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**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
SANTA ANA DIVISION**

SECURITIES AND EXCHANGE
COMMISSION,

Plaintiff,

vs.

REAL ESTATE PARTNERS, INC.;
REAL ESTATE PARTNERS INCOME
FUND I, LLC; REAL ESTATE
PARTNERS INCOME FUND II, BT;
REAL ESTATE PARTNERS INCOME
FUND III, BT; REAL ESTATE
PARTNERS UNIT INVESTMENT
BUSINESS TRUST I; REAL ESTATE
PARTNERS UNIT INVESTMENT
BUSINESS TRUST II; REAL ESTATE
PARTNERS EQUITY FUND, BT;
REAL ESTATE PARTNERS GROWTH
FUND, BT; DAWSON DAVENPORT;
MICHAEL P. OWENS; DONALD G.
RYAN; RICHARD McGILL; WILLIAM
L. SANDERS; MICHAEL TUCHMAN
and DANNY RAYBURN,

Defendants.

Case No.: SACV 07-1022 AG (RNBx)

**[PROPOSED] FINAL JUDGMENT
AS TO DEFENDANT MICHAEL P.
OWENS**

1 The Securities and Exchange Commission having filed a Complaint and
2 Defendant Michael P. Owens having entered a general appearance; consented to
3 the Court's jurisdiction over Defendant and the subject matter of this action;
4 consented to entry of this Final Judgment without admitting or denying the
5 allegations of the Complaint (except as to jurisdiction); waived findings of fact and
6 conclusions of law; and waived any right to appeal from this Final Judgment:

7 **I.**

8 IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that Defendant
9 and Defendant's agents, servants, employees, attorneys, and all persons in active
10 concert or participation with them who receive actual notice of this Final Judgment
11 by personal service or otherwise are permanently restrained and enjoined from
12 violating, directly or indirectly, Section 10(b) of the Securities Exchange Act of
13 1934 (the "Exchange Act"), 15 U.S.C. § 78j(b), and Rule 10b-5 promulgated
14 thereunder, 17 C.F.R. § 240.10b-5, by using any means or instrumentality of
15 interstate commerce, or of the mails, or of any facility of any national securities
16 exchange, in connection with the purchase or sale of any security:

- 17 (a) to employ any device, scheme, or artifice to defraud;
18 (b) to make any untrue statement of a material fact or to omit to state a
19 material fact necessary in order to make the statements made, in the
20 light of the circumstances under which they were made, not
21 misleading; or
22 (c) to engage in any act, practice, or course of business which operates or
23 would operate as a fraud or deceit upon any person.

24 **II.**

25 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that
26 Defendant and Defendant's agents, servants, employees, attorneys, and all persons
27 in active concert or participation with them who receive actual notice of this Final
28 Judgment by personal service or otherwise are permanently restrained and enjoined

1 from violating Section 17(a) of the Securities Act of 1933 (the “Securities Act”),
 2 15 U.S.C. § 77q(a), in the offer or sale of any security by the use of any means or
 3 instruments of transportation or communication in interstate commerce or by use
 4 of the mails, directly or indirectly:

- 5 (a) to employ any device, scheme, or artifice to defraud;
- 6 (b) to obtain money or property by means of any untrue statement of a
 7 material fact or any omission of a material fact necessary in order to
 8 make the statements made, in light of the circumstances under which
 9 they were made, not misleading; or
- 10 (c) to engage in any transaction, practice, or course of business which
 11 operates or would operate as a fraud or deceit upon the purchaser.

12 **III.**

13 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that
 14 Defendant and Defendant’s agents, servants, employees, attorneys, and all persons
 15 in active concert or participation with them who receive actual notice of this Final
 16 Judgment by personal service or otherwise are permanently restrained and enjoined
 17 from violating Section 5 of the Securities Act, 15 U.S.C. § 77e, by, directly or
 18 indirectly, in the absence of any applicable exemption:

- 19 (a) Unless a registration statement is in effect as to a security, making use
 20 of any means or instruments of transportation or communication in
 21 interstate commerce or of the mails to sell such security through the
 22 use or medium of any prospectus or otherwise;
- 23 (b) Unless a registration statement is in effect as to a security, carrying or
 24 causing to be carried through the mails or in interstate commerce, by
 25 any means or instruments of transportation, any such security for the
 26 purpose of sale or for delivery after sale; or
- 27 (c) Making use of any means or instruments of transportation or
 28 communication in interstate commerce or of the mails to offer to sell

1 or offer to buy through the use or medium of any prospectus or
2 otherwise any security, unless a registration statement has been filed
3 with the Commission as to such security, or while the registration
4 statement is the subject of a refusal order or stop order or (prior to the
5 effective date of the registration statement) any public proceeding or
6 examination under Section 8 of the Securities Act, 15 U.S.C. § 77h.

