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

In the Matter of:	)	
	)	
Allen D. Brufsky,	)	**Proceeding No. D2013-18**
	)	
Respondent	)	
	)	

FINAL ORDER UNDER 37 C.F.R. § 11.24

Pursuant to 37 C.F.R. §§ 11.19 and 11.24(d), and for the reasons below, the Director of the United States Patent and Trademark Office ("USPTO" or "Office") hereby issues the reciprocal discipline of exclusion of Allen D. Brufsky ("Respondent") from the practice of patent, trademark, and other non-patent matters before the USPTO, for violation of 37 C.F.R. § 11.804(h)(1) in connection with his disbarment by the state of Florida.

I. BACKGROUND AND PROCEDURAL HISTORY

Respondent had been licensed as an attorney in the State of Florida up until his disbarment by the Supreme Court of Florida on August 7, 2013. The USPTO's current reciprocal discipline proceedings herein concern this August 7, 2013 disbarment. Respondent has been registered to practice in patent matters before the USPTO (Registration Number 21,056), though he has been under administrative suspension since 2012.[1] (Exhibit I, Attach. 1) (Complaint for Reciprocal Discipline Under 37 C.F.R § 11.24).

[1] On June 14, 2012, the USPTO removed Respondent from the Register of Patent Attorneys and Agents for failure to respond to a January 31, 2012 Office of Enrollment and Discipline (OED) survey letter and after a Lack of Response Notice was published in the USPTO Official Gazette on May 1, 2012. *See* 1378 OG 57; 1380 OG 107 (July 10, 2012). Respondent was required to respond to the survey letter pursuant to prior USPTO rule 37 C.F.R. § 10.11 (now codified at 37 C.F.R. § 11.11(a)(2).

Florida 91-Day Suspension

On November 4, 2010, the Supreme Court of Florida ordered a 91-day suspension for Respondent's misconduct involving, *inter alia*, admitted conflicts of interest. (Exhibits A, B.)

Federal Reciprocal Discipline for 91-Day Suspension

On April 30, 2011, the United States District Court for the Southern District of Florida ordered a reciprocal 91-day suspension for Respondent. (Exhibit C).

The USPTO ordered a reciprocal 91-day suspension for Respondent on February 4, 2014. (Exhibit H).

Florida Disbarment in 2013

Case No. SC11-2139. On March 8, 2011, while his 91-day suspension by the State of Florida was still pending,[2] Respondent filed a Verified Petition for Admission to Practice with the U.S. District Court for Northern District of New York.[3] (Exhibit E; Exhibit F, p. 2). The local rules of the U.S. District Court for the Northern District of New York require applicants to state whether they have "ever been held in contempt of court, censured, suspended or disbarred by any court." (Exhibit E, p. 2) (Emphasis added). Respondent did not disclose his suspension in the State of Florida. (Exhibit E; Exhibit F, p. 2). Instead, he drafted and submitted with this Petition a statement in which he certified that he had "never been held in contempt of court, censured or disbarred by any court of which I am current member of the Bar"; he omitted the word "suspended" from the statement. (Exhibit E, Exhibit A thereto). The Northern District of New York then discovered his Florida suspension and referred the matter to that court's Chief Judge

[2] Respondent petitioned for reinstatement to practice law in Florida following the end of the 91-day suspension. However, that Petition was denied. Thus, at the time of the misconduct that formed the basis for his disbarment from the State of Florida, he remained suspended from practicing law in Florida. (Exhibit F. p. 2); Exhibit K, Exhibit A thereto.)

