

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

In the Matter of:	)	
	)	
Kevin J. McNeely,	)	Proceeding No. D2018-19
	)	
Respondent	)	
_____	)	

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

Pursuant to 37 C.F.R. § 11.24(b), Kevin J. McNeely ("Respondent") is hereby suspended for thirty days, from the practice of patent, trademark, and other non-patent law before the United States Patent and Trademark Office ("USPTO" or "Office"), with the period of suspension stayed, and placed on probation for three years where Respondent must (1) not commit any other violation of the D.C. Rules of Professional Conduct or the disciplinary rules of any other jurisdiction (excluding any reciprocal discipline imposed for these violations); (2) remain in individual therapy with his treating psychologist; (3) attend Alcoholics Anonymous ("AA") at least two times a week and submit proof of attendance to his psychologist; (4) continue his use of psychotropic medication as prescribed by his psychiatrist and meet with his psychiatrist every three months; (5) execute and maintain the appropriate waivers or consent forms to permit the psychologist and psychiatrist to contact the D.C. Bar Lawyer Assistance Program ("LAP") if he ceases treatment or fails to attend AA; and (6) authorize LAP to report to Disciplinary Counsel if he stops treatment with his psychologist or psychiatrist, fails to attend AA, or revokes his consent to prevent LAP from reporting to Disciplinary Counsel, for violation of 37 C.F.R. § 11.804(h).

By Order dated December 14, 2017, the District of Columbia Court of Appeals in *In re Kevin J. McNeely*, 17-BG-1279, suspended Respondent from the practice of law on ethical grounds for thirty days, stayed the suspension, and placed Respondent on probation for three

years in Washington, D.C. during which respondent must (1) not commit any other violation of the D.C. Rules of Professional Conduct or the disciplinary rules of any other jurisdiction (excluding any reciprocal discipline imposed for these violations); (2) remain in individual therapy with his treating psychologist; (3) attend Alcoholics Anonymous (“AA”) at least two times a week and submit proof of attendance to his psychologist; (4) continue his use of psychotropic medication as prescribed by his psychiatrist and meet with his psychiatrist every three months; (5) execute and maintain the appropriate waivers or consent forms to permit the psychologist and psychiatrist to contact the D.C. Bar Lawyer Assistance Program (“LAP”) if he ceases treatment or fails to attend AA; and (6) authorize LAP to report to Disciplinary Counsel if he stops treatment with his psychologist or psychiatrist, fails to attend AA, or revokes his consent to prevent LAP from reporting to Disciplinary Counsel.

On March 5, 2018, a “Notice and Order Pursuant to 37 C.F.R. § 11.24” (“Notice and Order”), was sent by certified mail (receipt no. 70160910000045133044) notifying Respondent that the Director of the Office of Enrollment and Discipline (“OED Director”) had filed a “Complaint for Reciprocal Discipline Pursuant to 37 C.F.R. § 11.24” (“Complaint”) requesting that the Director of the USPTO impose reciprocal discipline upon Respondent identical to the discipline imposed by the District of Columbia Court of Appeals in *In re Kevin J. McNeely*, 17-BG-1279. The Notice and Order was delivered to Respondent on March 8, 2018, who filed a timely response on April 3, 2018.

Analysis

In his response, Respondent indicated that he “does not contend that the imposition of discipline identical to that imposed by the District of Columbia Court of Appeals in *In re Kevin J. McNeely*, 17-BG-1279, would be unwarranted. To the contrary, Respondent believes that it would be appropriate for the USPTO to impose reciprocal discipline on the same terms and

conditions as those set forth in the Court of Appeals order of December 14, 2017 (the “Court of Appeals Order”).” Response at 1. Given that Respondent believes that it is appropriate for the USPTO to impose reciprocal discipline on the same terms and conditions as those set forth in the Court of Appeals in *In re Kevin J. McNeely*, 17-BG-1279, it is hereby determined that there is no genuine issue of material fact under 37 C.F.R. § 11.24(d), and that it is the appropriate discipline to suspend Respondent from the practice of law on ethical grounds for thirty days, stay the suspension, and place Respondent on probation for three years during which Respondent must satisfy the same terms and conditions as that imposed by the District of Columbia Court of Appeals in *In re Kevin J. McNeely*, 17-BG-1279.