7 **IV.**

8 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that
9 Defendant and Defendant's agents, servants, employees, attorneys, and all persons
10 in active concert or participation with them who receive actual notice of this Final
11 Judgment by personal service or otherwise are permanently restrained and enjoined
12 from violating Section 15(a) of the Exchange Act, 15 U.S.C. § 78o(a), by making
13 use of the mails or any means or instrumentality of interstate commerce to effect
14 any transactions in, or to induce or attempt to induce the purchase or sale of, any
15 security, unless registered as a broker or dealer in accordance with Section 15(b) of
16 the Exchange Act, 15 U.S.C. § 78o(b).

17 **V.**

18 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that
19 Defendant is liable for disgorgement of \$4,281,251.95, representing profits gained
20 as a result of the conduct alleged in the Complaint, together with prejudgment
21 interest thereon in the amount of \$535,283.93, for a total of \$4,816,535.88. Based
22 on Defendant's sworn representations in his Statement of Financial Condition
23 dated January 6, 2009, and other documents and information submitted to the
24 Commission, however, the Court is not ordering Defendant to pay a civil penalty
25 and payment of all but \$45,993.98 of the disgorgement and pre-judgment interest
26 thereon is waived. Defendant shall pay the \$45,993.98 within ten days of entry of
27 this Final Judgment. Payment shall be made by the Defendant to the Clerk of this
28 Court, together with a cover letter identifying Michael P. Owens as a defendant in

1 this action; setting forth the title and civil action number of this action and the
2 name of this Court; and specifying that payment is made pursuant to this Final
3 Judgment. Defendant shall simultaneously transmit photocopies of such payment
4 and letter to the Commission's counsel in this action. By making this payment,
5 Defendant relinquishes all legal and equitable right, title, and interest in such
6 funds, and no part of the funds shall be returned to Defendant. The Clerk shall
7 deposit the funds into an interest bearing account pursuant to Local Rule 67-2.
8 These funds, together with any interest and income earned thereon (collectively,
9 the "Fund"), shall be held in the interest bearing account until further order of the
10 Court. In accordance with Local Rule 67-2, the Clerk is authorized and directed,
11 without further order of this Court, to deduct from the income earned on the Fund a
12 registry fee not to exceed the amount prescribed by the Judicial Conference of the
13 United States. Defendant shall also pay post-judgment interest on any delinquent
14 amounts pursuant to 28 U.S.C. § 1961. The determination not to impose a civil
15 penalty and to waive payment of all but \$45,993.98 of the disgorgement and pre-
16 judgment interest is contingent upon the accuracy and completeness of
17 Defendant's Statement of Financial Condition. If at any time following the entry
18 of this Final Judgment the Commission obtains information indicating that
19 Defendant's representations to the Commission concerning his assets, income,
20 liabilities, or net worth were fraudulent, misleading, inaccurate, or incomplete in
21 any material respect as of the time such representations were made, the
22 Commission may, at its sole discretion and without prior notice to Defendant,
23 petition the Court for an order requiring Defendant to pay the unpaid portion of the
24 disgorgement, pre-judgment and post-judgment interest thereon, and the maximum
25 civil penalty allowable under the law. In connection with any such petition, the
26 only issue shall be whether the financial information provided by Defendant was
27 fraudulent, misleading, inaccurate, or incomplete in any material respect as of the
28 time such representations were made. In its petition, the Commission may move

1 this Court to consider all available remedies, including, but not limited to, ordering
2 Defendant to pay funds or assets, directing the forfeiture of any assets, or sanctions
3 for contempt of this Final Judgment. The Commission may also request additional
4 discovery. Defendant may not, by way of defense to such petition: (1) challenge
5 the validity of the Consent or this Final Judgment; (2) contest the allegations in the
6 Complaint filed by the Commission; (3) assert that payment of disgorgement, pre-
7 judgment and post-judgment interest or a civil penalty should not be ordered; (4)
8 contest the amount of disgorgement and pre-judgment and post-judgment interest;
9 (5) contest the imposition of the maximum civil penalty allowable under the law;
10 or (6) assert any defense to liability or remedy, including, but not limited to, any
11 statute of limitations defense.

12 VI.

13 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that
14 Defendant shall withdraw and renounce all claims and interests, whether
15 scheduled, filed or otherwise presented, in the bankruptcy cases *In re Real Estate*
16 *Partners, Inc.*, Case No. 8:07-13239 TA (Bankr. C.D. Cal.), jointly administered
17 with Case Nos. 8:07-13240 TA through 8:07-13246 TA (Bankr. C. D. Cal.). To
18 the extent Defendant has filed or otherwise presented claims in these cases, he
19 shall file corresponding Withdrawals and Notices of Withdrawal.

20 VII.

21 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the
22 Consent is incorporated herein with the same force and effect as if fully set forth
23 herein, and that Defendant shall comply with all of the undertakings and
24 agreements set forth therein.

25 VIII.

26 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that this
27 Court shall retain jurisdiction of this matter for the purposes of enforcing the terms
28 of this Final Judgment.

IX.

There being no just reason for delay, pursuant to Rule 54(b) of the Federal Rules of Civil Procedure, the Clerk is ordered to enter this Final Judgment forthwith and without further notice.

Dated: April 16, 2009



HONORABLE ANDREW J. GUILFORD
UNITED STATES DISTRICT JUDGE