South

Department of Real Estate 320 West 4th Street, Ste. 350 Los Angeles, California 90013-1105 Telephone: (213) 576-6982 (office)

FILED

JUL 1 3 2009

DEPARTMENT OF REAL ESTATE
BY: ______

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

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In the Matter of the Accusation of

MATTSON REAL ESTATE SERVICES INC.;
and ROGER GLENN MATTSON,
individually and as designated
officer of Mattson Real Services Inc.

Respondents.

STIPULATION
AND
AGREEMENT

No. H-35106 LA

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It is hereby stipulated by and between Respondents

MATTSON REAL ESTATE SERVICES INC. and ROGER GLENN MATTSON,

individually and as designated officer of MATTSON REAL ESTATE

SERVICES INC., (sometimes collectively referred to as

"Respondents"), and the Complainant, acting by and through

Elliott Mac Lennan, Counsel for the Department of Real Estate, as

follows for the purpose of settling and disposing of the

Accusation ("Accusation") filed on July 14, 2008, in this matter:

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1. All issues which were to be contested and all evidence which was to be presented by Complainant and Respondents

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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").

- 2. Respondents have received, read and understand the Statement to Respondent, the Discovery Provisions of the APA and the Accusation filed by the Department of Real Estate in this proceeding.
- pursuant to Section 11506 of the Government Code for the purpose of requesting a hearing on the allegations in the Accusation.

 Respondents hereby freely and voluntarily withdraw said Notice of Defense. Respondents acknowledge that they understand that by withdrawing said Notice of Defense they thereby waive their right to require the Commissioner to prove the allegations in the Accusation at a contested hearing held in accordance with the provisions of the APA and that they will waive other rights afforded to them in connection with the hearing such as the right to present evidence in their defense and the right to crossexamine witnesses.
- 4. This Stipulation is based on the factual allegations contained in the Accusation. In the interest of expedience and economy, Respondents choose not to contest these allegations, but to remain silent and understand that, as a

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result thereof, these factual allegations, without being admitted or denied, will serve as a prima facie basis for the disciplinary action stipulated to herein. The Real Estate Commissioner shall not be required to provide further evidence to prove said factual allegations.

- 5. This Stipulation is made for the purpose of reaching an agreed disposition of this proceeding and is expressly limited to this proceeding and any other proceeding or case in which the Department of Real Estate ("Department"), the state or federal government, or any agency of this state, another state or federal government is involved.
- Estate Commissioner may adopt this Stipulation as his Decision in this matter thereby imposing the penalty and sanctions on Respondents' real estate licenses and license rights as set forth in the "Order" herein below. In the event that the Commissioner in his discretion does not adopt the Stipulation, it shall be void and of no effect and Respondents shall retain the right to a hearing and proceeding on the Accusation under the provisions of the APA and shall not be bound by any stipulation or waiver made herein.
- 7. The Order or any subsequent Order of the Real Estate Commissioner made pursuant to this Stipulation shall not constitute an estoppel, merger or bar to any further administrative or civil proceedings by the Department of Real

Estate with respect to any matters which were not specifically alleged to be causes for Accusation in this proceeding but do constitute a bar, estoppel and merger as to any allegations actually contained in the Accusations against Respondent herein.

- 8. Respondent understands that by agreeing to this Stipulation, Respondent agrees to pay, pursuant to Business and Professions Code Section 10148, the cost of audit. The total amount of said cost is \$5,346.56.
- 9. Respondent has received, read, and understands the "Notice Concerning Costs of Subsequent Audit". Respondent further understands that by agreeing to this Stipulation, the findings set forth below in the Determination of Issues become final, and the Commissioner may charge Respondent for the cost of any subsequent audit conducted pursuant to Business and Professions Code Section 10148 to determine if the violations have been corrected. The maximum cost of the subsequent audit will not exceed \$5,346.56.

