

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

In the Matter of:)
)
Dale Reese Jensen,) Proceeding No. D2025-06
)
Respondent.)
_____)

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

Pursuant to 37 C.F.R. § 11.24, Dale Reese Jensen (“Respondent”) is hereby excluded 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), having been disciplined by a duly constituted authority of a State.

I. BACKGROUND

1. At all times relevant, hereto, Respondent of Staunton, Virginia has been registered to practice in patent matters before the USPTO. Respondent’s USPTO Registration Number is 55,300. Respondent is subject to the USPTO Rules of Professional Conduct set forth at 37 C.F.R. § 11.101 et seq. The Director of the USPTO has jurisdiction over this proceeding pursuant to 35 U.S.C. §§ 2(b)(2)(D) and 32, and 37 C.F.R. §§ 11.19 and 11.24.

2. In an Amended Judgment of Disbarment (“Amended Judgment”) dated July 17, 2024, the Supreme Judicial Court for the County of Suffolk in *In the Matter of Dale Reese Jensen*, No. BD-2024-045 (Mass. July 17, 2024) entered a judgment imposing reciprocal discipline on Respondent and disbarring Respondent on ethical grounds from the practice of law in that jurisdiction. The Supreme Judicial Court for the County of Suffolk’s Amended Judgment, dated July 17, 2024, was predicated from a December 19, 2023 Final Memorandum Order in the

Circuit Court for the City of Staunton in *Virginia State Bar Ex Rel Eighth District Committee v. Dale Reese Jensen*, No. CL23-342 (Va. Cir. Ct. 2023) (“Final Memorandum Order”), which revoked Respondent’s license from the practice of law in that jurisdiction on ethical grounds, effective October 26, 2023. The Final Memorandum Order revoked Respondent’s license for conduct which occurred while representing clients in post-conviction relief matters, which included conduct such as providing prospective and current clients incorrect legal advice, continuing to represent clients after representation had been terminated, refusing to return unearned fees, and refusing to release former client documents to the former client’s new counsel. The Final Memorandum Order also revoked Respondent’s license for conduct that occurred while he underwent an investigation with the Virginia State Bar, such as providing false documents, failing to provide documentation, and lying to an investigator.

3. **The Virginia Disciplinary Proceeding**

The Virginia State Bar brought charges against Respondent in the Circuit Court for the City of Staunton in eight docketed disciplinary matters. Final Memorandum Order, at 1-2. Between October 23 and October 26, 2023, a three judge-panel held a hearing on the matters. *Id.* at 1. Respondent appeared at the hearing and represented himself. *Id.* During the hearing, the Virginia State Bar introduced the testimony of nine witnesses, including a Virginia State Bar investigator and the family members of several of Respondent’s clients. *Id.* at 2-3. The Virginia State Bar introduced sworn affidavits of several of Respondent’s incarcerated clients, as well as other documentary evidence, which was admitted into evidence. *Id.* at 3. Respondent testified in each of the eight matters and introduced his own exhibits that were also admitted into evidence. *Id.* He also made an opening and closing statement during the misconduct phase of the hearing. *Id.* at 2-3.

4. At the conclusion of the misconduct phase of the hearing, the panel found that Respondent violated several Virginia Rules of Professional Conduct in each of the matters. *Id.* at 3, 8, 15, 22, 34, 47, 58, 66. Respondent testified again on his own behalf during the sanctions phase of the hearing and made an opening statement and closing argument on sanctions, after which the court ordered that Respondent’s license to practice law in the Commonwealth of Virginia be revoked. *Id.* at 81-82. Respondent filed an appeal to the Virginia Supreme Court, but it was ultimately dismissed. *See* OED Director’s Response to Respondent’s Response to Notice and Order (“OED Director’s Response”), Attachment A.

5. **The Massachusetts Disciplinary Proceeding**

On April 11, 2024, the Massachusetts bar counsel filed with the Supreme Judicial Court for the County of Suffolk a Petition for Reciprocal Discipline based on the Final Memorandum Order. Amended Judgment, at 1. Thereafter, the court served Respondent with an Order of Notice directing him to file an answer as to why the identical disciplinary sanction would be unwarranted in Massachusetts. *Id.* Respondent failed to answer the Order of Notice. Consequently, the court issued a second Order of Notice directing Respondent to appear for a remote hearing. *Id.* The Massachusetts court held a remote hearing on July 17, 2024, but Respondent failed to appear. *Id.* On July 17, 2024, the Massachusetts court disbarred Respondent from the practice of law in the Commonwealth and struck his name from the Roll of Attorneys. *Id.*

