

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

In the Matter of:)	
)	
John Davidson Fleming II,)	Proceeding No. D2023-14
)	
Respondent)	
_____)	

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

Pursuant to 37 C.F.R. § 11.24, John Davidson Fleming II (“Respondent”) is hereby suspended from the practice of patent, 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

On March 13, 2023, a “Notice and Order Pursuant to 37 C.F.R. § 11.24” (“Notice and Order”) was sent by certified mail (receipt nos. 70220410000250013960 and 70220410000250013977) 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 United States Patent and Trademark Office impose reciprocal discipline upon Respondent identical to the discipline imposed by the February 20, 2022 Orders of the State Bar of Texas in *Commission for Lawyer Discipline v. John Davidson Fleming II*, Case Nos. 202004976, 202005369, and 202101360, suspending Respondent from the practice of law in that jurisdiction for a period of seven (7) years, actively suspending for a period of two (2) of those seven (7) years, and imposing a period of probated suspension for five (5) years. The Notice and Order provided Respondent an opportunity to file, within forty (40)

days, a response opposing the imposition of reciprocal discipline identical to that imposed by the February 20, 2022 Orders of the State Bar of Texas in *Commission for Lawyer Discipline v. John Davidson Fleming II*, Case Nos. 202004976, 202005369, and 202101360, based on one or more of the reasons provided in 37 C.F.R. § 11.24(d)(1).

The Notice and Order was delivered to Respondent on March 17, 2023. 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 from the practice of patent, trademark and other non-patent matters before the USPTO is the appropriate discipline.

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

1. Respondent is suspended from the practice of patent, trademark, and other non-patent matters before the USPTO for a period of seven (7) years, with Respondent being permitted to file a petition for reinstatement to practice before the USPTO after two (2) years, commencing on the date of this Final Order;
2. Respondent shall be placed on probation for a period of five (5) years upon the granting of a petition requesting Respondent's reinstatement to practice before the USPTO;
3. The OED Director shall electronically publish the Final Order at OED's electronic FOIA Reading Room, which is publicly accessible at: <http://foiadocuments.uspto.gov>;
4. The OED Director publish a Notice in the *Official Gazette* that is materially consistent with the following:

Notice of Suspension and Probation

This notice concerns John Davidson Fleming, II, of Wichita Falls, Texas, who is a registered patent attorney (Registration Number 60,431). In a reciprocal disciplinary proceeding, the Director of the United States Patent and Trademark Office ("USPTO") has ordered that Mr. Fleming be suspended from practice before the USPTO in patent, trademark, and other non-patent matters for seven (7) years for violating 37 C.F.R. § 11.804(h), predicated upon being suspended from the practice of law by a duly constituted authority of a State. Mr. Fleming is allowed to file a petition for reinstatement to practice before the USPTO after two (2) years and will serve a probation for a period of five (5) years upon the granting of a petition requesting Mr. Fleming's reinstatement to practice before the USPTO.

By Order dated February 20, 2022, in *Commission for Lawyer Discipline v. John Davidson Fleming II*, Case Nos. 202004976, 202005369, and 202101360, the State Bar of Texas suspended Mr. Fleming on ethical grounds from the practice of law in that jurisdiction for a period of seven (7) years comprised of a two-year period of active suspension and a five-year period of probated suspension.

The State Bar of Texas concluded that Mr. Fleming violated Texas Disciplinary Rules of Professional Conduct 1.01(b)(1), 1.03(a), 1.03(b), 1.15(d), and 8.04(a)(8) for professional misconduct in the representation of three clients.

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: <https://foiadocuments.uspto.gov/oed/>;

5. The OED Director give notice of the public discipline, pursuant to 37 C.F.R. § 11.59, 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;

6. Respondent shall comply with the duties enumerated in 37 C.F.R. § 11.58; and

7. The USPTO shall dissociate Respondent's name from any Customer Number(s) and USPTO verified Electronic System account(s), if any.

Users, Shewchuk, David
Digitally signed by Users, Shewchuk, David
Date: 2023.05.03
17:00:19 -04'00'

Date

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

on delegated authority by

Katherine K. Vidal
Under Secretary of Commerce for Intellectual Property and
Director of the United States Patent and Trademark Office

CERTIFICATE OF SERVICE

I hereby certify that the foregoing Final Order pursuant to 37 C.F.R. §§ 11.24 was mailed by first-class certified mail, return receipt requested, on this day to the Respondent at the most recent address provided to the OED Director pursuant to 37 C.F.R. § 11.11(a):

Mr. John D. Fleming II
[REDACTED]

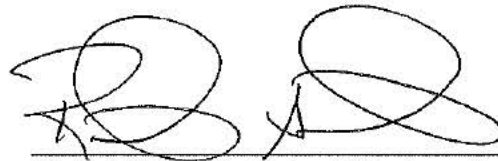
and to where the OED Director reasonably believes Respondent receives mail:

Mr. John D. Fleming II
[REDACTED]

And to Counsel for the OED Director at:

Sydney Johnson
Sydney.johnson@uspto.gov
[REDACTED]

5/4/2023
Date



United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450