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**State Bar Court of California  
Hearing Department  
San Francisco  
ALTERNATIVE DISCIPLINE PROGRAM**

<p>Counsel For The State Bar</p> <p><b>Jonathan Ceseña</b> Deputy Trial Counsel 180 Howard Street San Francisco CA 94105 (415) 538-2183</p> <p>Bar # <b>289721</b></p>	<p>Case Number (s)</p> <p>13-C-10684; 13-C-10790; 13-O-16596</p>	<p>(for Court's use)</p> <p style="text-align: center;"><b>PUBLIC MATTER FILED</b> <i>[Signature]</i></p> <p style="text-align: center;">AUG 25 2014</p> <p style="text-align: center;"><b>STATE BAR COURT CLERK'S OFFICE SAN FRANCISCO</b></p>
<p>Counsel For Respondent</p> <p><b>Samuel Bellicini</b> Fishkin and Slatter, LLP 1575 Treat Blvd. ste 215 Walnut Creek CA 94598</p> <p>Bar # <b>152191</b></p>	<p>Submitted to: <b>Program Judge</b></p> <p><b>STIPULATION RE FACTS AND CONCLUSIONS OF LAW</b></p> <p><input type="checkbox"/> PREVIOUS STIPULATION REJECTED</p>	
<p>In the Matter Of:</p> <p><b>VERLIN KAY JOHNSON</b></p> <p>Bar # <b>57416</b></p> <p>A Member of the State Bar of California (Respondent)</p>		

**Note: All information required by this form and any additional information which cannot be provided in the space provided, must be set forth in an attachment to this stipulation under specific headings, e.g., "Facts," "Dismissals," "Conclusions of Law," "Supporting Authority," etc.**

**A. Parties' Acknowledgments:**

- (1) Respondent is a member of the State Bar of California, admitted **December 17, 1973**.
- (2) The parties agree to be bound by the factual stipulations contained herein even if conclusions of law or disposition (to be attached separately) are rejected or changed by the Supreme Court. However, except as otherwise provided in rule 804.5(c) of the Rules of Procedure, if Respondent is not accepted into the Alternative Discipline Program, this stipulation will be rejected and will not be binding on the Respondent or the State Bar.
- (3) All investigations or proceedings listed by case number in the caption of this stipulation are entirely resolved by this stipulation and are deemed consolidated, except for Probation Revocation proceedings. Dismissed charge(s)/count(s) are listed under "Dismissals." The stipulation consists of **7** pages, excluding the order.
- (4) A statement of acts or omissions acknowledged by Respondent as cause or causes for discipline is included under "Facts."
- (5) Conclusions of law, drawn from and specifically referring to the facts are also included under "Conclusions of Law."



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- (6) No more than 30 days prior to the filing of this stipulation, Respondent has been advised in writing of any pending investigation/proceeding not resolved by this stipulation, except for criminal investigations.
- (7) Payment of Disciplinary Costs—Respondent acknowledges the provisions of Bus. & Prof. Code §§6086.10 & 6140.7 and will pay timely any disciplinary costs imposed in this proceeding.

**B. Aggravating Circumstances [see Standards for Attorney Sanctions for Professional Misconduct, standards 1.2(f) & 1.5]. Facts supporting aggravating circumstances are required.**