[3] The referee's report in this matter found that the Florida suspension did not preclude Respondent from filing a petition for admission to represent a client in the Northern District of New York. (Exhibit F, p. 2). It was the circumstances and manner in which Respondent filed that Petition that formed the basis for misconduct under SC11-2139.

for action. Respondent subsequently requested that his appearance be withdrawn and his admission to the New York federal court be stricken. (Exhibit F, p. 2).[4]

On November 1, 2011, the Florida Bar filed a disciplinary complaint alleging that, by failing to disclose his Florida suspension to the Northern District of New York, Respondent violated Rule 4-8.4(b), Rules Regulating The Florida Bar (stating that a lawyer shall not commit a criminal act that reflects adversely on the lawyer's honesty, trustworthiness, or fitness as a lawyer in other respects). (Exhibit E). The Complaint was docketed by the referee as Case No. SC11-2139. (Exhibit E, F.)

Case No. SC11-1528. In a separate incident, on May 27, 2011, again while his Florida suspension was still in effect, Respondent signed a Notice of Lis Pendens as "attorney for Marcia Carroll Brufsky," his wife, and filed the Notice in the public records of Collier County, Florida. (Exhibit D).

On August 3, 2011, the Florida Bar filed a Petition for Order to Show Cause and Contempt, alleging that Respondent violated the Court's 91-day suspension order by filing the Notice of Lis Pendens as an "attorney" during the suspension. (Exhibit D). This matter was docketed by the referee as Case No. SC11-1528. (Exhibits D, G).

Proceedings and Decision on Consolidated Cases. The two Florida disciplinary matters were assigned to a single referee for disciplinary proceedings. (Exhibits F, G). A hearing was conducted for both matters on January 11, 2012. (Exhibits F, G). The referee found that Respondent's testimony at the hearing was not credible. (Exhibits F, G). Respondent participated fully in both proceedings. (Exhibit E, Exhibit B thereto; Exhibit F; Exhibit G).

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[4] The Florida Bar also offered impeachment evidence related to Respondent's falsified application to seek admission to the Alabama Bar. (Exhibit F, p. 3). Respondent again did not disclose his Florida suspension, even though January 2011 correspondence from the state of Alabama asked Respondent to provide information about "any discipline or reprimands that you have not otherwise disclosed." (Exhibit F, p. 3).

In Case No. SC11-2139, the referee concluded that Respondent violated Rule 4-8.4(c), Rules Regulating The Florida Bar (stating that a lawyer shall not engage in conduct involving dishonest, fraud, deceit, or misrepresentation). (Exhibit F). In Case No. SC11-1528, the referee concluded that Respondent was guilty of contempt of the Supreme Court's Order suspending him from the practice of law in Florida. (Exhibit G).

After considering the relevant factors in both cases, as well as case law, Respondent's personal history, and mitigating and aggravating factors, the referee recommended that Respondent be disbarred. (Exhibits F, G).

On August 7, 2013, in *The Florida Bar v. Allen D. Brufsky* (which consolidated Cases Nos. SC11-1528 and SC11-2139), the Supreme Court of Florida approved the referee's reports and disbarred Respondent from the practice of law. (Exhibit I, Attach. 1.A).

USPTO's Current Reciprocal Discipline Proceeding Concerning Florida Disbarment

On January 14, 2014, the USPTO Director of the Office of Enrollment and Discipline ("OED Director") served a Complaint for reciprocal discipline on Respondent related to the Florida disbarment. (Exhibit I, Attach. 1). The OED Director requested that the USPTO Director impose reciprocal discipline on Respondent for violating 37 C.F.R. § 11.804(h)(1), predicated on him being disbarred on ethical grounds by a duly constituted authority of a State. (Exhibit I, Attach. 1).

On January 24, 2014, the Deputy General Counsel for General Law, on behalf of the USPTO Director, issued an Order giving Respondent an opportunity to file within 40 days a response "containing all information that Respondent believes is sufficient to establish a genuine issue of material fact that the imposition of discipline identical to that imposed by the Supreme Court of Florida in consolidated Case Nos. SC11-1528 and SC11-2139 would be unwarranted" based

upon any of the grounds permissible under 37 C.F.R. § 11.24(d)(1). (Exhibit J) ("Notice and Order").

