

# PUBLIC MATTER

FILED

AUG 26 2015

STATE BAR COURT CLERK'S OFFICE  
SAN FRANCISCO

1 STATE BAR OF CALIFORNIA  
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STATE BAR COURT

HEARING DEPARTMENT - SAN FRANCISCO

13 In the Matter of: ) Case Nos. 15-O-11765 [15-O-12404; 15-O-  
 14 TIMOTHY BROOKS BALCOM, ) 12641; 15-O-13552]  
 15 No. 190496, ) NOTICE OF DISCIPLINARY CHARGES  
 16 A Member of the State Bar )

**NOTICE - FAILURE TO RESPOND!**

**IF YOU FAIL TO FILE A WRITTEN ANSWER TO THIS NOTICE WITHIN 20 DAYS AFTER SERVICE, OR IF YOU FAIL TO APPEAR AT THE STATE BAR COURT TRIAL:**

- (1) YOUR DEFAULT WILL BE ENTERED;
- (2) YOUR STATUS WILL BE CHANGED TO INACTIVE AND YOU WILL NOT BE PERMITTED TO PRACTICE LAW;
- (3) YOU WILL NOT BE PERMITTED TO PARTICIPATE FURTHER IN THESE PROCEEDINGS UNLESS YOU MAKE A TIMELY MOTION AND THE DEFAULT IS SET ASIDE, AND;
- (4) YOU SHALL BE SUBJECT TO ADDITIONAL DISCIPLINE. SPECIFICALLY, IF YOU FAIL TO TIMELY MOVE TO SET ASIDE OR VACATE YOUR DEFAULT, THIS COURT WILL ENTER AN ORDER RECOMMENDING YOUR DISBARMENT WITHOUT FURTHER HEARING OR PROCEEDING. SEE RULE 5.80 ET SEQ., RULES OF PROCEDURE OF THE STATE BAR OF CALIFORNIA.

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1 The State Bar of California alleges:

2 JURISDICTION

3 1. Timothy Brooks Balcom ("respondent") was admitted to the practice of law in the  
4 State of California on November 24, 1997, was a member at all times pertinent to these charges,  
5 and is currently a member of the State Bar of California.

6 COUNT ONE

7 Case No. 15-O-11765  
8 Rules of Professional Conduct, rule 3-700(D)(1)  
9 [Failure to Release File]

10 2. Respondent failed to release promptly, after termination of Respondent's employment  
11 on or about October 2013, to Respondent's client, Timothy Robison, all of the client's papers  
12 and property following the client's request for the client's file on and between June and July  
13 2014, in willful violation of Rules of Professional Conduct, rule 3-700(D)(1).

14 COUNT TWO

15 Case No. 15-O-11765  
16 Rules of Professional Conduct, rule 3-310(F)  
17 [Accepting Fees From a Non-Client]

18 3. On or about July 2013, Respondent accepted \$3,000 from David Pellone as  
19 compensation for representing a client, Timothy Robison, without obtaining his client's informed  
20 written consent to receive such compensation, in willful violation of the Rules of Professional  
21 Conduct, rule 3-310(F).

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COUNT THREE

Case No. 15-O-11765  
Business and Professions Code, section 6068(i)  
[Failure to Cooperate in State Bar Investigation]

4. Respondent failed to cooperate and participate in a disciplinary investigation pending against respondent by failing to provide a substantive response to the State Bar's letter of June 19, 2015, which respondent received, that requested respondent's response to the allegations of misconduct being investigated in case no. 15-O-11765, in willful violation of Business and Professions Code, section 6068(i).

COUNT FOUR

Case No. 15-O-12404  
Rules of Professional Conduct, rule 3-110(A)  
[Failure to Perform with Competence]

5. On or about September 4, 2014, Earl and Sonia Sinclair employed Respondent to perform legal services, namely to represent their minor son in a criminal case, which Respondent intentionally, recklessly, or repeatedly failed to perform with competence, in willful violation of Rules of Professional Conduct, rule 3-110(A), by the following:

- a. Failing to notify the Sinclairs until twenty minutes prior to the court hearing scheduled for January 12, 2015, that respondent had been suspended from the practice of law effective January 5, 2015, for failure to pass the MPRE;
- b. Failing to advise his clients whether another attorney would appear on their son's behalf on January 12, 2015 because of respondent's suspension from the practice of law;
- c. Failing to advise his clients to appear even though respondent would not be appearing at the hearing on January 12, 2015, which resulted in an arrest warrant being issued for the clients' minor child.