DETERMINATION OF ISSUES

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

The conduct, acts or omissions of MATTSON REAL ESTATE

SERVICES INC. and ROGER GLENN MATTSON, as described in Paragraph

4, above, are in violation of Sections 10145 and 10159.5 of the

Business and Professions Code ("Code") and Sections 2731, 2831.1,

2832.1 and 2834 of Title 10, Chapter 6 of the California Code of

Regulations ("Regulations") and is a basis for discipline of Respondents' license and license rights as violation of the Real 2 Estate Law pursuant to Code Sections 10177(d), 10177(g) and 3 10177(h). ORDER 5 WHEREFORE, THE FOLLOWING ORDER is hereby made: 6 7 I. The license and licensing rights of Respondents MATTSON 8 9 REAL ESTATE SERVICES INC. and ROGER GLENN MATTSON, under the Real 10 Estate Law, are suspended for a period of sixty (60) days from 11 the effective date of this Decision. 12 Provided, however, that if Respondents request, the 13 initial thirty (30) days of said suspension (or a portion 14 thereof) shall be stayed for two (2) years upon condition that: 15 1. Each Respondent pays a monetary penalty pursuant to 16 Section 10175.2 of the Business and Professions Code at the rate 17 of \$33.33 per day for each day of the suspension for a monetary 18 penalty of \$1,000, or \$2,000 total. 19 2. Said payment shall be in the form of a cashier's 20 check or certified check made payable to the Recovery Account of 21 the Real Estate Fund. Said check must be received by the 22 23 Department prior to the effective date of the Decision in this 24 matter. 25 3. No further cause for disciplinary action against 26 the real estate license of Respondents occur within two (2) years 27

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from the effective date of the Decision in this matter.

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

- 5. If Respondents pay the monetary penalty and if no further cause for disciplinary action against the real estate license of Respondent occurs within two (2) years from the effective date of the Decision, the stay hereby granted shall become permanent.
- B. The remaining thirty (30) days of the sixty (60)

 day suspension shall be stayed for two (2) years upon the

 following terms and conditions:
- 1. Respondents shall obey all laws, rules and regulations governing the rights, duties and responsibilities of a real estate licensee in the State of California; and
- 2. That no final subsequent determination be made after hearing or upon stipulation, that cause for disciplinary action occurred within two (2) years from the effective date of this Decision. Should such a determination be made, the Commissioner may, in his discretion, vacate and set aside the stay order and reimpose all or a portion of the stayed

suspension. Should no such determination be made, the stay imposed herein shall become permanent.

II.

Pursuant to Section 10148 of the Business and

Professions Code, Respondents MATTSON REAL ESTATE SERVICES INC.

INC. and ROGER GLENN MATTSON shall pay the Commissioner's reasonable cost for (a) the audit which led to this disciplinary action (b) a subsequent audit to determine if Respondents are now in compliance with the Real Estate Law. The cost of the audit which led to this disciplinary action is \$5,346.56. In calculating the amount of the Commissioner's reasonable cost, the Commissioner may use the estimated average hourly salary for all persons performing audits of real estate brokers, and shall include an allocation for travel time to and from the auditor's place of work. Said amount for the prior and subsequent audits shall not exceed \$10,693.12.

Respondents shall pay such cost within 60 days of receiving an invoice from the Commissioner detailing the activities performed during the audit and the amount of time spent performing those activities.

The Commissioner may suspend the license of Respondents pending a hearing held in accordance with Section 11500, et seq., of the Government Code, if payment is not timely made as provided for herein, or as provided for in a subsequent agreement between the RespondentS and the Commissioner. The suspension shall remain

in effect until payment is made in full or until Respondents enter into an agreement satisfactory to the Commissioner to provide for payment, or until a decision providing otherwise is adopted following a hearing held pursuant to this condition.

III.

All licenses and licensing rights of Respondent ROGER
GLENN MATTSON are indefinitely suspended unless or until
Respondent provides proof satisfactory to the Commissioner, of
having taken and successfully completed the continuing education
course on trust fund accounting and handling specified in
paragraph (3) of subdivision (a) of Section 10170.5 of the
Business and Professions Code. Proof of satisfaction of this
requirement includes evidence that respondent has successfully
completed the trust fund account and handling continuing
education course within 120 days prior to the effective date of
the Decision in this matter.

IV.

