

**FILED**

BEFORE THE BUREAU OF REAL ESTATE

APR 03 2014

STATE OF CALIFORNIA

BUREAU OF REAL ESTATE

\* \* \* \*

By



In the Matter of the Accusation of )  
 )  
 MARTHA HERNANDEZ, )  
 )  
 Respondent. )  
 \_\_\_\_\_ )

No. H-39063 LA

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 February 25, 2014, and the findings of fact set forth herein are based on one or more of the following: (1) Respondent's express admissions; (2) affidavits; and (3) other evidence.

FINDINGS OF FACT

1.

On September 10, 2013, 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 regular mail and by certified mail, to MARTHA HERNANDEZ's ("Respondent") last known mailing address on file with the Bureau on September 30, 2013.

On February 25, 2014, 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.

All references to the "Code" are to the California Business and Professions Code and all references to "Regulations" are to Title 10, Chapter 6, California Code of Regulations.

3.

Respondent is currently licensed by the Bureau (formerly Department) of Real Estate ("Bureau") as a real estate salesperson, License ID 01783324. Respondent was originally licensed as a real estate salesperson on December 11, 2006. From December 27, 2007, through September 19, 2010, Respondent was licensed under the employment of broker Omega National Funding & Realty, Inc. From September 20, 2010, through February 20, 2011, Respondent was licensed under the employment of broker Rokitto Enterprises, Inc. From August 15, 2011, through January 15, 2012, Respondent was licensed under the employment of broker Omega National Funding & Realty, Inc.

4.

Respondent is married to Jose Hernandez. Jose Hernandez has never been licensed by the Bureau in any capacity.

5.

Bursatil Home Finance, Inc. ("Bursatil") is a California corporation that was formed on or about December 29, 2008. Respondent and her husband, Jose Hernandez, are officers and directors of Bursatil. Bursatil was licensed by the Bureau as a corporate real estate broker from January 27, 2009, through January 26, 2013. Bursatil's license expired on January 27, 2013.

FIRST CAUSE OF ACCUSATION

(Unlicensed Activity/Fraud/Dishonest Dealing)

6.

On August 19, 2010, Respondent and her husband, Jose Hernandez, caused a fictitious business name statement to be filed with the County Clerk's Office for the County of San Bernardino for use of the fictitious business name: Debt Trust Solutions.

7.

On or about February 1, 2011, Respondent and Jose Hernandez solicited foreclosure forbearance, loan modification and negotiation and/or short sale services to Cipriano A. Cipriano A. owned a residential property located on Sastre Avenue in the City of El Monte, California, that was facing foreclosure. Cipriano A. also needed assistance with loan modification and/or short sale services for two properties located on Woodville Drive, in the City of El Monte, California.

8.

On February 1, 2011, Respondent charged and collected an advance fee payment of \$3,000 via a personal check #791 from Cipriano A. for foreclosure forbearance services on the Sastre Avenue property.

9.

On February 2, 2011, Respondent charged and collected an advance fee payment in the amount of \$5,000 via a personal check #792 from Cipriano A. for foreclosure forbearance and/or loan modification services.

10.

On February 14, 2011, Respondent collected \$20,000 from Cipriano A. Respondent was supposed to place the \$20,000 in escrow on behalf of Cipriano A. for the purchase of a property by Cipriano A. Respondent never provided Cipriano A. with proof that she had placed the funds in escrow.

11.

On February 28, 2011, Respondent collected another advance fee payment of \$2,500 via a personal check #795 from Cipriano A. for foreclosure forbearance, loan modification and/or short sale services. On March 24, 2011, Respondent instructed Cipriano A. to make a payment of \$1,000 via a personal check #808 made payable to Carlos Robles in connection with the foreclosure forbearance, loan modification and/or short sale services for Cipriano A.'s properties. Respondent charged or collected a total of \$31,500 from Cipriano A.

12.

Respondent never provided the foreclosure forbearance, loan modification and negotiation and/or short sale services that were promised to Cipriano A. Respondent failed to provide any accounting of how she handled the advance fee payments or earnest money deposit that she collected from Cipriano A. Respondent failed to refund any amount of the \$31,500 that she charged or collected from Cipriano A. for activities that require a real estate license.

