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BUREAU OF REAL ESTATE

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BEFORE THE BUREAU OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of

RYAN M. PERKINS,

Respondent.

No. H-2854 FR

ACCUSATION

The Complainant, TRICIA D. SOMMERS, solely in her official capacity as a Deputy Real Estate Commissioner of the State of California, for cause of Accusation against RYAN M. PERKINS ("Respondent"), is informed and alleges as follows:

1

Respondent is presently licensed by the Bureau of Real Estate (hereinafter "the Bureau") and/or has license rights under the Real Estate Law, Part 1 of Division 4 of the Business and Professions Code (hereafter "the Code"), as a real estate broker.

2

At no time prior to September 29, 2010 was Respondent licensed by the Bureau as a real estate broker. From August 30, 2007 until September 29, 2010, Respondent was licensed by the Bureau as a real estate salesperson, and was employed by real estate broker Guarantee Real Estate.

3

At all times relevant herein, since September 29, 2010, Respondent conducted business under his own name, and the fictitious business name "Strategic Asset Management" registered with the Bureau.

4

Whenever reference is made in an allegation in this Accusation to an act or omission of Respondent, such allegation shall be deemed to mean that the employees, agents, real estate licensees, and others employed by or associated with Respondent committed such act or omission while engaged in furtherance of the business or operations of Respondent and while acting within the course and scope of their authority and employment.

5

At all times mentioned herein, Respondent engaged in the business of, acted in the capacity of, advertised, or assumed to act as a real estate broker in the State of California, within the meaning of Section 10131(b) of the Code, including the leasing or renting or offer to lease or rent, or placing for rent, or solicitation of listings of places for rent, or solicitation of prospective tenants, or negotiation of the sale, purchase or exchanges of leases on real property, or on a business opportunity, or collection of rents from real property, or improvements thereon, or from business opportunities.

FIRST CAUSE OF ACTION

(Audit Violations)

6

Each and every allegation in Paragraphs 1 through 5, inclusive, above, is incorporated by this reference as if fully set forth herein.

7

Beginning on September 28, 2011 and continuing intermittently until November 8, 2011, an audit was conducted of Respondent's real estate activities at his main office located at 6442 N. Maroa Ave., Fresno, California, and at the Bureau's Oakland District Office,

wherein the auditor examined Respondent's records for the period of July 1, 2010 through August 31, 2011 (hereinafter "the audit period").

8

While acting as a real estate broker as described in paragraph 5, above, and within the audit period, Respondent accepted or received funds in trust (hereinafter "trust funds") from or on behalf of owners, tenants and others in connection with the rental or lease of residential property, for or in expectation of compensation, as alleged herein, and thereafter from time-to-time made disbursements of said trust funds.

9

The trust funds accepted or received by Respondent as described in paragraph 8, above, were deposited or caused to be deposited by Respondent into three bank accounts which were maintained by Respondent for the handling of trust funds, and thereafter from time-to-time Respondent made disbursements of said trust funds, identified as follows:

TRUST ACCOUNT # 1	
Bank Name and Location:	Security First Bank, 663 W. Nees Ave., Fresno, CA 93711
Account No. (Last 4 Digits):	xxx3622
Entitled:	"Ryan M Perkins DBA Strategic Asset Management Trust Account"
Signatories:	Ryan M. Perkins (REB)

BANK ACCOUNT # 1	
Bank Name and Location:	JPMorgan Chase Bank, N.A., P.O. Box 659754, San Antonio, TX 78265-9754
Account No. (Last 4 Digits):	xxxxx4732
Entitled:	Name on Bank Statements: "Ryan M Perkins and Ross B Makasian DBA Strategic Asset Management"
	Name on Business Signature Card dated 5/11/2010: "Strategic Asset Management"
Signatories:	Ryan M. Perkins (REB)

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BANK ACCOUNT # 2	
Bank Name and Location:	JPMorgan Chase Bank, N.A., P.O. Box 659754, San Antonio, TX 78265-9754
Account No. (Last 4 Digits):	xxxxx8787
Entitled:	"Ryan Perkins DBA Strategic Asset Management"
Signatories:	Ryan M. Perkins (REB)

10

In the course of the activities described in paragraph 5, above, and within the audit period, Respondent:

