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STATE BAR COURT  
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LOS ANGELES

**PUBLIC MATTER**

**STATE BAR COURT OF CALIFORNIA**

**HEARING DEPARTMENT – LOS ANGELES**

In the Matter of	)	Case No.: 07-R-12419-RAH
	)	
	)	<b>DECISION</b>
<b>TIMOTHY P. MILLER,</b>	)	
	)	
	)	
<u>Petitioner for Reinstatement.</u>	)	

**I. INTRODUCTION AND PROCEDURAL BACKGROUND**

Petitioner Timothy Paul Miller (“petitioner”) was admitted to the practice of law in the State of California on June 5, 1983 and was a member of the State Bar of California from that date until his resignation with charges pending became effective on May 19, 2001.

In this proceeding, petitioner was represented by Susan L. Margolis of Margolis & Margolis. The Office of the Chief Trial Counsel was represented by Geri von Freymann and Jean Cha.

On June 20, 2007, petitioner filed a Petition for Reinstatement After Disbarment or Resignation (the “petition”) in State Bar Court case number 07-R-12419-RAH.

**II. FINDINGS OF FACT AND CONCLUSIONS OF LAW**

**A. Petitioner’s Background**

Petitioner grew up in the Lake Arrowhead area of Southern California. His parents divorced when he was a teenager. It was a very acrimonious breakup that caused petitioner

substantial trauma. After the divorce, his mother moved down to the valley. In order to graduate with his class at Rim of the World High School, petitioner remained in the mountains and lived with his brother, who owned a real estate sales business. Petitioner's father did not provide regular support to petitioner. During this time, petitioner drank alcohol heavily.

After graduation from high school, petitioner got his real estate salesperson's license and began working at his brother's office while attending California State University, San Bernardino. Petitioner got married in 1977 and started attending law school at night. He was admitted to the State Bar of California in 1983.

After admission to the State Bar, petitioner went to work for Rick Lund, who practiced in the time share real estate transaction field in Costa Mesa, California. There, he worked mostly on construction issues and time share documentation. His experience with Mr. Lund gave him valuable on-the-job training. He worked for Mr. Lund for less than a year.

One of the firm's clients, Worldwide Group, was looking for an attorney to handle matters representing non-profit corporations that owned properties. Therefore, he opened up his own firm in Orange, California, with this single client, and sought to expand his practice by joining lawyer referral services. For the most part, he remained in the real estate and construction area, but also accepted cases in other areas, including family law.

Petitioner's practice grew based on referrals. In 1986, he opened an office in San Bernardino, keeping his Orange County office for a short time. In about a year, he moved the firm entirely to San Bernardino. He added staff, including Alan Sanders, in about 1988.

He and his first wife divorced, and he married Pam in 1988. They have been married for the last 20 years. He has a stepson who is 31 years old, and three other children, aged 11 to 17. After raising their children, his wife now works as an appraiser.

Petitioner's firm continued to grow by adding Tim Hill as a partner in 1995, and several other attorneys and staff. Ultimately, the firm reached ten lawyers, and eight secretaries and paralegals. Each of the partners had a somewhat different role: Alan Sanders handled litigation; Tim Hill did some litigation and handled the personnel issues in the firm; and petitioner did some litigation and most of the firm's transaction work.

**B. Petitioner's Prior Misconduct**

From 1986 to March 1999, petitioner was corporate counsel for Jay Wright, a businessman who owned various companies in California that provided residential framing throughout the state. Jay Wright became petitioner's client after being introduced by petitioner's father. As Jay Wright's attorney, petitioner's work included construction defect work, contracts, business transactions, and matters related to corporations.

In the early 1990's, Highland Framers of Northern California ("HF"), one of Wright's companies, experienced an increase in the cost of workers' compensation insurance premiums. HF could either no longer obtain workers compensation insurance, or it could no longer obtain it at affordable rates because the company's workers' compensation losses had been too large over the years. Therefore, from approximately the end of 1993 through the end of 1997, Jay Wright, in order to avoid the increased cost of insurance, began representing to insurers that HF had divested itself of its labor force by contracting labor out to subcontractors. In fact, the labor force was moved into subcontractor corporations controlled by Jay Wright, owner of HF. Those subcontractor corporations included Framing Contractors Services, Inc., Framing Coalition, Inc., and Highland Valley Framers, Inc. By placing the labor force into his subcontractor corporations, the true nature of the relationships between HF and its labor force was hidden from workers compensation insurers, allowing workers compensation insurance to be fraudulently

obtained for premiums far below what the policies would have cost had Jay Wright or any other company directly affiliated with Jay Wright, applied for that coverage directly.<sup>1</sup>

Petitioner was the attorney who filed the Articles of Incorporation for all of Jay Wright's entities in California (except for the incorporation of Highland Framers, Inc., which was incorporated on July 5, 1983, prior to petitioner being retained by Jay Wright).

