

**COLLEGE OF PATENT AGENTS AND TRADEMARK AGENTS/  
COLLÈGE DES AGENTS DE BREVETS ET DES AGENTS DE MARQUES DE COMMERCE  
DISCIPLINE COMMITTEE**

IN THE MATTER of a hearing of an application by the Investigations Committee of the College of Patent Agents and Trademark Agents/Collège des agents de brevets et des agents de marques de commerce ("**CPATA**") regarding the conduct of **ERIC FINCHAM 2021-0606** to be held before the Discipline Committee according to the provisions of the *College of Patent Agents and Trademark Agents Act*, 2018, c 27, s 247 ("**Act**").

B E T W E E N:

College of Patent Agents and Trademark Agents/  
Collège des agents de brevets et des agents de marques de commerce  
(Applicant)

- and -

Eric Fincham  
(Respondent)

**NOTICE OF APPLICATION**

**TO THE RESPONDENT:**

**THE INVESTIGATIONS COMMITTEE** of CPATA has applied to the Discipline Committee for a decision as to whether you have committed professional misconduct. The Discipline Committee will hold a hearing under the authority of sections 51 to 62 of the Act.

The Application appears on the following pages.

November 21, 2023

Date of Issue



Juda Strawczynski  
CEO and Registrar  
College of Patent Agents and Trademark  
Agents/Collège des agents de brevets et  
des agents de marques de commerce

**TO: Eric Fincham**  
Bromont, Quebec

NOVEMBER 16, 2023

**APPLICATION**

The Investigations Committee of the College of Patent Agents and Trademark Agents (the “College”) is making this Application to the Discipline Committee of the College pursuant to s 49(1) of the *College of Patent Agents and Trademark Agents Act*, SC 2018, c 27, s 247 (“the Act”). The Discipline Committee is asked to consider the following allegations and determine if **Eric Fincham** (“the Respondent”) has engaged in professional misconduct contrary to the Act, *Code of Professional Conduct for Patent Agents and Trademark Agents* (the “Code”) and/or By-laws of the College of Patent Agents and Trademark Agents (Board), SOR/2021-168 (the “By-laws”).

**1. The Respondent failed to pay the annuities for at least one patent (EC) and one patent application (DW), contrary to the following provisions of the Code:**

**Part I Competence****Principle**

An agent owes the client a duty to be competent to perform any agency services and must perform all such services undertaken on a client’s behalf to the standard of a competent agent.

**Rule 1**

(2) An agent fails to meet standards of professional competence if

(a) there are deficiencies in

(i) their knowledge, skill or judgment,

(ii) their attention to the interests of clients,

(iii) the records, systems or procedures of their professional business, or

(iv) any other aspects of their professional business; and

(b) the deficiencies referred to in paragraph (a) give rise to a reasonable apprehension that the quality of service they provide to clients may be adversely affected.

**2. The Respondent failed to pay the annuities for the 7<sup>th</sup> and 8<sup>th</sup> patent application (Dr. W), and the 14<sup>th</sup> and 15<sup>th</sup> annuities for a patent (EC), and failed to respond to clients’ inquiries for information about the annuity costs due. The Respondent also failed to supervise staff and/or assistants with his office contrary to the following provisions of the Code.**

## **Part 4 Quality of Service**

### **Principle**

An agent must be both honest and candid when advising a client and must inform the client of all information known to the agent that may affect the interests of the client in the matter.

### **Rule 4**

- (4) An agent must act on the client's instructions in a reasonably prompt manner and must reply to all of the client's inquiries.

## **Part 7 Duties to College, Members and Other Persons**

### **Principle**

An agent must assist in maintaining the standards of the profession in dealings with the College and members of the profession generally. An agent's conduct toward other agents must be characterized by courtesy and good faith.

### **Rule 7**

- (7) An agent has complete professional responsibility for all business entrusted to them and must directly supervise staff and assistants to whom they delegate particular tasks and functions.

