

STATE BAR COURT OF CALIFORNIA
HEARING DEPARTMENT – LOS ANGELES

In the Matter of)	Case No.: 02-O-13978; 02-O-14009;
)	02-O-14176; 02-O-14294;
)	02-O-14409; 02-O-15414;
DANNY ROBERT TAYLOR,)	03-O-01817; 03-O-02331
)	(Consolidated)
)	
Member No. 91924,)	
)	DECISION AND ORDER SEALING
)	CERTAIN DOCUMENTS
A Member of the State Bar.)	

In August 2002, respondent Danny Robert Taylor (respondent) contacted the State Bar of California's Lawyer Assistance Program (LAP) to assist him with his substance abuse issue, and on August 15, 2003, respondent executed a Participation Agreement with the LAP.

Thereafter, the State Bar of California, Office of the Chief Trial Counsel (State Bar) filed a Notice of Disciplinary Charges against respondent in case numbers 02-O-14409, 03-O-01817, and 02-O-14009. The court held a status conference with the parties on June 18, 2003.

Thereafter, on June 24, 2003, the court filed an order pursuant to the status conference, in which it ordered these three matters consolidated and, as respondent had elected to participate in the LAP, the case was referred to the Honorable Robert M. Talcott.

On June 27, 2003, the State Bar filed a NDC against respondent in case number 02-O-13978. On August 22, 2003, the State Bar filed a NDC against respondent in case number 02-O-

14176; 02-O-14294; 02-O-15414. On October 17, 2003, the State Bar filed a NDC against respondent in case number 03-O-02331. All the matters pertaining to respondent were consolidated pursuant to an order filed on December 18, 2003.¹

On December 5, 2003, respondent submitted an amended declaration to the court which established a nexus between his substance abuse issue and his misconduct. The parties entered into a Stipulation Re Facts and Conclusions of Law on April 1, 2005.

Commencing August 7, 2005, respondent was enrolled inactive as a condition of his participation in the ADP. Respondent remained on inactive status as a condition of his ADP participation until January 25, 2006.²

On August 8, 2005, respondent and his counsel signed the Contract and Waiver for Participation in the State Bar Court's ADP (Contract). On August 10, 2005, the court lodged its Statement on Alternative Dispositions and Orders, the Contract, and the parties' Stipulation Re Facts and Conclusions of Law,³ and the court accepted respondent into the ADP as of this date.

At a status conference held on September 30, 2008, the court found that respondent has successfully completed the ADP, and the parties' Stipulation Re Facts and Conclusions of Law, with the attached order approving the stipulation, was filed on that day.⁴

Accordingly, the court now issues this decision recommending that the Supreme Court impose upon respondent the discipline set forth below in this decision.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

In this matter, respondent stipulated to misconduct in five client matters, two non-client matters, as well as to engaging in the unauthorized practice of law. Among other things,

¹ Effective April 1, 2004, these matters were reassigned to the undersigned judge.

² Respondent filed his rule 955 (now rule 9.20) of the California Rules of Court compliance declaration on September 20 and December 21, 2005.

³ The court executed the order approving the parties' stipulation on August 10, 2005.

⁴ On October 6, 2008, the court filed an order finding that respondent has successfully completed the ADP.

respondent stipulated that in four matters he intentionally, recklessly, or repeatedly failed to perform legal services with competence; failed to cooperate and participate in five disciplinary investigations; engaged in acts involving moral turpitude, dishonesty or corruption by issuing checks against insufficient funds in two matters and by misappropriating \$3,135 in settlement funds received on a client's behalf in another matter; failed to comply with the terms and conditions of his disciplinary probation; improperly withdrew from employment in two matters; failed to communicate in three matters; failed to maintain client funds in a trust account in one matter; and, in one matter, failed to promptly pay, upon a client's request, client funds in respondent's possession which the client was entitled to receive.

The parties' Stipulation Re Facts and Conclusions of Law, including the court's order approving the stipulation, are attached hereto and hereby incorporated by reference, as if fully set forth herein. The Stipulation Re Facts and Conclusions of Law sets forth the factual findings, legal conclusions and aggravating and mitigating circumstances in this matter.

