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FILED

NOV 13 2013

DISCIPLINARY BOARD

BEFORE THE DISCIPLINARY BOARD OF THE
WASHINGTON STATE BAR ASSOCIATION

In Re:)	
)	PUBLIC NO. 13 #00068
DAVID SCOTT ENGLE,)	
)	FINDINGS OF FACT, CONCLUSIONS OF
Respondent Lawyer WSBA No. 21935)	LAW AND HEARING OFFICER'S
)	RECOMMENDATION

In accordance with Rule 10.6 of the Rules for Enforcement of Lawyer Conduct (ELC), the undersigned Hearing Officer held a default hearing on October 22, 2013.

I. FINDINGS OF FACTS AND CONCLUSIONS OF LAW

1. The Formal Complaint (Proceeding No. 13#00068) filed on July 23, 2013 and which is attached and marked as Appendix A charged the Respondent, David Scott Engle, with four counts of misconduct as set forth therein.

2. An Order of Default was entered and filed on October 22, 2013.

3. The Washington State Bar Association received no communications and/ or contacts from Respondent Engle after entry of the default order and Respondent Engle did not appear at the default hearing.

4. Pursuant to ELC 10.6(a)(4), the Hearing Officer finds that each of the allegations and violations charged in the Formal Complaint are deemed admitted and established.

FINDINGS OF FACT, CONCLUSIONS OF LAW
AND RECOMMENDATIONS - 1

ORIGINAL

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1 5. Disciplinary Counsel, Jonathan Burke, appeared at the default hearing. Evidence
2 offered and admitted included but was not limited to:

- 3 a) The Formal Complaint filed on July 23, 2013
4 b) Declaration of Association's Records Custodian dated October 17, 2013 regarding a
5 1997 Order on Stipulation to Censure.
6 c) The United States District Court Judgment In A Criminal Case dated October 21,
7 2013 in Cause No. 2:12CR00366-001
8 d) Government's Sentencing Memorandum dated October 15, 2013
9 e) Defendant's Sentencing Memorandum dated October 16, 2013
10 f) Letter by David Engle.

11 6. Based on the evidence admitted, the additional facts are found as follows:

12 BACKGROUND INFORMATION AND FACTS

13 7. David Engle is 50 years old. He was admitted to practice law in the State of
14 Washington in 1992. He worked as the managing partner for a smaller law firm for a period in
15 and around 1994 and apart from that, he worked mainly as a self-employed lawyer. His practice
16 did not generate enough income to be sustained and at the time of his arrest in 2011, he was
17 working as a freight clerk for Fred Meyer. He was also a baseball coach and was heavily
18 involved in Little League baseball in Maple Valley, Washington.

19 8. Mr. Engle was arrested on November 6, 2012, at his home following the execution of a
20 search warrant. Authorities had been investigating an overseas company found to be selling
21 child pornography over the Internet and the Respondent was identified as one of its customers.
22 Upon arrest, he was cooperative. In addition to permitting the search of his property, he
23 identified a storage facility where he stored additional child pornography.

24 9. The child pornography found at Respondent's home and in his storage locker consisted
25 predominantly of young boys in the same age range as the young boys the Respondent coached
in Little League.

10. The Respondent had approximately 26,000 images and nearly 400 videos of
"commercial" child pornography, that is, child pornography received by the Respondent through

1 the mail and over the Internet.

2 11. However, he also had more than 1400 pornographic images and 66 pornographic
3 videos of Minor 1. He had 3 pornographic videos of Minor 2. Although not pornographic, the
4 Respondent had nearly 450 photos he had taken during baseball games of the clothed genital
5 region of other boys he coached. The Respondent was aware of the ages of the boys he
6 coached. In particular, he acknowledges Minors 1 was at least 11 years old when he began
7 abusing him, and that Minor 2 was 13 at the time of sexual molestation.

