

PUBLIC MATTER

FILED

AUG 05 2015

STATE BAR COURT CLERK'S OFFICE  
SAN FRANCISCO

STATE BAR COURT OF CALIFORNIA  
HEARING DEPARTMENT – SAN FRANCISCO

In the Matter of	)	Case Nos. 13-H-15090-PEM (14-O-01323;
	)	14-O-00584)
<b>TIMOTHY BROOKS BALCOM,</b>	)	
	)	
<b>Member No. 190496,</b>	)	<b>DECISION AND ORDER SEALING</b>
	)	<b>DOCUMENTS</b>
<b>A Member of the State Bar.</b>	)	

---

**Introduction**

In this disciplinary proceeding, respondent **Timothy Brooks Balcom** was accepted for participation in the State Bar Court's Alternative Discipline Program (ADP). But three months later, 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 suspended from the practice of law for three years, that execution of the suspension be stayed, and that respondent be placed on probation for three years on conditions that include his actual suspension for two years and until he has shown proof satisfactory to the State Bar Court of his rehabilitation, fitness to practice and learning and ability in the general law pursuant to standard 1.2(c)(1), Standards for Attorney Sanctions for Professional Misconduct.



## **Pertinent Procedural History**

### **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 May 15, 2014, respondent requested referral for evaluation of his eligibility for participation in the State Bar Court's ADP.

On June 16, 2014, the court received respondent's nexus statement, which established a nexus between respondent's mental health issues and his misconduct in this matter.

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 November 5, 2014.

On February 2, 2015, 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 February 2, 2015.

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 February 2, 2015.

### **Respondent's Termination from the Alternative Discipline Program**

On May 5, 2015, 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. Respondent was therefore terminated from the ADP based upon his noncompliance with the conditions of the ADP 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.

### **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 three counts in three matters, including: (1) rule 1-110 of the Rules of Professional Conduct by failing to comply with conditions attached to a private reproof; (2) Business and Professions Code section 6068, subdivision (k), by failing to comply with conditions attached to his disciplinary probation; and (3) Business and Professions Code section 6068, subdivision (a), by engaging in unauthorized practice of law in willful violation of Business and Professions Code sections 6125 and 6126.

### **Aggravation<sup>1</sup>**

#### **Prior Record of Discipline (Std. 1.5(a).)**

Respondent has two prior records of discipline.<sup>2</sup>

1. On August 22, 2012, respondent was privately reproofed for his DUI conviction.  
(State Bar Court case No. 11-C-16266.)
2. On November 28, 2013, because respondent violated the terms of his private reproof, the California Supreme Court suspended him from the practice of law for two years, stayed, and placing him on probation for two years on condition that he be

---

<sup>1</sup> All further references to standards (Std.) are to the Rules of Procedure of the State Bar, title IV, Standards for Attorney Sanctions for Professional Misconduct.

<sup>2</sup> The court takes judicial notice of the pertinent State Bar Court records regarding this prior discipline, admits them into evidence and directs the Clerk to include copies in the record of this case.

actually suspended for 30 days. (Supreme Court case No. S212770; State Bar Court case No. 12-H-17184).

**Multiple Acts (Std. 1.5(b).)**

Respondent's multiple acts of misconduct is an aggravating factor, which included repeated failures to comply with reprobation and probation conditions (failing to contact Office of Probation on time; failing to file quarterly reports; and failing to submit lab test results).

**Indifference Toward Rectification/Atonement (Std. 1.5(g).)**

Respondent still has not complied with his reprobation and probation conditions, despite his discipline for such noncompliance.

**Mitigation**

**Extreme Emotional/Physical/Mental Difficulties (Std. 1.6(d).)**

Here, in accepting respondent into the ADP, the court found that respondent had suffered from mental health issues and marital difficulties and that there was a sufficient connection between respondent's mental problems and the stipulated misconduct. Respondent was enrolled in the State Bar's LAP in November 2014. But, now, he no longer participates in the LAP. Respondent's conduct before this court while participating in the ADP and his termination from that program prevent the court from making a finding that respondent has established his sustained rehabilitation by clear and convincing evidence. Therefore, the court will not give respondent any mitigation credit for his participation in the LAP or the ADP.

**Candor/Cooperation to Victims/State Bar (Std. 1.6(e).)**

Furthermore, although the parties stipulated that respondent was cooperative with the State Bar by entering into a pre-trial stipulation, the mitigating force of this factor is dramatically reduced based on respondent's termination from the ADP.

### **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.)

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 emotional difficulties 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.