- (1)  **Prior record of discipline**
  - (a)  State Bar Court case # of prior case
  - (b)  Date prior discipline effective
  - (c)  Rules of Professional Conduct/ State Bar Act violations:
  - (d)  Degree of prior discipline
  - (e)  If Respondent has two or more incidents of prior discipline, use space provided below:
- (2)  **Dishonesty:** Respondent's misconduct was intentional, surrounded by, or followed by bad faith, dishonesty, concealment, overreaching or other violations of the State Bar Act or Rules of Professional Conduct.
- (3)  **Trust Violation:** Trust funds or property were involved and Respondent refused or was unable to account to the client or person who was the object of the misconduct for improper conduct toward said funds or property.
- (4)  **Harm:** Respondent's misconduct harmed significantly a client, the public or the administration of justice.
- (5)  **Indifference:** Respondent demonstrated indifference toward rectification of or atonement for the consequences of his or her misconduct.
- (6)  **Lack of Cooperation:** Respondent displayed a lack of candor and cooperation to victims of his/her misconduct or to the State Bar during disciplinary investigation or proceedings.
- (7)  **Multiple/Pattern of Misconduct:** Respondent's current misconduct evidences multiple acts of wrongdoing or demonstrates a pattern of misconduct. **See Attachment page 7.**
- (8)  **Restitution:** Respondent failed to make restitution.
- (9)  **No aggravating circumstances** are involved.

**Additional aggravating circumstances:**

**C. Mitigating Circumstances [see standards 1.2(g) & 1.6]. Facts supporting mitigating circumstances are required.**

- (1)  **No Prior Discipline:** Respondent has no prior record of discipline over many years of practice coupled with present misconduct which is not deemed serious.
- (2)  **No Harm:** Respondent did not harm the client, the public, or the administration of justice.
- (3)  **Candor/Cooperation:** Respondent displayed spontaneous candor and cooperation with the victims of his/her misconduct and to the State Bar during disciplinary investigation and proceedings.
- (4)  **Remorse:** Respondent promptly took objective steps spontaneously demonstrating remorse and recognition of the wrongdoing, which steps were designed to timely atone for any consequences of his/her misconduct.
- (5)  **Restitution:** Respondent paid \$ \_\_\_\_\_ on \_\_\_\_\_ in restitution to \_\_\_\_\_ without the threat or force of disciplinary, civil or criminal proceedings.
- (6)  **Delay:** These disciplinary proceedings were excessively delayed. The delay is not attributable to Respondent and the delay prejudiced him/her.
- (7)  **Good Faith:** Respondent acted with a good faith belief that was honestly held and reasonable.
- (8)  **Emotional/Physical Difficulties:** At the time of the stipulated act or acts of professional misconduct Respondent suffered extreme emotional difficulties or physical or mental disabilities which expert testimony would establish was directly responsible for the misconduct. The difficulties or disabilities were not the product of any illegal conduct by the member, such as illegal drug or substance abuse, and the difficulties or disabilities no longer pose a risk that Respondent will commit misconduct.
- (9)  **Severe Financial Stress:** At the time of the misconduct, Respondent suffered from severe financial stress which resulted from circumstances not reasonably foreseeable or which were beyond his/her control and which were directly responsible for the misconduct.
- (10)  **Family Problems:** At the time of the misconduct, Respondent suffered extreme difficulties in his/her personal life which were other than emotional or physical in nature.
- (11)  **Good Character:** Respondent's extraordinarily good character is attested to by a wide range of references in the legal and general communities who are aware of the full extent of his/her misconduct.
- (12)  **Rehabilitation:** Considerable time has passed since the acts of professional misconduct occurred followed by convincing proof of subsequent rehabilitation.
- (13)  **No mitigating circumstances** are involved.

**Additional mitigating circumstances:**

**No Prior Discipline. See Attachment page 7.**



FACTS:

7. On November 19, 2005, at approximately 7:00 p.m., Respondent caused a two car accident when he hit a truck towing a boat, hit the center divider which sent debris into oncoming traffic, and hit the same truck a second time. One victim was transported to hospital with complaints of back pain.

8. Officer Revheim from the California Highway Patrol responded to the accident scene. He noted Respondent smelled of alcohol and seemed dazed. Respondent told Officer Revheim that he did not remember how the collision occurred. No field sobriety tests were performed because Respondent was transported to the hospital with an injury he sustained during the car accident. While at the hospital, a blood sample was taken. Respondent's blood alcohol content was more than .15%.

