

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

**In re :** \_\_\_\_\_ )  
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**Proceeding No. D2004-10**

**FINAL ORDER**

Harry I. Moatz, the Director of Enrollment and Discipline (OED Director) of the United States Patent and Trademark Office (USPTO) and \_\_\_\_\_ (Respondent), have submitted a settlement agreement in the above proceeding that meets the requirements of 37 C.F.R. § 10.133(g).

In order to resolve the case without the necessity for a hearing, Respondent and the OED Director have agreed to certain stipulated facts, legal conclusions, and sanctions, all of which are set forth below in their entirety.

Pursuant to that agreement, this Final Order sets forth the following stipulated facts, agreed-upon legal conclusions, and sanctions.

**STIPULATED FACTS**

1. Respondent is an attorney licensed to practice law in the \_\_\_\_\_, having been admitted to practice in \_\_\_\_\_ on or about \_\_\_\_\_.

2. In January 2002, Respondent's home address was \_\_\_\_\_,
3. On or about January 31, 2002, Respondent was arrested and charged with violation of \_\_\_\_\_, manufacturing of a controlled substance, and \_\_\_\_\_, possession of drug paraphernalia.
4. Respondent had grown over a dozen marijuana plants in various stages of growth and was in possession of parts of marijuana plants which had been previously dried and harvested. In addition, Respondent was in possession of drug paraphernalia and equipment used to plant, cultivate, harvest, grow, manufacture and ingest marijuana.
5. Respondent's criminal activities all took place at his home address at \_\_\_\_\_.
6. On or about \_\_\_\_\_, a Bill of Information was filed in the Court of \_\_\_\_\_, Criminal Division and docketed at No. \_\_\_\_\_, in the matter of \_\_\_\_\_, in which Respondent was charged with possession of a controlled substance in violation of \_\_\_\_\_ and possession of drug paraphernalia in violation of \_\_\_\_\_). Both crimes are graded as Misdemeanors.
7. On or about \_\_\_\_\_, Respondent pled *nolo contendere* to possession of a controlled substance and possession of drug paraphernalia, as enumerated in the Bill of Information.

8. On \_\_\_\_\_, Respondent was sentenced in the Court \_\_\_\_\_, by the Honorable \_\_\_\_\_ to two years probation, one year on each charge to run consecutively, and to pay costs.
9. Through Stipulation before the Disciplinary Board of the \_\_\_\_\_, it was stipulated that the aforesaid conviction of Respondent constitutes an independent basis for discipline pursuant to Rule 203(b)(1),<sup>1</sup> \_\_\_\_\_ (Conviction of a serious crime is an independent basis for discipline).
10. On \_\_\_\_\_, the Disciplinary Board of the Supreme Court of \_\_\_\_\_ ordered that Respondent be subjected to a private reprimand.
11. The Disciplinary Board further directed that costs were to be paid by Respondent.
12. Two Board Members dissented and recommended a three-month suspension.

#### LEGAL CONCLUSIONS

13. Respondent is aware that the OED Director is of the opinion that Respondent engaged in conduct that *inter alia*: adversely reflects on his fitness to practice, he knew or should have known that said conduct violates one or more USPTO Disciplinary Rules of Professional Conduct, as set forth below.
14. Respondent and the OED Director acknowledge that under appropriate circumstances, a public reprimand or suspension would not be too severe a sanction. The OED Director is of the opinion that a public reprimand or suspension is unwarranted in this case in view of all the circumstances.

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<sup>1</sup> Rule 203. Grounds for discipline.

(a) Acts or omissions by a person subject to these rules, individually or in concert with any other person or persons, which violate the Disciplinary Rules, shall constitute misconduct and shall be grounds for discipline, whether or not the act or omission occurred in the course of an attorney-client relationship.

(b) The following shall also be grounds for discipline:

(1) Conviction of a crime which under Enforcement Rule 214 (relating to attorneys convicted of crimes) may result in suspension.

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15. Based upon the foregoing stipulated facts, Respondent acknowledges that Respondent could not have successfully defended his conduct against the charges under investigation predicated on violations of the following Disciplinary Rules of the Code of Professional Responsibility as outlined in Part 10 of 37 C.F.R.:
- (a) Rule 10.23(a), in that Respondent engaged in disreputable or gross misconduct.
  - (b) Rule 10.23(b)(6), in that Respondent engaged in conduct that adversely reflects on his fitness to practice before the USPTO.

### **SANCTIONS**

16. Based upon the foregoing and the fact that the Disciplinary Board of the Supreme Court of Pennsylvania issued a private reprimand, it is **ORDERED** that:
- (a) this FINAL ORDER incorporates the facts and legal conclusions stipulated in Paragraphs 1 through 15 above;
  - (b) Respondent is hereby **Privately Reprimanded** for his conduct in being convicted of misdemeanor possession of marijuana and drug paraphernalia, and engaging in conduct that adversely reflects on his fitness to practice and is disreputable or gross misconduct;
  - (c) the OED Director publish the following notice in the Official Gazette:

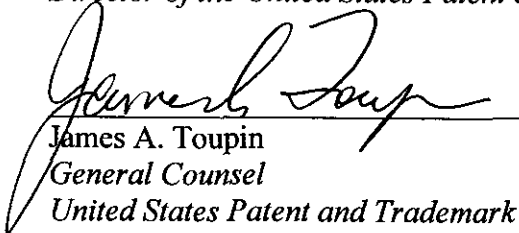
### **NOTICE OF PRIVATE REPRIMAND**

A practitioner has been privately reprimanded by the Director of the United States Patent and Trademark Office pursuant to 35 U.S.C. § 32. This action is taken under the provisions of 37 C.F.R. § 10.133(g) and the Director's Order, pursuant to 37 C.F.R. § 10.159(c), that the proceeding be kept confidential.

- (d) this private reprimand is made of record in file D2004-10, a disciplinary file regarding only Respondent; and
- (e) this Final Order, the Settlement Agreement Pursuant to 37 C.F.R. 10.133(g), record, proceeding, and private reprimand be kept confidential, but the same may be released to any licensing authority including the State Bar upon request thereof and the same may be considered not only in dealing with any further complaint or evidence of the same or similar misconduct which may come to the attention of the USPTO, but it may also be considered in any disciplinary proceeding occurring in the future as an aggravating factor to be taken into consideration in determining any discipline to be imposed, and to rebut any statement or representation by or on Respondent's behalf in any disciplinary proceeding occurring in the future.

On behalf of Jon W. Dudas  
*Undersecretary of Commerce for Intellectual Property and  
Director of the United States Patent and Trademark Office*

August 19, 2004  
Date

  
James A. Toupin  
General Counsel  
United States Patent and Trademark Office

cc: Harry I. Moatz  
Director of Enrollment and Discipline