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**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

ON DEMAND DIRECT RESPONSE, LLC, et al.,  
Plaintiff(s),  
v.  
SHANA LEE MCCART-POLLAK,  
Defendant(s).

Case No. 2:15-cv-01576-MMD-NJK  
NOTICE

An attorney who is “subjected to professional disciplinary action” is required to “immediately inform the clerk in writing of the action.” Local Rule IA 11-7(c). “Failure to make this report is grounds for discipline under these rules.” *Id.* Once the notice is received, the matter is referred to the Court for appropriate action, including reciprocal discipline. Local Rule IA 11-7(e).

Through a Court filing on January 3, 2018, attorney Jeffrey Miller indicated that he is “no longer an active attorney admitted to practice before all the Courts in the State of California, as of December 7, 2017.” Docket No. 300 at 4. What Mr. Miller’s declaration omits is that this inability to practice law is the result of his default in disciplinary proceedings in California accusing him of a major misappropriation of client funds. *In the Matter of Jeffrey Anthony Miller, Member No. 144120*, Case No. 16-O-16334-DFM.<sup>1</sup> That order of default further indicates that, absent an order setting aside the

<sup>1</sup> The Court takes judicial notice of the California Bar records reflecting the disciplinary proceedings against Mr. Miller. *See White v. Martel*, 601 F.3d 882, 885 (9th Cir. 2010) (holding that judicial notice is proper for such records). Attached hereto is the order of entry of default, initiating notice of disciplinary charges, and Mr. Miller’s response thereto.

1 default, Mr. Miller's disbarment will be recommended without further hearing or proceeding. Neither  
2 Mr. Miller nor co-counsel Tony Abbatangelo notified this Court of this disciplinary action.


3 Accordingly, the undersigned hereby provides notice of the above to the District Court Executive  
4 for Nevada, Chief United States District Judge Gloria M. Navarro, and assigned United States District  
5 Judge Miranda M. Du. The Clerk's Office is further **INSTRUCTED** that, in light of other proceedings  
6 before the Court, Mr. Miller shall remain on the CM/ECF distribution list for this case.

7 IT IS SO ORDERED.

8 DATED: February 23, 2018

9   
10 NANCY J. KOPPE  
United States Magistrate Judge

11 cc: Debra Kempf  
12 Chief Judge Navarro  
Judge Du

<b>STATE BAR COURT OF CALIFORNIA</b>  <b>HEARING DEPARTMENT</b>  <b>845 S. Figueroa Street, Los Angeles, CA 90017</b>	FOR CLERK'S USE ONLY:  <b>FILED</b>  <b>DEC - 5 2017</b> STATE BAR COURT CLERK'S OFFICE LOS ANGELES
In the Matter of:  <b>JEFFREY ANTHONY MILLER,</b>  <b>Member No. 144120,</b>  A Member of the State Bar.	<b>Case No(s). 16-O-16334-DFM</b>  <b>ORDER ENTERING DEFAULT AND ORDER ENROLLING INACTIVE (RULE 5.81 – FAILURE TO APPEAR)</b>

**ORDER ENTERING DEFAULT:**

As respondent **JEFFREY ANTHONY MILLER** (Respondent) failed to appear as a party at trial and the requirements of rule 5.81(A) of the Rules of Procedure of the State Bar are satisfied, Respondent's default is entered in this proceeding, effective upon the filing of this order. All previously scheduled court dates are vacated. The court takes judicial notice of Respondent's official membership records.

Respondent is notified that:

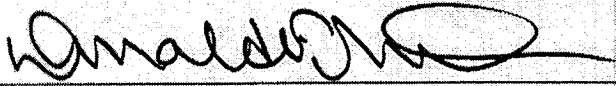
**Because you failed to appear at trial, the court has entered your default and deemed the facts alleged in the notice of disciplinary charges admitted. Except as ordered by the court, you may participate in these proceedings only if the court sets aside your default. If you fail to timely move to set aside your default, this court will enter an order recommending your disbarment without further hearing or proceeding. (See Rules Proc. of State Bar, rule 5.80 et seq.)**

**ORDER ENROLLING INACTIVE:**

As the conditions of Business and Professions Code section 6007, subdivision (e)(1), are met, Respondent is enrolled as an inactive member of the State Bar of California under Business and Professions Code section 6007, subdivision (e). The inactive enrollment is effective immediately after a copy of this order is sent electronically to Respondent's official e-mail address. (Rules Proc. of State Bar, rule 5.250.)

