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DEPT. OF REAL ESTATE

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BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of)	No.: H-05118-SD
LAND TREK PROPERTY)	STIPULATION AND AGREEMENT AS TO LAND TREK PROPERTY MANAGEMENT CO INC. AND THOMAS EDWARD REILLY III ONLY
MANAGEMENT CO INC, THOMAS)	
EDWARD REILLY III, individually)	
and as designated officer of Land Trek)	
Property Management Co Inc, and)	
LORI ELLEN GRIFFITH,)	
Respondents.)	

It is hereby stipulated and agreed by and between Respondents LAND TREK PROPERTY MANAGEMENT CO INC. ("LTPMC"), and THOMAS EDWARD REILLY III ("REILLY"), individually and as designated officer of LTPMC ("Respondents") and their attorney of record, Jozef G. Magyar, Esq., of Kimball, Tirey & St. John LLP, and the Complainant, acting by and through Laurence Haveson, Counsel for the Department of Real Estate ("Department"), as follows for the purpose of settling and disposing of the Accusation filed on January 13, 2020 ("Accusation") in this matter:

1. All issues which were to be contested and all evidence which was to be presented by Complainant and Respondents at a formal hearing on the Accusation, which hearing was to be held in accordance with the provisions of the Administrative Procedure Act ("APA"), shall instead and in place thereof be submitted solely on the basis of the provisions of this Stipulation and Agreement ("Stipulation").

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

4 3. On January 23, 2020, Respondents filed a Notice of Defense pursuant to section
5 11506 of the Government Code for the purpose of requesting a hearing on the allegations in the
6 Accusation. Respondents hereby freely and voluntarily withdraw said Notice of Defense.
7 Respondents acknowledge that Respondents understand that by withdrawing said Notice of
8 Defense, Respondents will thereby waive Respondents' right to require the Real Estate
9 Commissioner ("Commissioner") to prove the allegations in the Accusation at a contested hearing
10 held in accordance with the provisions of the APA and that Respondents will waive other rights
11 afforded to Respondents in connection with the hearing such as the right to present evidence in
12 defense of the allegations in the Accusation and the right to cross-examine witnesses.

13 4. Respondents, pursuant to the limitations set forth below, hereby admit that the
14 factual allegations in the Accusation filed in this proceeding are true and correct and the
15 Commissioner shall not be required to provide further evidence to prove such allegations.

16 5. It is understood by the parties that the Real Estate Commissioner may adopt the
17 Stipulation as his Decision in this matter, thereby imposing the penalty and sanctions on
18 Respondents' real estate licenses and license rights as set forth in the below Order. In the event
19 that the Commissioner in his discretion does not adopt the Stipulation, it shall be void and of no
20 effect, and Respondents shall retain the right to a hearing and proceeding on the Accusation under
21 all the provisions of the APA and shall not be bound by any admission or waiver made herein.

22 6. The Order or any subsequent Order of the Commissioner made pursuant to this
23 Stipulation shall not constitute an estoppel, merger or bar to any further administrative or civil
24 proceedings by the Department with respect to any matters which were not specifically alleged to
25 be causes for the Accusation in this proceeding.

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1 DETERMINATION OF ISSUES

2 By reason of the foregoing stipulations, admissions, and waivers, and solely for the
3 purpose of settlement of the pending Accusation without a hearing, it is stipulated and agreed that
4 the following Determination of Issues shall be made:

5 I.

6 The conduct, acts, and/or omissions of Respondents LTPMC as described in the
7 Accusation, constitute cause for the suspension or revocation of all real estate licenses and license
8 rights of Respondent LTPMC under California Business and Professions Code ("Code") Section
9 10176(e) for violation of Code Sections 10145 and 10176(e), and Title 10, Chapter 6, California
10 Code of Regulations ("Regulations") Sections 2832.1, 2831, 2831.1, 2831.2, 2832, and 2834.

11 II.

12 The conduct, acts, and/or omissions of Respondent REILLY, as described in the
13 Accusation, constitute cause for the suspension or revocation of all real estate licenses and license
14 rights of Respondent REILLY under Code Sections 10176(e) and 10177(h) for violation of Code
15 Sections 10145, 10159.2, 10176(e), and 10177(h), and Regulations Sections 2832.1, 2831, 2831.1,
16 2831.2, 2832, 2834, and 2725.