On February 17, 2014, Respondent filed a Response to the Notice and Order. (Exhibit K) ("Response"). As to Case No. SC11-1528, Respondent acknowledged that he improperly filed the Notice of Lis Pendens as an attorney in Florida during his suspension.[5] (Exhibit K, p. 2). Regarding Case No. SC11-2139, he acknowledged his wrongdoing by stating that his request to withdraw his admission to the Northern District of New York was "a remedial action." (Exhibit K, p. 4). *See also* Exhibit K, Exhibit A thereto, at 5 ("This was immediately rectified by me by filing a Motion to Withdraw and have my name stricken from the Bar Roll subject to the right to reapply and correct the application").

Respondent argues that the Supreme Court of Florida erred in disbarring him because the Court rejected his argument that he had already suffered consequences for his misconduct. Similarly, he now argues that USPTO should not disbar him because Florida has already disbarred him for his misconduct and a second disbarment would be a "grave injustice" precluded by the Double Jeopardy Clause.

Respondent also argues that the Supreme Court of Florida erred in disbarring him because it did not follow its own precedent as to one of the findings needed in a referee report that recommends disbarment. He claims that the lack of such a finding in the referee's report constitutes a deprivation of due process. (Exhibit K, p. 8).

II. LEGAL STANDARD

Pursuant to 37 C.F.R. § 11.24(d), and in accordance with *Selling v. Radford*, 243 U.S. 46 (1917), the USPTO has codified standards for imposing reciprocal discipline based on a state's disciplinary adjudication. Under *Selling*, state disbarment creates a federal-level presumption that

[5] He stated that he could have signed the Notice personally or as "agent" for his wife. (Exhibit K, p. 2).

imposition of reciprocal discipline is proper, unless an independent review of the record reveals: (1) a want of due process; (2) an infirmity of proof of the misconduct; or (3) that grave injustice would result from the imposition of reciprocal discipline. Federal courts have generally "concluded that in reciprocal discipline cases, it is the respondent attorney's burden to demonstrate, by clear and convincing evidence, that one of the *Selling* elements precludes reciprocal discipline." *In re Kramer,* 282 F.3d 721, 724 (9th Cir. 2002); *In re Friedman*, 51 F.3d 20, 22 (2d Cir. 1995). "This standard is narrow, for '[a Federal court, or here the USPTO Director is] not sitting as a court of review to discover error in the [hearing judge's] or the [state] courts' proceedings.'" *In re Zdravkovich*, 634 F.3d 574, 578 (D.C. Cir. 2011) (quoting *In re Sibley*, 564 F.3d 1335, 1341 (D.C. Cir. 2009)).

The USPTO's regulation governing reciprocal discipline, 37 C.F.R. § 11.24(d)(1), mirrors the standard set forth in *Selling*:

> [T]he USPTO Director shall consider any timely filed response and shall impose the identical public censure, public reprimand, probation, disbarment, suspension, or disciplinary disqualification unless the practitioner clearly and convincingly demonstrates, and the USPTO Director finds there is a genuine issue of material fact that:
> (i) The procedure elsewhere was so lacking in notice or opportunity to be heard as to constitute deprivation of due process;
> (ii) There was such infirmity of proof establishing the conduct as to give rise to the clear conviction that the Office could not, consistently with its duty, accept as final the conclusion on that subject;
> (iii) The imposition of the same public censure, public reprimand, probation, disbarment, suspension or disciplinary disqualification by the Office would result in a grave injustice; or
> (iv) Any argument that the practitioner was not publicly censured, publicly reprimanded, placed on probation, disbarred, suspended or disciplinarily disqualified.

To prevent the imposition of reciprocal discipline, Respondent is required to demonstrate that he meets one of these criteria by clear and convincing evidence. *See* 37 C.F.R. § 11.24(d)(1).