6. **USPTO Reciprocal Discipline Proceeding**

On December 17, 2024, a “Notice and Order Pursuant to 37 C.F.R. § 11.24” (“Notice and Order”) was sent by certified mail (receipt no. 7000 1670 0013 7147 0538) notifying Respondent, through counsel, 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 and 11.34 requesting that the Director of the USPTO exclude Respondent from the practice of patent, trademark, and other non-patent law before the USPTO. The Complaint alleges that Respondent violated 37 C.F.R. § 11.804(h), and it is predicated upon a certified copy of the July 17, 2024 Amended Judgment of Disbarment issued by the Supreme Judicial Court for the County of Suffolk in *In the Matter of Dale Reese Jensen*, No. BD-2024-045 (Mass. July 17, 2024) imposing reciprocal discipline on Respondent and disbarring Respondent on ethical grounds from the practice of law in that jurisdiction, which is predicated on the December 19, 2023 Final Memorandum Order in the Circuit Court for the City of Staunton in *Virginia State Bar Ex Rel Eighth District Committee v. Dale Reese Jensen*, No. CL23-342 (Va. Cir. Ct. 2023), which revoked Respondent’s license from the practice of law in that jurisdiction on ethical grounds, effective October 26, 2023. 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 July 17, 2024 Amended Judgment, based on one or more of the reasons provided in 37 C.F.R. § 11.24(d)(1).

7. **Respondent’s Response to OED Director’s Notice and Order**

On January 27, 2025, Respondent timely filed a “Response to Notice and Order and Opposition to Complaint for Reciprocal Discipline” (“Response to Notice and Order”). In his Response to the Notice and Order, Respondent argues that the reciprocal discipline should not be imposed because he was not afforded the proper due process in his proceeding and he claims that the Virginia State Bar proceeding failed to meet its burden of proof by making its findings on a legal standard of “clear and convincing evidence.” *See* Response to Notice and Order, at 1. Respondent states that “most of the violations found were entirely based upon the unsworn

hearsay testimony (that should not have even been admissible) of convicted felons that contradicted Respondent's sworn testimony." *Id.* He argues that the basis for the violations found were contrary to the law since the evidence admitted was far from "clear and convincing." *Id.* at 1-2. According to Respondent, "the underlying case" was improper because Respondent's disbarment by the Virginia State Bar was supposed to have been proven by "clear and convincing evidence." *Id.* at 1 (citing Va. Sup. Ct. R. 13-14).

8. Respondent contests the reciprocal discipline imposed upon him by disputing the State of Virginia's enumerated allegations against him. *See* Final Memorandum Order, at 83; *see also* Response to Notice and Order, at 2. Respondent asserts that pursuant to the Fifth Amendment of the U.S. Constitution, he made sound legal arguments on behalf of his clients. Response to Notice and Order, at 4-6. He also claims that he charged reasonable fees based upon the services he provided. *Id.* at 6-8, 11-13, 15-17. Additionally, Respondent contends that he was not afforded due process and that the three-judge panel who heard the case did not make its finding based on "clear and convincing" evidence and improperly admitted hearsay evidence into the proceeding. *Id.* at 19-51. Moreover, he argues that the Virginia court's refusal to grant his continuance based on Respondent's need to care for his ailing wife did not afford him proper due process. *Id.* at 16-17.

9. In short, Respondent argues that the case brought against him by the Circuit Court for the City of Staunton was not based on the standard of "clear and convincing" evidence and that the State Bar of Virginia disbarred Respondent on the "complaints of convicted felons with disappointed expectations." *Id.* at 2. The Circuit Court revoked Respondent's license to practice law on or about the October 27, 2023. *Id.* Thereafter, Respondent appealed the court's decision and argues in his Response to Notice and Order that his Motion to Vacate the Order was

denied based on a procedural determination without any substantive review of the violations of Respondent's rights. *Id.* at 2-3.

10. In accordance with a February 26, 2025 Briefing Order, the OED Director filed on April 8, 2025, the OED Director's Response to Respondent's Response to Notice and Order Pursuant to 37 C.F.R. § 11.24. In that pleading the OED Director denied that Respondent satisfied the requirements necessary to prevent reciprocal discipline and, accordingly, argued that reciprocal discipline was appropriate.

11. Respondent did not file a Reply.

II. LEGAL STANDARD

Reciprocal disciplinary proceedings are not in any sense *de novo* proceedings. *See In re Barach*, 540 F.3d 82, 84 (1st Cir. 2008); *In re Surrick*, 338 F.3d 224, 232 (3d Cir. 2003). Rather, pursuant to 37 C.F.R. § 11.24(d), and in accordance with *Selling v. Radford*, 243 U.S. 46 (1917), the USPTO has codified standards for imposing reciprocal discipline based on a state's disciplinary adjudication. Pursuant to *Selling*, state disbarment creates a federal-level presumption that imposition of reciprocal discipline is proper, unless an independent review of the record reveals: (1) a want of due process; (2) an infirmity of proof of the misconduct; or (3) that grave injustice would result from the imposition of reciprocal discipline. 243 U.S. at 51. Federal courts have generally "concluded that in reciprocal discipline cases, it is the respondent attorney's burden to demonstrate, by clear and convincing evidence, that one of the *Selling* elements precludes reciprocal discipline." *In re Kramer*, 282 F.3d 721, 724 (9th Cir. 2002); *In re Friedman*, 51 F.3d 20, 22 (2d Cir. 1995). "This standard is narrow, for '[a Federal court, or here the USPTO Director is] not sitting as a court of review to discover error in the [hearing judge's] or the [state] courts' proceedings.'" *In re Zdravkovich*, 634 F.3d 574, 578 (D.C. Cir. 2011)

(second and third alterations in original) (quoting *In re Sibley*, 564 F.3d 1335, 1341 (D.C. Cir. 2009)).

