

1 DEPARTMENT OF REAL ESTATE  
2 P. O. Box 187000  
3 Sacramento, CA 95818-7000  
4 Telephone: (916) 227-0789

FILED  
SEP 27 2004

DEPARTMENT OF REAL ESTATE

By Laurie G. Zin

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 \* \* \*

11 In the Matter of the Accusation of ) DRE No. H-8776 SF  
12 )  
13 PRANDI PROPERTY MANAGEMENT INC., ) OAH No. N-2004060579  
14 a California Corporation, and )  
15 CHARLIE FAGAN, )  
16 Respondents. )  
17 )

18 It is hereby stipulated by and between Respondents  
19 PRANDI PROPERTY MANAGEMENT INC. (herein "PPMI") and CHARLIE FAGAN  
20 (herein "FAGAN"), by and through Vincent J. DeMartini, Esq.,  
21 attorney of record herein for Respondents PPMI and FAGAN (herein  
22 "Respondents"), and the Complainant, acting by and through James  
23 L. Beaver, Counsel for the Department of Real Estate (herein "the  
24 Department"), as follows for the purpose of settling and  
25 disposing of the Accusation filed on May 12, 2004 in this matter  
26 (herein "the Accusation"):

27 DRE No. H-8776 SF

PRANDI PROPERTY MANAGEMENT,  
INC. and CHARLIE FAGAN

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.

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 in this proceeding.

11           3. On June 4, 2004, Respondents filed Notices of  
12 Defense pursuant to Section 11505 of the Government Code for the  
13 purpose of requesting a hearing on the allegations in the  
14 Accusation. Respondents each hereby freely and voluntarily  
15 withdraw said Notice of Defense. Respondents acknowledge that  
16 Respondents understand that by withdrawing said Notice of Defense  
17 Respondents will thereby waive Respondents' right to require the  
18 Real Estate Commissioner (herein "the Commissioner") to prove the  
19 allegations in the Accusation at a contested hearing held in  
20 accordance with the provisions of the APA and that Respondents  
21 will waive other rights afforded to Respondents in connection  
22 with the hearing such as the right to present evidence in defense  
23 of the allegations in the Accusation and the right to cross-  
24 examine witnesses.  
25

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PRANDI PROPERTY MANAGEMENT,  
INC. and CHARLIE FAGAN

1           4. This stipulation is based on the factual  
2 allegations contained in the Accusation. In the interest of  
3 expediency and economy, Respondents choose not to contest these  
4 factual allegations, but to remain silent and understand that, as  
5 a result thereof, these factual statements will serve as a prima  
6 facie basis for the "Determination of Issues" and "Order" set  
7 forth below. The Real Estate Commissioner shall not be required  
8 to provide further evidence to prove such allegations.

9           5. This Stipulation and Respondents' decision not to  
10 contest the Accusation are made for the purpose of reaching an  
11 agreed disposition of this proceeding and are expressly limited  
12 to this proceeding and any other proceeding or case in which the  
13 Department of Real Estate (herein "the Department"), the state or  
14 federal government, an agency of this state, or an agency of  
15 another state is involved.

16           6. It is understood by the parties that the  
17 Commissioner may adopt the Stipulation and Agreement as his  
18 decision in this matter, thereby imposing the penalty and  
19 sanctions on Respondents' real estate license and license rights  
20 as set forth in the "Order" below. In the event that the  
21 Commissioner in his discretion does not adopt the Stipulation and  
22 Agreement, it shall be void and of no effect, and Respondents  
23 shall retain the right to a hearing and proceeding on the  
24 Accusation under all the provisions of the APA and shall not be  
25

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PRANDI PROPERTY MANAGEMENT,  
INC. and CHARLIE FAGAN

bound by any admission or waiver made herein.

1  
2           7. This Stipulation and Agreement shall not  
3 constitute an estoppel, merger or bar to any further  
4 administrative or civil proceedings by the Department with  
5 respect to any matters which were not specifically alleged to be  
6 causes for accusation in this proceeding. This Stipulation and  
7 Agreement shall constitute an estoppel, merger and bar to any  
8 further administrative or civil proceedings by the Department  
9 with respect to any events which were specifically alleged to be  
10 causes for accusation in this proceeding.

