UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE ADMINISTRATIVE LAW JUDGE

In the Matter of: Stacy Quinn Johnson, Respondent.	Proceeding No. D2014-12 December 31, 2014

Appearances:

Elizabeth Ullmer Mendel, Esq.
Tracy L. Kepler, Esq.
Ronald K. Jaicks, Esq.
Melinda M. Mendel, Esq.
Associate Solicitors
United States Patent and Trademark Office

S. Quinn Johnson, Esq.
Pro se

Before: J. Jeremiah MAHONEY, Administrative Law Judge

INITIAL DECISION AND ORDER

On February 27, 2014, the Director of Enrollment and Discipline ("OED Director") for the United States Patent and Trademark Office ("USPTO" or "Office") filed a *Complaint and Notice of Proceedings Under 35 U.S.C. § 32* ("Complaint") in this matter against Stacy Quinn Johnson ("Respondent"). The *Complaint* seeks the exclusion or suspension of Respondent for committing violations of the USPTO Code of Professional Responsibility and USPTO Rules of Professional Conduct.[1]

On March 28, 2014, Respondent filed his *Answer and Affirmative Defenses* ("Answer"). However, the *Answer* was a response to a Request for Information ("RFI") dated July 12, 2013, which was previously sent to Respondent by the Office of Enrollment and Discipline ("OED"). While the *Answer* did not directly respond to the *Complaint*, it included relevant information and raised a number of affirmative defenses.

[1] The USPTO Rules of Professional Conduct apply to persons who practice before the Office and became effective May 3, 2013. The *Complaint* alleges Respondent committed various violations of the USPTO disciplinary rules both before and after the effective date of the USPTO Rules of Professional Conduct. Therefore, for alleged violations of USPTO disciplinary rules occurring prior to May 3, 2013, the USPTO Code of Professional Responsibility applies.

The hearing in this matter commenced as scheduled on September 9, 2014, in Washington, District of Columbia. Respondent did not appear or send a representative. Respondent did not notify the Court that he would not be attending, nor did he explain his absence after the hearing.[2]

Following the Court's receipt of the transcript on September 24, 2014, the parties were afforded the opportunity to file post-hearing briefs within 20 days, and to file response briefs within 10 days of receipt of the opposing party's post-hearing brief. Respondent did not avail himself of that opportunity.

APPLICABLE LAW

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). The Director of the USPTO may suspend or exclude a person from practice before the Patent and Trademark Office if the person is "shown to be incompetent or disreputable, or guilty of gross misconduct," or if the person violates regulations established by the Office. 35 U.S.C. § 32.

USPTO Disciplinary Rules. The USPTO has duly promulgated regulations governing the conduct of persons authorized to practice before the Office. Pursuant to USPTO regulation 37 C.F.R. § 10.23, practitioners shall not:

> (a) ... engage in disreputable or gross misconduct.
> (b) ...
> (5) [e]ngage in conduct that is prejudicial to the administration of justice.
> (6) [e]ngage in any other conduct that adversely reflects on the practitioner's fitness to practice before the Office.

37 C.F.R. § 10.23(a), (b)(5), and (b)(6); see also 37 C.F.R. § 11.804(d) (proscribing engaging in conduct that is prejudicial to the administration of justice for conduct occurring after May 3, 2013). A practitioner's suspension from practice as an attorney on ethical grounds by state bar is considered conduct constituting a violation of paragraphs (a) and (b) of 37 C.F.R. § 10.23. Additionally, practitioners shall not fail to cooperate with the OED in their investigations of any matter, or knowingly fail to respond to a lawful demand or request for information from a disciplinary authority. 37 C.F.R. § 11.801(b).

Burden of Proof. The OED Director has the burden of proving alleged violations by clear and convincing evidence. 37 C.F.R. § 11.49. Thereafter, Respondent has the burden to prove any affirmative defense by clear and convincing evidence. Id.

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[2] The Docket Clerk for the Court testified that a *Notice of Hearing and Order* dated June 12, 2014, was sent to Respondent. This *Notice of Hearing and Order* advised the parties of the time, date, and location of the hearing. The Docket Clerk noted that copies were sent to Respondent via e-mail and United States Postal Service mail to the addresses provided by Respondent in his appearance forms. Neither copy of the *Notice of Hearing and Order* was returned as being undeliverable.