The USPTO's regulation governing reciprocal discipline, 37 C.F.R. § 11.24, mirrors the *Selling* standard:

[T]he USPTO Director shall consider the record and shall impose the identical public censure, public reprimand, probation, disbarment, suspension, or disciplinary disqualification unless the practitioner demonstrates by clear and convincing evidence, and the USPTO Director finds there is a genuine issue of material fact that:

- (i) The procedure elsewhere was so lacking in notice or opportunity to be heard as to constitute deprivation of due process;
- (ii) There was such infirmity of proof establishing the conduct as to give rise to the clear conviction that the Office could not, consistently with its duty, accept as final the conclusion on that subject;
- (iii) The imposition of the same public censure, public reprimand, probation, disbarment, suspension or disciplinary disqualification by the Office would result in a grave injustice; or
- (iv) Any argument that the practitioner was not publicly censured, publicly reprimanded, placed on probation, disbarred, suspended or disciplinarily disqualified.

Id. § 11.24(d)(1).

To prevent the imposition of reciprocal discipline, Respondent is required to demonstrate that there is a genuine issue of material fact as to one of these criteria by clear and convincing evidence. *See id.* As discussed below, however, Respondent has not shown by clear and convincing evidence that there is a genuine issue of material fact with regard to any of the factors set forth in 37 C.F.R. § 11.24(d)(1). Consequently, exclusion of Respondent from the practice of patent, trademark, and other non-patent law before the USPTO is appropriate.

III. ANALYSIS

A. There Is No Genuine Issue of Material Fact: Massachusetts Response

As an initial matter, despite Respondent being notified that the USPTO planned to take reciprocal action against him for the finding in the Massachusetts proceeding, Respondent failed

to address the Supreme Judicial Court for the County of Suffolk's issued Amended Judgment of Disbarment disbarring the Respondent from the practice of law in the State of Massachusetts in his response. *See* Amended Judgment, at 1. In the USPTO's Director's Notice and Order, dated December 17, 2024, it was clearly stated that the USPTO's intention to enact reciprocal discipline against Respondent was based upon the Massachusetts disbarment and not the Virginia disbarment to practice law.

The Director's notice ordered:

[T]hat Respondent file a response to this Notice and Order with the Director of the USPTO containing all information that Respondent believes is sufficient to establish, by clear and convincing evidence, a genuine issue of material fact that the imposition of discipline identical to that imposed by the Judgment dated July 17, 2024 in *In the Matter of Dale Reese Jensen*, No. BD-2024-045 (Mass. July 17, 2024) would be unwarranted, and the reasons for such claim.

Id. at 2. In his response to the USPTO's OED Director's Notice and Order, Respondent completely bypassed any arguments in regard to the Massachusetts disbarment action. *See generally* Response to Notice and Order. By not even addressing the Supreme Judicial Court for the County of Suffolk's Amended Judgment, Respondent has not met the burden of proof to show that identical reciprocal discipline should not be imposed. As a result, Respondent's opposition to the reciprocal discipline fails and the Final Order should be issued.

Notably, instead of making arguments against the Massachusetts disciplinary proceeding— which again is the stated basis for the USPTO's imposition of reciprocal discipline— Respondent chose to make his responsive arguments in regards to the Virginia disciplinary proceeding. While it is not required to address Respondent's arguments pertaining to the Virginia proceedings, even if one chooses to address his challenges to the Virginia proceeding, it is clear after reviewing the record that those arguments fail too. Thus, the

imposition of the USPTO OED Director's proposed reciprocal discipline is warranted for all the following reasons.

B. Respondent Did Not Suffer a Deprivation of Due Process

First, Respondent argues that his due process rights were violated by not being granted a continuance because of his wife's health. As a *pro se* litigant, Respondent argues he was not allowed enough time to prepare because of his obligations to care for his wife. Specifically, Respondent stated:

The Circuit Court erred by denying Respondent's motion for a continuance of the trial of this case in violation in violation [sic] of due process rights. This error was preserved in the motion for continuance filed by Respondent prior to trial. Prior to the trial before the three-judge panel, Respondent moved for a continuance in the trial because of his wife's health in view of Respondent proceeding *pro se*.

Response to Notice and Order, at 16-17.

