

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

In the Matter of)	
)	
Sean Donrad,)	
)	Proceeding No. D2014-33
Respondent)	
_____)	

FINAL ORDER¹

After being fully advised, the Deputy General Counsel for Enrollment and Discipline and Director of the Office of Enrollment and Discipline (“OED Director”) for the United States Patent and Trademark Office (“USPTO” or “Office”) and Sean Donrad (“Respondent”) desire to settle the above identified disciplinary proceeding without a hearing. Accordingly, pursuant to 37 C.F.R. § 11.26, the OED Director and Respondent present this Proposed Settlement Agreement (“Agreement”) to the Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office (“USPTO Director”) for approval.

Jurisdiction

1. At all times relevant hereto, Respondent of Oakland, California, has been a registered patent agent or attorney (Registration No. 54,877) and subject to the USPTO Code of Professional Responsibility 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.*
2. The USPTO Director has jurisdiction over this matter pursuant to 35 U.S.C. §§ 2(b)(2)(D) and 32 and 37 C.F.R. §§ 11.19 and 11.26.

Preamble

3. Pursuant to 37 C.F.R. § 11.26, the OED Director and Respondent jointly propose settlement of this disciplinary proceeding.
4. The parties acknowledge that this Agreement resolves all disciplinary action by the Office arising from the stipulated facts set forth below.

¹ This Final Order corrects the Final Order issued in this matter on August 19, 2014. That Order contained an incorrect registration number in paragraph 1. On August 28, 2014, the OED Director filed an unopposed Motion for Leave to File a Corrected Final Order, citing the incorrect registration number. The OED Director’s Motion is granted and this Order is issued to correct the August 19, 2014 Order. In all other respects, the original Final Order is unchanged.

5. Respondent acknowledges that he can be subject to disciplinary action by the Office with respect to any violations of the USPTO Code of Professional Responsibility and the USPTO Rules of Professional Conduct not specifically addressed in this Agreement.

6. Respondent is legally competent and freely and voluntarily enters into this Agreement and acknowledges that he is not acting under duress or coercion.

7. Respondent understands that he is entitled to have a hearing conducted in accordance with the provisions of 37 C.F.R. §§ 11.34 through 11.57. Respondent hereby waives his right to such a hearing, provided that the USPTO Director agrees to the terms and conditions of this agreement. Respondent also waives his right to seek review under 37 C.F.R. § 11.57 of the Final Order approving this Agreement.

8. Respondent is fully aware of the charges set forth in the following stipulated facts and legal conclusions. He acknowledges that he understands the nature of all of these charges.

9. Respondent is fully aware of the implications of the USPTO Director approving this Agreement. Respondent also understands and agrees that, unless the USPTO Director enters a Final Order in accord with the terms of this Agreement, the disciplinary matter has not been resolved and this Agreement is without effect.

10. The OED Director and Respondent also understand and agree that, pursuant to 37 C.F.R. § 11.26, if the USPTO Director does not approve this Agreement, no reference to the offer of settlement, the contingent acceptance thereof, or the fact that the parties stipulated to facts and legal conclusions in support of the Agreement shall be admissible as evidence in any disciplinary proceeding against Respondent.

11. The OED Director and Respondent also understand and agree that this Agreement may be executed in counterparts, the executed counterparts may be exchanged in portable data format ("PDF"), and the PDF of the executed signature page will constitute an original executed signature page.

Joint Stipulated Facts

12. Respondent of Oakland, California, is a registered patent attorney (Registration Number 54,877). He was registered as a patent attorney on September 23, 2003.

13. Respondent was admitted to the California bar on June 1, 2006. As of the date of this Agreement, he is ineligible to practice law due to disciplinary suspension.

14. On September 9, 2011, the Supreme Court of California issued an order suspending Respondent on ethical grounds. See attached order. The court imposed a stayed suspension for a period of one year, and imposed an actual suspension for a minimum of sixty days, and until Respondent satisfied certain conditions. *Id.* Respondent's suspension was terminated on September 6, 2012.

