

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

In the Matter of)	
)	
Pape Malick Indiss Djiba,)	Proceeding No. D2022-12
)	
Respondent)	
_____)	

FINAL ORDER

The Director of the Office of Enrollment and Discipline (“OED Director”) for the United States Patent and Trademark Office (“USPTO” or “Office”) and Pape Malick Indiss Djiba (“Respondent”), have submitted a Proposed Settlement Agreement (“Agreement”) to the Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office (“USPTO Director”) for approval.

The Agreement, which resolves all disciplinary action by the USPTO arising from the stipulated facts set forth below, is hereby approved. This Final Order sets forth the parties’ stipulated facts, legal conclusion, and sanctions.

Jurisdiction

1. At all times relevant hereto, Respondent, of Austin, Texas, has been an attorney in good standing in the State of Texas who, at all relevant times involved in this matter, was engaged in practice before the Office in trademark matters. Therefore, Respondent is subject to the USPTO Rules of Professional Conduct, which are set forth at 37 C.F.R. §§ 11.101 through 11.901.

2. The USPTO Director has jurisdiction over this matter pursuant to 35 U.S.C. §§ 2(b)(2)(D) and 32, and 37 C.F.R. §§ 11.19, 11.20, and 11.26.

Joint Stipulated Facts

3. At all times relevant hereto, Respondent has been licensed to practice law in Texas and has been a member of the State Bar of Texas.

4. The State Bar of Texas received a grievance filed against Respondent by Renee Jenkins (“Complainant”), a former client of Respondent.

5. On November 18, 2020, Investigatory Panel 8-2 of the State Bar of Texas conducted an investigatory hearing to determine whether Respondent had committed professional misconduct.

6. On December 11, 2020, Respondent and the Chief Disciplinary Counsel of the State Bar of Texas reached an agreement on all relevant facts and an appropriate sanction against Respondent. Respondent and the Chief Disciplinary Counsel proposed the imposition of a probated suspension of Respondent.

7. By Order dated December 11, 2020, entered in *In re Pape Malik Indiss Djiba* (District 8 Grievance Committee File No. 202002247) (hereinafter referred to as the “Agreed Judgment”), Investigatory Panel 8-2 of the State Bar of Texas made the following findings of fact:

- a. On September 13, 2017, Complainant hired Respondent to represent her in a personal injury case arising from a vehicle car accident in which Complainant was a passenger in a car owned by another individual (herein after referred to as “Client 2”).
- b. Respondent represented both Complainant and Client 2 against a third-party motorist involved in the accident, and against Client 2's insurance company.
- c. On May 11, 2019, Respondent informed Complainant via text message that he was terminating his representation of Complainant. Respondent sent a more formal notice through an "Attorney Client Termination Letter" dated October 1, 2019. Respondent also gifted Complainant \$45.00 to seek new legal representation.
- d. On November 25, 2019, Complainant hired a new attorney who attempted contact with Respondent to no avail.
- e. During the course of representation, Respondent knowingly failed to respond to a No-Evidence Motion for Summary Judgment filed by the third-party driver in the underlying court case. Instead, Respondent filed a Motion for Leave the day before the Motion for Summary Judgment Hearing, which was set for December 5, 2019.

Respondent also failed to notify Complainant or her new counsel about the upcoming court hearing.

- f. On December 5, 2019, Respondent settled Client 2's claim against the third-party motorist for \$2,900.00. Respondent also settled Complainant's claim for \$100.00, lacking Complainant's consent and having previously terminated their client-attorney relationship.
- g. On February 3, 2020, Respondent sent a demand letter on behalf of Complainant to Client 2's insurance company, regarding the same accident and lacking both Complainant's consent and a waiver of conflict of interest from Client 2.

8. In the Agreed Judgment, Investigatory Panel 8-2 of the State Bar of Texas concluded that through the above conduct, Respondent violated the following Texas Disciplinary Rules of Professional Conduct: 1.01(b)(1) (diligence); 1.02(a)(2) (scope of representation); 1.03(a)-(b) (communication); 1.06(b)(1)-(2) (conflict of interest); 1.06(e) (withdrawal from conflicts); and 1.08(d) (prohibited transactions).

9. In the Agreed Judgment, Investigatory Panel 8-2 of the State Bar of Texas accepted the agreed upon probated suspension negotiated between Respondent and the Chief Disciplinary Counsel, and ordered that Respondent serve a probated suspension from the practice of law beginning on December 15, 2020 and ending on December 14, 2021.

10. Respondent fully complied with the terms of his probated suspension. For the entirety of this period, Respondent remained an attorney in good standing and eligible to practice law in Texas.

11. Respondent did not report this sanction to the USPTO as required by 37 C.F.R. § 11.24(a).

Joint Legal Conclusion

12. Respondent acknowledges that, as evidenced by the December 11, 2020 Order entered in *In re Pape Malick Indiss Djiba* (District 8 Grievance Committee File No. 202002247) imposing

a one-year probated suspension on Respondent for violating the Texas Disciplinary Rules of Professional Conduct, he violated 37 C.F.R. § 11.804(h) of the USPTO Rules of Professional Conduct by being publicly disciplined on professional misconduct grounds by a duly constituted authority of a State.