Second, Respondent argues that the panel erred by admitting hearsay evidence, "which formed a majority of the 'evidence' presented against Respondent in violation of due process rights." *Id.* at 19.

Third, Respondent argues that the Circuit Court made "numerous findings of fact that lacked clear and convincing evidence to support such purported findings." *Id.* at 21-51.

Respondent argues that he was deprived of his due process rights because the Circuit Court failed to grant a continuance to allow him to care for his ailing wife. It is understandable under the circumstances described by Respondent that he or any counsel would want a continuance of the trial, but the Circuit Court considered the request and denied the continuance. It is not uncommon for courts to decide to move forward with trials and deny continuances, but that does not necessarily mean there has been a failure of due process. In this matter, Respondent disagrees with the Circuit Court's denial, but he was still notified and offered an opportunity to be heard in his case, thus he was not deprived of due process. While he disagrees with the denial

of the continuance for his trial, his disagreement is a separate and distinct issue from being deprived of due process.

“The fundamental requirement of due process is the opportunity to be heard at a meaningful time and in a meaningful manner.” *In re Karlen*, 293 F. App’x 734, 736 (11th Cir. 2008) (quoting *Mathews v. Eldridge*, 424 U.S. 319, 333 (1976)). In disciplinary proceedings, an attorney is entitled to due process, such as reasonable notice of the charges before the proceedings commence. *See In re Ruffalo*, 390 U.S. 544, 551 (1968); *In re Cook*, 551 F.3d 542, 549 (6th Cir. 2009) (procedural due process includes fair notice of the charge). Due process requirements are satisfied where a respondent “attended and participated actively in the various hearings, and was afforded an opportunity to present evidence, to testify, to cross-examine witnesses, and to present argument.” *In re Squire*, 617 F.3d 461, 467 (6th Cir. 2010) (quoting *Ginger v. Cir. Ct. for Wayne Cnty.*, 372 F.2d 620, 621 (6th Cir. 1967)); *see In re Zdravkovich*, *supra* (stating that attorney could not satisfy a claim of due process deprivation where he was given notice of the charges against him, was represented by counsel, and had hearing at which counsel had the opportunity to call and cross-examine witnesses, make arguments, and submit evidence).

Due process requirements are also met where a respondent is given “an opportunity to respond to the allegations set forth in the complaint, testify at length in [his] own defense, present other witnesses and evidence to support [his] version of events ..., [and is] able to make objections to the hearing panel’s findings and recommendations.” *In re Squire*, 617 F.3d at 467 (ellipsis and third alteration in original) (quoting *In re Cook*, 551 F.3d at 550). These standards and considerations, as set forth here, have been repeatedly applied by the USPTO Director in determining whether or not a practitioner has suffered a deprivation of due process under 37

C.F.R. § 1.24(d)(1)(i). *See, e.g., In re Khaliq*, Proceeding No. D2020-28 (USPTO, Mar. 31, 8 2021); *In re Faro*, Proceeding No. 02019-09 (USPTO, Feb. 21, 2020); *In re Baker*, Proceeding No. 02019-08 (USPTO, Aug. 8, 2019); *In re Chaganti*, Proceeding No. 2015-10 (USPTO, Aug. 4, 2015).

Here, Respondent does not claim that he failed to receive notice of the disciplinary charges against him, or that he was prevented from actively participating in the underlying disciplinary case. Nor could Respondent credibly make those arguments. “Due process requirements are satisfied where a respondent attended and participated actively in the various hearings, and was afforded an opportunity to present evidence, to testify, to cross-examine witnesses, and to present argument.” *In re Rheinstein*, Proceeding No. 02021-06, at 15 (USPTO, July 22, 2022) (internal quotations marks omitted).

A review of the Virginia State Bar hearing transcript confirms that Respondent was afforded ample notice and opportunities to be heard. Thus, there was no violation of his due process rights, but rather Respondent simply takes issue with the amount of time he was allowed to prepare for trial. For example, at the beginning of the trial, Respondent was permitted to renew his objection to the Court’s denial of his motion for continuance. *See Virginia State Bar’s Jensen Disciplinary Hearing Transcript*, at 7 (Oct. 23, 2023). Judge Higgins asked Respondent if he was ready to proceed. *Id.* Respondent replied:

Well, I will answer that as best I can. I'm as ready as I'm going to be. I continue to, uh, uh, renew my objection to moving forward with this proceeding today, but in view of the motion to continue that was adjudicated I guess probably a couple of weeks ago, because I truly have not had time to adequately prepare. I'm as ready as I'm going to be. *Id.*

Judge Higgins also noted Respondent’s objection for the record. *Id.* at 8.

Thereafter, Respondent took part in a robust discussion about the exclusion of evidence and witnesses for the trial. *Id.* 7-13. Notably, all of Respondent’s submissions and witnesses

were admitted into evidence, even an exhibit that Respondent provided to the prosecutor on the morning of the trial. *Id.* 11-13. Arguably, this is another example that demonstrates Respondent had notice at least weeks in advance and that Respondent was offered an opportunity to be heard.

