

UNITED STATES PATENT AND TRADEMARK OFFICE

In the Matter of)
)
Christopher A. Wiklof,) Proceeding No. D2019-26
)
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 Mr. Christopher A. Wiklof (“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.

This 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’ joint stipulated facts, joint legal conclusions, and agreed upon sanctions found in the Agreement.

JURISDICTION

1. At all times relevant, Respondent, of Everett, Washington, has been a registered patent agent (Registration Number 43,990) who is subject to the USPTO Rules of Professional Conduct, which are set forth at 37 C.F.R. §§ 11.101 through 11.901.

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, 11.20, and 11.26.

STIPULATED FACTS

3. The USPTO registered Respondent as a patent agent on February 16, 1999 (Registration No. 43,990).
4. On July 15, 2017, Respondent discharged an air rifle, striking a victim and causing serious injury.
5. On July 19, 2017, Respondent was charged with the felony of Assault in the Third Degree in violation of Wash. Rev. Code § 9A.36.031 in *State of Washington v. Wiklof*, Island Cty. Sup'r. Ct. Case No. 17-1-00176-8.
6. On March 26, 2018, Respondent pled guilty to Assault in the Fourth Degree in violation of Wash. Rev. Code § 9A.36.041, a gross misdemeanor.
7. Respondent represents the following:
 - a. Respondent has been a registered patent practitioner for 19 years and has not been the subject of professional discipline in the past.
 - b. Respondent is 61 years of age and has no prior criminal history.
 - c. Respondent paid \$160,000.00 in restitution to the victim and an additional \$140,000.00 was paid by his insurer.
 - d. Respondent served 118 days in confinement as part of his criminal sentence.
 - e. Respondent was also sentenced to two years of probation in the criminal matter and has been in compliance with the conditions of his criminal probation.
 - f. Respondent has taken steps to ensure no similar misconduct will occur in the future and is in compliance with all directives of his relevant healthcare professionals.
 - g. Respondent contends that the violations set forth herein were the result of an isolated instance of poor self-management and personal neglect.

- h. Respondent asserts that he had no intention to violate the USPTO Rules of Professional Conduct.
- i. Respondent has expressed remorse for his mistakes and for the harm he caused to the victim.

JOINT LEGAL CONCLUSION

8. Respondent acknowledges that, based on the information contained in the stipulated facts above, Respondent violated the following provisions of the USPTO Rules of Professional Conduct:

- a. 37 C.F.R. § 11.804(b) (committing a criminal act that reflects adversely on the practitioner's honesty, trustworthiness or fitness as a practitioner in other respects) by, *inter alia*, committing Assault in the Fourth Degree in violation of Wash. Rev. Code § 9A.36.041.

AGREED UPON SANCTION

9. Respondent freely and voluntarily agrees, and it is hereby ORDERED that:
- a. Respondent shall be suspended from practice before the Office in patent matters for six months commencing on the date the Final Order is signed;
 - b. Respondent may file a petition with the OED Director seeking reinstatement two months after the date the Final Order is signed, provided that he is otherwise in compliance with the terms and conditions of the Proposed Settlement Agreement and Final Order;
 - c. Respondent shall remain suspended from practice before the USPTO until the OED Director grants a petition requesting Respondent's reinstatement pursuant to 37 C.F.R. § 11.60;

- d. Respondent shall serve a two-year probationary period commencing on the date of an order granting his reinstatement to practice before the Office;
- e. While suspended and during his probationary period, Respondent shall submit to the OED Director written reports on a quarterly basis (*i.e.*, at three months after the date the Final Order is signed, six months, nine months, etc.)

certifying:

- (1) Compliance with the terms of his probation in the underlying criminal case or that his probation in the underlying criminal case has been terminated;
and
 - (2) Compliance with all directives of relevant healthcare professionals;
- f. (1) In the event the OED Director is of the opinion that Respondent, during the probationary period, failed to comply with any provision of the Agreement, the Final Order, or any provision of the USPTO Rules of Professional Conduct, the OED Director shall:
- (A) issue to Respondent an Order to Show Cause why the USPTO Director should not order that Respondent be immediately suspended for up to an additional four months for the violation set forth in the joint legal conclusion above;
 - (B) send the Order to Show Cause to Respondent at the last address of record Respondent furnished to the OED Director; and
 - (C) grant Respondent fifteen (15) days to respond to the Order to Show Cause; and
- (2) In the event that after the 15-day period for response and after the consideration of the response, if any, received from Respondent, the OED