**IT IS SO ORDERED.**

Dated: December 5, 2017



**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 5, 2017, I deposited a true copy of the following document(s):

ORDER ENTERING DEFAULT AND ORDER ENROLLING INACTIVE (RULE 5.81  
- FAILURE TO APPEAR)

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

- by certified mail, No. 7196 9008 9111 1007 2781, with return receipt requested, through the United States Postal Service at Los Angeles, California, addressed as follows:

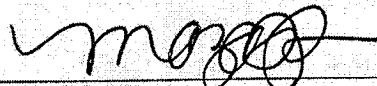
JEFFREY A. MILLER  
LAW FIRM OF JEFFREY MILLER  
1304 E DEXTER ST  
COVINA, CA 91724 - 3226

- by e-mail to: [jeffrey@JAMLAWOFFICES.COM](mailto:jeffrey@JAMLAWOFFICES.COM) and [Kim.Kasreliovich@calbar.ca.gov](mailto:Kim.Kasreliovich@calbar.ca.gov)

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

KIMBERLY G. KASRELIOVICH, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on December 5, 2017.

  
Mazie Yip  
Case Administrator  
State Bar Court

1 STATE BAR OF CALIFORNIA  
OFFICE OF CHIEF TRIAL COUNSEL  
2 GREGORY DRESSER, No. 136532  
INTERIM CHIEF TRIAL COUNSEL  
3 DONNA S. HERSHKOWITZ, No. 172480  
DEPUTY CHIEF TRIAL COUNSEL  
4 RENE L. LUCARIC, No. 180005  
ASSISTANT CHIEF TRIAL COUNSEL  
5 R. KEVIN BUCHER, No. 132003  
ACTING SUPERVISING ATTORNEY  
6 KIM KASRELIOVICH, No. 261766  
SENIOR TRIAL COUNSEL  
7 845 South Figueroa Street  
Los Angeles, California 90017-2515  
8 Telephone: (213) 765-1378

FILED

JUN 30 2017

STATE BAR COURT  
CLERK'S OFFICE  
LOS ANGELES

## PUBLIC MATTER

STATE BAR COURT

HEARING DEPARTMENT - LOS ANGELES

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13 In the Matter of:

14 JEFFREY ANTHONY MILLER,  
15 No. 144120,

16 A Member of the State Bar.

} Case No. 16-O-16334, 16-O-16438,  
16-O-16896

} NOTICE OF DISCIPLINARY CHARGES

### NOTICE - FAILURE TO RESPOND!

17  
18 IF YOU FAIL TO FILE A WRITTEN ANSWER TO THIS NOTICE  
19 WITHIN 20 DAYS AFTER SERVICE, OR IF YOU FAIL TO APPEAR AT  
THE STATE BAR COURT TRIAL:

- 20 (1) YOUR DEFAULT WILL BE ENTERED;  
21 (2) YOUR STATUS WILL BE CHANGED TO INACTIVE AND YOU  
WILL NOT BE PERMITTED TO PRACTICE LAW;  
22 (3) YOU WILL NOT BE PERMITTED TO PARTICIPATE FURTHER IN  
THESE PROCEEDINGS UNLESS YOU MAKE A TIMELY MOTION  
AND THE DEFAULT IS SET ASIDE, AND;  
23 (4) YOU SHALL BE SUBJECT TO ADDITIONAL DISCIPLINE.  
24 SPECIFICALLY, IF YOU FAIL TO TIMELY MOVE TO SET ASIDE  
OR VACATE YOUR DEFAULT, THIS COURT WILL ENTER AN  
25 ORDER RECOMMENDING YOUR DISBARMENT WITHOUT  
FURTHER HEARING OR PROCEEDING. SEE RULE 5.80 ET SEQ.,  
26 RULES OF PROCEDURE OF THE STATE BAR OF CALIFORNIA.

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The State Bar of California alleges:

JURISDICTION

1. JEFFREY ANTHONY MILLER ("Respondent") was admitted to the practice of law in the State of California on December 11, 1989, was a member at all times pertinent to these charges, and is currently a member of the State Bar of California.

COUNT ONE

Case No.16-O-16438  
Business and Professions Code, section 6106  
[Moral Turpitude - Misappropriation]

2. Between on or about August 12, 2016, and on or about September 9, 2016, Respondent received on behalf of Respondent's investors, Peggy Donely and Reza Golshani, \$67,800 to hold in trust and use as proof of funds in a diamond purchasing transaction. Between on or about August 12, 2016, and on or about September 9, 2016, Respondent deposited the \$67,800 into Respondent's general account at Bank of America, account number xxxxxxxx5004 on behalf of the investors. Between on or about August 31, 2015, and September 15, 2015, Respondent's general account balance fell as low as -\$312.92. Respondent dishonestly or grossly negligently misappropriated for Respondent's own purposes all \$67,800 that Respondent was required to hold in trust for his investors, and thereby committed an act involving moral turpitude, dishonesty or corruption in willful violation of Business and Professions Code, section 6106.

