

UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE ADMINISTRATIVE LAW JUDGE

In the Matter of:

ROBERT C. STRAWBRICH,¹

Respondent.

Proceeding No. D2024-09

May 30, 2025²

INITIAL DECISION ON DEFAULT JUDGMENT

This matter arises from a *Complaint and Notice of Proceeding Under 35 U.S.C. § 32* (“*Complaint*”) filed by the Director of the Office of Enrollment and Discipline (“OED Director”) for the United States Patent and Trademark Office (“USPTO” or the “Office”) against Robert C. Strawbrich (“Respondent”) pursuant to 35 U.S.C. § 32 as implemented by 37 C.F.R. Part 11.³ Currently before the Tribunal is the *OED Director’s Motion for Default Judgment* seeking entry of default judgment and an order excluding Respondent from practice before the Office.

PROCEDURAL HISTORY

On March 29, 2024, the OED Director filed the *Complaint*, alleging that Respondent had committed violations of the USPTO Rules of Professional Conduct (“USPTO Rules”) arising from his representation of Moteah Williams. The *Complaint* also details Respondent’s failures to respond to inquiries from the Office of Enrollment and Discipline for the USPTO (“OED”) during the investigation, despite OED repeatedly contacting Respondent at numerous different physical addresses, telephone numbers, and email addresses. OED’s attempts to reach Respondent included communications to the email address that Respondent designated as his when he filed a motion for an extension of time in this proceeding and entered his appearance.

¹ In response to the OED Director’s July 23, 2025 *Motion to Amend Order Based Upon Scrivening Error*, this corrected Decision is hereby reissued *nunc pro tunc* to correct a scrivening error in the original, which included the incorrect middle initial for Respondent in the case caption and the Conclusion and Order section.

² A copy of this Decision was signed by the judge on November 15, 2024. However, through an administrative error, the Decision was not transmitted to either of the parties at that time. On May 29, 2025, after requesting a status update from the Tribunal and learning of the Decision, the OED Director filed a *Motion to Amend and Issue Initial Decision and Order* asking the Tribunal to reissue the Decision with a new date to ensure that the parties are properly served and that Respondent is afforded his appeal rights. The OED Director’s motion is **GRANTED**. Respondent shall have fourteen (14) days from the date of this Decision to appeal, as specified in the Appeal Rights at the end of this document.

³ Pursuant to an Interagency Agreement in effect beginning March 27, 2013, Administrative Law Judges of the United States Department of Housing and Urban Development have been appointed by the United States Commerce Secretary and are authorized to hear cases brought by the USPTO.

The OED Director mailed copies of the *Complaint* to Respondent at the following addresses:

Office of Robert C. Strawbrich
6185 West Quaker Street, #3
Orchard Park, NY 14127

Robert C. Strawbrich
6140 New Taylor Road, Uppr
Orchard Park, NY 14127

Office of Robert C. Strawbrich
[REDACTED]
[REDACTED]

Respondent had provided the USPTO with the West Quaker Street address as his correspondence address pursuant to 37 C.F.R. § 11.11. Respondent had listed the New Taylor Road address in a patent filing on behalf of Ms. Williams. The [REDACTED] address was a previously known address of Respondent's.

On April 1, 2024, this Tribunal issued a *Notice of Docketing* providing the April 29, 2024 due date for Respondent's answer to the *Complaint*. The *Notice of Docketing* was mailed to Respondent at the same three addresses identified above.

On April 26, 2024, Respondent filed a motion for a 30-day extension of time to file his answer. Respondent's email transmission of the motion to the Tribunal provided the following as his contact information:

Robert C. Strawbrich
6140 New Taylor Rd, FL 2
Orchard Park, NY 14127
716-861-5982 Mobile
[REDACTED]

On April 29, 2024, this Tribunal issued an order granting Respondent's motion for an extension of time, setting the May 29, 2024 due date for the answer. The order further instructed, "Respondent's appearance is overdue. Respondent, or his counsel, shall file their appearance on or before May 3, 2024, by submitting an appearance form that was previously provided by the Tribunal." The order was mailed to the 6140 New Taylor Rd address and emailed to [REDACTED].

On May 3, 2024, Respondent filed by email his *pro se* appearance form as instructed by the Tribunal's order. Respondent's appearance form listed his physical address as "6140 New Taylor Rd[.]" his email address as [REDACTED], and his telephone number as (716) 861-5982.

Respondent did not file an answer by the extended May 29, 2024 deadline, nor did Respondent file or serve any other documents in this matter.

On June 4, 2024, counsel for the OED Director emailed Respondent at [REDACTED] regarding his apparent failure to file or serve an answer, indicating that the OED Director may file a motion seeking entry of default and a default judgment if Respondent could not provide good cause for the failure to file. Respondent did not respond.

On June 11, 2024, counsel for the OED Director called Respondent at (716) 861-5982 and left a voicemail regarding Respondent's failure to file an answer. Respondent did not return the call.

Since filing his notice of appearance on May 3, 2024, Respondent has not been in contact with counsel for the OED Director or with the Tribunal regarding this matter. To date, Respondent has not filed an answer despite receiving an extension of time to do so.

APPLICABLE LAW

USPTO Disciplinary Proceedings. The USPTO has the “exclusive authority to establish qualifications for admitting persons to practice before it, and to suspend or exclude them from practicing before it.” *Kroll v. Finnerty*, 242 F.3d 1359, 1364 (Fed. Cir. 2001). This authority flows from 35 U.S.C. § 2(b)(2)(D), which empowers the USPTO to establish regulations governing patent practitioners’ conduct before the Office, and 35 U.S.C. § 32, which empowers the USPTO to discipline a practitioner who is “shown to be incompetent or disreputable, or guilty of gross misconduct,” or who violates the USPTO’s regulations governing the conduct of practitioners. The practitioner must receive notice and an opportunity for a hearing before such disciplinary action is taken. 35 U.S.C. § 32. Disciplinary hearings are conducted in accordance with USPTO’s procedural rules at 37 C.F.R. Part 11, Subpart C, and with Section 7 of the Administrative Procedure Act, 5 U.S.C. § 556, by a hearing officer designated by the USPTO. *See* 37 C.F.R. §§ 11.39(a), 11.44. The OED Director has the burden of proving any alleged violations by clear and convincing evidence. 37 C.F.R. § 11.49.

