

UNITED STATES PATENT AND TRADEMARK OFFICE

In the Matter of:)
)
Doug Allen Bernacchi,) Proceeding No. D2018-37
)
Respondent)
_____)

FINAL ORDER PURSUANT TO 37 C.F.R. § 11.24

Pursuant to 37 C.F.R. § 11.24, Doug Allen Bernacchi (“Respondent”) is hereby suspended for one (1) year from the practice of trademark and other non-patent law before the United States Patent and Trademark Office (“USPTO” or “Office”) for violation of 37 C.F.R. § 11.804(h).

Background

By Order dated October 16, 2017, the Indiana Supreme Court in *In re Bernacchi*, Case No. 46S00-1512-DI-694, suspended Respondent from the practice of law in that jurisdiction for a period of not less than one year, without automatic reinstatement.

On November 9, 2018, a “Notice and Order Pursuant to 37 C.F.R. § 11.24” (“Notice and Order”), was sent by certified mail (receipt nos. 70180040000020984997, 70182620000001052528, and 70180040000020985000) notifying Respondent that the Director of the Office of Enrollment and Discipline (“OED Director”) had filed a “Complaint for Reciprocal Discipline Pursuant to 37 C.F.R. § 11.24” (“Complaint”) requesting that the Director of the USPTO impose reciprocal discipline upon Respondent identical to the discipline imposed by the Indiana Supreme Court in *In re Bernacchi*, Case No. 46S00-1512-DI-694. Thereafter, on December 14, 2018, the Notice and Order was sent by certified mail (receipt no. 70172620000001052573) to a second address where the it is believed Respondent receives mail.

Finally, the Notice and Order was published in the Official Gazette for two (2) consecutive weeks. Respondent has not filed a response to the Notice and Order.

Analysis

In light of Respondent's failure to file a response, it is hereby determined that there is no genuine issue of material fact under 37 C.F.R. § 11.24(d) and Respondent's suspension is the appropriate discipline.

ACCORDINGLY, it is hereby **ORDERED** that:

1. Respondent is suspended from the practice of trademark and other non-patent law before the USPTO for one (1) year, effective the date of this Final Order;
2. The OED Director shall publish a notice in the *Official Gazette* that is materially consistent with the following:

Notice of Suspension

This notice concerns Doug Allen Bernacchi of Granger, Indiana, who is authorized to practice before the Office in trademark and non-patent matters. In a reciprocal disciplinary proceeding, the Director of the United States Patent and Trademark Office ("USPTO") has ordered that Mr. Bernacchi be suspended from practice before the USPTO in trademark and other non-patent matters for a period of one year for violating 37 C.F.R. § 11.804(h), predicated upon being suspended from the practice of law for a period of not less than one year by a duly constituted authority of a State. Mr. Bernacchi is not authorized to practice before the Office in patent matters.

On October 16, 2017, the Indiana Supreme Court issued an order suspending Mr. Bernacchi from the practice of law in Indiana. The order was predicated on Mr. Bernacchi violating Indiana Professional Conduct Rules 1.1, 1.5(a), 5.3, and Guidelines 9.1, 5.4(a), and 8.4(d), by failing to provide competent representation; making an agreement for, charging, or collecting an unreasonable fee; using a nonlawyer legal assistant who was not an employee; improperly sharing legal fees with a nonlawyer; and engaging in conduct prejudicial to the administration of justice. The order explained that Mr. Bernacchi had admitted under oath the truth of the allegations against him and joined in a request before the hearing officer to be heard on the issue of sanctions alone, but then proceeded to file a petition for review to challenge the hearing officer's finding that he

committed misconduct. According to the order, Mr. Bernacchi, *inter alia*, engaged in a blatant conflict of interest by appearing on behalf of both the party seeking support and the party resisting support, made false statements to the trial court, and shared fees with an unsupervised paralegal in a manner that made his own role in the representation secondary to that of the paralegal. The order also explained that Mr. Bernacchi displayed troubling conduct during the disciplinary proceedings, as he, *inter alia*, harassed Client about the grievance that was filed in Indiana and induced others to do the same, filed a frivolous Notice of Tort Claim against the Commission's counsel, and attached to that tort claim notice an affidavit that he later acknowledged was false.

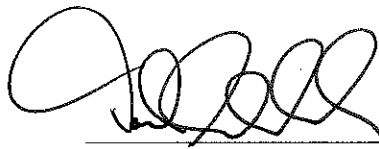
This action is taken pursuant to the provisions of 35 U.S.C. § 32 and 37 C.F.R. § 11.24. Disciplinary decisions are available for public review at the Office of Enrollment and Discipline's FOIA Reading Room, located at: <http://e-foia.uspto.gov/Foia/OEDReadingRoom.jsp>;

3. Respondent shall comply with 37 C.F.R. § 11.58; and

4. The OED Director shall 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.

29 March 2019

Date



David Shewchuk
Deputy General Counsel for General Law
United States Patent and Trademark Office

on delegated authority by

Andrei Iancu
Under Secretary of Commerce for Intellectual Property and
Director of the United States Patent and Trademark Office

cc:

OED Director

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