All licenses and licensing rights of Respondent ROGER

GLENN MATTSON are indefinitely suspended unless or until

Respondent provides proof satisfactory to the Commissioner that

Respondent has made a diligent effort to pay to the respective

property owners the accumulated unlawful detainer fees collected

but unclaimed by tenants, in the approximate amount of

\$11,562.61, as set forth in audit Report LA 070067, Issue One,

and as described in Paragraph 7(a) of the Accusation.

(1) Respondents shall mail the payments by <u>certified</u> mail, <u>return receipt requested</u>, to the borrowers' last address

on file with or known to Respondents.

- (2) If any of the payments are returned by the Post Office marked "unable to deliver," Respondents shall employ a locator service (that may be limited to or include the Internet or other database retrieval search) to try and locate the property owners. Payments shall then be made to the addresses recommended by the locator service.
- (3) If unable to effect payment after using a locator service, Respondents shall provide reasonable proof satisfactory to the Commissioner of their efforts to comply with the provisions of this Paragraph IV.
- (4) If the Commissioner determines that proof to be unsatisfactory, he shall so advise Respondents, and indicate what additional reasonable efforts should be made to make payment to the property owners.

DATED: ELLIOTT MAC LENNAN, Counsel for the Department of Real Estate /// ///

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EXECUTION OF THE STIPULATION

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We have read the Stipulation. Its terms are understood by us and are agreeable and acceptable to us. We understand that we are waiving rights given to us by the California Administrative Procedure Act (including but not limited to Sections 11506, 11508, 11509 and 11513 of the Government Code), and we willingly, intelligently and voluntarily waive those rights, including the right of requiring the Commissioner to prove the allegations in the Accusation at a hearing at which we would have the right to cross-examine witnesses against us and to present evidence in defense and mitigation of the charges.

MAILING AND FACSIMILE

Respondents (1) shall mail the original signed signature page of the stipulation herein to Elliott Mac Lennan: Attention: Legal Section, Department of Real Estate, 320 W. Fourth St., Suite 350, Los Angeles, California 90013-1105. Respondents shall also (2) facsimile a copy of signed signature page, to the Department at the following telephone/fax number: (213) 576-6917, Attention: Elliott Mac Lennan.

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A facsimile constitutes acceptance and approval of the terms and conditions of this stipulation. Respondents agree, acknowledge and understand that by electronically sending to the Department a facsimile copy of Respondents' actual signature as it appears on the stipulation that receipt of the facsimile copy by the Department shall be as binding on Respondents as if the Department had received the original signed stipulation. MATTSON ESTATE SERVICES INC. a corporate real estate broker, ROGER GLENN MATTSON D.O., Respondent ROGER GLEWN MATTSON, individually and as designated officer of Mattson Real Estate Services Inc., Respondent /// 111 20 111 21 111 22

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A facsimile constitutes acceptance and approval of the 1 terms and conditions of this stipulation. Respondents agree, 2 acknowledge and understand that by electronically sending to the 3 Department a facsimile copy of Respondents' actual signature as 4 it appears on the stipulation that receipt of the facsimile copy 5 by the Department shall be as binding on Respondents as if the 6 Department had received the original signed stipulation. 8 9 10 DATED: MATTSON REAL ESTATE SERVICES INC., 11 a corporate real estate broker, BY: ROGER GLENN MATTSON D.O., 12 Respondent 13 14 15 DATED: ROGER GLENN MATTSON, individually 16 and as designated officer of Mattson Real Estate Services Inc., 17 Respondent 18 19 20 ANDERSON, ESO. 21 Attorney for Respondents Approved as to form 22 23 111 111 25 /// 26

The foregoing Stipulation and Agreement is hereby adopted as my Decision as to Respondents MATTSON REAL ESTATE SERVICES INC. and ROGER GLENN MATTSON, individually and as designated officer of Mattson Real Estate Services Inc. and shall become effective at 12 o'clock noon on August 12, 2009. IT IS SO ORDERED _ JEFF DAVI Real Estate Commissioner BY: Barbara J. Bigby **Chief Deputy Commissioner**

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

FILED

JUL 14 2008

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

DEPARTMENT OF REAL ESTATE

BY: ___

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

In the Matter of the Accusation of

MATTSON REAL ESTATE SERVICES INC., and ROGER GLENN MATTSON, individually and as designated officer of Mattson Real Estate Services Inc.,

Respondents.