COUNT TWO

Case No.16-O-16438  
Rules of Professional Conduct, rule 4-100(A)  
[Failure to Maintain Client Funds in Trust Account]

3. Between on or about August 12, 2016, and on or about September 9, 2016, Respondent received on behalf of Respondent's investors, Peggy Donely and Reza Golshani, \$67,800 to hold in trust and use as proof of funds in a diamond purchasing transaction. Between on or about August 12, 2016, and on or about September 9, 2016, Respondent deposited the \$67,800 into Respondent's general account at Bank of America, account number xxxxxxxx5004 on behalf of the investors. Of this sum, Respondent was required to maintain all \$67,800 in trust.

1 Respondent never deposited the funds in trust and between on or about August 31, 2015, and  
2 September 15, 2015, Respondent's general account balance fell as low as -\$312.92. Respondent  
3 failed to maintain a balance of \$67,800 on behalf of the investors, in Respondent's client trust  
4 account, in willful violation of Rules of Professional Conduct, rule 4-100(A).

5 COUNT THREE

6 Case No. 16-O-16438  
7 Business and Professions Code, section 6068(a)  
[Failure to Uphold Laws – Breach of Fiduciary Duty]

8 4. Between on or about August 12, 2016, and on or about September 9, 2016,  
9 Respondent received on behalf of Respondent's investors, Peggy Donely and Reza Golshani,  
10 \$67,800 to hold in trust and use as proof of funds in a diamond purchasing transaction. Between  
11 on or about August 12, 2016, and on or about September 9, 2016, Respondent deposited the  
12 \$67,800 into Respondent's general account at Bank of America, account number xxxxxxxx5004  
13 on behalf of the investors. Of this sum, Respondent and the investors agreed Respondent would  
14 lodge the funds in his law firm's client trust account and the proceeds would not be spent,  
15 released, or liened against and would only be used as a proof of funds to allow Respondent to  
16 induce a seller in a diamond transaction. Contrary to the terms of the agreement, Respondent  
17 never deposited the funds in trust and between on or about August 31, 2015, and September 15,  
18 2015, Respondent's general account balance fell as low as -\$312.92. By failing to place the funds  
19 in trust and thereafter misappropriating the funds from his general account, Respondent violated  
20 his fiduciary duties as stated under *Worth v. State Bar* (1976) 17 Cal.3d 337, 341, and  
21 Respondent thereby breached his duty to uphold laws in willful violation of Business and  
22 Professions Code, section 6068(a).

23 COUNT FOUR

24 Case No. 16-O-16438  
25 Business and Professions Code, section 6068(i)  
[Failure to Cooperate in State Bar Investigation]

26 5. Respondent failed to cooperate and participate in a disciplinary investigation pending  
27 against Respondent by failing to provide a substantive response to the State Bar's letters of  
28 October 11, 2016 and November 17, 2016, which Respondent received, that requested

1 Respondent's response to the allegations of misconduct being investigated in case no. 16-O-  
2 16438, in willful violation of Business and Professions Code, section 6068(i).

3 COUNT FIVE

4 Case No.16-O-16334  
5 Business and Professions Code, section 6106  
6 [Moral Turpitude – Misappropriation]

6 6. On or about September 1, 2015, Respondent received on behalf of Respondent's  
7 investor, Tanner Gish, \$25,000 to hold in trust and use as proof of funds in a diamond purchasing  
8 transaction. On or about September 1, 2015, Respondent deposited the \$25,000 into  
9 Respondent's client trust account at Bank of America, account number xxxxxxxx2699 on behalf  
10 of the investor. By on or about September 14, 2015, the balance in Respondent's trust account  
11 had fallen to approximately \$2.35. Respondent dishonestly or grossly negligently  
12 misappropriated for Respondent's own purposes approximately \$24,977.65 that Respondent was  
13 required to hold in trust for his investor, and thereby committed an act involving moral turpitude,  
14 dishonesty or corruption in willful violation of Business and Professions Code, section 6106.

15 COUNT SIX

16 Case No.16-O-16334  
17 Rules of Professional Conduct, rule 4-100(A)  
18 [Failure to Maintain Client Funds in Trust Account]

18 7. On or about September 1, 2015, Respondent received on behalf of Respondent's  
19 investor, Tanner Gish, \$25,000 to hold in trust and use as proof of funds in a diamond purchasing  
20 transaction. On or about September 1, 2015, Respondent deposited the \$25,000 into  
21 Respondent's client trust account at Bank of America, account number xxxxxxxx2699 on behalf  
22 of the investor. Of this sum, Respondent was required to maintain all \$25,000 in trust. By on or  
23 about September 14, 2015, the balance in Respondent's trust account had fallen to approximately  
24 \$2.35. Respondent failed to maintain a balance of \$25,000 on behalf of the investors, in  
25 Respondent's client trust account, in willful violation of Rules of Professional Conduct, rule 4-  
26 100(A).