Default Judgment. The requirement to answer a disciplinary complaint, and the consequences for failing to do so, are stated plainly in 37 C.F.R. § 11.36(e): “Failure to timely file an answer will constitute an admission of the allegations in the complaint and may result in entry of default judgment.” *See, e.g., In re Whitney*, Proceeding No. D2018-48 (USPTO Mar. 14, 2019)⁴ (initial decision granting OED Director’s motion for default judgment when respondent failed to answer the complaint); *In re Morishita*, Proceeding No. D2017-25 (USPTO Sept. 28, 2018)⁵ (same); *In re Schwedler*, Proceeding No. D2015-38 (USPTO Mar. 21, 2016)⁶ (same).

⁴ Available at: https://foiadocuments.uspto.gov/oed/0995_dis_2019-03-14.pdf.

⁵ Available at: https://foiadocuments.uspto.gov/oed/0978_dis_2018-09-28.pdf.

⁶ Available at: https://foiadocuments.uspto.gov/oed/0854_dis_2016-03-21.pdf.

FINDINGS OF FACT

Because Respondent failed to answer the *Complaint*, he is deemed to have admitted the allegations therein, which are set forth below as the Tribunal's findings of fact.

I. Respondent is registered to practice before the USPTO.

Respondent is an attorney who has been licensed to practice law in the State of California since March 23, 1992 (California Bar Number 157777), and is a patent practitioner who has been registered to practice before the USPTO in patent matters since April 19, 1993 (USPTO Registration Number 36,692). On January 23, 1992, he swore or affirmed that he would observe the laws and USPTO Rules if admitted to practice before the USPTO. The Tribunal has jurisdiction over this proceeding and over Respondent, who is subject to the USPTO Rules.

II. Respondent represented Moteah Williams before the USPTO.

On February 3, 2016, Moteah Williams retained Respondent to draft and file a patent application, entering into an engagement agreement that required an initial payment of \$750 and \$500 monthly payments until the balance was fully paid, plus \$400 in USPTO patent application filing fees. Ms. Williams paid Respondent the agreed fees for Respondent's legal services.

On [REDACTED], Respondent filed U.S. Patent Application No. [REDACTED] ("the [REDACTED] application"). Respondent submitted an electronic Patent Application Fee Transmittal with the filing, but he did not pay the required \$400 filing fees. In filing the [REDACTED] application, Respondent provided the USPTO with the following as his physical "Correspondence Address":

Robert C. Strawbrich
6140 New Taylor Road, Uppr
Orchard Park, NY 14127

Then, on [REDACTED], Ms. Williams paid Respondent \$400 for the filing fees.

The Office mailed a [REDACTED] to Respondent at his Correspondence Address on [REDACTED]. The [REDACTED] required payment of the unpaid filing fees plus a \$35 surcharge fee, for a total of \$435, as well as a properly executed inventor's oath or declaration. It stated that the missing required fees needed to be paid within two months from the date of the [REDACTED] to avoid abandonment of the [REDACTED] application. Respondent received the [REDACTED], but he did not pay the missing filing fees or file any response. As a result, the [REDACTED] application became abandoned.

On [REDACTED], the Office mailed a [REDACTED] to Respondent at his Correspondence Address. It stated that no reply to the [REDACTED] had been received; that if a reply had been sent, evidence of its transmission should be submitted; and that if no reply had been sent, then a petition to revive the abandoned [REDACTED] application may be filed. Respondent received the [REDACTED], but did not respond to it.

Ms. Williams contacted Respondent on May 19, 2019, requesting a status update of the [REDACTED] application and asked when they should expect to hear from the USPTO. Her correspondence is as follows:

Hi Robert,

I hope all is well on your end. I'm just following up on the patent application. I think it will be two years this June since the filing ... right? I'm just wondering when will we hear back from them. I want to make sure my funds are in order so that I can pay you for the response to them (I'm not sure what you call the response to their rejection).

Do you think we should be hearing from them soon?

On May 21, 2019, Respondent replied, "Hi Moteah, When I get a chance, I'll track it down and see where it is. I think they've been running behind again lately." Respondent did not inform Ms. Williams of the [REDACTED] or the [REDACTED], nor did he provide her with any potential options regarding endeavoring to revive the abandoned application or to rectify the situation in any other way.

On August 17, 2020, Ms. Williams contacted Respondent again, asking, "Does it usually take this long for patents or at least to hear back from them? I think we are on year 4 or 5 since the application was filed." The same day, Respondent replied in relevant part:

Hi Moteah,

It's actually been about 6 weeks past 3 years since we filed the utility application. We filed June 14, 2017. I've had a few that have taken longer, but as soon as I get past a few deadlines over the next 10 days, I'll try digging in to see what's going on.

Respondent again did not inform his client of the [REDACTED] the [REDACTED], or the reason for the abandonment of the application. Respondent also did not provide Ms. Williams with potential options regarding endeavoring to revive the abandoned application or to rectify the situation in any other way.

On March 22, 2022, Ms. Williams again contacted Respondent seeking information about the status of the [REDACTED] application. On May 31, 2022, Respondent stated to Ms. Williams that he had "been dealing with [his] dying mother" and acknowledged that "sometimes [he] miss[es] calls and emails" without realizing it. Respondent again failed to disclose to Ms. Williams the fact that her application had been abandoned because of Respondent's failure to reply to the [REDACTED], and he did not provide her legal guidance regarding potential options aimed at reviving the abandoned application or rectifying the situation in any other way.

