

1 Department of Real Estate  
2 320 W. 4<sup>TH</sup> Street, Suite 350  
3 Los Angeles, CA 90013-1105

4 Telephone: (213) 576-6982

**FILED**

JUL 25 2012

DEPARTMENT OF REAL ESTATE  
BY: 

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 \* \* \*

11 In the Matter of the Accusation of )

12 PREMIER FINANCIAL & )  
13 INVESTMENT GROUP, INC., )  
14 a corporate real estate broker; )

No. H-37650 LA  
OAH No. 2011120675

15 MARLON DORSEY, individually )  
16 and as designated officer of Premier )  
17 Financial & Investment Group; and )

STIPULATION  
AND  
AGREEMENT

18 RAYMOND J. SWEARINGEN, )

19 Respondents. )

20 It is hereby stipulated by and between Respondents PREMIER FINANCIAL &  
21 INVESTMENT GROUP, INC. ("PFIG"), MARLON DORSEY ("DORSEY"), and RAYMOND  
22 J. SWEARINGEN ("SWEARINGEN"), and the Complainant, acting by and through Julie L. To,  
23 Counsel for the Department of Real Estate, as follows for the purpose of settling and disposing of  
24 the Accusation ("Accusation") filed on November 8, 2011, in this matter:

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

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

9                   3. Respondents timely filed Notices of Defense pursuant to Section 11506 of the  
10 Government Code for the purpose of requesting a hearing on the allegations in the Accusation.  
11 Respondents hereby freely and voluntarily withdraw said Notices of Defense. Respondents  
12 acknowledge that they understand that by withdrawing said Notices of Defense they thereby  
13 waive their rights to require the Commissioner to prove the allegations in the Accusation at a  
14 contested hearing held in accordance with the provisions of the APA and that they will waive  
15 other rights afforded to them in connection with the hearing such as the right to present evidence  
16 in his defense the right to cross-examine witnesses.

17                   4. This Stipulation is based on the factual allegations contained in the Accusation.  
18 In the interest of expedience and economy, Respondents choose not to contest these allegations,  
19 but to remain silent and understand that, as a result thereof, these factual allegations, without  
20 being admitted or denied, will serve as a prima facie basis for the disciplinary action stipulated to  
21 herein. The Real Estate Commissioner shall not be required to provide further evidence to prove  
22 said factual allegations.

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1                   5. This Stipulation is made for the purpose of reaching an agreed disposition of  
2 this proceeding and is expressly limited to this proceeding and any other proceeding or case in  
3 which the Department of Real Estate ("Department"), the state or federal government, or any  
4 agency of this state, another state or federal government is involved, and otherwise shall not be  
5 admissible in any other criminal or civil proceedings.

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

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

### I.

The conduct of PREMIER FINANCIAL & INVESTMENT GROUP, INC., as described in Paragraph 4, herein above, is in violation of Sections 10085 and 10085.5 of the Business and Professions Code ("Code") and Section 2970, Title 10, Chapter 6, Code of Regulations ("Regulations") and is a basis for discipline of Respondent PFIG's licenses and license rights as a violation of the Real Estate Law pursuant to Code Sections 10085, 10177(d), and/or 10177(g).

### II.

The conduct of MARLON DORSEY, in failing to exercise reasonable supervision over the activities of Respondent PFIG, as described in Paragraph 4 herein above, is in violation of Section 10085 of the Code and Section 2970, Title 10, Chapter 6, Code of Regulations ("Regulations") and is a basis for discipline of Respondent DORSEY's licenses and license rights as a violation of the Real Estate Law pursuant to Code Sections 10085, 10177(d), 10177(g), and/or 10177(h), and Code Section 10159.2 and Section 2725, Title 10, Chapter 6, Code of Regulations ("Regulations").

### III.

The conduct of RAYMOND J. SWEARINGEN, as described in Paragraph 4, herein above, is in violation of Sections 10085 and 10085.5 of the Business and Professions Code ("Code") and is a basis for discipline of Respondents' licenses and license rights as a violation of the Real Estate Law pursuant to Code Sections 10085, 10177(d), and/or 10177(g).