9. Respondent was arrested for driving while under the influence of alcohol.

CONCLUSIONS OF LAW:

10. The facts and circumstances surrounding the above-described violation did not involve moral turpitude but did involve other misconduct warranting discipline.

Case No. 13-C-10684 (Conviction Proceeding)

PROCEDURAL BACKGROUND IN CONVICTION PROCEEDING:

11. This is a proceeding pursuant to sections 6101 and 6102 of the Business and Professions Code and rule 9.10 of the California Rules of Court.

12. On November 19, 2012, Respondent was arrested for violating California Vehicle Code section 23152(a), [Driving Under the Influence of Alcohol or Drugs], and for violating California Vehicle Code Section 23152(b), [Driving While Having a Blood Alcohol Content of .08% or Higher].

13. On January 14, 2013, the Shasta County District Attorney's Office filed a criminal complaint in Shasta County Superior Court, case no. 13-00098, charging Respondent with violating California Vehicle Code section 23152(a), [Driving Under the Influence of Alcohol or Drugs], for violating California Vehicle Code Section 23152(b), [Driving While Having a Blood Alcohol Content of .08% or Higher], for violating California Penal Code section 243(B), [Battery upon an Officer and Emergency Personnel], and for violating California Penal Code section 148(a)(1), [Resist, Obstruct, Delay Officer or EMT].

14. On April 5, 2013, Respondent entered a plea of nolo contendere to Count 2 of a complaint filed in Shasta County Superior Court, case no. 13-00098, which charged Respondent with a violation of California Vehicle Code section 23152(b), [Driving While Having a Blood Alcohol Content of .08% or Higher] on November 19, 2012. Respondent also entered a plea of nolo contendere to Count 4 of a complaint filed in Shasta County Superior Court, case no. 13-00098, which charged Respondent with a violation of California Penal Code section 148(a)(1), [Resist, Obstruct, Delay Officer or EMT on November 19, 2012].

15. On April 5, 2013, the court sentenced Respondent to 10 days in jail, 60 months community revocable release, and ordered him to attend and complete an 18-month alcohol treatment program, and pay a fine.

16. On December 13, 2013, the Review Department of the State Bar Court issued an order referring the matter to the Hearing Department for a hearing and decision recommending the discipline to be imposed in the event that the Hearing Department finds that the facts and circumstances surrounding the offenses for which Respondent was convicted involved moral turpitude or other misconduct warranting discipline.

FACTS:

17. On November 19, 2012, at approximately 7:00 p.m., Respondent was driving westbound in the eastbound lane of South Bonnyview Road. Respondent almost caused an accident with a deputy from the Shasta County Sheriff's Department. Deputy Van Dyne had to change lanes to avoid being hit head-on by Respondent. Deputy Van Dyne turned on the lights and sirens and followed Respondent, who yielded to Deputy Van Dyne.

18. As Deputy Van Dyne approached Respondent's car, Respondent tried to get away by driving the car over a curb and headed westbound in the westbound lane. Deputy Van Dyne informed dispatch of the chase and followed. Respondent stopped a second time, was removed from the car and placed on the ground.

19. Deputy South responded to the scene and escorted Respondent to the patrol car. Deputy South noted that Respondent smelled of alcohol and was unsteady on his feet. Deputy South took Respondent into custody and placed him in the back seat of the police car. While in the police car with the rear door open, Respondent kicked Deputy South in the thigh, got out of the car, and fought with Deputy South. Sergeant Gonzalez, arrived and helped Deputy South restrain Respondent.

20. Respondent was given two breath alcohol tests which yielded blood alcohol content results of .25% and .26%, respectively.

21. Respondent was arrested for driving while under the influence of alcohol and battery on a police officer.

CONCLUSIONS OF LAW:

22. The facts and circumstances surrounding the above-described violations did not involve moral turpitude but did involve other misconduct warranting discipline.

