

1 salesperson, Department License No. 01281317. Respondent
2 HERNANDEZ has been licensed under the employment of Respondent
3 GALVAN from March 24, 2009, through the present.

4 3.

5 From October 23, 2004, through the present, Respondent
6 CARLOS ANGEL GALVAN ("GALVAN") has been licensed by the
7 Department as a real estate broker, Department License No.
8 01023450.

9 4.

10 Business and Professions Code ("Code") Section 10132
11 defines a real estate salesperson as a person who, for
12 compensation or in expectation of compensation, is employed by a
13 licensed real estate broker to do one or more of the acts set
14 forth in Code Sections 10131, 10131.1, 10131.2, 10131.3,
15 10131.4, and 10131.6.

16 5.

17 Pursuant to Code Section 10131, a real estate broker
18 is defined as a person who: (a) sells or offers to sell, buys or
19 offers to buy, solicits prospective sellers or purchasers of,
20 solicits or obtains listing of, or negotiates the purchase, sale
21 or exchange of real property or a business opportunity; or (d)
22 solicits borrowers or lenders for or negotiates loans or
23 collects payment or performs services for borrowers or lenders
24 or note owners in connection with loans secured directly or
25 collaterally by liens on real property or on a business
26 opportunity.

6.

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.

7.

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 ("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.

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1 8.

2 H&R Mortgage Group, Inc. ("H&R") and Luis H. Martinez
3 have never been licensed in any capacity by the Department.

4 9.

5 H&R is a California corporation whose corporate rights
6 were suspended by the Franchise Tax Board on or about January 3,
7 2011. Luis H. Martinez is the owner and president of H&R.
8 Respondent HERNANDEZ is the Vice-President of H&R. Respondent
9 GALVAN is an officer and director of H&R. On May 12, 2009, the
10 Department received Respondent GALVAN's corporation license
11 application on behalf of H&R. The corporation license
12 application was not processed due to Respondent's payment of the
13 filing fee with a dishonored check.

14 Advance Fee Violations

15 10.

16 From on or about March 20, 2009, through June 1, 2009,
17 Respondents, while doing business as H&R, charged and collected
18 advance fees from borrowers Salvador H., Rosa P., Manuel M., and
19 Rosa M. for loan modification and negotiation services. Manuel
20 and Rosa M. paid \$2,500 to H&R for loan modification and
21 negotiation services. Salvador H. and Rosa P. paid \$2,000 to
22 H&R and Respondent HERNANDEZ for loan modification and
23 negotiation services.

24 11.

25 Respondents GALVAN and HERNANDEZ failed to comply with
26 the advance fee requirements under Regulation Section 2970 and
27 Code Sections 10085 and 10146 (failure to deposit advance fees
28

1 in a trust account).

2 12.

3 As set forth above, Respondents HERNANDEZ and GALVAN
4 used the unlicensed fictitious business name, H&R Mortgage
5 Group, Inc., to engage in activities that require a real estate
6 broker license. The facts alleged above constitute a violation
7 of Code Sections 10130 (unlicensed activity) and 10159.5
8 (unlicensed use of a fictitious business name) and Regulation
9 2731 (use of false or fictitious name) and are grounds for the
10 suspension or revocation of Respondents' real estate licenses
11 and license rights pursuant to Code Sections 10139, 10177(d)
12 and/or 10177(g).

13 13.

14 As set forth above, Respondents HERNANDEZ and GALVAN
15 violated Regulation Section 2970 and Code Sections 10085 and
16 10146 which constitute grounds for the suspension or revocation
17 of Respondents' real estate licenses and license rights pursuant
18 to Code Sections 10177(d) and/or 10177(g).

19 14.

20 The conduct, acts and/or omissions of Respondent
21 GALVAN as set forth above constitute a violation of Regulation
22 Sections 2725 (failure to exercise reasonable supervision of a
23 salesperson) and are grounds for the suspension or revocation of
24 Respondent GALVAN's real estate broker license and license
25 rights.
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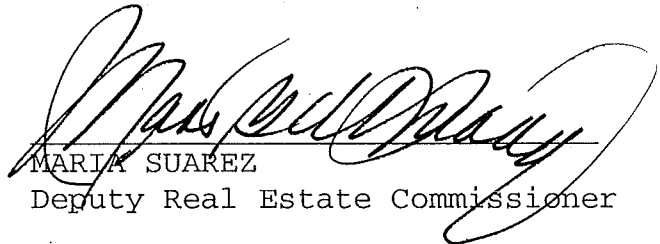
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1 Code Section 10106 provides, in pertinent part, that
2 in any order issued in resolution of a disciplinary proceeding
3 before the Department of Real Estate, the Commissioner may
4 request the administrative law judge to direct a licensee found
5 to have committed a violation of this part to pay a sum not to
6 exceed the reasonable costs of the investigation and enforcement
7 of the case.

8 WHEREFORE, Complainant prays that a hearing be
9 conducted on the allegations of this Accusation and that upon
10 proof thereof, a decision be rendered imposing disciplinary
11 action against all licenses and license rights of Respondents
12 ROSARIO MARIA HERNANDEZ and CARLOS ANGEL GALVAN under the Real
13 Estate Law (Part 1 of Division 4 of the Business and Professions
14 Code), for the cost of investigation and enforcement as
15 permitted by law, and for such other and further relief as may
16 be proper under other provisions of law.

17 this 9th day of March, 2012.

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22 MARIA SUAREZ
23 Deputy Real Estate Commissioner
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25

26 cc: Rosario Maria Hernandez
27 Carlos Angel Galvan
28 Maria Suarez
Sacto