

✓  
FLAG

1 CHERYL D. KEILY, SBN# 94008  
2 Bureau of Real Estate  
3 320 West Fourth Street, Ste. 350  
4 Los Angeles, California 90013

5 Telephone: (213) 576-6982  
6 (Direct) (213) 576-6905

**FILED**

AUG 21 2015

BUREAU OF REAL ESTATE

By 

7 BUREAU OF REAL ESTATE

8 STATE OF CALIFORNIA

9 \*\*\*\*\*

10 In the Matter of the Accusation of

No. H-39946 LA

11 WESTAR LOAN SERVICING, INC.; )  
12 BRADLEY SCOTT HUGHES, individually, )  
13 and as former designated officer for Westar )  
14 Loan Servicing, Inc.; and SERVANDO )  
15 ORNELAS, individually, and as former )  
16 designated officer for Westar Loan )  
17 Servicing, Inc., )  
18 )  
19 Respondents. )  
20 )

ACCUSATION

21 The Complainant, Veronica Kilpatrick, a Supervising Special Investigator of the  
22 State of California, for cause of Accusation against Respondents WESTAR LOAN SERVICING,  
23 INC. ("WESTAR"); BRADLEY SCOTT HUGHES ("HUGHES"), individually, and as former  
24 designated officer for WESTAR; and SERVANDO ORNELAS ("ORNELAS"), individually,  
25 and as former designated officer for WESTAR, (sometimes collectively referred to as  
26 Respondents) is informed and alleges as follows:  
27

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

1.

The Complainant, Veronica Kilpatrick, a Supervising Special Investigator of the State of California, makes this Accusation in her official capacity.

2.

WESTAR is presently licensed and/or has license rights under the Real Estate Law (Part 1 of Division 4 of the Business and Professions Code, hereinafter "Code"), as a real estate corporation. WESTAR has had no designated officer since December 16, 2013. The broker license of WESTAR is scheduled to expire on January 10, 2016.

3.

HUGHES is presently licensed and/or has license rights under the Real Estate Law as a real estate broker. HUGHES was the designated officer of WESTAR during the period January 11, 2012, through January 7, 2013. The broker license of HUGHES is scheduled to expire on October 31, 2015.

4.

ORNELAS is presently licensed and/or has license rights under the Real Estate Law as a real estate broker. ORNELAS was the designated officer of WESTAR during the period January 8, 2013, through December 15, 2013. The broker license of HUGHES is scheduled to expire on August 26, 2018.

5.

All further references to respondents herein includes WESTAR, HUGHES and ORNELAS, and also includes officers, directors, employees, agents and real estate licensees employed by or associated with WESTAR, HUGHES and ORNELAS, and who at all times herein mentioned were engaged in the furtherance of the business or operations of WESTAR, HUGHES and ORNELAS, and who were acting within the course and scope of their authority and employment.

///

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

6.

At the times designated in Paragraphs 3 and 4, above, HUGHES and ORNELAS, as the officers designated by WESTAR pursuant to Section 10211 of the Code, were responsible for the supervision and control of the activities conducted on behalf of WESTAR by its officers and employees as necessary to secure full compliance with the Real Estate Law as set forth in Section 10159.2 of the Code.

7.

HUGHES and ORNELAS ordered, caused, authorized or participated in the conduct of WESTAR, as is alleged in this Accusation.

8.

At all times relevant herein Respondents were engaged in the business of, acted in the capacity of, advertised or assumed to act as real estate brokers and/or real estate corporations in the State of California, within the meaning of Code Sections 10131(d). Said activities included collecting payments or performing services for lenders or note owners in connection with loans secured directly or collaterally by liens on real property or on a business opportunity for compensation or in expectation of compensation.

FIRST CAUSE OF ACCUSATION

(Audit Violations – Loan Servicing Activity)

9.

On or about March 28, 2014, the Bureau completed an audit examination of the books and records of WESTAR pertaining to the real estate activities described in Paragraph 8, above, covering a period from January 11, 2012, to June 30, 2013.

10.

At all times mentioned herein, and in connection with the activities described in Paragraph 8, above, WESTAR accepted or received funds to be held in trust (“trust funds”) from or on behalf of actual or prospective parties to transactions handled by Respondents, and

1 thereafter made deposits and/or disbursements of such funds. From time-to-time herein  
2 mentioned during the audit period, said trust funds were deposited into a bank account  
3 maintained by Respondents as follows:

4 Trust Account

5 Bank: Chase Bank  
6 17900 Chatsworth Street  
7 Granada Hills, Ca 91344  
8 Account Name: Westar Financial Group, Inc.  
9 Client Trust Account  
10 Account No. xxx108xxx  
11 Signatories: Charles Hasbun (Not licensed under WESTAR)  
12 ORNELAS  
13 HUGHES

14 11.

