

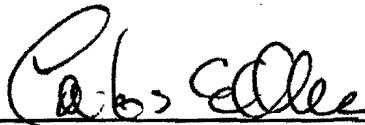
CONFIDENTIAL

<p>THE STATE BAR COURT OF THE STATE BAR OF CALIFORNIA</p> <p>HEARING DEPARTMENT</p> <p><input checked="" type="checkbox"/> LOS ANGELES                      <input type="checkbox"/> SAN FRANCISCO</p>	<p>FOR COURT USE ONLY</p> <p><b>FILED</b></p> <p>AUG 13 1996 <i>SP</i></p> <p>STATE BAR COURT CLERK'S OFFICE LOS ANGELES</p>
<p>IN THE MATTER OF</p> <p><b>BRADLEY R. TAMM,</b></p> <p>Bar No. 159805,</p> <p>MEMBER OF THE STATE BAR OF CALIFORNIA</p>	<p>CASE NO: 93-O-20169-CEV</p> <p>ORDER REGARDING STIPULATION (<input type="checkbox"/> FIRST AMENDED <input type="checkbox"/> SECOND AMENDED) AS TO FACTS AND DISPOSITION</p>

A fully executed Stipulation as to Facts and Disposition pursuant to rule 133, Rules of Procedure of the State Bar of California, Title II, State Bar Court Proceedings consisting of 31 pages, approved by the parties, was submitted in the above-captioned case(s). The stipulations submitted previously are rejected. The stipulation is attached to this order and incorporated as though fully stated here. Unless a party withdraws or modifies the stipulation pursuant to rule 135(c), Rules of Procedure of the State Bar of California, Title II, State Bar Court Proceedings, this order shall be effective 15 days from the service of this order. After consideration of this stipulation, the Court hereby orders:

- The above mentioned case numbers are hereby consolidated for the purposes of ruling upon this Stipulation.
- Modifications to the stipulation are attached:
  - the parties having no objection.
  - the parties having agreed on the record on \_\_\_\_\_.
  - any party must object within 15 days of the service of this order to the Stipulation, as modified by the Court, or it shall become effective; if any party objects, the Stipulation shall be deemed rejected.
- It appearing that this stipulation and all attachments are fair to the parties and consistent with adequate protection of the public, the stipulation is approved and the disposition is:
  - ordered.
  - recommended to the California Supreme Court.
  - further discussion attached.
- After due consideration of this stipulation and all attachments, it is rejected:
  - for the reasons discussed with the parties in previous conference(s).
  - for the reasons attached to this order.
- It is further  ordered  recommended that costs be awarded to the State Bar pursuant to Business and Professions Code section 6086.10.

DATED: August 13, 1996

  
Carlos E. Velarde, Judge of the State Bar Court

In the Matter of BRADLEY R. TAMM

CASE NO: 93-O-20169-CEV

Bar No. 159805

A Member of the State Bar.

**PUBLIC REPROVAL**

Pursuant to General Order 93-10, service upon the parties of this "Order Approving Stipulation As To Facts And Disposition" constitutes a letter of **PUBLIC** Reapproval in the name of the State Bar of California to the above named member of the State Bar pursuant to rule 270, Rules of Procedure of the State Bar of California, Title II, State Bar Court Proceedings.

- Conditions in the manner authorized by rule 956, California Rules of Court, are ordered to be attached to this reapproval as set forth in the attached stipulation.
- No conditions are attached to this reapproval.

This **PUBLIC** Reapproval shall be effective upon expiration of the period provided by rule 135(c), Rules of Procedure of the State Bar of California, Title II, State Bar Court Proceedings, unless a timely request for withdrawal or modification of the stipulation is filed.

**PRIVATE REPROVAL**

Pursuant to General Order 93-10, service upon the parties of this "Order Approving Stipulation As To Facts And Disposition" constitutes a letter of **PRIVATE** Reapproval in the name of the State Bar of California to the above named member of the State Bar pursuant to rule 270, Rules of Procedure of the State Bar of California, Title II, State Bar Court Proceedings.

- Conditions in the manner authorized by rule 956, California Rules of Court are ordered to be attached to this reapproval as set forth in the attached stipulation.
- No conditions are attached to this reapproval.

This **PRIVATE** Reapproval shall be effective upon expiration of the period provided by rule 135(c), Rules of Procedure of the State Bar, Title II, State Bar Court Proceedings, unless a timely request for withdrawal or modification of the stipulation is filed. (See rule 270, Rules of Procedure of the State Bar of California, Title II, State Bar Court Proceedings.)

**COUNSEL FOR STATE BAR:**  
 ALYSE M. LAZAR, #92796  
 ASSISTANT CHIEF TRIAL COUNSEL  
 THE STATE BAR OF CALIFORNIA  
 ENFORCEMENT UNIT  
 1149 SO. HILL STREET  
 LOS ANGELES, CA 90015  
 (213) 765-1000

**COUNSEL FOR RESPONDENT:**  
 PAMELA E. HAVIRD  
 GASLAMP PLAZA SUITES BUILDING  
 P.O. BOX 370342  
 SAN DIEGO, CA 92186

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**THE STATE BAR COURT  
 OF THE  
 STATE BAR OF CALIFORNIA**

**HEARING DEPARTMENT**

LOS ANGELES  
 SAN FRANCISCO

**FOR COURT USE ONLY**

**FILED**

STATE BAR COURT  
 LOS ANGELES

*SS*

**IN THE MATTER OF**

BRADLEY R. TAMM

No. 159805

MEMBER OF THE STATE BAR OF CALIFORNIA.

**CASE NO(S).**

93-O-20169  
 93-O-20173

**STIPULATION AS TO FACTS AND  
 DISPOSITION (RULES 405-407,  
 TRANSITIONAL RULES OF PROCEDURE  
 OF THE STATE BAR OF CALIFORNIA)**  
 FIRST AMENDED  SECOND AMENDED

**SCHEDULE OF ATTACHMENTS**

- [ x ] SECTION ONE:  [ x ] FORM STIP 110: STIPULATION FORM, INCLUDING GENERAL AGREEMENTS AND WAIVERS
- [ ] FORM STIP 120: AGREEMENTS AND WAIVERS
- [ x ] SECTION TWO:  [ x ] FORM STIP 130: STATEMENT OF ACTS OR OMISSIONS AND CONCLUSIONS OF LAW WARRANTING THE AGREED DISPOSITION

Parties'

Initials

*[Handwritten initials]*

PAGE 2

- [ x ] SECTION THREE:  [ x ] FORM STIP 140: STATEMENT OF FACTS AND CIRCUMSTANCES BEARING ON THE AGREED DISPOSITION
  
- [ x ] SECTION FOUR:  [ ] FORM DISP 200: STATEMENT SUPPORTING DISMISSAL OF ALL CHARGES
- [ ] FORM DISP 205: STATEMENT SUPPORTING DISMISSAL OF CERTAIN CHARGES
- [ ] FORM DISP 210: ADMONITION
- [ x ] FORM DISP 220: PRIVATE REPROVAL
- [ ] FORM DISP 230: PUBLIC REPROVAL
- [ ] FORM DISP 240: SUSPENSION, INCLUDES NO ACTUAL SUSPENSION
- [ ] FORM DISP 250: ACTUAL SUSPENSION
- [ ] FORM DISP 260: PROFESSIONAL RESPONSIBILITY EXAMINATION
- [ ] FORM DISP 270: REGARDING FURTHER CONDITIONS TO BE ATTACHED TO REPROVAL
  
- [ ] FORM PROB 310: GENERAL CONDITIONS OF PROBATION AND/OR APPOINTMENT OF PROBATION MONITOR
- [ ] FORM PROB 320: RESTITUTION
- [ ] FORM PROB 330: PROTECTION OF CLIENT FUNDS
- [ ] FORM PROB 340: MENTAL HEALTH TREATMENT
- [ ] FORM PROB 350: ALCOHOL/DRUG IMPAIRMENT
- [ ] FORM PROB 360: EDUCATION AND LAW OFFICE MANAGEMENT
- [ ] FORM PROB 370: COMMENCEMENT AND EXPIRATION OF PROBATION
- [ ] FORM PROB 380: FURTHER CONDITIONS OF PROBATION
  
- [ x ] SECTION FIVE:  [ x ] APPROVAL OF PARTIES

<p>THE STATE BAR COURT OF THE STATE BAR OF CALIFORNIA</p> <p>HEARING DEPARTMENT</p> <p><input checked="" type="checkbox"/> LOS ANGELES</p> <p><input type="checkbox"/> SAN FRANCISCO</p>	<p>FOR COURT USE ONLY</p> <p style="text-align: right;">D</p> <p style="text-align: right;">S</p> <p style="text-align: center;">STATE BAR COURT LOS ANGELES</p>
<p>IN THE MATTER OF</p> <p><u>Bradley R. Tamm</u></p> <p>No. <u>159805</u></p> <p>MEMBER OF THE STATE BAR OF CALIFORNIA.</p>	<p>CASE NO(S). <u>93-0-20169</u> <u>93-0-20173</u></p> <p>STIPULATION AS TO FACTS AND DISPOSITION (RULES 405-407, TRANSITIONAL RULES OF PROCEDURE OF THE STATE BAR OF CALIFORNIA)</p> <p><input type="checkbox"/> FIRST AMENDED <input type="checkbox"/> SECOND AMENDED</p>

**SECTION ONE. GENERAL AGREEMENTS AND WAIVERS.**

**A. PARTIES.**

1. The parties to this stipulation as to facts and disposition, entered into under rules 405-407, Transitional Rules of Procedure of the State Bar of California (herein "Rules of Procedure"), are the member of the State Bar of California, captioned above (hereinafter "Respondent"), who was admitted to practice law in the State of California on September 21, 1992 and the Office of the Chief Trial Counsel, represented by the Deputy Trial Counsel of record whose name appears below.

2. If Respondent is represented by counsel, Respondent and his or her counsel have reviewed this stipulation, have approved it as to form and substance, and has signed FORM STIP 400 below.

3. If Respondent is appearing in propria persona, Respondent has received this stipulation, has approved it as to form and substance, and has signed FORM STIP 400 below.

