

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

In the Matter of)
)
FRANCIS L. KUBLER,) Proceeding No. 10-06
)
Respondent)

FINAL ORDER

The Deputy General Counsel for Enrollment and Discipline and Director of the Office of Enrollment and Discipline (“OED Director”) for the United States Patent and Trademark Office (“USPTO” or “Office”) and Francis L. Kubler (“Respondent”) have submitted a Proposed Settlement Agreement (“Agreement”) to the Under Secretary of Commerce for Intellectual Property and USPTO Director for approval.

The Agreement, which resolves all disciplinary action by the Office arising from the stipulated facts set forth herein, Disciplinary Proceeding No. 10-06 (OED file numbers G1255, G1039, and G1431), and Disciplinary Proceeding No. 2012-04 (OED file number G1731), is hereby approved. This Final Order sets forth the parties’ stipulated facts, legal conclusion, and sanction found in the Agreement.

JURISDICTION

1. At all times relevant hereto, Respondent of Miami, Florida, was registered as a patent attorney to practice before the USPTO. Respondent’s USPTO registration number is 32,738. As an attorney registered to practice before the USPTO, Respondent is subject to the USPTO Disciplinary Rules set forth at 37 C.F.R. § 10.20 *et seq.*
2. The USPTO Director has jurisdiction over this matter pursuant to 37 C.F.R. § 11.26 and 35 U.S.C. §§ 2(b)(2)(D) and 32.

STIPULATED FACTS

3. Respondent of Miami, Florida, is a registered patent attorney (Registration No. 32,738) authorized to practice before the USPTO.
4. Respondent acknowledges that, between 2007 and 2009, he and his office lacked a uniform system of client notification and reply to client inquiries that resulted in inconsistent client communications practices and some communications delay. Consequently, in connection with the representation of certain clients before the Office during that period, Respondent did not always communicate adequately, and specifically

promptly, with the clients about aspects of the patent legal matters entrusted to him. Respondent further acknowledges that prompt and complete communication with his clients is a vital component of the practitioner-client relationship.

5. Respondent represents that he has taken remedial action in connection with his client communications and related office management skills, including establishing more expedient time frames for informing clients of Office actions and implementing a new calendaring system to identify and track incoming USPTO papers until any responsive papers have been filed.
6. Respondent further represents that he has taken continuing legal education to improve his client communications and related office management skills, namely: the American Bar Association (ABA) webinar course entitled, "Building a Solid Foundation," and Chapter 30 of the ABA e-Book Flying Solo - A Survival Guide for the Solo and Small Firm Lawyer entitled, "Creating Practice Management Systems and Procedures," which includes the section "Client Communication Systems."

LEGAL CONCLUSIONS

7. Based on the information contained in the stipulated facts, Respondent acknowledges that he violated 37 C.F.R. § 10.77(c) by neglecting to communicate adequately, and specifically promptly, with certain clients about certain aspects of patent legal matters entrusted to him. Respondent further acknowledges that prompt and complete communication with his clients is a vital component of the practitioner-client relationship.

AGREED UPON SANCTION

8. Respondent agrees, and it is ORDERED that:
 - a. Respondent be, and hereby is, publicly reprimanded;
 - b. By August 1, 2012, Respondent shall take the following continuing legal education courses, offered online by Florida Lawyers Mutual Insurance Company and approved by The Florida Bar, provided they are available on line at the time Respondent endeavors to register therefor: "ABC's of Starting and Managing Your Law Practice" (course number 1263D), and "Technology Planning for the New Law Practice" (course number 1264D);
 - c. By September 1, 2012, Respondent shall submit an affidavit and corroborating documents to the OED Director certifying his compliance with the preceding subparagraph or the reasons he was unable to comply with the preceding paragraph;