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COUNT SEVEN

Case No. 16-O-16334  
Business and Professions Code, section 6068(a)  
[Failure to Uphold Laws – Breach of Fiduciary Duty]

8. On or about September 1, 2015, Respondent received on behalf of Respondent’s investor, Tanner Gish, \$25,000 to hold in trust and use as proof of funds in a diamond purchasing transaction. On or about September 1, 2015, Respondent deposited the \$25,000 into Respondent’s client trust account at Bank of America, account number xxxxxxxx2699 on behalf of the investor. Of this sum, Respondent and the investor agreed Respondent would lodge the funds in his law firm’s client trust account and the proceeds would not be spent, released, or liened against and would only be used as a proof of funds to allow Respondent to induce a seller in a diamond transaction. Contrary to the terms of the agreement, by on or about September 14, 2015, the balance in Respondent’s trust account had fallen to approximately \$2.35. By failing to maintain the funds in trust and thereafter misappropriating the funds, Respondent violated his fiduciary duties as stated under *Worth v. State Bar* (1976) 17 Cal.3d 337, 341, and Respondent thereby breached his duty to uphold laws in willful violation of Business and Professions Code, section 6068(a).

COUNT EIGHT

Case No. 16-O-16334  
Business and Professions Code, section 6068(i)  
[Failure to Cooperate in State Bar Investigation]

9. Respondent failed to cooperate and participate in a disciplinary investigation pending against Respondent by failing to provide a substantive response to the State Bar’s letters of October 11, 2016 and November 17, 2016, which Respondent received, that requested Respondent’s response to the allegations of misconduct being investigated in case no. 16-O-16334, in willful violation of Business and Professions Code, section 6068(i).

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COUNT NINE

Case No. 16-O-16896  
Business and Professions Code, section 6106  
[Moral Turpitude - Misappropriation]

10. Between on or about December 16, 2015 and on or about January 19, 2016, Respondent received on behalf of Respondent's clients, Laura Hernandez, Salvador Hernandez, Ricardo Hernandez, Maurilia Renteria, Francisco Hernandez, Narcisco Hernandez, Arturo Hernandez, Maria Hernandez, and Maria Bueno, proceeds from the sale of a property to which the clients were heirs, totaling approximately \$140,896.26. Between on or about December 16, 2015 and on or about January 19, 2016, Respondent deposited the \$140, 896.26 into Respondent's client trust account at Bank of America, account number xxxxxxxx2699 on behalf of the clients. Between on or about December 17, 2015 and on or about January 25, 2016, Respondent's trust account balance fell as low as \$1.42. Respondent dishonestly or grossly negligently misappropriated for Respondent's own purposes \$140,894.84 that Respondent's clients, were entitled to receive, and thereby committed an act involving moral turpitude, dishonesty or corruption in willful violation of Business and Professions Code, section 6106.

COUNT TEN

Case No. 16-O-16896  
Rules of Professional Conduct, rule 4-100(A)  
[Failure to Maintain Client Funds in Trust Account]

11. Between on or about December 16, 2015 and on or about January 19, 2016, Respondent received on behalf of Respondent's clients, Laura Hernandez, Salvador Hernandez, Ricardo Hernandez, Maurilia Renteria, Francisco Hernandez, Narcisco Hernandez, Arturo Hernandez, Maria Hernandez, and Maria Bueno, proceeds from the sale of a property to which the clients were heirs, totaling approximately \$140,896.26. Between on or about December 16, 2015 and on or about January 19, 2016, Respondent deposited the \$140, 896.26 into Respondent's client trust account at Bank of America, account number xxxxxxxx2699 on behalf of the clients. Of this sum, the clients and their lienholders were entitled to approximately \$140,896.26. Between on or about December 17, 2015 and on or about January 25, 2016, Respondent's trust account balance fell as low as \$1.42. Respondent failed to maintain a balance

1 of \$140,896.26 on behalf of the client in Respondent's client trust account, in willful violation of  
2 Rules of Professional Conduct, rule 4-100(A).