8 12. On July 15, 2013, Respondent pleaded guilty to four counts of criminal misconduct in
9 federal court and United States District Magistrate Judge Brian Tsuchida accepted those four
10 guilty pleas. These crimes consisted of two felony counts of Production of Child Pornography/
11 Sexual Exploitation of Children in violation of 18 USC §2251(a), one felony count of Receipt of
12 Material Constituting Child Pornography in violation of 18 USC § 2252(a)(2), and one felony
13 count of Possession of Child Pornography in violation of 18 USC §2252(a)(4)(B).

14 13. The Respondent was prominent in the Maple Valley community and so, the community
15 was rocked by the news of Respondent's crimes. One community member stated in an on-line
16 post that the Respondent had "tarnished the name of baseball in this area [Maple Valley]
17 forever."

18 14. Respondent's wife has filed for divorce and tries to avoid the neighbors as much as
19 possible. However, neighbors have asked Respondent's wife to move. Respondent has 3
20 children ages 20, 18, and 16 and neighbors are fearful that one of the his children will continue
21 to perpetuate Respondent's crimes.

22 15. On October 21, 2013, James L. Robert, United States District Court Judge sentenced
23 the Respondent on his four criminal violations.

1 \$2,000.00 purchasing videos constituting or containing child pornography through the mail and
2 over the internet. Some of this was from an overseas company that sold child pornography over
3 the Internet. The Respondent received these pornographic videos through the United States
4 mails at the post office box he used as the mailing address for his law practice.

5 22. Respondent knew the videos and images he received contained child pornography,
6 and knew that the videos and images he received depicted minors engaged in sexually explicit
7 conduct.

8 Additional Facts Regarding Count 4

9 23. On or about November 6, 2012, at Maple Valley, Washington, Respondent knowingly
10 possessed material that contained images of child pornography that had been transported in
11 interstate or foreign commerce by any means, including computer.

12 24. Respondent knew that such items constituted "child pornography" as defined in 18
13 U.S.C. § 2256(8).

14 COUNT 1

15
16 **I.A. Violation of RPC 8.4(b) and RPC 8.4(i) in regards to Minor 1.**

17 Pursuant to RPC 8.4(b), it is professional misconduct for a lawyer to commit a criminal
18 act that reflects adversely on the lawyer's honesty, trustworthiness or fitness as a lawyer in other
19 respects. Pursuant to RPC 8.4(i), it is professional misconduct for a lawyer to commit any act
20 involving moral turpitude, or corruption, or any unjustified act of assault or other act which
21 reflects disregard for the rule of law, whether the same be committed in the course of his or her
22 conduct as a lawyer or otherwise, and whether the same constitutes a felony or misdemeanor.

23 The Respondent committed unjustified acts of assault on Minor 1. Further, by enticing
24 and/ or coercing Minor 1 who was under the age of 16 to engage in sexually explicit conduct for
25 the purpose of producing photos and/ or videos (visual depictions) which have been mailed,

1 transported, or transmitted using any means or facility of interstate commerce (or affecting
2 interstate commerce) ; or by producing or transmitting those photos and/ or videos using
3 materials that have been mailed, shipped, or transported in or affecting interstate commerce by
4 any means, including computer, he violated 18 USC § 2251(a), which is the crime of Production
5 of Child Pornography/ Sexual Exploitation of Children. It is established by a clear preponderance
6 of the evidence that Respondent acted knowingly, and that he violated RPC 8.4(b) (committing a
7 criminal act that reflects on the lawyer's fitness to practice law) and RPC 8.4(i) (commit an act
8 involving moral turpitude).

9
10 **1.B. 1. Presumptive Sanction: Violation of RPC 8.4(b) violates ABA Standard 5.12.**

11 Pursuant to ABA Standard at 5.1 *Failure to Maintain Personal Integrity*, a lawyer
12 engaging in serious criminal conduct may be disbarred if other necessary elements set forth at
13 5.11 are present. Although the Respondent engaged in serious criminal conduct in regards to
14 Minor 1, the other necessary elements were not present.

