

Flag

1 Bureau of Real Estate
320 West 4th Street, Suite 350
2 Los Angeles, California 90013-1105
3 Telephone: (213) 576-6982

FILED

JUL 02 2014

BUREAU OF REAL ESTATE
By J. Hernandez

BEFORE THE BUREAU OF REAL ESTATE

STATE OF CALIFORNIA

* * *

11 In the Matter of the Accusation of) CalBRE No. H-37966 LA
12)
12 ROSARIO MARIA HERNANDEZ and)
13 CARLOS ANGEL GALVAN,)
14 Respondents.)

ORDER SUSPENDING RESTRICTED REAL ESTATE LICENSE

16 TO: CARLOS ANGEL GALVAN
17 P.O. Box 60610
18 Pasadena, CA 91116

19 On July 15, 2013, a restricted real estate salesperson
20 license was issued by the Bureau of Real Estate ("Bureau") to
21 Respondent on the terms, conditions and restrictions set forth
22 in the Real Estate Commissioner's Order in Case No. H-37966 LA.
23 This Order, which was filed on June 25, 2013, and became
24 effective July 15, 2013, granted Respondent the right to the
25 issuance of a restricted real estate salesperson license subject

1 to the provisions of Section 10156.7 of the California Business
2 and Professions Code (hereinafter "Code") and to enumerated
3 additional terms, conditions and restrictions imposed under
4 authority of Section 10156.6 of said Code. Among those terms,
5 conditions and restrictions, Respondent was required to:
6 1) provide satisfactory proof of completion of 45 hours of
7 approved continuing education courses within nine (9) months
8 from the effective date of the Decision; and (2) within 11
9 months from the effective date, Respondent was to provide proof
10 of payments of \$2,500 to Rosa Perez and \$4,750 to Rosa Mendoza
11 as restitution, and \$1063.25 to the Bureau for costs. The
12 Commissioner has determined that as of June 15, 2014, Respondent
13 has failed to satisfy one or more of these conditions and as
14 such, is in violation of Section 10177(k) of the Code.

15 NOW, THEREFORE, IT IS ORDERED under authority of
16 Section 10156.7 of the Business and Professions Code of the
17 State of California that the restricted real estate salesperson
18 license heretofore issued to Respondent and the exercise of any
19 privileges thereunder is hereby suspended until such time as
20 Respondent provides proof satisfactory to the Bureau of
21 compliance with the conditions referred to above, or pending
22 final determination made after hearing (see "Hearing Rights" set
23 forth below).

24 IT IS FURTHER ORDERED that all license certificates
25 and identification cards issued by Bureau which are in the

1 possession of Respondent be immediately surrendered by personal
2 delivery or by mailing in the enclosed, self-addressed envelope
3 to:

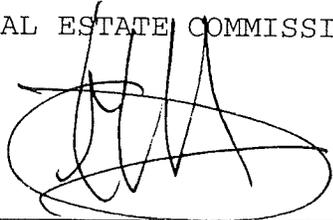
4 Bureau of Real Estate
5 Attn: Licensing Flag Section
6 PO BOX 137013
7 SACRAMENTO, CA 95813-7013

8 HEARING RIGHTS: Pursuant to the provisions of Section
9 10156.7 of the Business and Professions Code, you have the right
10 to a hearing to contest the Commissioner's determination that
11 you are in violation of Section 10177(k) of the Code. If you
12 desire a hearing, you must submit a written request. The
13 request may be in any form, as long as it is in writing and
14 indicates that you want a hearing. Unless a written request for
15 a hearing, signed by or on behalf of you, is delivered or mailed
16 to the Bureau at 320 W. 4th Street, Room 350, Los Angeles,
17 California 90013, within 20 days after the date that this Order
18 was mailed to or served on you, the Bureau will not be obligated
19 or required to provide you with a hearing.

