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California Corporations Commissioner  
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Deputy Commissioner  
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10 BEFORE THE DEPARTMENT OF CORPORATIONS  
11 OF THE STATE OF CALIFORNIA

13 In the Matter of

14 THE CALIFORNIA CORPORATIONS  
15 COMMISSIONER,

16 Complainant,

17 v.

18 RICHARD A. MILLER

19 Respondent.

) CASE NO.

) **1. STATEMENT OF ISSUES IN SUPPORT**  
) **OF NOTICE OF INTENTION TO ISSUE**  
) **ORDER DENYING APPLICATION FOR**  
) **INVESTMENT ADVISER CERTIFICATE**  
) **PURSUANT TO CORPORATIONS CODE**  
) **SECTION 25232**

) **2. ACCUSATION IN SUPPORT**  
) **OF NOTICE OF INTENTION TO ISSUE**  
) **ORDER BARRING INVESTMENT**  
) **ADVISER FROM EMPLOYMENT,**  
) **MANAGEMENT OR CONTROL**  
) **PURSUANT TO CORPORATIONS CODE**  
) **SECTION 25232.1**

1 PRESTON DuFAUCHARD, California Corporations Commissioner (“Commissioner”) of the  
2 Department of Corporations (“Department”) alleges and charges as follows:

3 **JURISDICTION AND VENUE**

4 The Commissioner brings this action pursuant to California Corporations Code (“CC”)  
5 section 25232. The Commissioner is authorized to administer and enforce the provisions of the  
6 Corporate Securities Law of 1968, Corporations Code sections 25000 et seq. (“CSL”).

7 **STATEMENT OF FACTS**

8 This action is brought to deny a certificate as an investment adviser to Respondent Richard  
9 A. Miller pursuant to section 25232. Respondent filed an application with the Department on July  
10 25, 2007 for a certificate pursuant to CC section 25231 (the “Application”).

11 On or about December 24, 2002, then Corporations Commissioner Demetrios Boutris  
12 issued a Desist and Refrain Order (“Order”) to Respondent for violations of sections 25110,  
13 25210, and 25401 of the Corporations Code, arising from his offer and sale of securities under a  
14 program generally known as “TLC.” In that Order, the Commissioner found that Respondent  
15 sold unqualified securities; sold securities without being licensed to do so; and misrepresented or  
16 failed to disclose numerous material facts to investors.

17 Various TLC entities issued investment instruments in the form of promissory notes, real  
18 estate investment agreements and/or investment contracts. In the Order, the Commissioner found  
19 that Respondent represented to investors that “Tax Lien Certificates” issued by TLC were a “safe,  
20 liquid, tax-deferred investment” in part because the investor held title to the property as a tenant in  
21 common, and that the investor’s principal was secured by real estate. In fact, few, if any, investors  
22 were actually placed on deeds to properties purchased by TLC, and investments were not secured.

23 In the Order, the Commissioner further found that Respondent represented to investors that  
24 Tax Lien Certificates would pay a fixed interest rate of between 8% and 15%. In fact, TLC never  
25 generated a profit and had lost at least \$15 million.

26 In the Order, the Commissioner further found that Respondent represented to prospective  
27 investors that the Opportunity Property investments issued by TLC were a “safe liquid, fixed rate  
28 investment”, in part by representing that the investor would be secured by a deed of trust on the real

1 property as tenants in common with TLC. In fact, few if any investors were actually placed on the  
2 deeds to the properties purchased by TLC, and they were therefore not secured.

3 The Commissioner further found that Respondent represented to investors that the  
4 “Opportunity Properties” investments would provide “guaranteed high returns” when in fact, TLC  
5 never generated a profit.

6 In the Order, the Commissioner further found that Respondent sold more than \$1,200,000 in  
7 unlawful securities to more than 20 separate victims in California, for which he received more than  
8 \$85,000 in commissions.

9 The 2002 Desist and Refrain Order was served on Respondent and not challenged by  
10 Respondent. Pursuant to Corporations Code section 25532(d), that Order is final and not subject to  
11 review by any court or agency.

12 Furthermore, in the Application, Miller failed to disclose to the Department the existence of  
13 the Desist and Refrain Order, in violation of section 25245.

