

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

IN THE MATTER OF
MICHEAL D. MAXWELL,

Proceeding No. 2006-10

Respondent.

FINAL ORDER

The Director of Enrollment and Discipline (OED Director) of the United States Patent and Trademark Office and Micheal D. Maxwell, Respondent, USPTO Registration No. 47,776, have submitted a settlement agreement in the above proceeding. To avoid the necessity of an oral hearing, Respondent and the OED Director have agreed to certain stipulated facts, legal conclusions, and discipline.

JURISDICTION

At all times relevant hereto, Micheal D. Maxwell, of Des Moines, Iowa, has been an attorney registered to practice before the United States Patent and Trademark Office (“USPTO”), Registration No. 47,776, engaging in the practice of patent law before the USPTO, and is subject to the USPTO Disciplinary Rules. This Tribunal has jurisdiction over this proceeding under 37 C.F.R. §§ 10.132 and 10.139.

STIPULATED FACTS

1. Respondent was suspended in Iowa by an Order of the Supreme Court of Iowa (“Iowa Order”) filed on October 21, 2005 from practice as an attorney for an indefinite period of time, but not less than one year.
2. The USPTO learned that Respondent was suspended on ethical grounds from practice and an attorney from Iowa by this Iowa Order filed on October 21, 2005.
3. After the USPTO learned that Respondent had been suspended from practice as an attorney in Iowa, there were numerous communications between the USPTO and Respondent

which continued through November 2006.

4. On November 8, 2004, the Iowa Supreme Court Board of Professional Ethics and Conduct (the "Iowa Board") filed a complaint against Respondent for numerous violations of the Iowa Code of Professional Responsibility for Lawyers that occurred from 1999 to 2002.

5. Specifically, the Board charged Respondent with violating DR 1-102(A)(1) (violation of a disciplinary rule); DR 1-102(A)(5) (conduct prejudicial to the administration of justice); DR 6-102(A)(6) (conduct that adversely reflects on the fitness to practice law); DR 6-101(A)(3) (neglect of a client matter); DR 7-101(A)(1) (failure to seek objectives of a client); DR 7-101(A)(2) (failure to carry out employment contract with a client); and DR-7-101(A)(3) (prejudice or damage to a client).

6. Respondent was admitted to practice law in Iowa in 1988. Respondent has been a sole practitioner in Des Moines since 1991, and has developed a general practice. Respondent has been licensed to practice before the United States Patent and Trademark Office since 2000.

7. In May 1999, Respondent began representing a woman named [] in a personal injury claim. Respondent failed to file a lawsuit on behalf of Daniels before the statute of limitations ran in 2001.

8. In June 1999, Respondent began representing a woman named [] in a personal injury claim. Again, Respondent failed to file a lawsuit on behalf of Wiess before the statute of limitations ran in 2001.

9. In 2002, Respondent began representing a woman named [] in an action to modify the child custody, visitation and support terms of a decree for dissolution of marriage. During the pendency of this action, Respondent failed to notify [] of a court hearing, and she was denied an opportunity to present testimony before a court ruling in the case.

10. The Iowa Supreme Court found that Respondent has a history of prior disciplinary actions. Respondent was reprimanded in 1993 for placing his personal interests before the interests of a client. He was reprimanded in 1999 for neglect of a client's legal matter. He was admonished in 2000 for failing to communicate with a client. He was reprimanded in 2004 for neglect and misconduct.

11. The Grievance Commission of the Supreme Court of Iowa (the "Iowa Commission") found that the Board established all the violations as set forth in the complaint, with one exception. It found insufficient evidence of intent to support a violation under DR 7-101 on each count. *See Iowa Code Prof'l Responsibility DR 7-101* (beginning "[a] lawyer shall not *intentionally*" (emphasis added)).

12. On April 11, 2005, the Iowa Commission recommended that Respondent be suspended from the practice of law for an indefinite period of time, and further recommended that reinstatement be governed by the suspension provisions of Rule 35.16. *See Iowa Ct. R. 35.16* (disability suspension).

13. Respondent acknowledged the facts of the complaints against him before the Supreme Court of Iowa. Respondent's testimony at the disciplinary hearing centered on his chronic depression as an underlying cause of his conduct, and his lifelong efforts in dealing with the affliction.

14. On October 21, 2005, the Supreme Court of Iowa found that the number of incidents of neglect, the resulting harm, and Respondent's present unfitness to engage in the practice of law supported a suspension. The Supreme Court of Iowa concluded that Respondent should be indefinitely suspended from the practice of law with no possibility of reinstatement for one year, finding that this sanction strikes a fair balance between the seriousness of the unethical conduct and the serious debilitating medical condition at the heart of this case, together with the commendable efforts Respondent has taken to overcome his condition. The Supreme Court of Iowa noted that reinstatement in a disciplinary suspension not only requires a showing of fitness to practice law, as in a disability suspension, but also requires a showing of good moral character and compliance with other rules and terms of the suspension.

15. Respondent was represented by counsel before the Supreme Court of Iowa. Respondent was therefore aware of his suspension from the practice of law in the state of Iowa. Respondent did not inform OED of the suspension by the Supreme Court of Iowa.

16. Respondent has not practiced before the USPTO since his suspension in Iowa on October 21, 2005.

LEGAL CONCLUSIONS

17. Based upon the foregoing stipulated facts, Respondent acknowledged that his conduct violated the following Disciplinary Rules of the USPTO Code of Professional Responsibility:

- (a) Rule 10.23(c)(5), in that Respondent was suspended from the practice of law on ethical grounds by the Supreme Court of Iowa.
- (b) Rule 10.23(c)(14), in that Respondent knowingly failed to inform the OED Director of his suspension before the Supreme Court of Iowa.

DISCIPLINE

Respondent agreed, and it is ordered that:

18. Respondent shall be suspended from practicing before the USPTO for a period no less than one (1) year from March 1, 2006.

19. The OED Director shall publish the Final Order.

20. The OED Director shall publish the following Notice in the Official Gazette:

Notice of Suspension

Micheal D. Maxwell, of Des Moines, Iowa, with Registration No. 47,776, has been suspended from practice before the USPTO for a period of one year, starting from March 1, 2006. This action is taken pursuant to the provisions of 35 U.S.C. § 32 and 37 C.F.R. § 10.133(g).

21. The OED Director shall give notice to appropriate employees of the USPTO, 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).

REINSTATEMENT

22. Upon application for reinstatement, Respondent must provide proof that he sought professional assistance, and complied with the treatment program prescribed by the professional, and submit letters from the treating psychiatrist/psychologist verifying that the medically recognized mental disease, disorder or illness will not impede Respondent's ability to competently practice before the Office. Respondent's application for reinstatement shall constitute a waiver of any doctor-patient privilege with regard to any treatment of him for his disability. Respondent will provide the name of every psychiatrist, psychologist, physician and hospital or any other institution (collectively "treating entity") by whom or in which he has been examined or treated since the disciplinary suspension and shall also furnish to the OED Director written consent that any such treating entity may divulge any information and records requested by the OED Director.
23. Respondent shall provide satisfactory proof that he possesses good moral character and reputation, which may include recommendations from at least three reputable attorneys currently practicing law in the judicial district in which the applicant lives.

24. Respondent shall demonstrate full compliance with 37 C.F.R. §§ 10.158 and 10.160.

Date May 21, 2007

/s/
James A. Toupin
General Counsel
United States Patent and Trademark Office
on behalf of
Jon W. Dudas
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

Micheal D. Maxwell
[]