



BEFORE THE  
DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

MARLON ORTEGA,  
and  
ARMANDO MEMBRENO,

Respondents.

Case No. H-37359-LA

OAH No. 2011120953

PROPOSED DECISION

This matter was heard by Glynda B. Gomez, Administrative Law Judge, Office of Administrative Hearings, State of California, on July 17, 2012, in Los Angeles, California.

Maria Suarez (Complainant) was represented by Lissete Garcia, Counsel, California Department of Real Estate (DRE). Marlon Ortega (Respondent Ortega or Ortega) represented himself. Respondent Armando Membreno (Respondent Membreno or Membreno) was not present or represented at the hearing.

Oral and documentary evidence was received, the record closed and the matter was submitted for decision on July 17, 2012.

FACTUAL FINDINGS

1. Complainant filed Accusation Number H-37359-LA against the respondents in her official capacity as a Deputy Real Estate Commissioner for the State of California.
2. Real Estate Salesperson license number 01737070 was issued to Respondent Ortega on March 25, 2006. The license is current and is due to expire on March 24, 2014. Ortega was the owner of Metro Golden Financial Funding Group Inc. (Metro), license number 01523460, which was located at 688 N. Arrowhead Avenue, Suite 101-B, San Bernardino, California. Ortega's real estate salesperson license was listed as under the employment of Metro from September 5, 2006, to August 11, 2008.

3. Real Estate Salesperson license number 01786106 was issued to Respondent Membreno on January 27, 2007. The license expired on January 26, 2011. Membreno's real estate salesperson license was listed as under the employment of Metro from January 27, 2007 to August 11, 2008.

4. Joel Rodriguez (Rodriguez) and Respondents Membreno and Ortega were the incorporators and corporate officers of Casa Mar Financial (Casa Mar) which was located in the same office as Metro. Casa Mar was a corporation established by Ortega, Membreno and Rodriguez on April 28, 2008, for the stated purpose of providing financial services and investments. Ortega testified that Casa Mar was formed to act as a third party in the negotiation of short sale transactions. Rodriguez was the Chief Executive Officer, Membreno was the secretary, chief financial officer, a director and the agent for service of process and Ortega was the secretary and a director.

5. Armando Santana Ramos (Ramos) was referred by a neighbor to Respondent Membreno for assistance with a loan modification. On June 7, 2008, Ramos met with Membreno, to obtain Membreno's assistance with a loan modification for the mortgage on his residence located at 12411 Osborne Street, Unit 10, Pacoima, California (Ramos Property). Membreno advised Ramos that he worked for Casa Mar and that Ortega was his boss. During the June 7, 2008 meeting, Ramos provided Membreno with his bank statements, two years of income tax returns and mortgage statements. Ramos gave Membreno a check for \$1,200 as partial payment of a \$1,995 processing fee that Membreno demanded.

6. On June 27, 2008, Ramos received a letter from Melissa Wiltrout, a loan processor with Casa Mar, acknowledging that Ramos was a new client of Casa Mar and that the firm would be handling the loan modification negotiation for the Ramos Property (Ramos loan modification).

7. Ramos waited for Membreno to work out a loan modification on his mortgage for over a year. Finally, on June 19, 2009, Membreno informed Ramos that he was unable to arrange a loan modification for the Ramos property. Membreno arranged for Ramos to join a program he called "Oracle Vision" which Membreno described to Ramos as an organization of lawyers that arranged loan modifications and would require payment of \$1,200 per month. At that time, Membreno took Ramos to a notary and had Ramos sign a document that referenced a Trustee Foreclosure. Ramos made two payments to the "Oracle Vision" program before he was advised by Membreno that the "Oracle Vision" program was unable to negotiate the Ramos loan modification.

