

FILED

MAY 11 2020

DEPT. OF REAL ESTATE

By 

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)	No. H-41474 LA
)	
PERRY WILLIAM MADGE,)	<u>STIPULATION AND AGREEMENT</u>
doing business as)	
L J Kelly Mortgage Company,)	
)	
Respondent.)	
)	

It is hereby stipulated by and between Respondent PERRY WILLIAM MADGE ("Respondent"), represented by Peter F. Musielski, and the Complainant, acting by and through Steve Chu, Counsel for the Department of Real Estate ("Department"), as follows for the purpose of settling and disposing of the Accusation filed on August 26, 2019, in this matter:

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

///

///

1 2. Respondent has received, read and understands the Statement to
2 Respondent, the Discovery Provisions of the APA, and the Accusation filed by the Department
3 of Real Estate in this proceeding.

4 3. On September 6, 2019, Respondent filed a Notice of Defense pursuant to
5 Section 11506 of the Government Code for the purpose of requesting a hearing on the
6 allegations in the Accusation. Respondent hereby freely and voluntarily withdraws said Notice
7 of Defense. Respondent acknowledges that Respondent understands that by withdrawing said
8 Notice of Defense, Respondent will thereby waive Respondent's right to require the Real Estate
9 Commissioner ("Commissioner") to prove the allegations in the Accusation at a contested
10 hearing held in accordance with the provisions of the APA and that Respondent will waive
11 other rights afforded to Respondent in connection with the hearing such as the right to present
12 evidence in defense of the allegations in the Accusation and the right to cross-examine
13 witnesses.

14 4. Respondent, pursuant to the limitations set forth below, hereby admits
15 that the factual allegations in the Accusation filed in this proceeding are true and correct and the
16 Commissioner shall not be required to provide further evidence to prove such allegations.

17 5. It is understood by the parties that the Real Estate Commissioner may
18 adopt the Stipulation as her Decision in this matter, thereby imposing the penalty and sanctions
19 on Respondent's real estate license and license rights as set forth in the below Order. In the
20 event that the Commissioner in her discretion does not adopt the Stipulation, it shall be void
21 and of no effect, and Respondent shall retain the right to a hearing and proceeding on the
22 Accusation under all the provisions of the APA and shall not be bound by any admission or
23 waiver made herein.

24 6. The Order or any subsequent Order of the Commissioner made pursuant
25 to this Stipulation shall not constitute an estoppel, merger or bar to any further administrative or
26 civil proceedings by the Department with respect to any matters which were not specifically
27 alleged to be causes for the Accusation in this proceeding.

1 DETERMINATION OF ISSUES

2 By reason of the foregoing stipulations, admissions, and waivers, and solely for
3 the purpose of settlement of the pending Accusation without a hearing, it is stipulated and
4 agreed that the following Determination of Issues shall be made:

5 I.

6 The conduct, acts, and/or omissions of Respondent PERRY WILLIAM
7 MADGE, as described in the Accusation, constitute cause for the suspension or revocation of
8 all real estate licenses and license rights of Respondent PERRY WILLIAM MADGE under
9 California Business and Professions Code ("Code") sections 10177(d) and 10177(g) for
10 violation of Code sections 10140.6, 10145, 10148, 10161.8, 10232.3(a)(3), 10232.3(b),
11 10232.4(a), 10232.45, 10232.5(b), 10233(a), 10233(b), 10238(f), 10238(h)(3), 10238(l), and
12 10240 and Title 10, Chapter 6, California Code of Regulations ("Regulations") sections 2773,
13 2831, 2831.1, 2832, 2834, 2842, and 2846.

14 ORDER

15 I.

16 All licenses and licensing rights of Respondent PERRY WILLIAM MADGE
17 under the Real Estate Law are revoked; provided, however, a restricted real estate broker
18 license shall be issued to Respondent pursuant to Section 10156.5 of the Code if Respondent
19 makes application therefor and pays to the Department the appropriate fee for the restricted
20 license within ninety (90) days from the effective date of this Decision. The restricted license
21 issued to Respondent shall be subject to all of the provisions of Section 10156.7 of the Code
22 and to the following limitations, conditions, and restrictions imposed under Section 10156.6 of
23 the Code:

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

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

6 3. Respondent shall not be eligible to apply for the issuance of an
7 unrestricted real estate license, including designated officer or mortgage loan originator
8 endorsement, nor for the removal of any of the conditions, limitations or restrictions of a
9 restricted license until two (2) years have elapsed from the effective date of this Decision and
10 Order. Respondent withdraws all pending license applications.