**B. JURISDICTION, SERVICE AND NOTICE OF CHARGE(S), AND ANSWER.** The parties agree that the State Bar Court has jurisdiction over Respondent to take the action agreed upon within this stipulation. This stipulation is entered into pursuant to the provisions of rules 405-407, Rules of Procedure. No issue is raised over notice or service of any charge(s). The parties waive any variance between the basis for the action agreed to in this stipulation and any charge(s). As to any charge(s) not yet filed in any matter covered by this stipulation, the parties waive the filing of formal charge(s), any answer thereto, and any other formal procedures.

**C. AUTHORITY OF EXAMINER.** Pursuant to rule 406, Rules of Procedure, the Chief Trial Counsel has delegated to this Deputy Trial Counsel the authority to enter into this stipulation.

Parties' Initials

*[Handwritten initials]*

D. PROCEDURES AND TRIAL.

In order to accomplish the objectives of this stipulation, the parties waive all State Bar Court procedures regarding formal discovery as well as hearing or trial. Instead, the parties agree to submit this stipulation to a judge of the State Bar Court.

E. PENDING PROCEEDINGS.

Except as specified in subsection J, all pending investigations and matters included in this stipulation are listed by case number in the caption above.

F. EFFECT OF THIS STIPULATION.

- 1. The parties agree that this stipulation includes this form and all attachments.
- 2. The parties agree that this stipulation is not binding unless and until approved by a judge of the State Bar Court. If approved, this stipulation shall bind the parties in all matters covered by this stipulation and the parties expressly waive review by the Review Department of the State Bar Court.
- 3. If the stipulation is not approved by a State Bar Court judge, the parties will be relieved of all effects of the stipulation and any proceedings covered by this stipulation will resume.
- 4. The parties agree that stipulations as to proposed discipline involving suspension, are not binding on the Supreme Court of California. Pursuant to Business and Professions Code sections 6078, 6083-6084, and 6100, the Supreme Court must enter an order effectuating the terms and conditions of this stipulation before any stipulation for suspension, actual or stayed, will be effective.

G. PREVIOUSLY REJECTED STIPULATIONS IN PROCEEDINGS OR INVESTIGATIONS COVERED BY THIS STIPULATION.

Unless disclosed by the parties in subsection I, there have been no previously rejected or withdrawn stipulations in matters or investigations covered by this stipulation.

H. COSTS OF DISCIPLINARY PROCEEDINGS. (Check appropriate paragraph(s).)

- 1. The agreed disposition is eligible for costs to be awarded the State Bar. (Bus. & Prof. Code, §§ 6086.10 and 6140.7.) Respondent has been notified of his or her duty to pay costs. The amount of costs assessed by the Office of Chief Trial Counsel will be disclosed in a separate cost certificate submitted following approval of this stipulation by a hearing judge. The amount of costs assessed by the State Bar Court will be disclosed in a separate cost certificate submitted upon finalization of this matter.
- 2. The agreed disposition is not eligible for costs to be awarded the State Bar.

I. SPECIAL OR ADDITIONAL AGREEMENTS AS TO SECTION ONE.

- Respondent has been advised of pending investigations, if any, which are not included in this stipulation.
- FORM STIP 120 is attached, stating further general agreements and waivers.

Parties'

Initials

PAGE 5

**SECTION TWO. STATEMENT OF ACTS OR OMISSIONS AND CONCLUSIONS OF LAW WARRANTING THE AGREED DISPOSITION.**

The parties have attached FORM STIP 130 and agree that the same warrants the disposition set forth in this stipulation.

**SECTION THREE. STATEMENT OF FACTS, FACTORS OR CIRCUMSTANCES BEARING ON THE AGREED DISPOSITION.**

The parties agree that the following attachment(s) constitute the facts and circumstances considered mitigating, aggravating or otherwise bearing on the agreed disposition:

FORM STIP 140: STATEMENT OF FACTS AND CIRCUMSTANCES BEARING ON THE AGREED DISPOSITION

**SECTION FOUR. AGREED DISPOSITION**

Based on the foregoing and all attachments, the parties agree that the appropriate disposition of all matters covered by this stipulation is [Check appropriate disposition(s); attach schedule(s) if indicated]:

- DISMISSAL OF ALL CHARGES [FORM DISP 200]
- DISMISSAL OF CERTAIN CHARGES [Attach FORM DISP 205: STATEMENT SUPPORTING DISMISSAL OF CERTAIN CHARGES]
- ADMONITION [Attach FORM DISP 210: ADMONITION]
- PRIVATE REPROVAL [Attach FORM DISP 220: PRIVATE REPROVAL]
- PUBLIC REPROVAL [Attach FORM DISP 230: PUBLIC REPROVAL]
- SUSPENSION ENTIRELY STAYED [Attach FORM DISP 240: RECOMMENDATIONS FOR STAYED SUSPENSION]
- ACTUAL SUSPENSION [Attach FORM DISP 250: RECOMMENDATIONS FOR ACTUAL SUSPENSION]
- ADDITIONAL PROVISIONS:
  - FORM DISP 260: CALIFORNIA PROFESSIONAL RESPONSIBILITY EXAMINATION
  - FORM DISP 270: FURTHER CONDITIONS TO BE ATTACHED TO REPROVAL

THE STATE BAR OF CALIFORNIA  
OFFICE OF THE CHIEF TRIAL COUNSEL  
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1149 South Hill Street  
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Telephone: (213) 765-1000

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IN THE MATTER OF

Case No(s). 93-O-20169  
93-O-20173

BRADLEY R. TAMM, Bar No. 159805

A Member of the State Bar.

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**DISCLOSURE OF PENDING INVESTIGATIONS**

B

  x   Respondent has been advised in writing of any pending investigations or proceedings not resolved by this Stipulation, identified by investigation case number and complaining witness name, if any.<sup>1</sup> All such information has been provided to the Respondent in a separate document as of June 18, 1996. This date is no more than thirty (30) days prior to the date the Stipulation is filed.

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<sup>1</sup> Pursuant to rules 132(b)(8), 133(k), and 134(c)(8), Rules of Procedure of the State Bar, the State Bar shall not disclose investigations, if any, related to investigations by criminal law enforcement agencies.



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IN THE MATTER OF

Case No(s).      93-O-20169  
                         93-O-20173

BRADLEY R. TAMM, Bar No. 159805

A Member of the State Bar.

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**APPLICABILITY OF RULES OF PROCEDURE**

The Rules of Procedure of the State Bar of California became effective on January 1, 1995 and amendments to the Rules of Procedure of the State Bar of California were adopted on January 1, 1996. The parties request the Court to substitute the applicable Rules of Procedure of the State Bar of California in place of any references to the former Transitional Rules of Procedure within this Stipulation as to Facts and Disposition.

IN THE MATTER OF Bradley R. Tamm, No 159805. CASE NO(S). 93-0-20169  
93-0-20173  
A Member of the State Bar.

ATTACHMENT TO:  STIPULATION  DECISION

**STATEMENT OF ACTS OR OMISSIONS  
WARRANTING THE AGREED DISPOSITION**

CASE NO. 93-0-20169; 93-0-20173

COUNTS One & Seven

1. On April 13, 1995, Respondent entered into an Agreement in lieu of disciplinary prosecution pursuant to Business and Professions Code Sections 6092.5(i) and 6068(1) ("the agreement") in connection with State Bar Court Case Numbers 93-0-20169 and 93-0-20173, wherein, Respondent stipulated to facts supporting the allegations of misconduct and to wilful violation of various Rules of Professional Conduct and certain sections of the Business and Professions Code.
2. Respondent agreed to comply with the agreement's terms and conditions which included written quarterly reports to be submitted to the Probation Unit, Office of Trials ("Probation Unit"), by January 10, July 10 and October 10 of each year during which the Agreement is in effect, maintaining a current office address and telephone number with the Membership Records office of the State Bar and quarterly restitution payments to Anne Bleier of Keco, Inc. ("Bleier") and to Frank Burton of Sparky's Cafe ("Burton"), the first payment to be made in June 1995.
3. Respondent failed to submit the quarterly reports due to the

Probation Unit by July 10, 1995 and October 10, 1995.

4. Respondent failed to maintain a current address and telephone number with the membership records department of the State Bar.
5. Respondent failed to make the quarterly restitution payments to Bleier and Burton in June 1995 and September, 1995.
6. Also, prior to entering into the Agreement, in the fall of 1993, Respondent vacated his law office and failed to notify the State Bar of California of his current membership address.

#### CONCLUSIONS OF LAW

By failing to comply with the terms and conditions of the agreement in lieu of disciplinary prosecution, Respondent wilfully violated Business and Professions Code Section 6068(1).

By failing to notify the State Bar of a current membership records address, Respondent wilfully violated Business and Professions Code, sections 6068(j) and 6002.1.

Parties'

Initials

*[Handwritten initials]*

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IN THE MATTER OF	CASE NO(S).
<u>Bradley R. Tamm, No. 159805.</u>	93-0-20169
A Member of the State Bar.	93-0-20173

ATTACHMENT TO:  STIPULATION     DECISION

**STATEMENT OF ACTS OR OMISSIONS  
WARRANTING THE AGREED DISPOSITION**

CASE NO. 93-0-20169

COUNTS 2 through 6

In addition to the facts stipulated in the Agreement, which is attached hereto and incorporated herein as Attachment A to this stipulation, the following additional facts occurred regarding Respondent's representation of Anne Bleier and Keco, Inc.:

1. On June 10, 1993, Bleier had issued to Respondent a check in the amount of \$80.00 which she understood would be used for filing costs. On June 22, 1993, the check was endorsed to Respondent's general business account and was never deposited or maintained in a client trust account.
2. In September, 1993, Respondent prepared and filed an appeal on behalf of Keco, Inc. regarding San Diego County Municipal Court Case Number 556004 entitled Baskerville v. Keco, Inc.
3. The \$14 check which Respondent submitted to the court in payment of filing fees on the case was dishonored by the bank due to insufficient funds in his account.
4. In October, 1993, when the Court attempted to notify Respondent that the appeal had been voided, Respondent did not

receive the notice due to his eviction from his law office. Nonetheless, Respondent did not take any steps to pursue the appeal and therefore was unaware of the status of the case.