- d. Respondent shall endeavor to take the following two courses tentatively being offered by The Florida Bar: “Practicing with Professionalism” on either March 22, 2012, in Fort Lauderdale or on April 26, 2012, in Miami, as well as “Basic Practice Development” on May 16, 2012 in Tampa, and “Going Solo: Successful Practice Development” on CD (course number 1223);
- e. By September 1, 2012, Respondent shall submit an affidavit and corroborating documents to the OED Director certifying his compliance with the preceding subparagraph or the reasons he was unable to comply with the preceding subparagraph;
- f. In the event that any of the courses identified in subparagraphs d and f are no longer available at the time Respondent endeavors to register therefor, Respondent shall take a reasonably equivalent course for each unavailable course on or before December 31, 2012;
- g. If the preceding subparagraph is triggered, by January 31, 2013, Respondent shall submit an affidavit and corroborating documents to the OED Director certifying his compliance with the preceding subparagraph or the reasons he was unable to comply with the preceding paragraph;
- h. Respondent shall take at least three continuing legal education courses in calendar year 2013;
- i. By January 31, 2014, Respondent shall submit an affidavit and corroborating documents to the OED Director certifying his compliance with the preceding subparagraph or the reasons he was unable to comply with the preceding subparagraph;
- j. The OED Director shall publish the Final Order at the Office of Enrollment and Discipline’s Reading Room electronically located at:
<http://des.uspto.gov/Foia/OEDReadingRoom.jsp>;
- k. The OED Director shall publish the following notice in the *Official Gazette*:

Notice of Reprimand

This notice concerns Francis L. Kubler of Miami, Florida, a registered patent attorney (Registration Number 32,738). The United States Patent and Trademark Office has reprimanded Mr. Kubler for having violated 37 C.F.R. § 10.77(c) by neglecting to communicate adequately with certain clients about certain aspects of patent legal matters entrusted to him.

Mr. Kubler acknowledges that, between 2007 and 2009, he and his office lacked a uniform system of client notification and reply to

client inquiries that resulted in inconsistent client communications practices and some communications delay. Consequently, in connection with the representation of certain clients before the Office during that time, he did not always communicate adequately, and specifically promptly, with the clients about aspects of the patent legal matters entrusted to him. Mr. Kubler acknowledges that prompt and complete communication with his clients is a vital component of the practitioner-client relationship. Mr. Kubler has taken remedial action in connection with his client communications and related office management skills. He also has taken continuing legal education to improve his client communications and related office management skills.

This action is the result of a settlement agreement between Mr. Kubler and the OED Director pursuant to the provisions of 35 U.S.C. § 2(b)(2)(D) and 37 C.F.R. §§ 11.26 and 11.59. Disciplinary decisions involving practitioners are posted at the Office of Enrollment and Discipline's Reading Room located at: <http://des.uspto.gov/Foia/OEDReadingRoom.jsp>.

- l. The OED Director shall comply with 37 C.F.R. § 11.59;
- m. Directs that, within two (2) business days of the date on which the Final Order is signed, the Parties shall withdraw with prejudice all motions pending before the hearing officer in Disciplinary Proceeding No. 10-06 conditioned only on the OED Director's filing a joint motion to dismiss with prejudice Disciplinary Proceeding No. 10-06 within the time period set forth in Subparagraph 8(n) and the Tribunal's granting of the Parties joint motion to dismiss;
- n. Directs that, within two (2) business days of the date on which the Parties have withdrawn all motions pending before the hearing officer in Disciplinary Proceeding No. 10-06, the Parties shall file a joint motion to dismiss with prejudice Disciplinary Proceeding No. 10-06; and
- o. The OED Director and Respondent shall bear their own costs incurred to date in this disciplinary proceeding, including costs in connection with the pending disciplinary complaint, and in carrying out the terms of this Agreement.

FEB 15 2012

Date



JAMES O. PAYNE

*Deputy General Counsel for General Law
United States Patent and Trademark Office
on behalf of*

David M. Kappos

*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
U.S. Patent and Trademark Office

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