

FILE NO. _____

STATE OF MINNESOTA

IN SUPREME COURT

In Re Petition for Disciplinary Action
against ROBERT MICHAEL BOHANEK,
a Minnesota Attorney,
Registration No. 324462.

**PETITION FOR
DISCIPLINARY ACTION**

TO THE SUPREME COURT OF THE STATE OF MINNESOTA:

The Director of the Office of Lawyers Professional Responsibility, hereinafter Director, files this petition upon the parties' agreement pursuant to Rules 10(a) and 12(a), Rules on Lawyers Professional Responsibility. The Director alleges:

The above-named attorney, hereinafter respondent, was admitted to practice law in Minnesota on January 16, 2003. Respondent currently resides in Converse, Texas. Respondent was suspended in Minnesota on January 1, 2015, for nonpayment of attorney registration fees.

Respondent has committed the following unprofessional conduct warranting public discipline:

FIRST COUNT

1. On May 28, 2014, respondent entered a confession to Online Solicitation of a Minor for Sexual Conduct in violation of Texas Penal Code Section 33.021(c), a second degree felony. Respondent pled guilty in exchange for a plea agreement 10 years deferred adjudication and a \$1,500 fine. *State of Texas v. Robert Bohanek*, Order of Deferred Adjudication and accompanying documents attached.

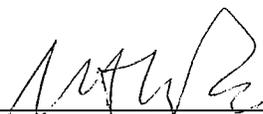
2. Respondent admits he committed the conduct for which he was charged and to which he confessed.

3. Respondent's law practice consists primarily of appearing in matters before the U.S. Patent and Trademark Office (USPTO). On December 22, 2014, respondent was suspended from practice before the USPTO for a period of five years. *In the Matter of Robert Michael Bohanek*, USPTO Proceeding No. D2014-30 attached.

4. Respondent's conduct violated Rule 8.4(b), Minnesota Rules of Professional Conduct.

WHEREFORE, the Director respectfully prays for an order of this Court suspending respondent from the practice of law, awarding costs pursuant to the Rules on Lawyers Professional Responsibility, and for such other, further or different relief as may be just and proper.

Dated: February 3, 2015.



MARTIN A. COLE
DIRECTOR OF THE OFFICE OF LAWYERS
PROFESSIONAL RESPONSIBILITY
Attorney No. 148416
1500 Landmark Towers
345 St. Peter Street
St. Paul, MN 55102-1218
(651) 296-3952

THE STATE OF TEXAS	§	IN THE 368th JUDICIAL
v.	§	DISTRICT COURT OF
ROBERT BOHANEK,	§	WILLIAMSON COUNTY, TEXAS
DEFENDANT		
<u>SID: TX50256587</u>		

ORDER OF DEFERRED ADJUDICATION;
COMMUNITY SUPERVISION

<u>DATE OF JUDGMENT:</u>	May 28, 2014
<u>JUDGE PRESIDING:</u>	Rick Kennon
<u>ATTORNEY FOR THE STATE:</u>	Danny Smith, Elizabeth Whited, Jackie Borcharding
<u>ATTORNEY FOR THE DEFENDANT:</u>	Patrick Hancock
<u>OFFENSE:</u>	Online Solicit Minor Sex Conduct
<u>STATUTE FOR OFFENSE:</u>	Section 33.021(c), Penal Code
<u>CHARGED PUNISHMENT RANGE:</u>	Second Degree Felony
<u>ENHANCED PUNISHMENT RANGE:</u>	Not Applicable
<u>DATE OF OFFENSE:</u>	March 23, 2013
<u>CHARGING INSTRUMENT:</u>	Indictment
<u>TERMS OF PLEA AGREEMENT</u> <u>(IN DETAIL):</u>	10 years deferred adjudication; \$1,500.00 fine
<u>PLEA TO OFFENSE:</u>	Guilty
<u>PLEA TO ENHANCEMENT</u>	Not Applicable
<u>PARAGRAPH(S):</u>	
<u>OTHER AFFIRMATIVE</u>	Not Applicable
<u>SPECIAL FINDINGS:</u>	
<u>DATE ORDER TO COMMENCE:</u>	May 28, 2014
<u>PERIOD OF SUPERVISION:</u>	Ten (10) years
<u>FINE:</u>	\$1,500.00
<u>COURT COSTS:</u>	\$274.00 474.00
<u>TOTAL AMOUNT OF RESTITUTION:</u>	\$0-
<u>NAME AND ADDRESS FOR</u> <u>RESTITUTION:</u>	n/a

FILED
at 4:20 o'clock P M

JUN 11 2014

Lisa David
District Clerk, Williamson Co., TX.