Case No. 13-O-16596 (Borelli Matter)

FACTS:

23. On February 24, 2012, Stacy Borelli ("Borelli") hired Respondent to represent her in a dissolution matter.

24. Borelli paid Respondent a total of \$2,650 to represent her in a dissolution of marriage proceeding, of which \$435 was for filing fees and \$2,215 was an advanced fee.

25. On August 3, 2012, Respondent filed a response to a petition for dissolution of marriage, in *In re Marriage of Borelli*, Shasta County Superior Court, case no. 174971. In the August 3, 2012 filing, Respondent indicated a property declaration was attached, however, no such declaration was attached. Thereafter, Respondent failed to file the property declaration and Respondent failed to appear at two uncontested hearings held on October 22, 2012, and November 12, 2012 respectively, of which he had knowledge.

26. On December 15, 2012, Borelli left Respondent a voicemail terminating Respondent's employment. Respondent received the message. On December 20, 2012, Borelli mailed a letter to Respondent requesting her file and a full refund. Respondent received the letter.

27. Respondent performed no services of value on behalf of Borelli and did not earn any of the advanced fees paid.

28. As of December 20, 2012, Respondent owed Borelli \$2,215 in unearned fees.

29. On January 5, 2013, Respondent sent Borelli a refund check in the amount of \$1,500 and stated he would send an additional \$500 by the end of January 2013. Respondent failed to provide the \$500 by that deadline. On March 29, 2013, Borelli wrote to Respondent requesting the \$500 and requesting the remaining \$1,150. On January 5, 2013, Respondent refunded \$1,500 to Borelli.

30. On February 7, 2014, Respondent paid Borelli the remaining \$715 in unearned attorney fees.

#### CONCLUSIONS OF LAW:

31. By failing to appear at two uncontested hearings in Borelli's dissolution matter, failing to file a property declaration, and failing to perform services of value in the dissolution matter, Respondent intentionally, recklessly, or repeatedly failed to perform legal services with competence in willful violation of the Rules of Professional Conduct, rule 3-110(A).

32. By failing to promptly refund the \$2,215 in unearned fees to Borelli after Borelli's December 20, 2012 request, and subsequently failing to promptly refund the remaining \$715 in unearned fees to Borelli, Respondent failed to promptly refund any part of a fee paid in advance that has not been earned, in willful violation of the Rules of Professional Conduct, rule 3-700(D)(2).

#### AGGRAVATING CIRCUMSTANCES.

**Multiple Acts of Misconduct (standard 1.5(b)):** Respondent's two criminal convictions and two acts of misconduct in a client matter demonstrates multiple acts of misconduct.

#### MITIGATING CIRCUMSTANCES.

**No Prior Discipline:** Respondent practiced law for 31 years without discipline before the first instance of misconduct herein occurred. Respondent is entitled to mitigating credit for no prior discipline even where the underlying conduct is found to be serious or significant. (*In the Matter of Stamper* (Review Dept. 1990) 1 Cal. State Bar Ct. Rptr. 96, 106, fn.13.; *In the Matter of Riordan* (Review Dept. 2007) 5 Cal. State Bar Ct. Rptr. 41, 49.)

**Pre-trial Stipulation:** Respondent is also entitled to mitigation for entering into this stipulation. In doing so, Respondent has acknowledged his misconduct and saved the State Bar Court both time and resources. (*In the Matter of Downey* (Review Dept. 2009) 5 Cal. State Bar Ct. Rptr. 151, 156; *In the Matter of Van Sickle* (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 980, 993-994.)

**COSTS OF DISCIPLINARY PROCEEDINGS.**

Respondent acknowledges that the Office of the Chief Trial Counsel has informed Respondent that as of April 15, 2014, the prosecution costs in this matter are \$6,064. Respondent further acknowledges that should this stipulation be rejected or should relief from the stipulation be granted, the costs in this matter may increase due to the cost of further proceedings.