11           8. Respondents understand that by agreeing to this  
12 Stipulation and Agreement, Respondents jointly and severally  
13 agree to pay, pursuant to Section 10148 of the California  
14 Business and Professions Code (herein "Code"), the cost of the  
15 audit which resulted in the determination that Respondents  
16 committed the trust fund violation(s) found in paragraph I,  
17 below, of the Determination of Issues. The amount of said costs  
18 is \$8,820.46.

19  
20           9. Respondents further understand that by agreeing to  
21 this Stipulation and Agreement in Settlement, the findings set  
22 forth below in the Determination Of Issues become final, and that  
23 the Commissioner may charge said Respondents, jointly and  
24 severally, for the costs of any audit conducted pursuant to  
25 Section 10148 of the Code to determine if the trust fund  
26

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PRANDI PROPERTY MANAGEMENT,  
INC. and CHARLIE FAGAN

1 violation(s) found in paragraph I, below, of the Determination of  
2 Issues have been corrected. The maximum costs of said audit shall  
3 not exceed \$8,820.46.

4 DETERMINATION OF ISSUES

5 By reason of the foregoing stipulations, admissions and  
6 waivers and solely for the purpose of settlement of the pending  
7 Accusation without hearing, it is stipulated and agreed that the  
8 following Determination of Issues shall be made:

9 I

10 The acts and omissions of Respondents PPMI and FAGAN as  
11 described in the Accusation are grounds for the suspension or  
12 revocation of the licenses and license rights of Respondents PPMI  
13 and FAGAN under the following provisions of the California  
14 Business and Professions Code (herein "the Code") and/or Chapter  
15 6, Title 10, California Code of Regulations (herein "the  
16 Regulations"):

17  
18 (a) As to Paragraph XII(a) under Section 10145 of the  
19 Code and Section 2831 of the Regulations in conjunction with  
20 Section 10177(d) of the Code;

21 (b) As to Paragraph XII(b) under Section 10145 of the  
22 Code and Section 2832(a) of the Regulations in conjunction with  
23 Section 10177(d) of the Code;

24 (c) As to Paragraph XII(c) under Section 10145 of the  
25 Code and Section 2832.1 of the Regulations in conjunction with  
26

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INC. and CHARLIE FAGAN

1 Section 10177(d) of the Code; and

2 (d) As to Paragraph XII(d) under Section 10145 of the  
3 Code and Section 2834 of the Regulations in conjunction with  
4 Section 10177(d) of the Code.

5 II

6 The acts and omissions of Respondent FAGAN as described  
7 in Paragraph XIII of the Accusation are grounds for the  
8 suspension or revocation of the licenses and license rights of  
9 Respondent FAGAN under Section 10177(h) of the Code.

10 ORDER

11 I

12 A. All licenses and licensing rights of Respondent  
13 PRANDI PROPERTY MANAGEMENT INC. under the Real Estate Law are  
14 indefinitely suspended until Respondents submit proof,  
15 satisfactory to the Real Estate Commissioner, that as of a date  
16 within one hundred twenty (120) days prior to the effective date  
17 of the Decision herein or any date after said effective date,  
18 Respondent PPMI has trust funds on deposit in an amount equal to  
19 Respondent PPMI's aggregate liability to all owners of such trust  
20 funds. Upon satisfaction of this condition, the indefinite  
21 suspension provided in this paragraph shall be stayed.

22 B. All licenses and licensing rights of Respondent  
23 PRANDI PROPERTY MANAGEMENT INC. under the Real Estate Law are  
24 suspended for a period of thirty (30) days from the effective  
25

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PRANDI PROPERTY MANAGEMENT,  
INC. and CHARLIE FAGAN

1 date of the Decision herein; provided, however:

2 1. If Respondent PPMI petitions, fifteen (15) days of  
3 said thirty (30) day suspension (or a portion thereof) shall be  
4 stayed upon condition that:

5 (a) Respondent PPMI pays a monetary penalty pursuant  
6 to Section 10175.2 of the Code at the rate of \$100.00 for each  
7 day of the suspension for a total monetary penalty of \$1,500.00.