Furthermore, at the time respondent engaged in his misconduct, he was suffering from a substance abuse issue, and respondent's substance abuse issue directly caused the misconduct which forms the basis for this proceeding. Supreme Court case law establishes that an attorney's rehabilitation from alcoholism or other substance abuse problems can be accorded significant weight if it is established that (1) the abuse was addictive in nature; (2) the abuse causally contributed to the misconduct; and (3) the attorney has undergone a meaningful and sustained period of rehabilitation. (*Harford v. State Bar* (1990) 52 Cal.3d 93,101; *In re Billings* (1990) 50 Cal.3d 358, 367.)

Respondent has been participating in the LAP since August 15, 2003.⁵ The LAP issued a Certificate of One Year Participation in the Lawyer Assistance Program dated September 9, 2008, which reflects that respondent has complied with certain requirements set forth in his LAP Participation Agreement for at least one year prior to the date of the certificate, and that the LAP is not aware of respondent's use of any unauthorized substances during this time period.

Respondent has also successfully completed the ADP. Respondent's successful completion of the ADP, which required his successful participation in the LAP, as well as the Certificate of One Year Participation in the Lawyer Assistance Program from LAP, qualify as clear and convincing evidence that respondent no longer suffers from the substance abuse issue which led to his misconduct. Accordingly, it is appropriate to consider respondent's successful completion of the ADP as a further mitigating circumstance. (Rules Proc. of State Bar, tit. IV, Stds. for Atty. Sanctions for Prof. Misconduct, standard 1.2(e)(iv).)

DISCUSSION

The purpose of State Bar disciplinary proceedings is not to punish the attorney but, rather, to protect the public, to preserve public confidence in the legal profession, and to maintain the highest possible professional standards for attorneys. (*Chadwick v. State Bar* (1989) 49 Cal.3d 103, 111.)

After reviewing the parties' briefs on discipline and considering the Standards for Attorney Sanctions for Professional Misconduct (standard(s)) and case law cited therein, the parties' stipulation setting forth the facts, conclusions of law, and the aggravating and mitigating circumstances with respect to this disciplinary proceeding, and respondent's declaration regarding the nexus between his substance abuse issue and his misconduct in this matter, the court advised the parties of the discipline which would be recommended to the Supreme Court if

⁵ Although respondent signed a Participation Agreement with the LAP on this date, he self-referred himself to the LAP in August 2002.

respondent successfully completed the ADP and the discipline which would be recommended if respondent was terminated from the ADP.

In determining the appropriate discipline to recommend in this matter if respondent successfully completed the ADP, the court considered the discipline recommended by the parties, as well as certain standards and case law. Respondent recommended discipline ranging from no discipline but the payment of restitution to two years' stayed suspension, two years probation, and no actual suspension. In contrast, the State Bar recommended that if respondent successfully completed the ADP, he should be suspended from the practice of law for two years and until restitution is paid in full (if restitution was not paid in full as a condition of respondent's successful completion of ADP); that execution of such suspension be stayed; that respondent be placed on three years' probation with conditions; and that respondent be actually suspended for six months. The court also considered standards 1.6, 1.7(b), 2.2, 2.3, 2.4(b), 2.6, and 2.10, and found *In the Matter of Kaplan* (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 509 and *Silva-Vidor v. State Bar* (1989) 49 Cal.3d 1071 instructive.

After agreeing to the discipline which the court would recommend to the Supreme Court if respondent successfully completed or was terminated from the ADP, respondent executed the Contract to participate in the ADP; the Contract was lodged with the court; and respondent's period of participation in the ADP commenced.

Thereafter, respondent successfully participated in the ADP and, as set forth in the October 6, 2008, status conference order, the court found that respondent successfully completed the ADP. Accordingly, the court will recommend to the Supreme Court the imposition of the discipline set forth in the court's Statement on Alternative Dispositions and Orders if respondent successfully completed the ADP.

