

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

In the Matter of	)	
	)	
Wayne V. Harper,	)	Proceeding No. D2020-10, D2024-15
	)	
Respondent	)	
_____	)	

**FINAL ORDER**

Pursuant to 37 C.F.R. § 11.27(b), the Director of the United States Patent and Trademark Office (“USPTO” or “Office”) received for review and approval from the Director of the Office of Enrollment and Discipline (“OED Director”) an Affidavit of Resignation Pursuant to 37 C.F.R. § 11.27 executed by Wayne V. Harper (“Respondent”) on July 25, 2024. Respondent submitted the five-page Affidavit of Resignation to the USPTO for the purpose of being excluded on consent pursuant to 37 C.F.R. § 11.27.

For the reasons set forth herein, Respondent’s Affidavit of Resignation shall be approved, and Respondent shall be excluded on consent from practice before the Office in patent, trademark, and other non-patent matters commencing on the date of this Final Order.

**Jurisdiction**

Mr. Wayne V. Harper of Tampa, Florida is a registered patent attorney (Registration Number 55,839). Respondent is subject to the USPTO Rules of Professional Conduct, 37 C.F.R. § 11.101 *et seq.*

Pursuant to 35 U.S.C. §§ 2(b)(2)(D) and 32 and 37 C.F.R. § 11.27, the USPTO Director has the authority to approve Respondent’s Affidavit of Resignation and to exclude Respondent on consent from the practice of patent, trademark, and other non-patent law before the Office.

## Respondent's Affidavit of Resignation

Respondent acknowledges in his July 25, 2024 Affidavit of Resignation that:

1. His consent is freely and voluntarily rendered, and he is not being subjected to coercion or duress.
2. He is aware that, pursuant to 37 C.F.R. § 11.22, the OED Director opened investigations of allegations that he violated the USPTO Rules of Professional Conduct. One of the investigations became the subject of a formal disciplinary proceeding, Proceeding No. D2020-10, which was held in abeyance pursuant to 37 C.F.R. § 11.28. The other investigation has been assigned OED File No. D2024-15 and concerns the disciplinary cases filed against Mr. Harper by The State Bar of Florida. These matters involved the following facts and/or allegations:

### *In the Matter of Wayne V. Harper, USPTO Proceeding No. D2020-10*

- a. Mr. Harper is the principal and sole member of a law firm he founded known as Harper IP Law, PA.
- b. Mr. Harper is a manager at KA Filing, LLC ("KA Filing"), which is a company based in India that has an address in Tampa, Florida. KA Filing offers a number of trademark related services including conducting trademark searches and filing trademark applications.
- c. According to publicly-available online records from the Florida Department of State, "KA Filing, LLC" is a Florida limited liability company (FEI/EIN Number 83-3415941) located at 2112 W. Marjory Avenue, Tampa, Florida. Nilanshu Shekhar, Ashutosh Choudhary, and Mr. Harper are the three managers of KA Filing as identified on such records.
- d. KA Filing employs non-practitioners who assist in preparing and filing trademark applications with the USPTO.
- e. Mr. Harper has supervisory authority over some of the non-practitioner assistants at KA Filing.
- f. KA Filing refers some trademark customers to Mr. Harper so he can represent them in their trademark applications before the USPTO. According to KA Filing's

website, www.kafiling.com, he is “an experienced patent attorney and IP litigator.”

- g. He is currently the attorney of record in approximately 1129 trademark applications filed with the USPTO on behalf of KA Filing-referred clients.
- h. On December 6, 2019, the OED Director filed a Complaint initiating a disciplinary proceeding against Mr. Harper, namely: *In the Matter of Wayne V. Harper*, USPTO Proceeding No. D2020-10 (USPTO Oct. 2, 2020). The Complaint alleged that he violated multiple sections of the USPTO Rules of Professional Conduct as follows:
  - i. Count 1, involving misconduct while associated with KA Filing, including, but not limited to, allowing non-practitioner assistants to enter his signature on trademark applications that were filed with the USPTO;
  - ii. Count 2, involving failing to respond to an Office action issued by the USPTO in a patent matter;
  - iii. Count 3, involving failing to respond to an order issued by the U.S. District Court for the Middle District of Florida in connection with a trademark infringement proceeding;
  - iv. Count 4, involving failing to respond to an order issued by the U.S. District Court for the Middle District of Florida in connection with a patent infringement; and
  - v. Count 5, involving failing to respond to a lawful request for information and evidence issued by OED during an investigation of my alleged misconduct.
- i. During the course of the litigation, on August 31, 2020, the Tribunal deemed a filing by Mr. Harper to be a motion for relief under 37 C.F.R. § 11.28(a)(1), and it held the disciplinary proceeding in abeyance pending further filings by the parties.
- j. Effective October 1, 2020, Mr. Harper was transferred to disability inactive status under 37 C.F.R. § 11.28.