8. Membreno next referred Ramos to the "Sunset Beach Trust" operated by Sally Samaris (Samaris) and Rene Solis (Solis) under the name of SB Management. Membreno explained that the "Sunset Beach Trust" would take over handling the negotiations and would attempt to buy the Ramos property from the

lender. At Membreno's instruction, Ramos made 11 payments of \$930 to "Sunset Beach Trust." Ramos and his wife delivered each of the \$930 payments to Samaris and Solis at their office located at 21133 Victory Blvd., Suite 209, Canoga Park, California.

9. In an interview with DRE investigator Edgar Sarmiento, Membreno admitted that he had made the referrals to the Oracle Vision and Sunset Beach Trust. He also admitted that he expected a referral fee from each, but claimed that he never received any referral fees.

10. Respondent Membreno asked Ortega to place a short sale listing for the Ramos property, dated August 28, 2008, in the Multiple Listing Service (MLS). Membreno had not paid his MLS fees at that time and was therefore ineligible to list property in the MLS. Respondent Ortega placed the listing in the MLS under his own name on September 11, 2008. Ortega received a few inquiries about the listing and referred the inquiries to Membreno.

11. At hearing, Ramos credibly testified that he did not sign the sales agreement and never intended to sell the Ramos property, never spoke with Ortega, never met with Ortega and never engaged Ortega to handle any transaction related to the Ramos Property.

12. In January of 2009, Ortega learned that Membreno was accepting advance fees for negotiations of loan modifications under the auspices of Casa Mar. Ortega resigned from Casa Mar effective March 31, 2009, and moved out of the office that Metro<sup>1</sup> and Casa Mar shared. A new Statement of Information was filed with the Secretary of State showing Joel Rodriguez as replacing Ortega as secretary and director of Casa Mar on September 3, 2009.

13. The lender foreclosed on the Ramos property and the sheriff evicted the Ramos family on May 21, 2010. Membreno refused to return the \$1,200 advance fee that he was paid by Ramos. He assured Ramos that the foreclosure and eviction were a mistake and that the Ramos loan modification was still in negotiation.

14. Yesina Ruvalcaba (Ruvalcaba) was the real estate broker of record for Metro. She was not aware of the existence of Casa Mar and was not aware that Membreno had solicited loan modifications or had accepted advance fees. Ruvalcaba had not authorized any of the Metro salespersons to accept advance fees for any type of transactions or to negotiate loan modifications.

---

1 Ortega closed Metro in March of 2009, because of financial difficulties and the decline in the real estate and mortgage markets.

*Mitigation/Rehabilitation*

15. With respect to Respondent Membreno, there is no evidence of mitigation or rehabilitation.

16. With respect to Respondent Ortega, there is evidence that Ortega was not aware of the Ramos loan modification. Ortega provided letters of reference from clients Donald Brock, Elizabeth Stout and Esther Rangle, and real estate brokers Badar Mansoor of Realty Executives and Eric Brown of New Millennium Realtors. Each attested to Ortega's good character and professionalism.

LEGAL CONCLUSIONS

1. Business and Professions Code section<sup>2</sup>10026 provides that the term "advance fee" means a fee, regardless of the form, that is claimed, demanded, charged, received or collected by a licensee for services requiring a license before fully completing the service the licensee contracted to perform or represented would be performed.

2. Code section 10130 provides that it is unlawful for any person to engage in the business, act in the capacity of, advertise or assume to act as a real estate broker without a license.

3. Code section 10131, subdivision (d), provides that a real estate broker is a person who, for a compensation or in expectation of a compensation, regardless of the form or time of payment, solicits borrowers or lenders for or negotiates or collects payments 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 opportunities.

4. Code section 10131.1 provides that a real estate broker is a person who engages as a principal in the business of making loans or buying from, selling to, or exchanging with the public, real property sales contracts or promissory notes secured directly or collaterally by liens on real property, or who makes agreements with the public for the collection of payments or for the performance of services in connection with real property sales contracts or promissory notes secured directly or collaterally by liens on real property.

5. Code section 10131.2 provides that a real estate broker is a person who engages in the business of claiming, demanding, charging, receiving, collecting or

---

<sup>2</sup> All further references to Business and Professions Code shall be to Code.

