Commissioner of Patents and Trademarks
Patent and Trademark Office (P.T.O.)

CAMERON WEIFFENBACH DIRECTOR, OFFICE OF ENROLLMENT AND DISCIPLINE
v.
DAVID F. GOULD, RESPONDENT
Proceeding No. D89-2
October 17, 1989

Donald J. Quigg

Assistant Secretary and Commissioner of Patents and Trademarks

FINAL ORDER

***1** The Director and David F. Gould (Respondent), being fully advised, desire to settle this disciplinary matter without the need for serving a complaint, filing an answer, or a hearing before an Administrative Law Judge. The Director and Respondent therefore present tothe Commissioner this agreed- upon FINAL ORDER as settlement of the above-identified disciplinary proceeding.

The Director has investigated possible violations of the Patent and Trademark Office (PTO) Code of Professional Responsibility by Respondent in connection with his conduct respecting suspension from the practice of law for knowingly assisting a suspended attorney in the practice of law.

The Director has presented the evidence to the Committee on Discipline and the Committee has found probable cause to bring charges as set forth in the following counts:

COUNT 1

Respondent, having been suspended from the practice of law by the Supreme Judicial Court of the State of Maine for, inter alia, knowingly assisting a suspended attorney in the unauthorized practice of law, engaged in professional misconduct.

1.1 Respondent was charged in an INFORMATION by the Board Of Overseers of the Bar of the State of Maine with violating certain Maine Bar Rules; further the INFORMATION alleged, in essence that Respondent knowingly assisted a suspended attorney in the unauthorized practice of law and, by doing so, engaged in conduct prejudicial to the administration of justice; and further, the information alleged that with respect to the same incident, Respondent handled a legal matter without adequate preparation.

1.2 The Supreme Judicial Court for Maine, after a hearing, concluded that Respondent engaged in the conduct as alleged and suspended Respondent from the practice of law in all courts of Maine for a period of six (6) months.

1.3 Respondent had an affirmative duty to refrain from conduct for which he could be suspended on ethical grounds; further, Respondent did not refrain from such conduct; and still further, said conduct reflects on Respondent's fitness to practice before the PTO.

1.4 By being suspended from the practice of law by the Supreme Judicial Court for Maine on ethical grounds, Respondent engaged in conduct justifying suspension or exclusion under Part 10, Title 37, Code of Federal Regulations, to wit: 37 CFR 10.23(a) and/or 37 CFR 10.23(c)(5).

COUNT 2

By knowingly not advising the Director of his suspension from the practice of law in courts of the State of Maine, Respondent engaged in professional misconduct.

2.1 Paragraphs 1.1 through 1.3 of Count 1 are incorporated herein by reference.

2.2 By virtue of his suspension from the practice of law by the Supreme Judicial Court for Maine, Respondent was no longer a member in good standing of the bar of Supreme Judicial Court for Maine; and further Respondent was precluded from being eligible to be registered as a patent attorney under 37 CFR 10.6(a).

***2** 2.3 Prior to his suspension, Respondent held himself out in the Maine Bar Journal as being a "Registered Patent Attorney"; and further, subsequent to his suspension Respondent held himself out in The Maine Bar Journal as being a "Patent Engineer."

2.4 Respondent failed and/or refused to advise the Director of the Office of Enrollment and Discipline that he had been suspended from the practice of law by the Supreme Judicial Court for Maine; and further Respondent knew or should have known that he had failed and/or refused to advise the Director of the same.

2.5 Respondent, by holding himself out since in or about May, 1988 as being a "Patent Engineer" knew or should have known that he was precluded from continuing to be registered as a patent attorney under 37 CFR 10.6(a); and further Respondent knew or should have known that he failed and/or refused to advise the Director in writing of any change precluding his continued registration as a patent attorney under 37 CFR 10.6(a).

2.6 Respondent had an affirmative duty to advise the Director in writing of any change which would preclude continued registration as a patent attorney under 37 CFR 10.6(a).

2.7 By knowingly failing and/or refusing to advise the Director in writing of any change precluding continued registration as a patent attorney under 37 CFR 10.6, Respondent did engage in professional misconduct which justifies suspension or exclusion under Part 10, Title 37, Code of Federal Regulations, to wit: 37 CFR 10.23(c)(14).

SETTLEMENT

For purposes of settling this disciplinary matter without any determination by the Administrative Law Judge, and without a complaint, answer, or hearing, the Director and Respondent have agreed as follows:

1. Respondent acknowledges that he is aware that the Committee on Discipline has determined, pursuant to 37 CFR 10.132(a), that there is probable cause to bring charges against Respondent as specified in Counts 1 and 2, supra.

2. Respondent further acknowledges that he is entitled:
(i) To be served a complaint,
(ii) To file an answer to the complaint, and
(iii) To have a hearing in this proceeding (37 CFR 10.132(a), 10.132(b), 10.135, 10.136 and 10.144);
and that he hereby waives his rights to service of a complaint, file an answer, and a hearing in this matter.

3. Respondent freely and voluntarily admits that the facts in Count 1 and Count 2 are true, and freely and voluntarily enters a plea to Count 1 and Count 2 of nolo contendere.

4. Respondent acknowledges that he is not acting under duress or coercion from the Patent and Trademark Office, and that he is fully aware to the implications of approval and entry the FINAL ORDER. The FINAL ORDER will be made of record in Respondent's file together with all information obtained in connection therewith, and will be considered in dealing with any further complaint or evidence of misconduct coming to the attention of the Office of Enrollment and Discipline.

***3** 5. Respondent shall comply with all Disciplinary Rules applicable to attorneys and patent agents practicing before the Patent and Trademark office.

6. Respondent, having followed the suspension imposed by the Supreme Judicial Court of the State of Maine, and having been reinstated to practice law by the duly constituted authorities of the State of Maine, is no longer under any known impediment to continue to practice law in the State of Maine.

7. The Director and Respondent request that the Assistant Secretary and Commissioner of Patent and Trademark enter the FINAL ORDER.

8. The Director and Respondent shall bear their own costs.

9. Respondent shall be publicly reprimanded for his conduct as specified in Counts 1 and 2. This public reprimand shall take place upon the Commissioner's approval and entry of the FINAL ORDER.

10. The following notice will be published in Official Gazette:

PUBLIC REPRIMAND

David F. Gould of Bangor, Maine, whose registration number is 21,029, has been publicly reprimanded. This action is taken under the provisions of 35 U.S.C. 32, and 37 CFR 10.130 and 10.133(g).

11. The Director and Respondent agree that the FINAL ORDER may be published in its entirety, and the Director shall, pursuant to 37 CFR 10.159(a), give notice of the reprimand to appropriate authorities of the State of Maine and appropriate bar associations.

Agreed to:
David F. Gould Respondent
Date: OCTOBER 12 1989

Agreed to:
Cameron Weiffenbach, Director Office of Enrollment and Discipline
Date: 10/17/89

Approved and FINAL ORDER Entered:
Date: SEP 26 1989

Approved and FINAL ORDER Entered:
Donald J. Quigg, Assistant Secretary and Commissioner of Patents and Trademarks
Date: 10-24-89

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