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FILED

MAR 10 2023

DEPT. OF REAL ESTATE

By 

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of)	No. H-42529 LA
)	
ATHAS SERVICING CORPORATION, and)	<u>ACCUSATION</u>
ALIM KASSAM, individually and as)	
designated officer of Athas Servicing Corporation,)	
)	
Respondents.)	

The Complainant, Ruth Corral, a Supervising Special Investigator of the State of California, for cause of Accusation against ATHAS SERVICING CORPORATION and ALIM KASSAM (collectively "Respondents") alleges as follows:

1.

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

2.

All references to the "Code" are to the California Business and Professions Code and all references to "Regulations" are to Title 10, Chapter 6, California Code of Regulations.

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ACCUSATION

1 LICENSE HISTORY

2 3.

3 (ATHAS SERVICING CORPORATION)

4 (a) Respondent ATHAS SERVICING CORPORATION ("ASC") is presently
5 licensed and/or has license rights under the Real Estate Law, Part 1 of Division 4 of the
6 California Business and Professions Code, as a real estate corporation ("REC"), Department
7 license ID 02065143.

8 (b) The Department originally issued ASC's corporate license on May 31, 2018.
9 ASC's license is scheduled to expire on May 30, 2026, unless renewed.

10 (c) According to the Department's records to date, ASC has no broker associates
11 and/or salespersons under its license.

12 (d) ASC is presently licensed and/or has license rights to Mortgage Loan
13 Originator ("MLO") license endorsement with the Department with the assigned National
14 Mortgage Licensing System and Registry ("NMLS") No. 1811539.

15 4.

16 (ALIM KASSAM)

17 (a) Respondent ALIM KASSAM ("KASSAM") is presently licensed and/or has
18 license rights under the Real Estate Law, Part 1 of Division 4 of the California Business and
19 Professions Code, as a real estate broker ("REB"), Department license ID 01912784.

20 (b) The Department originally issued KASSAM's REB license on or about May
21 9, 2012. KASSAM's license is scheduled to expire on January 8, 2025, unless renewed.

22 (c) According to the Department's records, KASSAM has been the designated
23 officer of ASC since May 31, 2018 and is currently ACC's designated officer.

24 (d) KASSAM is presently licensed and/or has license rights to MLO license
25 endorsement with the Department with the assigned NMLS No. 276874.

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ACCUSATION

1 PRIOR DISCIPLINE

2 5.

3 On or about April 12, 2017, the Department issued a citation against KASSAM
4 for violations of Code Sections 10232.25 (failure to file quarterly non-accountability reports)
5 and 10232.4 (failure to provide Lender/Purchaser disclosure statement).

6 LICENSED ACTIVITIES

7 6.

8 At all times relevant herein Respondents were engaged in the business of, acted
9 in the capacity of, advertised or assumed to act as a real estate corporation, within the meaning
10 of Section 10131(d) of the Code. Respondents' activities included, but not limited to, soliciting
11 borrowers or lenders for or negotiating loans or collecting payments or performing services for
12 borrowers or lenders or note owners in connection with loans secured directly or collaterally by
13 liens on real property or on a business opportunity.

14 (AUDIT LA210088)

15 7.

16 On or about August 31, 2022, the Department completed an audit examination
17 of the books and records of ASC pertaining to the mortgage loan activities described in
18 Paragraph 6 above. The audit examination covered the period of time from February 1, 2019 to
19 December 31, 2021 ("audit period"). The primary purpose of the examination was to determine
20 whether Respondents conducted real estate activities complied with the Real Estate Law. The
21 audit examination revealed violations of the Code and the Regulations as set forth in the
22 following paragraphs, and more fully discussed in Audit No. LA210088, and the exhibits and
23 work papers attached to said audit report.

24 8.

25 At all times mentioned herein, and in connection with the mortgage loan
26 activities described in Paragraph 6, above, Respondents accepted or received funds, including
27 funds in trust ("trust funds") from or on behalf of actual or prospective parties to transactions

ACCUSATION

1 handled by Respondents and thereafter made deposits and/or disbursements of such funds.
2 According to the documents provided, Respondents maintained four (4) trust accounts for
3 handling of the receipts and disbursements of funds during the audit period in connection with
4 the mortgage loan activities. The bank accounts are as follows:

5 Bank Account 1 ("BA 1")

6 Bank: California Bank & Trust
7 Account Name: Athas Servicing Corporation Operating Accounts
8 Account Number: xxxxxxxx5529
9 Signatories: Alim Kassam, Brian O'Shaughnessy, Kevin O'Shaughnessy, and Gerard
10 J. Pitschman
11 Signatures Required: One
12 Purpose: BA 1 was maintained to handle operating funds for mortgage loan and
13 servicing activities.

14 Bank Account 2 ("BA 2")

15 Bank: California Bank & Trust
16 Account Name: Athas Servicing Corporation Invictus Residential Pooler Trust 1A
17 Account Number: xxxxxxxx5537
18 Signatories: Alim Kassam, Brian O'Shaughnessy, Kevin O'Shaughnessy, and Gerard
19 J. Pitschman
20 Signatures Required: One
21 Purpose: BA 2 was maintained to handle trust funds in the mortgage loan
22 activities. Per Respondents, this account was used to hold borrower payments and advances
23 from lender.

