

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

In the Matter of)	
)	
Daniel Joseph Miller,)	Proceeding No. D2024-05
)	
Respondent)	
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Final Order Pursuant to 37 C.F.R. § 11.26

The Director of the Office of Enrollment and Discipline (“OED Director”) for the United States Patent and Trademark Office (“USPTO” or “Office”) and Mr. Daniel Joseph Miller (“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 conclusions, and sanctions.

Jurisdiction

1. Respondent of Seattle, Washington, is a registered patent agent (Registration Number 77,553).
2. Respondent is subject the USPTO Rules of Professional Conduct, 37 C.F.R. § 11.101 *et seq.*
3. 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, 11.20, 11.26, 11.32, and 11.39.

Joint Stipulated Facts

4. The USPTO registered Respondent as an agent (Reg. No. 77, 553) on October 29, 2018.

5. On August 24, 2022, in *In State of Washington v. Daniel Joseph Miller*, Case No. 21-1-01994-6 SEA, the Superior Court for Washington for King County found Daniel Joseph Miller guilty, by plea, of Felony Possession of Depictions of Minor Engaged in Sexually Explicit Conduct in the Second Degree (Count 1) and of Non-Felony Attempted Viewing Depictions of Minor Engaged in Sexually Explicit Conduct in the Second Degree (Count 2).

6. On November 4, 2022, in *In State of Washington v. Daniel Joseph Miller*, Case No. 21-1-01994-6 SEA, Respondent was sentenced to three (3) months in jail and twelve (12) months of supervised community custody for Count 1 and was sentenced to an additional minimum of twelve (12) months of unsupervised community custody for Count 2.

The Judgment and Sentencing documents entered in *In State of Washington v. Daniel Joseph Miller*, Case No. 21-1-01994-6 SEA, imposed numerous standard and special conditions and other obligations on Respondent (hereinafter "Judgment and Sentencing Conditions and Obligations").

7. Respondent served time in jail as a result of his criminal conviction, namely: a three (3) month jail sentence reduced to sixty (60) days.

8. Respondent was placed on supervised community custody for twelve (12) months and was released from supervised community custody after serving nine (9) months.

9. Between November 2020 and February 2021, Respondent completed a comprehensive twelve-week, early intervention substance abuse program under the guidance of Assessment & Treatment Associates in Bellevue, Washington.

10. From March 2021 to October 2023, Respondent completed over fifty (50) hours of cognitive behavioral therapy.

11. Respondent represents that he has to date satisfied all conditions and obligations imposed in the Judgment and Sentencing Conditions and Obligations.

12. Pursuant to 37 C.F.R. 11.25(a), upon being convicted of a crime in a court of the United States, any State, or a foreign country, a practitioner subject to the disciplinary jurisdiction of the Office shall notify the OED Director in writing of the same within 30 days from the date of such conviction. Unaware of this obligation, Respondent did not inform the OED Director of his conviction until March 13, 2023.

13. On November 3, 2023, in conjunction with a request that the commencement of any suspension imposed on Respondent by the USPTO Director be applied *nunc pro tunc*, Respondent provided a sworn declaration to OED representing his full compliance with 37 C.F.R. § 11.58 (duties of suspended or excluded practitioner).

14. In conjunction with the request that the commencement of any suspension imposed on Respondent by the USPTO Director be applied *nunc pro tunc*, Respondent represented that he has not practiced before the USPTO since June 2021.

Additional Considerations

15. Respondent has acknowledged his ethical lapses, demonstrated genuine contrition, and accepted responsibility for his acts and omissions.

16. Respondent cooperated with OED's investigation, *e.g.*, by providing *sua sponte* informative, supplemental responses to his original responses to requests for information.

Joint Legal Conclusions

17. Respondent acknowledges that, based on the information contained in the Joint Stipulated Facts, above, he was convicted of a crime that reflects adversely on his fitness

as a practitioner in violation of 37 C.F.R. § 11.804(b) by being convicted of Felony Possession of Depictions of Minor Engaged in Sexually Explicit Conduct in the Second Degree and Non-Felony Attempted Viewing Depictions of Minor Engaged in Sexually Explicit Conduct in the Second Degree as set forth in *In State of Washington v. Daniel Joseph Miller*, Case No. 21-1-01994-6 SEA.

Agreed-Upon Sanction

18. Respondent has freely and voluntarily agreed, and it is hereby ORDERED that:

- a. Respondent is suspended from practice before the Office for twenty-four months (24) months;
- b. Respondent's 24-month suspension shall commence *nunc pro tunc* on November 3, 2023 — *i.e.*, on the date of his submission of his 37 C.F.R. § 11.58 sworn declaration to OED;
- c. (1) If the OED Director is of the good faith opinion that Respondent, has violated or failed to comply with any of the Judgment and Sentencing Conditions and Obligations, any provision of this Agreement, any provision of the Final Order, or any provision of the USPTO Rules of Professional Conduct, the OED Director shall:
 - (A) issue to Respondent an Order to Show Cause why the USPTO Director should not enter an order immediately suspending the Respondent for up to an additional twenty-four (24) months for violating or failing to comply with any of the Judgment and Sentencing Conditions and Obligations, any provision of this Agreement, any provision of the Final Order, or any provision of the USPTO Rules of Professional Conduct;