19 This Order shall be effective immediately.

20 DATED: June 23, 2014.

21 REAL ESTATE COMMISSIONER

22 

23
24 By: JEFFREY MASON
25 Chief Deputy Commissioner

FILED

JUN 25 2013

DEPARTMENT OF REAL ESTATE
BY: CR

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * * * *

In the Matter of the Accusation of)	DRE No. H-37966 LA
)	
ROSARIO MARIA HERNANDEZ and)	OAH No. 2012070835
<u>CARLOS ANGEL GALVAN,</u>)	
)	
Respondents.)	
_____)	

DECISION

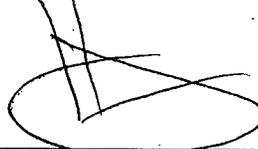
The Proposed Decision dated May 30, 2013, of the Administrative Law Judge of the Office of Administrative Hearings, is hereby adopted as the Decision of the Real Estate Commissioner in the above-entitled matter.

This Decision shall become effective at 12 o'clock noon on July 15, 2013.

IT IS SO ORDERED

June 19, 2013

Real Estate Commissioner



v

By: Jeffrey Mason
Chief Deputy Commissioner

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

CARLOS ANGEL GALVAN,

Respondents.

Department No. H-37966 LA

OAH No. 2012070835

PROPOSED DECISION

This matter was heard on May 15, 2013, in Los Angeles, by Chris. Ruiz, Administrative Law Judge, Office of Administrative Hearings.

Carlos Galvan (Respondent) was present and represented himself.

Complainant, Maria Suarez, Deputy Real Estate Commissioner, was represented by Lissete Garcia, Counsel for Department of Real Estate (Department). Interpreter Victor Ramos assisted some witness with English-Spanish interpretation.

Oral and documentary evidence was presented and the matter was submitted on May 15, 2013.

FACTUAL FINDINGS

1. Complainant brought the Accusation in her official capacity.
2. Respondent is presently licensed as a real estate broker, license number 01023450, and was initially licensed as a broker in October 2004. Respondent previously held a real estate salesperson's license from approximately 1989 through 2004 when he became a broker. There was no evidence presented that Respondent's real estate salesperson's license was ever disciplined.
3. In 2009, Respondent became involved with Ms. Hernandez (Hernandez) and Mr. Martinez (Martinez). Hernandez was a licensed real estate salesperson. Martinez did not hold any license issue by the Department. The three of them intended to form a real estate business named H&R. Respondent became an officer and director of

H&R, a corporation. Respondent filed a corporation license application with the Department, but it was not processed because the attached check was returned for insufficient funds. At about the same time, Respondent agreed to serve as Hernandez's broker and he requested that the Department list Hernandez as working under his broker's license. From the outset, Respondent remained a director and officer of H&R, an entity he knew was conducting unlicensed activity. While all of H&R's activities were conducted by Martinez, Respondent took no action to supervise H&R or Hernandez, and he took no action to remedy the fact that H&R remained unlicensed and he allowed H&R to fail to comply with the requirements regarding advance fees.

4. The following persons paid money to Martinez for loan modification services for which they received no services: Rosa Perez paid \$2,500 and Rosa Mendoza paid \$4,750. Thus, these consumers suffered financial injury while Respondent was an officer and director of H&R, the entity with which the consumers dealt.
5. The Department incurred reasonable costs of investigation and enforcement in this matter in the sum of \$1,063.25.
6. The evidence established that Respondent does not fully understand his responsibilities as a broker. At hearing he contended that he did not understand the process, nor could he understand the Accusation. He also did not seem to understand why he should have not allowed Hernandez to remain under his broker's license when he only met her once and never supervised her. The fact that he "hoped" Hernandez would show up "someday" and they would be able to do business, reveals that he does not understand his duties as a broker. It was his responsibility to supervise Hernandez, and when he could not locate Hernandez, he should have requested that the Department remove her name from being listed as working under his broker's license. To compound matters, Respondent also knew that H&R was not licensed by the Department, and yet he remained as an officer and a director, and he failed to determine what Martinez was doing under the name of the corporation, such as collecting advance fees without following the Department's requirements.