8 (b) Said payment shall be in the form of a cashier's  
9 check or certified check made payable to the Recovery Account of  
10 the Real Estate Fund. Said check must be received by the  
11 Department prior to the effective date of the Decision in this  
12 matter.

13 (c) If Respondent PPMI fails to pay the monetary  
14 penalty in accordance with the terms and conditions of the  
15 Decision, the Commissioner may, without a hearing, vacate and set  
16 aside the stay order, and order the immediate execution of all or  
17 any part of the stayed suspension.

18 (d) No final subsequent determination be made, after  
19 hearing or upon stipulation, that cause for disciplinary action  
20 against Respondent PPMI occurred within two (2) years of the  
21 effective date of the Decision herein. Should such a  
22 determination be made, the Commissioner may, in his or her  
23 discretion, vacate and set aside the stay order, and order the  
24 execution of all or any part of the stayed suspension, in which  
25

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PRANDI PROPERTY MANAGEMENT,  
INC. and CHARLIE FAGAN

1 event the Respondent PPMI shall not be entitled to any repayment  
2 nor credit, prorated or otherwise, for money paid to the  
3 Department under the terms of this Decision.

4 (e) If Respondent PPMI pays the monetary penalty and  
5 if no further cause for disciplinary action against the real  
6 estate license of Respondent occurs within two (2) years from the  
7 effective date of the Decision herein, then the stay hereby  
8 granted shall become permanent.

9 2. Fifteen (15) days of said thirty (30) day  
10 suspension shall be stayed upon condition that:

11 (a) No final subsequent determination be made, after  
12 hearing or upon stipulation, that cause for disciplinary action  
13 against Respondent occurred within two (2) years of the  
14 effective date of the Decision herein.

15 (b) Should such a determination be made, the  
16 Commissioner may, in his or her discretion, vacate and set  
17 aside the stay order, and order the execution of all or any  
18 part of the stayed suspension, in which event the Respondent  
19 shall not be entitled to any repayment nor credit, prorated or  
20 otherwise, for money paid to the Department under the terms of  
21 this Decision.

22 (c) If no order vacating the stay is issued, and if  
23 no further cause for disciplinary action against the real  
24 estate license of Respondent occurs within two (2) years from  
25

26  
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PRANDI PROPERTY MANAGEMENT,  
INC. and CHARLIE FAGAN



1 the effective date of the Decision, then the stay hereby  
2 granted shall become permanent.

3 B. Respondent PPMI shall, within 45 days of receiving  
4 an invoice therefor from the Commissioner, pay (jointly and  
5 severally with Respondent FAGAN) the Commissioner's costs in the  
6 amount of \$8,820.46 of the audit conducted pursuant to Section  
7 10148 of the Business and Professions Code that resulted in the  
8 determination that Respondent PPMI committed the violations  
9 described in Paragraph I of the Determination of Issues, above.

10 If Respondent PPMI fails to pay such cost within the 45 days, the  
11 Commissioner may in his or her discretion indefinitely suspend  
12 all license and licensing rights of Respondent under the Real  
13 Estate Law until payment is made in full or until Respondent  
14 enters into an agreement satisfactory to the Commissioner to  
15 provide for payment. Upon payment in full, any indefinite  
16 suspension provided in this paragraph shall be stayed.

17 C. Respondent PPMI shall pay (jointly and severally  
18 with Respondent FAGAN) the Commissioner's costs, not to exceed  
19 \$8,820.46, of any audit conducted pursuant to Section 10148 of  
20 the Business and Professions Code to determine if Respondent has  
21 corrected the violations described in Paragraph I of the  
22 Determination of Issues, above. In calculating the amount of the  
23 Commissioner's reasonable cost, the Commissioner may use the  
24 estimated average hourly salary for all persons performing audits  
25  
26

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1 of real estate brokers, and shall include an allocation for  
2 travel time to and from the auditor's place of work. Respondent  
3 PPMI shall pay such cost within 45 days of receiving an invoice  
4 therefor from the Commissioner detailing the activities performed  
5 during the audit and the amount of time spent performing those  
6 activities. If Respondent fails to pay such cost within the 45  
7 days, the Commissioner may in his or her discretion indefinitely  
8 suspend all license and licensing rights of Respondent PPMI under  
9 the Real Estate Law until payment is made in full or until  
10 Respondent PPMI enters into an agreement satisfactory to the  
11 Commissioner to provide for payment. Upon payment in full, the  
12 indefinite suspension provided in this paragraph shall be stayed.