24 Bank Account 3 ("BA 3")

25 Bank: California Bank & Trust
26 Account Name: Athas Servicing Corporation Verus Mortgage Trust 1A
27 Account Number: xxxxxxxx5677

1 Signatories: Alim Kassam, Brian O'Shaughnessy, Kevin O'Shaughnessy, and Gerard
2 J. Pitschman

3 Signatures Required: One

4 Purpose: BA 3 was maintained to handle trust funds in the mortgage loan
5 activities. Per Respondents, this account was used to hold borrower payments and advances
6 from lender.

7 Bank Account 4 ("BA 4")

8 Bank: California Bank & Trust

9 Account Name: Athas Servicing Corporation BPL, LLC – Servicing Advance Account

10 Account Number: xxxxxxxx8927

11 Signatories: Alim Kassam, Brian O'Shaughnessy, Kevin O'Shaughnessy, and Gerard
12 J. Pitschman

13 Signatures Required: One

14 Purpose: BA 4 was maintained to handle trust funds in the mortgage loan
15 activities. Per Respondents, this account was used to hold borrower payments and advances
16 from lender.

17 Violations of the Real Estate Law

18 9.

19 The audit examination revealed violations of the Code and the Regulations, as
20 set forth in the following paragraphs, and more fully discussed in Audit Report No. LA21088,
21 and the exhibits and work papers attached to the audit report:

22 (a) Filing Fiscal Year Reports – Accounting Criteria / Annual Business

23 Activity Report (Code section 10232(c) and Regulations section 2849.01). ASC was
24 delinquent in filing the Mortgage Loan Business Activity Report (RE 881) for the fiscal years
25 ending December 31, 2019 and December 31, 2020 in violation of Code section 10232(c) and
26 Regulations sections 2849.01.

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1 (b) Trust Fund Status Report - Contents/Quarterly Trust Fund Status
2 Reports (Code section 10232.25 and Regulations sections 2846.8). ASC failed to timely
3 submit the required Trust Fund Accountability Report (RE 854) for the 1st quarterly threshold
4 ending in March 31, 2021, 2nd quarterly threshold ending in June 3, 2021, and 3rd quarterly
5 threshold ending in September 30, 2021 in violation of Code section 10145 and Regulations
6 sections 2831. The March 31, 2021 report was due no later than April 30, 2021, but was
7 received by the Department on May 10, 2021. The June 3, 2021 report was due no later than
8 July 31, 2021, but was received by the Department on November 23, 2021. The September 30,
9 2021 report was due no later than October 31, 2021, but was received by the Department on
10 November 23, 2021.

11 (c) Handling Of Trust Fund /Trust Account Withdrawal (Code section
12 10145 and Regulations section 2834). Based on an examination of BA 1, BA 2, BA 3, and BA
13 4's records, the accounts was used for handling the receipts and disbursements of trust funds in
14 connection with Respondents' mortgage loan activities. Respondent allowed Brian
15 O'Shaughnessy, Kevin O'Shaughnessy, and Gerard J. Pitschman, non-licensees, to be signers
16 in violation of Code section 10145 and Regulation section 2834. There was no evidence that
17 fidelity bond coverage was obtained for the non-licensee signers.

18 Additional Violations of the Real Estate Law

19 10.

20 Disclosure Statement Delivery, Investor Questionnaires, and Investor
21 Qualification Statements (Code sections 10232.4, 10232.45, and 10238(f)(1)). In examining
22 the loan transactions files involving notes funded by Athas Capital Group and later sold through
23 the services of ASC, there were no Lender/Purchaser Disclosure Statement, Investor
24 Questionnaires, and/or Investor Qualification Statements found in the files in violation of Code
25 sections 10232.4, 10232.45, and 10238(f)(1).

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11.

Trust Fund Status Report And Trust Fund Bank Account Reconciliation

(Code section 10232.25). Based on ASC's mortgage loan activities in 2019, 2020, and 2021, it met the threshold pursuant to Code section 10232, Respondents failed to properly file Trust Fund Status Report (RE 855) and Trust Fund Bank Account Reconciliation (RE 856) for 2019, 2020, and 2021 in violation of Code section 10232.25.

12.

Responsibility of Corporate Office in Charge/Broker Supervision (Code sections 10159.2 and 10177(h) and Regulations section 2725). Based on the violations in

Paragraphs 9-11 above, Respondent KASSAM failed to exercise adequate supervision and control over ASC's mortgage loan and servicing activities in violation of Code section 10159.2. Respondent KASSAM failed to provide established policies, rules, procedures, and systems to review, oversee, inspect, and manage transactions requiring a real estate license and the handling of trust funds in violation of Regulations section 2725.

13.

The overall conduct of Respondents violates the Real Estate Law and constitutes cause for the suspension or revocation of their real estate license and license rights under the provisions of **Code Section 10177(g)** for negligence and **Code Section 10177(d)** for willful disregard of the Real Estate Law.

14.

Each of the foregoing violations in Paragraphs 9-11 above constitute cause for the suspension or revocation of the real estate license, MLO license endorsement, and/or license rights of Respondents under the provisions of Code sections 10166.051(a), 10166.051(b), 10177(d), 10177(g), and 10177(h) (as to KASSAM).

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