Initially, petitioner's role was simply to form the new companies. Petitioner spoke with the representatives of the insurance carrier who informed him of how such companies must be structured to accomplish the goal of reducing premiums. In turn, when petitioner created the companies, he advised Jay Wright of the need to maintain the entities as completely separate. He told Jay Wright that if he (Wright) was involved in the management of these companies he faced a risk that the insurance carrier would consider the arrangement a sham and charge him the higher premiums.

On December 14, 1989, petitioner filed Articles of Incorporation for Highland Framers of Southern California, Inc. On January 16, 1991, petitioner filed a Certificate of Amendment to change the name of Highland Framers of Southern California, Inc. to Highland Framers of Northern California, Inc. On October 12, 1993, petitioner filed Articles of Incorporation for Framing Contractors Services, Inc.<sup>2</sup>

The insurance company began to conduct audits of the new companies. Between October 1993 and December 1994, petitioner became aware of the extent of the commingling of management, funds, and employees among Jay Wright's companies. In petitioner's words, Jay

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<sup>1</sup> Jay Wright owned several businesses in California, Nevada, and Arizona, not all of which were involved in the scheme.

<sup>2</sup> Petitioner's role in these companies was to prepare the articles of incorporation, bylaws, and the initial minutes of the boards of directors. He was not actively involved in managing the companies.

Wright's fingerprints were all over these companies. Petitioner felt that he had done his duty as a lawyer by informing his client of the risks, and the client had chosen not to follow his advice.<sup>3</sup>

The workers' compensation policy for Framing Contractors Services, Inc. was canceled by the carrier. Jay Wright approached petitioner, requesting that he form further companies to attempt to avoid the increases in premiums. Petitioner again informed him of what he needed to do to accomplish his goals. However, beginning in December 1994, petitioner knew that his client was not going to follow his advice and that he would continue to defraud the insurance companies.

Jay Wright promised to hire petitioner's father, Tom Miller, as an officer and director of the new company. On December 2, 1994, petitioner filed Articles of Incorporation for Framing Coalition, Inc. Soon, however, the company lost its insurance, so his father never actually began working for the company.

Jay Wright wanted to open another company in Southern California. Jay again agreed to hire Tom Miller in the new company. Jay assured petitioner that he would keep the companies separate. On January 24, 1995, petitioner filed the Highland Framers, Inc. Annual Statement by a Domestic Stock Corporation with the Secretary of State. On August 11, 1995, petitioner filed Articles of Incorporation for North Valley Lumber & Truss, Inc. On March 21, 1996, petitioner filed Articles of Incorporation for Highland Valley Framers, Inc. Petitioner went into the new offices of Highland Valley Framers, Inc. in Newport Beach, California, and saw a desk with his father's name plate on it. Petitioner felt that maybe this time, Jay Wright would do what was necessary to keep the companies separate. Petitioner felt that having his father there would provide some measure of assurance that Jay would follow petitioner's advice and separate the entities. Further, Petitioner learned that the payroll for all the subcontractors was run through

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<sup>3</sup> At trial, petitioner described his prior attitude as arrogant. In his words, petitioner told Jay Wright that if "you follow the rules, fine." "If you want to screw it up, that's your problem."

Highland Valley Framers, so he again felt that his father's presence there might help ensure Jay Wright's compliance.

Petitioner became increasingly more involved in trying to convince the carriers of the legitimacy of the Jay Wright businesses. He sent several letters to the carriers containing information on the framer names and numbers.<sup>4</sup> In around 1997, petitioner had become more familiar with the companies' practices, and he began to realize that "Jay had done it again." Petitioner knew that more trouble would soon follow. In petitioner's words, he "closed his eyes and held his breath." His father was named in lawsuits filed by the workers' compensation carriers. When petitioner found out about the lawsuits, he immediately called Jay Wright, angry at the news. He spoke with both Jay Wright and Jay's son. Jay's son just laughed. At this time, petitioner was increasingly "on the outs" with Jay Wright and his son.