Director continues to be of the opinion that Respondent, during the probationary period, failed to comply with any provision of the Agreement, the Final Order, or any disciplinary rule of the USPTO Rules of Professional Conduct, the OED Director shall:

(A) deliver to the USPTO Director or his designee: (i) the Order to Show Cause; (ii) Respondent's response to the Order to Show Cause, if any; and (iii) argument and evidence causing the OED Director to be of the opinion that Respondent failed to comply with any provision of the Agreement, the Final Order, or any disciplinary rule of the USPTO Rules of Professional Conduct during the probationary period; and

(B) request that the USPTO Director immediately suspend Respondent for up to an additional four months for the violations set forth in the joint legal conclusion, above;

- g. In the event the USPTO Director suspends Respondent pursuant to subparagraph f, 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;
- h. Respondent shall comply with 37 C.F.R. §§ 11.58 and 11.60 except as expressly addressed by the Agreement and the Final Order;

Respondent's Duties and Responsibilities Under 37 C.F.R. § 11.58

- i. Respondent shall have the following duties and responsibilities as a consequence of being suspended:

- (1) Respondent shall provide notice of his suspension to all State and Federal jurisdictions and administrative agencies to which he is admitted to practice as set forth in 37 C.F.R. § 11.58(b)(1)(ii);
- (2) Respondent shall provide notice of his suspension to all clients he represents having immediate or prospective business before the Office as set forth in 37 C.F.R. § 11.58(b)(1)(ii), however, the notice need not be served by certified mail return receipt requested but may alternatively be served by electronic mail provided that the electronic mail notice includes both a delivery receipt and a read receipt; and Respondent shall make appropriate arrangements for legal services to be rendered on behalf of his clients, as appropriate, during the period of his suspension;
- (3) Respondent shall provide notice of his suspension to the practitioners for all opposing parties (or to the parties in the absence of a practitioner representing the parties) in matters pending before the Office as set forth in 37 C.F.R. § 11.58(b)(1)(iii);
- (4) Respondent shall not hold himself out as authorized to practice law before the Office as set forth in 37 C.F.R. § 11.58(b)(3) until he is reinstated to practice before the Office;
- (5) Respondent shall take any necessary and appropriate steps to remove from any telephone, legal, or other directory any advertisement, statement, or representation which would reasonably suggest that he is authorized to practice patent law as set forth in 37 C.F.R. § 11.58(b)(1)(vi) until he is reinstated to practice before the Office;

- (6) Respondent shall not render legal advice or services to any person having immediate or prospective business before the Office as set forth in 37 C.F.R. § 11.58(b)(5) until he is reinstated to practice before the Office; and
- (7) Respondent shall disassociate his registration number from all active USPTO Customer Numbers;

Duties and Responsibilities of Respondent Under 37 C.F.R. § 11.58 with which Respondent Does Not Have to Comply Unless a Petition for Reinstatement of Respondent is Not Granted Within 90 Days of the Final Order

- j. Respondent shall not have to comply with following duties and responsibilities as a consequence of being suspended on the date of this Final Order, unless a petition for reinstatement of Respondent is not granted within 90 days of the Final Order:
 - (1) Respondent does not have to file a notice of withdrawal in each pending application as set forth in 37 C.F.R. § 11.58(b)(1)(i);
 - (2) Respondent does not have to deliver to all clients the respective documents as set forth in 37 C.F.R. § 11.58(b)(1)(iv); and
 - (3) Respondent does not have to relinquish to the client, or another practitioner designated by the client, all funds for practice before the Office, including any legal fees paid in advance that have not been earned and any advanced costs not expended as set forth in 37 C.F.R. § 11.58(b)(1)(v);

