

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

In the Matter of:)	
)	
Timothy J. Klima,)	Proceeding No. D2014-32
)	
Respondent)	
)	

FINAL ORDER UNDER 37 C.F.R. § 11.24

Pursuant to 37 C.F.R. §§ 11.24, the Director of the United States Patent and Trademark Office (“USPTO” or “Office”) hereby orders the public reprimand of Timothy J. Klima (“Respondent”) for violation of 37 C.F.R. § 11.804(h).

I. BACKGROUND AND PROCEDURAL HISTORY

On January 3, 2014, the Supreme Court of Iowa issued an Order in *The Iowa Supreme Court Attorney Disciplinary Board v. Timothy J. Klima*, No. 13-1815, publicly reprimanding Respondent on ethical grounds.

On July 3, 2014, the Director of the Office and Enrollment and Discipline at the USPTO (“OED Director”) served a “Complaint for Reciprocal Discipline Under 37 C.F.R. § 11.24” (“OED Complaint”) on Respondent. The OED Director requested that the USPTO Director impose reciprocal discipline on Respondent for violating 37 C.F.R. § 11.804(h), by being publicly reprimanded on ethical grounds by a duly constituted authority of a State. *See* OED Complaint, p.2.

On July 10, 2014, the Deputy General Counsel for General Law, on behalf of the USPTO Director, issued an Order giving Respondent 40 days to file 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 Iowa in *The Iowa Supreme Court Attorney Disciplinary Board v. Timothy J. Klima*, No. 13-1815, would be unwarranted based upon any of the grounds permissible under 37 C.F.R. § 11.24(d)(1). *See* Notice and Order Pursuant to 37 C.F.R. § 11.24 pp. 1-2.

On July 18, 2014, Respondent filed a Response to the Notice and Order and states that he “raises no genuine issue of material fact in this matter predicated upon any of the grounds set forth in [37 C.F. R. § 11.24(d)(1)(i)-(iv)]” and acknowledged that “a public reprimand in substance similar to the public reprimand issued by the Supreme Court of Iowa is appropriate. . . .” *See* Response, p. 1.

Although Respondent does not contest the imposition of reciprocal discipline, Respondent proposes changes to the wording of the Notice of Public Reprimand proposed by the OED Director in the OED Complaint. Respondent characterizes the proposed changes as “intended to serve three purposes,” namely, “to improve precision by making clear the ethical rules in the issue are Iowa Rules of Professional Responsibility,” “to more accurately track the factual background as reflected in the Iowa decision,” and “to protect the identity of the ‘other lawyer’ (who is not a PTO bar member and does not practice before the Office), and the name of Respondent’s law firm, as those specifics are unnecessary and irrelevant for the purposes of the Notice.” *See* Response, p. 3.

Having reviewed the proposed changes to the Notice of Public reprimand, the full citation to Iowa Rules of Professional Conduct will be included in the Notice, in accordance with the Respondent’s suggestion. However, Respondent’s other suggested changes will not be adopted. The information Respondent sought to have changed or stricken is already publicly available and obviates any need to make the changes that Respondent proposed.

II. CONCLUSION

In light of the fact that Respondent does not raise any issue of material fact in this matter and does not contest the imposition of reciprocal discipline, it is hereby determined that there is no genuine issue of material fact under 37 C.F.R. § 11.24(d) and Respondent's public reprimand is appropriate.

ACCORDINGLY, it is:

ORDERED that Respondent is publicly reprimanded; and

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

Notice of Reprimand

This Notice concerns Timothy J. Klima of Cedar Rapids, Iowa, who is a registered patent attorney (Registration Number 34,852). In a reciprocal disciplinary proceeding, the Director of the United States Patent and Trademark Office ("USPTO") has ordered that Timothy J. Klima be publicly reprimanded for violating 37 C.F.R. § 11.804(4), predicated upon being publicly reprimanded by a duly constituted authority of a State.

In or around 2010, Respondent established a lawyer-client and fiduciary relationship with Client and helped prepare his medical and general powers of attorney, which named Respondent as Client's attorney in fact. At the time, Respondent practiced law in the Cedar Rapids, Iowa law firm of Shuttleworth & Ingersoll ("the Shuttleworth firm"). Client then asked Respondent to establish a trust for Client. Respondent suggested that another attorney in the Shuttleworth firm, William Hochstetler, do the work. During the meeting between Client and Mr. Hochstetler, in Respondent's presence, Respondent learned that Client intended to make a bequest to Respondent of \$75,000.

Respondent subsequently reviewed and made proofreading suggestions to the drafts of the estate planning instruments, which included a trust agreement Mr. Hochstetler prepared on Client's behalf. On September 15, 2010, the estate planning instruments were executed by Client. In 2012, as part of the settlement of Client's will contest, Respondent disclaimed his bequest.

The Iowa Supreme Court found that Respondent violated: Iowa R. Prof'l Conduct Rule 32:8.4(a) by assisting Mr. Hochstetler in proofreading the estate planning instruments contrary to Rules 32:1.8(c) and (k); and Iowa R. Prof'l Conduct Rules 32:1.3((a)(2) and (b) by failing to explain to Client the conflict, its implications,

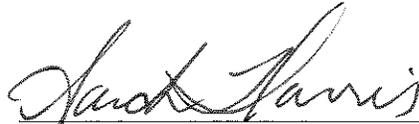
and his need for independent counsel.

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>.

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.

NOV 12 2014

Date



Sarah Harris
General Counsel
United States Patent and Trademark Office
United States Patent and Trademark Office

on behalf of
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Deputy Under Secretary of Commerce for
Intellectual Property and Deputy Director of
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