The clear and convincing standard is applied "to protect particularly important interests ... where there is a clear liberty interest at stake." Thomas v. Nicholson, 423 F.3d 1279, 1283 (Fed. Cir. 2005). This is an intermediate standard "between a preponderance of the evidence and proof beyond a reasonable doubt." Addington v. Texas, 441 U.S. 418, 424-425 (1979). The standard requires evidence "of such weight that it produces in the mind of the trier of fact a firm belief or conviction, without hesitancy, as to the truth of the allegations sought to be established." Jimenez v. DaimlerChrysler Corp., 269 F.3d 439, 450 (4th Cir. 2001). "Evidence is clear if it is certain, unambiguous, and plain to the understanding, and it is convincing if it is reasonable and persuasive enough to cause the trier of facts to believe it." Foster v. Alliedsignal, Inc., 293 F.3d 1187, 1194 (10th Cir. 2002).

FINDINGS OF FACT

1. Respondent was admitted to the Florida Bar on November 28, 2005, and his Florida attorney number is [redacted]. Respondent is currently a member in good standing with the Florida Bar.

2. Respondent was registered with the USPTO as a patent agent on September 26, 2006, and as a patent attorney on April 18, 2008. Respondent's registration number is 59,260.

3. Respondent was admitted to the Georgia Bar on December 12, 2008, and his Georgia bar number is [redacted].

4. On February 1, 2013, the Supreme Court of Georgia issued an indefinite suspension of Respondent for failing to adequately respond to the State Bar's Notices of Investigations related to three cases numbered S13Y0719, S13Y0720, and S13Y0721, respectively.

5. The Georgia State Bar's investigations were the result of grievances filed against Respondent by his clients, one of which was [redacted], who represents [redacted], [redacted].

6. Mr. [redacted] forwarded the Supreme Court of Georgia's order suspending Respondent to the OED. The OED received notice of Respondent's suspension on March 1, 2013.

7. [redacted], a staff attorney for the OED, sent Respondent an RFI dated July 12, 2013, wherein Mr. [redacted] requested specific information regarding Respondent's failure to respond to the Georgia State Bar's Notice of Investigation, and Respondent's relationship with [redacted], and Mr. [redacted]

8. The RFI was sent to an address previously provided by Respondent to the OED, and advised Respondent that his response should be received by the latter of 30 days from the date of the RFI, or August 12, 2013.

9. On July 18, 2013, one "[redacted]" signed the certified mail receipt for the RFI.

10. Respondent did not respond to the RFI or otherwise contact the OED.

11. On October 3, 2013, Mr. [redacted] reached Respondent via telephone and agreed to e-mail a copy of the RFI to Respondent.

12. In an e-mail dated that same day, Mr. [redacted] included a copy of the RFI and advised that Respondent's response was due within 15 days.

13. The e-mail was sent to an e-mail address provided by Respondent during the earlier telephone call. It is the same e-mail address identified in Respondent's appearance form filed with the Court on March 31, 2014, and used to correspond with counsel for the OED Director on April 15, 2014.

14. The October 3rd e-mail was not returned as being undeliverable.

15. Respondent again failed to respond to the RFI as e-mailed by Mr. [redacted]

16. On December 5, 2013, Mr. [redacted] sent another letter to Respondent and attached a third copy of the RFI. This mailing was sent to the address provided by Respondent to the Georgia and Florida Bar Associations as his correct address.

17. A copy of the letter and attached RFI was also sent to the e-mail address referenced in paragraph 13.

18. In this December 5th Letter, Mr. [redacted] advised Respondent that his response to the RFI was due by December 23, 2013.

19. On December 9, 2013, one "[redacted]" signed the certified receipt for the December 5th letter.

20. The e-mailed copy of the December 5th letter was not returned as being undeliverable.

21. On November 26, 2013, the Supreme Court of Georgia issued another order indefinitely suspending Respondent from the practice of law in the state of Georgia.

22. The November 26th Order was the result of the three disciplinary investigations referenced in paragraph 4, and Respondent's continued refusal to cooperate with said investigations.

23. On February 19, 2014, the Supreme Court of Georgia reinstated Respondent to the practice of law in Georgia. Respondent's reinstatement was the result of the Georgia State Bar's finding that Respondent was able to file an adequate response in the investigation for State Disciplinary Board File No. 130091.

24. The three disciplinary matters before the Supreme Court of Georgia remained pending.

25. As of the filing of the *Complaint* on February 27, 2014, Respondent had not answered the RFI.

DISCUSSION

The Court has considered all issues raised and all evidence in the record and presented at hearing. Those issues not discussed here are not addressed because the Court finds they lack materiality or importance to the decision.

