

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

In the Matter of)	
)	
Darrell N. Fuller,)	
)	
Respondent)	Proceeding No. D2013-23
_____)	

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 Darrell N. Fuller (“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 sanctions.

Jurisdiction

1. At all times relevant hereto, Respondent of Houston, Texas, has been a registered patent attorney (Registration No. 63,092) and was subject to the USPTO Code of Professional Responsibility, which is set forth at 37 C.F.R. § 10.20 *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.

Stipulated Facts

3. The USPTO registered Respondent as a patent attorney on September 16, 2008.
4. Respondent’s registration number is 63,092.
5. On or about September 28, 2012, Respondent engaged in behavior that violated Section 21.15 of Title 5 of the Texas Penal Code by illegally photographing and/or visually recording other persons.

¹ The USPTO Code of Professional Responsibility, 37 C.F.R. § 10.20 *et seq.*, applies to practitioners’ conduct occurring prior to May 3, 2013, while the USPTO Rules of Professional Conduct, 37 C.F.R. § 11.101 *et seq.*, apply to practitioners’ conduct occurring after May 2, 2013. Respondent’s alleged misconduct set forth in this Complaint occurred prior to May 3, 2013.

6. On June 4, 2013, Respondent pled guilty to the felony charge of Improper/Photography/Visual Recording under Section 21.15 of Title 5 of the Texas Penal Code in the case of *The State of Texas v. Fuller, Darrell Nathan*, Case No 136289601010 (182nd District Court, Harris County, Texas).

7. On June 4, 2013, an "Order of Deferred Adjudication" was entered in *The State of Texas v. Fuller, Darrell Nathan*.

8. According to the June 4, 2013 "Order of Deferred Adjudication," Respondent received deferred adjudication and was placed on community supervision for a period of five years. Furthermore, Respondent was ordered to serve thirty (30) days in jail and pay a \$250 fine.

9. Respondent represents that he received credit for three days of jail time, served the remaining 27-day jail sentence, and paid the \$250 fine.

10. On June 14, 2013, Respondent notified the OED Director of the June 4, 2013 "Order of Deferred Adjudication" entered in *The State of Texas v. Fuller, Darrell Nathan*.

11. On October 22, 2013, the OED Director commenced a proceeding under 37 C.F.R. § 11.25 seeking the interim suspension of Respondent based on the June 4, 2013 "Order of Deferred Adjudication" entered in *The State of Texas v. Fuller, Darrell Nathan*.

12. On December 20, 2013, the USPTO entered a Final Order suspending Respondent on an interim basis pursuant to 37 C.F.R. § 11.25.

Legal Conclusion

13. Respondent acknowledges that, based on the information contained in the above stipulated facts, his conduct violated 37 C.F.R. § 10.23(a) (proscribing engaging in disreputable or gross misconduct).

Agreed Upon Sanction

14. Respondent agrees, and it is hereby ORDERED that:

- a. Respondent shall be, and is hereby, suspended from practice before the Office in patent, trademark, and other non-patent matters for twenty-four (24) months commencing on December 20, 2013;
- b. Respondent shall be permitted to seek reinstatement pursuant to 37 C.F.R. § 11.60 upon completion of the 24-month suspension;
- c. Respondent shall comply with 37 C.F.R. § 11.58;
- d. The OED Director shall comply with 37 C.F.R. § 11.59;

- e. Nothing in the Agreement or this Final Order shall relieve Respondent of his obligations under 37 C.F.R. § 11.25(f);
- f. Within 30 days of the date of this Final Order, Respondent shall (1) request in writing that he be removed from all power of attorney documents and USPTO customer numbers on which Respondent reasonably believes his name appears and (2) make such request of all persons that Respondent reasonably believes have the authority to remove his name from such power of attorney documents and USPTO customer numbers, such as Respondent's current employer, Respondent's former employer(s), Respondent's current client(s), and Respondent's former client(s);
- g. Within 45 days of the date of this Final Order, Respondent shall provide the OED Director with (1) an affidavit attesting to his compliance with the provisions of the prior subparagraph and (2) copies of the written request(s) sent in compliance with the provisions of the prior subparagraph;
- h. Respondent shall not apply for or obtain a USPTO customer number unless and until the Office grants a petition under 37 C.F.R. § 11.60 reinstating Respondent;
- i. The OED Director shall electronically publish this Final Order at the Office of Enrollment and Discipline's electronic FOIA Reading Room, which is publicly accessible at <http://e-foia.uspto.gov/Foia/OEDReadingRoom.jsp>;
- j. The OED Director shall publish a notice in the *Official Gazette* that is materially consistent with the following:

Notice of Suspension

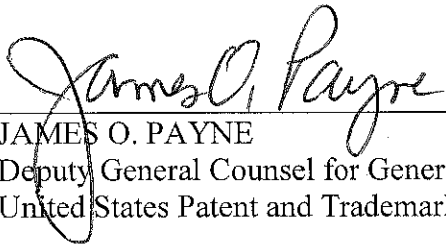
This notice concerns Darrell N. Fuller of Houston, Texas, a registered patent attorney (Registration No. 63,092). The Director of the United States Patent and Trademark Office ("USPTO" or "Office") has suspended Mr. Fuller from practice before the Office in patent, trademark, and other non-patent matters for twenty-four (24) months for violating 37 C.F.R. § 10.23(a).

In June 2013, Mr. Fuller pled guilty to the felony charge of Improper/Photography/Visual Recording under Section 21.15 of Title 5 of the Texas Penal Code in the case of *The State of Texas v. Fuller, Darrell Nathan*, Case No. 136289601010 (182nd District Court, Harris County, Texas) for having illegally photographed and/or visually recorded other persons in September 2012. Mr. Fuller promptly reported his guilty plea in writing to the Office of Enrollment and Discipline.

This action is the result of a settlement agreement between Mr. Fuller and the OED Director pursuant to the provisions of 35 U.S.C. §§ 2(b)(2)(D)

and 32 and 37 C.F.R. §§11.26 and 11.59. Disciplinary decisions involving practitioners are posted for public reading at the Office of Enrollment and Discipline Reading Room, available at: <http://e-foia.uspto.gov/Foia/OEDReadingRoom.jsp>.

- k. Nothing in the Agreement or this Final Order approving the Agreement shall prevent the Office from considering the record of this disciplinary proceeding (1) when addressing any further complaint or evidence of the same or similar misconduct concerning Respondent brought to the attention of the Office; (2) in any future disciplinary proceeding against Respondent (a) as an aggravating factor to be taken into consideration in determining any discipline to be imposed and/or (b) to rebut any statement or representation by or on Respondent's behalf; and/or (3) in connection with any request for reinstatement submitted by Respondent pursuant to 37 C.F.R. § 11.60; and
- l. The OED Director shall file a motion to dismiss the pending disciplinary proceeding with the administrative law judge within fourteen (14) days of the date of this Final Order.



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

MAR 12 2014

Date

on behalf of

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

Darrell N. Fuller