



October 17, 2019

**LETTER OF REPRIMAND**

Ryan Cann, Esq.  
1 East Liberty Street, Suite 600  
Reno, Nevada 89501

Re: Grievance / Forrest Walser  
Reference No. OBC19-0856

3100 W. Charleston Blvd.  
Suite 100  
Las Vegas, NV 89102  
phone 702.382.2200  
toll free 800.254.2797  
fax 702.385.2878

9456 Double R Blvd., Ste. B  
Reno, NV 89521-5977  
phone 775.329.4100  
fax 775.329.0522

[www.nvbar.org](http://www.nvbar.org)

Dear Mr. Cann:

On October 17, 2019, a Formal Hearing Panel of the Northern Nevada Disciplinary Board considered the above-referenced grievance. Based on the evidence presented, the Panel concluded that you violated the Rules of Professional Conduct and should be issued a Letter of Reprimand. This letter shall constitute a delivery of that reprimand.

---

**Factual Background**

You were retained by Forrest Walser ("the client") to file a utility patent application with the United States Patent and Trademark Office ("USPTO"). That application was filed on September 27, 2017. On October 30, 2018, the USPTO sent an Office Action explaining that the client's utility patent application received a non-final rejection of all claims.

On November 19, 2018, the client hired you to prepare and file an Office Action response to attempt to overcome the rejection for a total flat fee of \$1,500. The client paid the fee in two installments. Pursuant to the USPTO, the Response to the Office Action was due on January 30, 2019, with a final deadline of April 30, 2019.

Once the client retained you to respond to the Office Action, you told him on seven different occasions that you would have the Response filed shortly. It wasn't until May 1, 2019 that you told the client that you had been out of the office due to "family problems" with your parents in Florida and had not yet filed the Response to the Office Action. This was after the USPTO's final deadline for filing the Response. You set another self-imposed deadline of May 8, 2019 to complete the Response to the Office Action. You failed to meet that deadline and on May 13, 2019 told the client that you would have it finished that week. The USPTO regards the client's patent application as abandoned as of June 7, 2019. You assert that the client's application can still be revived under 37 CFR §1.137, with the filing

Ryan Cann, Esq.  
October 17, 2019  
Page 2 of 3

of the Response to the Office Action, payment of a fee, and an explanation of the unintentional delay.

The client claims that since May 30, 2019, he has been unable to get you to communicate with him, but he still wishes for you to finalize the response on his behalf.

### **Application of the Rules of Professional Conduct**

Although the Rules of Professional Conduct do not require that a lawyer prevail on behalf of a client, Rule 1.3 (Diligence) of the Rules of Professional Conduct (“RPC”) requires that a lawyer act with reasonable diligence and promptness in representing a client. In this instance, you admittedly did not pursue the Response to the Office Action with reasonable diligence. You knowingly failed to file the Response before the USPTO’s deadline. As a result, the client’s application was deemed abandoned by the USPTO. Your breach of your obligations pursuant to RPC 1.3 (Diligence) has the potential to result in injury to the client if he does not have the opportunity to pursue his Patent Application. But the Patent Application can be revived by filing the Response and the client continues to want you to complete the filing.

In addition, RPC 1.4. (Communication) requires a lawyer to (i) “keep the client reasonably informed about the status of the matter” and (ii) “promptly comply with reasonable requests for information.” You knowingly failed to timely respond to the client’s requests for information and/or attempts to make contact, particularly after the Response deadline was missed. However, you have re-engaged with the client and the client continues to want you to represent him. This indicates a lack of substantial injury to the client because of your failure to communicate.

### **Applicable Standards for Imposing Lawyer Sanctions**

Standard 4.42 of the ABA Standards for Imposing Lawyer Sanctions provides that suspension is generally appropriate when a lawyer knowingly fails to perform services for a client, or engages in a pattern of neglect, and causes injury or potential injury to a client.

In this instance, you knew of the Response deadline and failed to meet it. You also failed to communicate with the client for a period of time, causing the client anxiety about his patent application. However, your misconduct involves only one patent application and the failure may be repairable. In addition, the injury to the client cannot be measured beyond the fact that he has been anxious about the status of his application and that he may lose the opportunity to try to patent his invention because of your lack of diligence. Thus, the injury is primarily a potential injury.

Ryan Cann, Esq.  
October 17, 2019  
Page 3 of 3

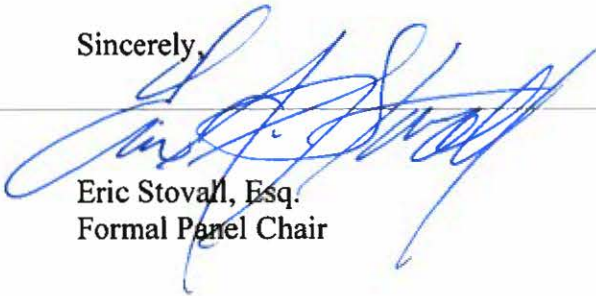
The Panel does not consider the unsubstantiated assertion of “family problems” as mitigation in this matter. It does take into consideration that (i) you have no prior discipline and (ii) you accepted responsibility for your misconduct. Therefore, the Panel finds that it is appropriate to apply ABA Standard 4.42 but use a downward deviation for the sanction.

**REPRIMAND**

Based on the foregoing, you are hereby REPRIMANDED for violating RPC 1.3 (Diligence) and RPC 1.4 (Communication). I trust that this reprimand will serve as a reminder to you of your ethical obligations, and that no such problems will arise in the future.

Finally, in accordance with Nevada Supreme Court Rule 120 you are assessed costs in the amount of \$1,500.

Sincerely,

A handwritten signature in blue ink, appearing to read "Eric Stovall", is written over a horizontal line. The signature is stylized and cursive.

Eric Stovall, Esq.  
Formal Panel Chair