No. H-35106 LA

ACCUSATION

The Complainant, Robin Trujillo, a Deputy Real Estate
Commissioner of the State of California, for cause of Accusation
against MATTSON REAL ESTATE SERVICES INC. and ROGER GLENN
MATTSON, individually and as designated officer of Mattson Real
Estate Services Inc., alleges as follows:

1.

The Complainant, Robin Trujillo, acting in her official capacity as a Deputy Real Estate Commissioner of the State of California, makes this Accusation against MATTSON REAL ESTATE SERVICES INC. and ROGER GLENN MATTSON.

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

2.

LICENSE HISTORY

3.

A. At all times mentioned, MATTSON REAL ESTATE

SERVICES INC. ("MRESI") was licensed or had license rights issued

by the Department of Real Estate ("Department") as a real estate

broker. On March 19, 1985, MRESI was originally licensed as a

real estate broker by and through ROGER GLENN MATTSON as

designated officer.

B. At all times mentioned, ROGER GLENN MATTSON ("MATTSON") was licensed or had license rights issued by the Department as a real estate broker. On March 22, 2002, MATTSON was originally licensed as a real estate broker.

C. At all times material herein, MRESI was licensed by the Department as a corporate real estate broker by and through MATTSON, as the designated officer and broker responsible, pursuant to Code Section 10159.2 for supervising the activities requiring a real estate license conducted on behalf MRESI of by MRESI's officers, agents and employees, including MATTSON.

D. On January 27, 2005, in Case No. H-31638 LA, an Accusation was filed against Respondents that resulted in stipulated discipline of Respondents' real estate broker

licenses, effective November 21, 2005, as more fully set forth below in Paragraph 12.

LICENSED ACTIVITIES AND BROKERAGE MATTSON REAL ESTATE SERVICES INC.

4.

At all times mentioned, in the City of Hawthorne,
County of Los Angeles, MRESI acted as a real estate broker and
conducted licensed activities within the meaning of Code Section
10131(b). MRESI operated a property management brokerage.

AUDIT

5.

On November 6, 2007, the Department completed an audit examination of the books and records of MRESI pertaining to the property management activities described in Paragraph 4, that require a real estate license. The audit examination covered a period of time beginning on September 1, 2005 to August 31, 2007. The audit examination revealed violations of the Code and the Regulations as set forth in the following paragraphs, and more fully discussed in Audit Report LA 070067 and the exhibits and work papers attached to said audit report.

TRUST ACCOUNTS

6.

At all times mentioned, in connection with the activities described in Paragraph 4, above, MRESI accepted or received funds including funds in trust (hereinafter "trust

funds") from or on behalf of actual or prospective parties to transactions handled by MRESI including property owners and tenants. "Mattson Real Estate Services Inc. dba Mattson & Dion Investments Inc. Real Estate Trustee 0510011546" Union Bank 6 (T/A #1)Los Angeles, CA 90051 7 "Mattson Real Estate Services Inc. dba Mattson & Dion Investments 8 Inc. Real Estate Trustee 0510036735" Union Bank 10 (T/A #2)Los Angeles, CA 90051 "Mattson Real Estate Services Inc. dba Mattson & Dion Investments 12 Inc. Real Estate Trustee 0510036530" 13 Union Bank Los Angeles, CA 90051 (T/A #3)14 15 "Mattson Real Estate Services Inc. dba Mattson & Dion Investments 16 Inc. Real Estate Trustee 0510002881" 17 Union Bank (T/A #4)Los Angeles, CA 90051 18 19 VIOLATIONS OF THE REAL ESTATE LAW 20 7. 21 In the course of activities described in Paragraphs 4 22 and 6, above, and during the examination period described in 23 Paragraph 5, Respondents MRESI and MATTSON, acted in violation of 24 the Code and the Regulations in that they: 25 (a) Permitted, allowed or caused the disbursement of 26 trust funds from T/A #1, where the disbursement of funds reduced 27

