

APR 23 2019

STATE BAR COURT CLERK'S OFFICE  
SAN FRANCISCO

STATE BAR COURT OF CALIFORNIA  
HEARING DEPARTMENT – SAN FRANCISCO

In the Matter of

BRUCE HALL ATWATER III,

State Bar No. 199011.

) Case No. 15-O-15635-MC  
)  
)  
)  
)  
)

DECISION AND ORDER SEALING  
CERTAIN DOCUMENTS

**Introduction**

In this disciplinary proceeding, the court accepted Respondent Bruce Hall Atwater III for participation in the State Bar Court's Alternative Discipline Program (ADP). As the court finds that Respondent has successfully completed ADP, the court will recommend to the Supreme Court that Respondent be suspended from the practice of law in California for three years, that execution of that period of suspension be stayed, that he be placed on probation for three years, and that he be actually suspended for two years (with credit given for the period of inactive enrollment effective September 26, 2016 through April 22, 2019 (Business and Professions Code [Bus. & Prof. Code], section 6233) and until Respondent provides proof to the State Bar Court of his rehabilitation, fitness to practice and present learning and ability in the general law. (Rules Procedure of the State Bar of California [Rules of Procedure], title IV, Standards For Attorney Sanctions for Professional Misconduct, standard [std.] 1.2(c)(1).)

\\

### **Significant Procedural History**

The Office of Chief Trial Counsel of the State Bar of California (OCTC) filed a Notice of Disciplinary Charges (NDC) against Respondent on January 11, 2016. Respondent filed a response on February 1. Respondent requested referral for evaluation of his eligibility for participation in ADP. Respondent then contacted the State Bar's Lawyer Assistance Program (LAP) to assist him with his substance abuse and mental health issues.

On March 30, 2016, Respondent submitted a declaration which established a nexus between Respondent's substance abuse and mental health issues and his misconduct in this matter. OCTC and Respondent entered into a Stipulation Re Facts and Conclusions of Law (Stipulation). The Stipulation, filed September 26, sets forth the factual findings, legal conclusion, and mitigating and aggravating circumstances in this matter. On September 26, Respondent was enrolled inactive pursuant to Bus. & Prof. Code, section 6233.

The court issued a Confidential Statement of Alternative Dispositions and Orders, formally advising the parties of: (1) the discipline which would be recommended to the Supreme Court if Respondent successfully completed ADP; and (2) the discipline which would be recommended if Respondent failed to successfully complete, or was terminated from, ADP. Agreeing to those alternative possible dispositions, Respondent executed the Contract and Waiver for Participation in ADP; the court accepted Respondent for participation in ADP; and Respondent's period of participation in ADP began on September 26, 2016.

Respondent thereafter participated successfully in both LAP and ADP. After receiving a Certificate of One Year of Participation in the Lawyer Assistance Program – Substance Abuse, the court found that Respondent has successfully completed ADP at a status conference on March 20, 2019. This matter was submitted for decision on March 20.

**Findings of Fact and Conclusions of Law**

**Culpability Findings**

The parties' Stipulation filed on September 26, 2016, 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 Bus. & Prof. Code, section 6068(k) by failing to comply with the conditions attached to his disciplinary probation in State Bar Court case no. 13-H-12499.

**Aggravation**

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

Respondent has two prior records of discipline. Respondent was publicly reprovved for his failure to comply with an Agreement in Lieu of Discipline, in violation of Bus. & Prof. Code, section 6068(l). (State Bar Court case no. 08-O-12957, filed July 18, 2011.)

In his second prior record of discipline, pursuant to a Supreme Court order, Respondent was suspended for two years, the execution of which was stayed, and placed on probation for two years, and actually suspended for 60 days for his probation violations attached to his public reprovval, in violation of Rules of Professional Conduct, rule 1-110. (Supreme Court no. S215966, filed March 26, 2014; State Bar Court case no. 13-H-12499.)