ORDER

WHEREFORE, THE FOLLOWING ORDER is hereby made:

I.

The restricted real estate salesperson license of Respondent RAYMOND J. SWEARINGEN under the Real Estate Law is revoked; provided, however, a new restricted real estate salesperson license shall be issued to Respondent SWEARINGEN, pursuant to Section 10156.5 of the Business and Professions Code, if Respondent SWEARINGEN:

Makes application therefor and pays to the Department of Real Estate the appropriate fee for the restricted license within ninety (90) days from the effective date of this Decision. The restricted license issued to Respondent SWEARINGEN shall be subject to all of the provisions of Section 10156.7 of the Code and the following limitations, conditions and restrictions imposed under authority of Section 10156.6 of that Code.

1. The restricted license issued to Respondent SWEARINGEN may be suspended prior to hearing by Order of the Real Estate Commissioner in the event of Respondent's conviction or plea of nolo contendere to a crime which is substantially related to Respondent's fitness or capacity as a real estate licensee.

2. The restricted license issued to Respondent may be suspended prior to hearing by Order of the Real Estate Commissioner on evidence satisfactory to the Commissioner that Respondent has violated provisions of the California Real Estate Law, the Subdivided Lands Law, Regulations of the Real Estate Commissioner or conditions attaching to the restricted license.

3. Respondent shall not be eligible to apply for the issuance of unrestricted real estate licenses nor for the removal of any of the conditions, limitations or restrictions of a



1 restricted license until two (2) years has elapsed from the effective date of the issuance of the  
2 restricted license.

3 4. Respondent shall submit with any application for license under an employing  
4 broker, or any application for transfer to a new employing broker, a statement signed by the  
5 prospective employing real estate broker on a form approved by the Department of Real Estate  
6 which shall certify:

7 (a) That the employing broker has read the Decision of the Commissioner  
8 which granted the right to a restricted license; and

9 (b) That the employing broker will exercise close supervision over the  
10 performance by the restricted licensee relating to activities for which a real estate license  
11 is required

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

All licenses and licensing rights of Respondents PREMIER FINANCIAL & INVESTMENT GROUP, INC. and MARLON DORSEY are suspended for a period of sixty (60) days from the date of effective date of this Decision.

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

1. Each Respondent pays a monetary penalty pursuant to Section 10175.2 of the Business and Professions Code at the rate of \$33.33 per day for each day of the suspension for a monetary penalty of \$1,000.00 each Respondent, or \$2,000.00 total.

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

3. No further cause for disciplinary action against the real estate licenses of Respondents occurs within two (2) years from the effective date of the Decision in this matter.

4. If Respondents PFIG and DORSEY 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 Respondents PFIG and DORSEY 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 PFIG and DORSEY pay the monetary penalty and if no further cause for disciplinary action against the real estate license of Respondents occurs within two (2) years from the effective date of the Decision, the stay hereby granted shall become permanent.

1                   B. The remaining thirty (30) days of the sixty (60) day suspension shall be stayed  
2 for two (2) years upon the following terms and conditions:

3                   1. Respondents PFIG and DORSEY shall obey all laws, rules and regulations  
4 governing the rights, duties and responsibilities of a real estate licensee in the State of California;  
5 and

6                   2. That no final subsequent determination be made after hearing or upon  
7 stipulation, that cause for disciplinary action occurred within two (2) years from the effective  
8 date of this Decision. Should such a determination be made, the Commissioner may, in his  
9 discretion, vacate and set aside the stay order and reimpose all or a portion of the stayed  
10 suspension. Should no such determination be made, the stay imposed herein shall become  
11 permanent.  
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14                   III.

