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FILED

SEP 19 2024

DEPT. OF REAL ESTATE

By- [REDACTED]

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of) No. H-42881 LA
12)
13 PERRY WILLIAM MADGE,) ACCUSATION
14 doing business as)
15 L J Kelly Mortgage Company,)
16 Respondent.)

17 The Complainant, Jason Parson, a Supervising Special Investigator for the
18 Department of Real Estate ("Department") of the State of California, for cause of Accusation
19 against PERRY WILLIAM MADGE, doing business as L J Kelly Mortgage Company
20 ("Respondent"), is informed and alleges as follows:

21 1.

22 The Complainant, Jason Parson, a Supervising Special Investigator of the State
23 of California, makes this Accusation in his official capacity.

24 2.

25 All references to the "Code" are to the California Business and Professions
26 Code, all references to the "Real Estate Law" are to Part 1 of Division 4 of the Code, and all
27 references to "Regulations" are to the Regulations of the Real Estate Commissioner, Title 10,

1 Chapter 6, California Code of Regulations.

2 LICENSE HISTORY

3 3.

4 Respondent presently has license rights under the Real Estate Law, Part 1 of
5 Division 4 of the Code, as a restricted real estate broker, license ID 00347654. On June 9,
6 2024, Respondent's restricted broker license expired. Pursuant to Code Section 10201,
7 Respondent retains renewal rights for two years. The Department holds jurisdiction over the
8 lapsed license, pursuant to Code Section 10103.

9 4.

10 a. On or about August 26, 2019, in Case Number H-41474 LA, the Department
11 filed an Accusation against Respondent for audit violations that included, but not limited to, the
12 following:

- 13 i. Respondent's failure to maintain complete trust fund records (Code
14 section 10145 and Regulations section 2831);
- 15 ii. Respondent's failure to maintain complete separate records (Code
16 section 10145 and Regulations section 2831.1);
- 17 iii. Respondent's failure to maintain loan servicing agreements that satisfy
18 the requirements of Code section 10238(k) (Code section 10233(a));
19 and
- 20 iv. Respondent's failure to provide required accountings to all lenders or
21 purchasers (Code section 10233(b)).

22 b. On or about April 16, 2020, in Case Number H-41474 LA, the Real Estate
23 Commissioner issued a Decision and Order adopting the terms of the Stipulation and
24 Agreement wherein Respondent's licenses and license rights were revoked, provided however,
25 Respondent be issued a restricted real estate broker license, under certain terms and conditions,
26 including, but not limited to, a subsequent audit to determine if Respondent has corrected the
27 violations found in Case Number H-41474 LA. Said Decision and Order became effective on

1 June 10, 2020. Respondent's broker license remained restricted since then and expired on June
2 9, 2024.

3 BROKER ACTIVITIES

4 5.

5 At all times relevant herein, Respondent engaged in the business of, acted in the
6 capacity of, advertised or assumed to act as a real estate broker, within the meaning of section
7 10131(d) of the Code. Respondent's activities including soliciting borrowers or lenders for or
8 negotiating loans or collecting payments or performing services for borrowers or lenders or
9 note owners in connection with loans secured directly or collaterally by liens on real property.

10 CAUSE FOR ACCUSATION

11 (AUDIT LA220097)

12 6.

13 On or about June 29, 2023, the Department completed a follow-up audit
14 examination of the books and records of Respondent pertaining to his mortgage loan servicing
15 activities. The audit examination covered the period of time from July 1, 2021 to March 31,
16 2023 ("audit period"). The primary purpose of the follow-up examination was to determine
17 whether Respondent has complied with the Real Estate Law, more specifically cited in the
18 Accusation and Stipulation and Agreement in Case Number H-41474.

19 7.

20 Based on the examination of records provided for the audit examination and
21 discussions with Respondent, during the audit period, Respondent maintained two (2) multiple
22 beneficiary bank accounts at Bank of the West that handled trust funds in connection with the
23 mortgage loan servicing activities: "TA 1" (Account No. xxxxx6879) and "BA 1" (Account
24 No. xxxxx4106).

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Violations of the Real Estate Law

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The audit examination revealed violations of the Code and the Regulations, as set forth in the following paragraphs, and more fully discussed in Audit Report No. LA220097 and the exhibits and work papers attached to the audit report.