the total of aggregate funds in T/A #1, to an amount which, on August 31, 2007, was \$11,562.61, less than the existing aggregate trust fund liability of MRESI to every principal who was an owner of said funds, without first obtaining the prior written consent of the owners of said funds, as required by Code Section 10145 and Regulation 2832.1. (b) Failed to maintain a separate record for each 7 8 beneficiary or transaction, thereby failing to account for all trust funds received, deposited and disbursed in T/A #1, as 10 required by Code Section 10145 and Regulation 2831.1. (c) Failed to perform a monthly reconciliation of the 11 12 balance of all separate beneficiary or transaction records 13 maintained pursuant to Regulation 2831.1 with the record of all trust funds received and disbursed by T/A #1, as required by Code 15 Section 10145 and Regulation 2831.2. 16 (d) Permitted Marsha Mattson, Donna Mattson and Linda 17 Dion, unlicensed and unbonded persons, to be authorized 18 signatories on T/A #2, in violation of Code Section 10145 and 19 Regulation 2834. 20 (e) Used the fictitious name "Mattson & Dion 21 Investments" on its Union Bank signature cards, without holding a 22 license bearing said fictitious business name, in violation of 23 Code Section 10159.5 and Regulation 2731. 24 The overall conduct of Respondent MATTSON (f) 25 constitutes a failure on his part, as officer designated by a 26 27 5 -

corporate broker licensee, to exercise the reasonable supervision and control over the licensed activities of MRESI as required by Code Section 10159.2 and Regulation 2725, and to keep MRESI in compliance with the Real Estate Law, as required by Code Sections 10177(d) and 10177(h). MATTTSON failed to exercise reasonable care and supervision over trust fund handling. Nor did RIJS have policies and procedures in place to maintain and monitor MRESI's compliance with the Real Estate Law.

DISCIPLINARY STATUTES AND REGULATIONS

8.

The conduct of Respondents MRESI and MATTSON, as alleged and described in Paragraph 7, above, violated the Code and the Regulations as set forth below:

15	<u>PARAGRAPH</u>	PROVISIONS VIOLATED
16	7 (a)	Code Section 10145 and Regulation
17		2832.1
18		
19	7 (b)	Code Section 10145 and Regulation
20		2831.1
21		
22	7.4-1	G. J. G. W. L. 10145 and Demiletion
23	7 (c)	Code Section 10145 and Regulation
24		2831.2
25		
26	7(d)	Code Section 10145 and Regulation
27		2834
<u> </u>		

1 Code Section 10159.5 and Regulation 7(e) 2 2731 3 Code Sections 10159.2 and 10177(h) 7(f) 5 and Regulation 2725 6 The foregoing violations constitute cause for the suspension or 7 revocation of the real estate license and license rights of MRESI 8 and MATTSON under the provisions of Code Sections 10177(d) and/or 10177(g) and 10177(h). 10 11 NEGLIGIENCE 9. 12 13 The overall conduct of Respondents MRESI and MATTSON 14 constitutes negligence. This conduct and violation are cause for 15 the suspension or revocation of the real estate license and 16 license rights of said Respondents pursuant to Code Section 17 10177(a). 18 PRIOR DEPARTMENT ACTION 19 10. 20 On January 27, 2005, in Case No. H-31638 LA, an 21 Accusation was filed against Respondents that resulted in 22 stipulated discipline including a 30 day suspension of 23 Respondents' real estate broker licenses on terms and conditions 24 for violations of Code Sections 10145, 10159.2, 10177(d) and 25 10177(h) and Regulations 2742, 2831 and 2834, effective November 26 27 21, 2005.

WHEREFORE, Complainant prays that a hearing be conducted on the allegations of this Accusation and that upon proof thereof, a decision be rendered imposing disciplinary action against the license and license rights of Respondents MATTSON REAL ESTATE SERVICES INC. and ROGER GLENN MATTSON, under the Real Estate Law (Part 1 of Division 4 of the Business and Professions Code) and for such other and further relief as may be proper under other applicable provisions of law.

Dated at Los Angeles, California

Mattson Real Estate Services Inc.

c/o Roger Glenn Mattson D.O.

Robin Trujillo

Audits - Robert Brody