17 ORDER

18 I.

19 All licenses and licensing rights of Respondent LTPMC under the Real Estate Law are
20 suspended for a period of ninety (90) days from the effective date of this Decision and Order;
21 provided, however, that:

22 1. Ninety (90) days of said suspension shall be stayed for two (2) years upon the
23 following terms and conditions:

24 a. Respondent LTPMC shall obey all laws, rules, and regulations governing
25 the rights, duties, and responsibilities of a real estate licensee in the State of California.

26 b. No final determination be made after hearing or upon stipulation that cause
27 for disciplinary action against any of the real estate licenses or license rights of Respondent
28 LTPMC occurred within two (2) years from the effective date of this Decision and Order.

1 Should such a determination be made, the Commissioner may, in his discretion, vacate and
2 set aside the stay order and reimpose all or a portion of the stayed suspension. Should no
3 such determination be made, the stay imposed herein shall become permanent.

4 2. Respondent LTPMC shall pay, severally or jointly with Respondent REILLY, the
5 sum of \$1,473.35 for the Commissioner's reasonable cost of the investigation and enforcement
6 which led to this disciplinary action **within one-hundred and eighty (180) days from the**
7 **effective date of this Decision and Order.** Said payment shall be in the form of a cashier's check
8 made payable to the Department of Real Estate. **The investigative and enforcement costs must**
9 **be delivered to the Department of Real Estate, Flag Section at P.O. Box 137013, Sacramento,**
10 **CA 95813-7013. Payment of investigation and enforcement costs should not be made until**
11 **the Stipulation has been approved by the Commissioner.** If Respondents fail to satisfy this
12 condition in a timely manner as provided for herein, Respondents' real estate licenses shall
13 automatically be suspended until payment is made in full, or until a decision providing otherwise
14 is adopted following a hearing held pursuant to this condition.

15 3. Pursuant to section 10148 of the Code, Respondent LTPMC shall pay, severally or
16 jointly with Respondent REILLY, the sum of \$11,377.90 for the Commissioner's cost of the audit
17 which led to this disciplinary action. **Respondents shall pay such cost within sixty (60) days of**
18 **receiving an invoice therefore from the Commissioner. Payment of audit costs should not be**
19 **made until Respondents receive the invoice.** If Respondents fail to satisfy this condition in a
20 timely manner as provided for herein, Respondents' real estate licenses shall automatically be
21 suspended until payment is made in full, or until a decision providing otherwise is adopted
22 following a hearing held pursuant to this condition.

23 4. Respondents understand that by agreeing to this Stipulation, the findings set forth
24 below in the Determination of Issues become final, and the Commissioner may charge
25 Respondents for the cost of any subsequent audit, if a subsequent audit is conducted, pursuant to
26 Code section 10148 to determine if the violations have been corrected and that Respondents are in
27 compliance with trust fund handling requirements of the Real Estate Law. The maximum cost of
28 the follow-up audit will not exceed one-hundred twenty-five percent (125%) of the cost of the

1 original audit; in the instant case, the cost of the original audit is \$11,377.90 and the maximum
2 cost of the follow-up audit will not exceed \$14,222.37. Therefore, Respondents may be charged a
3 maximum of \$14,222.37 in the event of a subsequent audit.

4 5. Pursuant to Section 10148 of the Code, Respondents shall pay the Commissioner's
5 reasonable cost, not to exceed \$14,222.37, for any subsequent audit, if one is performed, to
6 determine if Respondents have corrected the violations found in the Determination of Issues and
7 that Respondents are in compliance with trust fund handling requirements of the Real Estate Law.
8 In calculating the amount of the Commissioner's reasonable cost, the Commissioner may use the
9 estimated average hourly salary for all persons performing audits of real estate brokers, and shall
10 include an allocation for travel time to and from the auditor's place of work. Respondents shall
11 pay such cost within sixty (60) days of receiving an invoice therefore from the Commissioner.

12 **Payment of the audit costs should not be made until Respondents receive the invoice.** If
13 Respondents fail to satisfy this condition in a timely manner as provided for herein, Respondents'
14 real estate licenses shall automatically be suspended until payment is made in full, or until a
15 decision providing otherwise is adopted following a hearing held pursuant to this condition.

16 II.

17 All licenses and licensing rights of Respondent REILLY under the Real Estate Law are
18 suspended for a period of ninety (90) days from the effective date of this Decision and Order;
19 provided, however, that:

20 1. Ninety (90) days of said suspension shall be stayed for two (2) years upon the
21 following terms and conditions:

22 a. Respondent REILLY shall obey all laws, rules, and regulations governing
23 the rights, duties, and responsibilities of a real estate licensee in the State of California.

