

*Book*

1 Department of Real Estate  
2 320 West 4th Street, Ste. 350  
3 Los Angeles, California 90013-1105

**FILED**

4 Telephone: (213) 576-6982

FEB 11 2010

5 DEPARTMENT OF REAL ESTATE  
6 BY: *D. J. [Signature]*

7  
8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 \* \* \*

11 In the Matter of the Accusation of )  
12 NATIONAL PREMIER PROPERTY )  
13 MANAGEMENT CORPORATION dba Premier )  
14 Property Management; and )  
15 OSCAR C. RODRIGUEZ, individually and )  
16 as designated officer of )  
17 National Premier Property )  
18 Management Corporation, )  
19 Respondents. )

No. H-35828 LA  
L-2009040998

STIPULATION  
AND  
AGREEMENT

18 It is hereby stipulated by and between Respondents  
19 NATIONAL PREMIER PROPERTY MANAGEMENT CORPORATION and OSCAR C.  
20 RODRIGUEZ, individually and as designated officer of National  
21 Premier Property Management Corporation (sometimes collectively  
22 referred to as "Respondents"), represented by Chris J. Evens,  
23 Esq., and the Complainant, acting by and through Elliott Mac  
24 Lennan, Counsel for the Department of Real Estate, as follows for  
25 the purpose of settling and disposing of the Accusation  
26 ("Accusation") filed on April 3, 2009, in this matter:  
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1                   1. All issues which were to be contested and all  
2 evidence which was to be presented by Complainant and Respondents  
3 at a formal hearing on the Accusation, which hearing was to be  
4 held in accordance with the provisions of the Administrative  
5 Procedure Act ("APA"), shall instead and in place thereof be  
6 submitted solely on the basis of the provisions of this  
7 Stipulation and Agreement ("Stipulation").

8                   2. Respondents have received, read and understand the  
9 Statement to Respondent, the Discovery Provisions of the APA and  
10 the Accusation filed by the Department of Real Estate in this  
11 proceeding.

12                   3. Respondents timely filed a Notice of Defense  
13 pursuant to Section 11506 of the Government Code for the purpose  
14 of requesting a hearing on the allegations in the Accusation.  
15 Respondents hereby freely and voluntarily withdraw said Notice of  
16 Defense. Respondents acknowledge that they understand that by  
17 withdrawing said Notice of Defense they thereby waive their right  
18 to require the Commissioner to prove the allegations in the  
19 Accusation at a contested hearing held in accordance with the  
20 provisions of the APA and that they will waive other rights  
21 afforded to them in connection with the hearing such as the right  
22 to present evidence in their defense and the right to cross-  
23 examine witnesses.  
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1                   4. This Stipulation is based on the factual  
2 allegations contained in the Accusation. In the interest of  
3 expedience and economy, Respondents choose not to contest these  
4 allegations, but to remain silent and understand that, as a  
5 result thereof, these factual allegations, without being admitted  
6 or denied, will serve as a prima facie basis for the disciplinary  
7 action stipulated to herein. The Real Estate Commissioner shall  
8 not be required to provide further evidence to prove said factual  
9 allegations.

10                   5. This Stipulation is made for the purpose of  
11 reaching an agreed disposition of this proceeding and is  
12 expressly limited to this proceeding and any other proceeding or  
13 case in which the Department of Real Estate ("Department"), the  
14 state or federal government, or any agency of this state, another  
15 state or federal government is involved.

16                   6. It is understood by the parties that the Real  
17 Estate Commissioner may adopt this Stipulation as his Decision in  
18 this matter thereby imposing the penalty and sanctions on  
19 Respondents' real estate licenses and license rights as set forth  
20 in the "Order" herein below. In the event that the Commissioner  
21 in his discretion does not adopt the Stipulation, it shall be  
22 void and of no effect and Respondents shall retain the right to a  
23 hearing and proceeding on the Accusation under the provisions of  
24 the APA and shall not be bound by any stipulation or waiver made  
25 herein.  
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1           7. The Order or any subsequent Order of the Real  
2 Estate Commissioner made pursuant to this Stipulation shall not  
3 constitute an estoppel, merger or bar to any further  
4 administrative or civil proceedings by the Department of Real  
5 Estate with respect to any matters which were not specifically  
6 alleged to be causes for Accusation in this proceeding but do  
7 constitute a bar, estoppel and merger as to any allegations  
8 actually contained in the Accusations against Respondent herein.