The OED Director alleges Respondent committed three violations of the USPTO Code of Professional Responsibility, and two violations of the USPTO Rules of Professional Conduct. These violations stem from Respondent's alleged misconduct of failing to respond to the Georgia State Bar's Notices of Investigation and the Supreme Court of Georgia's subsequent suspensions of Respondent, as well as Respondent's failure to respond to the OED's RFI.

I. Violations of 37 C.F.R. § 10.23(b)(5) and 37 C.F.R. § 11.804(d)

The OED Director claims that Respondent engaged in conduct that is prejudicial to the administration of justice by failing to cooperate with the Georgia State Bar's investigations.

Engaging in conduct that is prejudicial to the administration of justice violates the USPTO Code of Professional Responsibility rule at 37 C.F.R. § 10.23(b)(5). Generally, an attorney engages in such conduct "when his or her conduct impacts negatively the public's perception or efficacy of the courts or legal profession." Attorney Grievance Comm'n v. Rand, 981 A.2d 1234, 1242 (Md. 2009). While a broad range of conduct may fall under this classification, an attorney's failure to cooperate with a disciplinary investigation is "an independent act of misconduct in violation of the prohibition to not engage in conduct that is prejudicial to the administration of justice." Iowa Supreme Court Attorney Disciplinary Bd. v. Marks, 831 N.W.2d 194, 200 (Iowa 2013); see also Disciplinary Counsel v. Wolanin, 904 N.E.2d 879, 881 (Ohio 2009); In re Netusil, 52 A.D.3d 23, 24 (N.Y. App. Div. 2008).

During the course of three disciplinary investigations conducted by the Georgia State Bar, Respondent failed to adequately and timely respond to the Notices of Investigation. As a result of Respondent's omissions, the Supreme Court of Georgia suspended Respondent on February 1, 2013. After Respondent again refused to cooperate with the Georgia State Bar's investigations, the Supreme Court of Georgia suspended Respondent a second time on November 26, 2013.

Respondent does not deny being suspended by the Georgia State Bar, and proffers no evidence rebutting the OED Director's claims. Therefore, the OED Director has met his burden to prove by clear and convincing evidence that Respondent failed to timely and adequately respond to the Georgia State Bar's Notices of Investigation issued in three separate disciplinary investigations. Such conduct is prejudicial to the administration of justice. Accordingly, the Court finds Respondent violated 37 C.F.R. § 10.23(b)(5).

II. Violation of 37 C.F.R. § 10.23(a) and 10.23(b) via 10.23 (c)(5)

The OED Director claims Respondent's suspensions from practice of law in Georgia due to his failure to cooperate in the Georgia State Bar's investigations, constitute misconduct under 37 C.F.R. § 10.23(a) and (b) via 10.23 (c)(5)

Pursuant to the USPTO Code of Professional Responsibility, suspension from practice as an attorney on ethical grounds is conduct that violates 10.23(a) (proscribing disreputable or gross misconduct), and 10.23(b).[3] The Georgia Rules of Professional Conduct ("GRPC") require attorneys to respond, within 30 days, to a Notice of Investigation. GA R BAR RULE 4-204.3. The GRPC also provides that "[i]n cases where the maximum sanction is disbarment or suspension, failure to respond by the respondent may authorize the Investigative Panel or subcommittee of the Panel to suspend the respondent until a response is filed" and the Supreme Court of Georgia is authorized to issue such an order. Id. at 4-204.3(d).

Respondent admits that he was suspended by the Supreme Court of Georgia on two separate occasions. Both orders by the court explain that Respondent's suspension is due to his violation of GRPC Rule 4-204.3 requiring attorneys to adequately respond to Notices of Investigation within 30 days. As the GRPC constitute disciplinary rules regulating attorney conduct, Respondent's suspensions were on ethical grounds. Accordingly, the Court finds that Respondent violated 37 C.F.R. § 10.23(a) and (b) via 10.23(c)(5) based on his two suspensions by the Supreme Court of Georgia.

III. Violation of 37 C.F.R. § 10.23(b)(6)

The OED Director also claims that, under the totality of the circumstances, Respondent is unfit to practice before the USPTO. In support of his argument, the OED Director refers the Court back to "reasons already given."

