

**IN RE: ARLENE J. POWERS****NO. BD-2011-061****S.J.C. Order of Term Suspension entered by Justice Cordy on September 30, 2011.<sup>1</sup>**

(S.J.C. Judgment of Reinstatement with Probation entered by Justice Cordy on January 31, 2012.)

**SUMMARY<sup>2</sup>**

On June 13, 2011, the respondent, Arlene J. Powers, was suspended from the practice of law by the United States Patent and Trademark Office for two years, with leave to apply for reinstatement at any time after two months from the date of the final order, and with an eighteen-month period of probation after reinstatement. The circumstances resulting in the respondent's discipline were as follows.

In May of 2003, the respondent filed a patent application with the USPTO. The USPTO sent to the respondent's firm a notice of missing parts and, receiving no response to the notice, issued a notice of abandonment in September of 2004.

In July of 2009, the respondent filed a petition to revive the patent application, which included a copy of a receipted postcard bearing a USPTO date stamp of August 21, 2003. The postcard, however, was not from the respondent's application but was from another application being handled by the respondent's firm. The respondent thus provided the USPTO with false or misleading information in connection with the petition to revive the abandoned application.

The USPTO dismissed the respondent's petition on September 23, 2009. On November 25, 2009, the respondent filed a second petition to revive the patent application, again relying on the false receipted postcard from the other patent application. In March of 2010, the partners in the respondent's firm became aware of the abandoned application and questioned the respondent about it. The respondent knowingly falsely told the partners that a response to the notice to file missing parts had been timely filed in August of 2003.

The respondent's conduct in neglecting a matter entrusted to her and in knowingly giving false or misleading information to the USPTO was in violation of applicable provisions of the USPTO Code of Professional Responsibility. In mitigation, the respondent had no prior disciplinary history in over eighteen and a half years as a registered patent practitioner; the basis of the misconduct appears to have been aberrational; the respondent was further sanctioned by her firm by being placed on probation; and the respondent cooperated fully in the investigation and resolution of the matter and is remorseful for her conduct.

On June 27, 2011, bar counsel filed a petition for reciprocal discipline with the Supreme Judicial Court for Suffolk County. The parties assented to an order of reciprocal discipline. After a hearing on September 27, 2011, the Court (Cordy, J.) entered an order suspending the respondent for two years, retroactive to September 30, 2011, with the respondent to be actually suspended for the first two months and the remaining twenty two months to be stayed. The order further provided that the respondent's reinstatement to the Massachusetts bar shall be pursuant to S.J.C. Rule 4:01, § 18(1), and shall be conditioned upon the respondent's reinstatement by the USPTO; that upon reinstatement the respondent shall serve an eighteen month period of probation; and that if subsequent to reinstatement the USPTO suspends the respondent for an additional twenty-two months pursuant to paragraph 14(i) of its suspension order, bar counsel may request entry of an order of additional reciprocal discipline.

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<sup>1</sup> The complete Order of the Court is available by contacting the Clerk of the Supreme Judicial Court for Suffolk County.

<sup>2</sup> Compiled by the Board of Bar Overseers based on the record filed with the Supreme Judicial Court.