9           8. Respondents understand that by agreeing to this  
10 Stipulation, Respondents agree to pay, pursuant to Business and  
11 Professions Code Section 10148, the cost of the audit. The  
12 amount of said cost for the audit is \$13,597.99.

13           9. Respondents have received, read, and understand the  
14 "Notice Concerning Costs of Subsequent Audit". Respondents  
15 further understand that by agreeing to this Stipulation, the  
16 findings set forth below in the Determination of Issues become  
17 final, and the Commissioner may charge Respondents for the cost  
18 of any subsequent audit conducted pursuant to Business and  
19 Professions Code Section 10148 to determine if the violations  
20 have been corrected. The maximum cost of the subsequent audit  
21 will not exceed \$13,597.99.

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DETERMINATION OF ISSUES

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2 By reason of the foregoing, it is stipulated and agreed  
3 that the following determination of issues shall be made:

4 I.

5 The conduct, acts or omissions of NATIONAL PREMIER  
6 PROPERTY MANAGEMENT CORPORATION and OSCAR C. RODRIGUEZ, as  
7 described in Paragraph 4, above, are in violation of Section  
8 10145 of the Business and Professions Code ("Code") and Sections  
9 2832(a) and 2742(c) of Title 10, Chapter 6 of the California Code  
10 of Regulations ("Regulations") and is a basis for discipline of  
11 Respondents' license and license rights as violation of the Real  
12 Estate Law pursuant to Code Section 10177(g).

13 ORDER

14 WHEREFORE, THE FOLLOWING ORDER is hereby made:

15 I.

16 The license and licensing rights of Respondents  
17 NATIONAL PREMIER PROPERTY MANAGEMENT CORPORATION and OSCAR C.  
18 RODRIGUEZ, under the Real Estate Law, are suspended for a period  
19 of sixty (60) days from the effective date of this Decision.

20  
21 A. Provided, however, that if Respondents request, the  
22 initial thirty (30) days of said suspension (or a portion  
23 thereof) shall be stayed for two (2) years upon condition that:

24 1. Each Respondent pays a monetary penalty pursuant to  
25 Section 10175.2 of the Business and Professions Code at the rate  
26 of \$83.33 per day for each day of the suspension for a monetary  
27

1 penalty of \$2,500, or \$5,000 total.

2           2. Said payment shall be in the form of a cashier's  
3 check or certified check made payable to the Recovery Account of  
4 the Real Estate Fund. Said check must be received by the  
5 Department prior to the effective date of the Decision in this  
6 matter.

7           3. No further cause for disciplinary action against  
8 the real estate license of Respondents occur within two (2) years  
9 from the effective date of the Decision in this matter.

10           4. If Respondents fail to pay the monetary penalty in  
11 accordance with the terms of the Decision, the Commissioner may,  
12 without a hearing, order the immediate execution of all or any  
13 part of the stayed suspension, in which event the Respondent  
14 shall not be entitled to any repayment nor credit, prorated or  
15 otherwise, for money paid to the Department under the terms of  
16 this Decision.

17           5. If Respondents pay the monetary penalty and if no  
18 further cause for disciplinary action against the real estate  
19 license of Respondent occurs within two (2) years from the  
20 effective date of the Decision, the stay hereby granted shall  
21 become permanent.

22           B. The remaining 30 days of the sixty day suspension  
23 shall be stayed for two (2) years upon the following terms and  
24 conditions:  
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1 Respondents shall pay such cost within 60 days of  
2 receiving an invoice from the Commissioner detailing the  
3 activities performed during the audit and the amount of time  
4 spent performing those activities.

5 The Commissioner may suspend the license of Respondents  
6 pending a hearing held in accordance with Section 11500, et seq.,  
7 of the Government Code, if payment is not timely made as provided  
8 for herein, or as provided for in a subsequent agreement between  
9 the Respondent and the Commissioner. The suspension shall remain  
10 in effect until payment is made in full or until Respondents  
11 enter into an agreement satisfactory to the Commissioner to  
12 provide for payment, or until a decision providing otherwise is  
13 adopted following a hearing held pursuant to this condition.  
14

15 III.

16 All licenses and licensing rights of Respondent OSCAR  
17 C. RODRIGUEZ are indefinitely suspended unless or until  
18 Respondent provides proof satisfactory to the Commissioner, of  
19 having taken and successfully completed the continuing education  
20 course on trust fund accounting and handling specified in  
21 paragraph (3) of subdivision (a) of Section 10170.5 of the  
22 Business and Professions Code. Proof of satisfaction of this  
23 requirement includes evidence that Respondent has successfully  
24 completed the trust fund account and handling continuing  
25 education course within 120 days prior to the effective date of  
26 the Decision.  
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IV.