SECOND CAUSE OF ACCUSATION

(Unlicensed Activity/Fraud/Dishonest Dealing)

13.

Rolando Rosales and Jose Hernandez, both unlicensed persons, solicited and offered to perform loan modification and negotiation services and resale services to Jose M. in connection with a property located on Park Avenue in the City of Pomona, California. Rolando Rosales and Jose Hernandez claimed to be acting as agents on behalf of Bursatil and Debt Trust Solutions. On November 11, 2010, Jose M. executed an agreement with Bursatil for \$7,000 for services in connection with a loan secured by a lien on real property.

14.

On November 11, 2010, Debt Trust Solutions charged and collected two advance fee payments totaling \$1,480 from Jose M. On November 16, 2010, Debt Trust Solutions charged and collected two advance fee payments totaling \$1,020 from Jose M. On December 06, 2010, Debt Trust Solutions charged and collected an advance fee payment of \$1,000 from Jose M. On December 30, 2010, Debt Trust Solutions charged and collected an advance fee payment of \$500 from Jose M. Debt Trust Solutions charged and collected a total of \$4,000 from Jose M.

15.

Jose M. was instructed by Jose Hernandez and Rolando Rosales to sign a quitclaim deed on his Park Avenue property to Juan Jose Gomez and Javier Hernandez.

16.

Respondent's companies, Bursatil and/or Debt Trust Solutions, never provided the services that were promised to Jose M. Debt Trust Solutions failed to provide any accounting of how it handled the advance fee payments collected from Jose M. Jose M. requested a refund of his advance fee payments from

Debt Trust Solutions. On April 4, 2011, Jose M. received a check from Debt Trust Solutions for \$4,000. The check was drawn from an account with insufficient funds. On December 27, 2011, a Notice of Entry of Judgment was filed before the Superior Court of California, County of San Bernardino, Small Claims No. SMC RS1102172, in favor of Jose M. and against Jose Hernandez and Debt Trust Solutions for \$4,015.24.

#### DETERMINATION OF ISSUES

1.

The conduct, acts and/or omissions of Respondent MARTHA HERNANDEZ as set forth above in Findings of Fact, Paragraphs 6 through 12, are in violation of Code Sections 10085.5, 10085.6, 10130 and 10137, and are cause for the suspension or revocation of the license and license rights of Respondent MARTHA HERNANDEZ pursuant to Code Section 10177(d) (violation of the Real Estate Law).

2.

The conduct, acts and/or omissions of Respondent MARTHA HERNANDEZ as set forth above in Paragraphs 6 through 12, constitute grounds for the suspension or revocation of the license and license rights of Respondent MARTHA HERNANDEZ pursuant to Code Section 10176(i) (conduct which constitutes fraud or dishonest dealing).

3.

The conduct, acts and/or omissions of Respondent MARTHA HERNANDEZ, while doing business as Bursatil and/or Debt Trust Solutions, as set forth above in Paragraphs 13 through 16, violate Code Sections 10085.5, 10085.6, 10130, 10137, 10159.5, and Regulation 2731, and are cause for the suspension or revocation of the license and license rights of Respondent MARTHA HERNANDEZ pursuant to Code Section 10177(d) (violation of the Real Estate Law).

4.

Respondent's conduct, acts and/or omissions of Respondent MARTHA HERNANDEZ, while doing business as Bursatil and/or Debt Trust Solutions, as set forth above in Paragraphs 13 through 16, constitute grounds for the suspension or revocation of the license and license rights of Respondent MARTHA HERNANDEZ pursuant to Code Section 10176(i) (conduct which constitutes fraud or dishonest dealing).

5.

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

ORDER

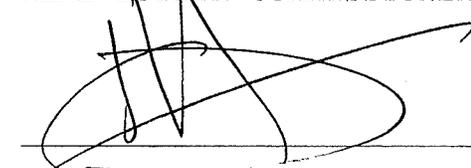
The licenses and license rights of Respondent MARTHA HERNANDEZ under the provisions of Part I of Division 4 of the Business and Professions Code are revoked.

