

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

In the Matter of)	
)	
David J. Furtado,)	Proceeding No. D2019-49
)	
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 David J. Furtado (“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 sanction.

Jurisdiction

1. At all times relevant hereto, Respondent of Denver, Colorado, has been a patent attorney registered to practice before the Office in patent matters (Registration No. 70,432) and is subject to the USPTO Rules of Professional Conduct, 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. Respondent became registered as a patent attorney on October 31, 2012.
4. Respondent’s registration number is 70,432.
5. On November 2, 2015, the Presiding Disciplinary Judge of the Supreme Court of Colorado entered an order in *People v. David J. Furtado*, 15PDJ056 (Nov. 15, 2015) approving a

conditional admission of misconduct by Respondent (the "Order"). The Order imposed the sanction of a public censure upon Mr. Furtado.

6. A stipulation between Mr. Furtado and the Assistant Regulation Counsel for the Supreme Court of Colorado filed with the Presiding Disciplinary Judge of the Supreme Court of Colorado on November 2, 2015 (the "Stipulation") provides that Mr. Furtado was sanctioned for conduct which occurred in the course of his representation of two medical marijuana dispensaries which were operating legally in the State of Colorado.

7. The Stipulation provides that in order to assist the client dispensaries with paying certain bills, Mr. Furtado arranged for two client trust accounts to be opened at Wells Fargo bank.

8. The Stipulation provides that Mr. Furtado was aware that Wells Fargo did not permit marijuana-related businesses to maintain accounts at the bank.

9. The Stipulation provides that Mr. Furtado "violated his duty of candor" to Wells Fargo by not informing the bank that the accounts were opened on behalf of two marijuana dispensaries. As a result, Respondent stipulated that he violated Colorado Rule of Professional Conduct 8.4(c), which prohibits conduct involving dishonesty, fraud, deceit or misrepresentation.

Joint Legal Conclusion

10. Respondent acknowledges that, based on the information contained in the Stipulated Facts, above, Respondent's acts and omissions violated 37 C.F.R. § 11.804(h)(1) by being publicly disciplined on ethical or professional misconduct grounds by a duly constituted authority of a State.

Agreed Upon Sanction

11. Respondent agrees and it is hereby ORDERED that:

- a. Respondent is publicly censured;
- b. Nothing in the Agreement or the 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 Respondent's behalf;
- c. The OED Director shall electronically publish the Final Order at OED's electronic FOIA Reading Room, which is publicly accessible at <https://foiadocuments.uspto.gov/oed/>;

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

Notice of Public Censure

This notice concerns Mr. David J. Furtado of Denver, Colorado, who is a registered practitioner (Registration No. 70,432). In settlement of a disciplinary proceeding, the Director of the United States Patent and Trademark Office (“USPTO” or “Office”) has publicly censured Mr. Furtado for violating 37 C.F.R. § 11.804(h)(1) by being publicly disciplined on ethical or professional misconduct grounds by a duly constituted authority of a State.

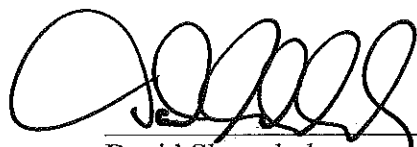
The public censure is predicated upon Mr. Furtado’s discipline in the State of Colorado in *People v. David J. Furtado*, 15PDJ056 (Nov. 2, 2015). A stipulation between Mr. Furtado and the Assistant Regulation Counsel for the Supreme Court of Colorado (the “Stipulation”) provides that Mr. Furtado was sanctioned for conduct which occurred in the course of his representation of two medical marijuana dispensaries which were operating legally in the State of Colorado. In order to assist the client dispensaries with paying certain bills, Mr. Furtado arranged for two client trust accounts to be opened at Wells Fargo bank. Mr. Furtado was aware that Wells Fargo did not permit marijuana-related businesses to maintain accounts at the bank.

The Stipulation provides that Mr. Furtado “violated his duty of candor” to Wells Fargo by not informing the bank that the accounts were opened on behalf of two marijuana dispensaries. As a result, Respondent stipulated that he violated Colorado Rule of Professional Conduct 8.4(c), which prohibits conduct involving dishonesty, fraud, deceit or misrepresentation.

This action is the result of a settlement agreement between Respondent 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: <https://foiadocuments.uspto.gov/oed/>;

- e. Respondent waives: (i) seeking reconsideration of the Final Order under 37 C.F.R. § 11.56, (ii) having the Final Order reviewed under 37 C.F.R. § 11.57, and (iii) otherwise appealing or challenging the Final Order in any manner; and
- f. The OED Director and Respondent shall each bear their own costs incurred to date and in carrying out the terms of the Agreement and this Final Order.

20 Sept 2019
Date



David Shewchuk
Deputy General Counsel

United States Patent and Trademark Office

on delegation by

Andrei Iancu

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

cc:

OED Director

U.S. Patent and Trademark Office

Mr. David J. Furtado

c/o Mr. John Gleason

Burns, Figa & Will

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