5. Respondent also failed to notify his client about the status of the case and of a new address where he could be contacted after his eviction.

6. Since the legal services performed by the Respondent were ineffective due to his failure to properly file the appeal, he did not earn any of the \$820.00 in advanced costs and fees.

#### CONCLUSIONS OF LAW

In the Agreement, Respondent stipulated that his conduct in this matter violated Rules of Professional Conduct 3-110 (A), 3-700(A)(2), 3-700(D)(1) and 3-700(D)(2) as well as Business and Professions Code Section 6068(m). The facts stipulated to in the agreement that support these violation are that Respondent "failed to take any further action on the case"; "by his inaction, Respondent in effect withdrew from representation and failed to refund the unearned legal fees and to account for them"; and he "failed to communicate with his client regarding the status of her case".

It is further stipulated based on the above additional factual statements, that Respondent wilfully violated Rule of Professional Conduct 4-100(a) for failing to maintain advanced costs in a client trust account.

Parties'  
Initial

*[Handwritten initials]*

IN THE MATTER OF	CASE NO(S).
<u>Bradley R. Tamm, No. 159805.</u>	93-0-20169
A Member of the State Bar.	93-0-20173

ATTACHMENT TO:  STIPULATION     DECISION

**STATEMENT OF ACTS OR OMISSIONS  
WARRANTING THE AGREED DISPOSITION**

CASE NO. 93-0-20173

COUNTS 8 Through 11

In addition to the facts stipulated in the Agreement, (See Attachment A), the following additional facts occurred regarding Respondent's representation of Frank Burton:

1. From July 1993 to August 1993, Burton paid to Respondent the total sum of \$900.00 in advanced attorney's fees. Respondent also credited Burton with an additional \$240 in advanced fees to compensate Burton for monies Respondent owed Burton on his bar tab at Burton's cafe.
2. Respondent did not perform any services to earn these fees and has not refunded any portion of the \$1,140.00 to Burton.
3. On September 28, 1993, Burton substituted attorney Chris Popov ("Popov") in place of Respondent as his attorney of record. Between September 28, 1993 and November 18, 1993, Popov sent several letters to Respondent's office on Burton's behalf requesting Respondent to refund the unearned fees which Burton had paid to Respondent. Due to Respondent eviction from his law office and his failure to notify Burton of a new address, he did not receive these correspondence.

CONCLUSIONS OF LAW

In the Agreement, Respondent stipulated that his conduct in this matter violated Rules of Professional Conduct 3-110 (A), 3-700(A)(2), 3-700(D)(1) and 3-700(D)(2) as well as Business and Professions Code Section 6068(m). The facts stipulated to in the agreement that support these violation are that Respondent "failed to perform any of the legal services for which he had been employed"; "by his inactivity, [he] in effect withdrew from representation and failed to refund the unearned legal fees and to locate and return the client's papers and files" ; and he "failed to engage in any further communication with his client regarding the status of his legal matters".

Parties'

Initials

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IN THE MATTER OF	CASE NO(S).
<u>Bradley R. Tamm, No. 159805</u>	93-0-20169
A Member of the State Bar.	93-0-20173

ATTACHMENT TO:  STIPULATION     DECISION

**STATEMENT OF FACTS AND CIRCUMSTANCES  
BEARING ON THE AGREED DISPOSITION**

**A. AGGRAVATING CIRCUMSTANCES:**

- 1. Respondent has a record of prior discipline. (Std. 1.2 (b)(i).)<sup>1</sup> Supporting facts: \_\_\_\_\_  
\_\_\_\_\_
- 2. Respondent's misconduct evidences multiple acts of wrongdoing. (Std. 1.2 (b)(ii).) Supporting facts: \_\_\_\_\_  
\_\_\_\_\_
- 3. Respondent's misconduct evidences\ demonstrates a pattern of misconduct. (Std. 1.2 (b)(ii).) Supporting facts: \_\_\_\_\_  
\_\_\_\_\_
- 4. Respondent's misconduct was surrounded or followed by bad faith, dishonesty, concealment, overreaching or other circumstances defined by Standard 1.2 (b)(iii). Supporting facts: \_\_\_\_\_  
\_\_\_\_\_

<sup>1</sup> References to "Standards" are to the "Standards for Attorney Sanctions for Professional Misconduct: (See Transitional Rules of Procedure of the State Bar of California, Division V.)



Parties'  
Initials

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[ ] 5. Respondent's misconduct harmed significantly client(s), the public or the administration of justice. (Std. 1.2 (b)(iv).) Supporting facts: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

[ ] 6. Respondent demonstrated indifference to rectifying the consequences of misconduct. (Std. 1.2 (b)(v).) Supporting facts: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

[ ] 7. Respondent demonstrated indifference to atoning for the consequences of misconduct. (Std. 1.2 (b)(v).) Supporting facts: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

*[Handwritten mark]*

[X] 8. Respondent displayed a lack of candor and cooperation to any victim(s) of misconduct. (Std. 1.2 (b)(vi).) Supporting facts: Respondent failed to notify his clients that due to his personal problems, he was not handling their legal matters in a professional manner.  
\_\_\_\_\_  
\_\_\_\_\_

[ ] 9. Respondent displayed a lack of candor and cooperation to the State Bar during disciplinary investigation or proceedings. (Std. 1.2 (b)(vi).) Supporting facts: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

[ ] 10. Additional circumstance(s) in aggravation or additional facts regarding the above paragraphs are stated as follows: \_\_\_\_\_

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*None stated*

*[Handwritten initials]*

B. MITIGATING CIRCUMSTANCES:

[ ] 1. Respondent has no record of prior discipline over many years of practice, coupled with present misconduct not deemed serious. (Std. 1.2 (e)(i).) Supporting facts: \_\_\_\_\_

[ ] 2. Respondent acted in good faith. (Std. 1.2 (e)(ii).) Supporting facts: \_\_\_\_\_

[ ] 3. Respondent's misconduct did not result in harm to the client(s) or person(s) who were the objects of misconduct. (Std. 1.2 (e)(iii).) Supporting facts: \_\_\_\_\_

[ ] 4. Respondent suffered extreme emotional difficulties at the time of misconduct of the type which is subject to the conditions recognized by Standard 1.2 (e)(iv). Supporting facts: \_\_\_\_\_

*[Handwritten mark]*

[x] 5. Respondent suffered extreme physical disabilities at the time of misconduct of the type which is subject to the conditions recognized by Standard 1.2 (e)(iv). Supporting facts: This misconduct was in part a result of Respondent's suffering from health problems which detrimentally impacted the time and attention given to client matters as well as his financial situation, resulting in eviction from his office and home. (See Respondent's statement, Attachment B)

[ ] 6. Respondent displayed spontaneous candor and cooperation to the victim(s) of misconduct. (Std. 1.2 (e)(v).) Supporting facts: \_\_\_\_\_

*[Handwritten initials]*

*[Handwritten mark]*

7. Respondent displayed spontaneous candor and cooperation to the State Bar during disciplinary investigation and proceedings. (Std. 1.2 (e)(v).) Supporting facts: Respondent cooperated with the State Bar in initially entering into an agreement in lieu of discipline and continuing to make an effort to resolve the matters without the necessity for trial.

8. Respondent presented an extraordinary demonstration of good character as set forth in Standard 1.2 (e)(vi). Supporting facts: \_\_\_\_\_

9. Respondent promptly took objective steps to spontaneously demonstrate remorse which steps were designed to timely atone for any consequences of Respondent's misconduct. (Std. 1.2 (e)(vii).) Supporting facts: \_\_\_\_\_

10. Respondent promptly took objective steps to spontaneously demonstrate recognition of the wrongdoing acknowledged, which steps were designed to timely atone for any consequences of Respondent's misconduct. (Std. 1.2 (e)(vii).) Supporting facts: \_\_\_\_\_

11. Considerable time has passed since Respondent's misconduct, followed by convincing proof of subsequent rehabilitation (Std. 1.2 (e)(viii)). Supporting facts: \_\_\_\_\_

12. Excessive delay occurred in conducting this disciplinary proceeding, which delay is not attributable to Respondent and which delay was prejudicial to Respondent. (Std. 1.2 (e)(ix).) Supporting facts: \_\_\_\_\_

Parties'

Initials

*cm* *B. J.*

PAGE 19

*B*

[x] 13.

Additional circumstance(s) in mitigation or additional facts regarding the above paragraphs are stated as follows: \_\_\_\_\_

Respondent has ceased practicing law since this misconduct  
occurred. Respondent has lacked the funds to make  
restitution to the complainants. He is currently seeking  
employment in a non-attorney capacity in the State of Hawaii  
and has provided his counsel with \$500 from his last  
employment to be used to initiate restitution to Ms. Bleier  
and Mr. Burton.

*B*

*[Handwritten initials]*

IN THE MATTER OF <u>Bradley R. Tamm, No. 159805</u> A Member of the State Bar.	CASE NO(S). 93-0-20169 93-0-20173
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ATTACHMENT TO:  STIPULATION     DECISION

### PRIVATE REPROVAL

[Fill in the blanks as appropriate and check boxes at left for all language that is intended to be included in the stipulation, deleting words or phrases that are not appropriate. When designating numbers for the amount of suspension or probation, please spell out the number and include the arabic numeral in parenthesis provided.]

*[Handwritten mark]*  It is recommended that Respondent be privately reproved by the State Bar Court.

*[Handwritten mark]*  The parties understand that although this reproof is termed "private," it arises in a public proceeding. Although the State Bar of California will not affirmatively provide any publicity to the disposition, the file, including the stipulation, any order approving it, in this case will remain public and will be available on any specific inquiry by a member of the public.

The parties understand that this private reproof is a result of a stipulation, entered into prior to the filing of a Notice to Show Cause. The file, the stipulation, the order thereon, and the record of a private reproof, shall remain confidential unless it is used hereafter as a record of prior discipline within the meaning of standard 1.7, Standards for Attorney Sanctions for Professional Misconduct.