Ms. Williams contacted the USPTO on July 11, 2022, and learned that the [REDACTED] application was abandoned for failure to respond to the [REDACTED]. That same

day, she called Respondent and informed him of the abandoned status of the [REDACTED] application. During the call, Respondent deceitfully indicated that he was unaware of the abandoned status of the application and had not had time to follow up with the USPTO, but that he would take steps to revive the application. After the July 11, 2022 call, Respondent ceased responding to Ms. Williams' emails.

On August 30, 2022, Ms. Williams contacted Respondent by text requesting a status update of the [REDACTED] application and expressing frustration about the inability to reach him, writing, in relevant part:

I've tried reaching you several times via email regarding the abandoned patent application. Can you provide me an update on the status?

An honest answer will be greatly appreciated. I'm trying to hold off on involving another attorney but your lack of response has me nervous.... Not being protected legally is not a great feeling.

I would like to know what is the hold up? You were paid almost \$4000 to submit my application and to not have it registered is disheartened [sic]. If you are not willing to follow through with refilling [sic], let me know so I can find another patent attorney. And if you decide not to refill [sic], I would expect a portion of my money refunded.

I look forward to hearing from you.

Again, time is of the essence [sic].

Thanks, Moteah

I'll also send this in an email.

Respondent replied by text the same day, informing Ms. Williams that his mother had recently died, that he had changed his telephone carrier and traded in his phone, and that the new phone was subsequently stolen. Respondent further told Ms. Williams he was looking into reviving the abandoned application:

So because I was too cheap to pay extra for extra cloud storage and I had just transferred all of myself to the one the aliens got, I lost a ton of info....

I know what has to be done, and I am just researching best ways to do it and getting evidence together that shows I never received it.

And you do not have to wait to [sic] for me to revive the application before proceeding. Once the app is revived, it will be

as if it was never abandoned. So do what you have to do and I will work on it as I catch up here on this end.

And I'm sorry I didn't see the email. I was kind of out of it for a few weeks there.

Ms. Williams replied expressing condolences for Respondent's mother passing, and then asked, "When you say 'you do not have to wait for me to revive the patent application before proceeding.' what are you saying? Is there something I need to do on my end?" In reply, Respondent made clear to Ms. Williams that he would file documents to revive the abandoned application:

I'm saying that YOU don't have to wait for me to revive the application to do what you need to do. There is no issue of lapse of the priority date.

I am not refiling. I will be reviving the application.

I did not receive the notices by mail, so it's not my fault. And it is certainly not your fault. So it is revivable. And I know you were concerned about speaking to suppliers and so I'm just saying that you don't have to postpone any of that.

In October 2022, Respondent told Ms. Williams that he had been working on documents to revive the application and again represented that he would be filing a petition to revive the application. Respondent's representations to Ms. Williams regarding him working to revive the abandoned application were deceitful. Respondent did not file any petition to revive the [REDACTED] application. He also did not file any other document with the USPTO based on his assertion to Ms. Williams on August 30, 2022, that he "did not receive the notices by mail," such as a petition to the USPTO Director pursuant to 37 C.F.R. § 1.181 to withdraw the examiner's holding of abandonment.

On December 12, 2022, Ms. Williams retained a different law firm to try to revive the [REDACTED] application. On February 15, 2023, Ms. Williams sent Respondent a text message informing him that she had hired another attorney and that he should have received a notice from the Office that he no longer holds power of attorney for the [REDACTED] application. Ms. Williams' text also expressed her extreme disappointment with Respondent and requested a partial refund of monies she had paid him to properly file the [REDACTED] application:

I'm extremely disappointed in how you mishandled my patent application. You knew immediately after submitting my application that you did not pay the filing fees or submit all of the required documents. Yet, you said nothing to me. It took me calling the USPTO after 5 years of reaching out to you for an update with no clear update to get the hard core truth from you. 5 years worth of emails and you knew the truth but yet you said nothing. It's been 6 months since I informed you of the abandoned

patent application, and you have yet to file to revive it. There has been excuse after excuse on why you haven't filed when the abandoned application is due to your negligence to submit the required documents and pay the filing fee.

I would like to recoup the money I paid to you to file the application (the fees you did not pay the USPTO) and a portion of your attorney fees.

Eventually, on [REDACTED], the Office [REDACTED] the [REDACTED] patent filed by Respondent's new counsel.

Although Respondent received the \$400 that Ms. Williams paid to him for the application filing fees, he did not remit the fees to the USPTO and, as of the date of the filing of the *Complaint*, he did not provide Ms. Williams a refund of any of the money that she paid him to file the [REDACTED] application.

III. Respondent did not participate in OED's investigation.

After receiving a grievance from Ms. Williams, OED commenced an investigation of Respondent that included sending him a Request for Information and Evidence Under 37 C.F.R. § 11.22(f) ("RFI") that sought information about the allegations in the grievance.

Under 37 C.F.R. § 11.11(a)(1), registered patent practitioners "must notify the OED Director of the postal address for their office, at least one and up to three email addresses where they receive email, and a business telephone number, as well as every change to each of said addresses and telephone number within thirty days of the date of the change." On June 14, 2023, OED sent the RFI by both certified mail and first-class mail to the address that Respondent had provided to OED as his official postal address pursuant to 37 C.F.R. § 11.11(a)(1), namely: "Office of Robert C. Strawbrich, 6185 West Quaker Street, #3 Orchard Park, New York 14127." According to the United States Postal Service's online tracking system, the RFI mailed on June 14, 2023, to the West Quaker Street address was returned to sender/unable to forward. The USPTO received the return mailing on August 17, 2023.

On June 28, 2023, OED sent a copy of the RFI by both certified and first-class mail to the address that Respondent had designated as his Correspondence Address when he filed the [REDACTED] application. The United States Postal Service marked as "return to sender/not deliverable as addressed/unable to forward" the envelope containing the documents mailed on June 28, 2023 to the Correspondence Address. The USPTO received the return mailing on August 17, 2023.

On August 15, 2023, the OED investigating attorney called the telephone number that Respondent had provided as associated with his 37 C.F.R. § 11.11 address. That number, (761) 861-5982, is the same as the one Ms. Williams had used to communicate with Respondent and that Respondent provided to this Tribunal in his *pro se* appearance form filed on May 3, 2024. The outgoing message for this number referenced Respondent. The OED investigating attorney left a message for Respondent asking him to call OED.

