

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

In the Matter of:

Hunaid Basrai,

Respondent

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Proceeding No. D2009-42

FINAL ORDER UNDER 37 C.F.R. § 11.25(b)

Pursuant to 37 C.F.R. § 11.25(b)(3), the Director of the United States Patent and Trademark Office (USPTO or Office) hereby orders 1) the interim suspension of Hunaid Basrai (Respondent) from the practice of patent, trademark, and other non-patent law before the USPTO for violation of the ethical standards set out in 37 C.F.R. §§ 10.23(a), 10.23(b)(3), and 10.23(b)(6), and 2) referral of the “Disciplinary Complaint Under 35 U.S.C. § 32 and 37 C.F.R. § 11.25” to a hearing officer for the purpose of conducting a formal disciplinary proceeding.

A “Notice and Order Under 37 C.F.R. § 11.25” mailed July 14, 2009, (Notice and Order) informed Respondent that the Director of Enrollment and Discipline (OED Director) had filed a “Disciplinary Complaint Under 35 U.S.C. § 32 and 37 C.F.R. § 11.25 (Complaint) requesting that the USPTO Director enter an order excluding Respondent from practice before the USPTO. The request for exclusion of the Respondent in the Complaint was based upon Respondent’s November 30, 2007, plea of guilty to the crime of Attempted Child Molestation in the Second Degree, which is an offense defined under §§ 9A.44.086, 9A.28.020, of the Revised Code of Washington and the December 10, 2007, order sentencing Respondent for his crime. The Notice and Order also notified the Respondent

that the OED Director had requested imposition of an interim suspension excluding Respondent from practice pursuant to 37 C.F.R. § 11.25(b)(3). The Notice and Order directed Respondent to file, within 40 days, a response containing information sufficient to establish a genuine issue of material fact based upon any of the grounds permissible under 37 C.F.R. § 11.25(b). Respondent filed, inter alia, a response to the Notice and Order on August 19, 2009 (Response).

Under 37 C.F.R. § 11.25 (b), the USPTO has codified the standards for when a request for an interim suspension based upon conviction of committing a serious crime shall be heard on the documentary record. Specifically 37 C.F.R. § 11.25(b)(3) states, in part:

... the request for interim suspension shall be heard by the USPTO Director on the documentary record unless the USPTO Director determines that the practitioner's response establishes a genuine issue of material fact that: The crime did not constitute a serious crime, the practitioner is not the person who committed the crime, or that the conviction was so lacking in notice or opportunity to be heard as to constitute a deprivation of due process.

The Response does not address the genuine issues of material fact in 37 C.F.R. § 11.25(b)(3) that preclude the USPTO Director from making a decision with respect to an interim suspension based on the written record. Respondent has argued that he is remorseful. Respondent has also argued that he and his family would suffer a "dire" financial hardship if the interim suspension is imposed. Finally the Response describes Respondent's successful post-conviction rehabilitation. Respondent's remorse, the financial impact of the interim suspension, and the Respondent's rehabilitation are not the genuine issues of material fact precluding a decision on the written record under 37 C.F.R. § 11.25(b). Respondent's argument that he has been registered with the

Washington State Sex Offender Information Center since December 14, 2007, contrary to Count 4 in the Complaint, is a response to the disciplinary Complaint itself, not the proposed imposition of an interim suspension on the written record, and is not a basis for contesting the imposition of an interim suspension on the written record pursuant to 37 C.F.R. § 11.25.

Based on the written record, imposition of an interim suspension is appropriate. All of Respondent's submissions and arguments have been considered but Respondent does not dispute that he pled guilty to a serious crime. With respect to his ability to represent others before the USPTO, Respondent's conviction is consistent with having extremely poor judgment and an inclination to exploit persons whom he believes are vulnerable or less sophisticated than him even when such exploitation amounts to criminal behavior. Imposition of an interim suspension while the disciplinary complaint is pending will protect the public and maintain public confidence in those registered to practice before the USPTO.

In the Response, the Respondent requests a waiver of the interim suspension regulation pursuant to 37 C.F.R. §11.3 (a) based on "extraordinary circumstances."

37 C.F.R. § 11.3 states, in part:

In an extraordinary situation, when justice requires, any requirement of the regulations of this part . . . may be suspended or waived by the USPTO Director

...

