

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

In the Matter of:

Greg H. Leitich

Respondent

Proceeding No. D2015-22

FINAL ORDER

Pursuant to 37 C.F.R. § 11.27, 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 Greg H. Leitich (“Respondent”) on June 4, 2015. Respondent, who is a registered patent attorney, 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 law commencing on the date of this Final Order.

Jurisdiction

Respondent is a registered patent attorney (Registration No. 39,745). Respondent is subject to the USPTO Code of Professional Responsibility, which is set forth at 37 C.F.R. § 10.20 *et seq.*, and the USPTO Rules of Professional Conduct set forth at 37 C.F.R. § 11.101 *et seq.*¹

¹ Effective May 3, 2013, the USPTO Rules of Professional Conduct apply to persons who practice before the Office. See 37 C.F.R. §§ 11.101 through 11.901. The allegations of misconduct set forth in this Complaint occurred prior to and after May 3, 2013. Therefore, both the USPTO Code of Professional Responsibility and USPTO Rules of Professional Conduct apply.

Accordingly, 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 on consent from the practice of patent, trademark, and other non-patent law before the Office.

Respondent's Affidavit of Resignation

Respondent acknowledges in his June 4, 2015, Affidavit of Resignation that:

1. Respondent's consent is freely and voluntarily rendered, and Respondent is not being subjected to coercion or duress.
2. Respondent is aware that as a result of a disciplinary investigation, the OED Director is of the opinion that he has violated the USPTO Code of Professional Responsibility and USPTO Rules of Professional Conduct predicated upon his allowing five patent applications to go abandoned without the client's knowledge or consent; failing to apprise himself of the status of the five patent applications; presenting multiple payments to the Office that were dishonored; failing to update the client on the status of the client's five patent applications and accurately respond to the client's request for a status update; failing to keep the mailing address updated in the patent applications; and failing to respond to OED's lawful requests for information.
3. Respondent is aware that, as a result of the disciplinary investigation, the OED Director is of the opinion that Respondent violated the following disciplinary rules of the USPTO Code of Professional Responsibility and the USPTO Rules of Professional Conduct:
 - a. 37 C.F.R. § 10.23(b)(5) (engaging in conduct prejudicial to the administration of justice);
 - b. 37 C.F.R. §10.77(c) (neglecting a legal matter entrusted to the practitioner);

- c. 37 C.F.R. §§ 10.23(b) via 10.23(c)(8) (failing to timely inform a client of correspondence received from the Office when the correspondence (i) could have a significant effect on a matter pending before the Office, (ii) was received by the practitioner on behalf of a client, and (iii) was correspondence of which a reasonable practitioner would believe under the circumstances the client should be notified);
- d. 37 C.F.R. § 11.804(c) (engaging in dishonesty, fraud, deceit, or misrepresentation);
- e. 37 C.F.R. § 11.804(d) (engaging in conduct prejudicial to the administration of justice);
- f. 37 C.F.R. § 11.101 (failing to act with thoroughness and preparation reasonably necessary for the representation of a client);
- g. 37 C.F.R. § 11.103 (failing to act with reasonable diligence and promptness);
- h. 37 C.F.R. § 11.104(a)(3)-(a)(4) (failing to keep a client reasonably informed about the status of a matter and promptly comply with reasonable requests for information from the client);
- i. 37 C.F.R. § 11.801(b) (failing to cooperate with OED in an investigation of any matter before it, or knowingly failing to respond to a lawful demand or request for information from a disciplinary authority).

4. Without admitting that he violated any of the disciplinary rules of the USPTO Code of Professional Responsibility and the USPTO Rules of Professional Conduct as alleged in the disciplinary investigation, OED File No. [REDACTED], 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 limited purpose of determining the application for reinstatement, that (i) the allegations set forth in the disciplinary proceeding pending against him are true, and (ii) he could not have successfully defended himself against such allegations.

5. Respondent 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 legal and factual consequences of requesting and consenting to exclusion from practice before the USPTO.

