

STATE BAR COURT OF CALIFORNIA HEARING DEPARTMENT 1149 S. Hill St., 5th Fl., Los Angeles, CA 90015	FOR CLERK'S USE ONLY: <div style="text-align: center;"> FILED AUG 08 2013 STATE BAR COURT CLERK'S OFFICE LOS ANGELES </div>
In the Matter of: ROBERT H. SACK, Member No.:165033, A Member of the State Bar.	Case No(s).: 00-O-13349 (S147606) ORDER GRANTING AND DENYING MOTION TO MODIFY PROBATION (Rule 5.300)

On May 1, 2013, Respondent filed a motion, asking this court to replace the "and until" restitution requirement of his ongoing actual suspension with a multi-year installment payment restitution obligation. Although the motion is silent on the issue, it is assumed that the motion contemplates that the payment plan would be made a condition of a new, and extended, period of probation.¹

On June 12, 2013, the Supreme Court filed an order, authorizing this court to consider Respondent's motion on the merits. On July 11, 2013, the State Bar Office of Probation filed an opposition to the motion, noting that the Respondent has generally failed to comply timely with the other conditions of his prior probation and arguing that the proposed payment plan is unrealistic, unworkable, and inconsistent with the principles of rehabilitation.

This court agrees with the State Bar that the proposed payment plan is unrealistic and unworkable and should be rejected. Respondent is currently suspended in case Nos. 07-O-13898 and 00-O-13349 and will remain so until he successfully presents proof to this court of his rehabilitation and other qualifications pursuant to standard 1.4(c)(ii). Given that it is presently uncertain if, or when, Respondent would be able to return to active membership status, and therefore be able to resume the practice of law, to require him now to begin making \$1,750 monthly payments immediately and to continue to do so without fail for the next four years, would predictably result in future probation violations -- and potentially new disciplinary proceedings. As this court has previously stated, it declines to put in play any such process. At the same time, to create a payment plan that would only become effective in the event that Respondent becomes eligible to practice at some uncertain future time is also unworkable, especially when one considers that Respondent would be required to be placed now back on probation as part of that modification order and be required to remain in that probationary status until his payment plan, if ever there is one, has been satisfied.

Accordingly, Respondent's request, that the "and until" term of his actual suspension be eliminated and be replaced by a payment plan, is DENIED.

However, while this court declines to eliminate completely the "and until" restitution obligation, good cause does exist to modify the "and until" obligation. Under the terms of the existing order, Respondent remains suspended until he pays restitution of specified amounts of money owed by him to various individuals (or to the CSF), plus interest on those amounts

¹ Respondent's prior period of probation, as previously ordered by the Supreme Court, has now expired.

calculated at 10 percent per annum from dates running back to January 21, 1998. The burden of the cumulative and still-growing interest obligation, when compared with Respondent's greatly restricted earnings capacity, makes it financially impossible as a practical matter for Respondent ever to comply with his restitution obligation.

As pointed out by the State Bar in its opposition to Respondent's motion, the purpose of restitution is for Respondent to demonstrate his rehabilitation. That purpose is largely thwarted when an individual is confronted with a restitution obligation that can never be accomplished. Under such circumstances, it must be expected that the member will subordinate the restitution obligation to other financial demands based on the conclusion that there is no purpose in "throwing good money after bad." That is especially true in situations where money is already scarce in the member's household, as is the case here.

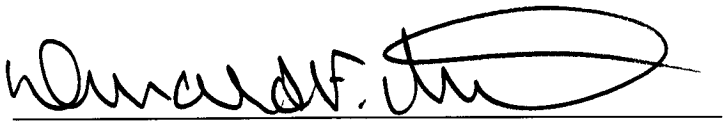
To make achievement of Respondent's restitution obligation a realistic possibility, and to motivate him to work in the future toward that goal, this court modifies, nunc pro tunc, the actual suspension condition of Respondent's probation to provide as follows:

Respondent is suspended from the practice of law for a minimum of the first two years of probation, and he will remain suspended until all of the following requirements are satisfied:

- (a) Respondent must pay restitution to James H. Oh in the amount of \$32,000, or to the Client Security Fund if it has paid James Oh;
- (b) Respondent must pay restitution to Chong Oh and Mina Oh in the amount of \$3,000, or to the Client Security Fund if it has paid Chong Oh and/or Mina Oh;
- (c) Respondent must pay restitution to Chul Lee in the amount of \$3,750, or to the Client Security Fund if it has paid Chul Lee;
- (d) Respondent must pay restitution to Chul Lee, Hwa Lee, Sina Lee, Doo Lee, Yoon Sun Lee, and Mi Nah Lee in the amount of \$2,000 each, or to the Client Security Fund if it has paid any of those payees;
- (e) Respondent must pay restitution to Sachiko Miles in the amount of \$747.50, or to the Client Security Fund if it has paid Sachiko Miles;
- (f) Respondent must furnish satisfactory proof of all restitution to the State Bar's Office of Probation in Los Angeles and must reimburse the Client Security Fund the amount of any payment from the fund to the aforementioned recipients, including processing costs for such payments (but not interest on any such payment by the fund accruing after the fund's payment was made); and
- (g) Respondent must provide proof to the State Bar Court of his rehabilitation, fitness to practice and learning and ability in the general law. (Rules Proc. of State Bar, tit. IV, Stds. for Atty. Sanctions for Prof. Misconduct, std. 1.4(c)(ii).)

IT IS SO ORDERED.

Dated: August 8, 2013


DONALD F. MILES
Judge of the State Bar Court

CERTIFICATE OF SERVICE

[Rules Proc. of State Bar; Rule 5.27(B); Code Civ. Proc., § 1013a(4)]

I am a Case Administrator of the State Bar Court of California. I am over the age of eighteen and not a party to the within proceeding. Pursuant to standard court practice, in the City and County of Los Angeles, on August 8, 2013, I deposited a true copy of the following document(s):

ORDER GRANTING AND DENYING MOTION TO MODIFY PROBATION (Rule 5.300)

in a sealed envelope for collection and mailing on that date as follows:

- ☒ by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

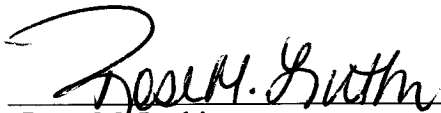
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LAW OFFICE OF MICHAEL T. LYONS
1025 CHAPALA ST STE 206B
SANTA BARBARA, CA 93101

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

MARIA GHOBADI, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on August 8, 2013.



Rose M. Luthi
Case Administrator
State Bar Court