Another instance that suggests Respondent's due process rights were not violated occurred towards the end of the first day of trial when Respondent objected to the admission of the Virginia State Bar's Exhibit C-18. This exhibit was a response to Respondent's complaint for declaratory judgment filed by the Commonwealth's Attorney. *Id.* at 215-216. Respondent objected to the admission of Exhibit C-18 on the basis that he was not given the exhibit until the day of trial.

After listening to the prosecutor's and Respondent's arguments, the Judge made it clear that Respondent's objection would be overruled for two reasons. Firstly, the Judge noted that the document should not be much of a surprise to Respondent because the document was from the case of [Respondent's] client. "Secondly, there has been some flexibility on the part of the Court because of Mr. Jensen's circumstances with the health of his wife, and therefore, the Court is going to award some flexibility as well to the Virginia State Bar." *Id.* at 216-217.

The Judge's inquiry and comment about "flexibility on the part of the Court because of Mr. Jensen's circumstances with the health of his wife" demonstrates that the Court did afford the Respondent notice and an opportunity to be heard in regard to Respondent's motion for a continuance. It also shows that Respondent was able to be heard about his request even after the motion for continuance was denied. *Id.* Again, it is understandable that the Respondent would ask for a continuance given the circumstances, but the Court clearly considered his arguments and still denied his motion.

In evaluating whether the denial of a continuance violates due process, caselaw suggests

that a “continuance is traditionally within the discretion of the trial judge, and it is not every denial of a request for more time that violates due process even if the party fails to offer evidence or is compelled to defend without counsel.” *United States v. Verderame*, 51 F.3d 249, 251 (11th Cir. 1995) (quoting *Ungar v. Sarafite*, 376 U.S. 575, 589 (1964)). There is no test to determine whether a denial of a continuance is so arbitrary as to violate due process but instead “the circumstances present in every case, particularly in the reasons presented to the trial judge at the time the request is denied,” should be examined to determine if there has been a due process violation when a continuance is denied. *Verderame*, 51 F.3d at 251.

After reviewing the transcript of the Virginia State Board trial and examining the previously discussed interactions between Respondent and the Circuit Court, it is evident that Respondent was given notice and afforded an opportunity to be heard. The record unequivocally establishes that Respondent received notice of the charges and notice of his continuance denial and fully and vigorously participated in the Virginia disciplinary proceedings. *See generally*, Virginia State Bar’s Jensen Disciplinary Hearing Transcript.

Not being able to show that he was deprived notice of, and ability to participate in, his Virginia disciplinary case, Respondent relies on arguments challenging evidence, the authenticity of evidence, as well as substantive issues and ruling of the Virginia proceeding. *See* Response to Notice and Order, at 4 -16). However, although these issues are couched under “due process,” they are no more than mere disagreement with the Virginia state tribunals’ findings and conclusions.

Such disagreement is not a basis for finding a deprivation of due process. *See In re Rheinstein*, Proceeding No. 02021-06, at 13 (“Reciprocal disciplinary proceedings are not in any sense *de novo* proceedings.”); *In re Khaliq*, Proceeding No. D2020-28, at 13. Tribunals have

broad discretion to admit or refuse evidence into the record. *In re Khaliq*, Proceeding No. D2020-28, at 17 (citing *In re Harper*, 725 F.3d 1253, 1258 (10th Cir. 2013) (citing, in turn, *United States v. Scheffer*, 523 U.S. 303, 328 (1998)); *In re Williams*, 398 F.3d 116, 118 (1st Cir. 2005) (A “state court’s substantive findings are entitled to a high degree of respect when this court is asked to impose reciprocal discipline.”)). “A proceeding designed to weigh the advisability of reciprocal discipline is not a vehicle for retrying the original disciplinary proceeding.” *Id.* (quoting *In re Barach*, 540 F.3d at 87). “Nor is it a vehicle either for the correction of garden-variety errors or for the revisiting of judgment calls.” *Id.* (internal quotation marks omitted) (rejecting practitioner’s due process claims where “unremarkable” claims of evidentiary errors, procedural errors, and other errors were raised).

Even if the USPTO ignored that Respondent failed to comply with the OED Director’s Notice and Order concerning the Massachusetts disbarment, and alternatively decided to contemplate the errors Respondent argues in his brief, Respondent’s arguments still fail. In reviewing the record of the Virginia proceeding, the legal standard established in 37 C.F.R. § 11.24 was followed. The Virginia proceeding was not “so lacking in notice and opportunity to be heard as to constitute a deprivation of due process.” *Id.* § 11.24(d)(1)(i). Respondent also received proper notice for the Virginia proceeding where he not only participated, but examined witnesses and represented himself and testified on his own behalf. In addition to the witnesses Respondent was afforded the opportunity cross-examine on the stand, the three-judge panel allowed sworn affidavits to be entered into the Virginia proceeding, and Respondent was allowed to examine them as well. Furthermore, Respondent was provided with the opportunity to enter his own evidence. Thus, there is no merit to Respondent’s argument that he was not afforded due process.