3 COUNT ELEVEN

4 Case No. 15-O-13859  
5 Business and Professions Code, section 6068(a)  
6 [Failure to Uphold Laws – Failure to Pay Medical Liens]

7 12. Between on or about December 16, 2015 and on or about January 19, 2016,  
8 Respondent received on behalf of Respondent's clients, Laura Hernandez, Salvador Hernandez,  
9 Ricardo Hernandez, Maurilia Renteria, Francisco Hernandez, Narcisco Hernandez, Arturo  
10 Hernandez, Maria Hernandez, and Maria Bueno, proceeds from the sale of a property to which  
11 the clients were heirs, totaling approximately \$140,896.26. Between on or about December 16,  
12 2015 and on or about January 19, 2016, Respondent deposited the \$140,896.26 into  
13 Respondent's client trust account at Bank of America, account number xxxxxxxx2699 on behalf  
14 of the clients. Of this sum, the client's lienholders, namely California Department of Health  
15 Care Services was entitled to \$35,559.86 pursuant to liens held against Respondent's clients'  
16 recovery. Respondent waited seven months to pay the California Department of Health Care  
17 Services which caused interest to accrue and, in fact, prior to paying the lien, Respondent's  
18 client trust account fell below the \$35,559.86 that he was required to hold in trust. By failing to  
19 timely pay the third-party lienholder, Respondent violated his fiduciary duties as stated under  
20 *Johnstone v. State Bar* (1966) 64 Cal.2d 153, 155-56, and Respondent thereby breached his duty  
21 to uphold laws in willful violation of Business and Professions Code, section 6068(a).

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COUNT TWLEVE

Case No. 16-O-16896  
Business and Professions Code, section 6106  
[Moral Turpitude – Issuance of NSF Checks]

13. On or about August 26, 2016, Respondent issued the following checks drawn upon Respondent’s client trust account at Bank of America, account no. xxxxxxxx2699 when Respondent knew or was grossly negligent in not knowing that there was insufficient funds in the CTA to pay them, and thereby committed an act involving moral turpitude, dishonesty or corruption in willful violation of Business and Professions Code, section 6106:

Check no. 13780	Arturo Hernandez	\$9,190.14	Returned Unpaid
Check no. 13781	Narcisco Hernandez	\$9,190.14	Returned Unpaid
Check no. 13785	Laura Hernandez	\$9,190.14	Returned Unpaid
Check no. 13786	Francisco Hernandez	\$9,190.14	Returned Unpaid
Check no. 13787	Ricardo Hernandez	\$9,190.14	Returned Unpaid
Check no. 13788	Maria Hernandez	\$9,190.14	Returned Unpaid
Check no. 13789	Maria Bueno	\$9,190.14	Returned Unpaid
Check no. 13790	Maurilia Renteria	\$9,190.14	Returned Unpaid
Check no. 13791	Salvador Hernandez	\$9,190.14	Returned Unpaid

COUNT THIRTEEN

Case No. 16-O-16896  
Business and Professions Code, section 6068(i)  
[Failure to Cooperate in State Bar Investigation]

14. Respondent failed to cooperate and participate in a disciplinary investigation pending against Respondent by failing to provide a substantive response to the State Bar’s letters of October 27, 2016 and November 17, 2016, which Respondent received, that requested Respondent’s response to the allegations of misconduct being investigated in case no. 16-O-16896, in willful violation of Business and Professions Code, section 6068(i).

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**NOTICE - INACTIVE ENROLLMENT!**

YOU ARE HEREBY FURTHER NOTIFIED THAT IF THE STATE BAR COURT FINDS, PURSUANT TO BUSINESS AND PROFESSIONS CODE SECTION 6007(c), THAT YOUR CONDUCT POSES A SUBSTANTIAL THREAT OF HARM TO THE INTERESTS OF YOUR CLIENTS OR TO THE PUBLIC, YOU MAY BE INVOLUNTARILY ENROLLED AS AN INACTIVE MEMBER OF THE STATE BAR. YOUR INACTIVE ENROLLMENT WOULD BE IN ADDITION TO ANY DISCIPLINE RECOMMENDED BY THE COURT.

**NOTICE - COST ASSESSMENT!**

IN THE EVENT THESE PROCEDURES RESULT IN PUBLIC DISCIPLINE, YOU MAY BE SUBJECT TO THE PAYMENT OF COSTS INCURRED BY THE STATE BAR IN THE INVESTIGATION, HEARING AND REVIEW OF THIS MATTER PURSUANT TO BUSINESS AND PROFESSIONS CODE SECTION 6086.10.