On August 16, 2023, OED tried to contact Respondent via email at [REDACTED]. This was the same email address that he provided as part of his Correspondence Address in the [REDACTED] application, that he had used to communicate with Ms. Williams, and that he has used to correspond with this Tribunal. Respondent did not respond to the August 16, 2023 email.

On August 18, 2023, OED mailed to Respondent a Lack of Response notification along with another copy of the RFI. This mailing was sent via certified and first-class mail to both the 6185 West Quaker Street, #3 Orchard Park, New York 14127 and the 6140 New Taylor Rd. Uppr, Orchard Park, New York 14127 addresses. Both copies mailed on August 18, 2023, to the West Quaker Street address were returned to the USPTO marked as “return to sender/attempted – not known/unable to forward[.]” The copy sent on August 18, 2023, via certified mail to the New Taylor Rd. address was returned marked as “return to sender/unclaimed/unable to forward.” However, the copy sent via first class mail to the New Taylor Rd. address was not returned.

On January 18, 2024, the OED investigating attorney called and left a message for Respondent at the telephone number associated with one of his USPTO customer numbers, asking him to call OED. Also on January 18, 2024, OED sent an email to [REDACTED]. On January 24, 2024, OED sent another email to [REDACTED]. Both emails requested that Respondent contact OED. The yahoo.com email address was associated with Respondent’s public contact information provided to the State Bar of California. The message to that email address was returned with indications that it “couldn’t be delivered” and “requested mail action aborted, mailbox not found.” The [REDACTED] email address was obtained during the investigation. The message to that email address was returned with indications that it “couldn’t be delivered” and was “blocked.”

On January 24, 2024, the OED investigating attorney attempted to call Respondent at three telephone numbers identified during the investigation. Two of the telephone numbers did not have an outgoing message that identified Mr. Strawbrich and did not provide an opportunity to leave a message. The third telephone number also did not have an outgoing message but did allow for a message to be left. The investigating attorney left a message asking Respondent to call OED at a specified number.

Despite reasonable attempts to communicate with Respondent, OED received no correspondence or other communication from or on behalf of Respondent regarding Ms. Williams’ grievance during its investigation.

CONCLUSIONS OF LAW

The OED Director’s *Complaint* and *Motion for Default Judgment* assert that Respondent violated the following provisions of the USPTO Rules: 37 C.F.R. §§ 11.103, 11.104(a)(3), 11.104(a)(4), 11.104(b), 11.115(d), 11.116(d), and 11.804(c). As set forth below, the Tribunal finds that Respondent violated the cited provisions.

I. Respondent violated 37 C.F.R. § 11.103 (diligence).

Respondent failed to act with reasonable diligence and promptness in representing his client, Ms. Williams. In particular, he (i) did not submit Ms. Williams' filing fees in response to the [REDACTED], (ii) allowed the [REDACTED] application to go abandoned, (iii) did not file a petition to revive, and (iv) did not inform Ms. Williams promptly and adequately about any limitations on his ability or willingness to handle the matter or perform the work. These failures to act constitute violations of 37 C.F.R. § 11.103. See, e.g., *In re Crosby*, Proceeding No. D2023-26, at 7 (USPTO Nov. 2, 2023)⁷ (Final Order pursuant to settlement); *In re Vieira*, Proceeding No. D2020-31, at 7 (USPTO Apr. 20, 2021)⁸ (Initial Decision on Default Judgment); *In re Hamill*, Proceeding No. D2019-16, at 11 (USPTO Nov. 4, 2019)⁹ (Initial Decision on Default Judgment); *In re Walker*, Proceeding No. D2018-04, at 8 (USPTO Mar. 23, 2018)¹⁰ (Final Order pursuant to settlement); *In re Myers*, Proceeding No. D2015-33, at 7 (USPTO Dec. 31, 2015)¹¹ (Initial Decision on Default Judgment).

II. Respondent violated 37 C.F.R. § 11.104 (client communications).

Respondent violated several provisions of 37 C.F.R. § 11.104 by failing to keep his client reasonably informed about the status of a matter, not complying with her reasonable requests for information, and not explaining a matter to the extent reasonably necessary to permit her to make informed decisions. Despite Ms. Williams' repeated inquiries, Respondent did not communicate with her adequately, accurately, or honestly regarding at least the following matters: the status of the [REDACTED] application and its abandonment; any limitations on Respondent's ability or willingness to handle the matter; or her legal options. Such misconduct violated 37 C.F.R. §§ 11.104(a)(3), 11.104(a)(4), and 11.104(b). See, e.g., *In re Crosby*, *supra*, at 8; *In re Vieira*, *supra*, at 8; *In re Hamill*, *supra*, at 11-12; *In re Walker*, *supra*, at 8.

III. Respondent violated 37 C.F.R. § 11.115(d) (safekeeping property).

Respondent failed to promptly deliver to Ms. Williams funds that she was entitled to receive as required by 37 C.F.R. § 11.115(d). He allowed the [REDACTED] application to go abandoned and to remain abandoned. Respondent did not provide his client any refund, even though Ms. Williams repeatedly requested a refund, and Respondent did not remit the filing fees to the USPTO. Respondent clearly violated 37 C.F.R. § 11.115(d). See, e.g., *In re Crosby*, *supra*, at 8; *In re Hamill*, *supra*, at 4; *In re Walker*, *supra*, at 9; *In re Myers*, *supra*, at 7.

⁷ Available at: [https://foiadocuments.uspto.gov/oed/Final-Order-\(Crosby\)-\(D2023-26\)-FINAL-Redacted.pdf](https://foiadocuments.uspto.gov/oed/Final-Order-(Crosby)-(D2023-26)-FINAL-Redacted.pdf).