## 13 II

14 A. All licenses and licensing rights of Respondent  
15 FAGAN under the Real Estate Law are indefinitely suspended until  
16 such time as Respondent FAGAN provides proof satisfactory to the  
17 Commissioner that Respondent FAGAN has, within one hundred twenty  
18 (120) days prior to the effective date of the Decision herein or  
19 any date after said effective date, taken and successfully  
20 completed the trust fund accounting and handling course specified  
21 in paragraph (3), subdivision (a) of Section 10170.5 of the  
22 Business and Professions Code. Upon satisfaction of this  
23 condition, the indefinite suspension provided in this paragraph  
24 shall be stayed.

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PRANDI PROPERTY MANAGEMENT,  
INC. and CHARLIE FAGAN

1                    B. All licenses and licensing rights of Respondent

2 FAGAN under the Real Estate Law are indefinitely suspended until  
3 Respondents submit proof, satisfactory to the Real Estate  
4 Commissioner, that as of a date within one hundred twenty (120)  
5 days prior to the effective date of the Decision herein or any  
6 date after said effective date, Respondent PPMI has trust funds  
7 on deposit in an amount equal to Respondent PPMI's aggregate  
8 liability to all owners of such trust funds. Upon satisfaction of  
9 this condition, the indefinite suspension provided in this  
10 paragraph shall be stayed.

11                    C. All licenses and licensing rights of Respondent

12 FAGAN under the Real Estate Law are suspended for a period of  
13 thirty (30) days from the effective date of the Decision herein;  
14 provided, however:

15                    1. If Respondent FAGAN petitions, fifteen (15) days  
16 of said thirty (30) day suspension (or a portion thereof) shall  
17 be stayed upon condition that:

18                    (a) Respondent FAGAN pays a monetary penalty pursuant  
19 to Section 10175.2 of the Code at the rate of \$100.00 for each  
20 day of the suspension for a total monetary penalty of \$1,500.00.

21                    (b) Said payment shall be in the form of a cashier's  
22 check or certified check made payable to the Recovery Account of  
23 the Real Estate Fund. Said check must be received by the  
24 Department prior to the effective date of the Decision in this  
25

1 matter.

2 (c) If Respondent FAGAN fails to pay the monetary  
3 penalty in accordance with the terms and conditions of the  
4 Decision, the Commissioner may, without a hearing, vacate and set  
5 aside the stay order, and order the immediate execution of all or  
6 any part of the stayed suspension.

7 (d) No final subsequent determination be made, after  
8 hearing or upon stipulation, that cause for disciplinary action  
9 against Respondent FAGAN occurred within two (2) years of the  
10 effective date of the Decision herein. Should such a  
11 determination be made, the Commissioner may, in his or her  
12 discretion, vacate and set aside the stay order, and order the  
13 execution of all or any part of the stayed suspension, in which  
14 event the Respondent shall not be entitled to any repayment nor  
15 credit, prorated or otherwise, for money paid to the Department  
16 under the terms of this Decision.

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

23 2. Fifteen (15) days of said thirty (30) day  
24 suspension shall be stayed upon condition that:

25 (a) No final subsequent determination be made, after  
26

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PRANDI PROPERTY MANAGEMENT,  
INC. and CHARLIE FAGAN

1 hearing or upon stipulation, that cause for disciplinary action  
2 against Respondent occurred within two (2) years of the  
3 effective date of the Decision herein.

4 (b) Should such a determination be made, the  
5 Commissioner may, in his or her discretion, vacate and set  
6 aside the stay order, and order the execution of all or any  
7 part of the stayed suspension, in which event the Respondent  
8 shall not be entitled to any repayment nor credit, prorated or  
9 otherwise, for money paid to the Department under the terms of  
10 this Decision.

11 (c) If no order vacating the stay is issued, and if  
12 no further cause for disciplinary action against the real  
13 estate license of Respondent occurs within two (2) years from  
14 the effective date of the Decision, then the stay hereby  
15 granted shall become permanent.