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COUNT TEN

Case No. 15-O-12404  
Business and Professions Code, section 6068(m)  
[Failure to Inform Client of Significant Development]

11. Respondent failed to keep Respondent's clients, Earl and Sonia Sinclair and their minor son, reasonably informed of significant developments in a matter in which Respondent had agreed to provide legal services, in willful violation of Business and Professions Code, section 6068(m), by failing to inform the clients of the following: that respondent was suspended from practicing law effective January 5, 2015.

COUNT ELEVEN

Case No. 15-O-12641  
Rules of Professional Conduct, rule 3-310(F)  
[Accepting Fees From a Non-Client]

12. On or about January 18, 2014; April 30, 2014; May 1, 2014; May 14, 2014; June 13, 2014; June 8, 2014; and November 11, 2014, Respondent accepted a total of \$4,400 from Catherine Mary Coleman as compensation for representing a client, James Thomas Coleman, without obtaining his client's informed written consent to receive such compensation, in willful violation of the Rules of Professional Conduct, rule 3-310(F).

COUNT TWELVE

Case No. 15-O-12641  
Business and Professions Code, section 6068(i)  
[Failure to Cooperate in State Bar Investigation]

13. Respondent failed to cooperate and participate in a disciplinary investigation pending against Respondent by failing to provide a substantive response to the State Bar's letter of July 6, 2015, which Respondent received, that requested Respondent's response to the allegations of misconduct being investigated in case no. 15-O-12641, in willful violation of Business and Professions Code, section 6068(i).

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COUNT THIRTEEN

Case No. 15-O-13552  
Rules of Professional Conduct, rule 3-110(A)  
[Failure to Perform with Competence]

14. On or about July 21, 2014, Erica Fontenot employed Respondent to perform legal services, namely represent her in a criminal matter, which Respondent intentionally, recklessly, or repeatedly failed to perform with competence, in willful violation of Rules of Professional Conduct, rule 3-110(A), by failing to appear in Superior Court on respondent's behalf on April 21, 2015.

COUNT FOURTEEN

Case No. 15-O-13552  
Rules of Professional Conduct, rule 3-120(B)(2)  
[Sexual Relations with Client]

15. Between on or about July 21, 2014 and August 2014, respondent had sexual relations with a client, Erica Fontenot, by employing coercion, intimidation, or undue influence in entering into sexual relations with Erica Fontenot, in willful violation of the Rules of Professional Conduct, rule 3-120(B)(2).

COUNT FIFTEEN

Case No. 15-O-13552  
Rules of Professional Conduct, rule 3-700(A)(2)  
[Improper Withdrawal from Employment]

16. Respondent failed, upon termination of employment, to take reasonable steps to avoid reasonably foreseeable prejudice to Respondent's client, Erica Fontenot, by constructively terminating Respondent's employment on April 21, 2015, by failing to take any action on the client's behalf after appearing in court on client's behalf on December 2, 2014, and thereafter failing to inform the client that Respondent was withdrawing from employment, in willful violation of Rules of Professional Conduct, rule 3-700(A)(2).

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COUNT SIXTEEN

Case No. 15-O-13552  
Rules of Professional Conduct, rule 3-700(D)(2)  
[Failure to Refund Unearned Fees]

17. On or about July 21, 2014, Respondent received advanced fees of \$1,500 from a client, Erica Fontenot, for representation in a criminal matter. Respondent failed to appear in court on his client's behalf after December 2, 2014, or perform any legal services for the client, and therefore earned none of the advanced fees paid. Respondent failed to refund promptly, upon Respondent's termination of employment on or about December 2, 2014, any part of the \$1,500 fee to the client, in willful violation of Rules of Professional Conduct, rule 3-700(D)(2).