Other claims from governmental agencies of underreported wages and misclassification of wages followed. Petitioner litigated the cases and lost the Golden Eagle Insurance Company case, with a \$1 million judgment against his father and the corporation.<sup>5</sup>

In 1997, petitioner felt something was missing from his life. He had made a lot of money as a lawyer, but there was "a hole" in his existence. While petitioner had grown up in the Catholic Church, his wife and kids were very active in a large, evangelical church called Harvest Christian Fellowship. At an Easter service in 1997<sup>6</sup>, he renewed his commitment to Christianity and from that point, became very involved in this church. This commitment was the beginning of his road to rehabilitation, discussed in more detail, below.

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<sup>4</sup> Apparently, at least some of these letters were from Tom Miller, although all were drafted by petitioner. Petitioner's father never became actively involved in the company. In fact, petitioner is not sure if Tom Miller ever stepped onto the premises of the company.

<sup>5</sup> Apparently, the Golden Eagle case did not name Jay Wright individually.

<sup>6</sup> There was some dispute as to whether this Easter Service was in 1997 or 1998. Prior to this event, he was involved in church activities, but had not fully internalized his faith by making a formal commitment.

Petitioner's values were changing. He began to bring a Bible to meetings with Jay, something Jay did not like. Soon, he learned that they had hired another attorney, and petitioner was relieved. However, petitioner continued to handle Jay Wright's cases. Petitioner unsuccessfully tried to get Jay Wright to sign substitutions of attorney on the litigation cases his firm was handling. Petitioner's firm had reduced its caseload of matters where Jay Wright companies were the direct client, but he actively continued to represent Jay Wright's companies where insurance carriers were handling the defense. In 1998, petitioner "more or less" broke off his relationship with Jay Wright and his companies. When this break was made, petitioner felt he had "dodged a bullet" and had avoided continuing with a person who "was a mess."<sup>7</sup>

As is set forth below in more detail, between 1998 and 2000, petitioner did service work for others, including delivering and serving meals to the needy and volunteering to clean up the yards of the elderly members of his church. He actively participated in the crusades put on by his church.

Petitioner still had his firm, and still had some good clients, despite the fact that his relationship with Tim Hill was deteriorating. Eventually, petitioner and Tim Hill parted ways. Also, Mark Mellor, another attorney in his office had a car accident and broke his neck. After six months, he recuperated enough to be rehired.

On September 27, 2000, petitioner was arrested.

On the same day, just after noon, investigators raided petitioner's office, Tom Miller's house, his firm's storage unit, and Jay Wright's office and house.

On January 29, 2001, a complaint-warrant was issued in case number 9713CIH- 29883, by the Alameda County Superior Court. Named in this complaint were petitioner and

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<sup>7</sup> At this time, petitioner still felt that, at most, there may be civil liability for the workers' compensation problems (i.e., cancellation of the policies.) He did not anticipate that his conduct would result in criminal action against him, his father, or Jay Wright.

co-defendants Jay Neal Wright, Jay Neal Wright, II, and Don Jay Wright. Count One alleged petitioner violated Penal Code of California section 487(a), for grand theft, committed from May 1996 through March 1998, by unlawfully taking the property of the State Compensation Insurance Fund (SCIF), a felony. Count Two alleged petitioner violated section 11880(a) of the Insurance Code of California, committed from May 1996 through March 1998, by unlawfully making or causing to be made knowingly false or fraudulent statements for the purpose of reducing the premium rate or cost of insurance from SCIF, a felony. Count Three alleged petitioner violated Penal Code of California section 487(a), for grand theft, committed from October 1996 through September 1997, by unlawfully taking the property of Golden Eagle Insurance, a felony. Count Four alleged petitioner violated section 11760(a) of the Insurance Code of California, committed from October 1996 through September 1997, by unlawfully making, or causing to be made, a knowingly false or fraudulent statement of a fact material to the determination of the premium, rate, or cost of a policy of workers' compensation insurance for the purpose of reducing the premium, rate, or cost of the insurance. Count Five alleged petitioner violated section 11760(a) of the Insurance Code of California, committed from November 1, 1997 through January 1998 by unlawfully making or causing to be made a knowingly false or fraudulent statement of a fact material to the determination of the premium, rate, or cost of a policy of workers' compensation insurance for the purpose of reducing the premium, rate, or cost of the insurance.

