

(Do not write above this line.)

<b>State Bar Court of California</b> <b>Hearing Department</b> <b>San Francisco</b> <b>ALTERNATIVE DISCIPLINE PROGRAM</b>		
<p>Counsel For The State Bar</p> <p><b>Catherine Taylor</b> Deputy Trial Counsel 180 Howard St. San Francisco, CA 94105 (415) 538-2537</p> <p>Bar # 210540</p>	<p>Case Number (s) 13-H-15090-PEM 14-O-00584 (inv.) 14-O-01323</p>	<p>(for Court's use)</p> <p style="text-align: center;"><b>PUBLIC MATTER</b></p> <p style="text-align: center;"><b>FILED</b></p> <p style="text-align: center;">FEB 02 2015 </p> <p style="text-align: center;">STATE BAR COURT CLERK'S OFFICE SAN FRANCISCO</p>
<p>In Pro Per Respondent</p> <p><b>Timothy Brooks Balcom</b> Balcom &amp; Associates 229 Vernon Street Roseville, CA 95678 (916) 787-1911</p> <p>Bar # 190496</p>	<p>Submitted to: <b>Settlement 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: <b>TIMOTHY BROOKS BALCOM</b></p> <p>Bar # 190496</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 **November 24, 1997**.
- (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 **9** 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."



26

(Do not write above this line.)

- (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 **11-C-16266**.
- (b)  Date prior discipline effective **August 22, 2012**.
- (c)  Rules of Professional Conduct/ State Bar Act violations: **Business & Professions Code section 6068(a) [conviction for Driving under the Influence]**.
- (d)  Degree of prior discipline **private reproof**.
- (e)  If Respondent has two or more incidents of prior discipline, use space provided below:
- See attachment at page 7.**
- (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. **See Attachment at page 7.**
- (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 at page 7.**
- (8)  **Restitution:** Respondent failed to make restitution.
- (9)  **No aggravating circumstances** are involved.

**Additional aggravating circumstances:**

(Do not write above this line.)

**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:**

**Emotional difficulties. See Attachment at page 7.  
Pre-trial stipulation. See Attachment at page 7.**



8. Respondent failed to provide proof of attendance at least once per month at an abstinence-based self-help group by November 10 and December 10, 2012; January 10, February 10, March 10, April 10, May 10, June 10, July 10, August 10, September 10, October 10, November 10, and December 10, 2013; January 10, February 10, March 10, April 10, May 10, June 10, July 10, 2014.

9. Respondent failed to report compliance with his underlying criminal matter on January 10, April 10, July 10, and October 10, 2013; and January 10, April 10, and July 10, 2014.

10. Respondent failed to file final reproof report as due on July 16, 2014.

#### CONCLUSIONS OF LAW:

11. By failing to comply with conditions attached to a private reproof, Respondent willfully violated Rules of Professional Conduct, rule 1-110.

#### Case No. 14-O-01323 (Probation Violation)

#### FACTS:

12. In June 2012, respondent and the Office of the Chief Trial Counsel entered into a stipulation regarding case no. 11-C-16266 for a private reproof with reproof conditions for a two-year term. The case stemmed from respondent's criminal conviction after an arrest for DUI in or about July 2011.

13. On June 25, 2012, the State Bar Court approved the stipulation and filed an Order (Private Reproof) in case no. 11-C-16266. The terms of the private reproof included: respondent was to contact the Office of Probation and schedule a meeting with his assigned probation officer within 30 days of the effective date of the private reproof; file quarterly reports beginning with October 10, 2012; provide a medical waiver; submit for approval to the Office of Probation his choice of an abstinence-based self-help group and attend said group on a monthly basis; submit proof of such attendance in his quarterly reports.

14. Respondent's conditions of private reproof became effective July 16, 2012.

15. By October 2012, respondent had not scheduled the required meeting within 30 days of the effective date of the private reproof; failed to submit for approval his selected abstinence-based self-help group; failed to provide the medical waiver by August 15, 2012; and failed to file his quarterly report by October 20, 2012.

16. Respondent was disciplined for his failure to abide by the private reproof conditions between July 16, 2012 and October 29, 2012 in case no. 12-H-17184 and received two years stayed suspension, two years probation and 30 days actual suspension.

17. Respondent failed to abide by the terms stipulated to in case no. 12-H-17184 and was referred for non-compliance on March 7, 2014, which is case no. 14-O-01323.

18. Respondent failed to contact Probation by December 28, 2013 to schedule a meeting. Respondent called on April 14, 2014 to schedule the meeting, which was completed April 17, 2014.

19. Respondent failed to submit the medical waiver that was due December 28, 2013.

20. Respondent failed to submit lab reports by the due dates: December 10, 2013; January 10, February 10, March 10, and April 10, 2014.

21. Respondent submitted timely lab reports on May 10, June 10 and July 10, 2014.

22. Respondent failed to submit Quarterly Reports January 10, April 10 and July 10, 2014.

23. Respondent failed to submit proof of attendance at least once a month at abstinence-based self-help meetings on December 10, 2013; January 10, February 10, March 10, April 10, May 10, June 10, and July 10, 2014.

#### CONCLUSIONS OF LAW:

24. By failing to comply with conditions attached to respondent's disciplinary probation in State Bar Case no. 12-H-17184, respondent willfully violated Business and Professions Code section 6068(k).

#### Case No. 14-O-00584 (State Bar Investigation)

#### FACTS:

25. Respondent was suspended from the practice of law from November 28, 2013 through January 14, 2014, pursuant to Supreme Court order S212770 (State Bar Case no. 12-H-17184).