(a) deposited trust funds into Bank Account #1 and Bank Account #2, and failed to properly designate Bank Account #1 and Bank Account #2 as a trust account in the name of Respondent, or his registered fictitious business name, as trustee, in violation of Section 10145 of the Code and Section 2832 of Title 10 of the California Code of Regulations (hereafter "the Regulations");

(b) for the period of September 1, 2010 through December 31, 2010, failed to maintain records of all trust funds received and disbursed (control record) for Bank Account #2, in violation of Section 10145 of the Code and Section 2831 of the Regulations;

(c) for the period of January 1, 2011 through June 30, 2011, failed to maintain accurate and adequate records of all trust funds received and disbursed (control record) for Bank Account #2, in that Respondent's control record included inaccurate disbursement dates, failed to set forth check numbers for each disbursement, and failed to identify from whom trust funds were received, all in violation of Section 10145 of the Code and Section 2831 of the Regulations;

(d) for the period of July 1, 2011 through August 31, 2011, failed to maintain accurate and adequate records of all trust funds received and disbursed (control record) for Trust Account #1, in that Respondent's control record included inaccurate disbursement dates, failed to set forth check numbers for each disbursement, and failed to identify from whom trust funds were received, all in violation of Section 10145 of the Code and Section 2831 of the Regulations;

1 (e) for the period of September 1, 2010 through December 31, 2010, failed to
2 maintain separate records for each beneficiary or property of trust funds accepted or received for
3 Bank Account #2, in violation of Section 10145(g) of the Code and Section 2831.1 of the
4 Regulations;

5 (f) for the period of January 1, 2011 through June 30, 2011, failed to maintain
6 accurate and complete separate records for each beneficiary or property of trust funds accepted
7 or received for Bank Account #2, in that the separate records set forth inaccurate disbursement
8 dates and did not include check numbers, in violation of Section 10145(g) of the Code and
9 Section 2831.1 of the Regulations;

10 (g) for the period of July 1, 2011 through August 31, 2011, failed to maintain
11 accurate and complete separate records for each beneficiary or property of trust funds accepted
12 or received for Trust Account #1, in that the separate records set forth inaccurate disbursement
13 dates and did not include check numbers, in violation of Section 10145(g) of the Code and
14 Section 2831.1 of the Regulations;

15 (h) failed to perform and/or maintain records of having performed
16 reconciliations of the total of separate beneficiary/property records with a record of all trust
17 funds received and disbursed (control record) on at least a monthly basis, for Trust Account #1,
18 Bank Account #1, and Bank Account #2, in violation of Section 10145 of the Code and Section
19 2831.2 of the Regulations;

20 (i) failed to retain deposit slips and both the front and back sides of cancelled
21 checks for Bank Account #1 and Bank Account #2, in violation of Section 10148 of the Code;
22 and,

23 (j) failed to disclose his real estate license identification number on his
24 business cards and/or the business cards of his registered fictitious business name "Strategic
25 Asset Management", as required by Section 10140.6 of the Code, and Section 2773 of the
26 Regulations.

27 ///

The acts and/or omissions of Respondent as alleged in paragraph 10, above, constitute grounds for the suspension or revocation of all licenses and license rights of Respondent pursuant to the following provisions of the Code and Regulations:

As to Paragraph 10(a), under Section 10177(d) and/or 10177(g) of the Code, in conjunction with Section 10145 of the Code and Section 2832 of the Regulations;

As to Paragraph 10(b), under Section 10177(d) and/or 10177(g) of the Code in conjunction with Section 10145 of the Code and Section 2831 of the Regulations;

As to Paragraph 10(c), under Section 10177(d) and/or 10177(g) of the Code in conjunction with Section 10145 of the Code and Section 2831 of the Regulations;

As to Paragraph 10(d), under Section 10177(d) and/or 10177(g) of the Code in conjunction with Section 10145 of the Code and Section 2831 of the Regulations;

As to Paragraph 10(e), under Section 10177(d) and/or 10177(g) of the Code in conjunction with Section 10145(g) of the Code and Section 2831.1 of the Regulations;

As to Paragraph 10(f), under Section 10177(d) and/or 10177(g) of the Code in conjunction with Section 10145(g) of the Code and Section 2831.1 of the Regulations;

As to Paragraph 10(g), under Section 10177(d) and/or 10177(g) of the Code in conjunction with Section 10145(g) of the Code and Section 2831.1 of the Regulations;

As to Paragraph 10(h), under Section 10177(d) and/or 10177(g) of the Code in conjunction with Section 10145 of the Code and Section 2831.2 of the Regulations;

As to Paragraph 10(i), under Section 10177(d) and/or 10177(g) of the Code in conjunction with Section 10148 of the Code; and,

As to Paragraph 10(j), under Section 10177(d) and/or 10177(g) of the Code in conjunction with Section 10140.6 of the Code and Section 2773 of the Regulations.