USPTO regulation states that a practitioner shall not "[e]ngage in *any other* conduct that adversely reflects on the practitioner's fitness to practice before the Office." (emphasis added) 37 C.F.R. § 10.23(b)(6). This subsection of the regulation is essentially a "catch all" provision regulating conduct that does not fall under the subsections immediately preceding it. Therefore, by the language of the subsection, if the alleged conduct is found to violate any provision of § 10.23(b)(1) through (b)(5), it cannot also violate § 10.23(b)(6). In re Lane, No. D2013-07, at 16 (USPTO Mar. 11, 2014); In re Kelber, No. 2006-13 at 59 (USPTO Sept. 23, 2008).

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[3] 37 C.F.R. § 10.23(b) reads in its entirety:
(b) A practitioner shall not:
(1) Violate a Disciplinary Rule.
(2) Circumvent a Disciplinary Rule through actions of another.
(3) Engage in illegal conduct involving moral turpitude.
(4) Engage in conduct involving dishonesty, fraud, deceit, or misrepresentation.
(5) Engage in conduct that is prejudicial to the administration of justice.
(6) Engage in any other conduct that adversely reflects on the practitioner's fitness to practice before the Office.

As noted above, by failing to adequately respond to the Georgia State Bar's Notices of Investigation, Respondent engaged in conduct prejudicial to the administration of justice in violation of 37 C.F.R. § 10.23(b)(5). Additionally, the Court has found that Respondent's suspensions by the Supreme Court of Georgia constitutes violations of 37 C.F.R. § 10.23(a) and (b) via 10.23(c)(5). The same conduct cannot also constitute a violation of § 10.23(b)(6). The OED Director has not demonstrated or even alleged that Respondent engaged in any other misconduct that would adversely reflect on Respondent's fitness to practice. Accordingly, in the absence of any such distinct misconduct, the Court finds the OED Director has failed to prove, by clear and convincing evidence, that Respondent violated 37 C.F.R. § 10.23(b)(6).

IV. Violations of 37 C.F.R. § 11.804(a) via 11.801(b), and 37 C.F.R. § 11.804(d)

The OED Director claims Respondent failed to cooperate with the OED's investigation into his conduct in Georgia in violation of the USPTO Rules of Professional Conduct. The OED Director further claims that by refusing to respond to the OED's RFI, Respondent engaged in conduct that is prejudicial to the administration of justice.

The USPTO Rules of Professional Conduct, which governs the conduct of practitioners after May 3, 2013, state that practitioners shall not "fail to cooperate with the [OED] in an investigation of any matter before it, or knowingly fail to respond to a lawful demand or request for information from an admissions or disciplinary authority." 37 C.F.R. § 11.801(b). The term "knowingly" means actual knowledge of the fact in question, and a person's knowledge may be inferred from the circumstances. 37 C.F.R. § 11.1. A practitioner who violates 37 C.F.R. § 11.801(b) is considered to have engaged in professional misconduct. 37 C.F.R. § 11.804(a). Such misconduct also constitutes conduct that is prejudicial to the administration of justice. Supra p. 5.

The OED Director has demonstrated that the RFI was sent to Respondent on multiple occasions. However it was not until the OED Director filed the *Complaint* with the Court that Respondent felt compelled to respond to the RFI.[4] Respondent attempted to justify his failure to timely respond to the RFI by claiming that the RFI was mailed to his previous office address and an address to which he has never resided. However, Respondent also admits that he failed to provide OED with a current address as required by 37 C.F.R. § 11.11.

Respondent's explanation does not overcome the OED Director's clear and convincing evidence that Respondent knowingly failed to respond to the OED's RFI. The OED's inability to send the RFI to Respondent's correct address was due solely to Respondent's failure to file written notice of the change of his address as required by regulations governing the recognition of practitioners to practice before the USPTO. Moreover, Respondent's explanation does not resolve the fact that Mr. [redacted] also e-mailed the RFI to Respondent's current e-mail address on October 3, 2013, and again on December 5, 2013. As noted, *supra*, this e-mail address was

[4] The Court notes that while Respondent purports to answer the RFI in his *Answer*, Respondent's responses to the specific requests for information and evidence are inadequate and do not constitute an actual response. Rather than provide the requested information and evidence, Respondent stated that he is without sufficient knowledge or information to respond but that he would "supplement this response upon the Office's or Court's guidance and clarification as to the information being requested by this interrogatory."

provided by Respondent to Mr. [redacted] on October 3, 2013, and to the Court on March 31, 2014. Based on the foregoing, the Court finds that Respondent knew of the RFI as early as October 3, 2013 and failed to respond to it. Such misconduct constitutes a violation of 37 C.F.R. § 11.801(b). Additionally, because Respondent is found to have failed to cooperate with the OED's disciplinary investigation, Respondent is also found to have engaged in conduct that is prejudicial to the administration of justice in violation of the USPTO Rule of Professional Conduct found at 37 C.F.R. § 11.804(d).