15 Pursuant to 5.12:

16 Suspension is generally appropriate when a lawyer knowingly engages in criminal
17 conduct which does not contain the elements listed in Standard 5.11 and that
18 seriously adversely reflects on the lawyer's fitness to practice.

18 **1.B. 2. Presumptive Sanction: Sanctions for violation of RPC 8.4(i) not determined by**
19 **ABA Standards.**

20 Case law, rather than the ABA Standards, determines the presumptive sanction for
21 violations of RPC 8.4(i) involving acts of moral turpitude, In re Disciplinary Proceeding Against
22 Day, 162 Wn.2d 527, 542, 173 P.3d 915 (2007).

23 RPC 8.4(i) cases "dealing with disbarment or other discipline of lawyers involve two
24 distinct characteristics: (1) cases in which the lawyer's conduct has shown him to be one who
25 cannot properly be trusted to advise and act for clients; and (2) cases in which his conduct has

1 been such that, to permit him to remain a member of the profession and to appear in court,
2 would cast a serious reflection on the dignity of the court and on the reputation of the
3 profession." Id. at 544.

4 In regards to the first characteristic, fitness to practice, an attorney can be sanctioned for
5 professional misconduct occurring outside of the traditional practice of law if such conduct
6 reflects adversely on the attorney's ability to practice law. However, unfitness to practice can
7 only be found only when there is some nexus between the attorney's conduct and those
8 characteristics relevant to the practice of law. Evidence of an attorney's capability will not
9 always be determinative of whether an act reflects adversely on his or her fitness.

10 Here, the Respondent took advantage of his long standing role as a Little League
11 baseball coach to gain the trust, respect, and admiration of his community, in particular, the Little
12 League community. Due to his involvement in Little League, he gained access to young boys
13 between the ages of 11 and 16 years old. He was able to travel with young boys, to transport
14 these boys in his car, and to stay with these boys in hotels (presumably for tournaments and /or
15 long distance baseball events).

16 A coach is in a trust relationship with his players. Young players and their families can
17 be vulnerable to abuse where they defer to and place trust in a coach they look to as a role
18 model. Due to the potential for abuse, youth organizations commonly require volunteers (and
19 employees) to submit to and clear criminal background checks as a condition of their work with
20 youths. These volunteers and employees must be able to put the needs of their players above
21 their own and to act in the players' best interests.

22 Likewise, a lawyer-client relationship is a trust relationship. The lawyer is in a position of
23 power when interacting with vulnerable populations. In the same way that a lawyer must have
24 adequate abilities in comprehension to perform legal work, the lawyer's ability to put his client's
25 needs above his own needs is an essential quality or characteristic necessary for the practicing

1 lawyer. Therefore, there is a clear nexus between Respondent's misconduct as a baseball coach
2 and that which is required of him as a lawyer. The Respondent is unfit to practice as he cannot
3 be properly trusted to advise and act for clients.

4 In regards to the second characteristic, in this case, the Respondent's misconduct
5 occurred over a period of years with a child as young as 11 years old. The misconduct was so
6 deemed so deviant, shocking, and alarming to the community that neighbors were fearful that
7 Respondent's children might carry on the Respondent's misconduct if they remained in the
8 neighborhood. To permit the Respondent to remain a member of the legal profession and to
9 appear in court, would cast a serious reflection on the dignity of the court and on the reputation
10 of the profession.

11 Whether analyzing for basic fitness to practice law or determining if his presence in the
12 Washington State Bar would harm the dignity of the court and legal profession, consistent with
13 the Supreme Court's decision in In re Day, Respondent's violations of RPC 8.4(i) the
14 Respondent's misconduct was a flagrant violation of the rule of law, and involved moral turpitude
15 warranting disbarment.

16
17 **1.C. Potential or Actual Injury due to Violation of RPC 8.4(b) and RPC 8.4(i):**

18 The Respondent's conduct caused actual injury to Minor 1 whose grades have suffered
19 and who is experiencing personal problems that will require long term counseling. He caused
20 injury to the reputation of the Little League Maple Valley baseball community where he had
21 been a highly involved baseball coach. Finally, he cast the legal profession into disrepute in the
22 eyes of the public and harmed the public's trust of the legal profession.