16  
17 C. Respondent FAGAN shall, within 45 days of  
18 receiving an invoice therefor from the Commissioner, pay (jointly  
19 and severally with Respondent PPMI) the Commissioner's costs in  
20 the amount of \$8,820.46 of the audit conducted pursuant to  
21 Section 10148 of the Business and Professions Code that resulted  
22 in the determination that Respondent PPMI committed the  
23 violations described in Paragraph I of the Determination of  
24 Issues, above. If Respondent FAGAN fails to pay such cost within  
25 the 45 days, the Commissioner may in his or her discretion  
26

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PRANDI PROPERTY MANAGEMENT,  
INC. and CHARLIE FAGAN

1 indefinitely suspend all license and licensing rights of  
2 Respondent under the Real Estate Law until payment is made in  
3 full or until Respondent FAGAN enters into an agreement  
4 satisfactory to the Commissioner to provide for payment. Upon  
5 payment in full, any indefinite suspension provided in this  
6 paragraph shall be stayed.

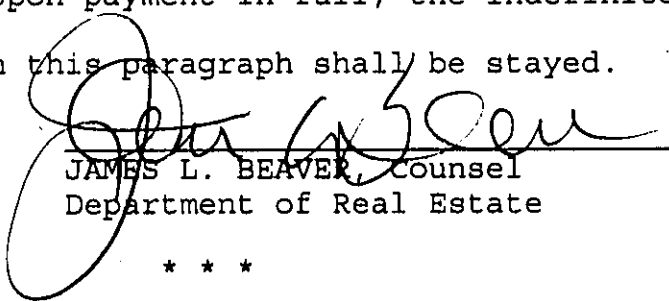
7 D. Respondent FAGAN shall pay (jointly and  
8 severally with Respondent PPMI) the Commissioner's costs, not  
9 to exceed \$8,820.46, of any audit conducted pursuant to Section  
10 10148 of the Business and Professions Code to determine if  
11 Respondent PPMI has corrected the violations described in  
12 Paragraph I of the Determination of Issues, above. In  
13 calculating the amount of the Commissioner's reasonable cost,  
14 the Commissioner may use the estimated average hourly salary  
15 for all persons performing audits of real estate brokers, and  
16 shall include an allocation for travel time to and from the  
17 auditor's place of work. Respondent shall pay such cost within  
18 45 days of receiving an invoice therefor from the Commissioner  
19 detailing the activities performed during the audit and the  
20 amount of time spent performing those activities. If  
21 Respondent FAGAN fails to pay such cost within the 45 days, the  
22 Commissioner may in his or her discretion indefinitely suspend  
23 all license and licensing rights of Respondent under the Real  
24 Estate Law until payment is made in full or until Respondent  
25

26  
27 DRE No. H-8776 SF

PRANDI PROPERTY MANAGEMENT,  
INC. and CHARLIE FAGAN

1 enters into an agreement satisfactory to the Commissioner to  
2 provide for payment. Upon payment in full, the indefinite  
3 suspension provided in this paragraph shall be stayed.

4 August 4, 2004  
DATED

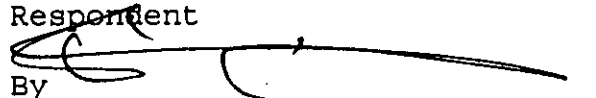
  
JAMES L. BEAVER, Counsel  
Department of Real Estate

6 \* \* \*

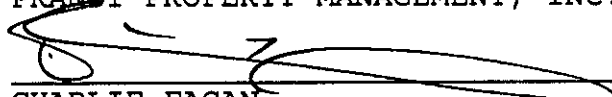
7 I have read the Stipulation and Agreement and discussed  
8 it with my attorney and its terms are understood by me and are  
9 agreeable and acceptable to me. I understand that I am waiving  
10 rights given to me by the California Administrative Procedure Act  
11 (including but not limited to Sections 11506, 11508, 11509, and  
12 11513 of the Government Code), and I willingly, intelligently,  
13 and voluntarily waive those rights, including the right of  
14 requiring the Commissioner to prove the allegations in the  
15 Accusation at a hearing at which I would have the right to cross-  
16 examine witnesses against me and to present evidence in defense  
17 and mitigation of the charges.