9.

(a) Trust Fund Records to be Maintained (Code section 10145 and Regulation 2831). During the audit period, Respondent failed to maintain a complete and accurate records of all trust funds received and disbursed (control record) for TA 1, in violation of Code section 10145 and Regulation 2831. Said control record was missing the daily balance.

(b) Separate Record for Each Beneficiary of Transaction (Code section 10145 and Regulation 2831.1). During the audit period, Respondent failed to maintain a complete and/or accurate separate records for each beneficiary or transaction for TA 1, in violation of Code section 10145 and Regulation 2831.1. The separate records were missing the amount of each related disbursement and the balance after posting transactions on any date. The separate records were also missing the check number of the servicing fees disbursed, and respondent failed to record the amount of each check individually for the checks received as investors' loan servicing payments. Examples are loan servicing numbers 3827, 3841, 3881, 3885, 3888, and 3889, and some of those examples are the following:

<u>Loan No.</u>	<u>Check date</u>	<u>Check no.</u>	<u>Amount</u>	<u>Payment Type</u>
3888	07/12/2022	2330	\$ 275.62	Investor's payment
3888	07/12/2022	2361	\$ 16.05	Servicing fee
3889	09/10/2022	2418	\$ 330.75	Investor's payment
3889	09/10/2022	2419	\$ 19.25	Servicing fee

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1 **(c) Authorization Required to Service Promissory Note / Written Servicing**
 2 **Agreements (Code sections 10233(a), 10238(k)(1), 10238(k)(2), 10238(k)(4), and**
 3 **10238(k)(5).** All the loan servicing agreements maintained by Respondent and sampled for
 4 examination did not satisfy the requirements of Code sections 10233(a), 10238(k)(1)(b)(2), and
 5 10238(k)(1)(b)(5). Examples are loan servicing numbers 3827, 3841, 3881, 3885, 3888, and
 6 3889, and some of those examples are the following:

<u>Loan No.</u>	<u>Investor Name</u>	<u>Property</u>
3841	Velma Thomas	1517 N. King St.
3888	Velma Thomas	1333 Vista Serena Ave.
3881	Keith Pledger	1502 16 22 N. Flower St.
3841	Donna Keene	1517 N. King St.
3827	Thomas Gordon	1319 Vista Serena Ave.

13 **(d) Statement Sent to Lenders (Code section 10233(b)).** In all of the loan
 14 servicing files sampled for examination, Respondent failed to provide the lenders with an
 15 accounting of collections and disbursements received and made during each year as required.
 16 Examples are loan servicing numbers 3827, 3841, 3881, 3885, 3888, and 3889.

17 10.

18 The conduct of Respondents described in Paragraph 9 above, violated the Code
 19 and Regulations as set forth below:

<u>Paragraph</u>	<u>PROVISIONS VIOLATED</u>
9(a)	Code section 10145 and Regulations section 2831
9(b)	Code section 10145 and Regulations section 2831.1
9(c)	Code sections 10233(a), 10238(k)(1), 10238(k)(2), 10238(k)(4), and 10238(k)(5).
9(d)	Code section 10233(b)

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1 Each of the foregoing violations constitute cause for the suspension or
2 revocation of the real estate license and/or license rights of Respondents under the provisions of
3 Code sections 10177(d) and/or 10176(g).

4 COSTS

5 (AUDIT COSTS)

6 11.

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

12 (INVESTIGATION AND ENFORCEMENT COSTS)

13 12.

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

19 WHEREFORE, Complainant prays that a hearing be conducted on the
20 allegations of this Accusation and that upon proof thereof, a decision be rendered imposing
21 disciplinary action against all the licenses and/or license rights of Respondent PERRY
22 WILLIAM MADGE under the Real Estate Law, for the costs of investigation and enforcement
23 as permitted by law, for the cost of the audit, and for such other and further relief as may be

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1 proper under other applicable provisions of law.

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3 Dated at Los Angeles, California, on September 18, 2024, 2024.

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Jason Parson
Supervising Special Investigator

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cc: PERRY WILLIAM MADGE
Jason Parson
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Audits – Zaky Wanis