This Decision shall become effective at 12 o'clock noon APR 24 2014.

**MAR 06 2014**

DATED: \_\_\_\_\_

REAL ESTATE COMMISSIONER

A handwritten signature in black ink, appearing to read 'J. Mason', is written over a horizontal line. The signature is stylized and somewhat illegible.

**JEFFREY MASON**  
Chief Deputy Commissioner

1 Bureau of Real Estate  
2 320 West Fourth Street, Suite 350  
3 Los Angeles, CA 90013

4 (213) 576-6982

**FILED**

FEB 25 2014

BUREAU OF REAL ESTATE

By: *John Aguirre*

8 BEFORE THE BUREAU OF REAL ESTATE

9 STATE OF CALIFORNIA

10 \* \* \*

11 In the Matter of the Accusation of ) NO. H-39063 LA  
12 )  
13 MARTHA HERNANDEZ, ) DEFAULT ORDER  
14 )  
15 Respondent. )  
16 )

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

22 IT IS SO ORDERED

*February 19, 2014*

23 WAYNE S. BELL  
24 Real Estate Commissioner

25 By:

*Dolores Weeks*  
26 DOLORES WEEKS  
27 Regional Manager

FLAG

**FILED**

SEP 30 2013

BUREAU OF REAL ESTATE

By Norma Simms

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

BEFORE THE BUREAU OF REAL ESTATE  
STATE OF CALIFORNIA

\* \* \*

In the Matter of the Accusation of ) CalBRE No. H-39063 LA  
)  
MARTHA HERNANDEZ, ) A C C U S A T I O N  
)  
Respondent. )

The Complainant, Maria Suarez, a Deputy Real Estate  
Commissioner of the State of California, for cause of Accusation  
against MARTHA HERNANDEZ ("Respondent"), is informed and alleges  
as follows:

1.

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

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1 2.

2 Respondent is currently licensed by the Bureau  
3 (formerly Department) of Real Estate ("Bureau") as a real estate  
4 salesperson, License ID 01783324. Respondent was originally  
5 licensed as a real estate salesperson on December 11, 2006.  
6 From December 27, 2007, through September 19, 2010, Respondent  
7 was licensed under the employment of broker Omega National  
8 Funding & Realty, Inc. From September 20, 2010, through  
9 February 20, 2011, Respondent was licensed under the employment  
10 of broker Rokitto Enterprises, Inc. From August 15, 2011,  
11 through January 15, 2012, Respondent was licensed under the  
12 employment of broker Omega National Funding & Realty, Inc.

13 3.

14 Respondent is married to Jose Hernandez. Jose  
15 Hernandez has never been licensed by the Bureau in any capacity.

16 4.

17 Bursatil Home Finance, Inc. ("Bursatil") is a  
18 California corporation that was formed on or about December 29,  
19 2008. Respondent and her husband, Jose Hernandez, are officers  
20 and directors of Bursatil. Bursatil was licensed by the Bureau  
21 as a corporate real estate broker from January 27, 2009, through  
22 January 26, 2013. Bursatil's license expired on January 27,  
23 2013.

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5.

On August 19, 2010, Respondent and her husband, Jose Hernandez, caused a fictitious business name statement to be filed with the County Clerk's Office for the County of San Bernardino for use of the fictitious business name: Debt Trust Solutions.

6.

All references to the "Code" are to the California Business and Professions Code and all references to "Regulations" are to Title 10, Chapter 6, California Code of Regulations.

7.

Code Section 10131 defines a real estate broker 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, negotiates loans, collects payments or performs services for borrowers in connection with loans secured directly or collaterally by liens on real property.

8.

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

1 one or more of the acts set forth in Sections 10131, 10131.1,  
2 10131.2, 10131.3, 10131.4, and 10131.6.

3 9.

4 Code Section 10137 prohibits any salesperson from  
5 accepting compensation from any person other than the broker  
6 under whom he or she is at the time licensed.