15. On August 14, 2013, the Supreme Court of California issued an order publicly disciplining Respondent on ethical or professional grounds. See attached order. The court imposed a stayed suspension for a period of two years, and imposed an actual suspension for a minimum of one year, and until Respondent satisfied certain conditions. *Id.*

16. On June 26, 2014, the Supreme Court of California issued an order publicly disciplining Respondent on ethical or professional grounds. See attached order. The court imposed a stayed suspension of three years, and imposed an actual suspension for a minimum of six months. *Id.*

17. In August 2013, the OED Director initiated an investigation into Respondent's conduct leading to the California disciplinary actions, pursuant to 37 C.F.R. § 11.22.

18. As part of that investigation, the OED Director sent a Request for Information ("RFI") to Respondent on or about September 27, 2013. The RFI summarized the allegations against Respondent, and requested information and explanation. A response was requested within 30 days.

19. The September 27, 2013 RFI was sent to Respondent's address on file with OED pursuant to 37 C.F.R. § 11.11(a), by certified mail, return receipt requested.

20. The September 27, 2013 RFI was returned unclaimed.

21. On December 4, 2013, OED sent a second copy of the September 27, 2013 RFI to Respondent at two different addresses. The OED attorney sent the RFI to each of the two addresses by first class mail and by UPS with delivery confirmation. One of the two addresses was the address Respondent had disclosed to OED. The second address was an additional address located by OED.

22. UPS tracking indicates that both copies of the December 4, 2013 correspondence were actually delivered.

23. Respondent did not respond to any of the efforts to contact him prior to the completion of OED Director's investigation.

24. On or about June 16, 2014, OED completed their investigation and submitted the matter to the Committee on Discipline, pursuant to 37 C.F.R. § 11.32.

Joint Legal Conclusions

25. Respondent acknowledges that, based on the information contained in the Joint Stipulated Facts, above, Respondent's acts and omissions violated the following provisions of the USPTO Code of Professional Responsibility and USPTO Rules of Professional Conduct:

- a. Respondent violated 37 C.F.R. § 10.23(c)(5), in that he was suspended on ethical grounds by the Supreme Court of California on or about September 9, 2011.
- b. Respondent violated 37 C.F.R. § 11.804(h), in that he was publicly disciplined on ethical or professional grounds by the Supreme Court of California on or about August 14, 2013.
- c. Respondent violated 37 C.F.R. § 11.804(h), in that he was publicly disciplined on ethical or professional grounds by the Supreme Court of California on or about June 26, 2014.
- d. Respondent violated 37 C.F.R. § 11.801(b), in that he failed to cooperate with the Office of Enrollment and Discipline in their August 2013 to June 2014 investigation of his conduct.

Agreed Upon Sanction

26. Based on the foregoing stipulated facts, the OED Director proposes, Respondent freely and voluntarily agrees, and it is hereby ORDERED that:

- a. The substance of the stipulated facts above are incorporated herein;
- b. The substance of the joint legal conclusion above are incorporated herein;
- c. Respondent is hereby suspended from practice before the Office in patent, trademark, and other non-patent matters for twenty-six (26) months commencing on the date a Final Order approving this Agreement is signed.
- d. Respondent shall remain suspended from the practice of patent, trademark, and non-patent law before the USPTO until the OED Director grants a petition requesting Respondent's reinstatement;
- e. Respondent shall comply with 37 C.F.R. § 11.58;
- f. The OED Director shall comply with 37 C.F.R. § 11.59;
- g. Respondent shall serve a twenty-four (24) month period of probation beginning on the date the OED Director grants a petition pursuant to 37 C.F.R. § 11.60 reinstating Respondent ("Respondent's probationary period");
- h. If the OED Director is of the opinion that Respondent, during Respondent's probationary period, failed to comply with any provision of the Final Order or any Disciplinary Rule of the USPTO Code of Professional Responsibility, the OED Director shall:

(1) issue to Respondent an Order to Show Cause why the USPTO Director should not enter an order immediately suspending Respondent for up to and additional

twenty-four (24) months for the violations set forth in paragraph 25, above;

(2) send the Order to Show Cause to Respondent at the last address of record Respondent furnished to the OED Director pursuant to 37 C.F.R. § 11.11(a); and

(3) grant Respondent fifteen (15) days to respond to the Order to Show Cause;

and

In the event after the 15-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 Respondent's probationary period, failed to comply with any provision of the Agreement, Final Order or any Disciplinary Rule of the USPTO Code of Professional Responsibility, the OED Director shall:

(1) deliver to the USPTO Director: (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, during Respondent's probationary period, failed to comply with any provision of the Agreement, Final Order or any Disciplinary Rule of the USPTO Code of Professional Responsibility, and

(2) request that the USPTO Director enter an order immediately suspending Respondent for up to an additional twenty-four (24) months for the violations set forth in paragraph 25, above;

i. In the event that the USPTO Director enters an order pursuant to the Final Order suspending Respondent during his probationary period, and Respondent seeks a review of the USPTO Director's action, any such review shall not operate to postpone or otherwise hold in abeyance the USPTO Director's order;

j. Nothing in this proposed Settlement Agreement or the Final Order shall prevent the Office from seeking discipline against Respondent in accordance with the provisions of the USPTO Rules of Professional Conduct for the misconduct that caused Respondent to be further suspended pursuant to subparagraph h, above;

k. The OED Director electronically publish the Final Order at the OED's electronic FOIA Reading Room, which is publicly accessible through the Office's website at: <http://e-foia.uspto.gov/Foia/OEDReadingRoom.jsp>.

l. The OED Director publish a notice in the *Official Gazette* that is materially consistent with the following:

Notice of Suspension and Probation

This notice concerns Sean Donrad of Oakland, California, a registered patent attorney (Registration Number 54,877) who is currently admitted to practice before the United States Patent and Trademark Office (“USPTO” or “Office”). The USPTO Director has suspended Mr. Donrad for twenty-six months from practice before the Office. Upon reinstatement, Mr. Donrad is also required to serve a two-year probationary period upon his reinstatement.

Practitioners are reminded of their duty to cooperate with the Office of Enrollment and Discipline in investigating allegations of practitioner misconduct.

Mr. Donrad did not respond to multiple efforts on the part of the OED Director to investigate Mr. Donrad’s actions in relation to the above suspensions. The parties agree that the failure to cooperate, in violation of Mr. Donrad’s obligation as a practitioner under 37 C.F.R. § 11.801(b), warrants the imposition of six months of suspension.

The remainder of Mr. Donrad’s suspension is predicated upon his being suspended from practice in California on three occasions for ethical misconduct. On those three occasions, the Supreme Court of California imposed minimum periods of actual suspension of 60 days, one year, and six months, for a total of twenty months.

This action is the result of a settlement agreement between Mr. Donrad and the OED Director pursuant to the provisions of 35 U.S.C. §§ 2(b)(2)(D) and 32 and 37 C.F.R. §§ 11.19, 11.20, 11.26, and 11.59. Disciplinary decisions involving practitioners are posted at OED’s electronic FOIA Reading Room, which is publicly accessible through the Office’s website at:
<http://e-foia.uspto.gov/Foia/OEDReadingRoom.jsp> .

m. The USPTO shall dissociate Respondent’s name from any Customer Numbers and the public key infrastructure (“PKI”) certificate associated with those Customer Numbers.

n. Respondent may not apply for or obtain a USPTO Customer Number, or have his name added to a Customer number, unless and until he is reinstated to practice before the USPTO.


o. Nothing in this Agreement or the Final Order shall prevent the Office from considering the record of this disciplinary proceeding, including the Final Order: (1) when addressing any further complaint or evidence of the same or similar misconduct concerning

