

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

In the Matter of:	)	
	)	
Vincent Mark Amberly	)	Proceeding No. D2017-27
	)	
Respondent	)	
_____	)	

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

Pursuant to 37 C.F.R. § 11.24, a public reprimand with a two-year probationary term for Vincent Mark Amberly (“Respondent”) is hereby ordered by the Director of the United States Patent and Trademark Office (“USPTO” or “Office”) for violation of 37 C.F.R. § 11.804(h).

Background

On February 21, 2017, in *In re Vincent Mark Amberly*, VSB Docket No. 16-053-105949, the Fifth District Subcommittee of the Virginia State Bar issued an Order imposing a public reprimand and a two-year term of probation commencing upon the issuance of the Order on Respondent in that jurisdiction.

On August 7, 2017, a “Notice and Order Pursuant to 37 C.F.R. § 11.24” (“Notice and Order”) mailed by certified mail (receipt no. 70160910000045132337) notified 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 USPTO impose reciprocal discipline upon Respondent identical to the discipline imposed by the Fifth District Subcommittee of the Virginia State Bar in *In re Vincent Mark Amberly*, VSB Docket No. 16-053-105949. The Notice and Order was delivered to Respondent on August 12, 2017.

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 Fifth District Subcommittee of the Virginia State Bar, based on one or more of the reasons provided in 37 C.F.R. § 11.24(d)(1). 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 public reprimand of Respondent is the appropriate discipline.

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

1. Respondent be, and hereby is, publicly reprimanded;
 2. Respondent shall serve a two-year probationary period commencing on the date on which this Final Order is signed;
 3. (1) In the event that the OED Director is of the opinion that Respondent, during the two-year probationary period, failed to comply with any provision of the Final Order or any provision of the USPTO Rules of Professional Conduct, the OED Director shall:
 - (A) issue to Respondent an Order to Show Cause why the USPTO Director should not impose an additional disciplinary sanction from among the options set forth in 37 C.F.R. § 11.20(a) for the violations set forth in the Complaint,
 - (B) send the Order to Show Cause to Respondent at the last address of record known to the OED Director, and
 - (C) grant Respondent fifteen (15) days to respond to the Order to Show Cause;
- and

(2) In the event that, after the fifteen-day period for response and consideration of the response, if any, received from Respondent, the OED Director continues to be of the opinion that Respondent, during the two-year probationary period, failed to comply with any provision of the Final Order or any provision of the USPTO Rules of Professional Conduct, the OED Director shall:

- (A) deliver to the USPTO Director or his designee: (i) the Order to Show Cause, (ii) Respondent's response to the Order to Show Cause, if any, and (iii) evidence and argument causing the OED Director to be of the opinion that Respondent failed to comply with the Final Order or any provision of the USPTO Rules of Professional Conduct during the probationary period, and
- (B) request that the USPTO Director impose an additional and appropriate disciplinary sanction from among the options set forth in 37 C.F.R. § 11.20(a) for the violations set forth in the Complaint;

- 4. In the event that the USPTO Director additionally disciplines Respondent pursuant to paragraph "3" above, nothing herein shall prevent the OED Director from pursuing independent discipline for the misconduct leading to the imposition of additional discipline pursuant to paragraph "3" above;
- 5. The OED Director shall publish a Notice in the *Official Gazette* that is materially consistent with the following:

Notice of Public Reprimand and Probation

This notice concerns Vincent Mark Amberly of Leesburg, Virginia, who is authorized to practice before the Office in trademark and non-patent matters. In a reciprocal disciplinary proceeding, Joseph D. Matal, Performing the Functions and Duties of the Under Secretary of Commerce

for Intellectual Property and Director of the United States Patent and Trademark Office ("USPTO") has ordered that Mr. Amberly be reprimanded and subject to a two-year probationary period for violating 37 C.F.R. § 11.804(h), predicated upon being publicly reprimanded and subjected to a two-year probationary term by a duly constituted authority of a State. Mr. Amberly is not authorized to practice before the Office in patent matters.

By Order dated February 21, 2017, in *In re Vincent Mark Amberly*, VSB Docket No. 16-053-105949, the Fifth District Subcommittee of the Virginia State Bar publicly reprimanded and provided a two (2) years probationary term from issuance of the Order for Respondent in that jurisdiction.

The Virginia Order sets forth "Findings of Fact." In April of 2016, Mr. Amberly wrote a letter to Mr. Stevens threatening to bring criminal perjury charges for testimony provided by Mr. Stevens in an attempt to resolve issues between Mr. Stevens and Mr. Amberly's clients without going to trial. Mr. Amberly acknowledged using similar language against other potential adversaries on numerous occasions. In another instance related to Dryclean Depot Franchise (DDF), Mr. Amberly asserted he would not report several of DDF's misrepresentations and material omissions related to the purchase of DDF to state and governmental agencies in return for a full payment of damages outlined in his settlement letter. In the purchase of a Kumon franchise by Mr. Amberly's client, Mr. Amberly indicated in a letter that Kumon had violated immigration laws, Federal Trade Commission rules, and federal and state privacy laws and was considering notifying the appropriate regulatory authorities, which could result in regulatory or criminal action against Kumon, but he would forgo pursuing these options in return for a favorable settlement to him and his client. The Fifth District Subcommittee found that these acts constituted a violation of Rule 3.4 - Fairness to Opposing Party and Counsel, which precludes a lawyer from threatening to present criminal or disciplinary charges solely to obtain an advantage in a civil matter.

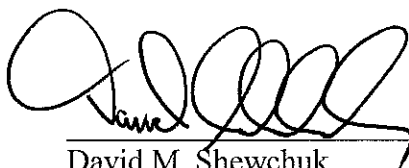
This action is taken pursuant to the provisions of 35 U.S.C. § 32 and 37 C.F.R. § 11.24. Disciplinary decisions are available for public review at the Office of Enrollment and Discipline's FOIA Reading Room, located at: <http://e-foia.uspto.gov/Foia/OEDReadingRoom.jsp>; and

6. The OED Director comply with 37 C.F.R. § 11.59.

[SIGNATURE FOLLOWS ON NEXT PAGE]

25 Sept 2017

Date



David M. Shewchuk
Deputy General Counsel for General Law
United States Patent and Trademark Office

on behalf of

Joseph D. Matal
Performing the Functions and Duties of the Under
Secretary of Commerce for Intellectual Property and
Director of the United States Patent and Trademark
Office

cc:

OED Director

Mr. Vincent Mark Amberly
129 Harrison Street, NE
Leesburg, VA 20176