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

Respondent's multiple acts of misconduct constitute an aggravating circumstance.

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

Respondent did not conform his conduct despite repeated opportunities.

\

## **Mitigation**

### **Other**

Respondent's successful completion of ADP is considered as a mitigating circumstance in this matter.

## **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.)

In determining the appropriate alternative discipline recommendations, if Respondent successfully completed ADP or was terminated from ADP, the court considered the discipline recommended by the parties, as well as certain standards and case law, including standards 1.8(b), and 2.14 and *In the Matter of Lawrence* (Review Dept. 2013) 5 Cal. State Bar Ct. Rptr. 239. Because Respondent has now successfully completed ADP, this court issues the imposition of the lower level of discipline, set forth more fully below.

## **Recommendations**

It is recommended that Bruce Hall Atwater III, State Bar Number 199011, be suspended from the practice of law for three years, that execution of that suspension be stayed, and that Respondent be placed on probation for three years with the following conditions:

\\

\\

\\

## **Conditions of Probation<sup>1</sup>**

### **1. Actual Suspension**

Respondent is suspended from the practice of law for a minimum of the first two years of probation (with credit given for the period of inactive enrollment effective September 26, 2016 through April 22, 2019 (Bus. & Prof. Code, section 6233)), and until Respondent provides proof to the State Bar Court of his rehabilitation, fitness to practice and present learning and ability in the general law. (Std. 1.2(c)(1).)

### **2. Comply with State Bar Act, Rules of Professional Conduct, and Probation Conditions**

Respondent must comply with the provisions of the State Bar Act, the Rules of Professional Conduct, and all conditions of Respondent's probation.

### **3. Maintain Valid Official Membership Address and Other Required Contact Information**

Within 30 days after the effective date of the Supreme Court order imposing discipline in this matter, Respondent must make certain that the State Bar Attorney Regulation and Consumer Resources Office (ARCR) has Respondent's current office address, email address, and telephone number. If Respondent does not maintain an office, Respondent must provide the mailing address, email address, and telephone number to be used for State Bar purposes. Respondent must report, in writing, any change in the above information to ARCR, within 10 days after such change, in the manner required by that office.

\

---

<sup>1</sup> The current probation conditions were revised effective July 1, 2018, and are thus slightly different from those conditions set forth in the September 26, 2016 Confidential Statement of Alternative Dispositions.

#### **4. Meet and Cooperate with Office of Probation**

Within 15 days after the effective date of the Supreme Court order imposing discipline in this matter, Respondent must schedule a meeting with Respondent's assigned probation case specialist to discuss the terms and conditions of discipline and, within 30 days after the effective date of the court's order, must participate in such meeting. Unless otherwise instructed by the Office of Probation, Respondent may meet with the probation case specialist in person or by telephone. During the probation period, Respondent must promptly meet with representatives of the Office of Probation as requested by it and, subject to the assertion of applicable privileges, must fully, promptly, and truthfully answer any inquiries by it and provide to it any other information requested by it.

#### **5. State Bar Court Retains Jurisdiction/Appear Before and Cooperate with State Bar Court**

During Respondent's probation period, the State Bar Court retains jurisdiction over Respondent to address issues concerning compliance with probation conditions. During this period, Respondent must appear before the State Bar Court as required by the court or by the Office of Probation after written notice mailed to Respondent's official membership address, as provided above. Subject to the assertion of applicable privileges, Respondent must fully, promptly, and truthfully answer any inquiries by the court and must provide any other information the court requests.

#### **6. Quarterly and Final Reports**

**a. Deadlines for Reports.** Respondent must submit written quarterly reports to the Office of Probation no later than each January 10 (covering October 1 through December 31 of the prior year), April 10 (covering January 1 through March 31), July 10 (covering April 1 through June 30), and October 10 (covering July 1 through September 30) within the period of

probation. If the first report would cover less than 30 days, that report must be submitted on the next quarter date and cover the extended deadline. In addition to all quarterly reports, Respondent must submit a final report no earlier than 10 days before the last day of the probation period and no later than the last day of the probation period.

