SPC

Department of Real Estate
320 West 4th Street, Suite 350
Los Angeles, California 90013-1105

Telephone: (213) 576-6982

FILED

APR 20 2012

DEPARTMENT OF REAL ESTATE
BY: C.2

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * * *

To: LUIS H. MARTINEZ, ROSARIO MARIA HERNANDEZ, and H&R MORTGAGE GROUP, INC.	No. H-38072 LA ORDER TO DESIST AND REFRAIN (B&P Code Section 10086)

The Commissioner ("Commissioner") of the California Department of Real Estate ("Department") caused an investigation to be made of the activities of LUIS H. MARTINEZ, ROSARIO MARIA HERNANDEZ, and H&R MORTGAGE GROUP, INC. Based on that investigation the Commissioner has determined that LUIS H. MARTINEZ, ROSARIO MARIA HERNANDEZ, and H&R MORTGAGE GROUP, INC. have engaged in or are engaging in acts or attempting to engage in the business of, acting in the capacity of, and/or advertising or assuming to act as real estate brokers in the State of California within the meaning of Business and Professions Code Sections 10131(a) (solicit or obtain listings of, or negotiate the purchase, sale or exchange of real property or a business opportunity) and 10131(b) (solicit for prospective tenants or negotiate the exchange of leases on real property or on a business opportunity).

In addition, based on that investigation, the Commissioner has determined that LUIS H. MARTINEZ, ROSARIO MARIA HERNANDEZ, and H&R MORTGAGE GROUP,

INC. have engaged in or are engaging in acts or are attempting to engage practices constituting violations of the California Business and Professions Code ("Code") and/or Title 10, California Code of Regulations ("Regulations"). Based on the findings of that investigation, set forth below, the Commissioner hereby issues the following Findings of Fact, Conclusions of Law, and Desist and Refrain Order under the authority of Section 10086 of the Code.

FINDINGS OF FACT

1. From August 25, 2000, through the present, ROSARIO MARIA HERNANDEZ ("HERNANDEZ") has been licensed by the Department of Real Estate ("Department") as a real estate salesperson, Department License No. 01281317.

2. H&R MORTGAGE GROUP, INC. ("H&R") and LUIS H. MARTINEZ ("MARTINEZ") have never been licensed in any capacity by the Department.

3. H&R is a California corporation whose corporate rights were suspended by the Franchise Tax Board on or about January 3, 2011. MARTINEZ is the owner and president of H&R. HERNANDEZ is the Vice-President of H&R.

4. From on or about March 20, 2009, through June 1, 2009, HERNADEZ and MARTINEZ, while doing business as H&R, charged and collected advance fees from borrowers Salvador H., Rosa P., Manuel M., and Rosa M. for loan modification and negotiation services. Manuel and Rosa M. paid $2,500 to H&R for loan modification and negotiation services. Salvador Garcia H. and Rosa P. paid $2,000 to H&R and HERNANDEZ for loan modification and negotiation services.

CONCLUSIONS OF LAW

5. Code Section 10132 defines a real estate salesperson as a person who, for compensation or in expectation of compensation, is employed by a licensed real estate broker to do one or more of the acts set forth in Sections 10131, 10131.1, 10131.2, 10131.3, 10131.4, and 10131.6.

6. Under Code Section 10131, a real estate broker is defined as a person who: (a) sells or offers to sell, buys or offers to buy, solicits prospective sellers or purchasers of, solicits

or obtains listing of, or negotiates the purchase, sale or exchange of real property or a business opportunity; or (d) solicits borrowers or lenders for or negotiates loans or collects payment or performs services for borrowers or lenders or note owners in connection with loans secured directly or collaterally by liens on real property or on a business opportunity.

7. Code Section 10131.2 defines a real estate broker as a person who engages in the business of claiming, demanding, charging, receiving, collecting or contracting for the collection of an advance fee in connection with any employment undertaken to promote the sale or lease of real property or of a business opportunity by advance fee listing, advertisement or other offering to sell, lease, exchange or rent property or a business opportunity, or to obtain a loan or loans thereon.

8. Code Section 10026, in pertinent part, defines an advance fee as a fee that is claimed, demanded, charged, received, or collected by a licensee for services requiring a license. A person who proposes to collect an advance fee as defined in Code Section 10026 must submit to the Commissioner not less than ten calendar days before publication or other use, all materials to be used in advertising, promoting, soliciting and negotiating an agreement calling for the payment of an advance fee including the form of advance fee agreement proposed for use, pursuant to Section 2970, Regulations of the Real Estate Commissioner, Title 10, Chapter 6, California Code of Regulations. Code Section 10085 also allows the Commissioner to require that any all materials used in obtaining advance fee agreements, including contract forms, be submitted at least 10 calendar days before they are used.

9. Based on the information contained in Paragraphs 1 through 8, LUIS H. MARTINEZ, ROSARIO MARIA HERNANDEZ, and H&R MORTGAGE GROUP, INC. violated Section 10130 of the Code by engaging in the activities without first obtaining a broker license from the Department or acting under the license of an employing broker.

///

///

///

DESIST AND REFRAIN ORDER

Based upon the FINDINGS OF FACT and CONCLUSIONS OF LAW stated herein, IT IS HEREBY ORDERED THAT LUIS H. MARTINEZ, ROSARIO MARIA HERNANDEZ, and H&R MORTGAGE GROUP, INC. whether doing business under their own names, or any other names, or any fictitious name, ARE HEREBY ORDERED to immediately desist and refrain from performing any acts within the State of California for which a real estate broker license is required. In particular each of them is ORDERED TO DESIST AND REFRAIN from:

1. charging, demanding, claiming, collecting and/or receiving advance fees, as that term is defined in Section 10026 of the Code, in any form, and under any conditions, with respect to the performance of loan modifications or any other form of mortgage loan forbearance service in connection with loan on residential property containing four or fewer dwelling units; and

2. charging, demanding, claiming, collecting and/or receiving advance fees, as that term is defined in Code Section 10026, for any other real estate related services offered by them to others.

DATED: 3/30, 2012.

Real Estate Commissioner

By WAYNE S. BELL
Chief Counsel

Notice: Business and Professions Code Section 10139 provides that "Any person acting as a real estate broker or real estate salesperson without a license or who advertises using words indicating that he or she is a real estate broker without being so licensed shall be guilty of a public offense punishable by a fine not exceeding twenty thousand dollars ($20,000), or by imprisonment in the county jail for a term not to exceed six months, or by both fine and imprisonment; or if a corporation, be punished by a fine not exceeding sixty thousand dollars ($60,000)."

cc: Luis H. Martinez
H&R Mortgage Group, Inc.
16255 Ventura Blvd. #1115
Encino, CA 91436

Rosario Maria Hernandez
340 E. Route 66
Glendora, CA 91740