VI. Respondent's Affirmative Defenses

In his *Answer*, Respondent raised three affirmative defenses: (1) failure to state a claim upon which relief may be granted; (2) lack of jurisdiction; and (3) "the claims are barred by acquiescence, consent, waiver[,] estoppel, release payment, and/or accord and satisfaction."

USPTO regulations require Respondent to "state affirmatively in the answer special matters of defense and any intent to raise a disability as a mitigating factor." 37 C.F.R. § 11.36. If an affirmative defense is raised, an answer must "specify the defense or disability, its nexus to the misconduct, and the reason it provides a defense or mitigation." Id.

While Respondent raises these three affirmative defenses in his *Answer*, Respondent did not proffer how they relate to the alleged misconduct. Rather, Respondent merely strung a list of legal doctrines together under the heading of "affirmative defenses." This approach does not comply with the USPTO regulations, and is generally insufficient to give an opposing party fair notice the affirmative defense. See Reis Robotics USA, Inc. v. Concept Industries, Inc., 462 F.Supp. 2d 897, 904 (N.D. Ill. 2006). Moreover, the Court finds that by failing to appear at the hearing or otherwise adduce evidence in support of his affirmative defenses, Respondent failed to meet his burden to prove his affirmative defenses by clear and convincing evidence. See 37 C.F.R. § 11.49.

Sanctions

The OED Director requests that the Court sanction Respondent by entering an order excluding Respondent from practice before the Office. Before sanctioning a practitioner, the Court must consider the following four factors:

> (1) Whether the practitioner has violated a duty owed to a Client, to the public, to the legal system, 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).

1. Respondent violated his duties to the legal system and the legal profession.

A failure to respond to an inquiry by a disciplinary authority is "an important matter and a threat to the credibility of attorney disciplinary proceedings." State ex rel. Counsel for Discipline of Nebraska Supreme Court v. Tonderum, 840 N.W.2d 487, 492 (Neb. 2013); see also Attorney Grievance Comm'n of Maryland v. Fezell, 760 A.2d 1108, 1119 (Md. 2000) ("The practice of law carries with it special responsibilities of self-regulation, and attorney cooperation with disciplinary authorities is of the utmost importance to the success of the process and the integrity of the profession."). "[U]nless attorneys cooperate in the process, the system fails and public confidence in the legal profession is undermined. If the members of our profession do not take the process of internal discipline seriously, we cannot expect the public to do so and the very basis of our professionalism erodes." In re Clark, 663 P.2d 1339, 1341-42 (Wash. 1983) (Where an attorney's failure to cooperate was the sole basis of misconduct, the court found a 60-day suspension to be warranted.).

Respondent repeatedly failed to respond to inquiries by both the Georgia State Bar and the OED. The inquiries stem from allegations by Respondent's clients claiming he engaged in misconduct while representing them. By refusing to respond to the Georgia State Bar and the OED's inquiries, Respondent undoubtedly delayed the disciplinary investigation and, ultimately, the resolution of these matters. More importantly, Respondent's misconduct undermines the public's confidence in the legal profession's ability to regulate itself.

2. Respondent acted knowingly.

The Respondent knew of at least one of the investigations conducted by the Georgia State Bar.[5] His obligation to respond to Notices of Investigation sent by the Georgia State Bar is evident in the Georgia Rules of Professional Conduct. Therefore, he knowingly failed to cooperate with that investigation and to adequately respond to the Notice of Investigation.

As previously noted, Respondent also knowingly failed to respond to the RFI sent by the OED on at least two occasions.

3. Respondent's misconduct did not cause actual or potential injury.

Aside from the Respondent's misconduct undermining the public's confidence in the legal profession's ability to regulate itself, the OED Director has not proffered any argument or evidence of any actual or potential injury caused by Respondent. This is because the underlying substantive allegations against Respondent were brought before the Georgia State Bar and have yet to be resolved by that authority. [6]

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[5] The *Complaint* claims Respondent provided a letter in connection with Georgia State Bar Docket No. 6518, but that the Georgia State Bar determined Respondent "knowingly made false statements of material fact" in that letter. By his failing to deny this allegation, it is deemed to be admitted. 37 C.F.R. § 11.36(d). As such, the Court reasonably infers that Respondent knew of this investigation by the Georgia State Bar.

