

JUDITH B. VASAN, Counsel (SBN 278115)
Bureau of Real Estate
320 West 4th Street, Suite 350
Los Angeles, California 90013-1105
Telephone: (213) 576-6982
Direct: (213) 576-6904
Fax: (213) 576-6917
Attorney for Complainant

FILED

MAR 19 2018

BUREAU OF REAL ESTATE

By *[Signature]*

BEFORE THE BUREAU OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of	)	No. H-40976 LA
	)	
JP FINANCIAL GROUP INC,	)	
JORGE ALFONSO POSADA,	)	<u>ACCUSATION</u>
individually and as designated officer of	)	
JP Financial Group Inc,	)	
	)	
Respondents.	)	
	)	

The Complainant, Veronica Kilpatrick, a Supervising Special Investigator of the State of California, for cause of Accusation against JP FINANCIAL GROUP INC and JORGE ALFONSO POSADA, individually and as designated officer of JP Financial Group Inc ("Respondents") alleges as follows:

1.

The Complainant, Veronica Kilpatrick, a Supervising Special Investigator of the State of California, makes this Accusation in her official capacity.

///

///

///

[illegible]

All references to the “Code” are to the Real Estate Law, Part 1 of Division 4 of the California Business and Professions Code (“Code”) and all references to “Regulations” are to Title 10, Chapter 6, California Code of Regulations.

(JORGE ALFONSO POSADA)

b. Respondent POSADA's individual broker license was originally issued on December 5, 2002, and is scheduled to expire on December 4, 2018, unless renewed.

d. Respondent POSADA currently maintains the fictitious business names “House 2 Home Mortgage,” “House 2 Home Realty,” and “JP Escrow” under his real estate broker license.

(JP FINANCIAL GROUP INC)

- 2 -

1 b. Respondent JFGI's corporate real estate license was originally issued on May
2 20, 2006, and is scheduled to expire on May 19, 2018, unless renewed.

3 c. Respondent JFGI holds a MLO license endorsement, NMLS No. 307577.

4 d. According to the Bureau's records to date, Respondent JFGI's main office
5 address is 12312 Euclid Street, Garden Grove, California.

6 e. Respondent JFGI's designated officer is Respondent POSADA.

7 f. According to the Bureau's records to date, Respondent JFGI currently
8 maintains the fictitious business names "House 2 Home Mortgage," "House 2 Home Realty,"
9 and "JP Escrow" under its corporate real estate broker license.

10 REAL ESTATE ACTIVITY

11 5.

12 At all times mentioned Respondents acted as real estate brokers and conducted
13 licensed activities within the meaning of Code section 10131(d). Respondents engaged in a
14 broker escrow activity and mortgage loan brokering including conducting activities wherein
15 Respondents solicited borrowers or lenders for or negotiated loans or collected payments or
16 performed services for borrowers or lenders or note owners in connection with loans secured
17 directly or collaterally by liens on real property.

18 CAUSE FOR ACCUSATION

19 (AUDIT NO. LA 16-0182 – BROKER ESCROW)

20 6.

21 On or about July 21 2017, the Bureau completed an audit examination (Audit
22 No. LA 16-0182) of the books and records of Respondent JFGI pertaining to its broker escrow
23 real estate activities described in Paragraph 5 above. The audit examination covered the period
24 of time from May 1, 2016 through April 28, 2017 ("audit period"), and was performed between
25 June 19, 2017 and June 20, 2017. The audit examination was limited to Respondent JFGI's
26 broker escrow activity only. The audit examination revealed violations of the Code and the
27

1 Regulations as set forth in the following paragraphs, and more fully discussed in Audit Report
2 No. LA 16-0182 and the exhibits and work papers attached to said audit report.

3 7.

4 An entrance conference was held on June 19, 2017, at Respondent JFGI's main
5 office address. The auditor met with Respondent POSADA and Loreen Trinh ("Trinh"), a non-
6 licensee and escrow officer of Respondent JFGI. According to Respondent POSADA,
7 Respondent JFGI is a mortgage banker and corresponding lender who solicits borrowers and
8 funds the loans through its line of credit. Respondent JFGI also performs residential sales
9 activity, representing both buyers and sellers. According to Respondent POSADA and the
10 records examined, Respondent JFGI also provides escrow services to its own clients.
11 Respondent JFGI closed approximately eighty-six (86) escrows during the audit period and
12 collected escrow trust funds amounting to \$15,968,090.00 for the 12-month period ending April
13 28, 2017.

14 8.

