

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

In the Matter of

William C. Flynn,

Respondent.

Proceeding No.: D05-10

FINAL ORDER

The Director of Enrollment and Discipline (OED Director) and William C. Flynn have submitted a settlement agreement in the above proceeding that meets the requirements of 37 C.F.R. § 10.133(g). Respondent and the OED Director have agreed to certain stipulated facts, legal conclusions, and discipline.

STIPULATED FACTS

1. On or about November 13, 2002, Respondent was criminally charged with 25 counts of possessing pictorial representations of minors in violation of Minnesota Statutes §617.247, subd. 4(a) (possession of pornographic work involving minors).
2. Respondent entered an Alford guilty plea to one count of the criminal charges on or about February 12, 2004. He was placed on probation for five years, ordered to serve 45 days in jail, serve 45 days on electronic home monitoring following completion of the jail sentence, pay a \$1045 fine, register as a sex offender, and provide a DNA sample to the Bureau of Criminal Apprehension.
3. On or about April 5, 2004, the Director of the Office of Lawyers Professional Responsibility of Minnesota filed a petition in the Supreme Court of Minnesota reciting the criminal charges against respondent and his Alford plea to one count thereof, and requesting the Supreme Court to issue an order “disbarring respondent or imposing otherwise appropriate discipline.”
4. On May 12, 2004, the Supreme Court of Minnesota issued an Order stating that Respondent had admitted that his criminal conviction constituted a violation of the Minnesota Rules of Professional Conduct R. 8.4(b), and suspending Respondent from practice of law for five years. The Supreme Court conditioned reinstatement on

fulfillment of several conditions, including successful completion of the professional responsibility examination, satisfaction of continuing legal education requirements, and successful completion of criminal probation.

LEGAL CONCLUSION

5. Based upon the foregoing, Respondent acknowledges that his conduct violated 37 C.F.R. § 10.23(c)(5), in that Respondent was suspended from practicing law on ethical grounds by a duly constituted authority of the State of Minnesota.

SUSPENSION

6. Respondent freely and voluntarily agreed, and it is ordered that:
 - a. Respondent be suspended from practice before the USPTO for a period of five years from September 29, 2004.
 - b. The OED Director will publish the following Notice in the Official Gazette:

Notice of Suspension

William C. Flynn of Victoria, Minnesota, a patent attorney, Registration No. 30,941. In settlement of a reciprocal matter from Minnesota, the Director suspended Mr. Flynn for five years from practice before the United States Patent and Trademark Office in patent, trademark, and other non-patent law cases. This action by the Director is taken pursuant to the provisions of 35 U.S.C. § 32, and 37 C.F.R. § 10.133(g).

- c. Pursuant to 37 CFR § 10.159(c), the suspension be made of record in file C2004-93 regarding only Respondent.
- d. The OED Director shall give notice to the appropriate disciplinary authorities of Minnesota that the USPTO Director has, pursuant to 35 U.S.C. § 32, suspended Respondent.
- e. In the thirty days between the date the USPTO Director signs the order and the effective date of suspension, Respondent shall use the period to wind up all immediate or prospective business of his clients before the USPTO.
- f. Pursuant to 37 CFR § 10.158(a), while suspended, Respondent shall not engage in the unauthorized practice of patent, trademark and other non-patent law before the USPTO.
- g. Pursuant to 37 CFR § 10.158(b)(1), within 30 days of the USPTO Director signing a final order, Respondent shall have notified all bars of which he is a

member and all clients for whom he is handling matters before the Office in a separate written communication of the suspension, and shall file a copy of each written communication with the OED Director within the same 30 day period.

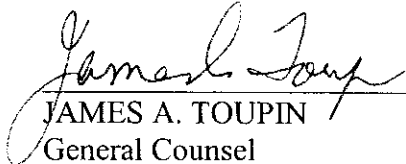
- h. Pursuant to 37 CFR § 10.158(b)(2), within 30 days of the USPTO Director signing a final order, Respondent shall have surrendered all active Office case files to (1) the client or (2) another practitioner designated by the client.
- i. Pursuant to 37 CFR § 10.158(b)(3), while suspended, Respondent shall not hold himself out as authorized to practice law before the Office.
- j. Pursuant to 37 CFR § 10.158(b)(4), while suspended, Respondent shall remove from any monthly, weekly or daily directory/listing published during the period of suspension any statement which would reasonably suggest that he is authorized to practice patent, trademark or other non-patent law before the USPTO.
- k. During the period Respondent is suspended, Respondent shall immediately forward to the registered practitioner designated by the client, or in the client in the absence of a registered practitioner, any communications relating to a client matter that are addressed to Respondent and/or received by him, and that Respondent will take no other legal action in the matter, enter any appearance, or provide any legal advice concerning the matter that is the subject of the communication.
- l. Pursuant to 37 CFR § 10.158(b)(5), while suspended, Respondent shall not advertise his availability to perform or render legal services for any person having immediate, prospective, or pending business before the USPTO.
- m. Pursuant to 37 CFR § 10.158(b)(6), while suspended, Respondent shall not render legal advice or legal services to any person having immediate, prospective or pending business before the USPTO as to that business.
- n. Pursuant to 37 CFR § 10.158(b)(7), while suspended, Respondent shall promptly take steps to modify the Respondent's stationery, office brochures, or other materials, to delete therefrom any advertisement, statement or representation that would reasonably suggest that he is authorized to practice patent, trademark or other non-patent law before the USPTO.
- o. Pursuant to 37 CFR § 10.158(b)(8), within 30 days of the USPTO Director signing a final order, Respondent shall have returned to any client any unearned legal funds, including any unearned retainer fee, and any securities and property of the client. Respondent shall file proof thereof no later than upon filing a petition for reinstatement.

- p. Pursuant to 37 CFR §§ 10.158(c) and (d) allowing suspended practitioners to work as salaried employees of others during the period of suspension, Respondent shall comply with all provisions of those Rules if and when Respondent should assume any such work relating to practice before the Office.
- q. Upon the USPTO Director signing a final order of suspension, Respondent shall promptly take steps to comply with the provisions of 37 CFR §§ 10.158(b)(1) through (b)(8). Further, within 30 days of USPTO Director signing a final order, Respondent shall file with the OED Director an affidavit describing the precise nature of the steps taken to comply with 37 CFR § 10.158(b)(4). Still further, Respondent shall submit proof of compliance with §§ 10.158(b)(1) through (b)(8) with the OED Director no later than upon filing a petition for reinstatement.
- r. Respondent shall promptly notify the OED Director if Respondent is suspended or disbarred from practicing law in another jurisdiction while he is suspended.

REINSTATEMENT

7. On or after September 29, 2009, in compliance with 37 C.F.R. § 10.158, after successful completion of the professional responsibility examination as well as his criminal probation as required by the Minnesota Supreme Court, Respondent may petition for reinstatement in accordance with 37 C.F.R. § 10.160.
8. Respondent acknowledges that, if and when he applies for reinstatement under 37 C.F.R. § 10.160, the Director of OED will conclusively presume, for the limited purpose of determining the application for reinstatement, that the stipulated facts are true, and that Respondent could not have successfully defended himself against the legal conclusions stemming from the stipulated facts.

12/20/05
Date



JAMES A. TOUPIN
General Counsel
United States Patent and Trademark Office
on behalf of Jon W. Dudas,
Under Secretary of Commerce For Intellectual
Property and Director of the United States Patent
and Trademark Office

cc: Harry I. Moatz
Office of Enrollment and Discipline

William C. Flynn