(B) send the Order to Show Cause to Respondent at the last address of record Respondent furnished to the OED Director;

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

(2) in the event that 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 has violated or failed to comply with any of the Judgment and Sentencing Conditions and Obligations, any provision of this Agreement, any provision of the Final Order, or any provision of the USPTO Rules of Professional Conduct, the OED Director shall:

(A) deliver to the USPTO Director:

(i) the Order to Show Cause;

(ii) Respondent's response to the Order to Show Cause, if any;

(iii) argument and evidence supporting the OED Director's position; and

(B) request that the USPTO Director enter an order immediately suspending Respondent for up to an additional twenty-four (24) months for having violated or failed to comply with any of the Judgment and Sentencing Conditions and Obligations, any provision of this Agreement, any provision of the Final Order, or any provision of the USPTO Rules of Professional Conduct set forth in the Joint Legal Conclusions above;

d. Nothing herein shall prevent the OED Director from seeking discrete discipline for any misconduct that formed the basis for an Order to Show Cause issued pursuant to the preceding subparagraph;

e. In the event the Respondent seeks a review of any action taken pursuant to subparagraph c., above, such review shall not operate to postpone or otherwise hold in abeyance the suspension;

f. Respondent's name shall be dissociated from any Customer Number(s) and USPTO verified Electronic System account(s), and Respondent shall not apply for, obtain, nor have his name added a USPTO Customer Number or a USPTO verified Electronic system account unless and until he is reinstated to practice before the USPTO;

g. The OED Director electronically publish the Final Order at the OED's electronic FOIA Reading Room, which is publicly accessible through the Office's website at: <https://foiadocuments.uspto.gov/oed/>;

h. The OED Director shall publish a notice in the Official Gazette that is materially consistent with the following:

Notice of Suspension

This notice concerns Daniel Joseph Miller of Seattle, Washington, who is a registered patent agent (Registration Number 77,553). The USPTO Director suspended Mr. Miller for two years from practice before the Office for having violated 37 CFR § 11.804(b) (commit a criminal act that reflects adversely on the practitioner's fitness as a practitioner). The suspension shall commence *nunc pro tunc* on November 3, 2023. Under the terms of the Final Order, Mr. Miller can be suspended for up to an additional two years.

On August 24, 2022, in *In State of Washington v. Daniel Joseph Miller*, Case No. 21-1-01994-6 SEA, the Superior Court for Washington for King County found Daniel Joseph Miller guilty by plea of Felony Possession of Depictions of Minor Engaged in Sexually Explicit Conduct in the Second Degree (Count 1) and

Non-Felony Attempted Viewing Depictions of Minor Engaged in Sexually Explicit Conduct in the Second Degree (Count 2). On November 4, 2022, in *In State of Washington v. Daniel Joseph Miller*, Case No. 21-1-01994-6 SEA, Respondent was sentenced to three (3) months in jail and twelve (12) months of supervised community custody (i.e. probation) on Count 1 and was sentenced to an additional minimum of twelve (12) months of unsupervised community custody on Count 2.

The Judgment and Sentencing documents entered in *In State of Washington v. Daniel Joseph Miller*, Case No. 21-1-01994-6 SEA, imposed numerous standard and special conditions and other obligations on Respondent. The Final Order requires Mr. Miller to comply with all of those conditions and obligations.

This action is the result of a settlement agreement between Daniel J. Miller and the OED Director pursuant to the provisions of 35 U.S.C. §§ 2(b)(2)(D) and 32 and 37 C.F.R. §§ 11.19, 11.20, and 11.26. Disciplinary decisions involving practitioners are posted for public reading at the Office of Enrollment and Discipline Reading Room accessible at: <https://foiadocuments.uspto.gov/oed/>;

i. Nothing in this Agreement or the 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 (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;

j. Based on Respondent's agreement to do so, Respondent waives all rights to seek reconsideration of the Final Order under 37 C.F.R. § 11.56, waives the right to have the Final Order reviewed under 37 C.F.R. § 11.57, and waives the right otherwise to appeal or challenge the Final Order in any manner;

k. Each party shall each bear their own costs incurred to date and in carrying out the terms of this Agreement and any Final Order.

Users, Shewchuk, David
Digitally signed by Users, Shewchuk, David
Date: 2024.02.21
10:54:50 -05'00'

David Shewchuk
Deputy General Counsel for General Law
United States Patent and Trademark Office

Date

on delegated authority by

Katherine K, Vidal
Under Secretary of Commerce for Intellectual Property and
Director of the United States Patent and Trademark Office

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that the foregoing Final Order was sent, on this day, to the parties in the manner indicated below-

Via e-mail:

Michael E. McCabe, Jr.
mike@mccabeali.com
Counsel for Respondent

Via e-mail:

Sydney Johnson
Sydney.Johnson@uspto.gov
[REDACTED]
Counsel for the OED Director

2/21/2024

Date



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