

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

In the Matter of:

Stephen L. Smith,

Respondent

Proceeding No. D2010-01

FINAL ORDER UNDER 37 C.F.R. § 11.24

Pursuant to 37 C.F.R. § 11.24(d), the exclusion of Stephen L. Smith (Respondent) from the practice of patent, trademark, and other non-patent law before the United States Patent and Trademark Office (USPTO or Office) is hereby ordered for violation of the ethical standard set out in 37 C.F.R. § 10.23(b)(6) via 37 C.F.R. § 10.23(c)(5).

A "Notice and Order Under 37 C.F.R. § 11.24" mailed October 29, 2009, (Notice and Order) informed Respondent that the Director of the Office of Enrollment and Discipline (OED Director) had filed a "Complaint for Reciprocal Discipline Under 37 C.F.R. § 11.24" (Complaint) requesting that the USPTO Director exclude Respondent from practice before the USPTO. The request for exclusion of the Respondent in the Complaint was based upon the March 7, 2008, judgment of the Supreme Court of Nebraska in *State of Nebraska EX REL. Counsel v. Smith* (Case No. S-07-397), 275 Neb. 230 (2008), disbarring Respondent from the practice of law in the state of Nebraska. The Notice and Order directed that if Respondent seeks to contest imposition of his exclusion from practice pursuant to 37 C.F.R. § 11.24(d), Respondent shall file, within 40 days, a response containing all information Respondent believes is sufficient to establish a genuine issue of

material fact that the imposition of discipline identical to that imposed by the Supreme Court of Nebraska would be unwarranted based upon any of the grounds permissible under 37 C.F.R. § 11.24(d)(1).

Respondent has not filed a response to the Notice and Order. 37 C.F.R. § 11.24(d)(1). Accordingly, the USPTO Director hereby determines that: 1) there is no genuine issue of material fact under 37 C.F.R. § 11.24(d) and 2) exclusion of Respondent from practice before the USPTO is appropriate.

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

(a) Respondent is excluded from the practice of patent, trademark, and other non-patent law before the Office;

(b) Respondent is granted limited recognition to practice before the Office beginning on the date of this Final Order and expiring thirty (30) days after the date of this Final Order;

(c) Respondent is directed, during the time of his limited recognition to wind up all client business before the Office and to withdraw from employment in all pending proceedings in accordance with 37 C.F.R. § 10.40;

(d) Respondent is directed not to accept any new clients having business before the Office during the 30 days of limited recognition afforded by this Final Order;

(e) the OED Director shall publish this Final Order;

(f) the OED Director shall publish the following notice in the Official Gazette:

NOTICE OF EXCLUSION

Stephen L. Smith of Omaha, Nebraska, registered patent attorney (Registration Number 40,821). Mr. Smith has been excluded from the practice of patent, trademark, and non-patent law before the United State Patent and Trademark Office for violating 37 C.F.R. § 10.23(b)(6) via 37 C.F.R. § 10.23(c)(5) by

having his license to practice law in Nebraska revoked on ethical grounds by a duly constituted authority of a State. The Supreme Court of Nebraska disbarred Mr. Smith for failure to deposit client's funds in a trust account, failure to account for disbursements from the trust account, and failure to respond to bar counsel's requests for information. The Supreme Court of Nebraska concluded that Mr. Smith violated the Code of Professional Responsibility Rule DR 1-102(A)(1), by violating a Disciplinary Rule; the Code of Professional Responsibility Rule DR 9-102(A)(1) and (2) by failing to preserve the identity of funds and property of the client; and Nebraska Rules of Professional Conduct Rule 8.4 by engaging in conduct that is prejudicial to the administration of justice; and violating his oath of office as an attorney. The imposed exclusion begins on January 8, 2010. This action is taken pursuant to the provisions of 35 U.S.C. §§ 2(b)(2)(D) and 32, and 37 C.F.R. §§ 11.24 and 11.59. Disciplinary decisions involving practitioners are posted for public reading at the Office of Enrollment and Discipline's Reading Room located at:
<http://des.uspto.gov/Foia/OEDReadingRoom.jsp>.

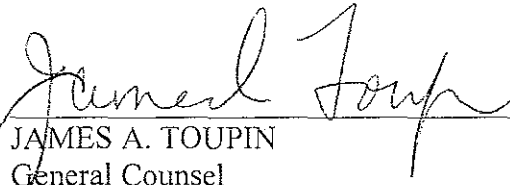
(g) Respondent shall comply fully with 37 C.F.R. § 11.58 while excluded;

(h) the OED Director, in accordance with 37 C.F.R. § 11.59, shall give notice of the public discipline and the reasons for the discipline to disciplinary enforcement agencies in the State where the practitioner is admitted to practice, to courts where the practitioner is known to be admitted, and the public;

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

JAN - 8 2010

Date


JAMES A. TOUPIN
General Counsel
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

CERTIFICATE OF SERVICE

I certify that the foregoing Final Order Under 37 C.F.R. § 11.24 was mailed first class certified mail, return receipt requested, this day to the Respondent at the following address provided to OED pursuant to 37 C.F.R. § 11.11:

Stephen L. Smith
Smith Law Offices
2410 Harney Street
Omaha, NE 68131-3618

and also to the following address at which the OED Director believes Respondent receives mail:

Stephen L. Smith
21209 S. Hwy. 50
Springfield, NE 68059

JAN - 8 2010

Date


United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

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JAMES A. TOUPIN
General Counsel
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