Affidavit of Compliance Under 37 C.F.R. § 11.58

- k. Respondent shall provide an affidavit of compliance in accordance with 37 C.F.R. § 11.58(b)(2), certifying that he has complied with the

provisions of the Agreement and the Final Order. Appended to the affidavit shall be:

- (1) A copy of the forms of notice, the names and addresses of the clients, practitioners, courts, and agencies to which notices were sent, and all return receipts or return mail received up to the date of the affidavit as set forth in 37 C.F.R. § 11.58(b)(2)(i); and
- (2) A list of all of other State, Federal and administrative jurisdictions to which Respondent is admitted to practice as set forth in 37 C.F.R. § 11.58(b)(2)(v);

1. Respondent's affidavit of compliance need not append the following:

- (1) a schedule showing the location, title, and account number of every bank account designated as a client or trust account, deposit account in the Office, or other fiduciary account, and of every account in which Respondent holds or held as of the entry date of the Final Order any client, trust, or fiduciary funds for practice before the Office as set forth in 37 C.F.R. § 11.58(b)(2)(ii);
- (2) a schedule describing Respondent's disposition of all client and fiduciary funds for practice before the Office in Respondent's possession, custody, or control as of the entry date of the Final Order or thereafter as set forth in 37 C.F.R. § 11.58(b)(2)(iii); or
- (3) proof of the proper distribution of funds and the closing of such accounts as set forth in 37 C.F.R. § 11.58(b)(2)(iv);

Petition for Reinstatement Under 37 C.F.R. § 11.60

- m. Respondent shall file a petition for reinstatement as a condition of reinstatement;
- n. Respondent shall not resume practice of patent law before the Office until reinstated by order of the OED Director or the USPTO Director as set forth in 37 C.F.R. § 11.60(a);
- o. Except as set forth herein, any petition for reinstatement shall comply with the requirements set forth in 37 C.F.R. § 11.60(a), (b), and (c), including the fee required by 37 C.F.R. § 1.21(a)(10);
- p. Any petition for reinstatement shall attest to Respondent's compliance with the applicable provisions of 37 C.F.R. § 11.58 set forth in this Final Order, including a sworn declaration or affidavit that he has not engaged in the practice of patent law during his suspension, except as set forth in 37 C.F.R. § 11.58(e);
- q. If the OED Director receives a petition for reinstatement from Respondent within seventy-five (75) days of the Final Order, the OED Director shall not publish a notice of Respondent's petition for reinstatement as set forth in 37 C.F.R. § 11.60(g);

Other Considerations

- r. 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>;
- s. The OED Director shall publish a notice in the *Official Gazette* that is materially consistent with the following:

Notice of Suspension and Probation

This notice concerns Christopher A. Wiklof of Everett, Washington, a registered patent agent (Registration Number 43,990). The United States Patent and Trademark Office (“USPTO” or “Office”) has suspended Mr. Wiklof for six months from practice before the Office in patent matters. On March 26, 2018, Mr. Wiklof pled guilty to the gross misdemeanor of Assault in the Fourth Degree, in violation of Wash. Rev. Code § 9A.36.041 in *State of Washington v. Wiklof*, Island Cty. Sup’r. Ct. Case No. 17-1-00176-8. This conviction and the conduct underlying it constitute misconduct in violation of 37 C.F.R. § 11.804(b).

This action is the result of a settlement agreement between Mr. Wiklof 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, and 11.26. Disciplinary decisions involving practitioners are posted for public reading at the OED Reading Room, available at: <http://e-foia.uspto.gov/Foia/OEDReadingRoom.jsp>;

- t. Nothing in the Agreement or 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; 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 by or on behalf of Respondent; and/or (3) in connection with any request for reconsideration submitted by Respondent pursuant to 37 C.F.R. § 11.60;
- u. Respondent waives all rights to seek reconsideration of the Final Order under 37 C.F.R. § 11.56, waives the right to have the Final Order reviewed under 37 C.F.R. § 11.57, and waives the right otherwise to appeal or challenge the Final Order in any manner; and

v. Each party shall bear its own costs.

04/19/2019
Date



Sarah T. Harris
General Counsel
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