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 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.

6. Code section 10132 provides that a real estate salesperson is a natural person who, for compensation or in expectation of compensation is employed by a licensed real estate broker to one or more of the acts set forth in sections 10131, 10131.1, 10131.2, 10131.3, 10131.4 and 10131.6.

7. Code section 10139 provides that it is a crime for any person to act as a real estate broker, real estate salesperson, or mortgage loan originator without a license or license endorsement, or to advertise using words indicating that he or she is a real estate broker, real estate salesperson, or mortgage loan originator without being so licensed or without having obtained a license endorsement.

8. Code section 10177, subdivision (d), provides that willful disregard or violation of the real estate law or the rules and regulations of the Commissioner is cause for discipline.

9. Code section 10177, subdivision (g), provides that demonstrated negligence or incompetence in performing an act which requires a real estate license is cause for discipline.

10. Code section 10177, subdivision (j), provides that fraud and/or dishonest dealings by a real estate licensee is cause for discipline.

#### *Respondent Membreno*

11. Respondent Membreno violated Code section 10130 in conjunction with Code sections 10131.1 and 10131.2, because he accepted a \$1,200 advance fee payment for the Ramos loan modification outside the scope of his association with Metro and did not hold a real estate broker license entitling him to handle real estate transactions independently. (Factual Findings 3-14.)

12. Respondent Membreno violated Code sections 10132 and 10139 when he accepted a \$1,200 advance fee payment for the Ramos loan modification outside the scope of his association with Metro, his employing broker. (Factual Findings 3-14.)

13. Respondent Membreno's real estate salesperson license is subject to discipline pursuant to Code section 10177, subdivision (d), because Membreno

willfully violated provisions of the real estate law. (Factual Findings 3-14; Legal Conclusions 1-13.)

14. Cause exists to discipline Respondent Membreno's real estate license pursuant to Code section 10177, subdivision (g), because Respondent was negligent and incompetent in handling the Ramos loan modification when he failed to perform the loan modification and negotiation services that he had promised Ramos. (Factual Findings 3-14; Legal Conclusion 9.)

15. Cause exists to discipline Respondent Membreno's real estate license pursuant to Code section 10177, subdivision (j), because Respondent was dishonest in his handling of the Ramos loan modification. (Factual Findings 3-14; Legal Conclusion 10.)

*Respondent Ortega*

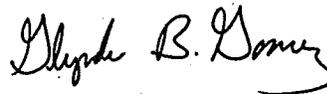
16. Cause does not exist to discipline Respondent Ortega's real estate salesperson license pursuant to Code sections 10130, 10131.1, 10131.2, 10132, 10139, or 10177, subdivisions (d), (g) or (j), because Complainant did not establish by clear and convincing evidence that Ortega either had knowledge, participated in or was involved in the Ramos loan modification. (Factual Findings 1-17; Legal Conclusions 1-16.)

ORDER

1. All licenses and licensing rights of Respondent Armando Membreno under the Real Estate Law are revoked.

2. The Accusation is dismissed as to Respondent Marlon Ortega.

September 20, 2012



---

GLYNDA B. GOMEZ  
Administrative Law Judge  
Office of Administrative Hearings

**FILED**  
JAN 24 2012  
DEPARTMENT OF REAL ESTATE

By 

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

\* \* \* \*

In the Matter of the Accusation of ) No. H-37359 LA  
)  
MARLON ORTEGA, )  
JOEL RODRIGUEZ, and )  
ARMANDO MEMBRENO, )  
)  
Respondents.. )  
\_\_\_\_\_ )

DECISION

This Decision is being issued in accordance with the provisions of Section 11520 of the Government Code, on evidence of compliance with Section 11505 of the Government Code and pursuant to the Order of Default filed on December 29, 2011, and the findings of fact set forth herein are based on one or more of the following: (1) Respondents' express admissions; (2) affidavits; and (3) other evidence.

FINDINGS OF FACT

1.