15 The audit examination revealed violations of the Code by Respondent WESTAR,  
16 as set forth in the following paragraphs, and more fully discussed in Audit Report No. LA  
17 120238, and the exhibits and work papers attached to the audit report:

18 (a)

19 (i) As of December 31, 2012, Respondents permitted, allowed or caused the  
20 withdrawal or disbursement of trust funds from the trust account maintained at Chase Bank so  
21 that as of December 31, 2012, the trust account had a minimum shortage of at least  
22 \$<87,641.56>. The shortage was caused by minimum negative borrowers' balances of  
23 \$<75,561.01> and minimum unidentified cause(s) of \$<12,041.36>.

24 As of January 7, 2013, the Trust Account had a minimum shortage of  
25 \$<90,416.15>. The minimum shortage of \$<90,416.15> was caused by minimum negative  
26 borrowers' balances of \$<78,374.79> and minimum unidentified cause(s) of \$<12,041.36>.

1 WESTAR provided no evidence that the owners of the trust funds had given WESTAR written  
2 consent to allow WESTAR to reduce the balance of funds in the trust account handling trust  
3 funds to an amount less than the existing aggregate trust fund liabilities. This is in violation of  
4 Code Section 10145(a) and Section 2832.1 of Title 10, Chapter 6, Code of Regulations  
5 (“Regulations”). HUGHES is the responsible designated officer.

6 (ii) As of June 30, 2013, the Trust Account had a minimum shortage of  
7 \$<82,638.61>. The minimum shortage was caused by minimum negative borrowers’ balances of  
8 \$<43,265.71 and minimum unidentified cause(s) of \$<39,372.90>. WESTAR provided no  
9 evidence that the owners of the trust funds had given WESTAR written consent to allow  
10 WESTAR to reduce the balance of funds in the trust account handling trust funds to an amount  
11 less than the existing aggregate trust fund liabilities in violation of Code Section 10145(a) and  
12 Section 2832.1 of the Regulations. ORNELAS is the responsible designated officer.

13 (b)

14 (i) WESTAR did not submit to the Bureau the following required Trust Account  
15 Report/Multi-Lender Transaction [Form RE852], which should have been filed within thirty (30)  
16 days after the end of each of WESTAR’s fiscal quarters pursuant to Code Section 10238(k)(3):

<u>Fiscal Quarter Ending</u>	<u>Report’s Due Date</u>	<u>Responsible D.O.(s)</u>
September 30, 2012 (3 <sup>rd</sup> Quarterly Multi-Lender)	October 31, 2012	HUGHES & ORNELAS
March 31, 2013 (1 <sup>st</sup> Quarterly Multi-Lender)	April 30, 2013	ORNELAS

17  
18  
19  
20  
21  
22 The 2<sup>nd</sup> Quarterly Multi-Lender quarter ending June 30, 2013, was due on July 31,  
23 2013, and was not submitted to the Bureau as of the audit report date.

24 The auditor prepared the delinquent RE852 Trust Account Reports (Multi-Lender  
25 Transaction) for WESTAR for the quarters ending September 30, 2012, March 31, 2013, and  
26 June 30, 2013.

27 (ii) WESTAR did not submit to the Bureau the Annual Trust Fund Account

1 Review Report (TAR) for its fiscal year ending December 31, 2012. Respondents maintained  
2 poor bookkeeping and made it unfeasible for the auditor to prepare the TAR report for  
3 WESTAR's fiscal year ending December 31, 2012. The TAR report is required pursuant to Code  
4 Section 10232.2(a) and Section 2846.7 of the Regulations. HUGHES and ORNELAS are both  
5 responsible designated officers.

6 (c) Respondents permitted Charles Anthony Hasbun, an unbonded real estate  
7 salesperson who was not licensed to WESTAR during the audit period, to be an authorized  
8 signatory on the Trust Account maintained at Chase Bank in violation of Code Section 10145(a)  
9 and Section 2834 of the Regulations. HUGHES and ORNELAS are both responsible designated  
10 officers.