7 10.

8 Code Section 10085.5 states that is unlawful for any  
9 person to claim, demand, charge, receive, collect, or contract  
10 for an advance fee (1) for soliciting lenders on behalf of  
11 borrowers or performing services for borrowers in connection  
12 with loans to be secured directly or collaterally by a lien on  
13 real property, before the borrower becomes obligated to complete  
14 the loan or, (2) for performing any other activities for which a  
15 license is required, unless the person is a licensed real estate  
16 broker and has complied with certain provisions.

17 11.

18 Code Section 10085.6 states that it shall be unlawful  
19 for any licensee who negotiates, attempts to negotiate,  
20 arranges, attempts to arrange, or otherwise offers to perform a  
21 mortgage loan modification or other form of mortgage loan  
22 forbearance for a fee or other compensation paid by the  
23 borrower, to (a) claim, demand, charge, collect, or receive any  
24 compensation until after the licensee has fully performed each

1 and every service the licensee contracted to perform or  
2 represented that he, she, or it would perform.

3 FIRST CAUSE OF ACCUSATION

4 (Unlicensed Activity/Fraud/Dishonest Dealing)

5 12.

6 On or about February 1, 2011, Respondent and Jose  
7 Hernandez solicited foreclosure forbearance, loan modification  
8 and negotiation and/or short sale services to Cipriano A.  
9 Cipriano A. owned a residential property located on Sastre  
10 Avenue in the City of El Monte, California, that was facing  
11 foreclosure. Cipriano A. also needed assistance with loan  
12 modification and/or short sale services for two properties  
13 located on Woodville Drive, in the City of El Monte, California.

14 13.

15 On February 1, 2011, Respondent charged and collected  
16 an advance fee payment of \$3,000 via a personal check #791 from  
17 Cipriano A. for foreclosure forbearance services on the Sastre  
18 Avenue property.

19 14.

20 On February 2, 2011, Respondent charged and collected  
21 an advance fee payment in the amount of \$5,000 via a personal  
22 check #792 from Cipriano A. for foreclosure forbearance and/or  
23 loan modification services.

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On February 14, 2011, Respondent collected \$20,000 from Cipriano A. Respondent was supposed to place the \$20,000 in escrow on behalf of Cipriano A. for the purchase of a property by Cipriano A. Respondent never provided Cipriano A. with proof that she had placed the funds in escrow.

16.

On February 28, 2011, Respondent collected another advance fee payment of \$2,500 via a personal check #795 from Cipriano A. for foreclosure forbearance, loan modification and/or short sale services. On March 24, 2011, Respondent instructed Cipriano A. to make a payment of \$1,000 via a personal check #808 made payable to Carlos Robles in connection with the foreclosure forbearance, loan modification and/or short sale services for Cipriano A.'s properties. Respondent charged or collected a total of \$31,500 from Cipriano A.

17.

Respondent never provided the foreclosure forbearance, loan modification and negotiation and/or short sale services that were promised to Cipriano A. Respondent failed to provide any accounting of how she handled the advance fee payments or earnest money deposit that she collected from Cipriano A. Respondent failed to refund any amount of the \$31,500 that she

1 charged or collected from Cipriano A. for activities that  
2 require a real estate license.

3 18.

4 The conduct, acts and/or omissions of Respondent  
5 MARTHA HERNANDEZ as set forth above in Paragraphs 12 through 17,  
6 are in violation of Code Sections 10085.5, 10085.6, 10130 and  
7 10137, and are cause for the suspension or revocation of the  
8 license and license rights of Respondent MARTHA HERNANDEZ  
9 pursuant to Code Sections 10177(d) (violation of the Real Estate  
10 Law) and/or 10177(g) (negligence).

11 19.

12 The conduct, acts and/or omissions of Respondent  
13 MARTHA HERNANDEZ as set forth above in Paragraphs 12 through 17,  
14 constitute grounds for the suspension or revocation of the  
15 license and license rights of Respondent MARTHA HERNANDEZ  
16 pursuant to Code Section 10176(i) (conduct which constitutes  
17 fraud or dishonest dealing).