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COUNT 2

2.A. Violation of RPC 8.4(b) and RPC 8.4(i) in regards to Minor 2.

The Respondent committed an unjustified assault on Minor 1, a 13 year old child he coached, by fondling him while he slept. By video taping himself fondling Minor 2, Respondent knowingly committing the crime of Production of Child Pornography/ Sexual Exploitation of Children in violation of 18 U.S.C. § 2251(a). As a result he violated RPC 8.4(b) and RPC 8.4(i).

2.B. 1. Presumptive Sanction: Violation of RPC 8.4(b) violates ABA Standard 5.12.

The Respondent engaged in serious criminal conduct. However, the other necessary elements set forth at 5.11 were not present.

Pursuant to 5.12:

Suspension is generally appropriate when a lawyer knowingly engages in criminal conduct which does not contain the elements listed in Standard 5.11 and that seriously adversely reflects on the lawyer's fitness to practice.

2.B. 2. Presumptive Sanction: Sanctions for violation of RPC 8.4(i) not determined by ABA Standards.

Respondent's crime against Minor 2 was outside the practice of law. However, the requisite nexus between the attorney's conduct and those characteristics relevant to the practice of law are present.

Pursuant to In re Disciplinary Proceeding Against Day, 162 Wn.2d 527, 542, 173 P.3d 915 (2007), the presumptive sanction for a violation of RPC 8.4(i) involving acts of moral turpitude is disbarment.

2.C. Potential or Actual Injury due to Violation of RPC 8.4(b) and RPC 8.4(i):

The Respondent's violated Minor 2's trust, caused injury to the reputation of the Little League Maple Valley baseball community, and he cast the legal profession into disrepute in the eyes of the public and harmed the public's trust of the legal profession.

COUNT 3

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3.A. Violation of RPC 8.4(b) and RPC 8.4(i) in regards to receipt of Child Pornography

The Respondent pled guilty to the crime of Receipt of Material Constituting or Containing Child Pornography in violation of 18 U.S.C § 2252(a)(2) which prohibits knowingly receiving, or distributing, any visual depiction using any means or facility of interstate or foreign commerce or that has been mailed, or has been shipped or transported in or affecting interstate or foreign commerce, or which contains materials which have been mailed or so shipped or transported, by any means including by computer, or knowingly reproduces any visual depiction for distribution using any means or facility of interstate or foreign commerce or in or affecting interstate or foreign commerce or through the mails, if the producing of such visual depiction involves the use of a minor engaging in sexually explicit conduct; and such visual depiction is of such conduct.

In this case, the Respondent knowingly received approximately 26,000 images and nearly 400 videos of commercial child pornography through the mail and / or over the internet. It is found that Respondent violated RPC 8.4(b) and RPC 8.4(i) by a clear preponderance of the evidence.

3.B. 1. Presumptive Sanction: Violation of RPC 8.4(b) violates ABA Standard 5.12.

The Respondent committed a felony and he engaged in serious criminal conduct. However, the other necessary elements set forth at 5.11 were not present.

Pursuant to 5.12:

Suspension is generally appropriate when a lawyer knowingly engages in criminal conduct which does not contain the elements listed in Standard 5.11 and that seriously adversely reflects on the lawyer's fitness to practice.

In this case, the Respondent's misconduct was outside the practice of law. There is no

1 evidence he cheated the vendor of the goods or that he interacted with minors to secure the
2 pornography received through the mail or on the internet. The nexus between his conduct and
3 those characteristics relevant to the practice of law are not strong. If the Respondent had only
4 purchased and receive one pornographic video, without more, one could not seriously question
5 the Respondent's fitness to practice law.