11 4. All licenses and licensing rights of Respondent are indefinitely
12 suspended unless or until Respondent provides proof satisfactory to the Commissioner of
13 having taken and successfully completed the continuing education course on trust fund
14 accounting and handling specified in Code section 10170.5(a)(3). Proof of satisfaction of this
15 requirement includes evidence that Respondent has successfully completed the trust fund
16 accounting and handling continuing education course within one hundred twenty (120) days
17 prior to the effective date of this Decision and Order. Proof of completion of the trust fund
18 accounting and handling course must be delivered to the Department of Real Estate, Flag
19 Section at P.O. Box 137013, Sacramento, CA 95813-7013, prior to the effective date of this
20 Decision and Order.

21 5. All licenses and licensing rights of Respondent are indefinitely
22 suspended unless or until Respondent pays the sum of \$4,730.80 for the Commissioner's cost
23 of the audit which led to this disciplinary action pursuant to Code section 10148. Said payment
24 shall be in the form of a cashier's check made payable to the Department of Real Estate. The
25 audit cost must be delivered to the Department of Real Estate, Flag Section at
26 P.O. Box 137013, Sacramento, CA 95813-7013, prior to the effective date of this Decision and
27 Order.

1 6. All licenses and licensing rights of Respondent are indefinitely
2 suspended unless or until Respondent pays the sum of \$1,268.50 for the Commissioner's
3 reasonable cost of the investigation and enforcement which led to this disciplinary action. Said
4 payment shall be in the form of a cashier's check made payable to the Department of Real
5 Estate. The investigative and enforcement costs must be delivered to the Department of Real
6 Estate, Flag Section at P.O. Box 137013, Sacramento, CA 95813-7013, prior to the effective
7 date of this Decision and Order.

8 7. Respondent shall pay the Commissioner's reasonable cost, not to exceed
9 \$5,913.50, for any subsequent audit to determine if Respondent has corrected the violations
10 found in the Determination of Issues. In calculating the amount of the Commissioner's
11 reasonable cost, the Commissioner may use the estimated average hourly salary for all persons
12 performing audits of real estate brokers, and shall include an allocation for travel time to and
13 from the auditor's place of work. Respondent shall pay such cost within sixty (60) days of
14 receiving an invoice therefore from the Commissioner. If Respondent fails to satisfy this
15 condition in a timely manner as provided for herein, Respondent real estate licenses shall
16 automatically be suspended until payment is made in full, or until a decision providing
17 otherwise is adopted following a hearing held pursuant to this condition.

18
19 DATED: 3-12-2020



Steve Chu, Counsel
Department of Real Estate

21 ///
22 ///
23 ///
24 ///
25 ///
26 ///
27 ///

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

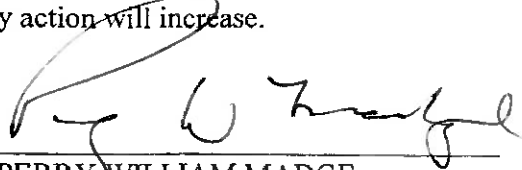
* * *

I have read the Stipulation and Agreement. I understand that I am waiving rights given to me by the California Administrative Procedure Act, (including but not limited to Sections 11521 and 11523 of the Government Code), and I willingly, intelligently, and voluntarily waive those rights, including the right to seek reconsideration and the right to seek judicial review of the Commissioner's Decision and Order by way of a writ of mandate.

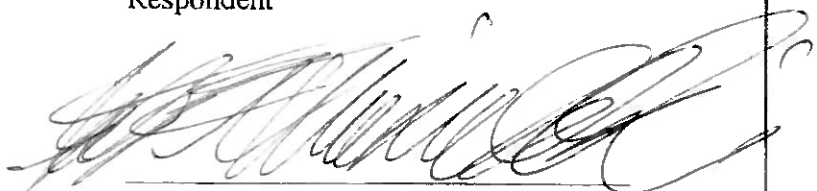
I agree, acknowledge, and understand that I cannot rescind or amend this Stipulation and Agreement.

I can signify acceptance and approval of the terms and conditions of this Stipulation and Agreement by mailing the original signed Stipulation and Agreement to: Steve Chu, Department of Real Estate, 320 West 4th Street, Suite 350, Los Angeles, California 90013-1105. Steve Chu must receive the original signed Stipulation and Agreement or a copy faxed to (213) 576-6917 by April 15, 2020; if not, this Stipulation and Agreement is invalid and void because the sum for the Commissioner's reasonable cost of the investigation and enforcement which led to this disciplinary action will increase.

DATED: 03-09-20


PERRY WILLIAM MADGE
Respondent

DATED: 3/9/2020


Peter F. Musielski
Counsel for Respondent
Approved as to Form

///
///
///
///

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

* * *

The foregoing Stipulation and Agreement is hereby adopted by me as my
Decision in this matter as to Respondent PERRY WILLIAM MADGE, and shall become
effective at 12 o'clock noon on ~~June 10, 2020~~.

IT IS SO ORDERED 4/16/20

SANDRA KNAU
ACTING REAL ESTATE COMMISSIONER

