

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

In the Matter of)	
)	
David V. Moss,)	Proceeding No. D2015-02
)	
Respondent)	
_____)	

FINAL ORDER

The Director of the Office of Enrollment and Discipline (“OED Director”) for the United States Patent and Trademark Office (“USPTO” or “Office”) and David V. Moss (“Respondent”) have submitted a 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.

The Agreement, which resolves all disciplinary action by the USPTO arising from the stipulated facts set forth below, is hereby approved. This Final Order sets forth the parties’ stipulated facts, legal conclusion, and agreed upon sanction.

Jurisdiction

1. At all times relevant hereto, Respondent of Poulsbo, Washington, has been a registered patent attorney (Registration Number 56,823) 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.*¹

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.

¹ To the extent that the alleged conduct occurred prior to May 3, 2013, the USPTO Code of Professional Responsibility is applicable. *See* 37 C.F.R. §§ 10.20-10.112. Effective May 3, 2013, the applicable rules of conduct are the USPTO Rules of Professional Conduct. *See* 37 C.F.R. §§ 11.101 through 11.901.

Stipulated Facts

Background

3. Respondent of Poulsbo, Washington has been registered (Registration Number 56,823) as a patent attorney since April 22, 2005.

4. Respondent was admitted to practice law in the State of Washington on May 19, 2003. Respondent was admitted to practice law in the State of Wisconsin on July 9, 2009.

Discipline issued by the Supreme Court of Wisconsin

5. By Order dated July 30, 2014, in the case *In the Matter of Disciplinary Proceedings Against David V. Moss, Attorney at Law*, Case No. 2013-AP-2088-D, the Supreme Court of Wisconsin suspended Respondent for two years on ethical grounds from the practice of law in that jurisdiction. The attached Exhibit A is a true and accurate certified copy of the Order.

Violations of USPTO Disciplinary Rules

6. Paragraphs 1-5 are hereby incorporated by reference.

7. As evidenced by the July 30, 2014 Order in the case *In the Matter of Disciplinary Proceedings Against David V. Moss, Attorney at Law*, Case No. 2013-AP-2088-D, suspending Respondent for two years on ethical grounds from the practice of law in Wisconsin, Respondent violated 37 C.F.R. § 11.804(h) by being publicly disciplined on ethical grounds by a duly constituted authority of a State.

Joint Legal Conclusion

8. Respondent acknowledges that, based on the information contained in the above-stipulated facts, he violated 37 C.F.R. § 11.804(h).

Agreed Upon Sanction

9. Respondent agrees, and it is hereby ORDERED that:
- a. Respondent shall be suspended from the practice of patent, trademark and other non-patent law before the USPTO for two years;
 - b. The OED Director shall electronically publish the Final Order at OED's electronic FOIA Reading Room, which is publicly accessible at: <http://e-foia.uspto.gov/Foia/OEDReadingRoom.jsp>;
 - c. The OED Director shall publish the following notice in the *Official Gazette*:

Notice of Suspension

This notice concerns David V. Moss of Poulsbo, Washington, who is registered to practice in patent matters (Registration Number 56,823) before the United States Patent and Trademark Office ("USPTO" or "Office") and is licensed as an attorney in Washington and Wisconsin. In a reciprocal disciplinary proceeding, the Director of the USPTO has ordered that Mr. Moss be suspended for two years from practice before the USPTO in patent, trademark, and other non-patent matters for violating 37 C.F.R. § 11.804(h) predicated upon being suspended from the practice of law by a duly constituted authority of a State.

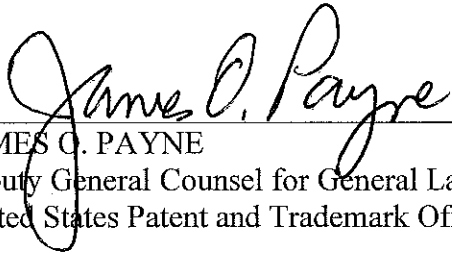
On July 30, 2014, the Supreme Court of Wisconsin entered an order suspending Mr. Moss from the practice of law for two years in Wisconsin for violating the following Supreme Court Rules: 20:1.3 (failure to act with reasonable diligence and promptness in representing a client); 20:1.4(a)(3) and (4) (failure to keep a client reasonably informed about the status of a matter and failure to promptly comply with reasonable requests for information); 20:1.5(a) (unreasonable fees); 20:1.5(b)(1) and (2) (failure to communicate the scope of representation and fees); 20:1.15(d)(1) and (2) (failure to properly disburse funds received); 20:1.16(d) (failure to protect a client's interest upon termination of representation); 20:8.4(g) (misconduct by violating an attorney's oath); and 22.03(2) and 22.03(6), enforced via 20:8.4(h) (failure to cooperate in a disciplinary investigation). Mr. Moss engaged in repeated misconduct by taking fees from clients, failing to perform the work for which he was retained, failing to communicate with clients regarding the status of their matters, and failing to return fees and client files upon request.

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

and

- d. Nothing in this 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 brought to the attention of the Office; and/or (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 made by or on Respondent's behalf; and

- e. The OED Director and Respondent shall each bear their own costs incurred to date in carrying out the terms of the Agreement and the Final Order.



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

DEC 10 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

David V. Moss, Respondent