14 **RESPONDENT RICHARD A. MILLER SHOULD BE DENIED AN INVESTMENT**  
15 **ADVISER CERTIFICATE PURSUANT TO CORPORATIONS CODE SECTION 25232**

16 Corporations Code section 25232 provides, in pertinent part:

17 “The commissioner may, after appropriate notice and opportunity for hearing, by  
18 order censure, deny a certificate to, or suspend for a period not exceeding 12 months  
19 or revoke the certificate of, an investment adviser, if the commissioner finds that the  
20 censure, denial, suspension, or revocation is in the public interest and that the  
21 investment adviser, whether prior or subsequent to becoming such, or any partner,  
22 officer or director thereof or any person performing similar functions or any person  
directly or indirectly controlling the investment adviser, whether prior or subsequent  
to becoming such, or any employee of the investment adviser while so employed has  
done any of the following:...

23 (a) Has willfully made or caused to be made in any application for a certificate or any  
24 report filed with the commissioner under this division, or in any proceeding before  
25 the commissioner, any statement which was at the time and in the light of the  
26 circumstances under which it was made false or misleading with respect to any  
material fact, or has willfully omitted to state in the application or report any material  
fact which is required to be stated therein...

27 (d) Is or has been subject to...(3) any other order of the commission or any  
28 administrator, association, or exchange referred to in this subdivision....

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(e) Has willfully violated any provision of the Securities Act of 1933, the Securities Exchange Act of 1934, the Investment Advisers Act of 1940, the Commodity Exchange Act, or Title 4 (commencing with Section 25000)...or any rule or regulation under any of those statutes, or any order of the commissioner which is or has been necessary for the protection of any investor...

(h) Has violated any provision of this division or the rules thereunder or, in the case of an applicant only, any similar regulatory scheme of the State of California or a foreign jurisdiction.”

Corporations Code section 25232.1 provides:

The commissioner may, after appropriate notice and opportunity for hearing, by order censure, or suspend for a period not exceeding 12 months, or bar from any position of employment, management or control of any investment adviser, broker-dealer or commodity adviser, any officer, director, partner, employee of, or person performing similar functions for, an investment adviser, or any other person, if he or she finds that the censure, suspension or bar is in the public interest and that the person has committed any act or omission enumerated in subdivision (a), (e), (f), or (g) of Section 25232 or has been convicted of any offense or held liable in any civil action specified in subdivision (b) of Section 25232 or is enjoined from any act, conduct or practice specified in subdivision (c) of Section 25232 or is subject to any order specified in subdivision (d) of Section 25232.

Corporations Code section 25245 provides:

It is unlawful for any person willfully to make any untrue statement of a material fact in any application, notice, or report filed with the commissioner under this part, or willfully to omit to state in any such application, notice, or report any material fact which is required to be stated therein.

Corporations Code section 25233 provides:

No order may be entered under Section 25232, 25232.1, or 25252 except after notice to the person affected thereby of the intention of the commissioner to enter that order and of the reasons therefor and that upon receipt of a request the matter will be set down for hearing to commence within 15 business days after that receipt unless the person affected consents to a later date. If no hearing is requested within 30 days after the mailing of the notice and none is ordered by the commissioner, the order may be entered without hearing to remain in effect until it is modified or vacated by the commissioner. In the case of an original application for a certificate, such a hearing shall be set down to commence within 15 business days after receipt of a written request by the applicant made 30 days or more after the filing of the application, even though no such notice by the commissioner has been given, unless the applicant consents to a later date. If a hearing is requested or ordered, it shall be held in accordance with the provisions of the Administrative Procedure Act (Chapter 5

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(commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code), and the commissioner shall have all of the powers granted thereunder.

**RELIEF REQUESTED**

WHEREFORE, based upon the foregoing and good cause showing, and pursuant to Corporations Code section 25232, the California Corporations Commissioner hereby finds that it is in the public interest to deny an investment adviser certificate to Respondent RICHARD A. MILLER; and to bar Respondent RICHARD A. MILLER from employment, management and control of an investment adviser, broker-dealer or commodity adviser pursuant to Corporations Code section 25232.1; and hereby notifies RICHARD A. MILLER of his intention to make final the Order denying the application for an investment adviser certificate and barring Respondent as above.

Dated: April 3, 2008

PRESTON DuFAUCHARD  
California Corporations Commissioner

By: \_\_\_\_\_  
DOUGLAS M. GOODING  
Senior Corporations Counsel  
Enforcement Division