6 However, the Respondent had pornography consisting of 26,000 images and almost 400
7 videos of minors, a child population that adults are to protect. As he knew his conduct was
8 criminal, he knew or should have known that he was placing his license to practice law in
9 jeopardy. Despite that, he was still unable to reign in his impulses. Without deciding how many
10 times the Respondent would have to criminally receive pornographic images or videos of
11 children to be able to find that his conduct seriously adversely reflects on his fitness to practice
12 law, it is found that in this case, his criminal conduct seriously adversely reflects on his fitness to
13 practice law and that the applicable presumptive sanction set forth at 5.12 applies.

14
15 **3.B. 2. Presumptive Sanction: Sanctions for violation of RPC 8.4(i) not determined by**
16 **ABA Standards.**

17 The Respondent was secretive and private about his receipt of child pornography.
18 However, the excessive nature of the misconduct reflected in the huge volume of images and
19 videos he received demonstrate a flagrant disregard for the rule of law and moral turpitude.
20 Once his misconduct was discovered and the facts were made public, due to the sheer volume
21 of pornographic material he received, his presence in the Washington State Bar would harm the
22 dignity of the court and legal profession. Pursuant to In re Disciplinary Proceeding Against Day,
23 162 Wn.2d 527, 542, 173 P.3d 915 (2007). The presumptive sanction for a violation of RPC
24 8.4(i) involving acts of moral turpitude is disbarment.

1 **3.C. Potential or Actual Injury due to Violation of RPC 8.4(b) and RPC 8.4(i):**

2 The Respondent cast the legal profession into disrepute in the eyes of the public.

3
4 **COUNT 4**

5 **4.A. Violation of RPC 8.4(b) and RPC 8.4(i) in regards to possession of Child**
6 **Pornography**

7 The Respondent pled guilty to the crime of Possession of Child Pornography in violation
8 of 18 U.S. C. § 2252(a)(4)(B) which prohibits knowingly possessing, or knowingly accessing with
9 intent to view, 1 or more books, magazines, periodicals, films, video tapes, or other matter which
10 contain any visual depiction that has been mailed, or has been shipped or transported using any
11 means or facility of interstate or foreign commerce or in or affecting interstate or foreign
12 commerce, or which was produced using materials which have been mailed or so shipped or
13 transported, by any means including by computer, if the producing of such visual depiction
14 involves the use of a minor engaging in sexually explicit conduct; and such visual depiction is of
15 such conduct.

16 In this case, the Respondent not only possessed a huge amount of child pornography he
17 had secured commercially, but he possessed 1400 pornographic images and 66 pornographic
18 videos which to some degree depicted his sexual abuse of Minor 1 . By knowingly committing
19 the crime of Possession of Child Pornography in violation of 18 U.S. C. § 2252(a)(4)(B),
20 Respondent violated RPC 8.4(b) and RPC 8.4(i).

21
22 **4.B. 1. Presumptive Sanction: Violation of RPC 8.4(b) in regards to possession of child**
23 **pornography violates ABA Standard 5.12.**

24 Pursuant to 5.12:

25 Suspension is generally appropriate when a lawyer knowingly engages in criminal
conduct which does not contain the elements listed in Standard 5.11 and that
seriously adversely reflects on the lawyer's fitness to practice.

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2 **4.B. 2. Presumptive Sanction: Sanctions for violation of RPC 8.4(i) in regards to**
3 **possession of child pornography is not determined by ABA Standards.**

4 Respondent's conduct of possessing child pornography purchased commercially and / or
5 produced himself while sexually assaulting minors involved acts of moral turpitude. Pursuant to
6 In re Disciplinary Proceeding Against Day, 162 Wn.2d 527, 542, 173 P.3d 915 (2007), the
7 presumptive sanction for a violation of RPC 8.4(i) involving acts of moral turpitude is disbarment.

8
9 **II. Aggravating and Mitigating Factors**

10
11 The following aggravating factors set forth in Section 9.22 of the ABA Standards apply in this
12 case:

- 13 (a) Prior disciplinary record [In 1997, Respondent received a reprimand for failing to
14 prepare for a client's hearing and for withdrawing from representation effective
15 three days before the client's trial];
16 (b) Dishonest or selfish motive [Respondent was motivated by selfish interests and
17 sexual gratification];
18 (c) Multiple offenses [Respondent was charged with four criminal counts];
19 (d) Vulnerability of victims [One victim was identified as a minor 13 years old, and a
20 second was identified as a minor aged as young as 11 years old when the abuse
21 began]; and
22 (e) Substantial experience in the practice of law [Respondent was admitted to
23 practice in 1992].