On June 27, 2011, Maria Suarez made the Accusation in her official capacity as a Deputy Real Estate Commissioner of the State of California. The Accusation, Statement to Respondent, and Notice of Defense were mailed by certified mail, return receipt requested, to Respondent JOEL RODRIGUEZ on June 27, 2011, and September 28, 2011. The Accusation, Statement to Respondent, and Notice of Defense were also mailed to Respondent JOEL RODRIGUEZ by regular mail on August 16, 2011, and September 28, 2011.

On December 29, 2011, no Notice of Defense having been filed herein within the time prescribed by Section 11506 of the Government Code, Respondent's default was entered herein.

2.

From August 25, 1990 through October 26, 2011, Respondent JOEL RODRIGUEZ was licensed by the Department as a real estate salesperson, Department License No. 01086979. Respondent's real estate salesperson license expired on October 26, 2011. Respondent has renewal rights under Code Section 10201. The Department retains jurisdiction pursuant Code Section 10103.

3.

At no time mentioned herein has Casa Mar Financial Corporation also known as Casa Mar Financial Corp. ("Casa Mar") ever been licensed by the Department in any capacity. On or about April 26, 2008, JOEL RODRIGUEZ formed Casa Mar, a California corporation. JOEL RODRIGUEZ is Casa Mar's Chief Executive Officer and an officer or director of the corporation.

4.

At all times herein mentioned, Respondent JOEL RODRIGUEZ engaged in the business of, acted in the capacity of, advertised or assumed to act as real estate broker in the State of California, by doing or negotiating to do the following acts for another or others, for compensation or in expectation of compensation: (1) sell or offer to sell, solicit prospective sellers or purchasers of, solicit or obtain listings of, or negotiate the purchase, sale or exchange of real property within the meaning of Code Section 10131(a); and (2) solicit borrowers, negotiate loans, collect payments or perform services for borrowers in connection with loans secured directly or collaterally by liens on real property within the meaning of Code Section 10131(d).

5.

For an unknown period of time beginning no later than June 27, 2008, Respondent JOEL RODRIGUEZ engaged in the business of soliciting to modify or negotiate loans secured by real property, offering to negotiate the purchase, sale or exchange of real property, and claimed, demanded, charged, received, collected or contracted for the collection of advance fees, within the meaning of Code Section 10026, for borrowers including, but not limited to, Armando Santana Ramos.

6.

On or about June 27, 2008, Respondent JOEL RODRIGUEZ, while doing business as Casa Mar, offered to perform services in to borrower Armando Santana Ramos ("Ramos"). Ramos paid an initial advance fee payment of \$1,200 pursuant to an advance fee agreement for loan modification and negotiation services in connection with a loan secured by liens on real property. Respondent JOEL RODRIGUEZ failed to perform the loan modification and negotiation services that had been promised to Ramos. Respondent JOEL RODRIGUEZ refused Ramos' demand for a refund of his advance fees.

7.

The conduct, acts and/or omissions of Respondent JOEL RODRIGUEZ as set forth above, in engaging in acts that under Code Sections 10131 and 10132 require a real estate broker license or a salesperson license under the employment of a licensed broker, violate Code Sections 10130 and 10139, and are cause for the suspension or revocation of the licenses and license rights of Respondent JOEL RODRIGUEZ pursuant to Code Sections 10139, 10177(d), 10177(j) and 10177(g).

#### DETERMINATION OF ISSUES

1.

The conduct, acts and/or omissions of Respondent JOEL RODRIGUEZ as set forth above, in engaging in acts that under Code Sections 10131 and 10132 require a real estate broker license or a salesperson license under the employment of a licensed broker, violate Code Sections 10130 and 10139, and are cause for the suspension or revocation of the licenses and license rights of Respondent JOEL RODRIGUEZ pursuant to Code Sections 10139, 10177(d), 10177(j) and 10177(q).

2.

The standard of proof applied was clear and convincing proof to a reasonable certainty.