As discussed below, however, Respondent has not satisfied by clear and convincing evidence

any of the factors set forth in 37 C.F.R. § 11.24(d)(1).

II. ANALYSIS

A. Imposition of a Reciprocal Disbarment Would Not Result in a Grave Injustice under 37 C.F.R. § 11.24(d)(1)(iii).

A state disbarment creates a federal-level presumption that imposition of reciprocal discipline is proper. *See Sellig, supra.* An attorney respondent may seek to defeat that presumption by showing by clear and convincing evidence that a "grave injustice" would result under 37 C.F.R. § 11.24(d)(1)(iii).

The grave injustice analysis focuses on whether the severity of the punishment "fits" the misconduct. *See In re Thav*, 852 F. Supp. 2d 857, 861-62 (E.D. Mich. 2012); *see also In re Kramer*, 282 F.3d at 727 (on challenge to imposition of reciprocal discipline, "we inquire only whether the punishment imposed by [the first] court was so ill-fitted to an attorney's adjudicated misconduct that reciprocal disbarment would result in grave injustice"); *In re Attorney Discipline Matter,* 98 F.3d 1082, 1088 (8th Cir. 1996) (no grave injustice where disbarment imposed by the state court "was within the appropriate range of sanctions"); *Matter of Benjamin*, 870 F. Supp. 41, 44 (N.D.N.Y. 1994) (public censure within range of penalties for misconduct and thus censure was not a grave injustice). Respondent has not shown by clear and convincing evidence that any grave injustice would result.

Here, Respondent merely argues, misguidedly, that the Double Jeopardy Clause would preclude the federal government from imposing reciprocal discipline based on discipline ordered by a duly authorized state tribunal. Respondent is mistaken. A long line of cases, including the U.S. Supreme Court's 1917 decision in *Selling v. Radford*, 243 U.S. 46, discussed above, makes clear that the federal government can impose reciprocal discipline based on discipline imposed by a state court.

The Double Jeopardy Clause does not apply to disciplinary proceedings. Rather, the Double Jeopardy Clause applies in criminal proceedings and protects against: (1) a second prosecution for the same offense after acquittal; (2) a second prosecution for the same offense after conviction; and (3) multiple punishments for the same offense. *See Hudson v. United States,* 522 U.S. 93 99(1997) (holding that Double Jeopardy Clause did not prohibit criminal prosecution for conspiracy and violation of banking laws where federal regulatory agency had imposed money penalties and debarment in prior civil administrative proceeding); *Porter v. Coughlin*, 421 F.3d 141, 145 (2d.Cir. 2005) (the Double Jeopardy Clause "protects only against the imposition of multiple *criminal* punishments for the same offense."); *Matter of Chastain,* 532 S.E.2d 264, 265 (S.C. 2000).

Disciplinary proceedings, such as the current USPTO disciplinary proceeding, are not criminal in nature. *See Chastain*, 532 S.E.2d at 265 (citing *Burns v. Clayton,* 117 S.E.2d 300, 307 (1960)). The primary purpose of a disciplinary proceeding "is to protect the public and the administration of justice from lawyers who have not discharged, will not discharge, or are unlikely properly to discharge their professional duties to clients, the public, the legal system, and the legal profession."[6] *Id.*, 532 S.E.2d at 267. Disciplinary proceedings protect the integrity of the legal system, deter unethical conduct among all lawyers, and where appropriate, rehabilitate the lawyer. *Id.* (citing American Bar Association, Standards for Imposing Lawyer Sanctions, § 1.1 (1991)). "[W]hile sanctions imposed on a lawyer obviously have a punitive aspect, nonetheless, it is not the purpose to impose such sanctions for punishment." *Id.*[7] Thus,

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[6] Section 1.1 of Florida's Standards for Lawyer Sanctions mirrors the ABA standards and case law, stating that "[t]he purpose of lawyer discipline proceedings is to protect the public and the administration of justice from lawyers who have not discharged, will not discharge, or are unlikely to discharge their professional duties to clients, the public, the legal system, and the legal profession properly."

