

**HAROLD MCDOUGALL IV**  
**11845 W. OLYMPIC BLVD, STE 1255W**  
**LOS ANGELES, CA 90064**  
**(424) 704-5647**  
**STATE BAR NO. 234972**

**FILED**

**MAY 10 2019**

**STATE BAR COURT**  
**CLERK'S OFFICE**  
**LOS ANGELES**

**THE STATE BAR COURT OF CALIFORNIA**  
**HEARING DEPARTMENT**  
**845 S. FIGUEROA ST, LOS ANGELES CA 90017**

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In the matter of:

**CASE NO. SBC-19-C-30103-CV**

**HAROLD A. MCDOUGALL, IV**

**RESPONSE TO NOTICE OF HEARING ON  
CONVICTION**

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This matter involves a violation of California Vehicle Code Section 23152(a)-(b) (Driving Under the Influence). It has not been alleged that this offense was a misdemeanor committed in the course of the practice of law, or in a manner in which a client was the victim, or one where a necessary element of which involved improper conduct of an attorney. Rule 5.345(B) of the Rules of Procedure of the State Bar of California provides that a response to a Notice of Hearing on Conviction "must state the member's position on the issues stated in the order of referral and must contain an address for service on the member."

As a preliminary matter, the State Bar Review Department has a long standing policy of not referring first time driving under the influence of alcohol convictions to the Hearing Department at all. *In the Matter of Respondent I* (Review Dept 1993) 2 Cal. State Bar Ct. Rptr 260, Fn. 6. As the instant matter involves a first time driving under the influence of alcohol conviction, without being compounded by death, serious injury, or other aggravating behavior, it is unclear why this matter was referred to the Hearing Department.



Neither the Notice of Hearing on Conviction nor the Review Department Order filed in this matter allege any specific violations of the State Bar Act, the State Bar Rules, nor any specific facts and circumstances which could constitute professional misconduct which would provide Respondent with sufficient notice to prepare a defense. Instead, the Review Department Order only states that the case is being referred to the Hearing Department for a hearing and decision recommending discipline if the Hearing Department finds the facts and circumstances surrounding the misdemeanor violation involved moral turpitude or other misconduct warranting discipline. In the absence of any specific alleged facts or circumstances which could establish professional misconduct, these amorphous allegations essentially force a Respondent to prove non-culpability and reverse the burden of proof. California's courts have acknowledged that "if a disciplinary standard is so vague that no reasonable consensus may be formed as to its proper meaning, its application is constitutionally suspect." *In re Kelley* 52 Cal.3d 487, 496 (1990) (citing *Morrison v. State Board of Education* 1. Cal.3d 214, 231-233 (1969)).

DATED: This 10<sup>th</sup> day of May, 2019,

  
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Harold McDougall IV

## DECLARATION OF SERVICE

I, the undersigned, over the age of eighteen, declare that ☒ I am / ☐ am not a party to the within action, in the City and County of Los Angeles, on May 10 2019, served the following document(s):

Response to Notice of Hearing on Conviction

☒ by personal delivery: Terese Laubscher  
Office of Chief Trial Counsel

☐ other:

I declare under penalty of perjury at Los Angeles, California, on the date shown below, that the foregoing is true and correct.

Dated: 5/10/2019

Harold McDougall  
Harold McDougall II