24 b. No final determination be made after hearing or upon stipulation that cause
25 for disciplinary action against any of the real estate licenses or license rights of Respondent
26 REILLY occurred within two (2) years from the effective date of this Decision and Order.

27 Should such a determination be made, the Commissioner may, in his discretion, vacate and
28 set aside the stay order and reimpose all or a portion of the stayed suspension. Should no

1 such determination be made, the stay imposed herein shall become permanent.

2 2. All license and licensing rights of Respondent REILLY are indefinitely suspended
3 unless or until Respondent REILLY provides evidence satisfactory to the Commissioner of having
4 taken and successfully completed the continuing education course on trust fund accounting and
5 handling specified in paragraph (3) of subdivision (a) of Section 10170.5 of the Business and
6 Professions Code. Proof of satisfaction of these requirements includes evidence that Respondent
7 has successfully completed the trust fund account and handling continuing education courses, no
8 earlier than one hundred and twenty (120) days prior to the effective date of this Decision and
9 Order. Proof of completion of the trust fund accounting and handling course must be delivered to
10 the Department of Real Estate, Flag Section at P.O. Box 137013, Sacramento, CA 95813-7013, no
11 earlier than one hundred and twenty (120) days prior to the effective date of this Decision and
12 Order.

13 3. Respondent REILLY shall, within six (6) months from the effective date of this
14 Decision and Order, take and pass the Professional Responsibility Examination administered by
15 the Department, including the payment of the appropriate examination fee. If Respondent
16 REILLY fails to satisfy this condition, the Commissioner may order suspension of Respondent
17 REILLY's license until Respondent passes the examination.

18 4. Respondent REILLY shall pay, severally or jointly with Respondent LTPMC, the
19 sum of \$1,473.35 for the Commissioner's reasonable cost of the investigation and enforcement
20 which led to this disciplinary action **within one-hundred and eighty (180) days from the**
21 **effective date of this Decision and Order.** Said payment shall be in the form of a cashier's check
22 made payable to the Department of Real Estate. **The investigative and enforcement costs must**
23 **be delivered to the Department of Real Estate, Flag Section at P.O. Box 137013, Sacramento,**
24 **CA 95813-7013. Payment of investigation and enforcement costs should not be made until**
25 **the Stipulation has been approved by the Commissioner.** If Respondents fail to satisfy this
26 condition in a timely manner as provided for herein, Respondents' real estate licenses shall
27 automatically be suspended until payment is made in full, or until a decision providing otherwise
28 is adopted following a hearing held pursuant to this condition.

1 5. Pursuant to section 10148 of the Code, Respondent REILLY shall pay, severally or
2 jointly with Respondent LTPMC, the sum of \$11,377.90 for the Commissioner's cost of the audit
3 which led to this disciplinary action. **Respondents shall pay such cost within sixty (60) days of**
4 **receiving an invoice therefore from the Commissioner. Payment of audit costs should not be**
5 **made until Respondents receive the invoice.** If Respondents fail to satisfy this condition in a
6 timely manner as provided for herein, Respondents' real estate licenses shall automatically be
7 suspended until payment is made in full, or until a decision providing otherwise is adopted
8 following a hearing held pursuant to this condition.

9 6. Respondents understand that by agreeing to this Stipulation, the findings set forth
10 below in the Determination of Issues become final, and the Commissioner may charge
11 Respondents for the cost of any subsequent audit, if a subsequent audit is conducted, pursuant to
12 Code section 10148 to determine if the violations have been corrected and that Respondents are in
13 compliance with trust fund handling requirements of the Real Estate Law. The maximum cost of
14 the follow-up audit will not exceed one-hundred twenty-five percent (125%) of the cost of the
15 original audit; in the instant case, the cost of the original audit is \$11,377.90 and the maximum
16 cost of the follow-up audit will not exceed \$14,222.37. Therefore, Respondents may be charged a
17 maximum of \$14,222.37 in the event of a subsequent audit.