**b. Contents of Reports.** Respondent must answer, under penalty of perjury, all inquiries contained in the quarterly report form provided by the Office of Probation, including stating whether Respondent has complied with the State Bar Act and the Rules of Professional Conduct during the applicable quarter or period. All reports must be: (1) submitted on the form provided by the Office of Probation; (2) signed and dated after the completion of the period for which the report is being submitted (except for the final report); (3) filled out completely and signed under penalty of perjury; and (4) submitted to the Office of Probation on or before each report's due date.

**c. Submission of Reports.** All reports must be submitted by: (1) fax or email to the Office of Probation; (2) personal delivery to the Office of Probation; (3) certified mail, return receipt requested, to the Office of Probation (postmarked on or before the due date); or (4) other tracked-service provider, such as Federal Express or United Parcel Service, etc. (physically delivered to such provider on or before the due date).

**d. Proof of Compliance.** Respondent is directed to maintain proof of Respondent's compliance with the above requirements for each such report for a minimum of one year after either the period of probation or the period of Respondent's actual suspension has ended, whichever is longer. Respondent is required to present such proof upon request by the State Bar, the Office of Probation, or the State Bar Court.

\

## **7. State Bar Ethics School**

Within one year after the effective date of the Supreme Court order imposing discipline in this matter, Respondent must submit to the Office of Probation satisfactory evidence of completion of the State Bar 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 this session. If Respondent provides satisfactory evidence of completion of the Ethics School after the date of this decision but before the effective date of the Supreme Court's order in this matter, Respondent will nonetheless receive credit for such evidence toward his duty to comply with this condition.

## **8. Compliance with Lawyer Assistance Program Participation Plan**

Respondent must fully comply with Respondent's Lawyer Assistance Program Participation Plan. Respondent must provide LAP with a satisfactory written waiver authorizing LAP to provide the Office of Probation and the State Bar Court with information regarding the terms and conditions of Respondent's participation in LAP and Respondent's compliance or non-compliance with LAP requirements. Revocation of such waiver is a violation of this condition. Respondent will be relieved of this condition upon providing satisfactory certification of successful completion of LAP to the Office of Probation. Voluntary or involuntary termination from LAP prior to successful completion of the program constitutes a violation of this condition.

## **9. Proof of Compliance with Rule 9.20 Obligations**

Respondent is directed to maintain, for a minimum of one year after commencement of probation, proof of compliance with the Supreme Court's order that Respondent comply with the requirements of California Rules of Court (Cal. Rules of Court), rule 9.20 (a) and (c). Such



proof must include: the names and addresses of all individuals and entities to whom Respondent sent notification pursuant to rule 9.20; a copy of each notification letter sent to each recipient; the original receipt or postal authority tracking document for each notification sent; the originals of all returned receipts and notifications of non-delivery; and a copy of the completed compliance affidavit filed by Respondent with the State Bar Court. Respondent is required to present such proof upon request by the State Bar, the Office of Probation, or the State Bar Court.

#### **Commencement of Probation/Compliance with Probation Conditions**

The period of probation will commence on the effective date of the Supreme Court order imposing discipline in this matter. At the expiration of the probation period, if Respondent has complied with all conditions of probation, the period of stayed suspension will be satisfied and that suspension will be terminated.

#### **Multistate Professional Responsibility Examination Within One Year or During Period of Actual Suspension**

It is further recommended that Respondent be ordered to take and pass the Multistate Professional Responsibility Examination administered by the National Conference of Bar Examiners within one year after the effective date of the Supreme Court order imposing discipline in this matter, or during the period of Respondent's suspension, whichever is longer, and to provide satisfactory proof of such passage to the State Bar's Office of Probation within the same period. Failure to do so may result in suspension. (Cal. Rules of Court, rule 9.10(b).) If Respondent provides satisfactory evidence of the taking and passage of the above examination after the date of this decision but before the effective date of the Supreme Court's order in this matter, Respondent will nonetheless receive credit for such evidence toward his duty to comply with this condition.

