)(6)
8. ORDERED that within 30 days of the execution of the Final Order, Respondent shall return to any client for whom he was handling matters before the Office, any unearned legal funds, including any unearned retainer fee, and any securities and property of the client, and shall file proof thereof no later than upon filing a petition for reinstatement. 37 CFR § 10.158(b)(8), 10.160(d)
9. ORDERED that upon the execution of the Final Order, Respondent shall promptly take steps to comply with the provisions of 37 C.F.R. §§ 10.158(b)(3), (b)(4), (b)(5), (b)(6) and (b)(7), and further directing that within 30 days of taking steps to comply with § 10.158(b)(4) Respondent shall file with the OED Director an affidavit describing the precise nature of the steps taken, and still further directing that Respondent shall submit proof of compliance with §§ 10.158(b)(3), (b)(5), (b)(6), and (b)(7) with the OED Director upon filing a petition for reinstatement under 37 C.F.R. § 10.160.

10. ORDERED that before Respondent aids another practitioner in any way in the other practitioner's practice before the Office, Respondent shall promptly take steps to comply with the provisions of 37 C.F.R. §§ 10.158(c) and (d). Respondent shall submit proof thereof with the OED Director upon filing a petition for reinstatement under 37 C.F.R. § 10.160.
11. ORDERED that while Respondent is till permitted to practice law in Iowa or any other State in which he is licensed, he will not render legal advice or services on any pending or prospective patent, trademark or other non-patent business or matter before the Office.
12. ORDERED that Respondent shall notify the OED Director if Respondent is suspended or disbarred from practicing law in another jurisdiction while he is suspended from practice before the USPTO, and Respondent shall submit said notification to the OED Director within 10 business days of being suspended or disbarred. 37 C.F.R. §§ 10.23(c)(5), 10.133(g).
13. ORDERED that the Respondent inform the OED Director within 10days of any change in address or telephone number.
14. ORDERED that notwithstanding the term of suspension detailed above, Respondent may, two years after the date of this Final Order, request the remainder of his suspension be probated. At that time, Respondent may be placed on probation subject to satisfaction of the following conditions:
 - a. Respondent must demonstrate compliance with 37 C.F.R. § 10.158 and the Final Order throughout the preceding two years.
 - b. Respondent must demonstrate that he has attended at least twelve hours of continuing legal education on the subject of ethics during the preceding two years.
 - c. Respondent must demonstrate that at last three hours of the ethics training was concentrated on the subject of legal accounting and client trust funds.
 - d. The Director of the Office of Enrollment and Discipline must be satisfied that Respondent has not violated any disciplinary rules, except for the conduct reviewed in *State of Nebraska v. Frederiksen*, *Iowa Supreme Court Bd. v. Frederiksen* and stipulated above.
15. ORDERED that Respondent, between the time his request is approved and the end of his suspension, will be on probation and subject to the following conditions:
 - a. During the probationary period, Respondent must file quarterly accounting reports with the Director of OED showing that he handles client funds and property in accordance with the USPTO disciplinary rules. The reports need not name individual clients, but must demonstrate the funds and property

received from each client and the Respondent's handling of the funds and property.

- b. During the probationary period, Respondent must not violate any of the USPTO disciplinary rules.
 - c. During the probationary period, if Respondent violates the Final Order or is found, under 37 C.F.R. § 10.154, to have violated any USPTO disciplinary rule, Respondent's probation will be revoked and he will be suspended for a period of time equal to the balance of probation remaining at the time the violation first occurs, or one year, whichever is greater. This suspension will be in addition to any suspension or other discipline that Respondent receives based on the underlying violation of the Final Order or the USPTO disciplinary rule.
16. ORDERED that on or after the last day of suspension, Respondent may petition for reinstatement in accordance with the terms of 37 C.F.R. § 10.160. Practice before the Office without petitioning for reinstatement within 10 calendar days following the last day of suspension shall be a violation of the Final Order.

September 23, 2002
Date

/s/
James A. Toupin
General Counsel
United States Patent and Trademark Office
on behalf of
James E. Rogan
Under Secretary of Commerce For
Intellectual Property and Director of the
United States Patent and Trademark Office

cc: Harry I. Moatz
Office of Enrollment and Discipline
USPTO

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