STATE BAR COURT OF CALIFORNIA HEARING DEPARTMENT 1149 S. Hill St., 5th Fl., Los Angeles, CA 90015	FOR CLERK'S USE ONLY: FILED DEC 22 2011 STATE BAR COURT CLERK'S OFFICE LOS ANGELES
In the Matter of: **BRIAN D. McMAHON** **Member No.: 147662** A Member of the State Bar	Case No(s): 06-O-14264, 06-O-15418, 07-O-13030 (S188826) **MINUTE ORDER MODIFYING TERMS OF PROBATION**

On December 12, 2011, Respondent filed a motion to modify the restitution terms of his probation. On December 16, 2011, the Office of Probation filed an opposition to that motion. Respondent had previously filed a motion for relief on October 27, 2011, which motion was denied, based, *inter alia*, on Respondent's failure to file a financial statement with that motion.

Under the terms of the stipulation and resulting order, Respondent is obligated to pay $500 each month to each of former clients, Ross and Hariputra. The principal balance originally owed to Ross was $6,300; the principal balance owed to Hariputra was $6,500. Payment of interest accruing on both balances was included in Respondent's restitution obligation.

In addition to the obligation to make installment payments, Respondent is obligated under the terms of the existing order to pay the entire amount of the principal and accrued interest owed to these individuals (or to the CSF, should it make any payment on his behalf to either of these individuals) prior to the expiration of his three-year probation, which began in or about April of 2011.

Respondent has now paid to Hariputra more than the $6,500 principal amount owed to her. However, according to the Office of Probation, he still owes her interest in the amount of $2,671.03.

No money has actually been paid by Respondent to Ross during the period of his probation, although Respondent indicates that he has sent checks to her that went uncashed. The CSF has now agreed to pay to Ross the entire amount of the unpaid principal ($6,300), but not any of the accrued interest. That amount is calculated by the Office of Probation to be $6,824.71. When such payment by CSF will be made is unknown to the court.

Respondent has presented a financial statement and other evidence indicating that being obligated to pay a total of $1,000 each month toward his restitution obligation is a financial hardship. He remains ineligible to practice law by virtue of his ongoing suspension. He is, however, able to make some contribution toward his restitution obligation and asks only that his

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obligation to Ross be reduced to $250 per month. As a partial response to Respondent's request, the Office of Probation has asked that this court to give priority to having Respondent re-pay the two complaining former clients, rather than reimbursing CSF for its anticipated payment to Ross.

GOOD CAUSE APPEARING, the court hereby modifies the conditions of Respondent's probation as follows:

Respondent is ordered to make monthly payments to Ross in the amount of $500 each month until (1) the total amount of the $6,300 principal amount has been paid by Respondent and/or CSF to Ross; and (2) Respondent has paid for all interest accruing on the $6,300 principal amount up to the time of the complete payment by either CSF or him of that principal amount to Ross. In the event there is any portion of the $6,300 principal amount that has not been paid by Respondent and/or CSF at the time of any such monthly payment, such monthly payment shall first be credited toward Respondent's obligation to pay such principal amount. In the event any such payment of principal is subsequently duplicated by a payment (without reduction) by CSF, Respondent will be given credit for the amount of any such overpayment by CSF toward the principal with a credit toward Respondent's overall obligation to pay accrued interest to Ross. After Respondent has paid the above obligation to Ross is full, his obligation to make monthly payments will continue, as set forth below.

With regard to Respondent's obligation to make monthly payments to Hariputra, such obligation is reduced from $500 to $250. Such payments to Hariputra will continue until all accrued interest on the $6,500 principal amount has been paid in full.

Once all monies and accrued interest owed by Respondent to either Ross or Hariputra have been paid by Respondent, Respondent's obligation to pay a total of $750 each month toward restitution shall not be reduced, but rather all portions of the $750 monthly obligation shall now be paid to the remaining unpaid former client, until such time as all principal (not previously paid by CSF) and accrued interest has been paid by Respondent to both former clients. At that time, Respondent's obligation to make $750 monthly restitution payments shall be directed at his obligation to reimburse CSF for any payments, and accrued interest, it has made to Ross. In sum, Respondent will continue to make monthly restitution payments in the total sum of $750, as set forth above, until all principal amounts, and accrued interest, owed to Ross, Hariputra, and CSF have been paid in full.

This modification of Respondent's restitution obligation is made prospectively and does not modify his obligation to pay all of the principal amounts, and accrued interest, owed to Ross, Hariputra, and CSF <u>prior to the termination of his probation</u>. In the event that the installment payment schedule, set forth above, does not produce that effect, Respondent will need either to plan to make a balloon payment to extinguish his restitution obligation during the term of his probation or file a motion with this court to extend his probation and his schedule of installment payments.

Respondent's request that this modification be given retroactive effect is denied. Also denied is his request that this court order that "no action be taken by the Court or the Department

of Probation which would be deemed a violation of member's terms and conditions of either his probation or Stipulation filed with State Bar." (Motion, p. 2, lines 9-11.)

IT IS SO ORDERED.

Dated: December 22, 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 December 22, 2011, I deposited a true copy of the following document(s):

MINUTE ORDER MODIFYING TERMS OF PROBATION

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:

BRIAN D. MCMAHON
13252 HAWTHORNE BLVD STE 100
HAWTHORNE, CA 90250

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

TERRIE GOLDADE, Office of Probation, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on December 22, 2011.

Rose Luthi
Case Administrator
State Bar Court