18 August 4, 2004  
DATED

PRANDI PROPERTY MANAGEMENT, INC.  
Respondent

19   
By  
20 VINCENT J. DeMARTINI  
Attorney for Respondent  
21 PRANDI PROPERTY MANAGEMENT, INC.

22 August 4, 2004  
DATED

  
23 CHARLIE FAGAN  
Respondent, by  
24 VINCENT J. DeMARTINI  
Attorney for Respondent  
25 CHARLIE FAGAN

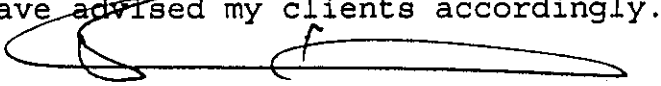
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27 DRE No. H-8776 SF

PRANDI PROPERTY MANAGEMENT,  
INC. and CHARLIE FAGAN

\* \* \*

I have reviewed the Stipulation and Agreement as to form and content and have advised my clients accordingly.

August 4, 2004  
DATED

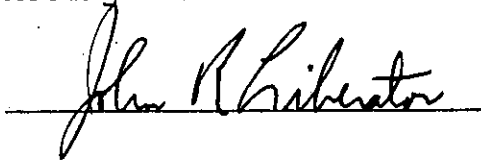
  
VINCENT J. DeMARTINI  
Attorney for Respondents

\* \* \*

The foregoing Stipulation and Agreement is hereby adopted by me as my Decision in this matter and shall become effective at 12 o'clock noon on OCTOBER 18, 2004.

IT IS SO ORDERED August 17, 2004.

JOHN R. LIBERATOR  
Acting Real Estate Commissioner





**BEFORE THE DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA**

**FILED**

JUL - 6 2004

DEPARTMENT OF REAL ESTATE

By Lucie A. Z...

*In the Matter of the Accusation of*

PRANDI PROPERTY MANAGEMENT INC.,  
a California Corporation, and  
CHARLIE FAGAN,

}

Case No. H-8776 SF

OAH No. N-2004060579

*Respondents*

**NOTICE OF HEARING ON ACCUSATION**

*To the above named respondents:*

**You are hereby notified** that a hearing will be held before the Department of Real Estate at **THE OFFICE OF ADMINISTRATIVE HEARINGS, 1515 CLAY STREET, SUITE 206, OAKLAND, CA 94612** on **WEDNESDAY, AUGUST 4, 2004**, at the hour of **9:00 A.M.**, or as soon thereafter as the matter can be heard, upon the Accusation served upon you. If you object to the place of hearing, you must notify the presiding administrative law judge of the Office of Administrative Hearings within ten (10) days after this notice is served on you. Failure to notify the presiding administrative law judge within ten days will deprive you of a change in the place of the hearing.

You may be present at the hearing. You have the right to be represented by an attorney at your own expense. You are not entitled to the appointment of an attorney to represent you at public expense. You are entitled to represent yourself without legal counsel. If you are not present in person nor represented by counsel at the hearing, the Department may take disciplinary action against you based upon any express admission or other evidence including affidavits, without any notice to you.

You may present any relevant evidence and will be given full opportunity to cross-examine all witnesses testifying against you. You are entitled to the issuance of subpoenas to compel the attendance of witnesses and the production of books, documents or other things by applying to the Department of Real Estate.

The hearing shall be conducted in the English language. If you want to offer the testimony of any witness who does not proficiently speak the English language, you must provide your own interpreter and pay his or her costs. The interpreter must be certified in accordance with Sections 11435.30 and 11435.55 of the Government Code.