### **Recommendations**

The court recommends that respondent **Timothy Brooks Balcom**, State Bar Number 190496, be suspended from the practice of law in California for three years, that execution of that period of suspension be stayed, and that respondent be placed on probation<sup>3</sup> for a period of three years subject to the following conditions:

1. Respondent Timothy Brooks Balcom is suspended from the practice of law for a minimum of two years of probation, and respondent will remain suspended until the following requirement is satisfied:

Respondent must provide satisfactory proof to the State Bar Court of his rehabilitation, fitness to practice and present learning and ability in the general law

---

<sup>3</sup> The probation period will commence on the effective date of the Supreme Court order imposing discipline in this matter. (See Cal. Rules of Court, rule 9.18.)

before his actual suspension will be terminated. (Rules Proc. of State Bar, tit. IV, Stds. for Atty. Sanctions for Prof. Misconduct, std. 1.2(c)(1).)

2. Respondent must comply with the provisions of the State Bar Act, the Rules of Professional Conduct, and all of the conditions of respondent's probation.
3. Within 10 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 respondent's current office address and telephone number, or if no office is maintained, the address to be used for State Bar purposes, respondent must report such change in writing to the Membership Records Office and the State Bar's Office of Probation.
4. Within 30 days after the effective date of discipline, respondent must contact the 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.
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 of probation. Under penalty of perjury, respondent must state whether respondent has complied with the State Bar Act, the Rules of Professional Conduct, and all of the conditions of respondent's probation during the preceding calendar quarter. In addition to all quarterly reports, a final report, containing the same information, is due no earlier than 20 days before the last day of the probation period and no later than the last day of the probation period.
6. Subject to the assertion of applicable privileges, respondent must answer fully, promptly, and truthfully, any inquiries of the Office of Probation or any probation monitor that are directed to respondent personally or in writing, relating to whether respondent is complying or has complied with respondent's probation conditions.
7. Within one year after the effective date of the discipline herein, respondent must submit to the Office of Probation satisfactory evidence of completion of the State Bar's Ethics School and passage of the test given at the end of that session. 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.)
8. Respondent must comply with all conditions of respondent's criminal probation and must so declare under penalty of perjury in any quarterly report required to be filed with the Office of Probation. If respondent has completed probation in the underlying criminal matter, or completes it during the period of his disciplinary probation, respondent must provide to the Office of Probation satisfactory documentary evidence of the successful completion of the criminal probation in the quarterly report

due after such completion. If such satisfactory evidence is provided, respondent will be deemed to have fully satisfied this probation condition.

9. Respondent must abstain from using alcoholic beverages and must not use or possess any narcotics, dangerous or restricted drugs, controlled substances, marijuana, or associated paraphernalia, except with a valid prescription.
10. Respondent must maintain with the Office of Probation a current address and a current telephone number at which respondent can be reached. Respondent must return any call from the Office of Probation concerning testing of respondent's blood or urine within 12 hours. For good cause, the Office of Probation may require respondent to deliver respondent's urine and/or blood sample(s) for additional reports to the laboratory no later than six hours after actual notice to respondent that the Office of Probation requires an additional screening report.
11. Respondent must obtain psychiatric or psychological treatment from a duly licensed psychiatrist, psychologist or clinical social worker, at respondent's own expense, a minimum of two time(s) per month and must furnish satisfactory evidence of compliance to the Office of Probation with each quarterly report. Treatment should commence immediately and, in any event, no later than 30 days after the effective date of the Supreme Court's final disciplinary order in this proceeding. Treatment must continue for the period of probation or until a motion to modify this condition is granted and that ruling becomes final. If the treating psychiatrist, psychologist or clinical social worker determines that there has been a substantial change in respondent's condition, respondent or the State Bar may file a motion for modification of this condition with the State Bar Court Hearing Department pursuant to rule 5.300 of the Rules of Procedure of the State Bar. The motion must be supported by a written statement from the psychiatrist, psychologist or clinical social worker, by affidavit or under penalty of perjury, in support of the proposed modification.

At the expiration of the probation period, if respondent has complied with all conditions of probation, respondent will be relieved of the stayed suspension.

### **Multistate Professional Responsibility Exam**

It is recommended that respondent be ordered to take and pass the Multistate Professional Responsibility Examination during the period of his suspension and provide satisfactory proof of such passage to the State Bar's Office of Probation in Los Angeles within the same period.

### **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.

### **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.


### **Order Sealing Documents**

The court directs a court case administrator to file this Decision 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: August 5, 2015

