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**State Bar Court of California
Hearing Department
SAN FRANCISCO
ALTERNATIVE DISCIPLINE PROGRAM**

<p>Counsel For The State Bar</p> <p>Tammy M. Albertsen Deputy Trial Counsel 180 Howard Street San Francisco, CA 94105 (415) 538-2527</p> <p>Bar # 154248</p>	<p>12-C-16293-PEM</p>	<p>For Court use only</p> <p>PUBLIC MATTER</p> <p>FILED <i>JS</i></p> <p>DEC - 9 2013</p> <p>STATE BAR COURT CLERK'S OFFICE SAN FRANCISCO</p>
<p>Counsel for Respondent</p> <p>Vicki H. Young 240 Stockton Street, #400 San Francisco, CA 94108 (415) 421-4347</p> <p>Bar # 73261</p>	<p>Submitted to: SETTLEMENT JUDGE</p>	
<p>In the Matter of: JOHN JOSEPH VANDERVOORT</p> <p>Bar # 54720</p> <p>A Member of the State Bar of California (Respondent)</p>	<p>STIPULATION RE FACTS AND CONCLUSIONS OF LAW</p> <p>ALTERNATIVE DISCIPLINE PROGRAM</p> <p><input type="checkbox"/> PREVIOUS STIPULATION REJECTED</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 13, 1972.
- (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 5.386(D)(2) 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."

(Effective January 1, 2011)



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- (5) Conclusions of law, drawn from and specifically referring to the facts are also included under "Conclusions of Law".
- (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 [for definition, see Standards for Attorney Sanctions for Professional Misconduct, standard 1.2(b)]. Facts supporting aggravating circumstances are required.

- (1) Prior record of discipline [see standard 1.2(f)]
 - (a) State Bar Court case # of prior case: 90-O-15293 (See, Stipulation Attachment at page 5.)
 - (b) Date prior discipline effective January 22, 1992
 - (c) Rules of Professional Conduct/ State Bar Act violations: Business and Professions Code, section 6106
 - (d) Degree of prior discipline: Public reproof
 - (e) If Respondent has two or more incidents of prior discipline, use space provided below:
- (2) **Dishonesty:** Respondent's misconduct was 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. See Stipulation Attachment, page 8.
- (5) **Indifference:** Respondent demonstrated indifference toward rectification of or atonement for the consequences of his or her misconduct.
- (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.
- (8) **No aggravating circumstances** are involved.

Additional aggravating circumstances:

C. Mitigating Circumstances [see standard 1.2(e)]. 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 or person who was the object of the misconduct.
- (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 in good faith.
- (8) **Emotional/Physical Difficulties:** At the time of the stipulated act or acts of professional misconduct Respondent suffered extreme emotional difficulties or physical 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 Respondent no longer suffers from such difficulties or disabilities.
- (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 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:

See, Stipulation Attachment, page 5.

- 1) Remorse
- 2) Pretrial Stipulation

ATTACHMENT TO
STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION

IN THE MATTER OF: JOHN JOSEPH VANDERVOORT

CASE NUMBER: 12-C-16293

FACTS AND CONCLUSIONS OF LAW.

Respondent admits that the following facts are true and that the facts and circumstances surrounding the offense for which he was convicted involved other misconduct warranting discipline.

Case No. 12-C-16293-PEM (Conviction Proceedings)

PROCEDURAL BACKGROUND IN CONVICTION PROCEEDING:

1. This is a proceeding pursuant to sections 6101 and 6102 of the Business and Professions Code and rule 9.10 of the California Rules of Court.
2. On January 29, 2013, in Butte County Superior Court, case number CM037134, Respondent was charged as follows: Count 1 with a violation of Health and Safety Code section 11350(a), cocaine possession, a felony; Count 2 with a violation of Penal Code, section 243(e)(1), battery, a misdemeanor; and Count 3 with a violation of Penal Code, section 415(1), disturbing the peace, a misdemeanor.
3. On January 17, 2013, the court entered Respondent's plea of no contest to Count 3, a violation of Penal Code, section 415(1), a misdemeanor, and based thereon, the court accepted Respondent's plea and convicted Respondent. The remaining charges were dismissed.
4. On February 22, 2013, the court placed Respondent on formal probation for a period of 36 months. The court ordered that Respondent, among other things, submit to search of his person and property; refrain from use, control or possession of any controlled substance and alcohol; submit to substance testing; enroll in, pay for and successfully complete a 12-step program; enroll in and thereafter successfully complete an approved batterer's treatment program; not harass the victim; and pay a total of \$1361 in criminal and civil fines and fees.
5. Respondent did not appeal. The conviction was final when judgment was entered on February 22, 2013.
6. On May 13, 2013, the Review Department of the State Bar Court issued an order referring the matter to the Hearing Department for a hearing and decision recommending the discipline to be imposed in the event that the Hearing Department finds that the facts and circumstances surrounding the offense(s) for which Respondent was convicted involved moral turpitude or other misconduct warranting discipline.