There are no conditions to be attached to this private reproof.

*[Handwritten mark]*  Pursuant to rule 956, paragraph (a), California Rules of Court, it is recommended that the following conditions be attached to the private reproof, based upon a finding that protection of the public and the interests of respondent will be served thereby:

FORM DISP 260: CALIFORNIA PROFESSIONAL RESPONSIBILITY EXAMINATION

*[Handwritten mark]*  FORM DISP 270: FURTHER CONDITIONS TO BE ATTACHED TO REPROVAL

*[Handwritten mark]*  FORM PROB 310: GENERAL CONDITIONS OF PROBATION AND/OR APPOINTMENT OF PROBATION MONITOR

*[Handwritten mark]*  TRI 311

*[Handwritten mark]*  FORM PROB 320: RESTITUTION  
*and TRI 321*

FORM PROB 330: PROTECTION OF CLIENT FUNDS

Parties

Initials

*MLB, B, M*

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FORM PROB 340: MENTAL HEALTH TREATMENT

FORM PROB 350: ALCOHOL/DRUG IMPAIRMENT

FORM PROB 360: EDUCATION AND LAW OFFICE MANAGEMENT

TRI 382

FORM PROB 370: COMMENCEMENT AND EXPIRATION OF PROBATION

TRI 385

That the conditions attached to the private reproof shall commence to be effective upon the effective date of the order approving stipulation or decision and shall remain in effect for a period of three (3) ([ ] days / [ ] months / [X] years) unless otherwise specifically designated herein;

**NOTICE OF SANCTIONS FOR FAILURE TO COMPLY WITH CONDITIONS ATTACHED TO PRIVATE REPROVAL**

RESPONDENT ACKNOWLEDGES THAT THIS STIPULATION CONSTITUTES NOTICE THAT, PURSUANT TO RULE 956, CALIFORNIA RULES OF COURT, RESPONDENT'S FAILURE TO COMPLY WITH THE CONDITIONS ATTACHED TO ANY PRIVATE REPROVAL ADMINISTERED BY THE STATE BAR COURT MAY CONSTITUTE CAUSE FOR A SEPARATE ATTORNEY DISCIPLINARY PROCEEDING FOR WILFUL BREACH OF RULE 1-110, RULES OF PROFESSIONAL CONDUCT.

Parties'

Initials

*MB, Jm*

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IN THE MATTER OF

CASE NO(S).

Bradley P. Tamm, No. 159805

93-0-20169

93-0-20173

A Member of the State Bar.

ATTACHMENT TO:  STIPULATION     DECISION

**FURTHER CONDITIONS TO BE ATTACHED TO REPROVAL**

*B* [ X ]

It is recommended that the State Bar Court order Respondent to take and pass the National Professional Responsibility Examination within thirty (30) months of the effective date of the administration of the private reprovall and furnish satisfactory proof of such passage to the Probation Unit within said period.



Parties'

Initials

*MLB* *MB*

IN THE MATTER OF	CASE NO(S).
<u>Bradley R. Tamm, No. 159805</u>	93-0-20169
A Member of the State Bar.	93-0-20173

ATTACHMENT TO:  STIPULATION     DECISION

**STANDARD CONDITIONS OF PROBATION<sup>1</sup> - GENERAL**

*B*

COND. 310. That during the period of probation, Respondent shall comply with the provisions of the State Bar Act and Rules of Professional Conduct of the State Bar of California;

*B*

COND. 410. That during the period of probation, Respondent shall report not later than January 10, April 10, July 10 and October 10 of each year or part thereof during which the probation is in effect, in writing, to the Probation Unit, Office of Trials, Los Angeles, which report shall state that it covers the preceding calendar quarter or applicable portion thereof, certifying by affidavit or under penalty of perjury (provided, however, that if the effective date of probation is less than 30 days preceding any of said dates, Respondent shall file said report on the due date next following the due date after said effective date):

(a) in Respondent's first report, that Respondent has complied with all provisions of the State Bar Act, and Rules of Professional Conduct since the effective date of said probation;

(b) in each subsequent report, that Respondent has complied with all provisions of the State Bar Act and Rules of Professional Conduct during said period;

(c) provided, however, that a final report shall be filed covering the remaining portion of the period of probation following the last report required by the foregoing provisions of this paragraph certifying to the matters set forth in subparagraph (b) thereof;

<sup>1</sup> If attached to forms DISP 220 or DISP 230, the word "probation," as used herein, shall be interpreted to mean "condition attached to a reproof" pursuant to rule 956, California Rules of Court.

Parties'

Initials

*[Handwritten signatures and initials]*

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**COND. 600. MAINTENANCE OF OFFICIAL MEMBERSHIP ADDRESS.**

*[Handwritten mark]* [ X ]

COND. 610. That Respondent shall promptly report, and in no event in more than ten days, to the membership records office of the State Bar and to the Probation Unit, Office of Trials, all changes of information including current office or other address for State Bar purposes as prescribed by section 6002.1 of the Business and Professions Code;

**STANDARD CONDITIONS OF PROBATION:  
ASSIGNMENT OF PROBATION MONITOR**

**COND. 510. ASSIGNMENT OF PROBATION MONITOR:**

[ ] That Respondent shall be referred to the Probation Unit, Office of Trials, for assignment of a probation monitor. Respondent shall promptly review the terms and conditions of Respondent's probation with the probation monitor to establish a manner and schedule of compliance consistent with these terms of probation. During the period of probation, Respondent shall furnish such reports concerning Respondent's compliance as may be requested by the probation monitor. Respondent shall cooperate fully with the probation monitor to enable him/her to discharge Respondent's duties pursuant to rule 611, Rules of Procedure of the State Bar;

**COND. 550. AUTHORITY OF PROBATION MONITOR TO QUESTION RESPONDENT:**

[ ] That subject to assertion of applicable privileges, Respondent shall answer fully, promptly and truthfully any inquiries of the Probation Unit, Office of Trials, and any probation monitor assigned under these conditions of probation which are directed to Respondent personally or in writing relating to whether Respondent is complying or has complied with these terms of probation;

OFFICE OF THE CHIEF TRIAL COUNSEL  
THE STATE BAR OF CALIFORNIA  
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Los Angeles, California 90015-2299  
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**IN THE MATTER OF**

**Case No(s).** 93-O-20169  
93-O-20173

**BRADLEY R. TAMM, Bar No. 159805**

**A Member of the State Bar.**

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**PROBATION FINAL REPORT**

Respondent shall file his final report no earlier than twenty (20) days before the date on which the term of probation expires and no later than the date on which probation expires.

IN THE MATTER OF <u>Bradley R. Tamm, No. 159805</u>	CASE NO(S). <u>93-0-20169</u> <u>93-0-20173</u>
A Member of the State Bar.	

ATTACHMENT TO:  STIPULATION     DECISION

### RESTITUTION

[Please use a separate form for each person or entity to which restitution will be made.]

B  COND. 210. That within three (3) days/months years from the effective date of:

The Supreme Court's order in this matter,

B  The administration of a reproof by the State Bar Court in this matter,

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

B  As set forth in FORM DISP 250:

Respondent must make restitution to \_\_\_\_\_ or the Client Security Fund if it has paid, in the amount of \_\_\_\_\_, plus interest at the rate of 10% per annum from \_\_\_\_\_, until paid in full and furnish satisfactory evidence of restitution to the Probation Unit, Office of Trials, Los Angeles;

B  Respondent must make restitution to Anne Bleier of Keeco, Inc. or the Client Security Fund if it has paid, in the amount of \$820.00, plus interest at the rate of 10% per annum from November 1, 1993, in 10 monthly / quarterly / yearly installments with a minimum of \$100 per installment with all remaining funds payable prior to the due date for the 10th quarterly report required by these probationary conditions. until paid in full and furnish satisfactory evidence of such restitution to the Probation Unit, Office of Trials, Los Angeles;

Other: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

*[Handwritten initials]*

IN THE MATTER OF	CASE NO(S):
<u>Bradley R. Tamm, No. 159805</u>	93-0-20169
A Member of the State Bar.	93-0-20173

ATTACHMENT TO:  STIPULATION     DECISION

### RESTITUTION

[Please use a separate form for each person or entity to which restitution will be made.]

*B*  COND. 210. That within three (3) days/months/years from the effective date of:

The Supreme Court's order in this matter,

*B*  The administration of a reproof by the State Bar Court in this matter.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

*B*  As set forth in FORM DISP 250:

Respondent must make restitution to \_\_\_\_\_  
or the Client Security Fund if it has paid, in the amount of \_\_\_\_\_,  
plus interest at the rate of 10% per annum from \_\_\_\_\_,  
until paid in full and furnish satisfactory evidence of restitution to the Probation Unit,  
Office of Trials, Los Angeles;

*B*  Respondent must make restitution to Frank Burton,  
or the Client Security Fund if it has paid, in the amount of \$1,140,  
plus interest at the rate of 10% per annum from September 1, 1993,  
in 12 monthly / quarterly / yearly installments with a minimum of \$100 per  
installment with all remaining funds payable prior to the expiration  
of the three year probation period.  
until paid in full and furnish satisfactory evidence of such restitution to the Probation  
Unit, Office of Trials, Los Angeles;

Other: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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IN THE MATTER OF

Case No(s). 93-O-20169  
93-O-20173

BRADLEY R. TAMM, Bar No. 159805

A Member of the State Bar.

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**EVIDENCE OF RESTITUTION**

Respondent shall include in each quarterly report required by COND 410 of PROB 310 satisfactory evidence of all restitution payments made by him during that reporting period.

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IN THE MATTER OF

Case No(s). 93-O-20169  
93-O-20173

BRADLEY R. TAMM, Bar No. 159805

A Member of the State Bar.

**ALCOHOL/DRUG ABUSE CONDITIONS OF PROBATION<sup>1</sup>**

**ABSTINENCE**

That Respondent shall abstain from use of any alcoholic beverages, and shall not use or possess any narcotics, dangerous or restricted drugs or associated paraphernalia except with a valid prescription.

