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9 STATE BAR COURT
10 HEARING DEPARTMENT – SAN FRANCISCO
11
12 ALTERNATIVE DISCIPLINE PROGRAM

13 **CONFIDENTIAL FILING**

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17 In the matter of:
18 CHARLES DODGSON,
19 No. 999999,
20 A Member of the State Bar.

Case No. 13-O-1778506

RESPONDENT'S MOTION FOR EARLY
COMPLETION OF ALTERNATIVE
DISCIPLINE PROGRAM

1 Pursuant to Rules of Procedure of the State Bar 5.45 and 5.385, Respondent
2 Charles Dodgson hereby moves the Court for early completion of the Alternative
3 Discipline Program (“ADP”). Respondent’s motion is predicated on his
4 fulfillment of the conditions of his ADP for well over 18 months, his one-year
5 certificate of compliance from the Lawyers’ Assistance Program (“LAP”), and the
6 extreme hardship that continued participation in LAP imposes upon him.
7 Respondent submits that he has earned incentives that warrant early completion.

8 The State Bar does not stipulate to Mr. Dodgson’s completion of ADP,
9 though it has provided no basis for its objection.¹

10 I. Factual Background

11 Respondent’s ADP was effective March 8, 2014. At the time of entry, the
12 court indicated that the anticipated completion date was 18-36 months. At this
13 time, 22 months have elapsed. Per the Contract and Waiver for Participation in
14 the State Bar Court’s Alternative Discipline Program (“ADP Contract”), filed
15 confidentially in this court on March 8, 2014, the term of Respondent’s
16 participation is discretionary with the State Bar Court. ADP Contract at § 11.

17 Prior to Respondent’s ADP becoming effective, he entered LAP voluntarily
18 in September 2013. Thus, he has been regularly attending LAP for 27 months in
19 addition to his full compliance with his participation plan since its effective date
20 in March 2014.

21 Respondent’s ADP required his participation in LAP, and his LAP
22 participation plan required that he abstain from the use of alcohol and all
23 controlled substances, submit to random testing to verify his abstinence, attend
24 weekly group therapy meetings, attend twice weekly Alcoholics Anonymous (or

25 ¹ Prior to the filing of this motion, counsel has attempted to meet and
26 confer with the State Bar on this point. The State Bar has been non-
27 responsive other than stating that it will not stipulate to Mr. Dodgson’s
28 completion of ADP. The State Bar has provided no reason for its refusal.
Mr. Dodgson’s position is that there is no purpose to be served in further
attempting to obtain a stipulation from the State Bar and requests that the
court rule on this motion directly.

1 similar program) meetings, submit semi-annual progress reports, and complete
2 two hours of continuing education in substance abuse annually. At the start of
3 Respondent's LAP participation, his plan also required his attendance at
4 individual therapy, but in a sign that the LAP Evaluation Committee viewed his
5 progress favorably, that requirement was removed from his plan on
6 December 26, 2014.

7 Throughout the time period of the ADP, Respondent has remained in
8 compliance with the terms of his ADP and his LAP participation plan except for
9 one non-compliance report. That report is dated January 3, 2015 and relates to a
10 lab report detecting unauthorized substances. As has been previously discussed
11 with this court, Respondent's one non-compliance report appears to be an
12 anomaly and not an indication that he returned to drinking. In fact, as has been
13 discussed before the LAP Evaluation Committee, counsel and this court, the
14 most likely explanation for this single test result is the environment in which
15 Respondent works. No further non-compliance reports were filed, nor did any
16 of the 28 tests conducted in the one year since the non-compliance report detect
17 unauthorized substances.