The Sex Offender Registration Requirements under Chapter 62, CCP, apply to the Defendant. The age of the victim at the time of the offense was **not applicable**.

On the date stated above, the above numbered and entitled cause was regularly reached and called for trial, and the State appeared by the attorney stated above, and the Defendant and the Defendant's attorney, as stated above, were also present. Thereupon both sides announced ready for trial, and the Defendant, Defendant's attorney, and the State's attorney agreed in open court and in writing to waive a jury in the trial of this cause and to submit it to the Court. The Court consented to the waiver of a jury. The Defendant further waived the reading of the indictment, and, upon being asked by the Court as to how the defendant pleaded, entered a plea

of **Guilty** to the offense as stated above, **as alleged in the charging instrument**. Furthermore, as to the enhancement paragraphs, if any, the Defendant entered a plea as stated above.

Thereupon, the Defendant was admonished by the Court of the consequences of the plea(s); it appeared to the Court that the Defendant was competent to stand trial and that the defendant was not influenced in making said plea(s) by any consideration of fear or by any persuasion prompting a confession of guilty; and the Court received the free and voluntary plea(s), which are now entered of record in the minutes of the court. The Court proceeded to hear evidence from the State and the Defendant and, having heard argument of counsel, found there was sufficient evidence to support the Defendant's plea and found the offense was committed on the date(s) stated above. A presentence investigation report **was done according to Article 42.12, sec. 9, CCP**. The Court then assessed punishment as stated above.

However, the Court, after due consideration, is of the opinion and so finds that the best interests of society and the Defendant are served in this cause by deferring further proceedings without an adjudication of guilty.

It is, therefore, ORDERED by the Court that further proceedings in this cause shall be and are hereby deferred. The Defendant is placed on community supervision for **Ten (10) years**, with a fine as stated above, beginning on the date stated above, subject to the conditions of supervision imposed by the Court in an order that is hereby incorporated into this order and has been served on the Defendant.

Furthermore, the following special findings or orders apply:

n/a

SIGNED this the 11 day of July, 2017.

Richard Kennon
JUDGE PRESIDING

NOTICE OF APPEAL: WAIVED

DEFENDANT'S NAME: Robert Bohanek

DEFENDANT'S RIGHT THUMBPRINT



Waiver, Consent, Judicial Confession & Plea Agreement

I (the Defendant) understand the admonitions from the Court on the other side of this document and am aware of the consequences of my plea. In addition, my attorney has explained the admonitions to me. If the Grand Jury has not returned an indictment, the Defendant waives the right to be accused by indictment. The Defendant waives the right to: service of a copy of the indictment or information; the time allowed by law to file motions and prepare for trial; and the discovery, investigation and testing of additional evidence, including exculpatory information, if any exists. The Defendant also waives (for guilt and punishment stages) the right to: a trial, including by jury and a speedy trial; the appearance, confrontation and cross-examination of the witnesses against him; the right to remain silent; and the right not to be compelled to give evidence against himself or herself.

The Defendant waives reading of the indictment or information. The Defendant waives and abandons all motions, pleadings and objections made before the entry of the plea. The Defendant consents to an oral stipulation of the evidence and testimony and to the introduction of testimony by affidavits, written statements of the witnesses and any other documentary evidence.

The Defendant JUDICIALLY CONFESSES to committing the offense of:

Online Solicitation of Minor Sexual Conduct

as charged within the indictment or information or as a lesser-included offense to the offense charged in the indictment or information.

A plea agreement exists in this cause, as detailed below.

Defendant agrees to plead guilty to the above specified offense(s), regardless of collateral consequences (including deportation, sex offender registration or prohibition of gun possession); true to enhancement allegations, if any, judicially confess; and waive any right to appeal this case or expunge any records related to any offense(s) included in the plea agreement or dismissed in connection with this case. In addition, all evidence seized in connection with the arrest and prosecution may be destroyed.