Respectfully submitted,

THE STATE BAR OF CALIFORNIA  
OFFICE OF CHIEF TRIAL COUNSEL

DATED: 6/30/17

By:   
KIM KASRELIOVICH  
Senior Trial Counsel

DECLARATION OF SERVICE

by
U.S. FIRST-CLASS MAIL / U.S. CERTIFIED MAIL / OVERNIGHT DELIVERY / FACSIMILE-ELECTRONIC TRANSMISSION

CASE NUMBER(s): 16-O-16334, 16-O-16438 & 16-O-16896

I, the undersigned, am over the age of eighteen (18) years and not a party to the within action, whose business address and place of employment is the State Bar of California, 845 South Figueroa Street, Los Angeles, California 90017, declare that:

- on the date shown below, I caused to be served a true copy of the within document described as follows:

NOTICE OF DISCIPLINARY CHARGES

- By U.S. First-Class Mail: (CCP §§ 1013 and 1013(a))
By U.S. Certified Mail: (CCP §§ 1013 and 1013(a))
By Overnight Delivery: (CCP §§ 1013(c) and 1013(d))
By Fax Transmission: (CCP §§ 1013(e) and 1013(f))
By Electronic Service: (CCP § 1010.6)

- (for U.S. First-Class Mail) in a sealed envelope placed for collection and mailing at Los Angeles, addressed to: (see below)
(for Certified Mail) in a sealed envelope placed for collection and mailing as certified mail, return receipt requested, Article No.: 7196 9008 9111 1007 1784 at Los Angeles, addressed to: (see below)
(for Overnight Delivery) together with a copy of this declaration, in an envelope, or package designated by UPS, Tracking No.: addressed to: (see below)

Table with 4 columns: Person Served, Business-Residential Address, Fax Number, Courtesy Copy to:
Jeffrey Anthony Miller, Miller & Associates, 1304 East Dexter St., Covina, CA 91724, Electronic Address

- via inter-office mail regularly processed and maintained by the State Bar of California addressed to:

N/A

I am readily familiar with the State Bar of California's practice for collection and processing of correspondence for mailing with the United States Postal Service, and overnight delivery by the United Parcel Service ("UPS").

I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date on the envelope or package is more than one day after date of deposit for mailing contained in the affidavit.

I declare under penalty of perjury, under the laws of the State of California, that the foregoing is true and correct. Executed at Los Angeles, California, on the date shown below.

DATED: June 30, 2017

SIGNED: Kimberly Bardales
Kimberly Bardales
Declarant



ORIGINAL

1 Jeffrey A. Miller (State Bar No. 144120)  
2 LAW OFFICES OF JEFFREY A. MILLER & ASSOCIATES  
3 1304 East Dexter Street  
4 Covina, CA 91724  
5 Telephone: (213) 926-5885  
6 Facsimile: (626) 657-2690

7 Attorneys for Respondent  
8 Jeffrey A. Miller

FILED

AUG 17 2017

STATE BAR COURT  
CLERK'S OFFICE  
LOS ANGELES

9 STATE BAR COURT OF CALIFORNIA  
10 HEARING DEPARTMENT-LOS ANGELES

11 In the Matter of:

CASE NO. 16-O-16334-DFM

12 JEFFREY A. MILLER,

RESPONSE OF RESPONDENT JEFFREY  
A. MILLER

13 Member No.: 144120

14 Respondent, JEFFREY A. MILLER, an individual, hereby responds to the NOTICE OF  
15 DISCIPLINARY CHARGES, as follows.

16  
17 RESPONSE

- 18  
19 1. This is a case of not everything is as it appears at first glance. The complaining parties  
20 were not clients of Respondent. Respondent did not take anyone's money without  
21 permission, as they were willing investors. And contrary to the State Bar's charges, not  
22 only has Respondent returned money to its investors, Respondent is prepared to return the  
23 original investment and even more profits to the investors resulting in the complaining  
24 parties receiving far in excess of the money invested by them, by more than one hundred  
25 percent. In short, this is a matter where non-client investors used the State Bar complaint  
26 process to try and leverage Respondent to pay more money and/or faster than he was able  
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to with regard to their investments.

2. Respondent admits the allegations contained in Paragraph One of the Notice of Disciplinary charges (“NDC”), in that Respondent was at all times herein, a member of the State Bar of California. However, Respondent respectfully objects to the subject matter jurisdiction of the State Bar and this Court on the grounds that none of these complaining parties were EVER clients at any time during the events addressed in the NDC, and were investors only.