As for Respondent's argument that he did not get due process because hearsay was improperly allowed into the proceeding, the Rules of the Virginia Supreme Court suggest otherwise. Those rules require the court to admit all reasonable probative evidence while determining the appropriate weight that should be given to that evidence in accordance with its evidentiary foundation and reliability. *See* Va. Sup. Ct. R. pt. 6, § IV, ¶ 13-12 (D). Specifically, the Rules state that in disciplinary cases before a three-judge panel, the court is directed to "recei[ve] into evidence ... all reasonably probative evidence," with the caveat that the "weight given such evidence received is commensurate with its evidentiary foundation and likely reliability." *Id.*

Consequently, Respondent's due process argument fails.

C. There Was No Infirmity of Proof in the State Disciplinary Decision

Respondent argues that "[t]he Circuit Court erred by making numerous findings of fact that lacked clear and convincing evidence to support such purported findings of fact as discussed in detail." Response to Notice and Order, at 21. Thereafter, Respondent provided an exhaustive list of items he deems as errors in the transcript of the Virginia proceeding. In this extensive list, Respondent argues about hearsay issues in the proceeding, disputes the interpretation of case law, contests that the proceeding failed to adhere to the legal standard of "clear and convincing" evidence, and enumerates numerous other alleged errors.

Practitioners may challenge whether the imposition of reciprocal discipline is proper by presenting clear and convincing evidence that there is a genuine issue of material fact as to whether there was such an infirmity of proof establishing the misconduct as to give rise to a clear conviction that the USPTO could not, consistent with its duty, accept as final the State's conclusion on that subject. 37 C.F.R. § 11.24(d)(1)(ii). In his pleadings that constitute the

Response to Notice and Order, Respondent raises numerous pages of challenges and arguments concerning various findings and conclusions of the underlying state disciplinary proceedings. *See* Response to Notice and Order, at 21-51. These arguments again include allegations that the state proceedings relied upon or referenced false transcripts and unauthenticated documents. *See id.* at 4.

To successfully invoke infirmity of proof as a defense to reciprocal discipline, Respondent must demonstrate that there was such an infirmity of proof establishing the charges against him as to give rise to the clear conviction that accepting the state discipline would be inconsistent with the USPTO's duty. *In re Zdravkovich*, 634 F.3d at 579. "This is a difficult showing to make" *Id.* Determinations by the trier-of-fact regarding the credibility of witnesses generally receive deference. *Id.* at 580. Also, as already noted, "[a Federal court, or here the USPTO Director is] not sitting as a court of review to discover error in the [hearing judge's] or the [state] courts' proceedings." *Id.* at 578 (second and third alterations in original) (quoting *In re Sibley*, 564 F.3d at 1341). Therefore, mere disagreement about the credibility of a witness or findings fact and legal conclusions do not establish an infirmity of proof.

Here, Respondent's logic and statements appear misplaced or misstated. Respondent's arguments are little more than disagreements with the Virginia disciplinary tribunals' findings and conclusions. As already stated, "mere disagreement about the credibility of a witness or findings [of] fact and legal conclusions do not establish an infirmity of proof." *In re Rheinstein*, Proceeding No. D2021-06, at 20. Moreover, while Respondent took ample time to list the perceived errors of his proceeding (30-page index), he does not provide any substantial legal analysis of the errors he cited. Response to Notice and Order, at 21-51.

In OED Director's Response, counsel accurately states:

To successfully invoke infirmity of proof as a defense to reciprocal discipline, Respondent must do more than simply challenge the fact finder's weighing of the evidence. He must demonstrate that there was such an infirmity of proof establishing the charges against him as to give rise to the clear conviction that accepting the Order of Discipline would be '[in]consistent with [the USPTO Director's] duty.' This is a difficult showing to make.... Mere disagreement about the credibility of a witness or findings [of] fact and legal conclusions do not establish an infirmity of proof.

Id. at 11 (citations omitted; internal footnote omitted; alterations in original).