Additional Considerations

13. Respondent represents to OED that he did not adequately understand the self-reporting obligations under 37 C.F.R. § 11.24(a). Respondent has expressed contrition for neglecting to disclose his Texas sanction to the USPTO.

14. Respondent has never been the subject of professional discipline by the USPTO.

15. Respondent has been fully cooperative with OED's investigation, including providing candid responses to requests for information and engaging in two phone calls with OED.

Agreed-Upon Sanction

16. Respondent freely and voluntarily agrees, and it is hereby ORDERED that:

a. Respondent shall be, and hereby is, reprimanded;

b. the OED Director shall electronically publish the Final Order at the OED's electronic FOIA Reading Room, which is publicly accessible through the Office's website at: <https://foiadocuments.uspto.gov/oed/>;

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

Notice of Reprimand

This notice concerns Mr. Pape Malick Indiss Djiba, a trademark attorney licensed in the state of Texas, who resides in Austin, Texas. Mr. Djiba is hereby reprimanded for violating 37 C.F.R. § 11.804(h) of the USPTO Rules of Professional Conduct.

This violation is predicated on a December 11, 2020 Order entered in *In re Pape Malick Indiss Djiba* (District 8 Grievance Committee File No. 202002247), in which Investigatory Panel 8-2 of the State Bar of Texas concluded that Mr. Djiba violated certain of the

Texas Disciplinary Rules of Professional Conduct. Investigatory Panel 8-2 of the State Bar of Texas ordered that Mr. Djiba serve a probated suspension from the practice of law beginning on December 15, 2020 and ending on December 14, 2021.

Investigatory Panel 8-2 of the State Bar of Texas found the following:

On September 13, 2017, Complainant hired Mr. Djiba to represent her in a personal injury case arising from a vehicle car accident in which Complainant was a passenger in a car owned by Client 2. Mr. Djiba represented both Complainant and Client 2 against a third-party motorist involved in the accident, and against Client 2's insurance company. On May 11, 2019, Mr. Djiba informed Complainant via text message that he was terminating his representation of Complainant. Mr. Djiba sent a more formal notice through an "Attorney Client Termination Letter" dated October 1, 2019. Mr. Djiba also gifted Complainant \$45.00 to seek new legal representation. On November 25, 2019, Complainant hired a new attorney who attempted contact with Mr. Djiba to no avail. During the course of representation, Mr. Djiba knowingly failed to respond to a No-Evidence Motion for Summary Judgment filed by the third-party driver in the underlying court case. Instead, Mr. Djiba filed a Motion for Leave the day before the Motion for Summary Judgment Hearing, which was set for December 5, 2019. Mr. Djiba also failed to notify Complainant or her new counsel about the upcoming court hearing. On December 5, 2019, Mr. Djiba settled Client 2's claim against the third-party motorist for \$2,900.00. Mr. Djiba also settled Complainant's claim for \$100.00, lacking Complainant's consent and having previously terminated their client-attorney relationship. On February 3, 2020, Mr. Djiba sent a demand letter on behalf of Complainant to Client 2's insurance company regarding the same accident, but lacking both Complainant's consent and a waiver of conflict of interest from Client 2.

Based upon the foregoing, Investigatory Panel 8-2 of the State Bar of Texas concluded that Mr. Djiba violated the following Texas Disciplinary Rules of Professional Conduct: 1.01(b)(1) (diligence); 1.02(a)(2) (scope of representation); 1.03(a)-(b) (communication); 1.06(b)(1)-(2) (conflict of interest); 1.06(e) (withdrawal from conflicts); and 1.08(d) (prohibited transactions).

Mr. Djiba has been fully cooperative with OED's investigation, including providing candid responses to requests for information and engaging in two phone calls with OED.

This action is the result of a settlement agreement between Mr. Djiba and the OED Director pursuant to the provisions of 35 U.S.C. §§ 2(b)(2)(D) and 32, and 37 C.F.R. §§ 11.19, 11.20, and 11.26. Disciplinary decisions involving practitioners are posted for public reading at the Office of Enrollment and Discipline Reading Room accessible at: <https://foiadocuments.uspto.gov/oed>;

d. Nothing in this Final Order shall prevent the Office from considering the record of this disciplinary proceeding, including the Final Order: (1) when addressing any further complaint or evidence of the same or similar misconduct concerning Respondent brought to the attention of the Office; (2) in any future disciplinary proceeding against Respondent (i) as an aggravating factor to be taken into consideration in determining any discipline to be imposed, and/or (ii) to rebut any statement or representation by or on Respondent's behalf;

e. Respondent waives all rights to seek reconsideration of the Final Order under 37 C.F.R. § 11.56, waives the right to have the Final Order reviewed under 37 C.F.R. § 11.57, and waives the right otherwise to appeal or challenge the Final Order in any manner; and

f. The parties shall bear their own costs incurred to date and in carrying out the terms of the Agreement and this Final Order.

4/7/22

Date

Kathryn Siehndel

Kathryn Siehndel
Acting Deputy General Counsel
United States Patent and Trademark Office

on delegated authority by

Andrew Hirshfeld
Performing the Functions and Duties of the
Under Secretary of Commerce for Intellectual
Property and Director of the United States Patent
and Trademark Office