

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 MAY - 6 2011 <i>YJC</i> STATE BAR COURT CLERK'S OFFICE LOS ANGELES </div>
In the Matter of: JAMES JOSEPH BR. Member No.: 47523 A Member of the State Bar	Case No(s): 06-O-12467 <div style="text-align: center;"> MINUTE ORDER CONFIRMING RESPONDENT'S COMPLIANCE WITH MPRE REQUIREMENT </div>

Respondent was a successful participant in this court's Alternative Discipline Program. As part of the agreement between this court and respondent regarding his participation in the program, a Confidential Statement of Alternative Disposition and Orders was issued and filed by the court in May 2008. In this Confidential Statement, this court set out certain educational requirements that respondent would be expected to accomplish as part of his participation in the disciplinary process. These requirements included taking and passing the State Bar's Ethics School, the State Bar's Client Trust Accounting School, and the national MPRE. Respondent was made aware that he could accomplish those objectives while he was in the program and before any Supreme Court's order issued, and he was repeatedly encouraged by the court to do so. Respondent responded by taking and passing the MPRE in August 2009, prior to graduating from the program in November 2009. He has now also passed both the Ethics School and the Client Trust Accounting School.

Regretfully, respondent apparently did not receive proof of his passage of the August MPRE in time to submit proof of such to this court before he was graduated. Had that proof been received by the court, the decision submitted by this court to the Supreme Court would have made explicitly clear that the MPRE requirement had already been satisfied.

In the Confidential Statement, it was made clear that "Respondent must provide proof of passage of the Multistate Professional Responsibility Examination ("MPRE"), administered by the National Conference of Bar Examiners, to the Office of Probation during the period of actual suspension or within one year, whichever period is longer." Respondent has complied with that requirement. While the language in this court's decision and in the subsequent Supreme Court order, both drafted and approved by this court, is unfortunately somewhat ambiguous in this unexpected context, it was not the intent of this court to expand the MPRE obligation beyond that set forth in the language of the Confidential Statement, quoted above. Nor is there is evidence to suggest, or any reason to expect, that the Supreme Court had any contrary intent or intended to require respondent to re-take the MPRE with a year after he had just passed the exam with a remarkably high score.

Accordingly, this court resolves the ambiguity in the Supreme Court's decision in respondent's favor here and concludes that he has now complied with the MPRE obligation created during the course of this disciplinary process and ordered by the Supreme Court.

In respondent's motion, he makes an alternative request that this court extent the time during which he may take and pass the MPRE, should he again be required to do so. Although this court has concluded that any such re-testing is unnecessary, in an abundance of caution, this court hereby finds that good cause exists to provide such an extension, should the re-testing be required. Accordingly, the time in which respondent must present proof to the Office of Probation of his passage of the MPRE is extended for the duration of his existing probation and until ten (10) calendar days after the results of the August, 2013 MPRE are released.

IT IS SO ORDERED.

Dated: May 6, 2011


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 May 6, 2011, I deposited a true copy of the following document(s):

**MINUTE ORDER CONFIRMING RESPONDENT'S COMPLIANCE WITH
MPRE REQUIREMENT**

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:

JAMES BRUSTMAN
1321 S. MAIN STREET
SANTA ANA, CA 92707

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

TERRIE GOLDADE, Probation Dept., Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on May 6, 2011.



Tammy Cleaver
Case Administrator
State Bar Court