

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

In the Matter of)	
)	
Jason T. Throne,)	Proceeding No. D2015-19
)	
Respondent.)	
_____)	

FINAL ORDER

Pursuant to 37 C.F.R. § 11.27(b), the Director of the United States Patent and Trademark Office (“USPTO” or “Office”) received for review and approval from the Director of the Office of Enrollment and Discipline (“OED Director”) an Affidavit of Resignation Pursuant to 37 C.F.R. § 11.27 executed by Jason T. Throne (“Respondent”) on March 4, 2015. Respondent submitted the affidavit to the USPTO for the purpose of being excluded on consent pursuant to 37 C.F.R. § 11.27.

For the reasons set forth herein, Respondent’s Affidavit of Resignation shall be approved and Respondent shall be excluded on consent from practice before the Office in patent, trademark, and other non-patent matters commencing on the date of this Final Order.

Jurisdiction

Respondent of Rockport, Maine, is a registered patent attorney (Reg. No. 35,387). Respondent is subject to the USPTO Code of Professional Responsibility, 37 C.F.R. § 10.20 *et seq.*, and the USPTO Rules of Professional Conduct, 37 C.F.R. § 11.101, *et seq.*¹

Pursuant to 35 U.S.C. §§ 2(b)(2)(D) and 32 and 37 C.F.R. § 11.27, the USPTO Director has the authority to approve Respondent’s Affidavit of Resignation and to exclude Respondent on consent from the practice of patent, trademark, and other non-patent matters before the Office.

Respondent’s Affidavit of Resignation

Respondent acknowledges in his March 4, 2015 Affidavit of Resignation that:

1. His consent is freely and voluntarily rendered, and he is not being subjected to coercion or duress.

¹ The USPTO Code of Professional Responsibility applies to practitioner misconduct that occurred prior to May 3, 2013, while the USPTO Rules of Professional Conduct, 37 C.F.R. § 11.101 *et seq.*, apply to a practitioner’s misconduct that occurred on or after May 3, 2013.

2. He is aware that, pursuant to 37 C.F.R. § 11.22, the OED Director opened an investigation of allegations that he violated the USPTO Code of Professional Responsibility and/or USPTO Rules of Professional Conduct, namely: OED File No. [REDACTED]. The investigation delved into and obtained information, *inter alia*, about the following:

- a. He was an employee of Hunter Douglas, Inc. ("HDI") from August 16, 1993 to June 12, 2014;
- b. On about December 29, 1999, he incorporated Patent Services Group, LLC ("PSG");
- c. He controlled and was responsible for the business of PSG;
- d. Through his position as in-house counsel with HDI, he was entrusted to approve patent related expenditures, including retaining outside professional assistance on behalf of HDI;
- e. He hid the relationship between himself and PSG from HDI;
- f. On or about September 17, 2007, he signed a conflict of interest policy with HDI in which he falsely represented that he was not involved in any activities that were in conflict with HDI, and that he did not have any secondary source of income or employment;
- g. On approximately a monthly basis from 2000 through April 2014, he prepared fraudulent invoices from PSG to HDI requesting payment for patent services allegedly performed by PSG in the previous month;
- h. In his position at HDI, he marked the aforementioned invoices for approval;
- i. Between 2000 and 2014, HDI reasonably relied on his approval of the invoices and paid PSG and/or him \$4,841,146.09 based on the invoices he submitted on behalf of PSG;
- J. The HDI payments were deposited by him into a PSG bank account established and controlled by, *inter alia*, him; and
- k. His actions constituted theft under the provisions of Colo. Rev. Stat. § 18-4-401 *et seq.* and conversion of HGI's property.

3. He is aware that the OED Director for the USPTO is of the opinion, based on this investigation, that he violated the following provisions of the USPTO Code of Professional Responsibility: 37 C.F.R. § 10.23(a) (proscribing engaging in disreputable or gross misconduct); 37 C.F.R. § 10.23(b)(3) (proscribing engaging in illegal conduct involving moral turpitude); 37 C.F.R. § 10.23(b)(4) (proscribing engaging in conduct involving dishonesty, fraud, deceit, or misrepresentation); and/or 37 C.F.R. § 10.23(b)(6) (proscribing engaging in other conduct that adversely reflects on the practitioner's fitness to practice before the USPTO).

4. He is aware that the OED Director for the USPTO is of the opinion, based on this investigation, that he also violated the following provisions of the USPTO Rules of Professional Conduct: 37 C.F.R. §

11.804(b) (proscribing committing a criminal act that reflects adversely on the practitioner's honesty, trustworthiness, or fitness as a practitioner in other respects); 37 C.F.R. § 11.804(c) (proscribing engaging in conduct involving dishonesty, fraud, deceit, or misrepresentation); and/or 37 C.F.R. § 11.804(i) (proscribing engaging in other conduct that adversely reflects on the practitioner's fitness to practice before the USPTO).