**SUBSTANCE ABUSE TREATMENT PROGRAM**

Within thirty (30) days of the effective date of the discipline ordered herein, the Respondent shall provide evidence to the Probation Unit, Office of the Chief Trial Counsel, of his continued participation in the State of Hawaii's Attorney and Judges Assistance Program (See Attachment C) or his enrollment in a different program of substance abuse recovery which meets with the approval of the Probation Unit, Office of the Chief Trial Counsel. The Respondent must provide satisfactory evidence of his compliance with such program with each report required under these conditions.

**OTHER**

Failure by Respondent to submit a report when due or failure to submit a report that is consistent with the requirement of this condition of probation shall be considered a violation of the abstinence provision of this condition of probation and a violation of probation.

<sup>1</sup> If attached to forms DISP 220 or DISP 230, the word "probation," as used herein, shall be interpreted to mean "condition attached to a reproof" pursuant to rule 956, California Rules of Court.

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---

IN THE MATTER OF

Case No(s). 93-O-20169  
93-O-20173

BRADLEY R. TAMM, Bar No. 159805

A Member of the State Bar.

---

**STATE BAR ETHICS SCHOOL**

Respondent resides outside California and he is unable to attend State Bar Ethics School. As an alternative to State Bar Ethics School, the parties agree that Respondent will complete eight (8) hours of continuing legal education approved courses in attorney ethics law, four (4) hours each year, for the first two years of probation.



Parties'  
Initials

*MB, B, Jm*

**SECTION FIVE. APPROVAL OF PARTIES.**

The parties and all counsel of record hereby approve the foregoing stipulation and all attachments, and the parties agree to be bound by all terms and conditions stated and the agreed disposition.

DATE: 8/5/96

*[Signature]*  
Deputy Trial Counsel

DATE: \_\_\_\_\_

Deputy Trial Counsel

DATE: \_\_\_\_\_

\_\_\_\_\_

DATE: \_\_\_\_\_

\_\_\_\_\_

DATE: 7/16/96

*[Signature]*  
Respondent

DATE: \_\_\_\_\_

Respondent

DATE: 7/29/96

*[Signature]*  
Respondent's Counsel

DATE: \_\_\_\_\_

Respondent's Counsel

CONFIDENTIAL DOCUMENT - NOT TO BE FILED WITH THE COURT

THE STATE BAR OF CALIFORNIA  
[ ] Los Angeles [ ] San Francisco

Parties' Initials [Signature] PAGE 1

<p>IN THE MATTER OF <u>BRADLEY R. TAMM</u>, No: <u>159805</u>, A MEMBER OF THE STATE BAR OF CALIFORNIA.</p>	<p>Case No(s). 93-O-20169 93-O-20173 STIPULATION AS TO FACTS AND AGREEMENT IN LIEU OF DISCIPLINE PURSUANT TO BUSINESS AND PROFESSIONS CODE SECTIONS 6068(1) AND 6092.5(i) [ ] Amended</p>
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SECTION ONE. THE PROCEEDINGS: [X] PRE-NOTICE ALD  
[ ] POST-NOTICE ALD  
[ ] CONVICTION REFERRAL ALD

- A. PRE-NOTICE ALD  
11/10/93 &  
[X] On or about 12/29/93, a complaint was filed with the State Bar against Respondent alleging violations of:  
Rules of Professional Conduct 3-110 & 3-700 and Business and Professions Code Section 6008(m)
- [X] On February 8, 1994 an investigator from the Office of Investigations of the State Bar contacted Respondent:  
[X] by letter dated February 8, 1994 [ ] by telephone on \_\_\_\_\_ and advised Respondent of the aforementioned allegations.
- [ ] Respondent addressed the allegations:  
[ ] by letter dated \_\_\_\_\_  
[ ] in a meeting with the investigator on \_\_\_\_\_  
[ ] by telephone conference with the investigator on \_\_\_\_\_
- [X] A letter of intent to issue a Notice of Disciplinary Charges regarding the aforementioned allegations was sent to Respondent on Dec. 8, 1994. Thereafter, on Dec. 29, 1994 Respondent and/or Respondent's counsel met to discuss the allegations.
- [X] It is the intention of the State Bar and the Respondent to dispose of the aforementioned matter(s) without the necessity of filing a Notice of Disciplinary Charges. Respondent, therefore, by executing this agreement, specifically waives the issuance of a Notice of Disciplinary Charges, the right to a formal hearing on the aforementioned matter(s) and any other procedures necessary to accomplish the objectives of this agreement.

B. POST-NOTICE ALD

1. A Notice of Disciplinary Charges to initiate proceedings was filed with the State Bar Court on \_\_\_\_\_ and served upon Respondent by certified mail, return receipt requested, on \_\_\_\_\_.

Attachment A

Parties' Initials

*[Handwritten initials]* PAGE 2

2. It is now the intention of the State Bar and the Respondent to dispose of the aforementioned matter(s) by Stipulation as to Facts and Agreement in Lieu of Discipline pursuant to Business and Professions Code sections 6068(1) and 6092.5(i).

C. CONVICTION REFERRAL ALD

This is a proceeding pursuant to sections 6101 and 6102 of the Business and Professions Code and rule 951 of the California Rules of Court.

Respondent, a member of the State Bar of California, was convicted on \_\_\_\_\_, of violating \_\_\_\_\_

On \_\_\_\_\_, the Review Department of the State Bar Court issued an order referring this 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 violation of \_\_\_\_\_

of which Respondent herein was convicted, involved moral turpitude or other misconduct warranting discipline.

It is now the intention of the State Bar and the Respondent to dispose of the aforementioned matter(s) by Stipulation as to Facts and Agreement in Lieu of Discipline pursuant to Business and Professions Code sections 6068(1) and 6092.5(i).

SECTION TWO. GENERAL AGREEMENTS AND WAIVERS.

A. PARTIES

1. The parties to this Stipulation as to Facts and Agreement in Lieu of Discipline (ALD), entered into under Business and Professions Code sections 6068(1) and 6092.5(i), are the member of the State Bar of California, captioned above (hereinafter "Respondent"), who was admitted to practice law in the State of California on September 21, 1992 and the State Bar of California, by and through the Office of Trials, represented by the Deputy Trial Counsel of record whose name appears below.

2. If Respondent is represented by counsel, Respondent and his/her counsel have received and reviewed this agreement, have approved it as to form and substance, and have signed FORM ALD 400 below.

3. If Respondent is appearing in propria persona, Respondent has received and reviewed this agreement, has approved it as to form and substance, and has signed FORM ALD 400 below.

**B. JURISDICTION, SERVICE AND NOTICE OF CHARGE(S) AND ANSWER.**

The parties agree that the State Bar Court has jurisdiction over Respondent to take the action agreed upon within this Stipulation as to Facts and Agreement in Lieu of Discipline. This agreement is entered into pursuant to provisions of Business and Professions Code sections 6068(1) and 6092.5(i). No issue is raised over notice or service of any charge(s). The parties waive any variance between the basis for the action agreed to in this agreement and any charge(s). As to any charge(s) not yet filed in any matter covered by this agreement, the parties waive the filing of formal charge(s), any answer thereto, and any other formal procedures.

**C. PROCEDURES AND TRIAL.**

In order to accomplish the objectives of this agreement, the parties waive all State Bar Court procedures regarding formal discovery as well as hearing and trial.

[ ] The parties agree to submit this agreement to the Court for an in camera inspection if requested.

**D. PENDING PROCEEDINGS.**

All pending investigations and matters included in this agreement are listed by case number in the caption above.

**E. EFFECT OF THIS AGREEMENT.**

1. The parties agree that this Stipulation as to Facts and Agreement in Lieu of Discipline includes this form and all attachments.

2. Business and Professions Code section 6068(1) provides that it is the duty of any attorney "to keep all agreements made in lieu of disciplinary prosecution with the agency charged with attorney discipline." Any conduct by the Respondent within the effective period of this agreement which violates this agreement may give rise to prosecution for violation of Business and Professions Code section 6068(1) in addition to prosecution for the underlying allegations.

3. The facts stipulated to as to the underlying misconduct are binding upon the Respondent, and the Stipulation as to Facts and Agreement in Lieu of Discipline, while confidential, may be admitted as evidence without further foundation at any disciplinary hearing held in conjunction with Respondent's failure to comply with the conditions of this agreement.

4. Should Respondent comply fully with the terms and conditions of this agreement as specified herein, the matter(s) referenced herein will thereafter be closed by the State Bar and the State Bar agrees that it will be precluded from reopening the referenced matters for any reason other than as stated in this agreement.

*B* *M* *[Signature]*

**F. FURTHER ACKNOWLEDGMENTS/CONSENTS.**

By executing this agreement, Respondent consents that although this agreement is confidential, the agreement will be disclosed to the individual(s) whose complaints are resolved hereby.

If this agreement is being executed prior to the initiation of disciplinary action in State Bar Court, Respondent has been advised that pursuant to Business and Professions Code section 6086.11, this agreement may be subject to review by the State Bar Complainants' Grievance Panel either in their annual audit or if the individual(s) who complained against Respondent disagrees with this disposition. In either case, the Panel may order further investigation or recommend that the Chief Trial Counsel file a Notice to Show Cause, take other formal disciplinary action or other action not involving formal disciplinary charges. Upon request for review from a complaining witness, Respondent understands that he/she will be notified.

The parties agree that upon the execution of this agreement by all parties, the State Bar will move the Court to dismiss, in the interest of justice and without prejudice to refile should Respondent fail to comply with the terms and conditions of this agreement, any formal charges filed with the Court which form the basis for this agreement.

**G. COSTS OF DISCIPLINARY PROCEEDINGS.**

The agreed disposition is not eligible for costs to be awarded the State Bar.

**SECTION THREE. STATEMENT OF ACTS OR OMISSIONS AND CONCLUSIONS OF LAW WARRANTING THE AGREED DISPOSITION.**

[X] The parties have attached FORM ALD 130 and agree that the same warrants the disposition set forth in this agreement.