In sum, Respondent makes it clear that he disagrees with the findings of the proceeding and disputes how certain items were allowed into evidence, but the law and the rules of the Virginia Proceedings do not support his "disagreements" and the fact that his arguments are not supported with proper and substantial legal analysis, makes it clear there is no infirmity of the proof admitted against him. *See id.*

D. There Would Be No Grave Injustice in Imposing Reciprocal Discipline

Respondent does not make a specific argument that imposing reciprocal discipline here would amount to a grave injustice. *See generally*, Response to Notice and Order. He only attempts to rehash arguments and positions raised in the State of Virginia disciplinary matter. This is an improper analysis under 37 C.F.R. § 11.24 (d)(1)(iii). Pursuant to § 11.24(d)(1)(iii), the grave injustice analysis focuses on whether the severity of the punishment "fits" the misconduct and allows for consideration of various mitigating factors. *See In re Thav*, 852 F. Supp. 2d 857, 861-62 (E.D. Mich. 2012); *see also In re Kramer*, 282 F.3d at 727 (on challenge to imposition of reciprocal discipline, "we inquire only whether the punishment imposed by [the first] court was so ill-fitted to an attorney's adjudicated misconduct that reciprocal disbarment would result in grave injustice); *In re Attorney Discipline Matter*, 98 F.3d 1082, 1088 (8th Cir. 1996) (no grave injustice where disbarment imposed by the state court "was within the appropriate range of sanctions"); *In re Benjamin*, 870 F. Supp. 41, 44 (N.D.N.Y. 1994) (public censure within range

of penalties for misconduct and thus censure was not a grave injustice).

“As long as the discipline from the state bar was within the range of appropriate sanctions, it is not grave injustice for the [USPTO] to impose reciprocal discipline.” *Persaud v. Dir. of the USPTO*, No. 1:16-cv-00495, 2017 WL 1147459, at *2 (E.D. Va. Mar. 27, 2017). Respondent makes no argument relevant to the applicable grave injustice standard. He makes no argument regarding whether disbarment is an appropriate sanction for the misconduct found in the Virginia disciplinary proceedings. Instead, he attempts to reargue the findings and conclusions of the state proceeding, as well as raises other complaints about hardships and fairness of imposing reciprocal discipline. *See generally*, Response to Notice and Order. These arguments are simply not pertinent to the grave injustice analysis and provide no basis to prohibit reciprocal discipline. Contrary to Respondent, and with the grave injustice standard in mind, the OED Director cited appropriate and applicable authority to support the conclusion that Respondent’s disbarment is an appropriate sanction in Massachusetts, as well as under USPTO precedent. *See* OED Director’s Response, at 12; *In re Rheinstein*, Proceeding No. D2021-06 (USPTO, July 22, 2022) (exclusion); *In re Warren*, Proceeding No. D2010-22 (USPTO, June 11, 2010) (five-year suspension).

E. Selling Elements iii and iv

Respondent did not specifically address the remaining *Selling* factors in his Response to the OED Director’s Notice and Order. There was no discussion concerning the imposition of the same public censure, public reprimand, probation, disbarment, suspension or disciplinary disqualification by the Office would result in a grave injustice; or any argument that the practitioner was not publicly censured, publicly reprimanded, placed on probation, disbarred, suspended or disciplinarily disqualified.

F. Other Arguments

Respondent did make some additional arguments in what appears to be an attempt to negate or reduce the imposition of reciprocal discipline in his case. For example, Respondent developed a theory that any conviction based on a defective indictment was unconstitutional under the Fifth and Fourteenth Amendments to the United States Constitution, and therefore, void *ab initio*. See OED Director's Response, at 3; see also Final Memorandum Order, at 4-5. Despite being aware that unfavorable decisions on his legal theory had been rendered by the Court of Appeals of Virginia and later the Supreme Court of Virginia, Respondent continued to unsuccessfully advance his defective indictment theory in appeals, petitions for appeal to the Virginia Supreme Court, and petitions for *certiorari* to the United States Supreme Court. See Final Memorandum Order, at 4-5. Knowing that his defective indictment legal theory had failed, Respondent still took on additional clients and proffered the same failing theory, thus leading the clients to believe they were entitled to post-conviction relief due to defects in their indictments when the rulings made it clear any such defective indictments would be deemed procedural in nature and not substantive defects. See *id.* at 4-6.

Additionally, he argues that the court failed to adjudge his matter on a clear and convincing burden of proof; the court improperly allowed the admission of testimonies and affidavits from his former clients and others; and that he appropriately charged fees based on the services he rendered. Response to Notice and Order, at 1-51. None of these additional arguments have any merit nor do they provide any basis to prevent the imposition of reciprocal discipline here in this matter. Hence, further discussion of the *Selling* factors or any other arguments is unnecessary.

ORDER

ACCORDINGLY, it is hereby ORDERED that:

1. Respondent is excluded from the practice of patent, trademark, and other non-patent law before the USPTO.
2. Respondent is granted limited recognition pursuant to 37 C.F.R. § 11.58(f) for thirty (30) days starting on the date of this Final Order so that Respondent may endeavor to conclude work on behalf of clients on any matters pending before the Office and, if such work cannot be concluded within such thirty (30) days, Respondent shall so advise each such client so that the client may make other arrangements;
3. 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/>;
4. The OED Director publish a notice in the *Official Gazette* materially consistent with the following:

Notice of Exclusion

This notice concerns Dale Reese Jensen of Staunton, Virginia, who is a registered patent attorney (Registration Number 55,300). In a reciprocal disciplinary proceeding, the Director of the United States Patent and Trademark Office ("USPTO") has ordered that Mr. Dale Reese Jensen be excluded from practice before the USPTO in patent, trademark, and other non-patent matters for violating 37 C.F.R. § 11.804(h), predicated upon being disbarred from the practice of law by a duly constituted authority of a State.