6. Respondent consents to being excluded from practice before the USPTO.

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:

1. Respondent's Affidavit of Resignation shall be, and hereby is, approved;
2. Respondent shall be, and hereby is, excluded on consent from the practice of patent, trademark, and other non-patent law before the Office beginning on the date this Final Order is signed;
3. The OED Director shall publish this Final Order at the Office of Enrollment and Discipline's Reading Room, found at <http://e-foia.uspto.gov/Foia/OEDReadingRoom.jsp>;
4. The OED Director shall publish a notice in the *Official Gazette* that is materially consistent with the following:

Notice of Exclusion on Consent

This notice concerns Greg H. Leitich of Austin, Texas, a registered patent attorney (Registration No. 39,745). The Director of the United States Patent and Trademark Office ("USPTO" or "Office") has accepted Mr. Leitich's affidavit of resignation and ordered his exclusion on consent from the practice of patent, trademark, and non-patent law before the Office.

Mr. Leitich voluntarily submitted his affidavit at a time when a disciplinary investigation was pending against him. His affidavit acknowledged that the Director of the USPTO's Office of Enrollment and Discipline ("OED Director") was of the opinion that Mr. Leitich's conduct violated 37 C.F.R. §§ 10.23(b)(5) (engaging in conduct prejudicial to the administration of justice); 10.77(c) (neglecting a legal matter entrusted to the practitioner); 10.23(b) via

10.23(c)(8) (failing to timely inform a client of correspondence received from the Office when the correspondence (i) could have a significant effect on a matter pending before the Office, (ii) was received by the practitioner on behalf of a client, and (iii) was correspondence of which a reasonable practitioner would believe under the circumstances the client should be notified); 11.804(c) (engaging in dishonesty, fraud, deceit, or misrepresentation); 11.804(d) (engaging in conduct prejudicial to the administration of justice); 11.101 (failing to act with thoroughness and preparation reasonably necessary for the representation of a client); 11.103 (failing to act with reasonable diligence and promptness); 11.104(a)(3)-(a)(4) (failing to keep a client reasonably informed about the status of a matter and promptly comply with reasonable requests for information from the client); and 11.801(b) (failing to cooperate with OED in an investigation of any matter before it, or knowingly failing to respond to a lawful demand or request for information from a disciplinary authority).

The OED Director is of the opinion that Mr. Leitich violated the above rules by allowing five patent applications to go abandoned without the client's knowledge or consent; failing to apprise himself of the status of the five patent applications; presenting multiple payments to the Office that were dishonored; failing to update the client on the status of the client's five patent applications and accurately respond to the client's request for a status update; failing to keep the mailing address updated in the patent applications; and failing to respond to OED's lawful requests for information.

While Mr. Leitich did not admit to violating any of the disciplinary rules of the USPTO Code of Professional Responsibility and the USPTO Rules of Professional Conduct as alleged in the pending investigation, he acknowledged that, if and when he applies for reinstatement, the OED Director will conclusively presume, for the limited purpose of determining the application for reinstatement, that (i) the facts set forth above are true, and (ii) he could not have successfully defended himself against such allegations embodied in the opinion of the OED Director that he violated 37 C.F.R. §§ 10.23(b)(5); 10.77(c); 10.23(b) via 10.23(c)(8); 11.804(c); 11.804(d); 11.101; 11.103; 11.104(a)(3)-(a)(4); and 11.801(b).

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, located at <http://efoia.uspto.gov/Foia/OEDReadingRoom.jsp>.

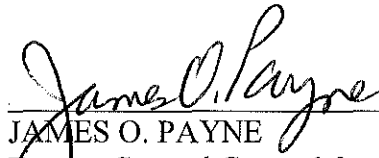
5. Respondent shall comply with 37 C.F.R. § 11.58;
6. The OED Director shall comply with 37 C.F.R. § 11.59;

7. Respondent shall comply with 37 C.F.R. § 11.60 upon any request for reinstatement; and

8. The OED Director and Respondent shall bear their own costs incurred to date and in carrying out the terms of this agreement.

JUN 15 2015

Date


JAMES O. PAYNE
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:

Director of the Office of Enrollment and Discipline
U.S. Patent and Trademark Office

Greg H. Leitich
804 Baylor Street
Austin, TX 78703