\\

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

It is further recommended that Respondent be ordered to comply with the requirements of Cal. Rules of Court, rule 9.20, and to perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 days, respectively, after the effective date of the Supreme Court order imposing discipline in this matter.<sup>2</sup> Failure to do so may result in disbarment or suspension.

### **Costs**

It is further recommended that costs be awarded to the State Bar in accordance with Bus. & Prof. Code, section 6086.10, and are enforceable both as provided in Bus. & Prof. Code, section 6140.7 and as a money judgment. Unless the time for payment of discipline costs is extended pursuant to section 6086.10(c), costs assessed against an attorney who is actually suspended or disbarred must be paid as a condition of reinstatement or return to active status.

### **Direction Re Decision and Order Sealing Certain Documents**

The court directs a court specialist to file this Decision and Order Sealing Certain Documents. Pursuant to rule 5.388(c) of the Rules of Procedure, all other documents not previously filed in this matter are ordered sealed pursuant to 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 official duties. Protected material will be marked and maintained by all

---

<sup>2</sup> For purposes of compliance with rule 9.20(a), the operative date for identification of “clients being represented in pending matters” and others to be notified is the filing date of the Supreme Court order, not any later “effective” date of the order. (*Athearn v. State Bar* (1982) 32 Cal.3d 38, 45.) Further, Respondent is required to file a rule 9.20(c) affidavit even if Respondent has no clients to notify on the date the Supreme Court filed its order in this proceeding. (*Powers v. State Bar* (1988) 44 Cal.3d 337, 341.) In addition to being punished as a crime or contempt, an attorney’s failure to comply with rule 9.20 is, inter alia, cause for disbarment, suspension, revocation of any pending disciplinary probation, and denial of an application for reinstatement after disbarment. (Cal. Rules of Court, rule 9.20(d).)

authorized individuals in a manner calculated to prevent improper disclosure. 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: April 23, 2019

  
\_\_\_\_\_  
Manjari Chawla  
Judge of the State Bar Court



ORIGINAL

(Do not write above this line.)

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

<p>Counsel For The State Bar</p> <p><b>Heather E. Abelson</b> Deputy Trial Counsel 180 Howard Street San Francisco, CA 94105 (415) 538-2357</p> <p>Bar # 243691</p>	<p>Case Number (s) 15-O-15635-LMA</p>	<p>(for Court's use)</p> <p><b>PUBLIC MATTER</b></p> <p><b>FILED</b> ✓</p> <p>SEP 26 2016</p> <p>STATE BAR COURT CLERK'S OFFICE SAN FRANCISCO</p>
<p>In Pro Per Respondent</p> <p><b>Bruce H. Atwater III</b> 709 Geary Street, Apt. 301 San Francisco, CA 94109 (415) 717-5883</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>Bar # 199011</p> <p>In the Matter Of: <b>BRUCE H. ATWATER III</b></p> <p>Bar # 199011</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 10, 1998**.
- (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 **8** 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(h) & 1.5]. Facts supporting aggravating circumstances are required.**

