

**UNITED STATES PATENT AND TRADEMARK OFFICE**

In the Matter of	)	
	)	
Robert M. Schulman,	)	Proceeding No. D2019-34
	)	
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 Robert M. Schulman (“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 agreed sanction found in the Agreement.

**JURISDICTION**

1. At all times relevant, Respondent of McLean, Virginia, has been a registered patent attorney (Registration Number 31,196) who is subject to the USPTO Rules of Professional Conduct, which are set forth at 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 of McLean, Virginia, is admitted to practice law in Washington, DC (Bar Number: 376111), where he currently is in “Temporary Disciplinary Suspension” status.
4. At all times relevant, Respondent has been a registered patent attorney (Registration No. 31,196).
5. On March 15, 2017, Respondent was convicted of Conspiracy to Commit Securities Fraud in violation of 18 U.S.C. § 371 and Securities Fraud in violation of 15 U.S.C. 78j(b) and 78f(f) in the United States District Court for the Eastern District of New York in *United States of America v. Robert Schulman* in Case Number 2:16-cr-00442-2 (JMA).
6. Respondent’s criminal conviction in *United States of America v. Robert Schulman* in Case Number 2:16-cr-00442-2 (JMA) is sufficient proof that Respondent violated 37 C.F.R. §

11.804(b) by committing a criminal act that reflects adversely on a practitioner's honesty, trustworthiness or fitness as a practitioner in other respects.

7. On January 10, 2019, the United States Court of Appeals for the Second Circuit affirmed Respondent's conviction in *United States v. Klein*, 913 F.3d 73 (2d Cir. 2019).

8. In May 2019, Respondent executed a negotiated discipline with the District of Columbia Court of Appeals Board on Professional Responsibility. In the Affidavit accompanying the Petition for Negotiated Discipline, Respondent agreed to, *inter alia*, a three-year suspension. Respondent's period of suspension commenced on June 28, 2018.

9. On August 16, 2019, the Deputy General Counsel for General Law, on behalf of the USPTO Director, suspended Respondent on an interim basis from practice before the Office in patent, trademark, and other non-patent matters pursuant to 37 C.F.R. § 11.25, and referred the matter (Proceeding No. D2019-34) to a hearing officer for further proceedings.

### **JOINT LEGAL CONCLUSIONS**

20. Respondent acknowledges that, based on the information contained in the Stipulated Facts, above, Respondent's acts and omissions, on or after May 3, 2013, violated 37 C.F.R. § 11.804(b) (committing a criminal act that reflects adversely on the practitioner's honesty, trustworthiness or fitness as a practitioner in other respects).

### **ADDITIONAL CONSIDERATIONS**

21. Prior to his felony conviction, in more than 30 years of legal practice, Respondent has not been publicly disciplined by any state, territorial bar, state or federal court, or state or federal agency (including the USPTO).

22. Respondent has acknowledged his ethical lapses, demonstrated contrition, and accepted responsibility for his acts and omissions.

### **AGREED UPON SANCTION**

23. Respondent freely and voluntarily agreed, and it is hereby ORDERED that:

- a. Respondent be, and hereby is, suspended from practice before the Office in patent, trademark, and other non-patent matters for three years *nunc pro tunc*, from June 28, 2018;
- b. Respondent shall remain suspended from practice before the USPTO until the OED Director grants Respondent's petition for reinstatement pursuant to 37 C.F.R. § 11.60;
- c. Respondent shall comply with 37 C.F.R. § 11.58 and 11.60;

- d. Respondent shall serve a 24-month probationary period commencing on the date of his reinstatement to practice before the Office;
- e. (1) In the event the OED Director is of the opinion that Respondent, during the probationary period, failed to comply with any provision of the Agreement, the Final Order, or any disciplinary rule of the USPTO Rules of Professional Conduct, the OED Director shall:
  - (A) issue to Respondent an Order to Show Cause why the USPTO Director should not order that Respondent be immediately suspended for up to an additional one year for the violations set forth in the Joint Legal Conclusions, above;
  - (B) send the Order to Show Cause to Respondent at the last address of record Respondent furnished to the OED Director; and
  - (C) grant Respondent fifteen (15) days to respond to the Order to Show Cause; and
- (2) in the event that after the 15-day period for response and after the consideration of the response, if any, received from Respondent, the OED Director continues to be of the opinion that Respondent, during the probationary period, failed to comply with any provision of the Agreement, the Final Order, or any disciplinary rule of the USPTO Rules of Professional Conduct, the OED Director shall:
  - (A) deliver to the USPTO Director or his designee: (i) the Order to Show Cause, (ii) Respondent's response to the Order to Show Cause, if any; and (iii) argument and evidence causing the OED Director to be of the opinion that Respondent failed to comply with any provision of the Agreement, the Final Order, or any disciplinary rule of the USPTO Rules of Professional Conduct during the probationary period, and
  - (B) request that the USPTO Director immediately suspend Respondent for up to an additional one year for the violations set forth in the Joint Legal Conclusions, above;
- f. In the event the USPTO Director suspends Respondent pursuant to subparagraph e, above, and Respondent seeks a review of the suspension, any such review of the suspension shall not operate to postpone or otherwise hold in abeyance the suspension;
- g. 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/>;

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

**Notice of Suspension**

This notice concerns Robert M. Schulman of McLean, Virginia, who was suspended on August 16, 2019, on an interim basis from practice before the United States Patent and Trademark Office (“USPTO” or “Office”) in patent, trademark, and other non-patent matters pursuant to 37 C.F.R. § 11.25(b), for having been convicted of Conspiracy to Commit Securities Fraud in violation of 18 U.S.C. § 371 and Securities Fraud in violation of 15 U.S.C. §§ 78j(b) and 78f(f).

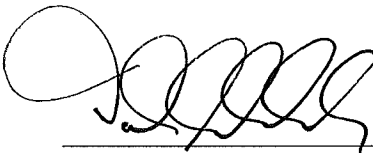
Mr. Schulman is hereby suspended for three years from practice before the Office in patent, trademark, and non-patent matters *nunc pro tunc*, from June 28, 2018, in conformance with identical discipline imposed by the District of Columbia Court of Appeals Board on Professional Responsibility. Mr. Schulman shall serve a probationary period of 24 months commencing on the date of reinstatement to practice before the USPTO.

This action is the result of a settlement agreement between Mr. Schulman 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 FOIA reading room, which is publicly accessible at: <https://foiadocuments.uspto.gov/oed/>;

- i. Nothing in this 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; (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, and (3) in connection with any request for reconsideration submitted by Respondent pursuant to 37 C.F.R. § 11.60;
- j. Respondent shall fully comply with 37 C.F.R. § 11.60 upon any request for reinstatement to practice before the Office;
- k. Respondent waives all rights to seek reconsideration of the Final Order under 37 C.F.R. § 11.56, waives the right to have the Final Order reviewed under 37 C.F.R. § 11.57, and waives the right otherwise to appeal or challenge the Final Order in any manner; and

1. The OED Director and Respondent shall each bear their own costs incurred to date and in carrying out the terms of this Agreement and any Final Order.

19 March 2020  
Date



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David Shewchuk  
Deputy General Counsel for General Law  
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

Robert Marc Schulman

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