

or 11.6(b), or 11.6(c), or as a result of any other event or change would be precluded from continued recognition under §§ 11.9 or 11.14, or any event or change that would be grounds for disciplinary action under § 11.25(c) shall within ten days from the date of such event or change advise the OED Director in writing of the event or change and file with the OED Director any records regarding the event or change.

(f) Conduct that constitutes a violation of paragraphs (a) through (e) of this section includes, but is not limited to:

(1) Failing to comply with the provisions of paragraphs (d) or (e) of this section;

(2) Willfully refusing to reveal or report knowledge or evidence to the OED Director contrary to §§ 11.24(a) or (b), or 10.25(b);

(3) In the absence of information sufficient to establish a reasonable belief that fraud or inequitable conduct has occurred, alleging before a tribunal that anyone has committed a fraud on the Office or engaged in inequitable conduct in a proceeding before the Office; or

(4) Being suspended, disbarred as an attorney, or disbarred on consent from practice as an attorney on any ethical grounds (including ethical grounds not specified in this part) by any duly constituted authority of a State, or the United States, or resigning from the bar of any State, or Federal court while under investigation.

#### **§ 11.804 Misconduct.**

It is professional misconduct for a practitioner to:

(a) Violate or attempt to violate the Rules of Professional Conduct, knowingly assist or induce another to do so, or do so through the acts of another;

(b) Commit a criminal act that reflects adversely on the practitioner's honesty, trustworthiness, or fitness as a practitioner in other respects, including crimes for which the practitioner is found guilty, pleads guilty or *nolo contendere*, and crimes to which the practitioner enters an Alford plea to a criminal charge in a court of a State, or of the United States, but does not include misdemeanor traffic offenses or traffic ordinance violations, not including the use of alcohol or drugs;

(c) Engage in conduct involving dishonesty, fraud, deceit, or misrepresentation;

(d) Engage in conduct that is prejudicial to the administration of justice;

(e) State or imply an ability to influence improperly a Government agency or official;

(f) Knowingly assist an administrative law judge, administrative patent judge, administrative trademark judge, patent examiner, other employee of the Office, or judicial officer in conduct that is a violation of applicable Federal statutes, rules adopted by the Office of Government Ethics, or other law; or

(g) Engage in disreputable or gross misconduct.

(h) Conduct that constitutes a violation of paragraphs (a) through (g) of this section includes, but is not limited to:

(1) Knowingly giving false or misleading information or knowingly participating in a material way in giving false or misleading information, to a client in connection with any immediate, prospective, or pending business before the Office;

(2) Representing before the Office in a patent matter either a joint venture comprising an inventor and an invention promoter, or an inventor referred to the registered practitioner by an invention promoter when:

(i) The registered practitioner knows, or has been advised by the Office, that a formal complaint filed by a Federal or State agency, alleging a violation of any law relating to securities, unfair methods of competition, unfair or deceptive acts or practices, mail fraud, or other civil or criminal conduct, is pending before a Federal or State court or Federal or State agency, or has been resolved unfavorably by such court or agency, against the invention promoter in connection with marketing an invention; and

(ii) The registered practitioner fails to fully advise the inventor of the existence of the pending complaint or unfavorable resolution thereof prior to undertaking or continuing representation of the joint venture or inventor;

(3) Accepting referral of a matter or inventor from an invention promoter wherein:

(i) A contract or other agreement for marketing and patenting an invention does not specify the total amount of funds constituting legal fees the inventor becomes obligated to pay the invention promoter;

(ii) A contract or other agreement for marketing and patenting an invention does not specify the total amount of funds constituting costs and expenses for legal services the inventor becomes obligated to pay the invention promoter;

(iii) The inventor delivers funds for legal fees, expenses or costs to the invention promoter;

(iv) A patentability opinion or patent search report by a registered practitioner is included in, accompanies, or is

referenced in any report issued by the invention promoter;

(v) A contract or other agreement for marketing and patenting an invention provides for the preparation, drafting, or filing of a patent application for a design or a utility invention, or

(vi) The contract or other agreement for marketing and patenting an invention guarantees a patent;

(4) Accepting assistance in a specific matter from any former employee of the Office who participated personally and substantially in the matter as an employee of the Office;

(5) Representing, or permitting another party, including an invention promoter, to represent, that a fee for non-legal services is inclusive of any fee(s) for a practitioner's professional services without also separately stating in writing the full amount of the legal fees;

(6) Being a partner or associate of an employee of the Office, and representing anyone in any proceeding before the Office in which the employee of the Office participates or has participated personally and substantially as an employee of the Office, or which is subject to that employee's official responsibility;

(7) Accepting or using the assistance of an Office employee in the presentation or prosecution of an application, whether or not the employee is compensated, except to the extent that the employee may lawfully provide the assistance in an official capacity;

(8) Being a Federal employee and practicing before the Office while so employed in violation of applicable conflict of interest laws, regulations or codes of professional responsibility;

(9) Failing to report a change of address within thirty days of the change; or

(10) Knowingly filing, or causing to be filed, a frivolous complaint alleging that a practitioner violated an imperative USPTO Rule of Professional Conduct.

(i) A practitioner who acts with reckless indifference to whether a representation is true or false is chargeable with knowledge of its falsity. Deceitful statements of half-truths or concealment of material facts shall be deemed fraud within the meaning of this Part.

#### **§ 11.805 Disciplinary authority: Choice of law.**

(a) *Disciplinary authority.* A practitioner registered or recognized to practice or practicing before the Office in patent, trademark, or other non-patent law is subject to the disciplinary authority of the Office, regardless of