

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

In the Matter of)	
)	
Hunaid Basrai,)	Proceeding No. D2009-42
)	
Respondent)	

Final Order
Pursuant to 37 C.F.R. § 11.26

The Deputy General Counsel for Enrollment and Discipline and the Director of the Office of Enrollment and Discipline (“OED Director”) for the United States Patent and Trademark Office (“USPTO” or “Office”) and Hunaid Basrai (“Respondent”) have submitted a proposed settlement agreement (“Agreement”) to the Under Secretary of Commerce for Intellectual Property and 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 conclusions, and sanctions found in the Agreement.

Jurisdiction

1. At all times relevant hereto, Respondent has been an agent registered to practice before the USPTO and subject to the disciplinary rules of the USPTO Code of Professional Responsibility set forth at 37 C.F.R. § 10.20 *et. seq*
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. §§ 11.20 and 11.26.

Stipulated Facts

3. Respondent of Bothell, Washington, is an agent registered to practice before the USPTO (Registration Number 53,973) and subject to the disciplinary rules of the USPTO Code of Professional Responsibility set forth at 37 C.F.R. § 10.20 *et. seq*
4. On or about July 25, 2007, Trent W. Bergmann, a Detective with the Seattle Police Department was assigned to the Seattle Police Department’s Internet Crimes Against Children’s Task Force.
5. On or about July 25, 2007, Detective Bergmann was conducting an investigation on the Internet posing as a 13 year-old female under the pseudo-name “J.L.” (Seattle Police Department Case Number 07-305575).

6. According to Respondent, while he was in an adult chat room on the Internet, he noticed that "J.L." had sent a message claiming boredom and a desire to chat. Respondent and "J.L." exchanged chat messages on July 25, 2007. The messages included confessions by "J.L." to enjoying chatting and being sexually active with older men, Respondent's questions thereafter about the body development of "J.L.," and whether this "J.L." was a virgin. Respondent states that he agreed to meet "J.L." for oral sex after Respondent learned that "J.L." was interested in sexually experimenting further and because Respondent's past experience of chatting in adult chat rooms led him to believe that some people posing as underage girls were, in fact, adults.

7. Respondent agreed to meet "J.L." in the parking lot of the Blockbuster Video Store located in the 1500 block of Broadway, in the City of Seattle. He sent a picture of himself and said that he would be driving a cream colored Toyota SUV and would be at the Blockbuster Video Store within fifteen minutes.

8. Respondent arrived at the Blockbuster Video parking lot driving a cream colored Toyota 4Runner at 12:18 PM on July 26, 2007. When he arrived, Detective Bergmann recognized Respondent from his photograph. The Detective took Respondent into custody and advised him of his rights. Respondent represents that he was interrogated only once by the police, namely: at the time of his arrest while in the back seat of a police van in the presence of Detective Bergmann. Respondent represents that he admitted to the detective that he was there for oral sex with "J.L." but that he had reason to doubt that the person he talked to in the adult chat room was underage. Respondent represents that he told the Detective that, over an approximate seven-year period, he had chatted with up to ten different people posing as underage females but who later confessed to be adults. Respondent represents that he cooperated with Detective Bergmann at the time of his arrest by revealing all chat room usernames and e-mail addresses.

9. Respondent was arrested and charged with the crime of Attempted Rape of a Child in the Second Degree.

10. While arrested, Respondent says that his computer was seized, but the task force did not find child pornography or evidence that Respondent chatted with other alleged minors. Respondent believes that, because of the absence of evidence that he possessed child pornography or that he chatted with other alleged minors, the original charge was reduced to attempted child molestation in the second degree with the prosecutor's recommendation of the maximum sentence for such crime.

11. On November 30, 2007, Respondent pled guilty to Attempted Child Molestation in the Second Degree, which is a felony offense under §§ 9A.44.086, 9A.28.020 of the Revised Code of Washington.

12. Respondent was ordered to provide a biological sample for DNA identification analysis and to participate in human immunodeficiency (HIV) testing and counseling. Respondent represents that he complied with such order.

13. Respondent was ordered to participate in a program for the treatment of sexual deviancy and to comply with all rules of the sexual deviancy treatment provider in addition

to the rules imposed by the court. Respondent represents that he complied with such order.

14. Respondent was sentenced to twelve months of confinement in the King County Electronic Home Detention Program. Respondent represents that his sentence was reduced by the Program Director by four months on account of Respondent's compliance of all Program, court, and sexual deviancy treatment provider rules. Respondent represents he successfully completed the King County Electronic Home Detention Program on July 22, 2008.

15. Respondent was also sentenced to twelve months of community-based supervision. Respondent represents that his sentence was reduced by eight days on account of the Respondent's compliance with all requirements of the court as well as the progress reported by his sexual deviancy treatment provider and department of correction officer. Respondent represents that he successfully completed the community based supervision on July 14, 2009 and, accordingly, fully completed the requirements of his sentence and was discharged on July 14, 2009.