⁸ Available at: [https://foiadocuments.uspto.gov/oed/Vieira Initial Decision D2020-31 dated 04 20 2021 Redacted.pdf](https://foiadocuments.uspto.gov/oed/Vieira%20Initial%20Decision%20D2020-31%20dated%2004%202021%20Redacted.pdf).

⁹ Available at: [https://foiadocuments.uspto.gov/oed/D2019 16 Hamill Initial Decision issued 11 4 19.pdf](https://foiadocuments.uspto.gov/oed/D2019%2016%20Hamill%20Initial%20Decision%20issued%2011%204%2019.pdf).

¹⁰ Available at: [https://foiadocuments.uspto.gov/oed/0954 dis 2018-03-23.pdf](https://foiadocuments.uspto.gov/oed/0954%20dis%202018-03-23.pdf).

¹¹ Available at: [https://foiadocuments.uspto.gov/oed/0845 dis 2015-12-31.pdf](https://foiadocuments.uspto.gov/oed/0845%20dis%202015-12-31.pdf).

IV. Respondent violated 37 C.F.R. § 11.116(d) (conduct after termination).

Respondent effectuated a *de facto* termination of his representation of Ms. Williams, failed to communicate with Ms. Williams, failed to perform the patent services for which he was paid, and failed to provide any refund to Ms. Williams. Accordingly, he violated 37 C.F.R. § 11.116(d) by not taking steps to the extent reasonably practicable to protect Ms. Williams' interests upon termination of their practitioner-client relationship. *See, e.g., In re Chirnomas*, Proceeding No. D2020-29, at 4 (USPTO April 29, 2021)¹² (Initial Decision on Default Judgment) (violations of § 11.116(d) where the respondent "abandoned... his client and caused a *de facto* termination of the practitioner-client representation when he failed to remit the basic national fee to the USPTO, and to respond to the [REDACTED] and a September 30, 2019 email."); *In re Goucher*, Proceeding No. D2019-36, at 9 (USPTO Feb. 5, 2020)¹³ (Initial Decision on Default Judgment) (finding a *de facto* termination of representation of three clients without notice, and other violations of § 11.116(d), for similar misconduct); *see also Att'y Grievance Comm'n of Maryland v. Van Nelson*, 40 A.3d 1039, 1049 (Md. 2012) (attorney's failure to communicate with client constituted *de facto* termination of attorney-client relationship requiring return of unearned fees).

V. Respondent violated 37 C.F.R. § 11.804(c) (dishonesty).

Respondent engaged in conduct involving dishonesty, fraud, deceit, or misrepresentation by (i) informing Ms. Williams that the USPTO was delayed in sending correspondence when in fact a [REDACTED] had already been mailed, (ii) not informing Ms. Williams that a response to the [REDACTED] was required and had not been filed, (iii) repeatedly representing to Ms. Williams that he was going to file a petition to revive without intending to do so or ever doing so, and (iv) soliciting and accepting payment from his client for filing fees to be submitted to the USPTO but never submitting the filing fees to the Office. This misconduct violated 37 C.F.R. § 11.804(c). *See, e.g., In re Crosby*, *supra*, at 8; *In re Vieira*, *supra*, at 9; *In re Chirnomas*, *supra*, at 8; *In re Goucher*, *supra*, at 8; *In re Hamill*, *supra*, at 14; *In re Walker*, *supra*, at 9.

SANCTIONS

There are four factors that the Tribunal is to consider when determining appropriate sanctions in a USPTO disciplinary hearing: (1) whether the practitioner violated a duty owed to a client, to the public, to the legal system, and/or to the profession; (2) whether the practitioner acted intentionally, knowingly, or negligently; (3) the amount of the actual or potential injury caused by the practitioner's misconduct; and (4) the existence of any aggravating or mitigating factors. 37 C.F.R. § 11.54(b); *see also, e.g., In re Morishita*, *supra*; *In re Lau*, Proceeding No. D2016-37 (USPTO May 1, 2017)¹⁴ (Initial Decision and Order Granting Default Judgment); *In*

¹² Available at: [Chirnomas Initial Decision D2020-29 dated 04 29 2021 Redacted.pdf \(uspto.gov\)](https://www.uspto.gov/patent/foia/Chirnomas%20Initial%20Decision%20D2020-29%20dated%2004%2029%202021%20Redacted.pdf).

¹³ Available at: [https://foiadocuments.uspto.gov/oed/D2019-36 Goucher, Tyler R. Final Decision 02.05.20.pdf? gl=1*hpjg82* ga*Nzc0NTU5MjAzLjE2NDYyNDkwMjg.* ga_15XXLBN3V5*MTcyNDE4NTY3Mi4xNzAuMS4xNzI0MTg1OTc4LjAuMC4w](https://foiadocuments.uspto.gov/oed/D2019-36%20Goucher,%20Tyler%20R.%20Final%20Decision%2002.05.20.pdf?gl=1*hpjg82*ga*Nzc0NTU5MjAzLjE2NDYyNDkwMjg.*ga_15XXLBN3V5*MTcyNDE4NTY3Mi4xNzAuMS4xNzI0MTg1OTc4LjAuMC4w).

¹⁴ Available at: [https://foiadocuments.uspto.gov/oed/0914 dis 2017-05-01.pdf](https://foiadocuments.uspto.gov/oed/0914%20dis%202017-05-01.pdf).

re Schwedler, *supra*; American Bar Association, ANNOTATED STANDARDS FOR IMPOSING LAWYER SANCTIONS (2019) § 3.0 (hereinafter, “STANDARDS”). In this case, the OED Director asks the Tribunal to enter an order excluding Respondent from practice before the USPTO.

This Tribunal has broad authority to impose the sanctions it deems most appropriate. See *In re Flindt*, Proceeding No. D2016-04, at 57 (Aug. 4, 2017)¹⁵. For the reasons that follow, the Tribunal concludes that it is appropriate to (1) suspend Respondent from practice before the Office for a period of two years, (2) require, as a prerequisite for his reinstatement, that Respondent return \$400.00 in patent application filing fees to Ms. Williams, (3) and place Respondent on probation for a period of one year following any reinstatement approved by the USPTO.