The order of the USPTO Director was predicated on a July 17, 2024 Amended Judgment of Disbarment issued by the Supreme Judicial Court for the County of Suffolk in *In the Matter of Dale Reese Jensen*, No. BD-2024-045 (Mass. July 17, 2024) imposing reciprocal discipline on Mr. Jensen and disbaring him from the practice of law in that jurisdiction. The July 17, 2024 judgment was predicated on a December 19, 2023 Final Memorandum Order issued by the Circuit Court for the City of Staunton in *Virginia State Bar Ex Rel Eighth District Committee v. Dale Reese Jensen*, No. CL23-342 (Va. Cir. Ct. 2023) that revoked Respondent's

license from the practice of law in that jurisdiction, effective October 26, 2023.

The December 19, 2023 Final Memorandum Order of the Circuit Court for the City of Staunton revoked Respondent's license to practice law for conduct that occurred while he represented clients in post-conviction matters and while he underwent an investigation with the Virginia State Bar. Specifically, Respondent's license was revoked for: failing to timely file pleadings in advance of deadlines; continuing to represent client(s) in proceedings after being fired and strategizing against their wishes; failing to timely provide notice to and schedule a hearing; failing to prepare and submit a filing that was pre-paid; not communicating with clients in a reasonable manner regarding their case strategy and status updates; not advising clients that the case law was not in their favor; making false statements to clients in an effort to earn more money; charging excessive fees for work product that was not in the client(s) favor and that was copied verbatim from prior pleadings, which contained legal arguments that had previously been rejected in multiple forums; failing to deposit advance legal fees into a trust account and failing to return unearned fees when requested; failing to provide former client(s)' new counsel their files; allowing staff to make false statements regarding the merits of a case when communicating with clients; and submitting fraudulent documents and lying to a Virginia State Bar Investigator.

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. Effective the date of the expiration of the 30-day period of limited recognition afforded to Respondent under 37 C.F.R. § 11.58(f), the USPTO is hereby authorized to disable or suspend any USPTO.gov accounts registered to Respondent as of the date of this Final Order (including, but not limited to, all accounts that Respondent has ever established, sponsored, or used in connection with any trademark or patent matter);

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

7. Immediately upon expiration of the 30-day period of limited recognition afforded to Respondent under § 11.58(f), Respondent is prohibited from using, assessing, or assisting others in using or accessing any USPTO.gov account(s) or other USPTO filing systems for preparing or filing documents with the USPTO;

8. Until a petition seeking Respondent's reinstatement to practice before the USPTO is granted pursuant to 37 C.F.R. § 11.60, Respondent shall be prohibited, and the USPTO is authorized to disallow Respondent, from the following: (1) opening or activating any USPTO.gov account(s) to be used for preparing or filing documents with the USPTO; (2) applying for, or attempting to apply for any USPTO.gov account(s) to be used for preparing or filing documents with the USPTO; (3) verifying, or attempting to verify, any other person's credentials in connection with USPTO.gov account(s) to be used for preparing or filing documents with the USPTO; and (4) sponsoring or attempting to sponsor USPTO.gov account(s) to be used for preparing or filing documents with the USPTO; and

9. Nothing herein shall obligate the USPTO to take action, *sua sponte*, to re-activate any USPTO.gov account disabled or suspended pursuant to this order; rather, it is Respondent's sole responsibility to initiate any such re-activation of any such USPTO.gov account.

Pursuant to 37 C.F.R. § 11.57(a), review of the final decision by the USPTO Director may be had by a Petition filed with the U.S. District Court for the Eastern District of Virginia under 35 U.S.C. § 32 "within thirty (30) days after the date of the order recording the Director's action." *See* E.D. Va. Local Civil Rule 83.5.

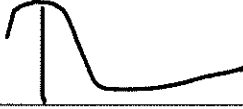
IT IS SO ORDERED.

(signature page follows)

(signature page for Final Order (D2025-06))

December 8, 2025

Date

A handwritten signature in black ink, appearing to read 'Tiberi', written over a horizontal line.

Todd J. Tiberi
General Counsel of the
United States Patent and Trademark Office

on delegated authority by

John A. Squires
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 was sent, on this day, to parties in the manner indicated below:

Via first-class certified mail, return receipt requested, to the Respondent at the most recent address provided to the OED Director pursuant to 37 C.F.R. § 11.11(a):

Mr. Dale Reese Jensen
Law Offices of Dale Jensen, PLC
606 Bull Run
Staunton, Virginia 24401


and via email to:



Via-email to the OED Director:

Ms. Mary Brannen
mbrannen@uspto.gov
Counsel for the OED Director

12/8/25
Date


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