

STATE BAR COURT OF CALIFORNIA  
HEARING DEPARTMENT – LOS ANGELES

In the Matter of	)	Case No. <b>06-O-13639-RAP</b>
	)	
<b>SCOTT ALLEN BRANDON,</b>	)	
	)	<b>DECISION; ORDER SEALING</b>
<b>Member No. 189654,</b>	)	<b>DOCUMENTS; AND ORDER OF</b>
	)	<b>INVOLUNTARY INACTIVE</b>
A Member of the State Bar.	)	<b>ENROLLMENT</b>
_____	)	

**I. Introduction**

In this original disciplinary proceeding, respondent **Scott Allen Brandon** was accepted for participation in the State Bar Court’s Alternative Discipline Program (ADP). Respondent has been terminated from the State Bar Court’s ADP because of his failure to comply with the ADP’s requirements.

Therefore, pursuant to rule 5.384 of the Rules of Procedure of the State Bar and in light of his admitted misconduct, the court recommends that respondent be disbarred from the practice of law.

**II. Pertinent Procedural History**

**A. Respondent’s Acceptance into the Alternative Discipline Program**

Following the filing of a Notice of Disciplinary Charges (NDC) against respondent by the State Bar of California’s Office of the Chief Trial Counsel (State Bar) on September 13, 2006,

respondent requested referral for evaluation of his eligibility for participation in the State Bar Court's ADP.

Respondent had contacted the State Bar's Lawyer Assistance Program (LAP) to assist him with his mental health issues and signed a LAP Participation Plan on April 16, 2007.

On February 23, 2007, the court received respondent's amended declaration, which established a nexus between respondent's mental health issues and his misconduct in this matter.

On October 9, 2007, the court lodged a Confidential Statement of Alternative Dispositions and Orders (Statement), formally advising the parties of (1) the discipline which would be recommended to the Supreme Court if respondent successfully completed the ADP and (2) the discipline which would be recommended if respondent failed to successfully complete, or was terminated from, the ADP. After agreeing to those alternative possible dispositions, respondent executed the Contract and Waiver for Participation in the State Bar Court's ADP (Contract); the court accepted respondent for participation in the ADP; and respondent's period of participation in the ADP began on October 9, 2007.

The State Bar and respondent entered into a Stipulation Re Facts and Conclusions of Law (Stipulation). The Stipulation sets forth the factual findings, legal conclusions, and mitigating and aggravating circumstances, filed June 1, 2011.

**B. Respondent's Termination from the Alternative Discipline Program**

On May 16, 2011, the court issued an Order to Show Cause (OSC) of its intent to terminate respondent from participation in the ADP. Respondent did not file a response to the OSC.

On June 1, 2011, the court determined that respondent was not in compliance with the ADP's requirements because he violated the terms of his Contract. He failed to comply with his participation plan with the LAP due to (1) an unexcused absence from LAP group/Therapy

Session on April 13, 2011; (2) an unexcused missed lab test on April 12, 2011; and (3) respondent's withdrawal from LAP on April 19, 2011.

Therefore, on June 1, 2011, respondent was terminated from the ADP based upon his noncompliance with the ADP conditions and his failure to participate in the LAP.

The court now issues this decision recommending the high level of discipline set forth in the Statement.

### **III. Findings of Fact and Conclusions Of Law**

The parties' Stipulation, including the court's order approving the Stipulation, is attached hereto and hereby incorporated by reference, as if fully set forth herein. Respondent stipulated to willfully violating Business and Professions Code sections 6068, subdivision (k), and 6103 by failing to comply with his probation conditions as ordered in Supreme Court case No. 106560, effective July 12, 2002.

Respondent's prior record of discipline is an aggravating factor. (Rules Proc. of State Bar, tit. IV, Stds. for Atty. Sanctions for Prof. Misconduct, std. 1.2(b)(i).)<sup>1</sup> He had five separate criminal convictions, which resulted in a discipline of four years' stayed suspension, five years' probation and 30 months' actual suspension (Supreme Court case No. 106560).

Respondent has no mitigation. (Std. 1.2(e).)

### **IV. Discussion**

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

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<sup>1</sup> All further references to standard(s) or std. are to this source.

After considering the Stipulation, scope of respondent's acts of misconduct, the aggravating circumstances, the standards, the relevant case law, and respondent's declaration regarding the nexus between his mental health issues and his misconduct in this matter, the court had advised respondent and the State Bar of the low and high levels of discipline which would be recommended to the Supreme Court, depending on whether respondent successfully completed the ADP or was terminated from the ADP. The recommended discipline was set forth in the Statement.

Accordingly, because respondent was terminated from the ADP, the court hereby recommends the high level of discipline to the Supreme Court.

#### **V. Recommendations**

The court recommends that respondent **Scott Allen Brandon** be disbarred from the practice of law in the State of California and that his name be stricken from the roll of attorneys in this state.

##### **A. California Rules of Court, Rule 9.20**

It is also recommended that the Supreme Court order respondent to comply with rule 9.20, paragraph (a), of the California Rules of Court within 30 calendar days of the effective date of the Supreme Court order in the present proceeding, and to file the affidavit provided for in paragraph (c) within 40 days of the effective date of the order showing his compliance with said order.

##### **B. 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.

## **VI. Order of Involuntary Inactive Enrollment**

It is ordered that respondent be transferred to involuntary inactive enrollment status pursuant to section 6007, subdivision (c)(4). The inactive enrollment will become effective three days from the date of service of this order and will terminate upon the effective date of the Supreme Court's order imposing discipline herein or as otherwise ordered by the Supreme Court.

## **VII. Order Sealing Documents**

The court directs a court case administrator to file this Decision, Order of Involuntary Inactive Enrollment and Order Sealing Documents. Thereafter, pursuant to rule 5.388(C) of the Rules of Procedure of the State Bar of California, all other documents not previously filed in this matter are ordered sealed under rule 5.12 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 disclosures. 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: June 29, 2011.

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RICHARD A. PLATEL  
Judge of the State Bar Court