I. Respondent violated duties owed to his client.

At the heart of the practitioner-client relationship is a fiduciary duty that requires Respondent to act with “devotion to the interest of the client, warm zeal in the maintenance and defense of [the client’s] rights and the exertion of his utmost learning and ability” to the client’s matter. *In re Greer*, 52 Ariz. 385, 391 (Ariz. 1938) (internal citations omitted); see also *Pet. Of Bd. Of Law Examiners*, 210 N.W. 710, 711 (Wis. 1926) (“An attorney occupies a fiduciary relationship towards his client. It is one of implicit confidence and of trust.... There is no field of human activity which requires fuller realization with respect to fiduciary relationship than that which exists between the lawyer and his client.”).

Respondent violated multiple provisions of the USPTO Rules when he failed to: pay the filing fees for the [REDACTED] application; respond to the [REDACTED] or otherwise prevent the [REDACTED] application from going abandoned; petition to revive the [REDACTED] application; communicate adequately, accurately and honestly with his client; and refund any money paid by Ms. Williams. This misconduct also violated his duties to his client under the fiduciary practitioner-client relationship, which is of utmost importance. See *People v. Rhodes*, 107 P.3d 1177, 1183 (Colo. 2005) (“[T]he most important duty [respondent] violated was that owed to his clients. The clients sought his counsel, trusted his judgment, and expected that he would handle their affairs[.] Respondent’s failure to act with integrity when dealing with client property was egregious.”)

II. Respondent acted knowingly.

Evaluation of a lawyer’s mental state requires a determination as to whether, at the time of the misconduct, the lawyer acted intentionally, knowingly, or negligently. These three mental states address the degree of the lawyer’s culpability for disciplinary purposes. See STANDARDS § 3.0; see also, e.g., *In re Phillips*, 244 P.3d 549, 555 (Ariz. 2010) (lawyer’s mental state at the time of a violation is important, as it affects the appropriate discipline imposed; “[i]ntentional or knowing conduct is sanctioned more severely than negligent conduct because it threatens more harm”); *People v. Varallo*, 913 P.2d 1 (Colo. 1996) (lawyer’s mental state is an important factor in determining level of discipline). Knowing conduct occurs when a practitioner “acts with conscious awareness of the nature or attendant circumstances of his or her conduct both without

¹⁵ Available at: <https://go.usa.gov/xsR47>.

the conscious objective or purpose to accomplish a particular result.” *Id.*; see also 37 C.F.R. § 11.1 (“Knowingly, known, or knows means actual knowledge of the fact in question. A person’s knowledge may be inferred from circumstances.”) Here, Respondent’s acts and omissions were knowing.

Respondent agreed to represent Ms. Williams before the Office, and to file a patent application on her behalf. He charged her for his legal services and the filing fees associated with the application, and collected monies from her. Respondent also knowingly filed the [REDACTED] application without the required filing fees, and he knowingly ignored communications from the USPTO concerning the missing fees. Respondent knowingly told Ms. Williams false information about the [REDACTED] application, including that the USPTO was simply delaying matters and, after she learned it was abandoned, that he would petition to revive it and that he was working on doing so.

Respondent knowingly allowed the [REDACTED] application to become abandoned. With decades of patent experience, Respondent knew that when he failed to remit the required filing fees and failed to respond to the USPTO’s communications, the application would become abandoned. Similarly, Respondent knowingly ignored multiple requests for a refund from Ms. Williams and at least knowingly failed to pay any refund. In sum, Respondent knowingly engaged in conduct that violates the USPTO Rules.

III. Respondent caused his client actual and potential injuries.

The OED Director does not need to establish that a client was actually harmed by a practitioner’s misconduct. See *In re Fuess*, Proceeding No. D2015-08, at 64 (USPTO July 21, 2017)¹⁶ (“[t]he harm from the violation need not be actual, only potential”) (citing *In re Claussen*, 909 P.2d 862, 872 (Ore. 1996)). Here, though, Respondent did cause actual injury to his client by allowing the [REDACTED] application to become abandoned and to remain abandoned; failing to communicate critical information to the client; making misrepresentations to his client; and failing to refund any monies to his client, including the filing fees that Respondent did not remit to the USPTO. In addition, Ms. Williams had to retain new counsel to represent her before the Office and to effectuate revival of the [REDACTED] application.

During the representation, Respondent failed to inform his client about important Office communications, how to respond, and the consequences of failing to respond. As a result of Respondent’s conduct, Ms. Williams may have a shortened patent term and may experience delays in marketing and sales efforts. Respondent caused his client actual and potential injuries.

IV. The relevant aggravating factors support the imposition of more severe sanctions.

The STANDARDS contain a list of aggravating factors for use in assessing attorney disciplinary sanctions, which may help determine the appropriate sanctions to be imposed in a USPTO disciplinary proceeding. See, e.g., *In re Hormann*, Proceeding No. D2008-04 (USPTO

¹⁶ Available at: <https://go.usa.gov/xsR2U>.

July 8, 2009)¹⁷; *In re Sheasby*, Proceeding No. D2013-13, at 9 (USPTO Dec. 31, 2013)¹⁸; *In re Robinson*, Proceeding No. D2009-48, at 10 (USPTO May 6, 2010)¹⁹. STANDARDS § 9.22 identifies eleven aggravating factors, which, if they apply, warrant more severe sanctions. Aggravation and aggravating circumstances are considerations or factors that may justify an increase in the degree of discipline to be imposed. See STANDARDS § 9.21. In this case, seven aggravating factors are applicable.