DEPARTMENT OF REAL ESTATE

*Dated:* JULY 6, 2004

By James L. Beaver  
JAMES L. BEAVER, Counsel (2)

1 JAMES L. BEAVER, Counsel (SBN 60543)  
2 Department of Real Estate  
3 P. O. Box 187007  
4 Sacramento, CA 95818-7007

5 Telephone: (916) 227-0789  
6 -or- (916) 227-0788 (Direct)

FILED

MAY 12 2004

DEPARTMENT OF REAL ESTATE

*Laurie A. Z...*

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 \* \* \*

11 In the Matter of the Accusation of )  
12 PRANDI PROPERTY MANAGEMENT INC., ) No. H-8776 SF  
13 a California Corporation, and ) ACCUSATION  
14 CHARLIE FAGAN, )  
15 Respondents. )

16 The Complainant, Les R. Bettencourt, a Deputy Real  
17 Estate Commissioner of the State of California, as and for an  
18 Accusation herein against Respondents PRANDI PROPERTY MANAGEMENT  
19 INC., a California Corporation, and CHARLIE FAGAN (herein  
20 "Respondents"), is informed and alleges as follows:

21 I

22 Respondents are presently licensed and/or have license  
23 rights under the Real Estate Law, Part 1 of Division 4 of the  
24 Business and Professions Code (hereinafter "Code").

25 ///

26 ///

27 ///

1 II

2 The Complainant, Les R. Bettencourt, a Deputy Real  
3 Estate Commissioner of the State of California, makes this  
4 Accusation against Respondents in his official capacity.

5 III

6 At all times herein mentioned, Respondent PRANDI  
7 PROPERTY MANAGEMENT INC. (herein "PPMI") was and now is licensed  
8 by the Department of Real Estate of the State of California  
9 (herein "the Department") pursuant to the provisions of Section  
10 10211 of the Code as a corporate real estate broker by and  
11 through Respondent CHARLIE FAGAN (herein "FAGAN") as designated  
12 officer-broker of PPMI to qualify said corporation and to act  
13 for said corporation as a real estate broker.

14 IV

15 At all times herein mentioned, Respondent FAGAN was  
16 and now is licensed by the Department as a real estate broker,  
17 individually and as designated officer-broker of Respondent  
18 PPMI. As said designated officer-broker, Respondent FAGAN was  
19 and now is responsible pursuant to Section 10159.2 of the Code  
20 for the supervision of the activities of the officers, agents,  
21 real estate licensees and employees of Respondent PPMI for which  
22 a license is required.

23 V

24 Whenever reference is made in an allegation in this  
25 Accusation to an act or omission of Respondent PPMI, such  
26 allegation shall be deemed to mean that the officers, directors,  
27 employees, agents and real estate licensees employed by or

1 associated with Respondent PPMI committed such act or omission  
2 while engaged in the furtherance of the business or operations  
3 of such corporate Respondent and while acting within the course  
4 and scope of their corporate authority and employment.

5 VI

6 At all times herein mentioned, Respondents engaged in  
7 the business of, acted in the capacity of, advertised, or  
8 assumed to act as real estate brokers within the State of  
9 California within the meaning of Sections 10131(b) of the Code,  
10 including the operation and conduct of a property management  
11 business with the public wherein, on behalf of others, for  
12 compensation or in expectation of compensation, Respondents  
13 leased or rented and offered to lease or rent, and placed for  
14 rent, and solicited listings of places for rent, and solicited  
15 for prospective tenants of real property or improvements  
16 thereon, and collected rents from real property or improvements  
17 thereon.

18 VII

19 In so acting as real estate brokers, as described in  
20 Paragraph VI above, Respondents accepted or received funds in  
21 trust (hereinafter "trust funds") from or on behalf of owners  
22 and tenants in connection with the leasing, renting, and  
23 collection of rents on real property or improvements thereon, as  
24 alleged herein, and thereafter from time to time made  
25 disbursements of said funds.

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1 VIII

2 The aforesaid trust funds accepted or received by  
3 Respondents were deposited or caused to be deposited by  
4 Respondents into one or more bank accounts (hereinafter "trust  
5 fund accounts") maintained by Respondents for the handling of  
6 trust funds, including but not necessarily limited to:

7 (a) The "Prandi Property Management Trust Account,  
8 Account Number 0001-313469, maintained by Respondents at the  
9 Corte Madera, California, branch of Bank of Marin (hereinafter  
10 "Trust #1"); and

11 (b) The "Cascade Properties Inc. Prandi Property  
12 Management" account, Account Number 0001-510924, maintained by  
13 Respondents at the Corte Madera, California, branch of Bank of  
14 Marin (hereinafter "Bank #1").

