

STATE BAR COURT OF CALIFORNIA HEARING DEPARTMENT 845 S. Figueroa Street, 3 rd Floor Los Angeles, CA 90017-2515	FOR CLERK'S USE ONLY: FILED ✓ MAY 25 2017 STATE BAR COURT CLERK'S OFFICE LOS ANGELES
In the Matter of: RICHARD HENRY WAGNER, A Member of the State Bar, No. 127326.	Case No: 15-O-11113(S231696) ORDER EXTENDING TIME TO PRESENT PROOF OF PASSAGE OF MPRE

On May 18, 2017, Respondent filed a motion regarding his obligation to take and pass the Multistate Professional Responsibility Examination (MPRE). In his motion, he asks this court: (1) to grant him complete relief from the obligation to take and pass the MPRE based on his having come within two points of passing the examination on his first attempt; or, in the alternative, (2) to extend the time for him to take and pass the examination.¹

On May 22, 2017, the State Bar Office of Probation filed a response to the motion, opposing the request for complete relief but not opposing the request for an extension of time sufficient for Respondent to take and pass the September 2017 examination.

Having reviewed the submitted pleadings, the court concludes as follows:

This court declines to grant Respondent full relief from his court-ordered obligation to take and pass the MPRE. Compliance with the conditions of discipline ordered by the Supreme Court is not measured by the same rules as horseshoes. "Close" is not enough. (*In the Matter of Rose* (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 646, 651-652; *In the Matter of Broderick* (Review Dept. 1994) 3 Cal. State Bar Ct. Rptr. 138, 150; *In the Matter of Potack* (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 525, 536-537 ["Substantial compliance" with a probation condition is not a defense to culpability of non-compliance]; see also *Hippard v. State Bar* (1989) 49 Cal.3d 1084, 1096; and *Lydon v. State Bar* (1988) 45 Cal.3d 1181, 1187 [same rule applied to violations of rule 955 (now 9.20) obligations].)

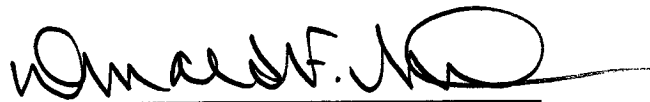
Good cause appearing, Respondent's alternative request for an extension of time is GRANTED. Accordingly, the time in which Respondent may and must present proof to the Office

¹ In Respondent's supporting declaration, he inaccurately concludes with the statement, "My only transgression has involved a failure of MCLE compliance which has been fully cured except for not passing the MPRE exam by a slim margin of 2 points." (Declaration, p. 3, lines 5-7 [underlining added.]) In fact, the "transgression" for which Respondent was disciplined was his making a misrepresentation to the State Bar that he had previously complied with his MCLE obligations, an untruthful statement under penalty of perjury that was an act of moral turpitude in violation of Business and Professions Code section 6106. Having just been disciplined for making inaccurate statements under penalty of perjury to the State Bar, Respondent's making of the above assertion, also under penalty of perjury, is of some concern to this court.

of Probation of his passage of the MPRE is extended until ten (10) calendar days after the results of the August 12, 2017, MPRE are released.

IT IS SO ORDERED.

Dated: May 25, 2017

A handwritten signature in black ink, appearing to read "Donald F. Miles", with a long horizontal flourish extending to the right.

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 25, 2017, I deposited a true copy of the following document(s):

ORDER EXTENDING TIME TO PRESENT PROOF OF PASSAGE OF MPRE

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:

RICHARD H. WAGNER
RICHARD H. WAGNER, APC
12127 CAMINITO CORRIENTE
SAN DIEGO, CA 92128 - 4569

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

TERRIE GOLDADE, Probation, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on May 25, 2017.



Mazie Yip
Case Administrator
State Bar Court