

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

In the Matter of)	
)	
Wendell Jamon Jones,)	
)	Proceeding No. D2015-18
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 Wendell J. Jones ("Respondent") have submitted a proposed settlement agreement ("Agreement") to the Under Secretary of Commerce for Intellectual Property and Director of the USPTO ("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 conclusions, and sanctions.

Jurisdiction

1. At all times relevant hereto, Respondent of Palo Alto, California, has been a registered patent attorney (Registration No. 45,961) and subject to the USPTO Code of Professional Responsibility¹ and the USPTO Rules of Professional Conduct.
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.

Joint Stipulated Facts

A. Background

3. At all times relevant hereto, Respondent has been registered as an attorney to practice before the Office and has been subject to the disciplinary rules of the USPTO Code of Professional Responsibility and the USPTO Rules of Professional Conduct. The USPTO registered Respondent as a patent attorney on March 24, 2000. Respondent's registration number is 45,961.

¹ The USPTO Code of Professional Responsibility, 37 C.F.R. § 10.20 *et seq.*, applies to Respondent's misconduct that occurred prior to May 3, 2013. The USPTO Rules of Professional Conduct, 37 C.F.R. § 11.101 *et seq.*, apply to Respondent's misconduct occurring on or after May 3, 2013.

4. Respondent was admitted to the State Bar of California on July 19, 1999, but is not currently eligible to practice non-patent law in California, and has not been eligible to practice non-patent law in California since October 4, 2014.

B. State Discipline

5. By Order dated April 17, 2014, in *In the Matter of Wendell Jamon Jones*, Case Numbers 12-O-15885, 12-O-16465, and 13-O-11273, the State Bar Court of California suspended Respondent on consent for a period of one year, stayed part of the suspension, actually suspended Respondent for 90 days, and placed him on probation for two years from the practice of law in California. He has served a 90 day suspension, which began on or about October 4, 2014.

6. The April 17, 2014 Order was based upon the stipulation of agreed facts and proposed discipline by the State Bar of California and Respondent. The parties agreed that Respondent violated: Business and Professions Code § 6103 (disobeying or violating court orders requiring Respondent to do or forbear an act connected with or in the course of Respondent's profession) by failing to abide by nine separate court orders; Rule of Professional Conduct 3-110(A) (willfully failing to perform legal services with competence) by failing to appear at a hearing on behalf of a client; Business and Professions Code § 6068(m) (failing to communicate a significant development in a matter in which an attorney agreed to provide legal services) by failing to notify a client of sanctions issued by a Court; Business and Professions Code § 6068(o)(3) (failing to timely report judicial sanctions to the agency charged with attorney discipline) by failing to report judicial sanctions to the State Bar of California, in writing, within 30 days of the time Respondent had knowledge of the imposition of any judicial sanctions against him; Business and Professions Code § 6106 (committing an act of moral turpitude) by making a false certification to a bankruptcy court; and Business and Professions Code § 6068(c) (maintaining an unjust action) by filing a bankruptcy petition to stop a foreclosure, without the intent to obtain a discharge of debt.

7. By Order dated December 3, 2014, in *In the Matter of Wendell Jamon Jones*, Case Numbers 14-O-876 and 14-O-3242, the State Bar Court of California suspended Respondent on consent for a period of one year, stayed part of the suspension, actually suspended Respondent for 90 days, and placed him on probation for two years from the practice of law in California. The suspension is to take effect on May 28, 2015.

8. The December 3, 2014 Order was based upon the stipulation of agreed facts and proposed discipline by the State Bar of California and Respondent. The parties agreed that Respondent violated: Business and Professions Code § 6106.3 (violation of Civil Code § 2944.7, which prohibits anyone providing mortgage loan modification services from collecting any fee for services prior to such services being performed) by collecting fees from clients for loan modification services that Respondent had not yet performed, on two separate occasions.

9. Respondent is not currently eligible to practice law in the State of California.

Joint Legal Conclusions

10. Respondent admits that, based on the information contained in the stipulated facts above, his conduct violated the following provisions of the USPTO Code of Professional Responsibility: 37 C.F.R. §§ 10.23(b)(3) (engaging in illegal conduct involving moral turpitude); 10.23(b)(5) (engaging in conduct that is prejudicial to the administration of justice); 10.39(b) (presenting a claim or defense that is not warranted under existing law); 10.77(c) (neglecting a matter entrusted to a practitioner); and 10.85(a)(2) (knowingly advancing an unwarranted claim).