Petitioner was convicted on March 26, 2001 by a plea of nolo contendere to a violation of section 550(b)(3) of the Penal Code of California, a reasonably related and included offense

within the offense charged in the 4th count of the complaint.<sup>8</sup> Counts 1, 2, 3, and 5 were dismissed.

On April 23, 2001, petitioner was sentenced to one day in jail with one day credit, a three-year probationary period, restitution of \$25,000.00 to the SCIF and \$25,000.00 to Golden Eagle Insurance Company. Petitioner paid the restitution at the time of the sentencing.

Petitioner was cooperative with the District Attorney and was the first defendant to come forward and plead. Petitioner gave testimony as a witness at the grand jury hearing, pursuant to subpoena, regarding the criminal activity in which he was involved.

On March 20, 2001, petitioner tendered his resignation from the State Bar of California with charges pending.

Petitioner's resignation was accepted by the Supreme Court of California on April 19, 2001, in Supreme Court Order S096739. On May 19, 2001, the resignation became effective by Supreme Court Order S096739.

On May 23, 2001, following his resignation from the practice of law, petitioner amended the Articles of Incorporation for Timothy Paul Miller, a Professional Law Corporation to become Timothy Paul Miller, Inc., a California Corporation. Commencing in approximately March, 2001, he sold the firm to Mark Mellor.<sup>9</sup> He continued to work for Mr. Mellor as a "case

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<sup>8</sup> Section 550(b)(3) of the Penal Code for false or fraudulent claims or statement states the following:

"(b) It is unlawful to do, or to knowingly assist or conspire with any person to do, any of the following: ... (3) Conceal, or knowingly fail to disclose the occurrence of, an event that affects any person's initial or continued right or entitlement to any insurance benefit or payment, or the amount of any benefit or payment to which the person is entitled."

<sup>9</sup> As part of the sale of assets of the firm, Mr. Mellor agreed to make periodic payments on the purchase price. In general, the transition went well, but in the end, petitioner had heart trouble, causing him to be out of the office for about 60 days. Also, there was a business dispute between petitioner and Mr. Mellor. This disagreement may have, in part, derived from a malpractice case brought against petitioner's firm by Don Oaks.

administrator and client liaison.”<sup>10</sup> He has since left the employ of Mr. Mellor and has explored working in various positions, including as a paralegal, and also in real estate sales and lending, debt collection, and insurance adjusting.

On June 20, 2003, petitioner submitted a petition for release from probation and dismissal of the proceedings under section 1203.4 of the Penal Code.

On July 17, 2003, the court granted the petition, ordered the original action be set aside and vacated and that a plea of not guilty be entered, and then dismissed the complaint pursuant to section 1203.4 of the Penal Code.

On February 16, 2005, petitioner executed a stipulation and waiver with the Department of Real Estate, which granted him a restricted real estate sales license.

**B. Petitioner’s Rehabilitation and Evidence of Good Moral Qualifications and Character.**

For approximately two years before his arrest and resignation, petitioner began a journey of rehabilitation, commencing with his recognition that a moral compass was missing in his life. He began a period of introspection, assisted by his family and his affiliation with his church. In 1998, petitioner made a formal, open commitment to a new life. His values changed dramatically from that point forward. He dedicated himself to serving others, not just himself. In this regard, he would deliver and serve meals to those unable to cook for themselves. He and others from his church would provide volunteer yard clean-up services to shut-ins. He focused on bible study and introspection and frequently met with the pastors of his church.

Petitioner has played and continues to play a role in assisting others in managing three to four large crusades put on annually by his church at such venues as the Anaheim convention

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<sup>10</sup> The Office of the Chief Trial Counsel claims in its response and pretrial statement that, while at the Mellor firm, petitioner engaged in the unauthorized practice of law. No competent evidence was offered at trial to support such an assertion, and it is, therefore, rejected.

center.<sup>11</sup> At various times, he has handled security and handicapped access, as well as assuring that water is available to the thousands of participants.