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1 SECOND CAUSE OF ACTION

2 (E. Liberty Avenue Violations)

3 12

4 Each and every allegation in Paragraphs 1 through 11, inclusive, above, is
5 incorporated by this reference as if fully set forth herein.

6 13

7 Respondent, as a fiduciary to his property management clients and in that
8 capacity, owed a duty of utmost good faith and loyalty to his clients and was required to place
9 the interests of his clients above his own interests. Respondent's fiduciary duty included, but
10 was not limited to the following:

11 (a) Collecting security deposits and rent upon execution of lease
12 agreements;

13 (b) Not allowing tenants to move into properties without first having
14 obtained required security deposits, rents, or other funds pursuant to a lease agreement;

15 (c) Depositing trust funds in an account properly titled as a trust
16 account and/or titling the asset as being held for the benefit of the trust account beneficiaries and
17 thereby protecting the trust funds from Respondent's creditors;

18 (d) Notifying clients about deficiencies in rental and security deposit
19 receipts (i.e., late rents, or no rents or security deposits being paid) in a timely manner; and,

20 (e) Being truthful with clients about all aspects of their rental
21 properties and lease agreements managed by Respondent.

22 14

23 On about December 15, 2010, in connection with the brokerage activities
24 described in paragraph 5, above, Respondent entered into a Property Management Agreement
25 (herein "PMA") with property owner Jasvir Z. (herein "Property Owner") for the rental of
26 residential property known as 4011 E. Liberty Avenue, Fresno, CA (herein "the Property"),
27 wherein Respondent agreed to perform property management services for a management fee of

1 \$90 per month for each month that the Property is leased. The PMA was for the period of
2 December 15, 2010 through December 31, 2012, with a provision for the automatic renewal of
3 the agreement for a like-term absent express written termination with thirty days notice. The
4 terms of the PMA included, but were not limited to, the following:

5 "Owner hereby appoints manager as his lawful agent and attorney-in-fact with
6 full authority to do any and all lawful things necessary for the fulfillment of this
7 Agreement. Including the following:

- 8 a) To collect all rents as they become due, giving receipts therefore and to render
9 to Owner a monthly accounting of rents received and expenses paid out; and
10 to remit to Owner all income, less any sums paid out.
11 b) To make or cause to be made all maintenance and repairs to the property and
12 to hire and supervise all employees and other labor for the accomplishment of
13 same.
14 c) To advertise the property and display signs thereon; to rent and lease the
15 property; to sign, renew and cancel rental agreements and leases for the
16 property or any part thereof; to use and recover for rent and for loss or damage
17 to any part of the property and/or furnishings, thereof, and, when expedient, to
18 compromise, settle and release any such legal proceedings or lawsuits."

15

17 Respondent obtained prospective tenants to lease the Property, and on or about
18 January 9, 2011, a lease agreement (herein "January Lease Agreement") was entered into
19 between the Property Owner, Property Owner's spouse Eyedin Z., and tenants Michelle and
20 Roger H. ("Tenants"). The terms of the January Lease Agreement provided, but were not limited
21 to:

- 22 a) Lease term of January 15, 2011 through January 14, 2012;
23 b) Rent payments due on the first of each month at a rate of \$1,400.00 per month;
24 c) If Tenants were to take possession of the Property prior to commencement of the
25 lease, Tenants shall pay \$45.00 per day for each day that the Tenant occupies the
26 Property prior to the commencement date;
27 d) A late charge for rent that was paid late, at a rate of 5% of the rent due;

1 e) Tenants shall pay a security deposit in the amount of \$1,400.00 "on execution of
2 the lease"; and,

3 f) Tenants agreed to pay all charges for all utilities, including electricity, gas, water,
4 garbage, disposal, and telephones used in or on the leased Property during the
5 term of the lease.