There is no extraordinary situation justifying a waiver of the interim suspension regulation in this case. Respondent's remorse, the financial impact of the interim suspension, and Respondent's post-conviction rehabilitation are not extraordinary circumstances where justice requires waiver of the interim suspension regulation.

Respondent's argument that he has been registered with the Washington State Sex Offender Information Center since December 14, 2007, contrary to Count 4 in the Complaint, is a

response to the disciplinary complaint itself, not the imposition of an interim suspension. Accordingly, the USPTO Director hereby determines that: 1) there is no genuine issue of material fact under 37 C.F.R. § 11.25(b) and 2) interim suspension of Respondent from practice before the USPTO and referral of the Complaint to a hearing officer for the purpose of conducting a formal disciplinary proceeding is appropriate.

ACCORDINGLY, it is:

ORDERED that Respondent is hereby suspended on an interim basis from the practice of patent, trademark, and other non-patent law before the USPTO in accordance with 37 C.F.R. § 11.25(b) beginning on the date of this Final Order;

ORDERED that the Complaint (a copy of which is attached hereto) is hereby referred, in accordance with 37 C.F.R. § 11.25(b)(5), to the hearing officer identified in the Complaint for the purpose of conducting a formal disciplinary proceeding;

ORDERED that, within thirty (30) days from the date of this Final Order, Respondent's written answer shall be filed with the hearing officer and a copy of the answer shall be served on the OED Director in accordance with the instructions set out in the Complaint;

ORDERED that Respondent is granted limited recognition to practice before the Office beginning on the date of this Final Order and expiring thirty (30) days after the date of this Final Order;

ORDERED that Respondent is directed, during the time of his limited recognition to wind up all client business before the Office and to withdraw from employment in all pending proceedings in accordance with 37 C.F.R. § 10.40;

ORDERED that Respondent is directed not to accept any new clients having business

before the Office during the 30 days of limited recognition afforded by this Final Order;

ORDERED that the OED Director shall publish this Final Order;

ORDERED that the OED Director publish the following notice in the Official Gazette:

NOTICE OF INTERIM SUSPENSION

Hunaid Basrai of Bothell, Washington, is a registered patent agent whose registration number is 53,973. Following review of the documentary record, the Director of the United States Patent and Trademark Office has ordered 1) Mr. Basrai be suspended on an interim basis from the practice of patent, trademark, and non-patent law before the United States Patent and Trademark Office and 2) referral to a hearing officer for the purpose of conducting a formal disciplinary proceeding. The interim suspension and referral are based upon Mr. Basrai's plea of guilty to the crime of Attempted Child Molestation in the Second Degree, which is an offense defined under §§ 9A.44.086, 9A.28.020, of the Revised Code of Washington. This action is taken pursuant to the provisions of 35 U.S.C. § 32 and 37 C.F.R. § 11.25. Disciplinary decisions involving practitioners are posted for public reading at the Office of Enrollment and Discipline's Reading Room located at:
<http://des.uspto.gov/Foia/OEDReadingRoom.jsp>.

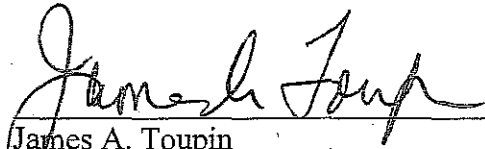
ORDERED that the OED Director shall give notice of this Final Order to 1) appropriate employees of the USPTO; 2) interested departments, agencies, and courts of the United States; and 3) appropriate authorities of any State in which Respondent is known to be a member of the bar;

ORDERED that Respondent comply with 37 C.F.R. § 11.58;

ORDERED that Respondent comply with 37 C.F.R. § 11.25(e) should Respondent seek reinstatement.

OCT 26 2009

Date



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

on behalf of

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

CERTIFICATE OF SERVICE

I certify that the foregoing "Final Order Under 37 C.F.R. § 11.25(b)" and a copy of the "Disciplinary Complaint Under 35 U.S.C. § 32 and 37 C.F.R. § 11.25" was mailed first class certified mail, return receipt requested, this day to the Respondent at the following address which, pursuant to 37 C.F.R. § 11.35, is the last address for the Respondent known to the OED Director:

Hunaid Basrai

OCT 26 2009

Date




United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

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OCT 26 2009

Date



JAMES A. TOUPIN
General Counsel
United States Patent and Trademark Office

on behalf of

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