[6] Those underlying allegations, involve complaints by Respondent's intellectual property clients (which could have been brought before the OED Director), and are awaiting disposition by Georgia Supreme Court.

4. Aggravating and mitigating factors exist in this case.

The Court often looks to the ABA's Standards for Imposing Lawyer Sanctions ("ABA Standards") when determining whether aggravating or mitigating factors exist. See In re Lane, Proceeding No. D2013-07, at 19. A review of the record reveals that both aggravating and mitigating factors exist in this case.

Both a pattern of misconduct and "deceptive practices during the disciplinary process" constitute aggravating factors under the ABA Standards. Here, Respondent demonstrated a pattern of ignoring inquiries made by both the Georgia State Bar and the OED. Respondent's refusal to respond to the Georgia State Bar's inquires occurred in three separate disciplinary investigations.[7] Additionally, Respondent refused to respond to the OED even after speaking directly with Mr. [redacted] about the OED's investigation and being sent the RFI on no less than two occasions. Therefore, the Court finds Respondent engaged in a pattern of misconduct by repeatedly failing to respond to inquiries made by disciplinary authorities. See In re Burnett, 878 A.2d 1291, 1292 (D.C. 2005) (The court found a 30-day suspension plus reinstatement conditions to be warranted where "the attorney has demonstrated a persistent pattern of indifference toward the disciplinary procedures by which the D.C. Bar regulates itself.")

The Court also finds Respondent engaged in "deceptive practices" during the disciplinary process. This is evidenced by an e-mail provided by the OED Director, wherein Respondent attempted to attribute his failure to respond to the RFI to a change of address. Respondent's statement was knowingly false, because Respondent had also previously provided his current e-mail address to the OED for the RFI to be sent to him there. Such deceptive behavior is an aggravating factor.

The Court must also consider whether mitigating factors exist. The evidence in the record does not support any mitigating factors under the ABA Standards. Nonetheless, Respondent's reinstatement by the Supreme Court of Georgia was because Respondent finally responded to the State Bar. Additionally, Respondent's *Answer* included a printout from the State Bar of Georgia's website showing Respondent's status as an active member in good standing. Counsel for the OED Director also confirmed Respondent's status at the hearing.

CONCLUSION

The Court finds Respondent failed to respond to the State Bar of Georgia's Notices of Investigation in three separate disciplinary investigations, and failed to respond to the OED's RFI, which was sent to Respondent on at least two separate occasions. Respondent's omissions are prejudicial to the administration of justice and violate the USPTO disciplinary rules. Respondent's subsequent suspensions from the practice of law also constitute misconduct under the USPTO disciplinary rules. By engaging in such misconduct, Respondent violated his obligations to the legal system and the legal profession. His repeated failures demonstrate a

[7] At the hearing, counsel for the OED Director stated that Respondent was again suspended by the Supreme Court of Georgia on June 30, 2014, and reinstated again on August 22, 2014. This information is publically available and corroborated on the State Bar of Georgia website: www.gabar.org.

pattern of indifference toward the Georgia State Bar and the OED's disciplinary proceedings. Accordingly, the Court finds that a stern sanction is warranted.

ORDER

Based on the foregoing findings and conclusions as well as the factors identified in 37 C.F.R. § 11.54(b), the Court concludes that an appropriate sanction for the violations alleged in the *Complaint* is a suspension of one (1) year, with all but the initial ninety (90) days of the suspension stayed, and that Respondent should be placed on probation for the remainder of that year.[8]

So **ORDERED**,

J. Jeremiah Mahoney
Administrative Law Judge

Notice of Appeal Rights: Within thirty (30) days of this initial decision, either party may appeal to the USPTO Director. 37 C.F.R. § 11.55(a).

[8] Respondent is directed to 37 C.F.R. § 11.58, which sets forth Respondent's duties while suspended. Respondent shall remain suspended from the practice of patent, trademark, and non-patent law before the USPTO until the OED Director grants a petition reinstating Respondent pursuant to 37 C.F.R. § 11.60(c). If within the period of probation Respondent should fail to comply with any disciplinary rule applicable to patent attorneys and/or agents practicing before the USPTO, his probation may be revoked and the remaining period of suspension imposed after due notice and opportunity for a hearing.

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing **INITIAL DECISION AND ORDER**, issued by J. Jeremiah Mahoney, Administrative Law Judge, in D2014-12, were sent to the following parties on this 31st day of December, 2014, in the manner indicated:

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