### **3. The Respondent received client funds to pay at least one annuity (EC), and failed to apply these funds toward payment of the annuity, contrary to the following provisions of the Code:**

#### **Fundamental Canon**

The most important attribute of an agent is integrity. That principle is implicit in this Code and in each of the rules and commentaries set out in it. Irrespective of the possibility of formal sanction under any of the rules in this Code, an agent must at all times conduct themselves with the highest standards of the profession in order to retain the trust, respect and confidence of the members of the profession and the public.

## **Part 7 Duties to College, Members and Other Persons**

### **Principle**

An agent must assist in maintaining the standards of the profession in dealings with the College and members of the profession generally. An agent's conduct toward other agents must be characterized by courtesy and good faith.

**Rule 7**

- (4) An agent has a professional duty to meet financial obligations in relation to their practice.

**4. The Respondent failed to respond to a communication from the College, and failed to cooperate with the College in their investigation of this complaint, contrary to the following provisions of the Code:**

**Part 7 Duties to College, Members and Other Persons****Principle**

An agent must assist in maintaining the standards of the profession in dealings with the College and members of the profession generally. An agent's conduct toward other agents must be characterized by courtesy and good faith.

**Rule 7**

- (3) An agent must respond promptly and in a complete and appropriate manner to any communication from the College relating to their conduct.

**5. The following are particulars of the allegations:**

- i. At all material times, the Respondent was a patent agent licensee until he was suspended on March 1, 2023 for failure to confirm professional liability insurance coverage.
- ii. EC retained the Respondent and his company, Eric Fincham and Company Inc., in respect of certain patents held by EC, including the payment of patent annuities.
- iii. The Respondent failed to pay the 14<sup>th</sup> Patent Annuity with respect to a particular patent held by EC, which was due on March 3, 2021. He also failed to pay the 15<sup>th</sup> Patent Annuity which was due March 3, 2022.
- iv. Further, the Respondent's assistant falsely advised EC that the 14<sup>th</sup> Patent Annuity had been paid.
- v. The Respondent also failed to respond to EC's inquiries.
- vi. Dr. W retained the Respondent and his company, Eric Fincham and Company Inc., in respect of certain patents held by C, including the payment of patent annuities.
- vii. The Respondent failed to pay the 7<sup>th</sup> Patent Annuity with respect to a particular patent, which was due November 24, 2021, despite the fact that Dr. W had paid Eric Fincham and Company Inc. \$US345 for that purpose.

- viii. The Respondent failed to pay the 8<sup>th</sup> Patent Annuity which was due on November 24, 2021, for which Dr. W did not pay in advance due to the Respondent's failure to provide Dr. W the details for payment or invoice which was requested by Dr. W.
- ix. The Respondent failed to respond to the College's investigator seeking a response to these matters.
- x. The Respondent also failed to respond to the College investigator's draft preliminary report in respect of this matter.

Respectfully,

A handwritten signature in black ink, appearing to read 'Kristin Dangerfield'.

C. Kristin Dangerfield, Chair

Investigations Committee

COLLEGE OF PATENT AGENTS AND TRADEMARK AGENTS/  
DE COLLÈGE DES AGENTS DE BREVETS ET DES AGENTS DE MARQUES DE COMMERCE  
Applicant

- and -

ERIC FINCHAM

Respondent

**COLLEGE OF PATENT AGENTS AND TRADEMARK  
AGENTS/COLLÈGE DES AGENTS DE BREVETS ET  
DES AGENTS DE MARQUES DE COMMERCE  
DISCIPLINE COMMITTEE**

**NOTICE OF APPLICATION**

**STEINECKE MACIURA LEBLANC**

Barristers & Solicitors  
401 Bay Street, P.O. Box 23  
Suite 2308  
Toronto, ON M5H 2Y4

**Bernard C. LeBlanc, LSO No. 32329L**

Telephone: (416) 644-4780  
Facsimile: (416) 593-7867  
Email: bleblanc@sml-law.com

Lawyers for the Applicant, College of Patent  
Agents and Trademark Agents/Collège des agents  
de brevets et des agents de marques de commerce