- (1)  **Prior record of discipline**
  - (a)  State Bar Court case # of prior case **08-O-12957; 13-H-12499**
  - (b)  Date prior discipline effective **See Attachment at p. 6.**
  - (c)  Rules of Professional Conduct/ State Bar Act violations: **See Attachment at p. 6.**
  - (d)  Degree of prior discipline **See Attachment at p. 6.**
  - (e)  If Respondent has two or more incidents of prior discipline, use space provided below:  
**See Attachment at p. 6.**
- (2)  **Intentional/Bad Faith/Dishonesty:** Respondent's misconduct was dishonest, intentional, or surrounded by, or followed by bad faith.
- (3)  **Misrepresentation:** Respondent's misconduct was surrounded by, or followed by misrepresentation.
- (4)  **Concealment:** Respondent's misconduct was surrounded by, or followed by concealment.
- (5)  **Overreaching:** Respondent's misconduct was surrounded by, or followed by overreaching.
- (6)  **Uncharged Violations:** Respondent's conduct involved uncharged violations of the Business and Professions Code or the Rules of Professional Conduct.
- (7)  **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.
- (8)  **Harm:** Respondent's misconduct harmed significantly a client, the public, or the administration of justice.
- (9)  **Indifference:** Respondent demonstrated indifference toward rectification of or atonement for the consequences of his or her misconduct. **See Attachment at p. 6.**
- (10)  **Lack of Candor/Cooperation:** Respondent displayed a lack of candor and cooperation to victims of his/her misconduct, or to the State Bar during disciplinary investigations or proceedings.
- (11)  **Multiple Acts:** Respondent's current misconduct evidences multiple acts of wrongdoing. **See Attachment at p. 6.**

(Do not write above this line.)

---

- (12)  **Pattern:** Respondent's current misconduct demonstrates a pattern of misconduct.
- (13)  **Restitution:** Respondent failed to make restitution.
- (14)  **Vulnerable Victim:** The victim(s) of Respondent's misconduct was/were highly vulnerable.
- (15)  **No aggravating circumstances** are involved.

**Additional aggravating circumstances:**

**C. Mitigating Circumstances [see standards 1.2(i) & 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 likely to recur.
- (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 or to the State Bar during disciplinary investigations and proceedings.
- (4)  **Remorse:** Respondent promptly took objective steps demonstrating spontaneous 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 objectively 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.

(Do not write above this line.)

---

**Additional mitigating circumstances: Pre-Trial Stipulation, See Attachment at p. 7.**

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

IN THE MATTER OF:                      BRUCE H. ATWATER III

CASE NUMBER:                            15-O-15635-LMA

**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. 15-O-15635 (Probation Referral)**

**FACTS:**

1. On January 11, 2010, respondent entered into an Agreement in Lieu of Discipline ("ALD") in case no. 08-O-12957. The terms remained in effect from January 13, 2010 until January 13, 2013.
2. During that period, respondent failed to abide by the terms of the ALD—particularly, failing to participate in LAP and failing to drug test as required; and violating the restitution condition.
3. On July 15, 2011, respondent entered into a stipulation with the State Bar in case no. 08-O-12957. The stipulation was approved by the State Bar Court on July 18, 2011 and imposed a public reproof with conditions upon respondent for one year. The reproof terms went into effect on August 8, 2011 and remained in effect through August 8, 2012.
4. During the one year of probation, respondent had numerous failures to comply with the requirements of his public reproof.
5. On November 12, 2013, respondent entered into a stipulation with the State Bar in case no. 13-H-12499. The terms of the stipulation included 60 days actual suspension; two years stayed suspension; and two years probation with conditions. Of particular note, probation terms included substance abuse and medical conditions. The court approved the order on November 22, 2013.
6. By Supreme Court Order S215966, the discipline took effect on April 25, 2014.

//  
//  
//  
//  
//  
//  
//  
//  
//  
//



7. Since April 25, 2014, respondent:

- a. has failed to submit two quarterly reports by their due dates of July 10 and October 10, 2015;
- b. has failed to submit a compliant quarterly report by February 10, 2015;
- c. has failed to obtain psychiatric or psychological help/treatment from a duly licensed psychiatrist, psychologist, or clinical social worker at his own expense a minimum of two times per month in July and August 2014; October, November and December 2014; January, February and March 2015; April, May and June 2015; and August and September 2015;
- d. has failed to furnish evidence by quarterly report to the Office of Probation that he is complying with Mental Health treatment at least two times per month by January 10, April 10, July 10, and October 10, 2015;
- e. has failed to attend at least two AA meetings per month in November and December 2014; April, May, June, and July 2015; and September and October 2015;
- f. has failed to furnish evidence of at least two AA meetings per month in by December 10, 2014; January 10, 2015; May 10, June 10, and July 10, 2015; and October 10 and November 10, 2015; and
- g. has failed to provide valid prescription for drugs causing a positive drug test results reported on June 9, July 14, August 6, September 9, October 16, and November 9, 2015.