15 At all times mentioned herein, and in connection with the broker escrow
16 activities described in Paragraph 5 above, Respondent JFGI accepted or received funds,
17 including funds in trust ("trust funds") from or on behalf of actual or prospective parties to
18 transactions handled by Respondent JFGI, and thereafter made deposits and/or disbursements of
19 such funds. From time-to-time during the audit period, said trust funds were deposited and/or
20 maintained in the following bank account:

21 Bank Account ("Trust Account #1")

22 Bank: Hanmi Bank
23 Bank Address: 5245 Beach Boulevard, Buena Park, California 90621
24 Account Name: JP Financial Group Inc DBA JP Escrow Trust Account
25 Account Number: xxxxx1302
26 Signatories: Jorge Alfonso Posada (designated officer)
27

1 Portia Thuy Tran (office manager and real estate salesperson, Bureau
2 License ID 01302691, employed under Respondent POSADA's
3 individual broker license)

4 Purpose: Trust Account #1 was used for deposits and disbursements in connection
5 to Respondent JFGI's broker escrow activity. Deposits to Trust Account
6 #1 consisted of earnest money deposits and additional funds from buyers
7 and funds from lenders. Disbursements from Trust Account #1 included
8 commissions and fees earned by Respondent JFGI, funds due to buyers
9 and sellers at the close of the escrow transactions.

10 Violations of the Real Estate Law

11 9.

12 The audit examination revealed violations of the Code and the Regulations, as
13 set forth in the following paragraphs, and more fully discussed in Audit Report No. LA 16-0182
14 and the exhibits and work papers attached to the audit report:

15 (a) **Trust Fund Balance and Accountability (Code section 10145 and**
16 **Regulations sections 2832.1, 2951)**. A bank reconciliation was prepared as of April 28, 2017
17 for Trust Account #1. The adjusted bank balance of Trust Account #1 was then compared to the
18 total balance of the beneficiary records. According to the bank records provided by Respondent
19 for Trust Account #1, there was a trust fund shortage of <\$65,368.75> as of April 28, 2017. The
20 shortage was caused by the following:

21 (a) Negative escrow balances of <\$43,418.20> were caused by
22 disbursements related to escrows with insufficient funds in Trust Account #1. A significant
23 portion of the shortage (<\$38,567.99>) was caused by Escrow No. 2741. Five disbursements
24 totaling \$208,502.92 were made on April 26, 2017 against the receipt of \$169,934.93 that was
25 deposited on April 25, 2017.

(b) Bank fees of <\$1,290.00> were not paid. According to Respondent POSADA, he did not deposit Respondent JFGI's funds or his personal funds into Trust Account #1 since October 2016 to cover the bank fees incurred.

(c) The remaining cause(s) of the shortage of <\$20,660.55> could not be identified.

Respondents did not provide any evidence that the owners of the trust funds provided written consent to allow them to reduce the balance of the funds in the trust account to an amount less than the existing aggregate trust fund liabilities.

On May 1, 2017, buyer's funds of \$40,000.00 for Escrow No. 2741 were deposited. On June 26, 2017, Respondent JFGI deposited its own funds of \$21,950.99 into Trust Account #1. On June 30, 2017, Respondent JFGI deposited funds from one borrower totaling \$4,850.21 into Trust Account #1 to cure the shortage.

(b) **Trust Fund Handling – Deposit Trust Funds in a Timely Manner (Regulations section 2832(e))**. Respondent JFGI collected trust funds in the form of earnest money deposits and loan funds in connection to its broker escrow activity and failed to place said funds in Trust Account #1 by the next business day following receipt of said funds. For Example:

<u>Escrow No.</u>	<u>Amount</u>	<u>Date of Escrow Receipt</u>	<u>Date Deposited</u>
2753	\$3,500.00	4/26/2017	5/1/2017
2706	\$20,000.00	4/4/2017	5/1/2017
2741	\$40,000.00	4/24/2017	5/1/2017

(c) **Trust Account Reconciliation/When Broker Handles Escrow (Code section 10145 and Regulations sections 2831.2, 2951)**. During the audit period, Respondent JFGI failed to perform and maintain a monthly reconciliation comparing the balance of all separate beneficiary or transaction records ("separate records") to the balance of the record of all trust funds received and disbursed ("control record") for Trust Account #1 in violation of Regulations sections 2831.2 and 2951. During the entrance conference on June 19, 2017,

1 Respondent POSADA and escrow officer Trinh admitted to failing to perform the monthly trust
2 account reconciliation for Trust Account #1 during the audit period.

3 (d) **Trust Account Record to be Maintained/When Broker Handles Escrow**
4 **(Code section 10145(g) and Regulations sections 2831, 2950(d), 2951)**. Respondent JFGI
5 failed to maintain an accurate control record for Trust Account #1. Respondent JFGI provided
6 the Check Registrar, Receipt Report, Daily Balance Report and Balance Sheet for the audit
7 period. The Daily Balance Report was a report to reflect a daily balance of the bank statements
8 rather than the actual daily balance of Trust Account #1. An examination of the Check Registrar
9 and Receipt Report showed that some outgoing wires and receipts were incorrectly recorded.

10 (e) **Trust Account Withdrawals/When Broker Handles Escrow (Code**
11 **section 10145 and Regulations sections 2834, 2951)**. Portia Thuy Tran, office manager and
12 real estate salesperson, Bureau license ID 01302691, was an authorized signer of Trust Account
13 #1 while Tran was not employed by Respondent JFGI during the audit period. Tran has been
14 employed under Respondent POSADA's individual broker license since February 26, 2009.