Petitioner has also participated on the Board of Directors of Project H<sub>2</sub>O, a charitable organization providing water wells to communities in Africa. He also is a volunteer baseball coach at Woodcrest Christian High School, where his son is a student.

On various occasions, petitioner has donated his time to help those in need. Included among his activities in this regard are the following: a Thanksgiving Feed the Hungry program; food drives benefitting people with limited incomes; painting houses of those who could not afford to do so for themselves; singing Christmas carols in retirement homes with other members of his church; assisting the families of members of the military serving in Iraq; and ministering to other men in a bible study group.

Petitioner credibly testified that all of these activities changed petitioner from what he was before. Looking back on his previous behavior, petitioner states that he now “doesn’t even know that guy.” As he described himself, he was a material person who valued only “fame and fortune.” He used to count his financial net worth every day. He recognizes now that he had a “select set of morals” that were “all about him.” He felt his role as a lawyer was to “shave it close” on behalf of his clients. He was selfish and measured himself by how many fast cars and big houses, and how much money and power he could accumulate. At that stage in his life, he now acknowledges, he valued those things more than his family. Having grown up poor, part of his notion of success was proving to his family, and primarily his father, that he had “made it in a material world.”

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<sup>11</sup> Up to 200,000 persons often attend these crusades. While petitioner still volunteers in the crusades of Harvest Christian Fellowship and the Billy Graham crusades, he and his family now attend Grove Community Church.

Associating with Jay Wright fed his desire to appear to be a successful person. He felt powerful in the role of "Jay Wright's attorney." In his words, he "felt like a big shot." In fact, he now recognizes that he was an "arrogant" "ego-maniac." When people would talk to him during this period, he was "never engaged" but would "stare past them." He also sees Jay Wright differently. He no longer is a role model of a successful person in petitioner's eyes.

After realizing the serious errors of judgment he made, petitioner has effectively reevaluated his life. He has made dramatic changes in his relationships with family, friends, and business associates. The path of rehabilitation he has taken over the past ten years<sup>12</sup> has been difficult, and has required him to publicly acknowledge his failings as a professional and a person. However, now he values "integrity, character and ethics." He now has committed to evaluating what his client requests, and would not hesitate "to hand a file back to a client who wants him to shave the ethical line." Repaying those who have been damaged is also an important part of rehabilitation. Petitioner has promptly paid the ordered restitution, and has paid all costs to the State Bar and owes no money to the State Bar's Client Security Fund.

Others have also testified on behalf of petitioner, attesting to his good moral qualifications and character. Unless otherwise mentioned, each was fully aware of petitioner's misconduct and gave their positive character evaluations despite petitioner's misconduct.

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<sup>12</sup> Despite an ordered three year period of supervised probation within this period (which was later reduced to approximately 2 years), the court still considers the entire ten years as rehabilitative in nature. An important consideration influencing the court in this regard is that petitioner's sincere reevaluation of his habits and misconduct started before it was evident he would be criminally charged. Further, he actively assisted the authorities in their investigation throughout this period. While the court does not give as great a weight to the period under which petitioner was under supervised probation, he is entitled to some credit therefor, particularly in light of his exemplary conduct during this period of time. (See *In the Matter of Bodell* (Review Dept. 2003) 4 Cal. State Bar Ct. Rptr. 459, 464.) However, even if the probationary period is excluded from the total period of rehabilitation, petitioner still has shown sustained exemplary conduct for an overall period of seven years with five of those years postdating the period of probation. (See *In re Menna* (1995) 11 Cal.4th 975, 989.)

One of petitioner's more persuasive character witnesses comes from an unlikely source. **George U. Wood, II**, testified in court and prepared a declaration in support of Mr. Miller's petition for reinstatement. Mr. Wood was the prosecuting attorney in the Consumer and Environmental Fraud Division of the District Attorney's office in Alameda County where the criminal matter was litigated. Clearly, Mr. Wood knew the details of petitioner's misconduct. He notes that shortly after petitioner was arrested and charged, he came to Mr. Wood's office and gave him a statement regarding his involvement in the matter, as well as the involvement of other defendants. Mr. Wood notes that at that time, the statement that was given by petitioner was voluntary, without any kind of promise from his office of a plea bargain or a reduced sentence if he offered cooperation. After that time, petitioner continued to be candid and cooperative with Mr. Wood. Mr. Wood notes that the testimony of petitioner was vital to his office in prosecuting the case against the other defendants, particularly Jay Wright. Further, Mr. Wood notes that petitioner continued to offer his full cooperation to his office for several years thereafter during the lengthy proceedings against Jay Wright. In Mr. Wood's opinion, petitioner was honest in his testimony before the grand jury and in his dealings with Mr. Wood, and petitioner took full responsibility for his wrongful conduct.

