

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

In the Matter of:

Kevin W. Goldstein,

Respondent

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Proceeding No. D2014-10

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 Kevin W. Goldstein (“Respondent”) on March 25, 2014.

Respondent submitted the affidavit 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 Berwyn, Pennsylvania, is a registered patent attorney (Reg. No. 34,608) and subject to the USPTO Code of Professional Responsibility, 37 C.F.R. § 10.20 *et seq.* See 37 C.F.R. § 11.19(a).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

¹ The USPTO Code of Professional Responsibility applies to a practitioner’s 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 that occurred after May 2, 2013.

on consent from practice before the Office in patent, trademark, and other non-patent matters before the Office.

Respondent's Affidavit of Resignation

Respondent acknowledges in his March 25, 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 a disciplinary complaint is pending against him (*i.e.*, USPTO Disciplinary Proceeding No. D2014-10) and alleges, *inter alia*, that (a) in mid-September 2009, he falsely informed two clients that he had filed a patent application on their behalf with the USPTO; (b) from mid-September 2009 through around mid-October 2012, he knowingly misled the two clients into believing that their patent application was being examined by the USPTO; (c) he created and sent the two clients (i) a counterfeit USPTO patent application filing receipt, (ii) two phony cease and desist letters that he claimed he had transmitted to a potential patent infringer, (iii) a three-page response to a fictitious inquiry by a patent examiner about the "pending" patent application, and (iv) bills for legal services that he did not perform and USPTO fees that were not incurred; and (d) in April 2011, he falsely informed the two clients that he had filed a trademark application on their behalf and thereafter knowingly misled them into believing that the trademark application was being examined by the USPTO.
3. He is aware that the disciplinary complaint pending against him alleges that he violated the following Disciplinary Rules of the USPTO Code of Professional Responsibility:
 - a. 37 C.F.R. § 10.23(a) (proscribing engaging in disreputable or gross misconduct);
 - b. 37 C.F.R. § 10.23(b)(4) (proscribing engaging in conduct involving dishonesty, fraud, deceit, or misrepresentation);
 - c. 37 C.F.R. § 10.23(b)(5) (proscribing engaging in conduct that is prejudicial to

the administration of justice);

- d. 37 C.F.R. § 10.23(c)(2)(i) (proscribing knowingly giving false and/or misleading information or knowingly participating in a material way in giving false and/or misleading information to a client in connection with any immediate, prospective, or pending business before the Office);
- e. 37 C.F.R. § 10.77(c) (proscribing neglecting a legal matter entrusted to a practitioner);
- f. 37 C.F.R. § 10.84(a) (proscribing failing to seek the lawful objectives of a client through reasonably available means permitted by law, failing to carry out a contract of employment entered into with a client for professional services, and/or prejudicing or damaging a client during the course of a professional relationship); and
- g. 37 C.F.R. § 10.23(b)(6) (proscribing engaging in other conduct that adversely reflects on the practitioner's fitness to practice before the USPTO).

4. Without admitting to any of the allegations in the disciplinary complaint or to violating any of the Disciplinary Rules of the USPTO Code of Professional Responsibility, Respondent acknowledges that, if and when he applies for reinstatement under 37 C.F.R. § 11.60, the OED Director will conclusively presume, for the purpose of determining the application for reinstatement, that (a) the allegations set forth in the disciplinary complaint in USPTO Disciplinary Proceeding D2014-10 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 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). Hence, it is ORDERED that:

- a. Respondent's Affidavit of Resignation shall be, and hereby is, approved;
- b. 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;
- c. The OED Director shall electronically publish this 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>;
- d. The OED Director shall publish the following notice in the *Official*

Gazette:

Notice of Exclusion on Consent

This notice concerns Kevin W. Goldstein of Berwyn, Pennsylvania, a registered patent attorney (Reg. No. 34,608). The Director of the United States Patent and Trademark Office ("USPTO" or "Office") has accepted Mr. Goldstein's affidavit of resignation and ordered his exclusion on consent from practice before the Office in patent, trademark, and other non-patent matters.

Mr. Goldstein voluntarily submitted his affidavit at a time when a disciplinary complaint was pending against him. The complaint alleged, *inter alia*, that (a) in mid-September 2009, he falsely informed two clients that he had filed a patent application on their behalf with the USPTO; (b) from mid-September 2009 through around mid-October 2012, he knowingly misled the two clients into believing that their patent application was being examined by the USPTO; (c) he created and sent the two clients (i) a counterfeit USPTO patent application filing receipt, (ii) two phony cease and desist letters that he claimed he had transmitted to a potential patent infringer, (iii) a three-page response to a fictitious inquiry by a patent examiner about the

“pending” patent application, and (iv) bills for legal services that he did not perform and USPTO fees that were not incurred; and (d) in April 2011, he falsely informed the two clients that he had filed a trademark application on their behalf and thereafter knowingly misled them into believing that the trademark application was being examined by the USPTO. The complaint alleged that he violated the following Disciplinary Rules of the USPTO Code of Professional Responsibility: 37 C.F.R. §§ 10.23(a), 10.23(b)(4), 10.23(b)(5), 10.23(c)(2)(i), 10.77(c), 10.84(a), and 10.23(b)(6).

While Mr. Goldstein did not admit to any of the allegations in the disciplinary complaint or to violating any of the Disciplinary Rules of the USPTO Code of Professional Responsibility, he acknowledged that, if and when he applies for reinstatement, the OED Director will conclusively presume, for the purpose of determining the application for reinstatement, that (i) the allegations set forth in the disciplinary complaint were true, and (ii) he could not have successfully defended himself against such allegations.

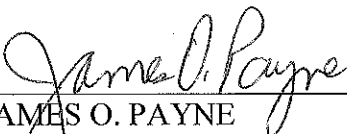
This action is taken pursuant to the provisions of 35 U.S.C. §§ 2(b)(2)(D) and 32, and 37 C.F.R. §§ 11.27 and 11.59. Disciplinary decisions involving practitioners are posted for public reading at the Office of Enrollment and Discipline Reading Room, available at: <http://e-foia.uspto.gov/Foia/OEDReadingRoom.jsp>.

- e. Respondent shall comply with 37 C.F.R. § 11.58;
- f. The OED Director shall comply with 37 C.F.R. § 11.59;
- g. Respondent shall comply with 37 C.F.R. § 11.60 upon any request for reinstatement; and
- h. USPTO Disciplinary Proceeding No. D2014-10 is hereby dismissed.

[only signature line follows]

MAR 31 2014

Date


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

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

Kevin W. Goldstein