  
PAT McELROY  
Judge of the State Bar Court



(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>		
<b>Counsel For The State Bar</b>  <b>Catherine Taylor</b> <b>Deputy Trial Counsel</b> <b>180 Howard St.</b> <b>San Francisco, CA 94105</b> <b>(415) 538-2537</b>	<b>Case Number (s)</b> <b>13-H-15090-PEM</b> <b>14-O-00584 (inv.)</b> <b>14-O-01323</b>	<b>(for Court's use)</b>  <b>PUBLIC MATTER</b>  <b>FILED</b>  <b>FEB 02 2015</b>  <b>STATE BAR COURT CLERK'S OFFICE</b> <b>SAN FRANCISCO</b>
<b>Bar # 210540</b>		
<b>In Pro Per Respondent</b>  <b>Timothy Brooks Balcom</b> <b>Balcom &amp; Associates</b> <b>229 Vernon Street</b> <b>Roseville, CA 95678</b> <b>(916) 787-1911</b>		
<b>Bar # 190496</b>	<b>Submitted to: Settlement Judge</b>	
<b>In the Matter Of:</b> <b>TIMOTHY BROOKS BALCOM</b>	<b>STIPULATION RE FACTS AND CONCLUSIONS OF LAW</b>	
<b>Bar # 190496</b>	<input type="checkbox"/> <b>PREVIOUS STIPULATION REJECTED</b>	
<b>A Member of the State Bar of California</b> <b>(Respondent)</b>		

**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."

(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.**

**ATTACHMENT TO**  
**STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION**

IN THE MATTER OF:                      TIMOTHY BROOKS BALCOM  
CASE NUMBERS:                      13-H-15090 [14-O-00584 & 14-O-01323]

**FACTS AND CONCLUSIONS OF LAW.**

Respondent admits that the following facts are true and that he is culpable of violations of the specified statutes and/or Rules of Professional Conduct.

**Case No. 13-H-15090 (Reproval Violation)**

**FACTS:**

1. 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 reproval with reproval conditions for a two-year term. The case stemmed from respondent's criminal conviction for DUI occurring in July 2011.

2. On June 25, 2012, the State Bar Court approved the stipulation and filed an Order (Private Reproval) in case no. 11-C-16266. The terms of the private reproval 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 reproval; 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.

3. Respondent's conditions of private reproval became effective July 16, 2012.

4. By October 2012, respondent had not scheduled the required meeting within 30 days of the effective date of the private reproval; 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.

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

6. Between November 2012 through September 6, 2013, respondent failed to abide by the private reproval conditions in case no. 11-C-16266. On September 6, 2013, the Office of Probation referred respondent for continued non-compliance in the private reproval matter, which is case no. 13-H-15090.

7. Respondent failed to file Quarterly Reports due January 10, April 10, July 10, and October 10, 2013; and January 10, April 10, and July 10, 2014.

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.)



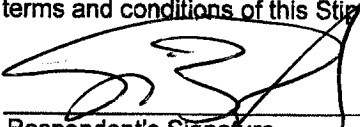
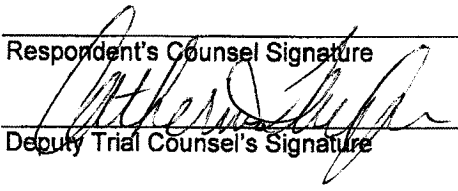
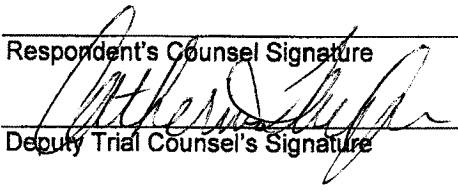
(Do not write above this line.)

In the Matter of:  
TIMOTHY BROOKS BALCOM

Case number(s):  
13-H-15090 [14-O-00584 & 14-01323]

### 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.

<u>11/21/2014</u> Date	 Respondent's Signature	<u>Timothy Brooks Balcom</u> Print Name
<u>11.25.14</u> Date	 Respondent's Counsel Signature	<u>Catherine Taylor</u> Print Name
	 Deputy Trial Counsel's Signature	<u>Catherine Taylor</u> Print Name

(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:

**[X]** 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

## 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 5, 2015, I deposited a true copy of the following document(s):

DECISION AND ORDER SEALING DOCUMENTS  
STIPULATION RE FACTS AND CONCLUSIONS OF LAW

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

- ☒ by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at San Francisco, California, addressed as follows:

TIMOTHY B. BALCOM  
BALCOM & ASSOCIATES  
229 VERNON ST  
ROSEVILLE, CA 95678

- ☐ by certified mail, No. , with return receipt requested, through the United States Postal Service at , California, addressed as follows:

- ☐ by overnight mail at , California, addressed as follows:

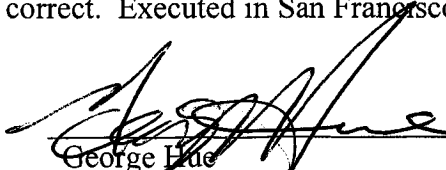
- ☐ by fax transmission, at fax number . No error was reported by the fax machine that I used.

- ☐ By personal service by leaving the documents in a sealed envelope or package clearly labeled to identify the attorney being served with a receptionist or a person having charge of the attorney's office, addressed as follows:

- ☒ by interoffice mail through a facility regularly maintained by the State Bar of California addressed as follows:

Catherine E. Taylor, Enforcement, San Francisco

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on August 5, 2015.

  
George Hue  
Case Administrator  
State Bar Court