COUNT SEVENTEEN

Case No. 15-O-13552  
Business and Professions Code, section 6068(i)  
[Failure to Cooperate in State Bar Investigation]

18. Respondent failed to cooperate and participate in a disciplinary investigation pending against Respondent by failing to provide a substantive response to the State Bar's letter of July 30, 2015, which Respondent received, that requested Respondent's response to the allegations of misconduct being investigated in case no. 15-O-13552, in willful violation of Business and Professions Code, section 6068(i).

COUNT EIGHTEEN

Case No. 15-O-13552  
Business and Professions Code, section 6068(m)  
[Failure to Inform Client of Significant Development]

19. Respondent failed to keep Respondent's client, Erica Fontenot, reasonably informed of significant developments in a matter in which Respondent had agreed to provide legal services, in willful violation of Business and Professions Code, section 6068(m), by failing to inform the client that respondent was not eligible to practice law as of January 5, 2015.

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**NOTICE - INACTIVE ENROLLMENT!**

YOU ARE HEREBY FURTHER NOTIFIED THAT IF THE STATE BAR COURT FINDS, PURSUANT TO BUSINESS AND PROFESSIONS CODE SECTION 6007(c), THAT YOUR CONDUCT POSES A SUBSTANTIAL THREAT OF HARM TO THE INTERESTS OF YOUR CLIENTS OR TO THE PUBLIC, YOU MAY BE INVOLUNTARILY ENROLLED AS AN INACTIVE MEMBER OF THE STATE BAR. YOUR INACTIVE ENROLLMENT WOULD BE IN ADDITION TO ANY DISCIPLINE RECOMMENDED BY THE COURT.

**NOTICE - COST ASSESSMENT!**

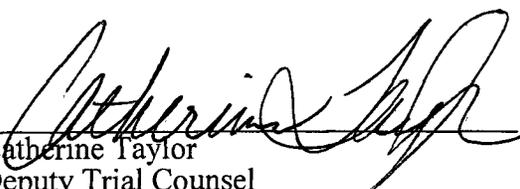
IN THE EVENT THESE PROCEDURES RESULT IN PUBLIC DISCIPLINE, YOU MAY BE SUBJECT TO THE PAYMENT OF COSTS INCURRED BY THE STATE BAR IN THE INVESTIGATION, HEARING AND REVIEW OF THIS MATTER PURSUANT TO BUSINESS AND PROFESSIONS CODE SECTION 6086.10.

Respectfully submitted,

THE STATE BAR OF CALIFORNIA  
OFFICE OF THE CHIEF TRIAL COUNSEL

DATED: August 26, 2015

By:

  
Catherine Taylor  
Deputy Trial Counsel

**DECLARATION OF SERVICE**  
**BY CERTIFIED AND REGULAR MAIL**

CASE NOS.: 15-O-11765; [15-O-12404; 15-O-12641; 15-O-13552]

I, the undersigned, over the age of eighteen (18) years, whose business address and place of employment is the State Bar of California, 180 Howard Street, San Francisco, California 94105, declare that I am not a party to the within action; that I am readily familiar with the State Bar of California's practice for collection and processing of correspondence for mailing with the United States Postal Service; that in the ordinary course of the State Bar of California's practice, correspondence collected and processed by the State Bar of California would be deposited with the United States Postal Service that same day; that I am aware that on motion of party served, service is presumed invalid if postal cancellation date or postage meter date on the envelope or package is more than one day after date of deposit for mailing contained in the affidavit; and that in accordance with the practice of the State Bar of California for collection and processing of mail, I deposited or placed for collection and mailing in the City and County of San Francisco, on the date shown below, a true copy of the within

**NOTICE OF DISCIPLINARY CHARGES**

in a sealed envelope placed for collection and mailing as *certified mail, return receipt requested*, and in an additional sealed envelope as *regular mail*, at San Francisco, on the date shown below, addressed to:

**Article No.: 9414 7266 9904 2042 4850 62**

Timothy B. Balcom  
Balcom & Associates  
229 Vernon Street  
Roseville, CA 95678

in an inter-office mail facility regularly maintained by the State Bar of California addressed to:

N/A

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed at San Francisco, California, on the date shown below.

DATED: August 26, 2015

Signed: \_\_\_\_\_

Paula H. D'Oyen  
Declarant