3. Respondent denies Count One contained in Paragraph Two of the NDC and pleads as follows: Respondent received \$67,800.00 in August 2015 (and not 2016 as alleged), that was intentionally deposited into an account, other than Respondent’s IOLTA, because it was an investment. The investment money was received from Ms. Peggy Donley and Reza Golshani, who are married to each other (“Donley & Golshani”), and whom Respondent has known for twenty plus years. This money was an investment made pursuant to a written agreement. The money was deposited by Donley and Golshani themselves directly into the non-IOLTA account, knowingly and purposely. Donley and Golshani were not clients of Respondent at any of the times related to this matter. Respondent generated \$56,200.00 in profit for Donley and Golshani by the end of October 2015 (only 2.5 months later) and at the direction of Donley and Golshani, Respondent distributed to Donley and Golshani \$24,000.00 of the profits and reinvested \$32,200.00 of the profits, along with their original \$67,800.00 into another investment with Respondent. It was only many months later, well after receiving the profit distribution of \$24,000.00 from Respondent and reinvesting \$32,200.00 of profits, when they did not receive additional profits in a timeframe that they considered satisfactory to them, that Donley and Golshani filed their complaint against Respondent with the State Bar, and they did so only



1 to create leverage against Respondent, to attempt to force him to pay more money in a  
2 faster timeframe than he was able to do. As of this filing, Respondent is prepared to  
3 provide to Donley and Golshani their original investment of \$67,800.00, their additional  
4 investment of \$32,200.00 (which Respondent created for them in the way of profits) and  
5 additional profits of \$10,000.00, to go along with the \$24,000.00 in profits already  
6 distributed to them for a total of \$67,800.00 in original money and \$66,200.00 in profits  
7 total. The amount of the account balance in Respondent's IOLTA or any other account,  
8 after the deposit of the money, is irrelevant, as the money was not intended to be  
9 deposited to Respondent's IOLTA, was not intended to be held in trust and Donley and  
10 Golshani agreed to its release for the purposes of its investment by Respondent.

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12 4. Respondent denies Count Two contained in Paragraph Three of the NDC and pleads as  
13 follows: Respondent did not commit any act of moral turpitude, as this money was not  
14 received on behalf of a client of Respondent and was not intended to be held in trust in  
15 any fashion. Therefore, the amount in the IOLTA account is irrelevant as the money was  
16 not intended to be held in trust. As an investment between Donley & Golshani and  
17 Respondent, in his individual capacity, and not in Respondent's capacity as a lawyer, the  
18 State Bar should not exercise its subject matter jurisdiction over this dispute, as  
19 Respondent was not acting as a lawyer in the investment transaction.

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22 5. Respondent denies Count Three contained in Paragraph Four of the NDC on the grounds  
23 contained in Paragraphs 3-4 herein, which serve as a complete response to Count Three  
24 contained in Paragraph 4 of the NDC.

25 6. Respondent denies Count Four contained in Paragraph Five of the NDC and pleads as  
26 follows: Respondent did respond to the letters from the State Bar and had not one but  
27 three discussions with the State Bar Investigator, Mr. Benson Hom, wherein Respondent  
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1 expressed plainly that Donley and Golshani made an investment with Respondent in his  
2 individual capacity and not in his capacity as an attorney for or on behalf of Donley and  
3 Golshani, and as such the State Bar does not have any jurisdiction over the matter than if  
4 it involved a party that was not a licensed attorney. The State Bar may disagree with  
5 Respondent's position but that does not mean that Respondent failed to respond to the  
6 allegations. Respondent reserves his rights to challenge the subject matter jurisdiction of  
7 the State Bar over this dispute, as Donley and Golshani were not clients of Respondent, at  
8 any of the times related to this matter.  
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10 7. Respondent denies Count Five contained in Paragraph Six of the NDC and pleads as  
11 follows: Mr. Tanner Gish ("Gish") provided money to Respondent as an investment made  
12 pursuant to written agreement. Gish was not a client of Respondent at any time with  
13 regard to this matter or otherwise. Respondent generated and disbursed \$6,016.00 in  
14 profits in 2015 for Gish, prior to his complaint to the State Bar, subsequent to his  
15 complaint to the State Bar. As of the time of this Response, Respondent is prepared to  
16 deliver the entirety of Gish's invested principal of \$25,000.00 and an additional  
17 \$20,000.00 in profits, to go with the \$6,016.00 received in profits from the investment  
18 with Respondent, as of the filing of this Response for a total of \$25,000.00 in principal  
19 and \$26,016.00 in profits. The amount of the account balance in Respondent's IOLTA, is  
20 irrelevant, as Gish was not a client and was an investor, the money was not to be held in  
21 trust and Gish agreed to its release for the purposes of the Investment.  
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24 8. Respondent denies Count Six contained in Paragraph Seven of the NDC on the grounds  
25 contained in Paragraphs 6 and 7 herein, which serves as a complete response to Count Six  
26 contained in Paragraph 7 of the NDC.  
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1 9. Respondent denies Count Seven contained in Paragraph Eight of the NDC on the grounds  
2 contained in Paragraphs 6 and 7 herein, which serves as a complete response to Count  
3 Seven contained in Paragraph 8 of the NDC.  
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5 10. Respondent denies Count Eight contained in Paragraph Nine of the NDC and pleads as  
6 follows: Respondent did respond to the letters from the State Bar and had not one but  
7 three discussions with the State Bar Investigator, Benson Hom, wherein Respondent  
8 expressed plainly that Gish made an investment with Respondent in his individual  
9 capacity and not in his capacity as an attorney for or on behalf of Gish, and as such the  
10 State Bar does not have any jurisdiction over the matter than if it involved a party that was  
11 not a licensed attorney. The State Bar may disagree with Respondent's position but that  
12 does not mean that Respondent failed to respond to the allegations. Respondent reserves  
13 his rights to challenge the subject matter jurisdiction of the State Bar over this dispute, as  
14 Gish was not a client of Respondent, at any of the times related to this matter, or any other  
15 time.  
16