***The Florida Bar v. Wayne Vincent Harper, Case No. SC20-1738***

- k. At all relevant times, Mr. Harper was a member of The Florida Bar.
- l. In an August 26, 2021 Order issued by the Supreme Court of Florida in *The Florida Bar v. Wayne Vincent Harper*, Case No. SC20-1738 (Florida Bar File No. 2019-10,410 (13F)), he was suspended from the practice of law for two (2) years on disciplinary grounds.

- m. As part of his Conditional Guilty Plea for Consent Judgment, Mr. Harper agreed to continue actively participating in the program offered by Florida Lawyers Assistance, Inc. ("FLA") by continuing to comply with the rehabilitation contract he entered into on March 22, 2021. Mr. Harper was required to provide proof of compliance with his FLA contract prior to petitioning for reinstatement with The Florida Bar.

*The Florida Bar v. Wayne Vincent Harper, Case No. SC2023-0386*

- n. Mr. Harper did not comply with the terms of his FLA rehabilitation contract and ultimately, in *The Florida Bar v. Wayne Vincent Harper, Case No. SC2023-0386* (July 23, 2023), the Supreme Court of Florida held him in contempt and immediately disbarred him for a minimum of five (5) years from practice of law in the State of Florida on ethical grounds.

3. Mr. Harper is aware that the OED Director is of the opinion based on the foregoing matters that he violated the following provisions of the USPTO Rules of Professional Conduct: 37 C.F.R. §§ 11.101 (practitioner shall provide competent representation to a client); 11.103 (practitioner shall act with reasonable diligence and promptness in representing a client); 11.303 (practitioner shall not knowingly make a false statement of fact to a tribunal or fail to correct a false statement of material fact made to the tribunal by the practitioner); 11.304(c) (knowingly disobeying an obligation under the rules of a tribunal); 11.503(b) and (c) (practitioner shall take reasonable efforts to ensure that non-practitioners' conduct is compatible with the professional obligations of the practitioner); 11.505 (practitioner shall not assist another in practicing law in a jurisdiction in violation of the regulation of the legal profession in that jurisdiction); 11.801(b) (failing to cooperate with an OED investigation); 11.804(c) (practitioner shall not engage in conduct involving dishonesty); 11.804(d) (practitioner shall not engage in conduct that is prejudicial to the administration of justice); 11.804(i) (practitioner shall not engage in other conduct that adversely reflects on the practitioner's fitness to practice before the Office); and 11.804(h) (being disbarred from the practice of law by a duly constituted authority of a State).

4. Without admitting to violating any of the disciplinary rules of the USPTO Rules of Professional Conduct investigated by the OED Director in OED File No. G4370, he acknowledges that, if and when he applies for reinstatement under 37 C.F.R. § 11.60 to practice before the USPTO in patent, trademark, and/or other non-patent matters, the OED Director will conclusively presume, for the purpose of determining the application for reinstatement, that:

(a) the facts regarding him in OED File No. G4370 are true, and

(b) he could not have successfully defended himself against the allegations embodied in the opinion of the OED Director that he violated: 37 C.F.R. §§ 11.101 (practitioner shall provide competent representation to a client); 11.103 (practitioner shall act with reasonable diligence and promptness in representing a client); 11.303 (practitioner shall not knowingly make a false statement of fact to a tribunal or fail to correct a false statement of material fact made to the tribunal by the practitioner); 11.304(c) (knowingly disobeying an obligation under the rules of a tribunal); 11.503(b) and (c) (practitioner shall take reasonable efforts to ensure that non-practitioners' conduct is compatible with the professional obligations of the practitioner); 11.505 (practitioner shall not assist another in practicing law in a jurisdiction in violation of the regulation of the legal profession in that jurisdiction); 11.801(b) (failing to cooperate with an OED investigation); 11.804(c) (practitioner shall not engage in conduct involving dishonesty); 11.804(d) (practitioner shall not engage in conduct that is prejudicial to the administration of justice); 11.804(i) (practitioner shall not engage in other conduct that adversely reflects on the practitioner's fitness to practice before the Office); and 11.804(h) (being disbarred from the practice of law by a duly constituted authority of a State).

5. He has fully read and understands 37 C.F.R. §§ 11.5(b), 11.27, 11.58, 11.59, and 11.60, and is fully aware of the legal and factual consequences of consenting to exclusion from practice before the USPTO in patent, trademark, and other non-patent matters.