[7] *See also Matter of Caranchini,* 160 F.3d 420, 424 (8th Cir. 1998) (attorney discipline is designed to protect the public); *In re Brown,* 906 P.2d 1184, 1191 (Cal. 1995) (aim in disciplining lawyers is not punishment or retribution, but is meant to protect public, promote confidence in legal system, and maintain high professionals standards).

courts uniformly have concluded that the Double Jeopardy Clause is not implicated in disciplinary proceedings. *See Id. See also In re Jaffe*, 585 F.3d 118, 121 (2d. Cir. 2009) (attorney disciplinary proceedings are primarily remedial and the Double Jeopardy Clause does not apply).

Moreover, as explained in the referee reports, the Florida disciplinary standards and Florida case law make clear that disbarment was within the range of allowable penalties under Florida law. As background, the Florida Bar has adopted standards that guide imposition of sanctions once it has been determined by clear and convincing evidence that a member of the legal profession has violated a provision of the Rules Regulating the Florida Bar. *See* Standards for Imposing Layer Sanctions and Black Letter Rules, Sec. 1.3 (Purpose of these Standards). Under Section 3 of these standards, in imposing a sanction after a finding of lawyer misconduct, a referee should generally consider: (a) the duty violated; (b) the lawyer's mental state; (c) the potential or actual injury caused by the lawyer's misconduct; and (d) the existence of aggravating or mitigating factors. *Id.*, Sec. 3 (Factors to be Considered in Imposing Sanctions.) With regard to specific conduct involving dishonesty, fraud, deceit, or misrepresentation to a court, disbarment is appropriate when a lawyer (a) with the intent to deceive the court, knowingly makes a false statement or submits a false document; or (b) improperly withholds material information, and causes serious or potentially serious injury to a party, or causes a signification or potentially significant adverse effect on the legal proceeding. *Id.*, Sec. 6.11 (a) and (b).

Here, the referee made the requisite findings under the Standards for Imposing Lawyer Sanctions, Sections 3 and 6.11 (a) and (b), to invoke disbarment as an appropriate sanction. (Exhibits F, G). First, as to Section 3, the referee identified the duties that Respondent violated (i.e., Rule 4-8.4(c), and a finding of contempt, respectively). (Exhibits F, G). The referee identified Respondent's mental state, that is, that his actions in both cases were done with intent.

(Exhibits F, G). In Case No. SC-11-2139, the referee specifically found that Respondent's testimony that his actions were unintentional was "not credible." (Exhibit F, p. 3). Similarly, in Case No. SC-11-1528, the referee specifically found that Respondent's testimony that his actions were inadvertent was "not credible." (Exhibit G, p. 2). Both referee reports also addressed whether there was a presence or lack of injury caused by Respondent's misconduct, and included an analysis of both mitigating and aggravating factors. (Exhibits F, G). Thus, all of the elements of Section 3 were applied and considered by the referee.

Second, as both cases involved conduct involving dishonesty, fraud, deceit, or misrepresentation to a court, the referee was required to apply the standards in Section 6.11, as applicable. He did so. The referee applied the standards in section 6.11(a) and (b) to Case No. SC11-2139. (Exhibit F, p. 3). In Case No. SC11-1528, only 6.11(a) was applied as the case did not involve withholding material and thus 6.11(b) was inapplicable. (Exhibit G, p. 3). Thus, all of the required findings under 6.11, as applicable, were made by the referee and approved by the Florida Supreme Court.

Respondent's disbarment also finds support in Florida case law as cited by the referee. *See The Florida Bar v. Mogil*, 763 So.2d 303 (Fla. 2000) (upholding disbarment for attorney who violated Rule 4-8.4(c), engaging in conduct involving dishonesty, fraud, deceit, or misrepresentation during reinstatement proceedings); *The Florida Bar v. Orta*, 689 So.2d 270 (Fla. 1997) (upholding disbarment for attorney who violated Rule 4-8.4(c), engaging in conduct involving dishonesty, fraud, deceit, or misrepresentation, while still under suspension for other, similar misconduct).