FACTS:

7. On August 2, 2012, Respondent and his wife began arguing. After the wife's 11-year old boy overheard the argument, the boy found Respondent on top of his mother, pinning her to the couch. The

verbal and physical fighting continued in the presence of the 11-year old son. The son eventually intervened to pull Respondent off his mother. The victim then telephoned 9-1-1 and police responded. The report identifies injuries to the victim which were consistent with her account of the attack. The police who interviewed the boy found him to be very upset, recounting his step-father as a "drunk" and having been especially mean lately. Respondent did not speak to police, but instead handed the officer a paper with his attorney's name and phone number. The victim told police that Respondent had abused her numerous times over the years, but she had declined to press charges because Respondent dissuaded her by stating that he knew all the judges and that he would try to portray her as a bad mother. Respondent was arrested at the scene.

8. On January 17, 2013, Respondent entered a plea of no contest to Count 3, a violation of Penal Code, section 415(1) [disturbing the peace by fighting] with domestic violence probation conditions. The remaining charges were dismissed in view of Respondent's plea.

CONCLUSIONS OF LAW:

The facts and circumstances surrounding the above-described violation did not involve moral turpitude but did involve other misconduct warranting discipline.

AGGRAVATING CIRCUMSTANCES.

Prior Record of Discipline (Std. 1.2(b)(i)): In 1992, Respondent was found culpable of violating a Fair Political Practices Act provision by attempting to hide his identity as a donor to a local campaign. Respondent asked his law firm employees to contribute money under their own names, however it was Respondent who gave them the money to contribute (plus a small extra sum to the employees to keep for their assistance). Respondent's conduct violated Government Code section 81002(a) [failing to disclose true source of campaign contributions]; Government Code section 84301 [prohibiting contributions in a name other than contributor's true name]; and Government Code section 84302 [prohibiting use of intermediaries or agents to make contributions]. The California Fair Political Practices Commission imposed a \$10,000 fine and the State Bar Court publicly reprimanded Respondent.

Harm (Std. 1.2(b)(iv)): Respondent's misconduct injured his spouse and traumatized her young son, resulting in physical and emotional harm. Furthermore, Respondent's misconduct induced criminal prosecution, thereby impacting the administration of justice and public confidence in attorneys.

MITIGATING CIRCUMSTANCES.

Remorse: On February 27, 2013, Respondent voluntarily signed a participation plan and entered into the State Bar's Lawyer's Assistance Program ("LAP") prior to initiation of State Bar Court proceedings, including prior to the Review Department's issuance of its order on conviction. Substance abuse and mental health conditions were found directly related to Respondent's misconduct. Respondent's taking objective steps to express remorse for and to atone for the consequences of his misconduct and to address the underlying causes of his misconduct by seeking assistance through LAP are entitled to credit in mitigation. (*Segal v. State Bar* (1988) 44 Cal.3d 1077, 1089 where mitigation credit was given when Respondent paid full restitution in installments, beginning before complainant contacted the State Bar.)

Pretrial Stipulation: Respondent actively pursued settlement and has entered into this stipulation prior to trial. (*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 August 5, 2013 (date on which settlement-in-principle was reached), the prosecution costs in this matter are \$2,392.00. Respondent further acknowledges that should this stipulation be rejected or should relief from the stipulation be granted, the costs in this matter may increase because of 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 and/or any other educational course(s) to be ordered as a condition of reproof or suspension. (Rules Proc. of State Bar, rule 3201.)

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In the Matter of: JOHN JOSEPH VANDERVOORT	Case number(s): 12-C-16293-PEM
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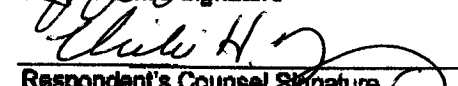
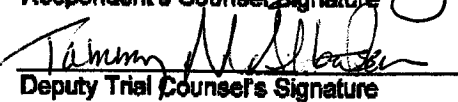
SIGNATURE OF THE PARTIES

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.

<u>10-10-2013</u> Date	 Respondent's Signature	<u>John Joseph Vandervoort</u> Print Name
<u>10/15/13</u> Date	 Respondent's Counsel Signature	<u>Vicki H. Young</u> Print Name
<u>10/15/13</u> Date	 Deputy Trial Counsel's Signature	<u>Tammy M. Albertsen</u> Print Name

(Do not write above this line.)

In the Matter of: JOHN JOSEPH VANDERVOORT	Case Number(s): 12-C-16293-PEM
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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.)

Dec. 9, 2013
Date


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 December 9, 2013, I deposited a true copy of the following document(s):

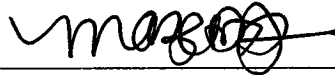
STIPULATION RE FACTS AND CONCLUSIONS OF LAW

By personally delivering a copy of said document(s) to:

TAMMY M. ALBERTSEN
180 HOWARD STREET, 6TH FLOOR
SAN FRANCISCO, CA 94105

VICKI H. YOUNG
180 HOWARD STREET, 6TH FLOOR
SAN FRANCISCO, CA 94105

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on December 9, 2013.



Mazie Yip
Case Administrator
State Bar Court