LEGAL CONCLUSIONS AND DISCUSSION

1. Cause exists to suspend or revoke Respondent's real estate broker's license pursuant to Business and Professions Code section 10085 and 10146 for failure to deposit advance fees in a trust account.
2. Cause exists to suspend or revoke Respondent's real estate broker's license pursuant to Business and Professions Code section 10130 (unlicensed activity) and 10159.5 (unlicensed use of a fictitious business name), and 10177, subdivision (h), and California Code of Regulations 2725 (failure to exercise reasonable supervision of a salesperson).

3. Respondent did not have any disciplinary problems during his 15 years licensed as a real estate salesperson. While the evidence established he is not qualified to remain a broker, it was not established that he poses a risk as a real estate salesperson. Thus, the following order will adequately protect the public.

ORDER

WHEREFORE, THE FOLLOWING ORDER is hereby made:

All licenses and licensing rights of Respondent Carlos Angel Galvan under the Real Estate Law are revoked; provided, however, a restricted real estate salesperson license shall be issued to Carlos Angel Galvan pursuant to Section 10156.5 of the Business and Professions Code if Respondent makes application therefor and pays to the Department of Real Estate the appropriate fee for the restricted license within 90 days from the effective date of this Decision. The restricted license issued to Respondent shall be subject to all of the provisions of Section 10156.7 of the Business and Professions Code and to the following limitations, conditions and restrictions imposed under authority of Section 10156.6 of that Code:

1. The restricted license issued to Respondent may be suspended prior to hearing by Order of the Real Estate Commissioner in the event of Respondent's conviction or plea of nolo contendere to a crime which is substantially related to Respondent's fitness or capacity as a real estate licensee.

2. The restricted license issued to Respondent may be suspended prior to hearing by Order of the Real Estate Commissioner on evidence satisfactory to the Commissioner that Respondent has violated provisions of the California Real Estate Law, the Subdivided Lands Law, Regulations of the Real Estate Commissioner or conditions attaching to the restricted license.

3. Respondent shall not be eligible to apply for the issuance of an unrestricted real estate license nor for the removal of any of the conditions, limitations or restrictions of a restricted license until one year has elapsed from the effective date of this Decision.

4. Respondent shall submit with any application for license under an employing broker, or any application for transfer to a new employing broker, a statement signed by the prospective employing real estate broker on a form approved by the Department of Real Estate which shall certify:

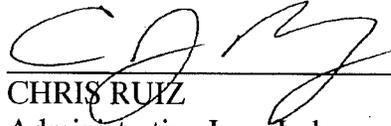
(a) That the employing broker has read the Decision of the Commissioner which granted the right to a restricted license; and

(b) That the employing broker will exercise close supervision over the performance by the restricted licensee relating to activities for which a real estate license is required.

5. Respondent shall, within nine months from the effective date of this Decision, present evidence satisfactory to the Real Estate Commissioner that Respondent has, since the most recent issuance of an original or renewal real estate license, taken and successfully completed the continuing education requirements of Article 2.5 of Chapter 3 of the Real Estate Law for renewal of a real estate license. Respondent shall also take an "Ethics" class if so ordered by the Department. If Respondent fails to satisfy this condition, the Commissioner may order the suspension of the restricted license until the Respondent presents such evidence. The Commissioner shall afford Respondent the opportunity for a hearing pursuant to the Administrative Procedure Act to present such evidence.

6. Within 11 months of the effective date of this decision, Respondent shall pay the following amounts: \$2,500 to Rosa Perez and \$4,750 to Rosa Mendoza as restitution, and \$1,063.25 to the Department for costs. The Department will notify Respondent if these payments will be in a lump sum, or in monthly payments.

DATED: May 30, 2013



CHRIS RUIZ

Administrative Law Judge

Office of Administrative Hearings

2.

From August 25, 2000, through the present, Respondent HERNANDEZ has been licensed by the Department of Real Estate ("Department") as a real estate salesperson, Department License No. 01281317. Respondent HERNANDEZ has been licensed under the employment of Respondent GALVAN from March 24, 2009, through the present.

3.

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

4.

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

Advance Fee Violations

5.

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

6.

Respondent HERNANDEZ failed to comply with the advance fee requirements under Regulation Section 2970 and Code Section 10085.

DETERMINATION OF ISSUES

1.