18 SECOND CAUSE OF ACCUSATION

19 (Unlicensed Activity/Fraud/Dishonest Dealing)

20 20.

21 There is hereby incorporated in this Second, separate  
22 and distinct Cause of Accusation, all of the allegations  
23 contained in Paragraphs 1 through 19, with the same force and  
24 effect as if herein fully set forth.

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Rolando Rosales and Jose Hernandez, both unlicensed persons, solicited and offered to perform loan modification and negotiation services and resale services to Jose M. in connection with a property located on Park Avenue in the City of Pomona, California. Rolando Rosales and Jose Hernandez claimed to be acting as agents on behalf of Bursatil and Debt Trust Solutions. On November 11, 2010, Jose M. executed an agreement with Bursatil for \$7,000 for services in connection with a loan secured by a lien on real property.

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On November 11, 2010, Debt Trust Solutions charged and collected two advance fee payments totaling \$1,480 from Jose M. On November 16, 2010, Debt Trust Solutions charged and collected two advance fee payments totaling \$1,020 from Jose M. On December 06, 2010, Debt Trust Solutions charged and collected an advance fee payment of \$1,000 from Jose M. On December 30, 2010, Debt Trust Solutions charged and collected an advance fee payment of \$500 from Jose M. Debt Trust Solutions charged and collected a total of \$4,000 from Jose M.

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23.

Jose M. was instructed by Jose Hernandez and Rolando Rosales to sign a quitclaim deed on his Park Avenue property to Juan Jose Gomez and Javier Hernandez.

24.

Respondent's companies, Bursatil and/or Debt Trust Solutions, never provided the services that were promised to Jose M. Debt Trust Solutions failed to provide any accounting of how it handled the advance fee payments collected from Jose M. Jose M. requested a refund of his advance fee payments from Debt Trust Solutions. On April 4, 2011, Jose M. received a check from Debt Trust Solutions for \$4,000. The check was drawn from an account with insufficient funds. On December 27, 2011, a Notice of Entry of Judgment was filed before the Superior Court of California, County of San Bernardino, Small Claims No. SMC RS1102172, in favor of Jose M. and against Jose Hernandez and Debt Trust Solutions for \$4,015.24.

25.

The conduct, acts and/or omissions of Respondent MARTHA HERNANDEZ, while doing business as Bursatil and/or Debt Trust Solutions, as set forth above in Paragraphs 20 through 24, violate Code Sections 10085.5, 10085.6, 10130, 10137, 10159.5, and Regulation 2731, and are cause for the suspension or revocation of the license and license rights of Respondent

1 MARTHA HERNANDEZ pursuant to Code Sections 10177(d) (violation  
2 of the Real Estate Law) and/or 10177(g) (negligence).

3 26.

4 Respondent's conduct, acts and/or omissions of  
5 Respondent MARTHA HERNANDEZ, while doing business as Bursatil  
6 and/or Debt Trust Solutions, as set forth above in Paragraphs 21  
7 through 24, constitute grounds for the suspension or revocation  
8 of the license and license rights of Respondent MARTHA HERNANDEZ  
9 pursuant to Code Section 10176(i) (conduct which constitutes  
10 fraud or dishonest dealing).

11 27.

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

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1                   WHEREFORE, Complainant prays that a hearing be  
2 conducted on the allegations of this Accusation and that upon  
3 proof thereof, a decision be rendered imposing disciplinary  
4 action against all licenses and/or license rights of Respondent  
5 MARTHA HERNANDEZ under the Real Estate Law (Part 1 of Division 4  
6 of the Business and Professions Code), for the cost of  
7 investigation and enforcement as permitted by law, and for such  
8 other and further relief as may be proper under other provisions  
9 of law.

10 Dated at Los Angeles, California

11 this 10<sup>th</sup> day of September, 2013.

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14 \_\_\_\_\_  
15 MARIA SUAREZ  
16 Deputy Real Estate Commissioner  
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21 cc: Maria Suarez  
22       Sacto  
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