Respondent OSCAR C. RODRIGUEZ shall, within nine (9)  
months from the effective date of this Decision, present evidence  
satisfactory to the Real Estate Commissioner that Respondent has,  
since the most recent issuance of an original or renewal real  
estate license, taken and successfully completed the continuing  
education requirements of Article 2.5 of Chapter 3 of the Real  
Estate Law for renewal of a real estate license. If Respondent  
fails to satisfy this condition, the Commissioner may order the  
suspension of the restricted license until Respondent presents  
such evidence. The Commissioner shall afford Respondent the  
opportunity for a hearing pursuant to the Administrative  
Procedure Act to present such evidence.

V.

All licenses and licensing rights or Respondents are  
indefinitely suspended unless or until Respondents provide  
evidence satisfactory to the Commissioner that the trust fund  
deficit set forth in the Accusation in the amount of \$121,520.89,  
(1) has been cured, including (2) the identification of the  
source of funds used to cure the deficit.

DATED: 10-19-03

E. J. Lennan  
ELLIOTT MAC LENNAN, Counsel for  
the Department of Real Estate

\* \* \*

EXECUTION OF THE STIPULATION

1  
2  
3 We have read the Stipulation and discussed it with our  
4 counsel. Its terms are understood by us and are agreeable and  
5 acceptable to us. We understand that we are waiving rights given  
6 to us by the California Administrative Procedure Act (including  
7 but not limited to Sections 11506, 11508, 11509 and 11513 of the  
8 Government Code), and we willingly, intelligently and voluntarily  
9 waive those rights, including the right of requiring the  
10 Commissioner to prove the allegations in the Accusation at a  
11 hearing at which we would have the right to cross-examine  
12 witnesses against us and to present evidence in defense and  
13 mitigation of the charges.

MAILING AND FACSIMILE


14  
15 Respondents (1) shall mail the original signed  
16 signature page of the stipulation herein to Elliott Mac Lennan:  
17 Attention: Legal Section, Department of Real Estate, 320 W.  
18 Fourth St., Suite 350, Los Angeles, California 90013-1105.

19  
20 Respondents shall also (2) facsimile a copy of signed signature  
21 page, to the Department at the following telephone/fax number:  
22 (213) 576-6917, Attention: Elliott Mac Lennan.

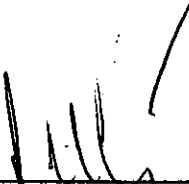
23 A facsimile constitutes acceptance and approval of the  
24 terms and conditions of this stipulation. Respondents agree,  
25 acknowledge and understand that by electronically sending to the  
26 Department a facsimile copy of Respondents' actual signature as  
27

1 it appears on the stipulation that receipt of the facsimile copy  
2 by the Department shall be as binding on Respondents as if the  
3 Department had received the original signed stipulation.  
4  
5  
6


7 DATED: 11-2-09

  
NATIONAL PREMIER PROPERTY  
MANAGEMENT CORPORATION, a corporate  
real estate broker,  
BY: OSCAR C. RODRIGUEZ D.O.,  
Respondent

11  
12  
13  
14 DATED: 11-2-09

  
OSCAR C. RODRIGUEZ, individually  
and as designated officer of  
National Premier Property  
Management Corporation, Respondent

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20 DATED: 11-6-09

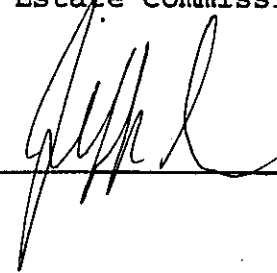
  
CHRIS J. EVANS, ESQ.  
Attorney for Respondents  
Approved as to form

\* \* \*

1  
2       The foregoing Stipulation and Agreement is hereby  
3 adopted as my Decision as to Respondents NATIONAL PREMIER  
4 PROPERTY MANAGEMENT CORPORATION and OSCAR C. RODRIGUEZ,  
5 individually and as designated officer of National Premier  
6 Property Management Corporation and shall become effective at 12  
7 o'clock noon on        March 12        , 2010