18 On December 30, 2015, LAP issued Respondent a one-year compliance
19 certificate (attached as Exhibit A).

20 Respondent is originally from Chicago, Illinois, and he holds a sincere
21 desire to return to the midwest. At this time, he has two pending job offers from
22 employers outside of California, and he has already turned down a third offer
23 from a Chicago area employer due to his need to be in the state in order to
24 complete the terms of the LAP participation plan. While participation in the
25 program is voluntary, he now faces substantial hindrance to career advancement
26 – if he stays in California to complete the maximum 36 months in ADP, he must
27 turn down offers which could advance his career, but if he accepts a job outside
28 of California and is unable to complete the terms of the ADP, he must accept a

1 stayed suspension that will tarnish his record. Respondent is aware that these
2 circumstances are due to his own conduct, but he also submits that this
3 consequence is beyond that which the ADP system is intended to impose and is
4 extreme when it is noted that the conviction upon which this disciplinary action
5 is based has been expunged. Respondent is available to submit testimony on the
6 point of hardship at the court's request at her upcoming status conference on
7 July 11, 2016.

8 At this time, MrRespondent has successfully completed the terms of his
9 ADP and his LAP participation plan for 22 months.

10 **II. LEGAL ARGUMENT**

11 Rules of Procedure of the State Bar 5.385 and the ADP Contract in this case
12 provide that the term of Respondent's participation in ADP is at the discretion of
13 the State Bar Court, with the typical period of participation being 36 months but
14 as little as 18 months being acceptable if the respondent earns incentives for early
15 termination.

16 **A. Respondent Has Earned Incentives to Shorten Her Time in ADP**

17 In this case, Respondent has earned such incentives. Respondent has
18 religiously attended LAP and AA meetings, submitted all required reports and
19 completed all mandated education requirements. He has consistently complied
20 with his testing requirements and submitted to all required tests, including going
21 to great lengths to ensure his compliance by visiting multiple lab sites in a single
22 day and following up by phone and email with his case manager and labs as
23 needed to confirm compliance. He has not engaged in any alcohol consumption,
24 and only one non-compliance report (of a questionable incident) has been
25 submitted to this court. Respondent takes his participation in this process
26 extremely seriously and has ensured her compliance with all conditions.

27 Respondent's behavior supports a finding that he has earned incentives to
28 be released from ADP at this time.

1 **B. Mr. Dodgson Stands to Suffer Extreme Hardship If Not Released**
2 **from ADP**

3 The stated purpose of ADP is “to protect the public, the courts and the
4 legal profession, while respondents with substance abuse or mental health
5 problems receive treatment.” State Bar of California website re ADP
6 (<http://www.statebarcourt.ca.gov/ProceduresProgramsandRules/AlternativeDisciplineProgram.aspx>) (accessed July 1, 2016). The program is not intended to
7 prevent attorneys who have demonstrated recovery from substance abuse from
8 moving forward with their careers and lives, nor is it to penalize such attorneys.

9 Respondent is not a Californian, and he wishes to return to his Chicago
10 roots and pursue career opportunities there. He is unable to do so while meeting
11 the requirements of his participation plan in LAP. (Respondent has explored this
12 possibility with LAP leadership and it has been determined that out-of-state
13 compliance is not feasible.) Thus, continuing to participate in ADP prevents him
14 from relocating. While Respondent does have the option of terminating his
15 participation in ADP and accepting a stayed suspension as a sanction, such a
16 choice would fly in the face of the program’s purpose and would not serve the
17 interests of justice in any way. This is particularly so given Respondent’s lengthy
18 participation in LAP and compliance with the terms of the ADP, and the fact that
19 the conviction upon which this entire action is based has been expunged.
20

21 Early completion is appropriate for the reasons set forth above, and the
22 termination is additionally supported by Respondent’s particular circumstances
23 and hardship if he is not deemed to have completed the ADP at this time.

24 **III. REQUESTED DISPOSITION**

25 Respondent respectfully requests that the following take place
26 immediately, effective on the date of the order from the State Bar Court:

27 Termination of all obligations under the LAP Participation Agreement,
28 including obligations to pay for monthly services, attend weekly meetings and

1 check in for random testing;

2 Respondent be deemed to have successfully completed the ADP;

3 An admonition be imposed; and

4 The Notices of Disciplinary Charges in these matters be removed from
5 Respondent's State Bar Profile on the website of the State Bar of California.

6 **IV. CONCLUSION**

7 For the foregoing reasons, Respondent respectfully requests
8 immediate completion of ADP and the relief requested above.

9 Respectfully submitted,

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12 Dated: July 15, 2016

13 Charles Dodgson
14 Respondent