15                   Respondent MARLON DORSEY shall, within nine (9) months from the effective  
16 date of this Decision, present evidence satisfactory to the Real Estate Commissioner that  
17 Respondent DORSEY has, since the most recent issuance of an original or renewal real estate  
18 license, taken and successfully completed the continuing education requirements of Article 2.5 of  
19 Chapter 3 of the Real Estate Law for renewal of a real estate license. If Respondent DORSEY  
20 fails to satisfy this condition, the Commissioner may order the suspension of Respondent  
21 DORSEY's license until Respondent DORSEY presents such evidence. The Commissioner shall  
22 afford Respondent DORSEY the opportunity for a hearing pursuant to the Administrative  
23 Procedure Act to present such evidence.  
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IV.

Respondent MARLON DORSEY shall, within six (6) months from the effective  
take and pass the Professional Responsibility Examination administered by the Department  
including the payment of the appropriate examination fee. If Respondent fails to satisfy this  
condition, the Commissioner may order suspension of Respondent's license until Respondent  
passes the examination.

DATED: June 19, 2012

  
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JULIE L. TO, Counsel for Department of Real Estate

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EXECUTION OF THE STIPULATION

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 shall (1) mail the original signed signature page of the stipulation  
herein to Julie L. To: 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: Julie L. To.

1 A facsimile constitutes acceptance and approval of the terms and conditions of  
2 this stipulation. Respondents agree, acknowledge and understand that by electronically sending  
3 to the Department a facsimile copy of Respondents' actual signature as it appears on the  
4 stipulation that receipt of the facsimile copy by the Department shall be as binding on  
5 Respondents as if the Department had received the original signed stipulation.

6  
7 DATED: 6-18-12



PREMIER FINANCIAL & INVESTMENT  
GROUP, INC.

BY: MARLON DORSEY, as designated officer  
Respondent

10  
11 DATED: 6-18-12



MARLON DORSEY, as designated officer of  
Premier Financial & Investment Group, Inc.  
Respondent

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14 DATED: \_\_\_\_\_

RAYMOND J. SWEARINGEN  
Respondent

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18 The foregoing Stipulation and Agreement is hereby adopted as my Decision as to  
19 Respondents PREMIER FINANCIAL & INVESTMENT GROUP, INC., MARLON DORSEY,  
20 individually and as designated officer of Premier Financial & Investment Group, Inc., and  
21 RAYMOND J. SWEARINGEN, and shall become effective at 12 o'clock noon on  
22 \_\_\_\_\_, 2012.

23 IT IS SO ORDERED \_\_\_\_\_, 2012.

24 REAL ESTATE COMMISSIONER  
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27 \_\_\_\_\_

1 A facsimile constitutes acceptance and approval of the terms and conditions of  
2 this stipulation. Respondents agree, acknowledge and understand that by electronically sending  
3 to the Department a facsimile copy of Respondents' actual signature as it appears on the  
4 stipulation that receipt of the facsimile copy by the Department shall be as binding on  
5 Respondents as if the Department had received the original signed stipulation.

6  
7 DATED: \_\_\_\_\_


8 PREMIER FINANCIAL & INVESTMENT  
9 GROUP, INC.

10 BY: MARLON DORSEY, as designated officer  
11 Respondent

12 DATED: \_\_\_\_\_

13 MARLON DORSEY, as designated officer of  
14 Premier Financial & Investment Group, Inc.  
15 Respondent

16 DATED: 6/18/12

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18 RAYMOND J. SWEARINGEN  
19 Respondent

20 \* \* \*

21 The foregoing Stipulation and Agreement is hereby adopted as my Decision as to  
22 Respondents PREMIER FINANCIAL & INVESTMENT GROUP, INC., MARLON DORSEY,  
23 individually and as designated officer of Premier Financial & Investment Group, Inc., and  
24 RAYMOND J. SWEARINGEN, and shall become effective at 12 o'clock noon on  
25 AUG 14 2012, 2012.

26 IT IS SO ORDERED July 11, 2012.

27 REAL ESTATE COMMISSIONER

  
By WAYNE S. BELL  
Chief Counsel