16. Respondent was ordered to pay a \$500 Victim Penalty Assessment, and he represents that he has done so.

17. Respondent was also ordered to register in the Washington State Sex Offender Registration program, and he represents that he has done so.

18. Respondent was ordered to have periodic polygraphs and urine analysis as dictated by his sexual deviancy treatment provider and department of correction officer. Respondent represents that he has successfully passed every polygraph and urine analysis without any pre-disclosed rule violations.

19. Respondent was initially ordered not to have unsupervised contact with minors except for his newborn daughter as long as his wife was present nearby. Respondent represents that this order was modified several times during the sentencing period because he successfully passed every polygraph examination, did not violate the rules of court, his sexual deviancy treatment provider, the King County Electronic Home Detention Program, or the department of corrections. Respondent represents, for example, that in June 2008 the order was modified to allow the Respondent to perform hygiene functions for his infant daughter in the presence of his wife. Then, in September 2008, the order was again modified to allow the Respondent to be alone with his infant daughter even when his wife was not present nearby and further modified to allow the Respondent to have e-mail communication with his family members who were minors. Finally, in July 2009, the order was modified to allow the Respondent to perform hygiene functions for his infant daughter when his wife was not present and all restrictions regarding any kind of unsupervised contact with all minors were removed.

20. On July 8, 2009, the OED Director filed a "Disciplinary Complaint Under 35 U.S.C. § 32 and 37 C.F.R. § 11.25" ("Complaint") against Respondent.

21. On October 26, 2009, the USPTO Director entered an order suspending Respondent on an interim basis and referring the Complaint to a hearing officer for the purpose of conducting a formal disciplinary proceeding.

Mitigating Factors

22. King County Superior Court Judge Catherine Shaffer, the judge who sentenced Respondent for his criminal misconduct, offered the following information to the OED Director for consideration regarding Respondent's disciplinary proceeding:

I understand from Mr. Basrai that the Office of Enrollment and Discipline has brought a formal Complaint against him and requested his exclusion from practice before the U.S. Patent and Trademark Office. I know that the Office of Enrollment and Discipline has a responsibility to regulate the patent bar and to mete out discipline where necessary. I thought it might be helpful to the Director of the Office of Enrollment and Discipline to receive the following information from me.

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Since Mr. Basrai's sentencing in December 2007, I have held quarterly hearings to review his progress in sex offender treatment and his compliance with all requirements of the sentence, including the requirements of Mr. Glassman (his treatment provider) and the Department of Corrections (DOC). At every hearing, I was pleased with Mr. Basrai's compliance with all requirements, as well as his progress as reported by Mr. Glassman and his DOC officer. Therefore, I terminated Mr. Basrai's probation supervision at his last review hearing on July 14, 2009, eight days early.

Mr. Basrai has complied with all rules and requirements of treatment and probationary supervision, and the reports I have received indicate that he has gained insight into the dynamics and causes that led to his crime and conviction.

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I hope the Director finds this information to be helpful.

23. Respondent represents that he is genuinely remorseful about his misconduct, and there is evidence to support his representation.

Legal Conclusion

24. Based on the foregoing stipulated facts, Respondent acknowledges that he violated 37 C.F.R. §§ 10.23(a) (engaging in disreputable or gross misconduct), 10.23(b)(3) (engaging in illegal conduct involving moral turpitude), and 10.23(b)(6) (engaging in conduct that adversely reflects on his fitness to practice before the Office) by committing the crime of attempted child molestation in the second degree as defined in sections 9A.44.086 and 9A.28.020 of the Revised Code of Washington.

Sanction

25. Respondent agreed, and it is ORDERED that:

- a. Respondent serve a sixty-month (60) month probationary period commencing *nunc pro tunc* on October 26, 2009;
- b. (i) Respondent be, and hereby is, suspended *nunc pro tunc* from October 26, 2009, for a period of sixty (60) months from the practice of patent, trademark, and non-patent law before the USPTO and (ii) the last twenty-four (24) months of the suspension be, and hereby is stayed until further order of the USPTO Director or his designate;
- c. Respondent shall comply with 37 C.F.R. § 11.58;
- d. Respondent shall be permitted to seek reinstatement under 37 C.F.R. § 11.60 to practice patent, trademark, and non-patent law before the USPTO after serving the first thirty-six (36) months of his suspension unless the stay of the last twenty-four months (24) of his suspension is lifted by order of the USPTO Director or his designate during the first thirty-six (36) months of Respondent's probationary period;
- e. Nothing herein shall be deemed to permit Respondent to practice patent, trademark, and non-patent law before the USPTO until he is reinstated in accordance with 37 C.F.R. § 11.60;
- f. (1) in the event that the OED Director is of the opinion that Respondent, during the sixty (60) month probationary period, failed to comply with any provision of the Final Order or Disciplinary Rule of the USPTO Code of Professional Responsibility, the OED Director shall:
 - (A) issue to Respondent an Order to Show Cause why the USPTO Director or his designate should not order that the stay of the last twenty-four (24) months of his suspension be lifted and Respondent be required to serve the additional twenty-four (24) months for the violations set forth in paragraph 24, above;