**SECTION FOUR. STATEMENT OF FACTS, FACTORS OR CIRCUMSTANCES BEARING ON THE AGREED DISPOSITION.**

The parties agree that the following attachment sets forth facts and circumstances considered mitigating, aggravating or otherwise bearing on the agreed disposition:

[X] FORM ALD 140: STATEMENT OF FACTS AND CIRCUMSTANCES BEARING ON THE AGREED DISPOSITION

Parties  
Initials

*[Handwritten Signature]*  
PAGE 5

**SECTION FIVE. AGREED DISPOSITION.**

Based on the foregoing and all attachments, the parties agree that this Agreement in Lieu of Discipline, together with the following conditions, constitutes the appropriate disposition of all matters covered herein.

- CALIFORNIA PROFESSIONAL RESPONSIBILITY EXAMINATION [FORM ALD 260]
- STANDARD CONDITIONS [FORM ALD 310]
- RESTITUTION [FORM ALD 320]
- ALCOHOL/DRUG ABUSE CONDITIONS [FORM ALD 382]
- MENTAL HEALTH CONDITIONS [FORM ALD 383]
- ADDITIONAL CONDITIONS [FORM ALD 384]
- STATE BAR ETHICS SCHOOL/CLIENT TRUST ACCOUNT RECORD-KEEPING COURSE [FORM ALD 385]
- COMPLIANCE WITH CONDITIONS OF PROBATION/PAROLE IN UNDERLYING CRIMINAL MATTER [FORM ALD 387]

Parties:  
Initials

*[Handwritten Signature]* PAGE 6

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IN THE MATTER OF

Case No(s).

BRADLEY R. TAMM, No. 159805

93-O-20169

93-O-20173

A Member of the state Bar.

WAIVER OF ISSUANCE OF NOTICE TO SHOW CAUSE

It is agreed by the parties that investigative matters designated as case number(s) 93-O-20169 and 93-O-20173 shall be incorporated into the within agreement. The parties waive the issuance of a Notice to Show Cause and the right to a formal hearing and any other procedures necessary with respect to these investigative matters in order to accomplish the objectives of this agreement.

Parties' Initials

*[Handwritten initials]* PAGE 7

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IN THE MATTER OF  
BRADLEY R. TAMM, No. 159805,  
A Member of the State Bar.

Case No(s).  
93-O-20169  
93-O-20173

STATEMENT OF ACTS OR OMISSIONS AND CONCLUSIONS OF LAW  
CONSTITUTING A BASIS FOR THIS AGREEMENT

(PLEASE USE A SEPARATE FORM FOR EACH COURT.)

COUNT \_\_\_\_\_

FACTS

See Attachment 1.

LEGAL CONCLUSIONS

The Respondent acknowledges that by the conduct described above, he/she wilfully violated Business and Professions Code section(s) 6068(m)&(j), 6002. (D) (1)&(D) (2) and/or Rules of Professional Conduct 3-110(A) & 3-700(A) (2). The parties stipulate that the protection of the public and the interests of the Respondent would be best served by this Agreement in Lieu of Discipline pursuant to Business and Professions Code sections 6068(1) and 6092.5(i), including the provisions outlined in ALD 110.



Parties' Initials

 PAGE 8

IN THE MATTER OF	CASE NO(S).
<u>BRADLEY R. TAMM, NO. 159805</u>	93-O-20169 93-O-20173
A Member of the State Bar.	

ATTACHMENT TO:  STIPULATION  DECISION

STATEMENT OF ACTS OR OMISSIONS  
WARRANTING THE AGREED DISPOSITION

CASE NO. 93-O-20169 COUNT \_\_\_\_\_

In May, 1993, Respondent was employed by Anne Bleier, President of Keco Inc., to represent her company in San Diego County Municipal Court Case Number 556004 entitled Baskerville v. Keco, Inc. for which Respondent was advanced legal fees in the amount of \$820.00.

In mid-August, 1993, Ms. Bleier informed Respondent that she had received notice that judgment had been entered against Keco, Inc. in the action. Respondent agreed to file an appeal and stay enforcement of the judgment. On September 24, 1993, Respondent obtained an Order from the Municipal Court setting aside the judgment and vacating the writ of Execution based on his filing an appeal.

On October 15, 1993, Respondent was notified by the Municipal Court, San Diego Judicial District, that his \$14 check for filing fees for the appeal was dishonored by the bank. Thereafter, Respondent failed to take any further action on the case and failed to communicate with his client regarding the status of the case.

By his inaction, Respondent in effect withdrew from representation and failed to refund the unearned legal fees and to account for them. Respondent contacted attorney Michelle A. Perfilli who agreed after obtaining the client's consent to represent Keco Inc. Respondent then provided the client's file to Ms. Perfilli.

Respondent vacated his law office and failed to notify his client of an address where he could be located and failed to maintain a current membership address with the State Bar of California.

Thereafter, Ms. Perfilli successfully negotiated a settlement and dismissal of Baskerville v. Keco, Inc. in February, 1994.

Parties: [Signature]  
Initials: [Signature] PAGE 9

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IN THE MATTER OF  
BRADLEY R. TAMM, No. 159805,  
A Member of the State Bar.

Case No(s).  
93-O-20169  
93-O-20173

STATEMENT OF ACTS OR OMISSIONS AND CONCLUSIONS OF LAW  
CONSTITUTING A BASIS FOR THIS AGREEMENT

(PLEASE USE A SEPARATE FORM FOR EACH COUNTY.)

COUNT \_\_\_\_\_

FACTS

See Attachment 2.

LEGAL CONCLUSIONS

The Respondent acknowledges that by the conduct described above, he/she wilfully violated Business and Professions Code section(s) 6068(m) (D) (1) & (D) (2) and/or Rules of Professional Conduct 3-110(A) & 3-700(A) (2). The parties stipulate that the protection of the public and the interests of the Respondent would be best served by this Agreement in Lieu of Discipline pursuant to Business and Professions Code sections 6068(1) and 6092.5(i), including the provisions outlined in ALD 110.

IN THE MATTER OF	CASE NO(S).
<u>BRADLEY R. TAMM, NO. 159805</u>	93-0-20169 93-0-20173
A Member of the State Bar.	

ATTACHMENT TO:  STIPULATION #2 ( ) DECISION

**STATEMENT OF ACTS OR OMISSIONS  
WARRANTING THE AGREED DISPOSITION**

CASE NO. 93-0-20173

COUNT           

In July 1993, Respondent was hired to represent Frank Burton in obtaining government approval from Alcohol Beverage Control ("ABC") for the expansion of his cafe, obtaining a cabaret license and negotiating a contract with Sound Technologies Music Company for which he was paid \$1,140 in advanced fees.

Thereafter, Respondent failed to perform any of the legal services for which he had been employed by Mr. Burton, including failing to appear at a meeting with his client and a representative of ABC. Respondent notified his client that he had misplaced all of the papers regarding these matters which had been entrusted to him by Mr. Burton. Thereafter, Respondent failed to engage in any further communications with his client regarding the status of his legal matters.

Respondent by his inactivity in effect withdrew from representation without taking reasonable steps to avoid foreseeable prejudice to his client, including failing to refund any portion of the \$1,140 in unearned legal fees and failing to locate and return the client's papers and files to him.



Parties' Initials

*[Handwritten initials]* PAGE 12

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IN THE MATTER OF

Case No(s).

BRADLEY R. TAMM, No. 159805,

93-O-20169  
93-O-20173

A Member of the State Bar.

STANDARD CONDITIONS

- [X] That during the effective period of this agreement, Respondent shall comply with the provisions of the State Bar Act and Rules of Professional Conduct of the State Bar of California.
- [X] That during the effective period of this agreement, Respondent shall report not later than January 10, April 10, July 10 and October 10 of each year or part thereof during which the conditions of this agreement are in effect, in writing, to the Probation Unit, Office of Trials, Los Angeles, which report shall state that it covers the preceding calendar quarter or applicable portion thereof, certifying by affidavit or under penalty of perjury (provided, however, that if the effective date of this agreement is less than thirty (30) days preceding any of said dates, Respondent shall file said report on the due date next following the due date after said effective date):
  - (a) in Respondent's first report, that Respondent has complied with all provisions of the State Bar Act and Rules of Professional Conduct since the effective date of said agreement;
  - (b) in each subsequent report that Respondent has complied with all provisions of the State Bar Act and Rules of Professional Conduct during said period;
  - (c) provided, however, that a final report shall be filed covering the remaining portion of the effective period of this agreement following the last report required by the foregoing provisions of this paragraph certifying to the matters set forth in subparagraph (b) thereof.
- [X] That Respondent shall promptly report, and in no event in more than ten (10) days, to the Membership Records office of the State Bar and to the Probation Unit, Office of Trials, all changes of information including current office or other address for State Bar purposes as prescribed by Business and Professions Code section 6002.1.

Parties' Initials

*B. J. [Signature]* PAGE 13

OFFICE OF TRIAL COUNSEL  
OFFICE OF TRIALS  
THE STATE BAR OF CALIFORNIA  
( ) 1149 South Hill Street  
Los Angeles, California 90015-2299  
Telephone: (213) 765-1000  
( ) 555 Franklin Street  
San Francisco, California 94102-4498  
Telephone: (415) 561-8200

IN THE MATTER OF

Case No(s).

BRADLEY R. TAMM, NO. 159805,

93-0-20169

93-0-20173

A Member of the State Bar.

**RESTITUTION**

(PLEASE USE A SEPARATE FORM FOR EACH PERSON OR ENTITY TO WHICH RESTITUTION WILL BE MADE.)

[X] Respondent shall include in each quarterly report required by ALD 310 satisfactory evidence of all restitution payments made by him/her during that reporting period.

[X] Respondent must make restitution to Frank Burton of Sparky's Cafe in the amount of, not less than \$1,351.00, in quarterly installments of: not less than \$168.68, per quarter, until paid in full and furnish satisfactory evidence of restitution to the Probation Unit, Office of Trials, Los Angeles.

[X] Respondent must make restitution to Anne Bleier of Keco, Inc. in the amount of \$ 923.00 ~~XXXXXXXXXXXXXXXXXXXXXXXXXXXX~~ ~~XXXXXXXXXXXX~~ in XXXXXXXX/quarterly/~~XXXXXX~~ installments of not less than \$115.38

XXXXXXXXXXXXXXXXXXXX until paid in full and furnish satisfactory evidence of restitution to the Probation Unit, Office of Trials, Los Angeles.