The first aggravating factor is a “dishonest or selfish motive[.]” STANDARDS § 9.22(b). Respondent acted with a dishonest and selfish motive when he collected money from Ms. Williams, failed to remit the required filing fees to the USPTO, and disregarded her requests for a refund. Further, Respondent acted dishonestly and selfishly when he filed the [REDACTED] application without the required filing fees and failed to inform his client that the application became abandoned. After receiving payment for services that he improperly performed, Respondent *de facto* abandoned his client, although he kept giving her assurances that he would rectify the situation. See *In re Anderson*, Proceeding No. D2019-03, at 18 (USPTO July 1, 2019)²⁰ (Initial Decision) (practitioner acted with dishonest and selfish motive when she failed to communicate with her clients, and attempted to hide the neglect and abandonment of their applications); *In re Halling*, Proceeding No. D2019-10 (USPTO June 13, 2019)²¹ (Initial Decision and Order on Default Judgment) (practitioner showed dishonest and selfish motive when he, among other things, failed to inform clients that their applications went abandoned).

The second aggravating factor is a “pattern of misconduct[.]” STANDARDS § 9.22(c). Respondent engaged in a pattern of misconduct when he repeatedly failed to inform his client about important Office communications including the [REDACTED]. Respondent also engaged in a pattern of misconduct by repeatedly ignoring his client’s efforts to inquire about the status of the [REDACTED] application and by providing misleading information. Similarly, Respondent seems to have ignored OED’s requests for information and evidence during the investigation, and continued his pattern of deliberate absenteeism by seeking an extension of time to file an answer in this proceeding but then disregarding the Tribunal’s deadline. See *In re Halling*, *supra* (finding pattern of misconduct where respondent repeatedly failed to communicate with one client); see also *In re Wysolmerski*, 237 A.3d 706, 721 (Vt. 2020) (finding a pattern of misconduct where “misconduct occurred within one case and involved only one of respondent’s clients”); *In re Disciplinary Proceedings Against Bowe*, 800 N.W.2d 367, 371 (Wis. 2011) (finding a “pattern of misconduct arising out of one client matter”).

The third aggravating factor is the commission of “multiple offenses[.]” STANDARDS § 9.22(d). Multiple offenses committed in the context of a single disciplinary proceeding may be an aggravating factor. See *In re Flindt*, *supra* (practitioner committed “multiple offenses” that

¹⁷ Available at: <https://go.usa.gov/xsR4U>.

¹⁸ Available at: <https://go.usa.gov/xsR4P>.

¹⁹ Available at: <https://go.usa.gov/xsR4m>.

²⁰ Available at: https://foiadocuments.uspto.gov/oed/D2019-03_Anderson_Final_Decision.pdf.

²¹ Available at: https://foiadocuments.uspto.gov/oed/D2019-10_Halling_Dale_B.pdf.

violated six separate provisions of the USPTO Rules). Respondent's multiple instances of misconduct injured his client, and violated at least seven USPTO Rules.

The fourth aggravating factor is a "bad faith obstruction of the disciplinary proceeding by intentionally failing to comply with rules or orders of the disciplinary agency[.]" STANDARDS § 9.22(e); see also *In re Mar*, Proceeding No. D2019-11, at 26 (Aug. 2, 2019)²² (initial decision disciplining practitioner who demonstrated obstruction of proceeding by, among other things, "fail[ing] to participate in the disciplinary process once the Complaint was filed."). Respondent did not participate in OED's investigation, but he sought and obtained an extension of time in this proceeding to file his answer and he entered his appearance. Nevertheless, he did not file an answer to the *Complaint* and has failed to respond to inquiries as to his failure to file an answer. See, e.g., *In re Coyle*, Proceeding No. D2016-16 (USPTO July 27, 2016)²³ (bad faith obstruction found where practitioner, among other things, did not file answer or seek permission to file a late answer). Respondent's behavior demonstrates a willful disregard of his obligations to the USPTO and the Tribunal. A practitioner's failure to cooperate in his own disciplinary proceeding is indicative of indifference toward disciplinary procedures, and demonstrates a complete want of professional responsibility. See *In re Lau*, *supra*; *In re Schwedler*, *supra*; see also *In re Kantor*, 850 A.2d. 473, 477 (N.J. 2004) ("An attorney who declines to appear before this Court to explain his unprofessional conduct[...] openly displays his unfitness to continue to practice law."); *People v. Barbieri*, 61 P.3d. 488, 495 (Colo. O.P.D.J. 2000) ("In disciplinary matters involving an attorney's conduct, compliance with unchallenged orders issued by the disciplinary body is not elective; it is mandatory. Failure to do so, almost invariably, will insure substantially enhanced discipline."); *Iowa Supreme Court Bd. of Professional Ethics and Conduct v. Ramey*, 639 N.W.2d 243, 246 (Iowa 2002) (attorney's "failure to respond to this attorney disciplinary proceeding suggests an overall attitude of disrespect and disregard for this profession. Moreover, his misconduct compromises the standards of the legal profession.").

The fifth aggravating factor is a "refusal to acknowledge wrongful nature of conduct[.]" STANDARDS § 9.22(g). A lack of remorse warrants more severe sanctions. See *In re Stecewycz*, Proceeding No. D2014-15, at 37 (USPTO May 9, 2016)²⁴ (Final Order) ("failure to acknowledge the wrongful nature of [the] misconduct or show any remorse for [the] conduct is a weighty factor in aggravation."). Respondent has not displayed any remorse for his actions. He never expressed remorse or apologized for allowing the [REDACTED] application to become abandoned, for failing to remit the required filing fees, which caused the abandonment, for misleading his client, or for failing to provide a refund.

The sixth aggravating factor is "substantial experience in the practice of law[.]" STANDARDS § 9.22(i). Substantial years of practice is an aggravating factor because a lawyer "with a great deal of experience should know better than to engage in misconduct." See STANDARDS at 480; *In re Anderson*, *supra* (sanction warranted for practitioner with over nine years of experience). Respondent was admitted to the practice of law in California in 1992 and registered to practice before the USPTO in 1993. With three decades of patent law experience,

²² Available at: https://foiadocuments.uspto.gov/oed/D2019-11_Mar_Final_Decision_08_02_19.pdf.

²³ Available at: <https://go.usa.gov/xsR45>.

²⁴ Available at: https://foiadocuments.uspto.gov/oed/0894_dis_2016-05-15.pdf.