15 IX

16 Between on or about July 18, 2002 and on or about  
17 September 30, 2003, in course of the property management and  
18 trust fund handling activities described in Paragraphs VI  
19 through VIII, above, Respondent PPMI, acting for compensation,  
20 managed approximately 170 properties for others, providing  
21 repair and maintenance services, paying expenses, screening  
22 tenants, and collecting rents of approximately \$700,000 per  
23 month in course of the management of the properties.

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2 At all times mentioned herein since on or about July  
3 18, 2002, the corporate powers, rights and privileges of  
4 Respondent PPMI have been and now remain suspended pursuant to  
5 the provisions of Section 23302 of the Revenue and Taxation  
6 Code, reinstatement never having been effected.

7 XI

8 In acting as described above, Respondent PPMI  
9 violated, and Respondent FAGAN willfully caused, suffered and  
10 permitted Respondent PPMI to violate, Section 2742(c) of  
11 Chapter 6, Title 10, California Code of Regulations (herein "the  
12 Regulations").

13 XII

14 Between on or about July 18, 2002 and on or about  
15 September 30, 2003, in connection with the collection and  
16 disbursement of said trust funds, Respondents:

17 (a) Failed to keep a columnar record in chronological  
18 sequence of all trust funds received and disbursed from Trust #1  
19 and Bank #1 containing all the information required by Section  
20 2831 of Title 10, California Code of Regulations (hereinafter  
21 "the Regulations");

22 (b) Failed to place trust funds entrusted to  
23 Respondent PPMI into the hands of a principal on whose behalf  
24 the funds were received, into a neutral escrow depository, or  
25 into a trust fund account in the name of Respondent PPMI as  
26 trustee at a bank or other financial institution, in conformance  
27 with the requirements of Section 10145 of the Code and Section

1 2832(a) of the Regulations, in that Respondents placed such  
2 funds in Bank #1, an account that was not in the name of  
3 Respondent PPMI as trustee;

4 (c) Caused, suffered or permitted the balance of  
5 funds in Trust #1 to be reduced to an amount which, as of  
6 July 31, 2003, was approximately \$2,411.93 less than the  
7 aggregate liability of Respondent to all owners of such funds,  
8 without the prior written consent of the owners of such funds;

9 (d) Authorized Julie DiGiulio, then an unlicensed  
10 employee without fidelity bond coverage, to make disbursements  
11 from Bank #1; and

12 (e) Failed to retain for three years copies of all  
13 canceled checks executed by Respondents in connection with  
14 transactions for which a real estate broker license is required.

15 XIII

16 At all times mentioned herein, Respondent FAGAN failed  
17 to exercise reasonable supervision over the acts of Respondent  
18 PPMI and its agents and employees in such a manner as to allow  
19 the acts and omissions on the part of PPMI, described above, to  
20 occur.

21 XIV

22 The facts alleged above are grounds for the suspension  
23 or revocation of the licenses and license rights of Respondents  
24 PPMI and FAGAN under the following provisions of the Code and/or  
25 Regulations:

26 (a) As to Paragraph XI, under Section 2742(a) the  
27 Regulations in conjunction with Section 10177(d) of the Code;

1 (b) As to Paragraph XII(a), under Section 10145 of  
2 the Code and Section 2831 of the Regulations in conjunction with  
3 Section 10177(d) of the Code;

4 (c) As to Paragraph XII(b), under Section 10145 of  
5 the Code and Section 2832(a) of the Regulations in conjunction  
6 with Section 10177(d) of the Code;

7 (d) As to Paragraph XII(c), under Section 10145 of  
8 the Code and Section 2832.1 of the Regulations in conjunction  
9 with Section 10177(d) of the Code;

10 (e) As to Paragraph XII(d), under Section 10145 of  
11 the Code and Section 2834 of the Regulations in conjunction with  
12 Section 10177(d) of the Code; and

13 (e) As to Paragraph XII(e), under Section 10148 of  
14 the Code in conjunction with Section 10177(d) of the Code.

15 XV

16 The facts alleged in Paragraph XIII, above, are  
17 grounds for the suspension or revocation of the licenses and  
18 license rights of Respondent FAGAN under Section 10177(g) and/or  
19 Section 10177(h) of the Code and Section 10159.2 of the Code in  
20 conjunction with Section 10177(d) of the Code.

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