6 16

7 Despite having entered into the January Lease Agreement, said agreement still
8 needed to be approved by the Housing Authority of the City and County of Fresno (herein
9 "Housing Authority"). The Housing Authority agreed to pay a portion of the Tenants' rent as the
10 Tenants were participants in a housing voucher program, also known as "Section 8". On or about
11 January 13, 2011, the Housing Authority issued a "Proposed Contract Rent Notice" to
12 Respondent, which stated the proposed rent for the Property would be \$1,211.00 total, and that
13 the Housing Authority would pay \$971.00 and Tenants would pay \$240.00. Tenants were also
14 responsible for paying the security deposit.

15 17

16 On or about January 24, 2011, Respondent gave the Tenants the keys to the
17 Property without first obtaining the security deposit in the amount of \$1,400.00 as required
18 pursuant to the January Lease Agreement. Respondent failed to notify the Owner that he allowed
19 the Tenants to move into the Property without collecting the required security deposit.

20 18

21 In February 2011, PG&E billed the Owner \$189.46 for utilities. The Owners
22 contacted Respondent, believing that the Property was still vacant as no security deposit had
23 been paid by the prospective Tenants. Respondent told the Owner that the Property was empty,
24 that he must have "left a light on" and "there are no squatters there."

25 19

26 Believing that the Property was still vacant, on or about February 18, 2011 the
27 Owners e-mailed Respondent and asked if he was actively advertising the Property for rent, to

1 which Respondent stated, "The property is being actively marketed on Craigslist. The tenant can
2 move in anytime."

3 20

4 On or about February 22, 2011, the Owner received a courtesy notice from the
5 City of Fresno, Code Enforcement Division ("Code Enforcement") stating they had received a
6 complaint that farm animals were being kept at the Property and that they must be removed as it
7 was a violation of the Fresno Municipal Code. Believing that the Property was vacant, the
8 Owners immediately called Respondent to inform him of the notice from Code Enforcement.
9 Respondent stated to the Owner that he would call the City of Fresno to tell them that they had
10 gotten the wrong address "because the subject property was vacant."

11 21

12 On or about March 15, 2011, a new lease agreement ("March Lease Agreement")
13 was entered into between the Property Owner, Property Owner's spouse Eyedin Z., and the
14 Tenants. The terms of the March Lease Agreement provided, but were not limited to:

- 15 a) Lease term of one year, beginning on January 24, 2011;
- 16 b) Rent payments due on the first of each month at a rate of \$1,350.00 per month,
17 and that the rent payments would be split between the Housing Authority and the
18 Tenants;
- 19 c) Tenants shall pay a security deposit in the amount of \$1,400.00 "on execution of
20 the lease";
- 21 d) Tenants agreed to pay all utility bills directly to the utility companies;
- 22 e) Tenant to pay for ADT home security service;
- 23 f) If Tenants were to take possession of the Property prior to commencement of the
24 lease, Tenants shall pay \$45.00 per day for each day that the Tenant occupies the
25 Property prior to the commencement date;
- 26 g) A late charge for rent that was paid late, at a rate of 5% of the rent due; and,
- 27 h) Tenants agreed to pay all charges for all utilities, including electricity, gas, water,

1 garbage, disposal, and telephones used in or on the leased Property during the
2 term of the lease.

3 22

4 Respondent told the Owner that he had made appointments with the Tenants to
5 collect the security deposit and give them the keys to the Property on March 15, 19 and 21, 2011.
6 Respondent told the Owner that while the Tenants showed up for the meeting on March 15, 2011
7 to sign the lease agreement, they failed to provide the security deposit and therefore, the keys to
8 the Property were not given to them. Respondent also told the Owner that the Tenants failed to
9 show up on subsequent scheduled appointments on March 19 and 21, 2011. On or about March
10 22, 2011, Respondent told the Owner that he had confirmed an appointment with the Tenants
11 scheduled for March 26, 2011, 2:00 p.m. to collect the security deposit and give them the keys to
12 the Property.