8                   IT IS SO ORDERED           2-2        , 2010.

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10                                   JEFF DAVI  
11                                   Real Estate Commissioner

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1 ELLIOTT MAC LENNAN, SBN 66674  
Department of Real Estate  
2 320 West 4th Street, Ste. 350  
Los Angeles, California 90013-1105

**FILED**

APR 3 2009

3 Telephone: (213) 576-6911 (direct)  
4 -or- (213) 576-6982 (office)

DEPARTMENT OF REAL ESTATE  
BY: *[Signature]*

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 \* \* \*

11	In the Matter of the Accusation of	)	No. H- 35828 LA
12	NATIONAL PREMIER PROPERTY	)	<u>A C C U S A T I O N</u>
13	MANAGEMENT CORPORATION dba	)	
14	Premier Property Management; and	)	
15	OSCAR C. RODRIGUEZ, individually	)	
16	and as designated officer of	)	
17	National Premier Property	)	
18	Management Corporation,	)	
19	Respondents.	)	

18 The Complainant, Robin Trujillo, a Deputy Real Estate  
19 Commissioner of the State of California, acting in her official  
20 capacity, for cause of Accusation against NATIONAL PREMIER  
21 PROPERTY MANAGEMENT CORPORATION and OSCAR C. RODRIGUEZ,  
22 individually and as National Premier Property Management  
23 Corporation., is informed and alleges as follows:

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1.

1 All references to the "Code" are to the California  
2 Business and Professions Code and all references to "Regulations"  
3 are to Title 10, Chapter 6, California Code of Regulations.  
4

2.

5 At all times mentioned, NATIONAL PREMIER PROPERTY  
6 MANAGEMENT CORPORATION ("NPPMC") and OSCAR C. RODRIGUEZ  
7 ("RODRIGUEZ"), was licensed or had license rights issued by the  
8 Department of Real Estate ("Department") as real estate brokers.  
9 NPPMC was licensed by and through RODRIGUEZ.  
10

3.

11 At all times mentioned, in the City of Pomona, County  
12 of Los Angeles, NPPMC acted as real estate broker and conducted  
13 licensed activities within the meaning of Code Section 10131(a).  
14 NPPMC and RODRIGUEZ dba Premier Property Management engaged in  
15 the business of, acted in the capacity of, advertised or assumed  
16 to act as a real estate broker, including the operation and  
17 conduct of a property management business with the public  
18 wherein, for or in expectation of compensation, for another or  
19 others, Respondents leased or rented or offered to lease or rent,  
20 or placed for rent, or solicited listings of places for rent, or  
21 solicited for prospective tenants, or collected rents from real  
22 property, or improvements thereon.  
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1 4.

2 On January 29, 2009, the Department completed an audit  
3 examination of the books and records of NPPMC pertaining to the  
4 property management activities described in Paragraph 3, that  
5 require a real estate license. The audit examination covered a  
6 period of time beginning on February 1, 2007 to September 30,  
7 2008. The audit examination revealed violations of the Code and  
8 the Regulations as set forth below, and more fully discussed in  
9 Audit Report LA 080100 and the exhibits and work papers attached  
10 to said audit report.  
11

12 5.

13 At all times mentioned, in connection with the activities  
14 described in Paragraph 4, above, NPPMC accepted or received funds  
15 including funds in trust (hereinafter "trust funds") from or on  
16 behalf of actual or prospective parties, including property  
17 owners and tenants, to real estate transactions handled by NPPMC  
18 and thereafter made deposits and or disbursements of such funds.  
19 From time to time herein mentioned during the audit period, said  
20 trust funds were deposited and/or maintained by NPPMC in the bank  
21 account as follows:

22 "Premier Property Management Trust Account  
23 Account No. 237136837"  
24 Citizens Business Bank (T/A #1)  
Pomona, California

25 "Premier Property Management  
26 Account No. 237136845"  
27 Citizens Business Bank (B/A #1)  
Pomona, California

1 "Premier Property Management  
Account No. 237136829"  
2 Citizens Business Bank  
3 Pomona, California

(G/A #1)

4 6.