11 (d) Failed to maintain an accurate control record for the Trust Account in the form  
12 of a columnar record in chronological order of all trust funds received, deposited and disbursed,  
13 which is in violation of Code Section 10145 and Section 2831 of the Regulations. HUGHES and  
14 ORNELAS are both responsible designated officers.

15 (e) Respondents failed to maintain an accurate separate record for each  
16 beneficiary. Specifically, some of the separate records did not have accurate daily balances,  
17 which is in violation Code Section 10145 and Section 2831.1 of the Regulations. HUGHES and  
18 ORNELAS are both responsible designated officers.

19 (f) Respondents failed to maintain a monthly reconciliation of the balance of all  
20 separate beneficiary or transaction records of the control record with the record of all trust funds  
21 received and disbursed as is required by Code Section 10145 and Section 2831.2 of the  
22 Regulations. HUGHES and ORNELAS are both responsible designated officers.

23 (g) Respondents collected trust funds in the form of loan payments and failed to  
24 place said funds in the Trust Account within three (3) business days of receipt in violation of  
25 Code Section 10145(a) and Section 2832 of the Regulations. HUGHES and ORNELAS are both  
26 responsible designated officers.

1 DISCIPLINE STATUTES AND REGULATIONS

2 12.

3 The conduct of Respondent WESTAR described in Paragraph 11, above, violated  
4 the Code and the Regulations as set forth below:

5

6 <u>PARAGRAPH</u>	7 <u>PROVISIONS VIOLATED</u>
8 11(a)	9 Code Section 10145(a); Section 2832.1 of the 10 Regulations
11 11(b)	12 Code Sections 10232.2(a) and 10238(k)(3) and 13 Section 2846.7 of the Regulations
14 11(c)	15 Code Section 10145(a) and Section 2834 of the 16 Regulations
17 11(d)	18 Code Section 10145 and Section 2831 of the 19 Regulations
20 11(e)	21 Code Section 10145 and Section 2831.1 of the 22 Regulations
23 11(f)	24 Code Section 10145 and Section 2831.2 of the 25 Regulations
26 11(g)	27 Code Section 10145(a) and Section 2832 of the Regulations

13.

23 The foregoing violations, as set forth hereinabove, constitute cause for the  
24 suspension or revocation of the real estate licenses and license rights of Respondent WESTAR  
25 under the provisions of Code Sections 10177(d) for violation of the Real Estate Law and/or  
26 10177(g) for negligence or incompetence.

27 ///

SECOND CAUSE OF ACCUSATION

(Failure to Supervise against HUGHES and ORNELAS)

14.

Complainant hereby incorporates by reference the allegations set forth in Paragraphs 1 through 13, above.

15.

The conduct, acts and/or omissions of HUGHES and ORNELAS during the periods of their designation from January 11, 2012, to January 7, 2013, and from January 8, 2013, to December 15, 2013, respectively, in allowing WESTAR to violate the Real Estate Law, as set forth above, constitutes a failure by HUGHES and ORNELAS, as the officers designated by the corporate broker licensee, to exercise the supervision and control over the activities of WESTAR required by Code Section 10159.2, and is cause to suspend or revoke the real estate licenses and license rights of HUGHES and ORNELAS under Code Sections 10177(d), 10177(g) and/or 10177(h).

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

///

///

///

///

///

///

///

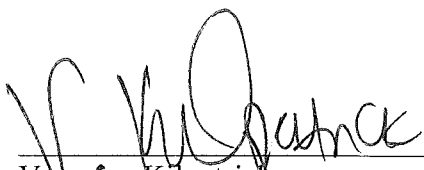
///



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

WHEREFORE, Complainant prays that a hearing be conducted on the allegations of this Accusation and that upon proof thereof, a decision be rendered imposing disciplinary action against all the licenses and license rights of Respondents WESTAR LOAN SERVICING, INC., BRADLEY SCOTT HUGHES and SERVANDO ORNELAS under the Real Estate Law (Part I of Division 4 of the Business and Professions Code), for the cost of investigation and enforcement as permitted by law, for the cost of the audit and follow-up audit as provided in Code Section 10148, and for such other and further relief as may be proper under other applicable provisions of law.

Dated at San Diego, California  
this 17<sup>th</sup> day of August, 2015.

  
\_\_\_\_\_  
Veronica Kilpatrick  
Supervising Special Investigator

cc: WESTAR LOAN SERVICING, INC.  
SERVANDO ORNELAS  
BRADLEY SCOTT HUGHES  
Veronica Kilpatrick  
Sacto