Several members of petitioner's current and former churches also testified on his behalf. These witnesses included **Thomas J. Hughes, Carmen Rieg, Thomas M. Rey, Michael Brazeal, Bob Barkley, Kim M. Rey, R. J. Jackson, and Eric Green**. Each of these individuals testified in glowing terms regarding petitioner's commitment to his family and his church. All felt that petitioner showed that he was a person of integrity and trustworthiness. Many of the witnesses focused on petitioner's commitment to his family, as well as his dedication to helping others through the various services ministries offered by his churches. Many also commented that the misconduct that they were aware of was completely out of character for petitioner.

Given the man he is today, they were surprised that he has this misconduct in his past. However, they are confident that this type of behavior will remain in his past, since he has committed himself to a new life based upon wholesome values and honest conduct.

**Raymond Blanchette** is a family friend of petitioner and his father. Petitioner represented Mr. Blanchette's son in a criminal defense matter. Mr. Blanchette credits petitioner's excellent legal services with giving his son a second chance at life. He also gratefully acknowledges that petitioner did not charge Mr. Blanchette for his services.

**Sandra M. Walker** is a retired peace officer of the State of California, Department of Social Services. She currently works part time as an insurance adjuster for Kimrod Adjusters. Further, she is on the staff of the Woodcrest Christian High School where petitioner's child attends. She has known petitioner since 1993 and since that time, their families have become very close. Ms. Walker's testimony was particularly compelling, given the depth of her knowledge of petitioner both before and after the misconduct. She feels confident that petitioner's participation in the criminal process has changed him into the better man that he is today. She feels that he has high standards of ethics and integrity in his life, and that he is a man of honor. She is confident that, if petitioner is reinstated, he would use his law license and abilities to help others through the complicated judicial system as an honest and reputable attorney.

**Cheryl Ann Sanders** is a Real Property Specialist with the City of Anaheim. She was employed as a paralegal by petitioner in 1999. She feels that petitioner is a great mentor. When she worked with petitioner, she noted that he was always very knowledgeable and up to date on current issues, pending cases and new case law. She believes that the criminal misconduct was out of character for petitioner. She knows petitioner to have an unimpeachable character and moral standing in the community and to possess all the personal attributes of character and

competence expected of a member of the bar. She also is aware of petitioner's commitment to his family. She notes that petitioner has often helped many individuals, including those who were unable to pay. As an example, she recalled a client who needed an immediate preliminary injunction to prevent the foreclosure of her home. The woman was on the brink of a nervous breakdown and was contemplating suicide over the loss of her home. Petitioner handled the matter successfully and did so free of charge. She feels that petitioner's unwavering devotion to his family and community exemplifies his strong moral fiber and character.

**Steven M. Walker** is the husband of Sandra M. Walker. He met petitioner through their respective wives. He notes that when petitioner told him about his involvement with Jay Wright, he never attempted to minimize his responsibility or involvement in the matter. He notes that petitioner "stepped up and took responsibility" when most men would have attempted to shift the blame on to someone else and sidestep the consequences. As a former highway patrol officer, Mr. Walker is well aware of the tendency of criminal defendants to avoid responsibility. He was impressed that petitioner readily admitted to his crime, cooperated with investigators and assisted in the investigation of others. He feels that such actions show that petitioner is a man of courage and integrity. Mr. Walker also observed that petitioner was very ashamed and remorseful about what he had done and how he had hurt those who loved him and looked up to him. He feels that petitioner learned from his experience with the criminal justice system and that he has changed profoundly as a result. He sees petitioner as a man who is "hyper-conscious" about conducting his life according to ethical and religious principles. He believes that he is a good man and deserves a second chance.