[X] Other: (a) The Restitution amounts have been calculated with 10% interests from November 1, 1993 through March 1, 1995.

(b) First payment to commence terms to be made in the month of June, 1995.

See Attachment 3

Parties:  
Initials

*[Handwritten initials]* PAGE 14

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IN THE MATTER OF

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93-O-20169

A Member of the State Bar.

93-O-20173

ADDITIONAL CONDITIONS

CURRENT TELEPHONE NUMBER

- [X] That Respondent maintain with the Probation Unit, Office of Trials, a current address and a current telephone number at which Respondent can be reached and respond within twelve (12) hours.

LAW PRACTICE MANAGEMENT SECTION OF THE STATE BAR

- [ ] That Respondent shall, within thirty (30) days of the execution of this agreement by all parties, join the Law Practice Management Section of the State Bar of California and shall pay whatever dues and costs are associated with such enrollment for a period of one (1) year. Within sixty (60) days of the execution of this stipulation by all parties, Respondent shall furnish satisfactory evidence of membership in the Section to Probation Unit, Office of Trials.

LAW OFFICE MANAGEMENT PLAN

- [ ] Respondent shall develop a law office management/organization plan that meets with the approval of the Probation Unit, Office of Trials, within \_\_\_\_\_ days/weeks/months from the execution of this agreement by all parties. This plan will include procedures to send periodic status reports to clients, documentation of telephone messages received and sent, file maintenance, procedures for meeting deadlines, calendaring system, procedures to withdraw as attorney whether of record or not when clients cannot be contacted or located, and procedures for the training and supervision of support personnel.

Parties:  
Initials

B. J. [unclear] [unclear] PAGE 15

**COURSES ON LAW OFFICE MANAGEMENT**

[ ] That Respondent complete \_\_\_\_\_ hours of California minimum continuing legal education-approved course(s) on law office management within \_\_\_\_\_ month(s)/year(s) of the date of the execution of this agreement by all parties. Within thirty (30) days after completion of each said course, Respondent shall furnish satisfactory evidence of completion of the course to the Probation Unit, Office of Trials. These hours are in addition to any requirement Respondent must meet in conjunction with the California Minimum Continuing Legal Education Program.

**CONTINUING LEGAL EDUCATION COURSES**

[ ] That Respondent complete \_\_\_\_\_ hours of California minimum continuing legal education-approved courses in attorney-client relations and/or legal ethics within \_\_\_\_\_ months/year(s) of the date of the execution of this agreement by all parties. Completion of the State Bar Ethics School or an Ethics School course will not satisfy this requirement. Within thirty (30) days after the completion of each said course, Respondent shall furnish satisfactory evidence of completion of the course to the Probation Unit, Office of Trials. These hours are in addition to any requirement Respondent must meet in conjunction with the California Minimum Continuing Legal Education Program.

**OTHER**

[ ]



Parties'  
Initials

PAGE 16

OFFICE OF TRIAL COUNSEL  
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Los Angeles, California 90015-2299  
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IN THE MATTER OF

Case No(s).

BRADLEY R. TAMM, NO. 159805 ,

93-O-20169

93-O-20173

A Member of the State Bar.

STATE BAR ETHICS SCHOOLS

STATE BAR ETHICS SCHOOL

Within one (1) year of the date of the execution of this agreement by all parties, Respondent shall attend the State Bar Ethics School, which is held periodically at the State Bar of California (555 Franklin Street, San Francisco, or 1149 South Hill Street, Los Angeles) and shall take and pass the test given at the end of such session. Respondent understands that this requirement is separate and apart from fulfilling the MCLE ethics requirement, and is not approved for MCLE credit.

CLIENT TRUST ACCOUNT RECORD-KEEPING COURSE

Within one (1) year of the date of the execution of this agreement by all parties, Respondent shall attend the State Bar Ethics School Client Trust Account Record-Keeping Course, which is held periodically at the State Bar of California (555 Franklin Street, San Francisco, or 1149 South Hill Street, Los Angeles) and shall take and pass the test given at the end of such session. Respondent understands that this requirement is separate and apart from fulfilling the MCLE ethics requirement, and is not approved for MCLE credit.

APPROVAL OF PARTIES

The parties and all counsel of record hereby approve the foregoing Stipulation as to Facts and Agreement in Lieu of Discipline and all attachments, and the parties agree to be bound by all terms and conditions stated and the agreed disposition.

DATE: 4/13/95

[Signature]  
RESPONDENT'S COUNSEL

DATE: 4/11/95

[Signature]  
RESPONDENT

DATE: April 11, 1995

[Signature]  
RESPONDENT'S COUNSEL

*gr*

ATTACHMENT 3

The State Bar of California  
Los Angeles, California

<p>In the Matter of:</p> <p><b>BRADLEY R. TAMM</b> (Bar No. 159805)</p> <p>a Member of the State Bar of California</p>	<p>Case No(s): 93-0-20169 93-0-20173</p> <p><b>DECLARATION OF BRADLEY R. TAMM, RESPONDENT HEREIN</b></p>
--	--

At the present time, Respondent is unemployed and unable to provide fully for his own support and maintenance. Respondent presently is reliant upon the good will of former friends and associates to provide even the most basic elements of living.

Respondent is at present homeless, and is periodically forced by circumstances to rely upon public assistance.

Respondent has not engaged in the practice of law, except in conjunction with certain pro bono publico services performed under the auspices of, and without compensation from, the San Diego Volunteer Lawyers Association, and San Diego AIDS Foundation, since the abandonment of his practice, as stated in the body of this STIPULATION.

Respondent is presently working with certain other Attorneys in the San Diego region in an attempt to return self sufficiency, and ultimately to the practice of law (at some future date).

Based upon the foregoing, Respondent stipulates to the terms of this Agreement, with full knowledge that at present, he lacks *the resources to comply with the financial terms of this agreement,* but Respondent does in good faith anticipate being in

*B*

a position, as each quarterly obligation presents, to be able to meet the minimal requirements of each commitment.

It is for this reason that Respondent, through counsel, has negotiated the extended payment plan of two years, while retaining the (acceleration) provision of a ONE YEAR minimum probation and "pay-off."

It is further noted, that Respondent has not paid to the State Bar of California, Membership Fees for the year of ~~1984~~, *1994* *8* *not* 1995, and is at present, suspended from the practice of law for non-payment of membership fees.

I, BRADLEY R. TAMM, do declare, that the foregoing is true and correct, and that this Declaration, as a part of the above entitled ADDITIONAL AND/OR CHANGED TERMS AND CONDITIONS SUBJECT TO, AND AS A CONDITION OF, STIPULATION AS TO FACTS AND AGREEMENT IN LIEU OF DISCIPLINE PURSUANT TO BUSINESS AND PROFESSIONS CODE SECTIONS 6068(1) AND 6092.5 is made under penalty of perjury under the laws of the State of California.

Executed this 11<sup>th</sup> Day of April, 1995, at San Diego, California.

  
BRADLEY R. TAMM

**Bradley R. Tamm, J.D.**

c/o Attorneys' & Judges Assistance Program  
801 Alakea Street, Suite 208 Honolulu, Hawaii 96813  
Pager (808) 361-1150

May 14, 1996

to: The California State Bar

from: Bradley R. Tamm, Esq.  
Respondent

via: Pamela E. Havird, Esq.  
Attorney for Respondent

In re: The Matter of Bradley R. Tamm, Member of the State Bar

In regards to the above referenced matter, the following is submitted:

During the last several years it had become apparent to me that my ability to function both as an attorney and as a human being was being adversely effected by stress and my attempts to medicate such stress by over-consumption of alcohol.

Beginning in 1994, I sought assistance from various organizations, including, *inter alia*, The San Diego County Bar Association, Disabilities Section (Attorney William Hargreaves), The "Other Bar" (Attorney David Demergian, and Judge [Ret.] William Beard), Rand Recovery Services (Jerry Rand, M.D. [who is closely associated with the "Other Bar."]), and the "Attorneys' and Judges' Assistance Program (sponsored by the Supreme Court of Hawaii).

After some initial setbacks, and subsequent to some intensive educational and training programs, I have now achieved nearly one year (anniversary date of June 1995) of sobriety. My life today is one which is dedicated to spiritual and emotional growth, as well as abstinence from the use of mood altering substances. I am presently struggling with re-establishing myself as a productive member of society and have had (in my view) some credible success. While I am still significantly under employed, and continuing to experience severe financial restrictions, I am presently able to keep food on the table and a roof over my head, and make some progress in paying financial restitution to those that have been harmed by my transgressions.

My present program of recovery consists of attendance of various meetings of Alcoholics Anonymous ("A.A."), and regular (twice weekly) attendance of the Honolulu Chapter of the Attorneys'

Support Group (a "12 Step" program not officially affiliated with A.A.) sponsored by the Supreme Court of Hawaii. It is my intention to continue attendance of A.A. meetings, and to continue my affiliation with the Attorneys' Support Group.

In addition to my A.A./Sobriety related activities, my days are spent in search of employment within the legal profession, and in the preparation of academic materials. My evenings are spent (when possible) teaching Law and Criminal Justice Administration with two local Universities with whom I have become affiliated with as adjunct faculty.

It is my sincere desire to fully pay restitution to those clients which were harmed by my conduct in 1993, and to restore my active membership with the California State Bar. While I do not know if I will return to the State of California to actively engage in the practice of law, I do wish to keep that option open.

Presently, the over-riding focus of my life is to remain sober, and to regain my pre-disability abilities to be productive and provide for my support. To this end, I respectfully submit that I will make every effort to comply with the terms of any Stipulated Settlement reached in this matter and to conduct myself in a manner which is in full compliance with the letter and spirit of the law as well as the Rules of Professional Conduct.

