

1 Department of Real Estate  
2 320 West 4th Street, Suite 350  
3 Los Angeles, California 90013-1105

4 Telephone: (213) 576-6982

**FILED**

FEB 24 2012

DEPARTMENT OF REAL ESTATE  
BY: 

8  
9 BEFORE THE DEPARTMENT OF REAL ESTATE

10 STATE OF CALIFORNIA

11 \* \* \*

11 To: )  
12 )  
12 PW CAPITAL CORP., doing business as ) No. H- 37915 LA  
13 Pacific West Real Estate Associates, and )  
13 Pacific West Real Estate and Associates; )  
14 and ADRIAN HERNANDEZ, ) ORDER TO DESIST  
14 individually and as designated officer ) AND REFRAIN  
15 of PW Capital Corp., )  
15 ) (B&P Code Section 10086)  
16 )  
16 )  
17 )

18 The Commissioner ("Commissioner") of the California Department of Real Estate  
19 ("Department") caused an investigation to be made of the activities of PW CAPITAL CORP  
20 ("PWCC") and ADRIAN HERNANDEZ ("HERNANDEZ"). Based on that investigation, the  
21 Commissioner has determined that PWCC and HERNANDEZ have engaged in or are engaging  
22 in acts or are attempting to engage in the business of, acting in the capacity of, and/or advertising  
23 or assuming to act as real estate brokers in the State of California within the meaning of Business  
24 and Professions Code ("Code") Sections 10131(a) and Code Section 10131(d).

25 Based on that investigation, the Commissioner has determined that PWCC and  
26 HERNANDEZ have engaged in or are engaging in acts or are attempting to engage in practices  
27

1 constituting violations of the Code and/or Title 10, California Code of Regulations.  
2 (“Regulations”). Based on the findings of that investigation, set forth below, the Commissioner  
3 hereby issues the following Findings of Fact, Conclusions of Law, and Desist and Refrain Order  
4 under the authority of Section 10086 of the Code.

5 FINDINGS OF FACT

6 1.

7 At all times mentioned, PWCC was licensed or had license rights issued by the  
8 Department of Real Estate (“Department”) as a real estate broker. On April 11, 2011, PWCC  
9 was originally licensed as a corporate real estate broker. On April 11, 2011, HERNANDEZ  
10 became the designated officer of PWCC.

11 2.

12 At all times mentioned, HERNANDEZ was licensed or had license rights issued  
13 by the Department as a real estate broker. HERNANDEZ was originally licensed as a broker on  
14 November 13, 2007. HERNANDEZ has been the designated officer of PWCC since its original  
15 licensure.

16 3.

17 At all times material herein, PWCC was licensed by the Department as a  
18 corporate real estate broker by and through HERNANDEZ, as the designated officer and broker  
19 responsible, pursuant to Code Sections 10159.2 and 10211 of the Business and Professions Code  
20 for supervising the activities requiring a real estate license conducted on behalf PWCC of by  
21 PWCC’s officers, agents and employees, including HERNANDEZ.

22 Brokerage

23 4.

24 At all times mentioned, in the City of Hermosa Beach, County of Orange, PWCC  
25 and HERNANDEZ acted as real estate brokers conducting licensed activities within the meaning  
26 of:

27 ///

1 A. Code Section 10131(a). Respondents engaged in the business of, acted in the  
2 capacity of, advertised or assumed to act as real estate brokers including the operation and  
3 conduct of a residential resale brokerage with the public wherein, for or in expectation of  
4 compensation, for another or others, including the solicitation for listings of and the negotiation  
5 of the sale of real property as the agent of others.

6 B. Code Section 10131(d). Respondents engaged in activities with the public  
7 wherein lenders and borrowers were solicited for loans secured directly or collaterally by liens  
8 on real property, wherein such loans were arranged, negotiated, processed and consummated on  
9 behalf of others for compensation or in expectation of compensation and for fees often collected  
10 in advance.

11 C. In addition, Respondents conducted broker-controlled in-house escrows  
12 through PWCC's escrow division, under the exemption set forth in California Financial Code  
13 Section 17006(a)(4) for real estate brokers performing escrows incidental to a real estate  
14 transaction where the broker is a party.