The Office of the Chief Trial Counsel has argued that petitioner was not accurate in providing information in his petition. These claimed inaccuracies involved the areas of his

mischaracterization of the nature of his employment with Kimrod, an adjusting firm<sup>13</sup>; the dates of employment with other law firms<sup>14</sup>; and the application for, and the nature of his restricted license with the Department of Real Estate.<sup>15</sup> These rather minor issues were fully explained by petitioner during trial. The court is convinced that they do not represent inaccurate or misleading omissions in the petition, given the full context of the petition and petitioner's background. Further, they are not "morally significant" facts that bear on the finding this court is called upon to make. ( See *Lubetzky v. State Bar* (1991) 54 Cal.3d 308, 319.)

**Conclusion Regarding Petitioner's Rehabilitation and Present Moral Qualifications for Readmission**

"In seeking reinstatement, petitioner bears a heavy burden of proving rehabilitation. [Citations omitted.] He must show by the most clear and convincing evidence that efforts made towards rehabilitation have been successful. [Citation omitted.] The evidence presented is to be considered in light of the moral shortcomings that previously resulted in discipline. [Citations omitted.]" (*Hippard v. State Bar* (1989) 49 Cal.3d 1084, 1091-1092.)

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<sup>13</sup> Contrary to the contention of the Office of the Chief Trial Counsel, petitioner stated that he was "offered" a position as a "partner", but that this "never worked out."

<sup>14</sup> The information claimed to be omitted was the date petitioner left the Mellor firm and the fact that he continued to be employed with Wayne Frost. With respect to the former, petitioner credibly testified that he believed that the contract between him and Mellor had come to an end at the date he stated. Whether this was correct is less important than his good faith belief that it was correct. As to Mr. Frost, petitioner credibly testified that he still continued to work on matters for Mr. Frost. The Office of the Chief Trial Counsel offered no evidence to contradict this testimony.

<sup>15</sup> Petitioner did not attach a stipulation set forth at exhibit 9, pages 21-24. The Office of the Chief Trial Counsel argues that this document was requested in the petition at paragraph 3.f.v.(e). The court finds that the item in the petition requesting "a copy of the order or decision recommending or ordering the reprimand, reproof, suspension, or revocation, or the imposition of discipline" did not refer to the stipulation. Rather, the stipulation was simply an agreement that his license would be limited based on his prior criminal conduct. It did not reflect "reprimand, reproof, suspension, revocation or discipline" in the usual sense of the words. However, even if the stipulation should have been attached, his failure to do so was harmless, in that he fully disclosed in his answer to the follow up question at paragraph 3.f.v.(e) that he had a restricted license because of the criminal matter he had previously disclosed.

Here, petitioner's misconduct leading to his resignation with charges pending was certainly serious. The law, however, favors rehabilitation; and even egregious past misconduct does not preclude reinstatement. (*In the Matter of Brown* (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 309, 316.)

Petitioner's path to rehabilitation has occurred over many years. Petitioner's journey of rehabilitation began even before his arrest, when he commenced a period of introspection and recommitted himself to his Christian faith. Petitioner has publicly acknowledged his failings as a person and as a professional. He has dedicated himself to serving others, rather than just himself. He has dramatically changed his relationships with his family, friends, and business associates. In addition, petitioner fully cooperated with authorities, further indicating his rehabilitation from his wrongful acts.<sup>16</sup> Furthermore, petitioner has paid all ordered restitution, and he does not owe any costs to the State Bar or owe any reimbursement to the Client Security Fund.

The court gives great weight to the very credible testimony of the prosecuting attorney who came to know petitioner in a context which allowed him to explore his willingness to cooperate, his remorse and his readiness to practice.<sup>17</sup> In addition, several other witnesses

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<sup>16</sup> In its closing brief, the Office of the Chief Trial Counsel points out, as noted in Deputy District Attorney Wood's declaration, that petitioner cooperated after his arrest by giving a statement as to his involvement as well as "that of other defendants". This, the Office of the Chief Trial Counsel concludes, constitutes a violation of Business and Professions Code section 6068(e), in that "he failed to maintain his client's confidences." This contention was raised in the pretrial statement and the closing brief filed by the Office of the Chief Trial Counsel. However, at trial, there was no evidence of what the "confidences" were, or the nature of the alleged violation of his ethical duties. As such, the court rejects this argument.