**EXCLUSION FROM MCLE CREDIT**

Pursuant to rule 3201, Respondent may not receive MCLE credit for completion of State Bar Ethics School, State Bar Client Trust Accounting School, and/or any other educational course(s) to be ordered. (Rules Proc. of State Bar, rule 3201.)

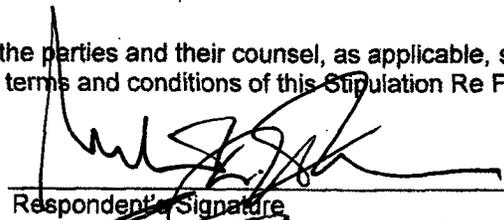
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In the Matter of: VERLIN K. JOHNSON	Case number(s): 13-C-10684; 13-C-10790; 13-O-16596
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**SIGNATURE OF THE PARTIES**

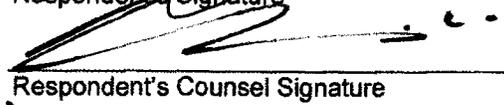
By their signatures below, the parties and their counsel, as applicable, signify their agreement with each of the recitations and each of the terms and conditions of this Stipulation Re Facts, Conclusions of Law, and Disposition.

6/25/14  
Date

  
Respondent's Signature

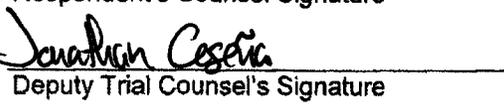
Verlin K. Johnson  
Print Name

3 June 2014  
Date

  
Respondent's Counsel Signature

Samuel Bellicini  
Print Name

July 8, 2014  
Date

  
Deputy Trial Counsel's Signature

Jonathan Cesefia  
Print Name

(Do not write above this line.)

In the Matter of: VERLIN K. JOHNSON	Case Number(s): 13-C-10684; 13-C-10790; 13-O-16596
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**ALTERNATIVE DISCIPLINE PROGRAM ORDER**

Finding the stipulation to be fair to the parties and that it adequately protects the public, IT IS ORDERED that the requested dismissal of counts/charges, if any, is GRANTED without prejudice, and:

- The stipulation as to facts and conclusions of law is APPROVED.
- The stipulation as to facts and conclusions of law is APPROVED AS MODIFIED as set forth below.
- All court dates in the Hearing Department are vacated.

The parties are bound by the stipulation as approved unless: 1) a motion to withdraw or modify the stipulation, filed within 15 days after service of this order, is granted; or 2) this court modifies or further modifies the approved stipulation; or 3) Respondent is not accepted for participation in the Program or does not sign the Program Contract. (See rule 5.58(E) & (F) and 5.382(D), Rules of Procedure.)

Date Aug 25, 2014   
LUCY ARMENDARIZ  
Judge of the State Bar Court

**CERTIFICATE OF SERVICE**

[Rules Proc. of State Bar; Rule 5.27(B); Code Civ. Proc., § 1013a(4)]

I am a Case Administrator of the State Bar Court of California. I am over the age of eighteen and not a party to the within proceeding. Pursuant to standard court practice, in the City and County of San Francisco, on August 25, 2014, I deposited a true copy of the following document(s):

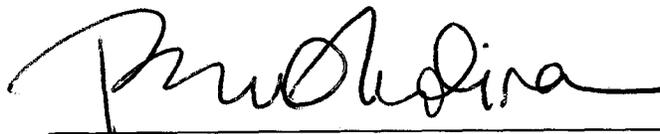
**STIPULATION RE FACTS AND CONCLUSIONS OF LAW**

By personally delivering a copy of said document(s) to:

SAMUEL C. BELLICINI  
180 HOWARD STREET, 6<sup>TH</sup> FLOOR  
SAN FRANCISCO, CA 94105

JONATHAN R. CESENA  
180 HOWARD STREET, 6<sup>TH</sup> FLOOR  
SAN FRANCISCO, CA 94105

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on August 25, 2014.



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Bernadette C.O. Molina  
Case Administrator  
State Bar Court