Respondent brought to the attention of the Office; (2) in any future disciplinary proceeding against Respondent (i) as an aggravating factor to be taken into consideration in determining any discipline to be imposed and/or (ii) to rebut any statement or representation by or on Respondent's behalf; and (3) when considering any request for reconsideration submitted by Respondent pursuant to 37 C.F.R. § 11.60;

p. Respondent shall fully comply with 37 C.F.R. § 11.60 upon any request for reinstatement to practice before the Office;

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

The foregoing is understood and agreed to by:



JAMES O. PAYNE
Deputy General Counsel for General Law
United States Patent and Trademark Office

SEP - 9 2014

Date

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

cc: Director of the Office of Enrollment and Discipline
United States Patent and Trademark Office

Megan Zavieh
Zavieh Law
12460 Crabapple Road, Suite 202-272
Alpharette, GA 30004
Respondent's Counsel

SEP - 9 2011

(State Bar Court No. 10-O-05018)

Frederick K. Ohlrich Clerk

S194447

Deputy

IN THE SUPREME COURT OF CALIFORNIA

En Banc

In re SEAN DONRAD on Discipline

The court orders that Sean Donrad, State Bar Number 242665, is suspended from the practice of law in California for one year, execution of that period of suspension is stayed, subject to the following conditions:

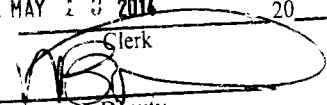
1. Sean Donrad is suspended from the practice of law for a minimum of 60 days, and he will remain suspended until the following requirements are satisfied:
 - i. He makes restitution to Sharon Michael in the amount of \$5,000 plus 10 percent interest per annum from March 1, 2009 (or reimburses the Client Security Fund to the extent of any payment from the fund to Sharon Michael, in accordance with Business and Professions Code section 6140.5) and furnishes satisfactory proof to the State Bar's Office of Probation in Los Angeles;
 - ii. The State Bar Court grants a motion to terminate his suspension pursuant to rule 205 of the Rules of Procedure of the State Bar;
 - iii. If Sean Donrad remains suspended for two years or more as a result of not satisfying the preceding requirements, he must also provide proof to the State Bar Court of his rehabilitation, fitness to practice and learning and ability in the general law before his suspension will be terminated. (Rules Proc. of State Bar, tit. IV, Stds. for Atty. Sanctions for Prof. Misconduct, std. 1.4(c)(ii)); and
 - iv. If Sean Donrad remains suspended for 90 days or more, he must also comply with rule 9.20 of the California Rules of Court and perform the acts specified in subdivisions (a) and (c) of that rule within 120 and 130 calendar days, respectively, after the effective date of this order. Failure to do so may result in disbarment or suspension.

2. Sean Donrad must comply with the conditions of probation, if any, imposed by the State Bar Court as a condition for terminating his suspension.

Sean Donrad must also take and pass the Multistate Professional Responsibility Examination within one year after the effective date of this order, or during the period of his suspension, whichever is longer and provide satisfactory proof of such passage to the State Bar's Office of Probation in Los Angeles within the same period. Failure to do so may result in suspension. (Cal. Rules of Court, rule 9.10(b).)

Costs are awarded to the State Bar in accordance with Business and Professions Code section 6086.10 and are enforceable both as provided in Business and Professions Code section 6140.7 and as a money judgment.

