

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

**In the Matter of:**

**Dean J. Tricarico,**

**Respondent**

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**Proceeding No. D2009-40**

**FINAL ORDER PURSUANT TO 37 C.F.R. § 11.25(b)**

Pursuant to 37 C.F.R. § 11.25(b), the interim suspension of Dean J. Tricarico (Respondent) from the practice of patent, trademark, and other non-patent law before the USPTO is hereby ordered for violation of the ethical standards set out in 37 C.F.R. §§ 10.23(a), 10.23(b)(3), and 10.23(b)(4). It is further ordered that the “Disciplinary Complaint Pursuant to 35 U.S.C. § 32 and 37 C.F.R. § 11.25” be referred to a hearing officer for the purpose of conducting a formal disciplinary proceeding.

A “Notice and Order Pursuant to 37 C.F.R. § 11.25” mailed August 27, 2010, (Notice and Order) informed Respondent that the Director of the Office of Enrollment and Discipline (OED Director) filed a “Disciplinary Complaint Pursuant to 35 U.S.C. § 32 and 37 C.F.R. § 11.25” (Complaint) requesting, inter alia, entry of an order imposing upon Respondent an interim suspension from practice before the USPTO. The request for interim suspension of the Respondent in the Complaint was predicated upon proof that Respondent committed a serious crime, namely: a certified copy of a March 17, 2009, Sentencing Order from *Commonwealth of Virginia v. Dean James Tricarico* (Case Numbers CR08001107-00 and CR08001108-00) – showing that Respondent was convicted of two counts of felony

prescription fraud in violation of Virginia Code Section 18.2-258.1. The Notice and Order directed Respondent to file, within 40 days, a response containing information sufficient to establish a genuine issue of material fact based upon any of the grounds permissible under 37 C.F.R. § 11.25(b)(3).

The Notice and Order, inter alia, was mailed first class certified mail, return receipt requested, to a street address in Carlsbad, California, which is the most recent address provided by Respondent to the Office of Enrollment and Discipline pursuant to 37 C.F.R. § 11.11, and to a street address in Winchester, Virginia, where the OED Director reasonably believed that Respondent received mail. The mailing to the Carlsbad, California, address was returned with the explanation that it was “Undeliverable as Addressed.” The mailing to the Winchester, Virginia, address was returned with the explanation “MOVED LEFT NO ADDRESS – UNABLE TO FORWARD.” A service by publication notice pursuant to 37 C.F.R. §§ 11.25(b)(2) and 11.35(b) published in the *Official Gazette* on October 5, 2010, and October 12, 2010, notifying Respondent that he may obtain a copy of, inter alia, the Notice and Order by sending a written request to the USPTO General Counsel.

Respondent has not filed a response to the Notice and Order. 37 C.F.R. § 11.25(b). Accordingly, it is hereby determined that: 1) there is no genuine issue of material fact pursuant to 37 C.F.R. § 11.25(b) and 2) the interim suspension of Respondent from practice before the USPTO and referral of the Complaint to a hearing officer for the purpose of conducting a formal disciplinary proceeding is appropriate.

ACCORDINGLY, it is:

ORDERED that Respondent is hereby suspended on an interim basis from the practice

of patent, trademark, and other non-patent law before the USPTO in accordance with 37 C.F.R. § 11.25(b);

ORDERED that the Complaint is hereby referred, in accordance with 37 C.F.R. § 11.25(b)(5), to the hearing officer, identified below, for the purpose of conducting a formal disciplinary proceeding;

ORDERED that, within thirty (30) days from the date of this Final Order, Respondent shall file a written answer to the Complaint in accordance with 37 C.F.R. § 11.36 with the hearing officer as follows:

**If sent by mail:**

The Honorable Susan L. Biro  
Chief Administrative Law Judge  
Office of the Administrative Law Judges  
U.S. Environmental Protection Agency  
Mail Code 1900L  
1200 Pennsylvania Avenue N.W.  
Washington, D.C. 20460

**If hand-delivered,  
(e.g., via Federal Express  
or other delivery service)**

The Honorable Susan L. Biro  
Chief Administrative Law Judge  
Office of the Administrative Law Judges  
1099 14<sup>th</sup> Street, N.W., Suite 350  
Washington, D.C. 20005

ORDERED that, within thirty (30) days from the date of this Final Order, Respondent shall serve a copy of his answer to the Complaint on the OED Director by mail to:

Mail Stop 8  
Office of the Solicitor  
United States Patent and Trademark Office  
P.O. Box 1450  
Alexandria, Virginia 22313-1450

ORDERED that the OED Director publish the following notice in the *Official Gazette*:

NOTICE OF INTERIM SUSPENSION

Dean J. Tricarico of Carlsbad, California, registered patent agent (Registration No. 53,703). Mr. Tricarico has been suspended on an interim basis pursuant to 37 C.F.R. § 11.25 by the United States Patent and Trademark Office for having been convicted of two counts of felony prescription fraud, namely: violation of Virginia Code Section 18.2-258.1.

Mr. Tricarico was convicted on January 20, 2009. Upon information and belief, his conviction was based on his twice altering prescriptions by changing the name of the medication prescribed. On March 17, 2009, he was sentenced to: (1) two years and six months in prison with two years and six months of the sentence suspended; (2) two years of supervised probation; (3) suspension of his driver's license for six months; and (4) payment of court costs.

This action is taken pursuant to the provisions of 35 U.S.C. §§ 2(b)(2)(D) and 32 and 37 C.F.R. §§ 11.25 and 11.59. Disciplinary decisions regarding practitioners are posted at the Office of Enrollment and Discipline's Reading Room electronically located at: <http://des.uspto.gov/Foia/OEDReadingRoom.jsp>.

ORDERED that the OED Director shall give notice of this Final Order to 1) appropriate employees of the USPTO; 2) interested departments, agencies, and courts of the United States; and 3) appropriate authorities of any State in which Respondent is known to be a member of the bar;

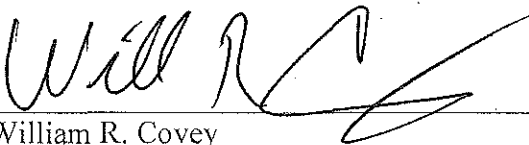
ORDERED that Respondent comply with 37 C.F.R. § 11.58;

ORDERED that Respondent comply with 37 C.F.R. § 11.25(e) should Respondent seek reinstatement.

[signature page follows]

DEC 1 A 2010

Date



William R. Covey  
Deputy General Counsel for General Law  
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

NOTICE OF INTERIM SUSPENSION

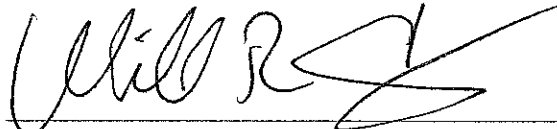
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DEC 10 2010

Date



WILLIAM R. COVEY  
Deputy General Counsel for General Law  
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