

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

In the Matter of)
Robert Michael Bohanek,) Proceeding No. D2014-30
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 Robert Michael Bohanek (“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. Respondent of San Antonio, Texas, was a registered patent attorney (Registration No. 52,627) until August 19, 2014, when he was suspended on an interim basis by the USPTO Director. He is, and at all relevant times, has been, subject to the USPTO Rules of Professional Conduct, 37 C.F.R. § 11.101 *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. §§ 11.19 and 11.26.

Stipulated Facts

3. Respondent was registered as a patent attorney until August 19, 2014, when he was suspended on an interim basis by the USPTO Director.
 4. Respondent's registration number is 52,627.
 5. Respondent was admitted to the Minnesota State Bar on January 16, 2003, Lawyer ID 0324462, and is a member in good standing.
 6. On May 28, 2014, in *The State of Texas v. Robert Bohanek*, Case No. 13-0508-K277, before the 368th Judicial District Court of Williamson County, Texas ("the District Cou

Case”), Respondent confessed to committing the offense of Online Solicitation of a Minor for Sexual Conduct, agreed to plead guilty to said offense, and waived any right to appeal.

7. By Order of Deferred Adjudication; Community Supervision in the District Court Case, filed June 11, 2014, with a date of judgment of May 28, 2014, the Court stated that Respondent had entered a plea of guilty to the offense of Online Solicitation of a Minor for Sexual Conduct, Section 33.021(c) of the Texas Penal Code, a felony.

8. Respondent’s sentencing was deferred and he was placed on community supervision for ten years.

Joint Legal Conclusion

9. Respondent admits that, based on the above stipulated facts, he violated 37 C.F.R. § 11.804(b) (proscribing committing a criminal act that reflects adversely on the practitioner's honesty, trustworthiness, or fitness as a practitioner) by committing the criminal act of online solicitation of a minor for sexual conduct, a felony.

Agreed Upon Sanction

10. Respondent agrees and it is hereby ORDERED that:

- a. Respondent is hereby suspended from practice before the Office in patent, trademark, and other non-patent matters for five years, said period of suspension to run from August 19, 2014;
- b. At any time after thirty-six (36) months from August 19, 2014, Respondent may file a petition for reinstatement pursuant to 37 C.F.R. § 11.60 requesting reinstatement;
- c. Respondent shall remain suspended from practice before the Office in patent, trademark, and other non-patent matters until the OED Director grants a petition reinstating Respondent pursuant to 37 C.F.R. § 11.60(d);
- d. Respondent shall comply with 37 C.F.R. § 11.58;
- e. The OED Director shall comply with 37 C.F.R. § 11.59;
- f. The USPTO shall promptly dissociate Respondent’s name from all USPTO Customer Numbers and Public Key Infrastructure (“PKI”) certificates;
- g. Respondent shall not apply for or obtain a USPTO Customer Number unless and until he is reinstated to practice before the USPTO;

- h. If Respondent is reinstated to practice before the USPTO, he shall serve a probationary period until May 28, 2024;
 - i. Respondent shall be permitted to practice before the USPTO in patent, trademark and other non-patent law during his probationary period, unless his probation is revoked and he is suspended by order of the USPTO Director or otherwise no longer has the authority to practice;
- j. In the event the OED Director is of the opinion that Respondent, during the probationary period, failed to comply with any provision of the Agreement, Final Order, any Disciplinary Rule of the USPTO Rules of Professional Conduct, or any provision of his community supervision in Texas, the OED Director shall:
 - (1) issue to Respondent an Order to Show Cause why the USPTO Director should not order that Respondent be immediately suspended for up to six months for the violation set forth in the Joint Legal Conclusions, above;
 - (2) 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
 - (3) grant Respondent fifteen (15) days to respond to the Order to Show Cause; and
- k. In the event that after the 15-day period for response and after the 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 Agreement, Final Order, any disciplinary rule of the USPTO Rules of Professional Conduct or any provision of his community supervision in Texas, the OED Director shall:
 - (1) deliver to the USPTO Director or his designee: (i) the Order to Show Cause; (ii) Respondent's response to the Order to Show Cause, if any; and (iii) argument and evidence causing the OED Director to be of the opinion that Respondent failed to comply with any provision of the Agreement, Final Order, or any disciplinary rule of the USPTO Rules of Professional Conduct during the probationary period; and
 - (2) request that the USPTO Director immediately suspend Respondent for up to six months for the violations set forth in the Joint Legal Conclusion, above;

- l. In the event the USPTO Director suspends Respondent pursuant to subparagraph k., above, and Respondent seeks a review of the suspension, any such review of the suspension shall not operate to postpone or otherwise hold in abeyance the suspension;
- m. The OED Director shall publish the Final Order at the OED's electronic FOIA Reading Room, which is publicly accessible through the Office's website at: <http://e-foia.uspto.gov/Foia/OEDReadingRoom.jsp>;
- n. The OED Director shall publish the following notice in the *Official Gazette*:

Notice of Suspension and Probation

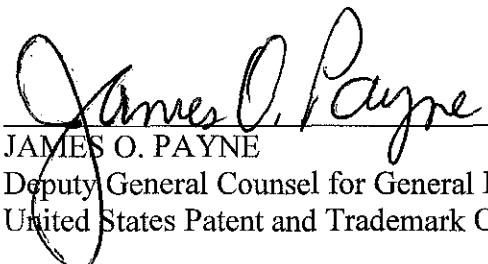
This notice regards Robert Bohanek of San Antonio, Texas, who was a registered patent attorney (Registration No. 52,627) until August 19, 2014, when he was suspended on an interim basis. The United States Patent and Trademark Office ("USPTO" or "Office") has suspended Mr. Bohanek for violating USPTO Rule of Professional Conduct 11.804(b).

Mr. Bohanek, in *The State of Texas v. Robert Bohanek*, Case No. 13-0508-K277, before the 368th Judicial District Court of Williamson County, Texas, judicially confessed to committing the offense of Online Solicitation of a Minor for Sexual Conduct, a felony, and was placed on community supervision for ten (10) years.

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

- o. 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; and/or
 - (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;

- p. The OED Director shall file a motion with the administrative law judge requesting the dismissal of the pending disciplinary proceeding within fourteen (14) days of the date of the Final Order.



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

on behalf of

Michelle K. Lee
Deputy Under Secretary of Commerce for Intellectual Property and
Deputy Director of the United States Patent and Trademark Office

DEC 22 2014

Date

cc:

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

Robert Bohanek
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