As set forth above, Respondent HERNANDEZ used the unlicensed fictitious business name, H&R Mortgage Group, Inc., to engage in activities that require a real estate broker license. The facts alleged above constitute a violation of Code Sections 10130 (unlicensed activity) and 10159.5 (unlicensed use of a fictitious business name) and Regulation 2731 (use of false or fictitious name) and are grounds for the suspension or revocation of Respondent HERNANDEZ' real estate license and license rights pursuant to Code Sections 10139 (penalties for unlicensed person) and 10177(d) (violation of the Real Estate Law).

2.

As set forth above, Respondent HERNANDEZ violated Regulation Section 2970 and Code Section 10085 which constitute grounds for the suspension or revocation of Respondent's real estate license and license rights pursuant to Code Section 10177(d).

3.

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

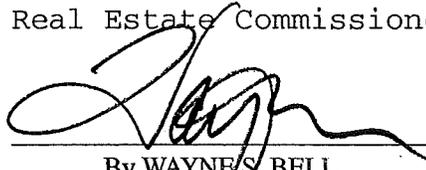
ORDER

The license and license rights of Respondent ROSARIO MARIA HERNANDEZ 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 August 2, 2012.

DATED: 7/2, 2012.

Real Estate Commissioner


By WAYNE S. BELL
Chief Counsel

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

FILED

APR 24 2012

DEPARTMENT OF REAL ESTATE
BY: C2

8 BEFORE THE DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * * *

11 In the Matter of the Accusation of)
12) NO. H-37966 LA
13 ROSARIO MARIA HERNANDEZ and)
14 CARLOS ANGEL GALVAN,) DEFAULT ORDER
15 Respondents.)

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

21 IT IS SO ORDERED April 24, 2012

22 Real Estate Commissioner

23 Dolores Weeks
24 By: DOLORES WEEKS
25 Regional Manager
26
27

SAC

1 LISSETE GARCIA, Counsel (SBN 211552)
2 Department of Real Estate
3 320 West 4th Street, Suite 350
4 Los Angeles, California 90013-1105
5 Telephone: (213) 576-6982
6 (Direct) (213) 576-6914
7 Fax: (213) 576-6917

FILED

MAR 13 2012

DEPARTMENT OF REAL ESTATE
BY: E.A.

8 BEFORE THE DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of) NO. H-37966 LA
12)
13 ROSARIO MARIA HERNANDEZ and) A C C U S A T I O N
14 CARLOS ANGEL GALVAN,)
15 Respondents.)

16 The Complainant, Maria Suarez, a Deputy Real Estate
17 Commissioner of the State of California, for cause of Accusation
18 against ROSARIO MARIA HERNANDEZ and CARLOS ANGEL GALVAN
19 ("Respondents"), is informed and alleges as follows:

20 1.

21 The Complainant, Maria Suarez, a Deputy Real Estate
22 Commissioner of the State of California, makes this Accusation
23 in her official capacity.
24

25 2.

26 From August 25, 2000, through the present, Respondent
27 ROSARIO MARIA HERNANDEZ ("HERNANDEZ") has been licensed by the
28 Department of Real Estate ("Department") as a real estate

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.

1 6.

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

10 7.

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

26 ///

27 ///

28 ///

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.
26

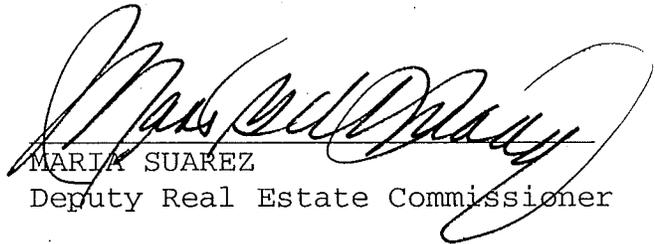
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28 ///

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
18 this 9th day of March, 2012.

19
20
21 
22 MARIA SUAREZ
23 Deputy Real Estate Commissioner

24
25 cc: Rosario Maria Hernandez
26 Carlos Angel Galvan
27 Maria Suarez
28 Sacto