<sup>17</sup> Testimonials from acquaintances, friends and employers regarding their observation of the daily conduct of an attorney who has been disbarred are entitled to great weight, with particular credence given to such statements by attorneys because they "possess a [keen] sense of responsibility for the integrity of the legal profession." [Citations omitted.] (*In re Menna*, *supra*, 11 Cal.4th at p. 988.)

attested to petitioner's trustworthiness and integrity and his commitment to a new life based upon honest conduct and wholesome values.

The court finds that petitioner's sustained period of exemplary conduct, his recognition of the seriousness of his misconduct, his dedication to his family and church, his commitment to serving others, and his genuine expression of remorse, are all strong indicators of petitioner's present honesty and integrity. Reviewing petitioner's facts in their totality, the court is convinced that petitioner has demonstrated, by clear and convincing evidence, his rehabilitation and moral reformation from the acts which led to his resignation. Thus, the court finds that petitioner has demonstrated, by clear and convincing evidence that he is rehabilitated and has the present moral qualifications for readmission.

**C. Petitioner's Present Learning and Ability in the Law**

The Office of the Chief Trial Counsel did not raise petitioner's present learning and ability in the law as a disputed issue in its pretrial statement. Nevertheless, petitioner fully explored his learning and ability in the law at trial.

After his resignation, petitioner continued to work at the former firm, now run by Mark Mellor. In his role as case administrator and client liaison, he took notes of meetings, had contact with clients to set up appointments and depositions, inspected properties with expert witnesses, reviewed documents provided by clients and opposing parties in discovery, and did legal research and drafted motions under the supervision of Mr. Mellor. After heart problems, he left Mr. Mellor's firm and worked in various other industries. Between 2004 and 2007, he was a legal assistant to attorney Wayne Frost. During this period, he frequently read the Los Angeles Daily Journal to keep up with current legal issues.

In 2004, petitioner was awarded a certificate in recognition of his attendance at the California Association of Independent Insurance Adjusters course on California Fair Claims

Settlement Practices Regulations. In 2006, petitioner also completed courses through The Realty Institute in the areas of real estate practices and the legal aspects of real estate. Finally, during the period of 2007-2008, petitioner earned 36.5 credits of Continuing Legal Education (CLE) in various courses, including those on estate planning, easements, construction defects, legal ethics, buying and selling businesses, elimination of bias and sexual harassment, choosing the proper business entities, covenants not to compete, substance abuse, and developments in tort law.

**Conclusion Regarding Petitioner's Present Learning and Ability in the Law**

Based on the foregoing, the court finds, by clear and convincing evidence, that petitioner possesses present learning and ability in the general law.

**D. Multistate Professional Responsibility Examination ("MPRE").**

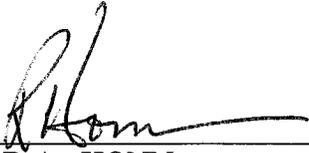
On November 11, 2007, petitioner took and passed the MPRE with a score of 85.

**III. RECOMMENDATION**

Accordingly, the court finds that petitioner Timothy Paul Miller has sustained his burden of establishing by clear and convincing evidence that he is rehabilitated and possesses the present moral qualifications for reinstatement to the practice of law in California, that he possesses present ability and learning in the general law, and that he has passed the Multistate Professional Responsibility Examination.

The petition for reinstatement is **GRANTED**. It is recommended that petitioner **TIMOTHY PAUL MILLER** be reinstated to the practice of law in the State of California upon payment of all applicable fees and the taking of the oath required by law.

Dated: December 15, 2008

  
\_\_\_\_\_  
RICHARD A. HONN  
Judge of the State Bar Court

**CERTIFICATE OF SERVICE**

[Rule 62(b), Rules Proc.; 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 17, 2008, I deposited a true copy of the following document(s):

DECISION

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:

SUSAN LYNN MARGOLIS  
MARGOLIS & MARGOLIS LLP  
2000 RIVERSIDE DR  
LOS ANGELES, CA 90039

by certified mail, No. , with return receipt requested, through the United States Postal Service at , California, addressed as follows:

by overnight mail at , California, addressed as follows:

by fax transmission, at fax number . No error was reported by the fax machine that I used.

By personal service by leaving the documents in a sealed envelope or package clearly labeled to identify the attorney being served with a receptionist or a person having charge of the attorney's office, addressed as follows:

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

Geraldine Pastore VonFreymann, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on December 17, 2008.



Cristina Potter  
Case Administrator  
State Bar Court