24 It is an additional aggravating factor that Respondent failed to file an answer to the
25 Formal Complaint as required by ELC 10.5(a).

One mitigating factor under ABA Standards § 9.32 applies in this matter.

- (a) Remorse [Respondent pled guilty to his crimes and wrote a letter expressing
remorse].

1 The six aggravating factors with only one mitigating factor further support the ultimate sanction of
2 disbarment.

3 **IV. RECOMMENDATION**

4 Where the Hearing Officer finds multiple ethical violations, the "ultimate sanction
5 imposed should at least be consistent with the sanction for the most serious instance of
6 misconduct among a number of violations." In re Disciplinary Proceeding Against Petersen, 120
7 Wn.2d 833, 854, 846 P.2d 1330 (1993) (quoting ABA Standards at 6).

8 Here, the Association proved Counts 1, 2, 3, and 4 by a clear preponderance of the
9 evidence with regards to the Respondent's violation of RPC 8.4(b) and RPC 8.4(i).

10 Pursuant to In re Disciplinary Proceeding Against Day, 162 Wn.2d 527, 542, 173 P.3d
11 915 (2007), the presumptive sanction for his violation of either RPC 8.4(b) and RPC 8.4(i) is
12 disbarment.

13 Based on the ABA standards and the applicable aggravating factors, the Hearing Officer
14 recommends that Respondent, David Scott Engle, be disbarred.

15
16 DATED this 4th day of November, 2013.

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19 Andre Kita Silva
20 Andrekita Silva,
21 Hearing Officer

22 **CERTIFICATE OF SERVICE**

23 I certify that I caused a copy of the PDF, COL & HO'S Recommendation
24 to be delivered to the Office of Disciplinary Counsel and to be mailed
25 to David Engle Respondent's Counsel
at PO Box 1244 Maple Valley, WA 98038, by Certified First class mail
postage prepaid on the 13th day of NOVEMBER, 2013

[Signature]
Clerk/Counsel to the Disciplinary Board

APPENDIX A

FILED

JUL 23 2013

DISCIPLINARY BOARD

BEFORE THE
DISCIPLINARY BOARD
OF THE
WASHINGTON STATE BAR ASSOCIATION

In re

DAVID SCOTT ENGLE,

Lawyer (Bar No. 21935).

Proceeding No. 13#00068

FORMAL COMPLAINT

Under Rule 10.3 of the Rules for Enforcement of Lawyer Conduct (ELC), the Washington State Bar Association (the Association) charges the above-named lawyer with acts of misconduct under the Rules of Professional Conduct (RPC) as set forth below.

ADMISSION TO PRACTICE

1. Respondent David Scott Engle was admitted to the practice of law in the State of Washington on November 9, 1992.

FACTUAL ALLEGATIONS

Facts Regarding Counts 1 and 2

2. Beginning on a date unknown, and continuing through no later than November 6, 2012, Respondent knowingly produced images and videos of two minors, hereafter referred to as Minor 1 and Minor 2. Some of the images Respondet produced of Minor 1 and Minor 2

1 were child erotica, but a majority of them constituted "child pornography" as defined in Title 18
2 United States Code, section (18 U.S.C. §) 2256(8).

3 3. At all times during the production of these images and videos, Respondent knew
4 that Minor 1 and Minor 2 had not yet reached sixteen years of age.

5 4. Respondent knew or had reason to know that the said images and videos had been
6 mailed, shipped, or transported across state lines or in foreign commerce.

7 5. As described above, Respondent committed the crime of Production of Child
8 Pornography/Sexual Exploitation of Children in violation of 18 U.S.C. § 2251(a) and (e).