17 11. Respondent denies Count Nine contained in Paragraph Ten of the NDC and pleads as  
18 follows: Respondent received \$140,896.26 (the "Surplus Proceeds") from the sale of a  
19 property in which the persons named in Count Nine were the heirs (collectively the  
20 "Hernandez Heirs"). The Hernandez Heirs were not clients of Respondent at any of the  
21 times related to this matter, or at any other time. Respondent's client was in fact the real  
22 estate and lending firm that brought this file to Respondent, and paid Respondent's fees,  
23 in return for their share of the Surplus Proceeds. Once the Surplus Proceeds were  
24 received by Respondent, he contacted the Hernandez Heirs and inquired of their desire to  
25 invest their Surplus Proceeds to which they agreed. The money was moved out of  
26 Respondent's IOLTA and placed into the investment. Sometime well after the investment  
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1 had begun, the California Department of Health Care Services ("CDHCS") notified the  
2 Hernandez Heirs and Respondent that it expected to be paid \$35,559.86 of the Surplus  
3 Proceeds, because the CDHCS had allegedly paid this amount of money on behalf of the  
4 deceased former owner of the real property that was the basis of the Surplus Proceeds.  
5 Respondent not only paid the CDHCS the entirety of what was owed from the investment  
6 money, Respondent paid the interest as well from the investment money and offered to  
7 deduct same from his share of the investment and not from the Hernandez Heirs' shares.  
8 Further, Respondent has paid all third-party lien-holders and other parties entitled to the  
9 Surplus Proceeds. Finally, as of the date of this Response, Respondent is prepared to give  
10 the Hernandez Heirs' the entirety of their principal investment of \$82,711.26 and  
11 \$87,000.00 in profits that have not been distributed.

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14 12. Respondent denies Count Ten contained in Paragraph Eleven of the NDC on the grounds  
15 contained in Paragraph 12 herein, which serves as a complete response to Count Ten  
16 contained in Paragraph 11 of the NDC.

17 13. Respondent denies Count Eleven contained in Paragraph Twelve of the NDC on the  
18 grounds contained in Paragraph 12 herein, which serves as a complete response to Count  
19 Eleven contained in Paragraph 12 of the NDC.

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21 14. Respondent denies Count Twelve contained in Paragraph Thirteen of the NDC on the  
22 grounds contained in Paragraph 12 herein, and further pleads as follows: no checks  
23 written were written against Respondent's IOLTA account, because the Hernandez Heirs  
24 were investors, and as such their money was not to be held, nor to be paid out of  
25 Respondent's IOLTA. Further, with regard to the checks that were written from an  
26 account other than Respondent's IOLTA, none of the checks were "returned for  
27 insufficient funds." The checks were not paid and/or would not have been paid if  
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presented, because Bank of America placed a hold on the account known as an "888" hold, which effectively froze the account and prevented any transaction from clearing, so that if someone were to present a check, they would be told it would not be honored or would be treated as "NSF" no matter what. This hold was placed to protect the account from theft as checks were stolen from Respondent's bag. As far as Respondent is aware, only one check was ever presented to Bank of America, as Respondent notified the Hernandez Heirs of the 888 hold, as soon as he was aware of it.

15. Respondent denies Count Thirteen contained in Paragraph Fourteen of the NDC and pleads as follows: Respondent did respond to the letters from the State Bar and discussed the matter with the State Bar Investigator, Benson Hom, wherein Respondent expressed that Respondent's non-IOLTA account was under an 888 hold, and therefore no checks could present against the account.
16. Respondent seeks a full hearing on the charges filed against him and requests the Court to set the matter for discovery and hearing.

Dated: July 25, 2017

Respectfully submitted,  
LAW OFFICES OF JEFFREY A. MILLER &  
ASSOCIATES  
By: \_\_\_\_\_  
Jeffrey A. Miller  
Attorneys for Respondent