15 (f) **Notification of Broker Escrow Activity (Code section 10141.6)**.
16 Respondent JFGI failed to notify the Bureau of its broker escrow activity within sixty (60) days
17 from December 31, 2016. Based on the examination of its records, Respondent JFGI closed
18 ninety-nine (99) escrow transactions in 2016.

19 (g) **Broker-Salesperson Relationship Agreement (Regulations section 2726)**.
20 Respondent JFGI did not have written broker-salesperson relationship agreements with one (1)
21 salesperson and one (1) associate broker.

22 (h) **Responsibility of Corporate Officer in Charge/Broker Supervision**
23 **(Code sections 10159.2 and 10177(h) and Regulations section 2725)**. Based on the violations
24 set forth in Paragraphs 9(a) through 9(g) above, Respondent POSADA failed to exercise
25 adequate supervision and control over the activities of Respondent JFGI's employees and
26 licensees to ensure compliance with the Real Estate Laws and Regulations in violation of Code
27 sections 10177(h) and 10159.2. Respondent POSADA failed to establish and/or implement

1 Respondent POSAD and escrow officer Trinh admitted to failing to perform the monthly trust
2 account reconciliation for Trust Account #1 during the audit period.

3 (d) **Trust Account Record to be Maintained/When Broker Handles Escrow**
4 **(Code section 10145(g) and Regulations sections 2831, 2950(d), 2951).** Respondent JFGI
5 failed to maintain an accurate control record for Trust Account #1. Respondent JFGI provided
6 the Check Registrar, Receipt Report, Daily Balance Report and Balance Sheet for the audit
7 period. The Daily Balance Report was a report to reflect a daily balance of the bank statements
8 rather than the actual daily balance of Trust Account #1. An examination of the Check Registrar
9 and Receipt Report showed that some outgoing wires and receipts were incorrectly recorded.

10 (e) **Trust Account Withdrawals/When Broker Handles Escrow (Code**
11 **section 10145 and Regulations sections 2834, 2951).** Portia Thuy Tran, office manager and
12 real estate salesperson, Bureau license ID 01302691, was an authorized signer of Trust Account
13 #1 while Tran was not employed by Respondent JFGI during the audit period. Tran has been
14 employed under Respondent POSADA's individual broker license since February 26, 2009.

15 (f) **Notification of Broker Escrow Activity (Code section 10141.6).**
16 Respondent JFGI failed to notify the Bureau of its broker escrow activity within sixty (60) days
17 from December 31, 2016. Based on the examination of its records, Respondent JFGI closed
18 ninety-nine (99) escrow transactions in 2016.

19 (g) **Broker-Salesperson Relationship Agreement (Regulations section 2726).**
20 Respondent JFGI did not have written broker-salesperson relationship agreements with one (1)
21 salesperson and one (1) associate broker.

22 (h) **Responsibility of Corporate Officer in Charge/Broker Supervision**
23 **(Code sections 10159.2 and 10177(h) and Regulations section 2725).** Based on the violations
24 set forth in Paragraphs 9(a) through 9(g) above, Respondent POSADA failed to exercise
25 adequate supervision and control over the activities of Respondent JFGI's employees and
26 licensees to ensure compliance with the Real Estate Laws and Regulations in violation of Code
27 sections 10177(h) and 10159.2. Respondent POSADA failed to establish and/or implement

1 policies, rules, procedures and system to review, oversee, inspect and manage transactions
2 requiring a real estate license and the handling of trust funds in violation of Regulations section
3 2725.

4 10.

5 Each of the foregoing violations in Paragraph 9(a)-(h) above constitute cause for
6 the suspension or revocation of the real estate license and/or license rights of Respondents
7 under the provisions of Sections 10177(d), 10177(g), and/or 10177(h).

8 COSTS

9 (AUDIT COSTS)

10 11.

11 Section 10148(b) of the Code, provides, in pertinent part, that the Real Estate
12 Commissioner shall charge a real estate broker for the costs of any audit if the Commissioner
13 has found in a final decision, following a disciplinary hearing, that the broker has violated
14 Section 10145 of the Code or a regulation or rule of the Commissioner interpreting said Code
15 section.

16 (INVESTIGATION AND ENFORCEMENT COSTS)

17 12.

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

22 ///

23 ///

24 ///

25 ///

26 ///

1 WHEREFORE, Complainant prays that a hearing be conducted on the allegations of
2 this Accusation and that upon proof thereof, a decision be rendered imposing disciplinary action
3 against all the licenses and/or license rights of Respondents JP FINANCIAL GROUP INC and
4 JORGE ALFONSO POSADA, individually and as designated officer of JP Financial Group Inc
5 under the Real Estate Law, for the costs of investigation and enforcement as permitted by law,
6 for the cost of the audit, and for such other and further relief as may be proper under other
7 applicable provisions of law.

8
9 Dated at San Diego, California this 9 day of March, 2018.

10
11
12 
13 Veronica Kilpatrick
14 Supervising Special Investigator
15
16
17
18
19
20
21
22
23
24

25 cc: JP FINANCIAL GROUP INC
26 JORGE ALFONSO POSADA
27 Veronica Kilpatrick
Sacto.
Audits – Gina King