ACCORDINGLY, it is hereby **ORDERED** that:

1. Respondent be suspended from the practice of patent, trademark, and other non-patent law before the USPTO for thirty days, commencing on the date of this Final Order, with that period stayed;
2. Respondent be placed on probation for three years, commencing on the date of this Final Order, during which respondent must (1) not commit any other violation of the D.C. Rules of Professional Conduct or the disciplinary rules of any other jurisdiction (excluding any reciprocal discipline imposed for these violations); (2) remain in individual therapy with his treating psychologist; (3) attend Alcoholics Anonymous (“AA”) at least two times a week and submit proof of attendance to his psychologist; (4) continue his use of psychotropic medication as prescribed by his psychiatrist and meet with his psychiatrist every three months; (5) execute and maintain the appropriate waivers or consent forms to permit the psychologist and psychiatrist to contact the D.C. Bar Lawyer Assistance Program (“LAP”) if he ceases treatment or fails to attend AA; and (6) authorize LAP to report to Disciplinary Counsel if he stops

treatment with his psychologist or psychiatrist, fails to attend AA, or revokes his consent to prevent LAP from reporting to Disciplinary Counsel;

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

Notice of Stayed Suspension and Probation

This notice concerns Kevin J. McNeely of Washington, D.C., who is a registered patent attorney (Registration Number 52,018). In a reciprocal disciplinary proceeding, the Director of the United States Patent and Trademark Office ("USPTO") has ordered that Mr. McNeely be suspended for thirty days from practice before the USPTO in patent, trademark, and other non-patent matters, stayed, and placed on probation for three years for violating 37 C.F.R. § 11.804(h), predicated upon being suspended for thirty days, stayed, and placed on probation for three years from the practice of law by a duly constituted authority of the United States. During Mr. McNeely's probation, he must (1) not commit any other violation of the D.C. Rules of Professional Conduct or the disciplinary rules of any other jurisdiction (excluding any reciprocal discipline imposed for these violations); (2) remain in individual therapy with his treating psychologist; (3) attend Alcoholics Anonymous ("AA") at least two times a week and submit proof of attendance to his psychologist; (4) continue his use of psychotropic medication as prescribed by his psychiatrist and meet with his psychiatrist every three months; (5) execute and maintain the appropriate waivers or consent forms to permit the psychologist and psychiatrist to contact the D.C. Bar Lawyer Assistance Program ("LAP") if he ceases treatment or fails to attend AA; and (6) authorize LAP to report to Disciplinary Counsel if he stops treatment with his psychologist or psychiatrist, fails to attend AA, or revokes his consent to prevent LAP from reporting to Disciplinary Counsel.

The District of Columbia Court of Appeals stated that Mr. McNeely's misconduct arose from his representation of two joint clients in obtaining patent protection. Mr. McNeely was retained to file utility, international, and design applications. After he filed the utility and international applications and the clients paid him the associated fees and costs, he deposited the funds in an operating account that held other funds but did not pay the filing fee for either patent. After the clients were unable to make contact with him, they retained new counsel and subsequently made contact with Mr. McNeely, who admitted his failures and worked with successor counsel to restore the utility patent application. Mr. McNeely acknowledged that he violated District of Columbia Rules of Professional Conduct 1.1(a) and (b) (failing to provide competent

representation and serve his clients with skill and care), 1.3(a) (failing to zealously represent his clients), 1.4(a) (failing to communicate with his clients), and 1.15(a) (commingling client funds).

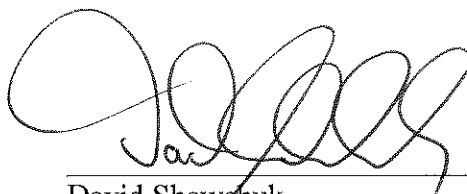
This action is taken pursuant to the provisions of 35 U.S.C. § 32 and 37 C.F.R. § 11.24. Disciplinary decisions are available for public review at the Office of Enrollment and Discipline's FOIA Reading Room, located at: <http://e-foia.uspto.gov/Foia/OEDReadingRoom.jsp>;

and

4. The OED Director give notice pursuant to 37 C.F.R. § 11.59 of the public discipline and the reasons for the discipline to disciplinary enforcement agencies in the state(s) where Respondent is admitted to practice, to courts where Respondent is known to be admitted, and to the public.

4/13/18

Date



David Shewchuk
Deputy General Counsel for General Law
United States Patent and Trademark Office

on delegated authority by

Andrei Iancu
Under Secretary of Commerce for Intellectual Property and
Director of the United States Patent and Trademark Office