

FILED

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DEPARTMENT OF REAL ESTATE
BY: Jane B. Olson

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BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)	No. H-04455 SD
MARIEMILIA HERNANDEZ,)	<u>A C C U S A T I O N</u>
Respondent.)	

The Complainant, Veronica Kilpatrick, a Deputy Real Estate Commissioner of the State of California, for cause of Accusation against MARIEMILIA HERNANDEZ, is informed and alleges as follows:

1.

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

2.

Respondent MARIEMILIA HERNANDEZ, a.k.a. Maria H. Ferrin, (hereinafter "Respondent") is presently licensed and/or has license rights under the Real Estate Law (Part 1 of

1 Division 4 of the Business and Professions Code, hereinafter
2 "Code") as a real estate salesperson. At all relevant times
3 herein, Respondent was licensed under the employ of broker Sell
4 & Save Realty and Loans Inc.

5 3.

6 Respondent engaged in the business of a real estate
7 broker in the State of California within the meaning of Code
8 Sections 10131(d) and 10131.2, including performing loan
9 modification activities and claiming, demanding, charging,
10 receiving, collecting or contracting for the collection of an
11 advance fee, within the meaning of Code Section 10026,
12 including, but not limited to, the following loan modification
13 activities with respect to loans which were secured by liens on
14 real property.

15 4.

16 On February 19, 2010, Victoria G. addressed a \$1,000
17 check to Respondent as an advance fee for modification services
18 Respondent was to provide on the home loan(s) of Victoria G.
19 On February 22, 2010, Respondent deposited this \$1,000 check.
20 Victoria G. did not receive a modification on any of her home
21 loans until May 12, 2011.

22 5.

23 Effective on October 11, 2009, Code Section 10085.6
24 made it unlawful to collect any compensation for mortgage loan
25 modification services until after the licensee has fully
26 performed each and every service the licensee contracted to
27 perform. Therefore, Respondent's collection of the advance fee

1 described in paragraph 4 above violates Code Sections 10085.5
2 and 10085.6 and provides cause for the suspension or revocation
3 of the license and license rights of Respondent, pursuant to
4 Code Sections 10177(d) and/or 10177(g).

5 6.

6 Under Code Section 10137, no salesperson shall
7 accept compensation from any person other than the broker under
8 who she is at the time employed. At the time of the
9 transaction described in paragraph 4 above, Respondent was
10 licensed under the employ of Sell & Save Realty and Loans Inc.
11 However, Respondent collected the advance fee in her own name,
12 without the knowledge of consent of her broker. Therefore,
13 pursuant to Code Section 10132, Respondent's actions were in
14 violation of Code Section 10130. This provides cause for the
15 suspension or revocation of the license and license rights of
16 Respondent, pursuant to Code Sections 10137, 10177(d) and/or
17 10177(g).

18 7.

19 Code Section 10106, provides, in pertinent part, that
20 in any order issued in resolution of a disciplinary proceeding
21 before the Department, the Commissioner may request the
22 administrative law judge to direct a licensee found to have
23 committed a violation of this part to pay a sum not to exceed
24 the reasonable costs of the investigation and enforcement of
25 the case.

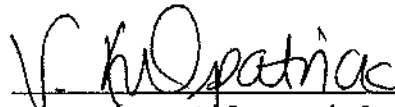
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2 WHEREFORE, Complainant prays that a hearing be
3 conducted on the allegations of this Accusation and that upon
4 proof thereof, a decision be rendered imposing disciplinary
5 action against all the licenses and license rights of Respondent
6 MARIEMILIA HERNANDEZ, under the Real Estate Law, that
7 Complainant be awarded its costs of investigation and
8 prosecution of this case, and for such other and further relief
9 as may be proper under other applicable provisions of law.

10 Dated at San Diego, California

11 this 31 day of January, 2013
12
13

14 

15 Veronica Kilpatrick
16 Deputy Real Estate Commissioner
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24 CC: MARIEMILIA HERNANDEZ
25 Clay D. Renick
26 Veronica Kilpatrick
27 Sacto.