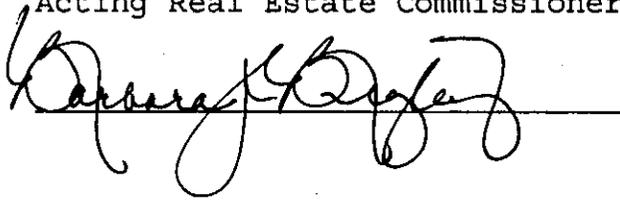
ORDER

The license and license rights of Respondent JOEL RODRIGUEZ under the provisions of Part I of Division 4 of the Business and Professions Code are revoked.

This Decision shall become effective at 12 o'clock noon on February 13, 2012.

DATED: 1/10/12

BARBARA J. BIGBY  
Acting Real Estate Commissioner

A handwritten signature in cursive script, appearing to read "Barbara J. Bigby", is written over a horizontal line.

1 Department of Real Estate  
2 320 West Fourth Street, Suite 350  
3 Los Angeles, California 90013-1105

**FILED**  
DEC 29 2011  
DEPARTMENT OF REAL ESTATE

By C

8 BEFORE THE DEPARTMENT OF REAL ESTATE  
9 STATE OF CALIFORNIA

10 \* \* \* \*

11 In the Matter of the Accusation of )  
12 MARLON ORTEGA, )  
13 JOEL RODRIGUEZ and )  
14 ARMANDO MEMBRENO, )  
15 Respondents. )

NO. H-37359 LA  
DEFAULT ORDER

16 Respondent, JOEL RODRIGUEZ, having failed to file  
17 a Notice of Defense within the time required by Section 11506  
18 of the Government Code, is now in default. It is, therefore,  
19 ordered that a default be entered on the record in this matter.

20 IT IS SO ORDERED

December 29, 2011

21 BARBARA J. BIGBY  
22 Acting Real Estate Commissioner

23  
24 Dolores Weeks  
25 By: DOLORES WEEKS  
26 Regional Manager  
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

2.

Respondents are presently licensed and/or have license rights under the Real Estate Law (Part 1 of Division 4 of the California Business and Professions Code, "Code").

3.

From March 25, 2006 through the present, Respondent MARLON ORTEGA ("ORTEGA") has been licensed by the Department of Real Estate ("Department") as a real estate salesperson, Department License No. 01737070. At all times relevant herein, Respondent ORTEGA was licensed under the employment of broker Metro Golden Financial Funding Group, Inc., Department License No. 01523460.

4.

From August 25, 1990 through the present, Respondent JOEL RODRIGUEZ ("RODRIGUEZ") has been licensed by the Department as a real estate salesperson, Department License No. 01086979. At all times relevant herein, Respondent RODRIGUEZ was licensed under the employment of broker Metro Golden Financial Funding Group, Inc., Department License No. 01523460.

5.

From January 27, 2007 through January 26, 2011, Respondent ARMANDO MEMBRENO ("MEMBRENO") was licensed by the Department as a real estate salesperson, Department License No. 01786106. At all times relevant herein, Respondent MEMBRENO was licensed under the employment of broker Metro Golden Financial Funding Group, Inc., Department License No. 01523460.

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

6.

At no time mentioned herein have Casa Mar Financial Corporation also known as Casa Mar Financial Corp. ("Casa Mar") ever been licensed by the Department in any capacity. On or about April 26, 2008, ORTEGA, RODRIGUEZ and MEMBRENO formed Casa Mar, a California corporation. RODRIGUEZ is Casa Mar's Chief Executive Officer and an officer or director of the corporation. MEMBRENO is the Secretary, Chief Financial Officer, a director, and agent for service of process for Casa Mar. ORTEGA also served as Secretary and a director for Casa Mar.

7.

All further references to "Respondents" include the parties listed in Paragraphs 3 through 6, above, as well as the officers, agents and employees of the parties listed in Paragraphs 3 through 6, above. Respondents engaged in the activities set forth below while doing business as Casa Mar Financial Corporation, Casa Mar Financial Corp. and/or any other fictitious names not known at this time.