13 23

14 On or about March 25, 2011, the Owner received a Warning Notice ("the Police
15 Notice") from the City of Fresno Police Department dated March 18, 2011 stating an incident
16 occurred at the Property requiring the response of police officers on March 16, 2011. The Police
17 Notice stated "This incident caused the officers to document the event and notify the Southeast
18 District POP (Problem Oriented Policing) Team of their concern regarding the tenant/s at the
19 above address." The Owner contacted Respondent about the Police Notice after speaking with
20 neighbors living near the Property. The neighbors told the Owner that a family had been living
21 in the Property for approximately two (2) months. When the Owner confronted Respondent
22 about this, Respondent stated the neighbors were wrong, that no one was living in the property
23 for two (2) months, but that he had allowed the Tenants to move into the Property on or about
24 March 10 or 12, 2011.

25 24

26 On or about March 28, 2011, Respondent e-mailed the Owner and informed her
27 that he had contacted the Tenants regarding the Police Notice, and monies owed in connection

1 with the tenancy (security deposit and rents). Additionally, Respondent stated in the e-mail that
2 the Tenants "...know that we need the deposit, their portion of March and April rents, utilities to
3 be switched over, etc. immediately and that if they don't comply within three days that they will
4 be evicted...".

5 25

6 On or about April 4, 2011, Respondent sent Tenants a letter stating he
7 immediately needed Tenants to tender a deposit in the amount of \$1,350.00, payment for past
8 PG&E services of \$170.00, rent for March and April of \$379.00 for each month totaling
9 \$758.00, to have PG&E, water and trash turned on in Tenants names, and for Tenants to remove
10 the dog from the property. Respondent also stated in this letter that "Any issues in which the
11 police are involved are unacceptable and can never happen again. If these issues are not
12 corrected immediately I will proceed in the eviction process."

13 26

14 On or about April 4, 2011, Respondent gave the Owner thirty (30) days notice
15 that he was terminating their property management agreement and stated he would carry out his
16 property management duties until May 4, 2011, 5:00 p.m. On or about April 4, 2011,
17 Respondent generated an invoice billing Owner for monthly management fees for January,
18 February, March and April 2011 for \$90.00 for each month, as well as reimbursement for
19 handyman services of \$101.00. However, Respondent had previously represented to Owner that
20 the property was vacant in January and February 2011. When Owner asked Respondent why
21 Owner was billed for two months the property was supposedly vacant, Respondent replied by e-
22 mail that "I will be paid for each month the property is leased which is all four months."

23 27

24 Respondent breached his fiduciary duty to his clients by, among other breaches,
25 failing to collect security deposits and rent upon execution of lease agreements, allowing tenants
26 to move into the Property without first having obtained required security deposits, rents and
27 other funds pursuant to a lease agreement, failing to notify his clients about deficiencies in rental

1 and security deposit receipts in a timely manner, and failing to be truthful with his clients about
2 all aspects of their rental properties and lease agreements.

3 28

4 The facts alleged above within the Second Cause of Action are grounds for the
5 suspension or revocation of the licenses and license rights of Respondent under Sections
6 10176(a) (making substantial misrepresentation), 10177(c) (continued and flagrant course of
7 misrepresentation), 10177(i) (fraud or dishonest dealing), and 10177(g) (negligence or
8 incompetence in performing licensed act) of the Code.

9 COST RECOVERY

10 Audit Costs

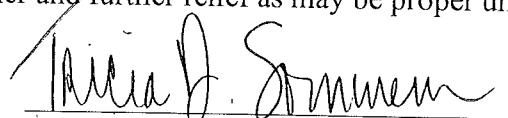
11 29

12 The acts and/or omissions of Respondent as alleged in the First Cause of Action,
13 above, entitle the Bureau to reimbursement of the costs of its audit pursuant to Section 10148(b)
14 (audit costs for trust fund handling violations) of the Code.

15 30

16 Section 10106 of the Code provides, in pertinent part, that in any order issued in
17 resolution of a disciplinary proceeding before the Bureau, the Commissioner may request the
18 Administrative Law Judge to direct a licensee found to have committed a violation of this part to
19 pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

20 WHEREFORE, Complainant prays that a hearing be conducted on the allegations
21 of this Accusation and that upon proof thereof, a decision be rendered revoking all licenses and
22 license rights of Respondent under the Real Estate Law (Part 1 of Division 4 of the Business and
23 Professions Code), for the cost of investigation and enforcement as permitted by law, for the cost
24 of the audit as permitted by law, and for such other and further relief as may be proper under
25 other provisions of law.

26 

27 TRICIA D. SOMMERS

Deputy Real Estate Commissioner

Dated at Sacramento, California,
this 10th day of December, 2013.