5 With respect to the licensed activities referred to in  
6 Paragraphs 3 and 5, and the audit examination including the  
7 exhibits and work papers referred to in Paragraph 4, it is  
8 alleged that NPPMC:

9 (a) Permitted, allowed or caused the disbursement of  
10 trust funds from the escrow trust account where the disbursement  
11 of funds reduced the total of aggregate funds in escrow trust  
12 account, to an amount which, on September 30, 2008, was  
13 \$121,520.89, less than the existing aggregate trust fund  
14 liability of NPPMC to every principal who was an owner of said  
15 funds, without first obtaining the prior written consent of the  
16 owners of said funds, in violation of Code Section 10145 and  
17 Regulation 2832.1.

18 (b) Failed to maintain a control record in the form of  
19 a columnar record in chronological order of all trust funds  
20 received, deposited and disbursed, in violation of Code Section  
21 10145 and Regulation 2831.

22 (c) Failed to perform a monthly reconciliation of the  
23 balance of all separate beneficiary or transaction records  
24 maintained pursuant to Regulation 2831.1 with the record of all  
25 trust funds received and disbursed by the escrow trust account,  
26 in violation of Code Section 10145 and Regulation 2831.2.

27



1 (d) B/A #1 was not in the name of the broker as trustee  
2 at a bank or other financial institution, nor designated as a  
3 trust account, in violation of Code Section 10145 of the Code and  
4 Regulations 2832(a).

5 (e) Mixed, commingled and converted trust funds in the  
6 form of rents received from tenants from property management  
7 activities and deposited them into G/A #1, instead of depositing  
8 said trust funds into a trust account, in violation of Code  
9 Sections 10145, 10176(e) and 10176(i) and Regulation 2835; and

10 (f) Engaged in licensed activities while NPPMC was not  
11 in good standing with the California Secretary of State, in  
12 violation of Regulation 2742(c).

13 7.

14 The conduct of Respondents NPPMC and RODRIGUEZ  
15 described in Paragraph 6, above, violated the Code and the  
16 Regulations as set forth:

17	<u>PARAGRAPH</u>	<u>PROVISIONS VIOLATED</u>
18		
19	6(a)	Code Section 10145 and Regulation
20		2832.1
21		
22		
23	6(b)	Code Section 10145 and Regulation
24		2831
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26	6(c)	Code Section 10145 and Regulation
27		2831.2

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Code Section 10145 and Regulation  
2832(a)  
  
Code Sections 10145, 10176(e) and  
10176(i) and Regulation 2835  
  
Regulation 2742(c)

Each of the foregoing violations constitute cause for the suspension or revocation of the real estate license and license rights of Respondents NPPMC and RODRIGUEZ under the provisions of Code Sections 10176(e), 10176(i), 10177(d) and/or 10177(g).

8.

The overall conduct of Respondents NPPMC and RODRIGUEZ constitutes negligence. This conduct and violation are cause for the suspension or revocation of the real estate license and license rights of said Respondents pursuant to Code Section 10177(g).

9.

The overall conduct of Respondent RODRIGUEZ constitutes a failure on Respondent's part, as officer designated by a corporate broker licensee, to exercise the reasonable supervision and control over the licensed activities of NPPMC as required by Code Section 10159.2, and to keep NPPMC in compliance with the Real Estate Law, and is cause for the suspension or revocation of the real estate license and license rights of RODRIGUEZ pursuant

1 to the provisions of Code Section 10177(h).

2 WHEREFORE, Complainant prays that a hearing be  
3 conducted on the allegations of this Accusation and that upon  
4 proof thereof, a decision be rendered imposing disciplinary  
5 action against the license and license rights of Respondents  
6 NATIONAL PREMIER PROPERTY MANAGEMENT CORPORATION and OSCAR C.  
7 RODRIGUEZ, under the Real Estate Law (Part 1 of Division 4 of the  
8 Business and Professions Code) and for such other and further  
9 relief as may be proper under other applicable provisions of law.

10 Dated at Los Angeles, California

11 this 26 day of February 2009.  
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15 Deputy Real Estate Commissioner  
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24 cc: National Premier Property Management Corporation  
25 Oscar C. Rodriguez  
26 Robin Trujillo  
Sacto  
Audits - Chona Picayo  
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