6. He consents to being excluded from practice before the USPTO in patent, trademark, and other non-patent matters.

#### **Exclusion on Consent**

Based on the foregoing, the USPTO Director has determined that Respondent's Affidavit of Resignation complies with the requirements of 37 C.F.R. § 11.27(a). Accordingly, it is hereby ORDERED that:

1. Respondent's Affidavit of Resignation shall be, and hereby is, approved;
2. Respondent shall be, and hereby is, excluded on consent from practice before the Office in patent, trademark, and other non-patent matters commencing on the date of this Final Order;
3. The OED Director shall electronically publish the Final Order at the Office of Enrollment and Discipline's electronic FOIA Reading Room, which is publicly accessible at <https://foiadocuments.uspto.gov/oed/>;
4. The OED Director shall publish a notice in the *Official Gazette* that is materially consistent with the following:

#### **Notice of Exclusion on Consent**

This notice concerns Wayne V. Harper, a registered patent attorney (Registration No. 55,839). The Director of the United States Patent and Trademark Office ("USPTO" or "Office") has accepted Mr. Harper's affidavit of resignation and ordered his exclusion on consent from practice before the Office in patent, trademark, and non-patent law.

Mr. Harper voluntarily submitted his affidavit at a time when two disciplinary matters were pending against him. The first matter concerned a disciplinary

proceeding, which was held in abeyance pursuant to 37 C.F.R. § 11.28. It concerned his representation of foreign-domiciled trademark applicants where, among other things, Mr. Harper allegedly allowed non-practitioner assistants to enter his signature on trademark applications that were filed with the USPTO. The other matter concerned disciplinary cases filed against Mr. Harper by The State Bar of Florida for which OED intended to seek reciprocal discipline pursuant to 37 C.F.R. § 11.24.

Mr. Harper acknowledged that the OED Director was of the opinion that his conduct violated 37 C.F.R. §§ 11.101 (practitioner shall provide competent representation to a client); 11.103 (practitioner shall act with reasonable diligence and promptness in representing a client); 11.303 (practitioner shall not knowingly make a false statement of fact to a tribunal or fail to correct a false statement of material fact made to the tribunal by the practitioner); 11.304(c) (knowingly disobeying an obligation under the rules of a tribunal); 11.503(b) and (c) (practitioner shall take reasonable efforts to ensure that non-practitioners' conduct is compatible with the professional obligations of the practitioner); 11.505 (practitioner shall not assist another in practicing law in a jurisdiction in violation of the regulation of the legal profession in that jurisdiction); 11.801(b) (failing to cooperate with an OED investigation); 11.804(c) (practitioner shall not engage in conduct involving dishonesty); 11.804(d) (practitioner shall not engage in conduct that is prejudicial to the administration of justice); 11.804(i) (practitioner shall not engage in other conduct that adversely reflects on the practitioner's fitness to practice before the Office); and 11.804(h) (being disbarred from the practice of law by a duly constituted authority of a State).

While Mr. Harper did not admit to violating any of the aforementioned provisions of the USPTO Rules of Professional Conduct, he acknowledged that, if and when he applies for reinstatement, the OED Director will conclusively presume, for the limited purpose of determining the application for reinstatement, that (i) the facts and/or allegations involved in the two disciplinary matters are true, and (ii) he could not have successfully defended himself against the allegations embodied in the opinion of the OED Director that he violated those provisions.

This action is taken pursuant to the provisions of 35 U.S.C. §§ 2(b)(2)(D) and 32, and 37 C.F.R. §§ 11.27 and 11.59. Disciplinary decisions involving practitioners are posted for public reading at the Office of Enrollment and Discipline Reading Room, available at: <https://foiadocuments.uspto.gov/oed/>;

5. Respondent shall comply fully with 37 C.F.R. § 11.58;
6. The USPTO shall dissociate Respondent's name from any USPTO Customer

Number(s) and USPTO verified Electronic System account(s), if any;

7. Respondent shall not apply for a USPTO Customer Number or a USPTO verified Electronic System account, shall not obtain a USPTO Customer Number or a USPTO verified Electronic System account, nor shall he have his name added to a USPTO Customer number or a USPTO verified Electronic System account, unless and until he is reinstated to practice before the USPTO;

8. Respondent shall comply fully with 37 C.F.R. § 11.60 upon any request for reinstatement; and

9. USPTO Proceeding No. D2020-10, which has been held in abeyance pursuant to 37 C.F.R. § 11.28, is hereby dismissed with prejudice.

Users, Shewchuk, David  
Digitally signed by Users, Shewchuk, David  
Date: 2024.08.13  
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\_\_\_\_\_  
David Shewchuk  
Deputy General Counsel for General Law  
United States Patent and Trademark Office

\_\_\_\_\_  
Date

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 the foregoing FINAL ORDER was sent via email on this day to Respondent via counsel as follows:

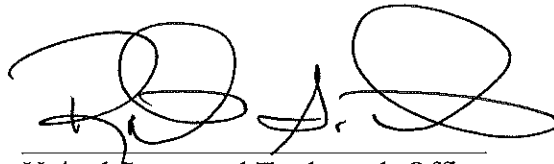
Emil Ali  
McCabe Ali LLP  
[emil@mccabeali.com](mailto:emil@mccabeali.com)

and to the OED Director via email:

Erin King  


8/14/2024

Date



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