11. Respondent further admits that, based on the information contained in the stipulated facts above, his conduct violated the following USPTO Rules of Professional Conduct: 37 C.F.R. §§ 11.103 (requiring a practitioner to act with reasonable diligence and promptness in representing a client); 11.105(a) (collecting an unreasonable fee); 11.804(a) (violating or attempting to violate the USPTO Rules of Professional Conduct); 11.804(h) (being publicly disciplined on ethical or professional misconduct grounds by a duly constituted authority of a State); and 11.804(i) (engaging in conduct that adversely reflects on a practitioner's fitness to practice before the Office).

Sanction

12. Respondent agrees, and it is ORDERED that:

- a. Respondent is hereby suspended from practice before the Office in patent, trademark, and other non-patent matters for a period of one hundred and eighty (180) days commencing on the date this Final Order is signed;
- b. The USPTO shall promptly dissociate Respondent's name from all USPTO Customer Numbers and Public Key Infrastructure ("PKI") certificates;
- c. Respondent shall not apply for or obtain a USPTO Customer Number or a PKI certificate unless and until he is reinstated to practice before the USPTO;
- d. Respondent shall remain suspended from practice before the Office in patent, trademark, and non-patent matters until the OED Director grants a petition requesting Respondent's reinstatement pursuant to 37 C.F.R. § 11.60;
- e. Respondent shall comply with the provisions of 37 C.F.R. § 11.58;
- f. If and when Respondent seeks reinstatement pursuant to 37 C.F.R. § 11.60, the present disciplinary proceeding will not be a basis for barring his reinstatement provided that Respondent complies with the terms of this Final Order;

- g. Respondent shall fully pay \$7,347 in restitution to the aggrieved parties, as set forth in the April 13, 2014, and December 3, 2014, Orders of the State Bar Court of California, prior to reinstatement;
- h. Respondent shall successfully complete Ethics School, as set forth in the April 13, 2014, and December 3, 2014, Orders of the State Bar Court of California, prior to reinstatement;
- i. Respondent shall retake the Multistate Professional Responsibility Examination, and achieve a scaled score equal to or greater than 86, prior to reinstatement;
- j. The OED Director shall comply with 37 C.F.R. § 11.59;
- k. If Respondent is reinstated to practice before the Office, Respondent shall serve a twenty-four (24) month period of probation commencing on the date of reinstatement;
- l. Respondent shall be permitted to practice before the USPTO in patent, trademark, and other non-patent matters during his probationary period unless his probation is revoked and he is suspended by order of the USPTO Director or otherwise no longer has the authority to practice;
- m. If the OED Director is of the good faith opinion that Respondent, during Respondent's probationary period, failed to comply with any provision of the Agreement, this Final Order, or any provision of the USPTO Rules of Professional Conduct, the OED Director shall:
 - i. Issue to Respondent an Order to Show Cause why the USPTO Director should not enter an order immediately suspending Respondent for up to twenty-four (24) months for the violations set forth in paragraphs 10 and 11, above;
 - ii. 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; and
 - iii. Grant Respondent thirty (30) days to respond to the Order to Show Cause; and
 - iv. In the event that after the 30-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, this Final Order, or any provision of the USPTO Rules of Professional Conduct, the OED Director shall:

1. Deliver to the USPTO Director:
 - a. the Order to Show Cause;
 - b. Respondent's response to the Order to Show Cause, if any; and
 - c. argument and evidence 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 provision of the USPTO Rules of Professional Conduct; and
2. Request that the USPTO Director enter an order immediately suspending Respondent for up to twenty-four (24) months for the violations set forth in paragraphs 10 and 11, above;
 - v. Nothing herein shall prevent the OED Director from seeking discipline for the misconduct leading to Respondent's suspension pursuant to the preceding subparagraph; and
 - vi. In the event the USPTO Director suspends Respondent pursuant to subparagraph (m)(iv)(2), above, and Respondent seeks a review of the suspension, any such review of the suspension shall not operate to postpone or otherwise hold in abeyance the suspension;
- n. The OED Director shall electronically publish the Final Order at the OED's electronic FOIA Reading Room that is publicly accessible through the Office's website at: <http://e-foia.uspto.gov/Foia/OEDReadingRoom.jsp>;
- o. The OED Director shall publish the following notice in the *Official Gazette*:

Notice of Suspension

This notice concerns Wendell Jamon Jones of Palo Alto, California, who is a registered patent attorney (Registration Number 45,961), and was admitted to practice law in the State of California in 1999. The Director of the United States Patent and Trademark Office ("USPTO") has ordered that Mr. Jones be suspended from practice before the USPTO in patent, trademark, and other non-patent matters for 180 days for violating 37 C.F.R. §§ 10.23(b)(3); 10.23(b)(5); 10.39(b); 10.77(c); 10.85(a)(2); 11.103; 11.105(a); 11.804(a); 11.804(h); and 11.804(i); and will be placed on two years' probation if and when he is reinstated. After completing his suspension and complying with other terms set forth by the State Bar Court of California, Mr. Jones may

seek reinstatement pursuant to 37 C.F.R. § 11.60. After being reinstated, Mr. Jones will be permitted to practice patent, trademark, and non-patent law before the USPTO during his probationary period.

Mr. Jones was suspended from the practice of law in California in connection with two separate proceedings. In the first proceeding, *In the Matter of Wendell Jamon Jones*, Case Numbers 12-0-15885, 12-0-16465, and 13-0-11273, Mr. Jones was disciplined for violating Business and Professions Code § 6103 (disobeying or violating court orders requiring Respondent to do or forbear an act connected with or in the course of Respondent's profession) by failing to abide by nine separate court orders; Rule of Professional Conduct 3-110(A) (willfully failing to perform legal services with competence) by failing to appear at a hearing on behalf of a client; Business and Professions Code § 6068(m) (failing to communicate a significant development in a matter in which an attorney agreed to provide legal services) by failing to notify a client of sanctions issued by a Court; Business and Professions Code § 6068(o)(3) (failing to timely report judicial sanctions to the agency charged with attorney discipline) by failing to report judicial sanctions to the State Bar of California, in writing, within 30 days of the time Respondent had knowledge of the imposition of any judicial sanctions against him; Business and Professions Code § 6106 (committing an act of moral turpitude) by making a false certification to a bankruptcy court; and Business and Professions Code § 6068(c) (maintaining an unjust action) by filing a bankruptcy petition to stop a foreclosure proceeding, without the intent to obtain a discharge of debt.

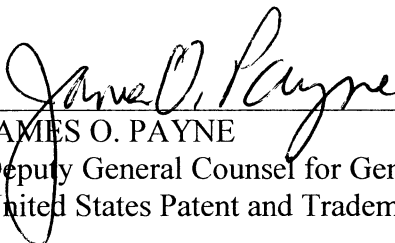
In the second proceeding, *In the Matter of Wendell Jamon Jones*, Case Numbers 14-O-876 and 14-O-3242, Mr. Jones was disciplined for violating Business and Professions Code § 6106.3 (violating Civil Code § 2944.7, which prohibits anyone providing mortgage loan modification services from collecting any fee for services prior to such services being performed) by collecting fees from clients for loan modification services that Respondent had not yet performed, on two separate occasions.

This action is the result of a settlement agreement between Mr. Jones 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 and 11.59. 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>.

- p. Nothing in the Agreement or the Final Order shall prevent the Office from considering the record of this disciplinary proceeding, including the Final Order:
- i. when addressing any further complaint or evidence of the same or similar misconduct concerning Respondent brought to the attention of the Office; and/or
 - ii. in any future disciplinary proceeding against Respondent (1) as an aggravating factor to be taken into consideration in determining any discipline to be imposed, and/or (2) to rebut any statement or representation by or on Respondent's behalf; and
- q. The OED Director and Respondent shall each bear their own costs incurred to date and in carrying out the terms of the Agreement and the Final Order.

MAY 15 2015

Date



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

on behalf of

Michelle K. Lee
Under Secretary of Commerce for Intellectual Property and
Director of the United States Patent and Trademark Office

cc:

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

Mr. Wendell J. Jones
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P.O. Box 441
Palo Alto, CA 94301

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