9 6. On July 15, 2013, Respondent pleaded guilty to two felony counts for Production
10 of Child Pornography/Sexual Exploitation of Children in violation of 18 U.S.C. § 2252(a) and
11 (e) in connection production of videos and images in United States of America v. David Engle,
12 United States District Court for the Western District of Washington, Case No. CR12-366 JLR
13 (hereafter referred to as US v. David Engle).

14 **Facts Regarding Count 3**

15 7. On multiple occasions between August 5, 2005 and April 2011, Respondent
16 knowingly ordered and purchased multiple videos constituting or containing child pornography
17 from a website.

18 8. Respondent received these videos through the United States mails from outside the
19 State of Washington.

20 9. Respondent also ordered, purchased, and received multiple images of child
21 pornography from the same website over the Internet.

22 10. Respondent knew the videos and images he received contained child pornography,
23 and knew that the videos and images he received depicted minors engaged in sexually explicit
24

1 | conduct.

2 | 11. As described above, Respondent committed the crime of Receipt of Material
3 | Constituting or Containing Child Pornography in violation of 18 U.S.C § 2252(a)(2) and (b)(1).
4 | On July 15, 2013, Respondent pleaded guilty to one felony count for Receipt of Material
5 | Constituting or Containing Child Pornography in violation of 18 U.S.C § 2252(a)(2) and (b)(1)
6 | in US v. David Engle.

7 | **Facts Regarding Count 4**

8 | 12. On or about November 6, 2012, at Maple Valley, Washington, Respondent
9 | knowingly possessed matters that contained images of child pornography that had been
10 | transported in interstate or foreign commerce by any means, including computer.

11 | 13. Respondent knew that such items constituted “child pornography” as defined in 18
12 | U.S.C. § 2256(8).

13 | 14. As described above, Respondent committed the crime of Possession of Child
14 | Pornography in violation of 18 U.S.C. § 2252(a)(4)(B).

15 | 15. On July 15, 2013, Respondent pleaded guilty to one felony count for Possession of
16 | Child Pornography in violation of 18 U.S.C. § 2252(a)(4) in US v. David Engle.

17 | 16. On July 15, 2013, United States District Magistrate Judge Brian Tsuchida accepted
18 | Respondent’s plea of guilty to the four counts of criminal conduct described above.

19 | **COUNT 1**

20 | 17. By committing the crime of Production of Child Pornography in violation of 18
21 | U.S.C. § 2251(a) and (e) in connection with Minor 1, Respondent violated RPC 8.4(b)
22 | (committing a criminal act that reflects on the lawyer’s fitness to practice law) and/or RPC
23 | 8.4(i) (commit an act involving moral turpitude).

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COUNT 2

18. By committing the crime of Production of Child Pornography in violation of 18 U.S.C. § 2251(a) and (e) in connection with Minor 2, Respondent violated RPC 8.4(b) and/or RPC 8.4(i).

COUNT 3

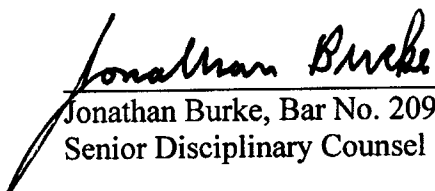
19. By committing the crime of Receipt of Material Constituting or Containing Child Pornography in violation of 18 U.S.C § 2252(a)(2) and (b)(1), Respondent violated RPC 8.4(b) and/or RPC 8.4(i).

COUNT 4

20. By committing the crime of Possession of Child Pornography in violation of 18 U.S. C. § 2252(a)(4)(B), Respondent violated RPC 8.4(b) and/or RPC 8.4(i).

THEREFORE, Disciplinary Counsel requests that a hearing be held under the Rules for Enforcement of Lawyer Conduct. Possible dispositions include disciplinary action, probation, restitution, and assessment of the costs and expenses of these proceedings.

Dated this 23RD day of July, 2012.


Jonathan Burke, Bar No. 20910
Senior Disciplinary Counsel