#### CONCLUSION OF LAW:

8. By failing to submit two quarterly reports by their respective due dates; by failing to submit a compliant quarterly report due February 10, 2015; by failing to attend two mental health sessions per month as required; by failing to attend at least two AA meetings per month as required; and submitting six positive drug tests between June to November 2015, respondent failed to comply with conditions attached to respondent's disciplinary probation in State Bar Case no. 13-H-12499, in willful violation of Bus. & Prof. Code section 6068(k).

#### AGGRAVATING CIRCUMSTANCES.

**Prior Record of Discipline (Std. 1.5(a)):** Respondent has two prior records of discipline: case no. 08-O-12957, violation of Bus. & Prof. Code section 6068(l), based on respondent's failure to comply with an ALD, for which he received a public reproof with conditions, effective August 8, 2011; and case no. 13-H-12499, effective April 25, 2014, for which he received 60 days actual suspension, two years stayed suspension and two years probation, stemming from respondent's violation of Rules of Professional Conduct, rule 1-110.

**Multiple Acts of Wrongdoing (Std. 1.5(b)):** Respondent has two missing quarterly reports; one non-compliant quarterly report; 20 missing sessions of required mental health sessions; 16 failures to attend AA meetings; and six positive drug tests.

**Indifference (Std. 1.5(k)):** Respondent has not conformed his conduct despite repeated opportunities.

//  
//  
//

## **MITIGATING CIRCUMSTANCES.**

**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 Chief Trial Counsel has informed Respondent that as of April 5, 2016, the prosecution costs in this matter are \$3,584. 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 as a condition of reproof or suspension.** (Rules Proc. of State Bar, rule 3201.)

(Do not write above this line.)

In the Matter of: BRUCE H. ATWATER III	Case number(s): 15-O-15635-LMA
---	-----------------------------------

### 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 and Conclusions of Law.

Respondent enters into this stipulation as a condition of his/her participation in the Program. Respondent understands that he/she must abide by all terms and conditions of Respondent's Program Contract.

If the Respondent is not accepted into the Program or does not sign the Program contract, this Stipulation will be rejected and will not be binding on Respondent or the State Bar.

If the Respondent is accepted into the Program, this Stipulation will be filed and will become public. Upon Respondent's successful completion of or termination from the Program, the specified level of discipline for successful completion of or termination from the Program as set forth in the State Bar Court's Confidential Statement of Alternative Dispositions and Orders shall be imposed or recommended to the Supreme Court.

5/1/2014            Bruce H. Atwater  
Date                      Respondent's Signature                      Print Name

3/9/16            Catherine Taylor      Heather E. Abelson  
Date                      Deputy Trial Counsel's Signature                      Print Name

(Do not write above this line.)

In the Matter of: BRUCE HALL ATWATER, III	Case Number(s): 15-O-15635
--	-------------------------------

### 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 Sept 26, 2016

  
\_\_\_\_\_  
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 September 26, 2016, 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:

BRUCE H. ATWATER III  
180 HOWARD STREET, 6<sup>TH</sup> FLOOR  
SAN FRANCISCO, CA 94105

ROBERT A. HENDERSON  
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 September 26, 2016.



---

Mazie Yip  
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 Court Specialist 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 April 23, 2019, I deposited a true copy of the following document(s):

DECISION AND ORDER SEALING CERTAIN 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:

BRUCE H. ATWATER III  
709 GEARY ST  
APT 301  
SAN FRANCISCO, CA 94109 - 7329

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

ROBERT A. HENDERSON, Enforcement, San Francisco

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on April 23, 2019.



---

Bernadette Molina  
Court Specialist  
State Bar Court