In conclusion, Respondent's argument about double jeopardy is inapposite. Moreover, disbarment was a sanction well within the allowable range of sanctions for misconduct involving

dishonesty, fraud, deceit, or misrepresentation under Florida law. Respondent has not shown by clear and convincing evidence that reciprocal discipline here would be a grave injustice under 37 C.F.R. § 11.24.

B. Respondent Did Not Suffer a Deprivation of Due Process Such that Reciprocal Disbarment Would Be Inappropriate.

As indicated above, a state disbarment creates a federal-level presumption that imposition of reciprocal discipline is proper. *See Sellig, supra.* An attorney respondent may seek to defeat that presumption by showing by clear and convincing evidence that the state proceeding was so lacking in notice or opportunity to be heard as to constitute a deprivation of due process under 37 C.F.R. § 11.24(d)(1)(i). Here, Respondent has not shown by clear and convincing evidence that he suffered any such deprivation.

"The fundamental requirement of due process is the opportunity to be heard at a meaningful time and in a meaningful manner." *In re Karten*, 293 Fed. Appx. 734, 736 (11th Cir. 2008) (citing *Mathews v. Eldridge,* 424 U.S. 319, 333 (1976) (internal quotation omitted)). In attorney disciplinary proceedings, the attorney is entitled to due process such as reasonable notice of the charges before the proceedings commence. *See In re Ruffalo*, 390 U.S. 544, 551 (1968). Due process requirements are met where, as here, Respondent "attended and participated actively in the various hearings, and was afforded an opportunity to present evidence, to testify, to cross-examine witnesses, and to present argument." *In re Squire*, 617 F.3d 461, 467 (6th Cir. 2010) (citing *Ginger v. Circuit Court for Wayne County*, 372 F.2d 620, 621 (6th Cir. 1967)); *see also In re Zdravkovich*, 634 F.3d 574 (D.C. Cir. 2011) (stating that attorney could not satisfy claim of due process deprivation where he was given notice of the charges against him, was represented by counsel, and had a hearing at which counsel had the opportunity to call and cross-examine witnesses, make arguments, and submit evidence). Due process requirements are met where a

respondent is given "an opportunity to respond to the allegations set forth in the complaint, testify at length in [his] own defense, present other witnesses and evidence to support [his] version of events ..., [and is] able to make objections to the hearing panel's findings and recommendations." *In re Squire*, 617 F.3d at 467 (citing *In re Cook*, 551 F.3d 542, 550 (6th Cir. 2009)).

Here, Respondent does not allege that he lacked notice of the charges against him or was denied an opportunity to be heard in the state proceedings. In fact, he participated throughout the proceedings, including having testified at the hearing conducted by the referee. (Exhibit F, p. 3; Exhibit G, p. 2). The referee's findings were based in part on his testimony. The referee noted that he "observed Respondent's testimony" and found his claims to be "not credible." (Exhibit F, p. 3; Exhibit G, p. 2).

In arguing he was denied due process, Respondent merely argues that the Supreme Court of Florida erred because, in Respondent's opinion, the Court did not follow its own precedent as to one of the findings needed in a referee's report that recommends disbarment. This allegation, however, is no more than a disagreement with the decision of the Supreme Court of Florida, and does not amount to an allegation or showing of a due process violation. Moreover, as already discussed in Section 2.A, *supra.*, it is noted that the referee applied all of the factors provided by Florida law under Sections 3 and 6.11 (a) and (b) of the Standards for Imposing Lawyer Sanctions.