8.

At all times herein mentioned, Respondents engaged in the business of, acted in the capacity of, advertised or assumed to act as real estate brokers in the State of California, by doing or negotiating to do the following acts for another or others, for compensation or in expectation of compensation: (1) sell or offer to sell, solicit prospective sellers or purchasers of, solicit or obtain listings of, or negotiate the purchase,

1 sale or exchange of real property within the meaning of Code  
2 Section 10131(a); and (2) solicit borrowers, negotiate loans,  
3 collect payments or perform services for borrowers in connection  
4 with loans secured directly or collaterally by liens on real  
5 property within the meaning of Code Section 10131(d).  
6

7 FIRST CAUSE OF ACCUSATION  
8 (Unlicensed Activity/Dishonest Dealing)

9 9.

10 For an unknown period of time beginning no later than  
11 June 27, 2008, Respondents engaged in the business of soliciting  
12 to modify or negotiate loans secured by real property, offering  
13 to negotiate the purchase, sale or exchange of real property,  
14 and claimed, demanded, charged, received, collected or  
15 contracted for the collection of advance fees, within the  
16 meaning of Code Section 10026, for borrowers including, but not  
17 limited to, Armando Santana Ramos.

18 10.

19 On or about June 27, 2008, MEMBRENO solicited loan  
20 modification and negotiation services on behalf of Respondents  
21 doing business as Casa Mar to borrower Armando Santana Ramos  
22 ("Ramos"). Ramos paid an initial advance fee payment of \$1,200  
23 to Respondents pursuant to an advance fee agreement for loan  
24 modification and negotiation services in connection with a loan  
25 secured by liens on real property. Respondents failed to  
26 perform the loan modification and negotiation services that had  
been promised to Ramos. Respondents refused Ramos' demand for a

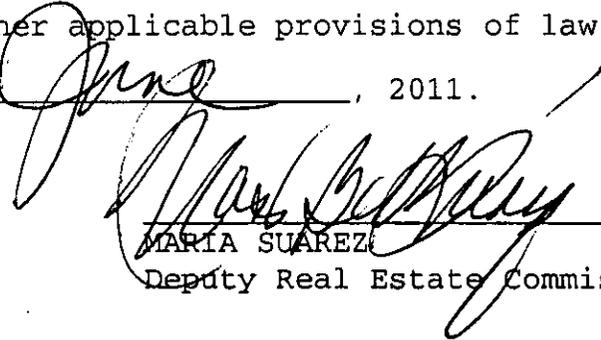
1 refund of his advance fees.

2 11.

3 The conduct, acts and/or omissions of Respondents  
4 RODRIGUEZ, ORTEGA and MEMBRENO, as set forth above, in engaging  
5 in acts that under Code Sections 10131 and 10132 require a real  
6 estate broker license or a salesperson license under the  
7 employment of a licensed broker, violate Code Sections 10130 and  
8 10139, and are cause for the suspension or revocation of the  
9 licenses and license rights of Respondents pursuant to Code  
10 Sections 10139, 10177(d), 10177(j) or 10177(g).

11 WHEREFORE, Complainant prays that a hearing be  
12 conducted on the allegations of this Accusation and that upon  
13 proof thereof, a decision be rendered imposing disciplinary  
14 action against all licenses and/or license rights of Respondents  
15 MARLON ORTEGA, JOEL RODRIGUEZ and ARMANDO MEMBRENO, under the  
16 Real Estate Law (Part 1 of Division 4 of the California Business  
17 and Professions Code) and for such other and further relief as  
18 may be proper under other applicable provisions of law.

19 this 27<sup>th</sup> day of June, 2011.

20  
21   
22 MARIA SUAREZ  
Deputy Real Estate Commissioner

23 cc: Marlon Ortega  
24 Joel Rodriguez  
25 Armando Membreno  
26 IBJ, Inc.  
Universal Executive Group, Inc.  
Maria Suarez  
Sacto.