18 7. Pursuant to Section 10148 of the Code, Respondents shall pay the Commissioner's
19 reasonable cost, not to exceed \$14,222.37, for any subsequent audit, if one is performed, to
20 determine if Respondents have corrected the violations found in the Determination of Issues and
21 that Respondents are in compliance with trust fund handling requirements of the Real Estate Law.
22 In calculating the amount of the Commissioner's reasonable cost, the Commissioner may use the
23 estimated average hourly salary for all persons performing audits of real estate brokers, and shall
24 include an allocation for travel time to and from the auditor's place of work. Respondents shall
25 pay such cost within sixty (60) days of receiving an invoice therefore from the Commissioner.

26 **Payment of the audit costs should not be made until Respondents receive the invoice.** If
27 Respondents fail to satisfy this condition in a timely manner as provided for herein, Respondents'

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1 real estate licenses shall automatically be suspended until payment is made in full, or until a
2 decision providing otherwise is adopted following a hearing held pursuant to this condition.

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DATED: 8/4/2020



Laurence D. Haveson
Counsel for Complainant

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9 EXECUTION OF THE STIPULATION

10 We have read this Stipulation and its terms are understood by us and are agreeable and
11 acceptable to us. We understand that we are waiving rights given to us by the California APA
12 (including, but not limited to, sections 11506, 11508, 11509, and 11513 of the Government Code),
13 and we willingly, intelligently, and voluntarily waive those rights, including the right of requiring
14 the Commissioner to prove the allegations in the Accusation at a hearing at which we would have
15 the right to cross-examine witnesses against us and to present evidence in defense and mitigation
16 of the charges.

17 Respondents can signify acceptance and approval of the terms and conditions of this
18 Stipulation and Agreement by electronically e-mailing a copy of the signature pages, as actually
19 signed by Respondents, to the Department. Respondents agree, acknowledge, and understand that
20 by electronically sending to the Department an electronic copy of Respondents' actual signatures,
21 as they appear on the Stipulation, that receipt of the emailed copy by the Department shall be as
22 binding on Respondents as if the Department had received the original signed Stipulation. By
23 signing this Stipulation, Respondents understand and agree that Respondents may not withdraw
24 their agreement or seek to rescind the Stipulation prior to the time the Commissioner considers
25 and acts upon it or prior to the effective date of the Stipulation and Order.

26 MAILING

27 Respondents and their counsel shall, within five (5) business days from signing the
28 Stipulation, mail the original signed signature page(s) of the Stipulation herein to Laurence

1 Haveson, Attention: Legal Section, Department of Real Estate, 320 W. Fourth St., Room 350,
2 Los Angeles, California 90013-1105.

3 Respondents' signatures below constitute acceptance and approval of the terms
4 and conditions of this Stipulation. Respondents agree, acknowledge, and understand that by
5 signing this Stipulation Respondents are bound by its terms as of the date of such signature and
6 that this agreement is not subject to rescission or amendment at a later date except by a separate
7 Decision and Order of the Real Estate Commissioner.

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DATED: 08-04-2020



Respondent LAND TREK PROPERTY
MANAGEMENT CO INC

By (Printed Name): THOMAS EDWARD REILLY III

Title: President

DATED: 08-04-2020



Respondent THOMAS EDWARD REILLY III

DATED: _____

Jozef G. Magyar
Kimball, Terey & St. John LLP
Attorney for Respondents
Approved as to Form

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1 Haveson, Attention: Legal Section, Department of Real Estate, 320 W. Fourth St., Room 350,
2 Los Angeles, California 90013-1105.

3 Respondents' signatures below constitute acceptance and approval of the terms
4 and conditions of this Stipulation. Respondents agree, acknowledge, and understand that by
5 signing this Stipulation Respondents are bound by its terms as of the date of such signature and
6 that this agreement is not subject to rescission or amendment at a later date except by a separate
7 Decision and Order of the Real Estate Commissioner.

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10 DATED: _____

Respondent LAND TREK PROPERTY
MANAGEMENT CO INC

11
12 By (Printed Name): _____

13 Title: _____
14

15
16 DATED: _____

Respondent THOMAS EDWARD REILLY III

17
18 DATED: 8-4-2020

19 

Jozef G. Magyar

20 Kimball, Tirey & St. John LLP
21 Attorney for Respondents
22 *Approved as to Form*

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The foregoing Stipulation and Agreement in Settlement and Order is hereby adopted by me
as my Decision in this matter and shall become effective at 12 o'clock noon on
DEC 09 2020, 2020.

IT IS SO ORDERED 10.20.20, 2020.

DOUGLAS R. McCAULEY
REAL ESTATE COMMISSIONER

Douglas R. McCauley