5. Without admitting to violating any of the disciplinary rules of the USPTO Code of Professional Responsibility and/or the USPTO Rules of Professional Conduct investigated by the OED Director in OED File No. [REDACTED], he acknowledges that, if and when he applies for reinstatement under 37 C.F.R. § 11.60 to practice before the USPTO in patent, trademark, and/or other non-patent matters, the OED Director will conclusively presume, for the purpose of determining the application for reinstatement, that

(a) the facts regarding him in OED File No. [REDACTED] are true, and

(b) he could not have successfully defended himself against the allegations embodied in the opinion of the OED Director that he violated 37 C.F.R. §§ 10.23(a); 10.23(b)(3); 10.23(b)(4); 10.23(b)(6); 11.804(b); 11.804(c); and 11.804(i).

6. Respondent has fully read and understands 37 C.F.R. §§ 11.5(b), 11.27, 11.58, 11.59, and 11.60, and is fully aware of the legal and factual consequences of consenting to exclusion from practice before the USPTO in patent, trademark, and other non-patent matters.

7. Respondent consents to being excluded from practice before the USPTO in patent, trademark, and other non-patent matters.

Exclusion on Consent

Based on the foregoing, the USPTO Director has determined that Respondent's Affidavit of Resignation complies with the requirements of 37 C.F.R. § 11.27(a). Accordingly, it is hereby ORDERED that:

- a. Respondent's Affidavit of Resignation shall be, and hereby is, approved;
- b. Respondent shall be, and hereby is, excluded on consent from practice before

the Office in patent, trademark, and other non-patent matters commencing on the date of this Final Order;

c. The OED Director shall electronically publish this Final Order at the Office of Enrollment and Discipline's electronic FOIA Reading Room, which is publicly accessible at <http://e-foia.uspto.gov/Foia/OEDReadingRoom.jsp>;

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

Notice of Exclusion on Consent

This notice concerns Jason T. Throne, a registered patent attorney (Registration No. 35,387). The Director of the United States Patent and Trademark Office ("USPTO" or "Office") has accepted Mr. Throne's affidavit of resignation and ordered his exclusion on consent from practice before the Office in patent, trademark, and non-patent law.

Mr. Throne voluntarily submitted his affidavit at a time when a disciplinary investigation was pending against him. The investigation concerned his fraudulent billing of his client, resulting in theft under the provisions of Colo. Rev. Stat. § 18-4-401 *et seq.* and conversion of the client's property. Mr. Throne acknowledged that the Director of the USPTO's Office of Enrollment and Discipline ("OED Director") was of the opinion that his conduct violated 37 C.F.R. §§ 10.23(a) (proscribing engaging in disreputable or gross misconduct); 10.23(b)(3) (proscribing engaging in illegal conduct involving moral turpitude); 10.23(b)(4) (proscribing engaging in conduct involving dishonesty, fraud, deceit, or misrepresentation); 10.23(b)(6) (proscribing engaging in other conduct that adversely reflects on the practitioner's fitness to practice before the USPTO); 11.804(b) (proscribing committing a criminal act that reflects adversely on the practitioner's honesty, trustworthiness, or fitness as a practitioner in other respects); 11.804(c) (proscribing engaging in conduct involving dishonesty, fraud, deceit, or misrepresentation); and 11.804(i) (proscribing engaging in other conduct that adversely reflects on the practitioner's fitness to practice before the USPTO).


While Mr. Throne did not admit to violating any of the disciplinary rules of the USPTO Code of Professional Responsibility and/or the USPTO Rules of Professional Conduct as alleged in the pending investigation, he acknowledged that, if and when he applies for reinstatement, the OED Director will conclusively presume, for the limited purpose of determining the application for reinstatement, that (i) the facts set forth above are true, and (ii) he could not have successfully defended himself against the allegations embodied in the opinion of the OED Director that he violated 37 C.F.R. §§ 10.23(a); 10.23(b)(3); 10.23(b)(4); 10.23(b)(6); 11.804(b); 11.804(c); and 11.804(i).

This action is taken pursuant to the provisions of 35 U.S.C. §§ 2(b)(2)(D) and 32, and 37 C.F.R. §§ 11.27 and 11.59. Disciplinary decisions involving practitioners are posted for public reading at the Office of Enrollment and Discipline Reading Room, available at: <http://e-foia.uspto.gov/Foia/OEDReadingRoom.jsp>.

- e. Respondent shall comply fully with 37 C.F.R. § 11.58; and
- f. Respondent shall comply fully with 37 C.F.R. § 11.60 upon any request for reinstatement.

APR 22 2015

Date


JAMES O. PAYNE
Deputy General Counsel for General Law
United States Patent and Trademark Office

on behalf of

Michelle K. Lee
Under Secretary of Commerce for Intellectual Property and
Director of the United States Patent and Trademark Office

cc:

Director of the Office of Enrollment and Discipline
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