RECOMMENDED DISCIPLINE

IT IS HEREBY RECOMMENDED that respondent **DANNY ROBERT TAYLOR** be suspended from the practice of law in the State of California for a period of two years and until he makes the specified restitution as set forth below and provides satisfactory proof thereof to the Office of Probation and until he shows proof satisfactory to the State Bar Court of his rehabilitation, fitness to practice and learning and ability in the general law pursuant to standard 1.4(c)(ii), of the Standards for Attorney Sanctions for Professional Misconduct, that execution of such suspension be stayed, and that respondent be placed on probation for a period of three years on the following conditions:

1. Respondent must be actually suspended from the practice of law for the first five months of the period of probation. However, commencing August 7, 2005, respondent was enrolled inactive as a condition of his participation in the ADP. Respondent remained on inactive status as a condition of his ADP participation until January 25, 2006. Therefore credit toward the period of actual suspension must be given for the period of inactive enrollment which commenced on August 7, 2005;
2. Respondent must comply with the provisions of the State Bar Act and the Rules of Professional Conduct of the State Bar of California;
3. Within thirty (30) days after the effective date of discipline, respondent must contact the State Bar's Office of Probation and schedule a meeting with respondent's assigned probation deputy to discuss these terms and conditions of probation. Upon the direction of the Office of Probation, respondent must meet with the probation deputy either in-person or by telephone. During the period of

probation, respondent must promptly meet with the probation deputy as directed and upon request;

4. Within ten (10) calendar days of any change in the information required to be maintained on the membership records of the State Bar pursuant to Business and Professions Code section 6002.1, subdivision (a), including his current office address and telephone number, respondent must report such change in writing to both the Office of Probation and to the Membership Records Office of the State Bar;
5. Respondent must submit written quarterly reports to the Office of Probation on each January 10, April 10, July 10 and October 10 of the period during which these probation conditions are in effect. Under penalty of perjury, respondent must state in each report whether he has complied with the State Bar Act, the Rules of Professional Conduct of the State Bar of California and all conditions of probation during the preceding calendar quarter. If the first report will cover less than thirty (30) calendar days, that report must be submitted on the reporting date for the next calendar quarter and must cover the extended period. In addition to all quarterly reports, respondent must submit a final report, containing the same information required by the quarterly reports. The final report must be submitted no earlier than twenty (20) calendar days before the last day of the period of probation and no later than the last day of the probation period;
6. Respondent must comply with all provisions and conditions of his Participation Agreement with the Lawyer Assistance Program (LAP) and must immediately report any non-compliance to the Office of Probation. Respondent must provide an appropriate waiver authorizing the LAP to provide the Office of Probation and

this court with information regarding the terms and conditions of respondent's participation in the LAP and his compliance or non-compliance with LAP requirements. Revocation of the written waiver for release of LAP information is a violation of this condition;

7. Subject to the assertion of applicable privileges, respondent must answer fully, promptly and truthfully, all inquiries of the Office of Probation which are directed to him personally or in writing relating to whether respondent is complying or has complied with the conditions of his probation;
8. Within one year after the effective date of the Supreme Court's final disciplinary order in this matter, respondent must provide the Office of Probation with satisfactory proof of his attendance at a session of State Bar Ethics School, given periodically by the State Bar at either 180 Howard Street, San Francisco, California, 94105-1639, or 1149 South Hill Street, Los Angeles, California, 90015, and passage of the test given at the conclusion of that session. Arrangements to attend Ethics School must be made in advance by calling (213) 765-1287, and paying the required fee. This requirement is separate from any Minimum Continuing Legal Education (MCLE) requirement, and respondent will not receive MCLE credit for attending Ethics School (Rules Proc. of State Bar, rule 3201);
9. Respondent must pay restitution to the following individuals of the amount set forth below, plus ten percent (10%) interest per annum, accruing from the date

specified below, and provide satisfactory proof thereof to the Office of Probation.⁶

<u>Party Owed Restitution</u>	<u>Principal Amount</u>	<u>Interest Accrual Date</u>
James D. Quinn	\$1,400.00	December 27, 2001
Tsovik Sepedzhyan	\$3,135.00	July 22, 2002
Tran Dihn	\$ 500.00	April 30, 2003

If the State Bar's Client Security Fund (CSF) has reimbursed any of the above individuals for all or any portion of the principal amounts, respondent must also pay restitution to the CSF of the amount paid, plus applicable interest and costs. To the extent the CSF has paid only principal amounts, respondent will still be liable for interest payments to said individuals.