Despite all of the requisite findings having being made by the referee, Respondent claims that *Florida Bar v. Ratiner*, SC08-689 (June 24, 2010), required the referee to find that Respondent knowingly caused serious or potentially serious injury to the public or legal system by his conduct. (Exhibit K, p. 8). However, *Ratiner* does not apply here. In *Ratiner*, the standard

analyzed was a different standard altogether, standard 7.1. As discussed above, the Florida Supreme Court decided Respondent's disbarment met Section 6.11(a) and (b).

In sum, Respondent fully participated in the Florida disciplinary proceedings and Respondent has not shown by clear and convincing evidence that he was deprived of any due process right under 37 C.F.R. 11.24(d)(1)(i). Consequently, Appellant has not by clear and convincing evidence shown that any grounds to prevent imposition of reciprocal discipline under 37 C.F.R. § 11.24(d).

ORDER

ACCORDINGLY, it is:

ORDERED that Respondent is excluded from the practice of patent, trademark, and other non-patent law before the USPTO effective the date of this Final Order; and

ORDERED that the OED Director shall make public the following Notice in the Official Gazette:

Notice of Exclusion

This notice concerns Allen D. Brufsky of Naples, Florida, who is a registered patent attorney (Registration Number 21,056). In a reciprocal disciplinary proceeding, the Director of the United States Patent and Trademark Office ("USPTO") has ordered that Mr. Brufsky be excluded from the practice of patent, trademark, and other non-patent law before the USPTO for violating 37 C.F.R. § 11.804(h)(1) predicated upon being disbarred on ethical grounds by a duly constituted authority of a State.

On August 7, 2013, the Supreme Court of Florida disbarred Mr. Brufsky from the practice of law. Mr. Brufsky previously had been suspended by the Supreme Court of Florida, effective November 26, 2010. The subsequent disbarment is based on two events: i) on March 8, 2011, Mr. Brufsky submitted a Verified Petition for Admission to Practice in the Federal District Court for the Northern District of New York in which Mr. Brufsky failed to inform the court that he had been suspended from the practice of law in Florida; and ii) on May 27, 2011, while suspended from the practice of law in Florida, Mr. Brufsky recorded a Notice of Lis Pendens in the public records of Collier County, Florida. Mr. Brufsky acknowledged that he prepared and signed the Notice, which he signed as

"Allen D. Brufsky Attorney for Marcia Carroll Brufsky." Mr. Brufsky also filed the notice in probate court.

Mr. Brufsky's conduct violated Rule 4-8.4(c) of the Rules Regulating the Florida Bar (engaging in conduct involving dishonesty, fraud, deceit, or misrepresentation) and was in contempt of the Supreme Court of Florida's order of suspension from the practice of law.

This action is taken pursuant to the provisions of 35 U.S.C. § 2(b)(2)(D) and 37 C.F.R. § 11.24. Disciplinary decisions are available for public review at the Office of Enrollment and Discipline's Reading Room, located at: http://e-foia.uspto.gov/Foia/OEDReadingRoom.jsp.

ORDERED that the OED Director give notice pursuant to 37 C.F.R. § 11.59 of the public discipline and the reasons for the discipline to disciplinary enforcement agencies in the state(s) where Respondent is admitted to practice, to courts where Respondent is known to be admitted, and to the public;

ORDERED that the USPTO dissociate Respondent's name from any Customer Numbers and the public key infrastructure ("PKI") certificate associated with those Customer Numbers; and

ORDERED that Respondent shall not apply for a USPTO Customer Number, shall not obtain a USPTO Customer Number, nor shall he have his name added to a USPTO Customer Number, unless and until he is reinstated to practice before the USPTO.

Pursuant to 37 C.F.R. § 11.57(a), review of this final decision by the USPTO Director may be had by a Petition filed with the U.S. District Court for the Eastern District of Virginia, in accordance with 35 U.S.C. § 32.

(Signature Page Follows)

JUN 23 2014

Date

Sarah Harris
General Counsel
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