26. On December 30, 2013, respondent appeared on behalf of his client in *People v. Alex Anthony Vonsydow-Chavez*, Placer County Superior Court case no. 62-126225.

27. On December 30, 2013, respondent also appeared on behalf of his client in *People v. Nicole Ann Stewart-Hu*, Placer County Superior Court case no. 62-121920.

28. On April 2, 2014, the State Bar Investigator sent a letter to respondent regarding an investigation into respondent's unauthorized practice of law while suspended. Respondent failed to respond, cooperate or otherwise participate in the State Bar investigation.

29. On April 29, 2014, the State Bar Investigator sent a second letter to respondent regarding an investigation into respondent's unauthorized practice of law while suspended. Respondent failed to respond, cooperate or otherwise participate in the State Bar investigation.

#### CONCLUSIONS OF LAW:

30. By appearing in court on December 30, 2013 on behalf of and representing the defendant, in the matter entitled *People v. Alex Anthony Vonsydow-Chavez*, Placer County Superior Court, case no. 62-126225, respondent held himself out as entitled to practice law and actually practiced law in violation of Business and Professions Code sections 6125 and 6126, and thereby willfully violated Business and Professions Code section 6068(a).

31. By appearing in court on December 30, 2013 on behalf of and representing the defendant, in the matter entitled *People v. Nicole Ann Stewart-Hu*, Placer County Superior Court, case no. 62-121920, respondent held himself out as entitled to practice law and actually practiced law in violation of Business and Professions Code sections 6125 and 6126, and thereby willfully violated Business and Professions Code section 6068(a).

32. By not responding to two letters from the State Bar Investigator, or otherwise cooperate or participate in a State Bar investigation, respondent wilfully violated Business and Professions Code section 6068(i).

#### **AGGRAVATING CIRCUMSTANCES.**

**Prior Record of Discipline (Std. 1.5(a)):** Respondent has two prior discipline matters. In case no. 11-C-16266, respondent had a DUI conviction for which he received a private reproof, effective August 22, 2012; and case no. 12-H-17184, brought for violating the terms of the private reproof, for which respondent was placed on probation with 30 days' actual suspension, effective November 28, 2013.

**Multiple Acts: (Std. 1.5(b)):** Respondent has committed multiple acts of misconduct over three cases, including repeated failures to comply with conditions of reproof and probation such as: twice failing to contact probation on time; failing to file Quarterly Reports 11 times; failing to file proof of attendance over 20 times; and failing to submit lab test results three times. (*In the Matter of Maloney and Virsik* (Review Dept. 2005) 4 Cal. State Bar Ct. Rptr. 774 [respondent's repeated acts of misconduct demonstrated a pattern of disrespect for professional norms].)

**Indifference (Std. 1.5(g)):** Respondent has not come into compliance with any condition of his private reproof, even despite his discipline in 12-H-17184. Respondent has not complied with the terms of his probation stemming from his immediate violation of his private reproof.

#### **MITIGATING CIRCUMSTANCES.**

**Emotional Difficulties:** Respondent experienced a sudden end to his marriage around the time of his arrest for DUI in July 2011, which triggered depression and anxiety issues. Respondent's depression hindered his ability to complete relatively simple tasks such as submitting quarterly reports and attending a session of Ethics School. (*In the Matter of Frazier* (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 676, 700-702 [acute depression and other psychological problems can explain, but not excuse, inattention to the demands of a law practice and the ethical improprieties that result].) Respondent now recognizes the need to address his mental health issues and is seeking treatment through LAP.

**Pretrial Stipulation:** Respondent is willing to enter this stipulation as part of his participation in Alternative Discipline Program ("ADP"). (*Silva-Vidor v. State Bar* (1989) 49 Cal.3d 1071, 1079 [where mitigative credit was given for entering into a stipulation as to facts and culpability].)

**COSTS OF DISCIPLINARY PROCEEDINGS.**

Respondent acknowledges that the Office of the Chief Trial Counsel has informed Respondent that as of November 7, 2014, the prosecution costs in this matter are \$ 9,986.00. 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 or any other educational course(s) to be ordered as a condition of reproof or suspension. (Rules Proc. of State Bar, rule 3201.)



(Do not write above this line.)

In the Matter of: TIMOTHY BROOKS BALCOM	Case Number(s): 13-H-15090 [14-O-00584 & 14-O-01323]
--	---

### ALTERNATIVE DISCIPLINE PROGRAM ORDER

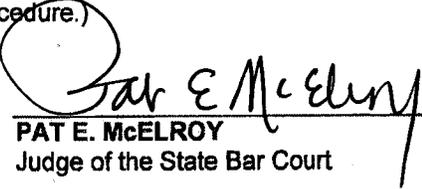
Finding the stipulation to be fair to the parties and that it adequately protects the public, IT IS ORDERED that the requested dismissal of counts/charges, if any, is GRANTED without prejudice, and:

- 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

Feb 2, 2015

  
PAT E. McELROY  
Judge of the State Bar Court

**CERTIFICATE OF SERVICE**  
**[Rule 62(b), Rules Proc.; Code Civ. Proc., § 1013a(4)]**

I am a Case Administrator of the State Bar Court. 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 February 2, 2015, I deposited a true copy of the following document(s):

**STIPULATION RE FACTS AND CONCLUSIONS OF LAW**

in a sealed envelope for collection and mailing on that date as follows:

by personally delivering such documents to the following individuals at 180 Howard Street, 6th Floor, San Francisco, California 94105-1639:

**TIMOTHY B. BALCOM, ESQ.**  
**CATHERINE E. TAYLOR, ESQ.**

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on February 2, 2015.

  
George Hue  
Case Administrator  
State Bar Court