Sincerely,



Bradley R. Tamm



## ATTORNEYS AND JUDGES ASSISTANCE PROGRAM

Supreme Court • State of Hawaii

PETER A. DONAHOE, J.D.  
Director

Queen's Plaza  
801 Alakea Street, Suite 208  
Honolulu, Hawaii 96813  
Tel and Fax (808) 531-2880

May 14, 1996

The State Bar of California

In re: The Matter of Bradley R. Tamm, Member of the State Bar  
of California

This letter is written in response to a request from the above referenced member to provide information regarding this office and its functions with respect to assisting attorneys with substance abuse problems.

The Supreme Court of the State of Hawaii has established the Attorneys and Judges Assistance Program, as provided for in Rule 16 of the Rules of the Supreme Court of the State of Hawaii. Rule 16.1 provides in pertinent part:

"(a) The purpose of the Attorneys and Judges Assistance Program ("AAP") is to provide immediate and continuing assistance to attorneys who practice law in the State of Hawaii and judges of the courts of the State of Hawaii who suffer from problems, disability or impairment which affect their professional performance for any reason ("impairment"), including but not limited to excessive use of alcohol or drugs ("substance abuse"), physical or mental illness, or other infirmity. ..."

Attached hereto is a complete copy of the above referenced rules, as pertains to AAP.

The Hawaii AAP is officially affiliated with the Commission on Impaired Attorneys of the American Bar Association, and is in contact with "The Other Bar" association of the State of California.

Since February 1, 1993, I have been the Director of this program (see Rule 16.3). While it is not specifically provided for in the charter of this program, we have and continue to provide participatory assistance to Attorneys from other jurisdictions, such as the above referenced (Non-Hawaii) member.

ATTACHMENT C 104'

The California State Bar  
May 14, 1996  
Page Two

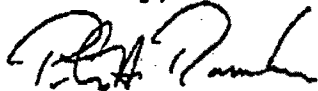
I was initially contacted by the above referenced member in November of 1995. At the time, Mr. Tamm had just arrived in Hawaii and was apparently without means of support. He was referred to the various agencies for financial and housing assistance and encouraged to participate in the support groups connected with this office.

In the following months, Mr. Tamm's participation and affiliation with the two Attorney support groups sponsored by this office have been regular and active. Mr. Tamm's appearance is markedly changed (for the better), and he appears to be able to support himself financially. I have been quite encouraged with his progress and believe that he is "on the right track" to recovery.

I have discussed with Mr. Tamm the significance of the present pending disciplinary proceedings and how those proceedings effect and influence his recovery from alcoholism. It is my belief that he is sincere in his desire to recover and to participate in the terms of this settlement as I understand them.

Should you have any questions, please feel free to contact me.

Sincerely,



Peter A. Donahoe, J.D.  
Director



**RULES OF THE  
SUPREME COURT  
OF THE  
STATE OF HAWAII**

**As Amended April 16, 1984  
Effective June 1, 1984  
With Further Amendments as Noted**

**The Judiciary  
State of Hawaii**

(g) **Statements Open to Public Inspection.** Financial disclosure statements filed pursuant to this rule shall be available for public inspection in the supreme court clerk's office during normal business hours.

(h) **Filing of Statement Not to Limit Ethical Responsibilities of a Judge.** The filing of a financial disclosure statement pursuant to this rule shall not limit any ethical responsibilities of a judge with respect to financial activities and judicial disqualification. This rule shall not be construed as limiting the ethical or legal responsibilities of a judge as set out in the Code of Judicial Conduct, case law, statutes or any other rule of court.

*(Added January 21, 1988, effective January 1, 1988, first disclosure statements due April 30, 1989.)*

**Rule 16. ATTORNEYS AND JUDGES ASSISTANCE PROGRAM.**

**16.1. Purpose; Scope.**

(a) The purpose of the Attorneys and Judges Assistance Program ("AAP") is to provide immediate and continuing assistance to attorneys who practice law in the State of Hawaii and judges of the courts of the State of Hawaii who suffer from problems, disability or impairment which affect their professional performance for any reason ("impairment"), including but not limited to excessive use of alcohol or drugs ("substance abuse"), physical or mental illness, or other infirmity. Professional performance is affected when an attorney or judge is incapable of devoting the time and attention to, and providing the quality of service in, his or her law practice or judicial duties which are necessary to protect the interest of a client or litigant.

(b) The AAP shall consist of at least the following categories of programs.

**Rule 16.1**

(1) *Voluntary Program.* A voluntary program addressing "self-referrals" entering treatment without the formal prior intervention of the AAP.

(2) *Intervention Program.* A program primarily addressing attorneys and judges who are not "self-referrals" and who have not yet been the subject of a complaint that warrants a disciplinary petition, but whose impairment affects their professional performance and may put them at risk of disciplinary action if the impairment continues.

(c) AAP shall not provide treatment to impaired attorneys and judges but shall instead provide education and guidance concerning substance abuse, refer impaired attorneys and judges to appropriate substance abuse and/or mental health treatment providers, and provide emotional support to impaired attorneys and judges.

**16.2. Attorneys and Judges Assistance Program Board.**

(a) The supreme court shall appoint from nominations submitted by the Board of Directors of the Hawaii State Bar a board to be known as the "Attorneys and Judges Assistance Program Board of the Hawaii Supreme Court" ("Board") which shall consist of nine (9) members, one of whom shall be designated by the Board as chairperson. Six (6) members shall be attorneys licensed to practice in the State of Hawaii and three (3) members shall be judges of the State of Hawaii.

(b) All members shall be appointed to staggered three-year terms; however, to maintain a board with staggered terms, initial appointments may be for less than three years. Members shall receive no compensation for their services but may be reimbursed for their traveling and other expenses incidental to the performance of their duties.

(c) Board members shall refrain from taking part in any proceeding in which a judge, similarly situated, would be required to abstain. If, in any given case, it shall become necessary for the continuation of a case, or the orderly operation of the Board, the supreme court may appoint, for that case only, one or more ad hoc members as it deems necessary. Each ad hoc member shall fulfill all the responsibilities of a Board member.

(d) The Board shall exercise the powers and perform the duties conferred and imposed upon it by these rules, including the power and duty:

(1) To take such action as shall be appropriate to effectuate the purposes of these rules.

(2) To appoint an administrator (whether an individual or a professional assistance organization) as may from time to time be required to properly perform the functions hereinafter prescribed. The administrator is hereinafter referred to as "Director." The Director shall implement and administer all of the programs under this rule.

(3) To adopt rules of procedure governing the Board and committees which are not inconsistent with these rules.

(4) To receive from the Bar the fees collected under Rule 17(d)(2)(iv); to prepare and maintain appropriate accounting records showing the receipt and disposition of those funds, which records shall be subject to audit; and to prepare an annual budget for the expenditure of those funds.

*(Amended February 7, 1992, effective February 7, 1992.)*

### **16.3. The Director.**

The Director shall be a trained counselor or an attorney who is a recovering substance abuser and has not used alcohol or drugs for at least five years. A "trained counselor" shall have education,

### **Rule 16.3**

training or experience in the evaluation, counseling or management of persons who are impaired due to substance abuse or physical or mental illness. The Director shall administer the AAP and shall perform such duties as directed by the Board.

#### **16.4. Voluntary Program.**

(a) The Director shall administer the Voluntary Program of the AAP in accordance with policies and procedures adopted by the Board.

(b) The Director shall provide a source of evaluation and treatment for attorneys and judges who, on a strictly voluntary basis, desire to avail themselves of such services.

(c) Attorneys and judges who voluntarily seek assistance from the AAP shall be evaluated, provided education and guidance concerning substance abuse, referred to appropriate substance abuse or mental health treatment providers, and provided emotional support by attorneys and judges who are recovering substance abusers.

#### **16.5. Intervention Program.**

(a) The Director shall establish a Lawyer Volunteer Committee. Each person appointed to the Lawyer Volunteer Committee shall be an attorney, judge or trained counselor.

(b) "Intervention" is defined as the process of interrupting impairment by utilizing information, confrontation, counseling and motivation techniques to facilitate entry into diagnosis, treatment and rehabilitation.

(c) The Lawyer Volunteer Committee is established as a committee to utilize intervention exclusively with attorneys and judges who are impaired to facilitate their entry into diagnosis, treatment and rehabilitation.

**DECLARATION OF SERVICE**

[Rule 62(b), Rules Proc.; Code Civ. Proc., § 1013a(4)]

I am a Deputy Case Coordinator of the State Bar Court. I am over the age of eighteen and not a party to the within proceeding. In the City and County of Los Angeles, on August 14, 1996, I deposited a true copy of the following document(s)

**ORDER REGARDING STIPULATION AS TO FACTS AND DISPOSITION  
FILED AUGUST 13, 1996  
STIPULATION AS TO FACTS AND DISPOSITION (RULES 405-407,  
TRANSITIONAL RULES OF PROCEDURE OF THE STATE BAR OF  
CALIFORNIA) FILED AUGUST 09, 1996**

in a sealed envelope as follows:

[ X ] with first-class postage thereon fully prepaid in a facility regularly maintained by the United States Postal Service at Los Angeles, California, addressed as follows:

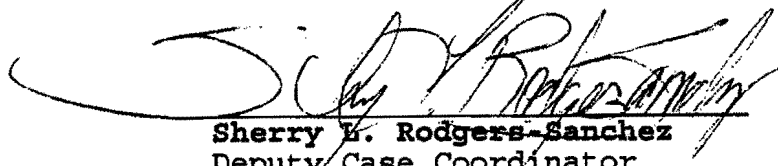
**Pamela E. Havird, A/L  
P.O. Box 370342  
San Diego, CA 92137**

[ ] by certified mail, , with a return receipt requested, in a facility regularly maintained by the United States Postal Service at Los Angeles, California, addressed as follows:

[ X ] in an interoffice mail facility regularly maintained by the State Bar of California addressed as follows:

**Alyse Lazar, OFFICE OF TRIALS**

I hereby certify that the foregoing is true and correct.  
Executed in Los Angeles, California, on August 14, 1996.



**Sherry B. Rodgers-Sanchez  
Deputy Case Coordinator  
State Bar Court**



The document to which this certificate is affixed is a full, true and correct copy of the original on file and of record in the State Bar Court.

ATTEST December 17, 2018

State Bar Court, State Bar of California,  
Los Angeles

By *Cynthia Decker*  
Clerk