State agrees to recommend 10 years deferred adjudication
and \$1,500 fine

(If any form of community supervision is recommended, the Defendant understands that the Court, without rejecting the plea agreement, has the discretion to impose any additional reasonable condition of supervision not listed in or prohibited by the plea agreement, including confinement or inpatient treatment.)

[Signature]
Defendant

[Signature] Matthew Hancock
08893060
Defendant's Attorney (and State Bar No.)

Sworn and subscribed before me on the 28th day of May, 2014. CWE/Well
Deputy District Clerk

The State consents to and approves the foregoing matters. [Signature]
Assistant District Attorney

The Court consents to and approves the waivers, consent to stipulation and introduction of evidence.

[Signature]
District Judge

Having been informed of whatever right to appeal may exist, and having agreed to waive my right to appeal, and after having consulted with my attorney, I voluntarily, knowingly and intelligently waive my right to appeal.

[Signature]
Defendant

It clearly appears to the Court that the Defendant understands the consequences of waiving the right to appeal. The Defendant voluntarily, knowingly and intelligently waived such right. Said waiver is accepted by the Court and ordered filed of record in the minutes of this case.

[Signature]
District Judge



Indictment in the
277th Judicial District Court
of Williamson County, Texas

STATE OF TEXAS
V.
ROBERT BOHANEK

No. 13-0508-K277

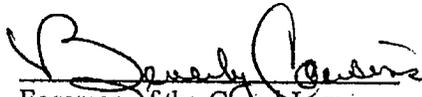
SID: TX0

DA CONTROL NO. 13-00568

IN THE NAME AND BY AUTHORITY OF THE STATE OF TEXAS:

The Grand Jury for the July 2013 term of the 26th Judicial District Court of Williamson County, Texas, having been duly selected, empaneled, sworn, charged and organized, presents that before the presentment of this indictment, on or about the **23rd day of March, 2013**, in Williamson County, Texas, **Robert Bohanek**, hereinafter "defendant", with the intent to arouse or gratify the defendant's sexual desire, over the Internet or by electronic mail or a commercial online service, knowingly solicited **Gary Marquis** as "Sally", a minor, to meet the defendant with the intent that **Gary Marquis** as "Sally", would engage in sexual contact, sexual intercourse, or deviate sexual intercourse with the defendant,

AGAINST THE PEACE AND DIGNITY OF THE STATE.


Foreman of the Grand Jury

Witnesses: Assistant District Attorney

FILED
at 4:45 o'clock P M

SEP 04 2013


District Clerk, Williamson Co., TX.

ENT'D

DISTRIBUTION CHECK LIST FOR DIRECT FILED FELONIES

Designated documents accompany this coversheet and are for the agency indicated.

DATE: 03/25/13

CAUSE NO: 13-0508-K277

DEFENDANT: Bohanek, Robert

OFFENSE(S): ONLINE SOLICIT MINOR SEX CONDUCT

✓ **DISTRICT CLERK (room 135)**

- ✓ WHITE MAGISTRATION FORM (required)
- ORIGINAL COURT NOTICE (required if given)
- ✓ ORIGINAL AFFIDAVIT (required for onsite arrest)
- COPY OF WARRANT AND AFFIDAVIT (if available)
- COPY OF BAIL CONDITIONS AND/OR EPO
- ✓ NO COURT DATE GIVEN, DEFENDANT ~~BONDED OUT~~
- ORIGINAL IGNITION INTERLOCK
- MHMR DOC.
- (OTHER) _____

DISTRICT ATTORNEY (room 265)

- COPY OF MAGISTRATION FORM W/MO# (required)
- COPY OF COURT NOTICE (required, if given)
- COPY OF BAIL CONDITIONS AND/OR EPO
- ALL REMAINING PAPERWORK FILED BY OFFICER
- COPY OF WARRANT AND AFFIDAVIT (if available)
- NO COURT DATE GIVEN, DEFENDANT BONDED OUT
- COPY OF IGNITION INTERLOCK
- (OTHER) _____