Respondent is to pay restitution at the rate of \$100 per month, commencing December 10, 2008. Thereafter, monthly restitution will increase by \$50 every six (6) months, until a maximum of \$300 per month is being paid.

Respondent must pay restitution first to all individual parties until said restitution is paid in full. Thereafter, respondent is to pay restitution to the CSF until said restitution to the CSF is paid in full.

With each written quarterly report required herein, respondent must provide to the Office of Probation satisfactory proof of all restitution payments made by him during that quarter or period;

⁶ To the extent that respondent has paid any restitution prior to the effective date of the Supreme Court's final disciplinary order in this proceeding, respondent will be given credit for such payments provided satisfactory proof of such is or has been shown to the Office of Probation.

10. If he has not previously done so, within ninety (90) days after the effective date of the Supreme Court's final disciplinary order in this matter, respondent must satisfy the \$1,000 sanction imposed upon him by the Los Angeles County Superior Court in *People v. Robert De Valle*, case no. BA228899 and provide satisfactory proof thereof to the Office of Probation;
11. These probation conditions will commence on the effective date of the Supreme Court's final disciplinary order in this proceeding;
12. At the expiration of the period of this probation, if respondent has complied with all the terms of probation, the order of the Supreme Court suspending respondent from the practice of law for two years and until he makes the specified restitution as set forth above and provides satisfactory proof thereof to the Office of Probation and until he shows proof satisfactory to the State Bar Court of his rehabilitation, fitness to practice and learning and ability in the general law pursuant to standard 1.4(c)(ii) of the Standards for Attorney Sanctions for Professional Misconduct will be satisfied and that suspension will be terminated.

The court also recommends that respondent be required to take and pass the Multistate Professional Responsibility Examination (MPRE) administered by the National Conference of Bar Examiners, MPRE Application Department, P.O. Box 4001, Iowa City, Iowa, 52243, (telephone 319-337-1287) within one year after the effective date of the Supreme Court's final disciplinary order in this matter and provide satisfactory proof of passage of the MPRE to the Office of Probation within said year.

It is not recommended that respondent be ordered to comply with rule 9.20 (formerly rule 955) of the California Rules of Court, as respondent filed a rule 955 compliance affidavit on September 20, 2005 and December 21, 2005 in connection with his inactive enrollment, and as

respondent is to receive credit for the period of his inactive enrollment, respondent will not be actually suspended for any period of time after the effective date of the Supreme Court's final disciplinary order in this matter.

COSTS

It is recommended that costs be awarded to the State Bar in accordance with Business and Professions Code section 6086.10, and are enforceable both as provided in Business and Professions Code section 6140.7 and as a money judgment.

DIRECTION RE DECISION AND ORDER SEALING CERTAIN DOCUMENTS

The court directs a court case administrator to file this Decision and Order Sealing Certain Documents. Thereafter, pursuant to rule 806(c) of the Rules of Procedure of the State Bar of California (Rules of Procedure), all other documents not previously filed in this matter are ordered sealed pursuant to rule 23 of the Rules of Procedure.

It is further ordered that protected and sealed material will only be disclosed to: (1) parties to the proceeding and counsel; (2) personnel of the Supreme Court, the State Bar Court and independent audiotape transcribers; and (3) personnel of the Office of Probation when necessary for their duties. Protected material will be marked and maintained by all authorized individuals in a manner calculated to prevent improper disclosure. All persons to whom protected material is disclosed will be given a copy of this order sealing the documents by the person making the disclosure.

IT IS SO ORDERED.

Dated: January ____, 2009

RICHARD A. HONN
Judge of the State Bar Court