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SEP 30 2013

BUREAU OF REAL ESTATE

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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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2.

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.

3.

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

4.

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.

1 5.

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

7 6.

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

12 7.

13 Code Section 10131 defines a real estate broker as a
14 person who: (a) sells or offers to sell, buys or offers to buy,
15 solicits prospective sellers or purchasers of, solicits or
16 obtains listing of, or negotiates the purchase, sale or exchange
17 of real property or a business opportunity; or (d) solicits
18 borrowers, negotiates loans, collects payments or performs
19 services for borrowers in connection with loans secured directly
20 or collaterally by liens on real property.

21 8.

22 Code Section 10132 defines a real estate salesperson
23 as a person who, for compensation or in expectation of
24 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.

24

15.

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.

21.

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.

22.

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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1 23.

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

5 24.

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

18 25.

19 The conduct, acts and/or omissions of Respondent
20 MARTHA HERNANDEZ, while doing business as Bursatil and/or Debt
21 Trust Solutions, as set forth above in Paragraphs 20 through 24,
22 violate Code Sections 10085.5, 10085.6, 10130, 10137, 10159.5,
23 and Regulation 2731, and are cause for the suspension or
24 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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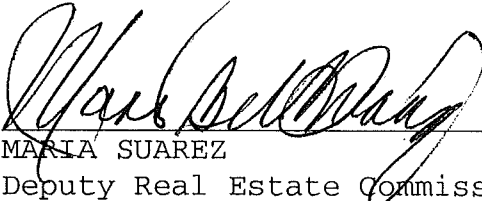
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1 WHEREFORE, Complainant prays that a hearing be
2 conducted on the allegations of this Accusation and that upon
3 proof thereof, a decision be rendered imposing disciplinary
4 action against all licenses and/or license rights of Respondent
5 MARTHA 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 10th day of September, 2013.

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13 
14 MARIA SUAREZ
15 Deputy Real Estate Commissioner
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19
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21
22
23
24

cc: Maria Suarez
Sacto