15 (AUDIT OF PW CAPITAL CORP.)

16 5.

17 In August and September 2011, the Department attempted to examine the books  
18 and records related to the real estate activities of PWCC pertaining to the activities described in  
19 Paragraph 4 that require a real estate license. The audit examination was to cover a period of  
20 time beginning on April 05, 2011 to August 31, 2011. Violations of the Code and the  
21 Regulations were found as set forth in the following paragraphs, and more fully discussed in  
22 Audit Report LA 110027 and the exhibits and work papers attached to said audit report.

23 ///

24 6.

25 In the course of activities described in Paragraph 4, above, and during the  
26 examination period, described in Paragraph 5, Respondents PWCC and HERNANDEZ, acted in  
27

1 violation of the Code and the Regulations in that they failed to retain all records of PWCC's  
2 activity during the audit period requiring a real estate broker license, in violation of Code Section  
3 10148.

4 (AUDIT OF ADRIAN HERNANDEZ)

5 7.

6 On September 30, 2010, the Department attempted to examine the books and  
7 records related to the real estate activities of HERNANDEZ for the period from April 05, 2011  
8 to August 31, 2011. The purpose of the audit was to determine whether HERNANDEZ handled  
9 and accounted for trust funds and performed his real estate activities in accordance with the Real  
10 Estate Laws and the Commissioner's Regulations. Since records were not made available for the  
11 audit examination, it was limited to the attempt to do the examination and verification of the  
12 Department of Real Estate licensing records. The audit examination revealed violations of the  
13 Code and the Regulations as set forth in the following paragraphs, and more fully discussed in  
14 Audit Report LA 110026 and the exhibits and work papers attached to said audit report.

15 8.

16 In the course of activities described in Paragraph 4, above, and during the  
17 examination period, described in Paragraph 7, Respondent HERNANDEZ, acted in violation of  
18 the Code in that HERNANDEZ failed to retain all records of his activity during the audit period  
19 requiring a real estate broker license, in violation of Code Section 10148.

20 (Negligence)

21 9.

22 The overall conduct of Respondents PWCC and HERNANDEZ constitutes  
23 negligence and is cause for the suspension or revocation of the real estate license and license  
24 rights of said Respondents pursuant to the provisions of Code Section 10177(g).

25 ///

26 ///

27

(Supervision and Compliance)

10.

The overall conduct of Respondent HERNANDEZ constitutes a failure on said Respondent's part, as officer designated by a corporate broker licensee, to exercise reasonable supervision and control over the activities conducted by the corporation by its officers and employees of PWCC, as required by Code Section 10159.2, and to keep PWCC in compliance with the Real Estate Law, and is cause for discipline of the real estate license and license rights of Respondent HERNANDEZ pursuant to the provisions of Code Sections 10177(d), 10177(g) and 10177(h).

CONCLUSIONS OF LAW

11.

The conduct of Respondents PWCC and HERNANDEZ, as described in Findings 5 through 8, violated Code Section 10148.

12.

The conduct of Respondents PWCC and HERNANDEZ described in Finding 9, above, violated the Code Section 10177(g).

13.

The conduct of Respondent HERNANDEZ described in Finding 10, above, violated the Code Sections 10159.2, 10177(d), 10177(g) and 10177(h).

///

///

///

///

///

///

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  
27

DESIST AND REFRAIN ORDER

Based upon the FINDINGS OF FACT and CONCLUSIONS OF LAW stated herein, it is hereby ordered that:

PW CAPITAL CORP and ADRIAN HERNANDEZ shall immediately desist and refrain from performing any acts within the State of California for which a real estate broker license is required, unless they are in compliance with the Real Estate Law.

DATED: 2/17, 2012.

BARBARA J. BIGBY  
Acting Real Estate Commissioner



cc: PW Capital Corp.  
c/o Adrian Hernandez  
1601 Pacific Coast Highway  
Suite 290  
Hermosa Beach  
CA 90254

cc: Adrian Hernandez  
1601 Pacific Coast Highway  
Suite 290  
Hermosa Beach  
CA 90254