Respondent knew better than to engage in the misconduct described herein. See e.g., *In re Matter of Holmes*, 416 P.3d. 143, 159 (Kan. 2018) (aggravating factor of substantial experience in the practice of law where “respondent had been practicing law for approximately 25 years”); *In re Southall*, 165 So.3d 894, 901 (La. 2015) (respondent admitted to practice in 1988 had substantial experience in the practice of law); *In re Grossman*, 2000 WL 1673417 at *3 (respondent’s 30 years of experience as a tax lawyer was an aggravating factor).

The seventh aggravating factor is an “indifference to making restitution[.]” STANDARDS § 9.22(j); see also *In re Myers*, supra (practitioner failed to return prepaid filing fees, which was an aggravating factor); *In re Goucher*, supra (practitioner made no effort to compensate clients for abandoned applications or to reimburse a client \$3,000 for a patent application that was never filed). Respondent made no apparent attempt to compensate Ms. Williams for the [REDACTED] application’s abandonment or costs she incurred hiring new counsel to represent her before the USPTO. Nor has Respondent refunded the unearned filing fees that he failed to remit to the USPTO or any of the other fees she paid him, despite her requests for a refund. Respondent’s failure to attempt to make his client whole warrants disciplinary sanctions. See *In re Gilboy*, supra (finding indifference to making restitution where practitioner failed to reimburse clients for services that were never provided); *In re Iussa*, Proceeding No. D2020-25, at 15-16 (USPTO Nov. 2, 2020)²⁵ (finding indifference to making restitution where practitioner made no effort to compensate client for abandoned application or to refund unearned fees); *Matter of Augenstein*, 871 P.2d. 254, 258 (Ariz. 1994) (finding of indifference to making restitution where lawyer failed to contact his clients or offer them a “mere apology for his neglect.”).

V. One mitigating factor is applicable.

The STANDARDS also contain a list of mitigating factors for use in assessing attorney disciplinary sanctions. STANDARDS § 9.3 identifies mitigating factors, which, if they apply, are considerations that may justify a reduction in the degree of discipline to be imposed. See STANDARDS § 9.31. The sole mitigating factor in Respondent’s case is the “absence of a prior disciplinary record.”²⁶ See STANDARDS § 9.32(a). As noted, Respondent has been registered to practice before the USPTO since 1993 and does not have a record of prior discipline (or subsequent discipline). This reflects a history of over 30 years of practice without any reportable issues. This mitigating factor is significant to the Tribunal’s consideration.

VI. Suspension and probation are appropriate sanctions.

This Tribunal has broad authority to impose disciplinary sanctions. See 37 C.F.R. § 11.20. This Tribunal concludes that it is appropriate to (1) suspend Respondent from practice before the Office for a period of two years, (2) require, as a prerequisite for his reinstatement, that Respondent return \$400.00 in patent application filing fees to Ms. Williams, (3) and place Respondent on probation for a period of one year following any reinstatement approved by the USPTO. These sanctions are consistent with USPTO precedent cited herein. See, e.g., *In re Flindt*, supra (respondent placed on probation for misleading his client regarding

²⁵ Available at: https://foiadocuments.uspto.gov/oed/20_JM_0197_OC_006_Initial_Decision_on_Default_Judgment_11022020.pdf.

²⁶ The OED Director is not aware of any prior disciplinary record.

the status of patent applications); *In re Fuess*, *supra* (respondent suspended for a period of three years, and in addition, placed on two years of probation for misconduct that resulted in the abandonment of his clients' patent applications); *In re Stecewycz*, *supra* (practitioner suspended for two years and ordered to pay restitution for misconduct that resulted in the abandonment of his client's patent application).

CONCLUSION AND ORDER

Because Respondent has failed to answer the *Complaint* or otherwise appear in this matter, Respondent is found to be in **DEFAULT** and to have admitted all the allegations in the *Complaint*. Based on the facts admitted, this Tribunal finds that Respondent has violated the USPTO Rules, as discussed above.

After careful consideration of the above facts and conclusions of law, this Tribunal concludes that it is appropriate to (1) suspend Respondent from practice before the Office for a period of two years, (2) require, as a prerequisite for his reinstatement, that Respondent return \$400.00 in patent application filing fees to Ms. Williams, (3) and place Respondent on probation for a period of one year following any reinstatement approved by the USPTO.

Accordingly, it is **ORDERED** that Respondent, Robert C. Strawbrich (USPTO Registration Number 36,692), shall be suspended from practice before the USPTO for a period of two years;²⁷ and as a prerequisite for his reinstatement, Respondent shall pay \$400.00 to Ms. Williams on or before December 12, 2024.

It is **FURTHER ORDERED** that Respondent shall be placed on probation for a period of one year following any reinstatement approved by the USPTO. The terms of the probation are that Respondent shall comply with all Disciplinary Rules applicable to Patent Attorneys practicing before the USPTO.

So **ORDERED**,



ALEXANDER FERNANDEZ-PONS
CN = ALEXANDER FERNANDEZ-
PONS C = US O = U.S. Government
OU = Department of Housing and Urban
Development, Office of the Secretary
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Alexander Fernández-Pons
United States Administrative Law Judge

Notice of Appeal Rights: Within fourteen (14) days of the date of this initial decision, either party may appeal to the USPTO Director by filing a notice of appeal. 37 C.F.R. § 11.55(a). In the absence of an appeal, this decision will become the final decision of the USPTO Director pursuant to 37 C.F.R. § 11.54(d).

²⁷ Respondent is directed to 37 C.F.R. § 11.58, which sets forth Respondent's duties while suspended from practice before the USPTO.

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing **CORRECTED INITIAL DECISION ON DEFAULT JUDGMENT** issued by Alexander Fernández-Pons, Administrative Law Judge, in D2024-09, were sent to the following parties on this 23rd day of July 2025, in the manner indicated:

A handwritten signature in blue ink that reads "Cinthia Matos". The signature is written in a cursive style and is positioned above a horizontal line.

Cinthia Matos, Docket Clerk

VIA EMAIL:

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