

FILED

BEFORE THE BUREAU OF REAL ESTATE

APR 03 2014

STATE OF CALIFORNIA

BUREAU OF REAL ESTATE

* * * *

By *J. Arneson*

In the Matter of the Accusation of) No. H-39063 LA
)
MARTHA HERNANDEZ,)
)
Respondent.)
)
_____)

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.

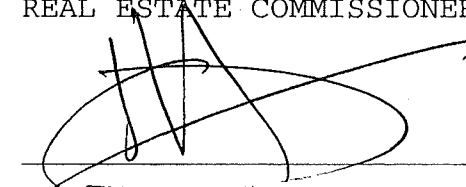
ORDER

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.

DATED: MAR 06 2014

REAL ESTATE COMMISSIONER


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 Aguilera

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