I, Frank A. McGuire, Clerk of the Supreme Court of the State of California, do hereby certify that the preceding is a true copy of an order of this Court as shown by the records of my office.
Witness my hand and the seal of the Court this

____ day of MAY 23 2014 20____
By:  Clerk
Deputy

CANTIL-SAKAUYE

Chief Justice

(State Bar Court Nos. 10-O-07779; 11-O-12670 (11-O-13264; 11-O-13322;
11-O-14876))

SUPREME COURT
FILED

S211290

IN THE SUPREME COURT OF CALIFORNIA

AUG 14 2013

En Banc

Frank A. McGuire Clerk

Deputy

In re SEAN DONRAD on Discipline

The court orders that Sean Donrad, State Bar Number 242665, is suspended from the practice of law in California for two years, execution of that period of suspension is stayed, and he is placed on probation for two years subject to the following conditions:

1. Sean Donrad is suspended from the practice of law for a minimum of the first year of probation, and he will remain suspended until the following requirements are satisfied:
 - i. He makes restitution to Phillip Collis in the amount of \$3,800 plus 10 percent interest per year from October 29, 2009 (or reimburses the Client Security Fund, to the extent of any payment from the fund to Phillip Collis, in accordance with Business and Professions Code section 6140.5) and furnishes satisfactory proof to the State Bar's Office of Probation in Los Angeles; and
 - ii. If he remains suspended for two years or more as a result of not satisfying the preceding condition, he must also provide proof to the State Bar Court of his rehabilitation, fitness to practice and learning and ability in the general law before his suspension will be terminated. (Rules Proc. of State Bar, tit. IV, Stds. for Atty. Sanctions for Prof. Misconduct, std. 1.4(c)(ii).)
2. Sean Donrad must also comply with the other conditions of probation recommended by the Review Department of the State Bar Court in its Opinion filed on April 15, 2013.

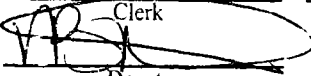
3. At the expiration of the period of probation, if Sean Donrad has complied with all conditions of probation, the two-year period of stayed suspension will be satisfied and that suspension will be terminated.

Sean Donrad must also comply with California Rules of Court, rule 9.20, and perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 calendar days, respectively, after the effective date of this order. Failure to do so may result in disbarment or suspension.

Costs are awarded to the State Bar in accordance with Business and Professions Code section 6086.10 and are enforceable both as provided in Business and Professions Code section 6140.7 and as a money judgment.

I, Frank A. McGuire, Clerk of the Supreme Court of the State of California, do hereby certify that the preceding is a true copy of an order of this Court as shown by the records of my office.

Witness my hand and the seal of the Court this

_____ day of MAY 13 2014 20_____
Clerk
By:  Deputy

CANTIL-SAKAUYE
Chief Justice

JUN 26 2014

(State Bar Court Nos. 12-O-14753 (12-O-14914))

S218144

Frank A. McGuire Clerk

Deputy

IN THE SUPREME COURT OF CALIFORNIA

En Banc

In re SEAN DONRAD on Discipline

The court orders that Sean Donrad, State Bar Number 242665, is suspended from the practice of law in California for three years, execution of that period of suspension is stayed, and he is placed on probation for three years subject to the following conditions:

1. Sean Donrad is suspended from the practice of law for the first six months of probation;
2. Sean Donrad must comply with the other conditions of probation recommended by the Hearing Department of the State Bar Court in its Decision filed on January 28, 2014; and
3. At the expiration of the period of probation, if Sean Donrad has complied with all conditions of probation, the three-year period of stayed suspension will be satisfied and that suspension will be terminated.

Sean Donrad must also comply with California Rules of Court, rule 9.20, and perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 calendar days, respectively, after the effective date of this order. Failure to do so may result in disbarment or suspension.

Costs are awarded to the State Bar in accordance with Business and Professions Code section 6086.10 and are enforceable both as provided in Business and Professions Code section 6140.7 and as a money judgment.

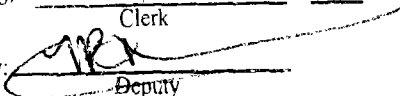
I, Frank A. McGuire, Clerk of the Supreme Court of the State of California, do hereby certify that the preceding is a true copy of an order of this Court as shown by the records of my office.

Witness my hand and the seal of the Court this

____ day of AUG 2014

Clerk

By:


Deputy

CANTIL-SAKAUYE

Chief Justice