FROM: WILLIAMSON COUNTY MAGISTRATE OFFICE

ONLINE SOLICITATION OF A MINOR
PC § 33.021 (C)
2nd DEGREE FELONY

Cause Number: 13-0508-K277
Attorney General case: AG336-2013-3-1

FELONY COMPLAINT

IN THE NAME AND BY THE AUTHORITY OF THE STATE OF TEXAS

I, Gary Marquis, do solemnly swear that I have good reason to believe, and do believe, that Robert Michael Bohanek, who is hereafter called "Defendant", on or about the 23rd day of March 2013 A.D., and before the making and filing of this complaint, in the County of Williamson and the State of Texas, did unlawfully then and there, over the internet by electronic mail, knowingly solicit a minor (Sally 14 year old female persona of Sgt. Marquis) to engage in Sexual Contact and Deivate Sexual Intercourse with the defendant.

Affiant's belief is based on the following:

Affiant is a Texas Peace Officer assigned with the Law Enforcement Division, Cyber Crimes Unit as a Sgt. and is commissioned by the Office of Attorney General of Texas.

On the 20th day of March 2013 Sgt. Marquis, Cyber Crimes Investigator Office of Attorney General, was conducting an undercover internet investigation in within the IRC (Internet Relay Chat) network. Sgt. Marquis was operating as a 14-year-old female. Sgt. Marquis' received an instant message from a suspect using the screen name of "Mr James" this instant message began a chat conversation. During this chat session the suspect was told that the persona was that of a 14-year-old female. Sgt. Marquis had several chat sessions with the suspect using the screen name of "MrJames" on the 21st, 22nd, and 23rd days of March 2013. Sgt. Marquis also sent and received several email messages with this same suspect, with the suspect using the email address of adric68@ymail.com over the same period of time. The suspect spoke in a sexually explicit manner and made arrangements to meet the 14 year old girl on the 23rd day of March 2013 at the Cinemark Theater located at 1335 E Whitestone Blvd, Cedar Park Williamson County Texas for the purpose of engaging in Sexual Contact and Deviate Sexual Intercourse. The suspect arrived at the above location on the 23rd day of March 2013 and was taken into custody. The suspect was interviewed and the suspect confessed to using the screen name of "MrJames" as well as the email address of adric68@ymail.com to communicate in a sexually explicit manner. The suspect also confessed to arraigning the meeting location (Cinemark Theater, 1335 E. Whitestone Blvd, Cedar Park, Williamson County Texas) and traveling to meet the person whom he believed to be a 14-year-old girl for the purpose of Sexual Contact.

FILED
at 8:40 o'clock AM

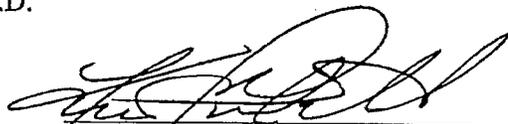
MAR 25 2013

Lisa David
District Clerk, Williamson Co., TX.

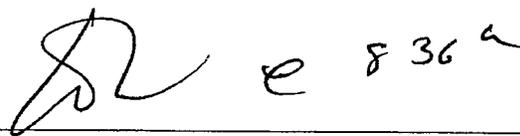
Against The Peace And Dignity Of The State

Sgt. Gary Martin
Affiant

Sworn to and subscribed before me by Kevin Fretwell on this 23rd day of March, 2013
A.D.


Magistrate / Notary / Peace Officer
Williamson County, Texas

On this, the 24 day of March 2013, I hereby acknowledge I
have examined the foregoing affidavit and have determined that probable cause does
exist for the issuance of a warrant of arrest for the individual accused therein.


Magistrate,
Williamson County, TX

**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)	
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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 Court

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

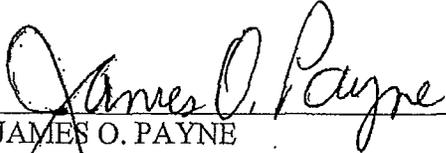
This notice regards Robert Bohanek of San Antonio, Texas, who was a registered patent attorney (Registration No. 52,627) until August 19, 2014, when he was suspended on an interim basis. The United States Patent and Trademark Office ("USPTO" or "Office") has suspended Mr. Bohanek for violating USPTO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

DEC 22 2014

Date

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

cc:

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

Robert Bohanek
220 E. Euclid, Apt. #2
San Antonio, TX 78212