(B) send the Order to Show Cause to Respondent at the last address of record Respondent furnished to the OED Director pursuant to 37 C.F.R. § 11.11(a); and

(C) grant Respondent fifteen (15) days to respond to the Order to Show Cause;

and

(2) in the event after the 15-day period for response and consideration of the response, if any, received from Respondent, the OED Director continues to be of the opinion that Respondent, during the probationary period, failed to comply with any provision of the Final Order or any Disciplinary Rule of the USPTO Code of Professional Responsibility, the OED Director shall:

(A) deliver to the USPTO Director or his designate: (i) the Order to Show Cause, (ii) Respondent's response to the Order to Show Cause, and (iii) evidence and argument causing the OED Director to be of the opinion that Respondent failed to comply with any provision of the Final Order or any Disciplinary Rule of the USPTO Code of Professional Responsibility during the probationary period, and

(B) request that the USPTO Director or his designate immediately lift the stay of the suspension and require Respondent to serve the additional twenty-four (24) months for the violations set forth in paragraph 24, above;

- g. The OED Director shall publish the Final Order at the Office of Enrollment and Discipline's Reading Room electronically located at:
<http://des.uspto.gov/Foia/OEDReadingRoom.jsp>;
- h. The OED Director shall publish the following Notice of Suspension in the *Official Gazette*:

Notice of Suspension

Hunaid Basrai of Bothell, Washington, registered patent agent (Registration Number 53,973). Mr. Basrai has been suspended *nunc pro tunc* from October 26, 2009, for sixty (60) months, with the final twenty-four (24) months of the suspension stayed, and placed on probation for sixty (60) months also from October 26, 2009 by the United States Patent and Trademark Office ("USPTO") for violating 37 C.F.R. §§ 10.23(a) (engaging in disreputable or gross misconduct), 10.23(b)(3) (engaging in illegal conduct involving moral turpitude), and 10.23(b)(6) (engaging in conduct that adversely reflects on his fitness to practice before the Office).

Respondent pled guilty to Attempted Child Molestation in the Second Degree, which is a felony offense under §§ 9A.44.086, 9A.28.020 of the Revised Code of Washington. Respondent had been arrested for having arranged to meet for oral sex a person who was posing on the Internet as 13 year-old female. The person was a police detective. Respondent represents that he had agreed to meet the person because Respondent's past experience of chatting in adult chat rooms led him to believe that some people posing as underage girls were, in fact, adults. Respondent was ordered, *inter alia*, to be confined for twelve months in a home detention program, to participate in a program for the treatment of sexual deviancy, and to register in the Washington State Sex Offender Registration program. Mr. Basrai fully served his sentence on July 14, 2009.

A mitigating factor in this matter was the OED Director's receipt of a factual statement from the state court judge who sentenced Mr. Basrai and monitored his probation. The judge expressed that Mr. Basrai had complied with all rules and requirements of treatment and probationary supervision and that Mr. Basrai had gained insight into the dynamics and causes that led to his crime and conviction.

This action is the result of a settlement agreement between Mr. Basrai and the OED Director pursuant to the provisions of 35 U.S.C. §§ 2(b)(2)(D) and 32, and 37 C.F.R. §§ 11.20, 11.26 and 11.59. Disciplinary decisions involving practitioners are posted at the Office of Enrollment and Discipline's Reading Room located at:
<http://des.uspto.gov/Foia/OEDReadingRoom.jsp>.

- i. Pursuant to 37 C.F.R. § 11.59, the OED Director shall give notice of the public discipline and the reasons for the discipline to disciplinary enforcement agencies in the state(s) where Respondent is admitted to practice, to courts where Respondent is known to be admitted, and to the public;
- j. In the event that the USPTO Director or his designate lifts the stay of the last twenty-four (24) months of his suspension and Respondent seeks a review of the USPTO Director's decision to lift the stay, any such review shall not operate to postpone or otherwise hold in abeyance the additional and immediate suspension of Respondent;
- k. If the stay of the suspension is lifted during the probationary period, the OED Director shall disseminate information in accordance with 37 C.F.R. § 11.59;

- l. Nothing in this Proposed Settlement Agreement or the Final Order shall limit the number of times during the probation that discipline may be imposed upon Respondent pursuant to the Final Order;
- m. The record of this disciplinary proceeding, including the Final Order, be considered (1) when addressing any further complaint or evidence of the same or similar misconduct by Respondent brought to the attention of the Office, and/or (2) in any future disciplinary proceeding against Respondent (a) as an aggravating factor to be taken into consideration in determining any discipline to be imposed and/or (b) to rebut any statement or representation by or on Respondent's behalf; and
- n. The OED Director and Respondent bear their own costs incurred to date and in carrying out the terms of this agreement.

OCT 31 2012

Date



JAMES O. PAYNE
Deputy General Counsel for General Law
United States Patent and Trademark Office

on behalf of

David M. Kappos
Under Secretary of Commerce for Intellectual Property and
Director of the United States Patent and Trademark Office

Director of the Office of Enrollment and Discipline
U.S. Patent and Trademark Office

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