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FILED

JUN 10 2010

DEPARTMENT OF REAL ESTATE

By K. Contreras

8 BEFORE THE  
9 DEPARTMENT OF REAL ESTATE  
10 STATE OF CALIFORNIA

11 \* \* \*

12 In the Matter of the Accusation of	)	
	)	NO. H-2493 FR
13 PEDRO HERNANDEZ and	)	
14 IRMA MACHADO,	)	<u>ACCUSATION</u>
	)	
15 Respondents.	)	
	)	

16  
17 The Complainant, LUKE MARTIN, a Deputy Real Estate Commissioner of the  
18 State of California, for Accusation against PEDRO G. HERNANDEZ (herein "HERNANDEZ"),  
19 and IRMA MACHADO (herein "MACHADO") dba San Joaquin Real Estate & Financial  
20 Services, Inc. (herein collectively "Respondents"), is informed and alleges as follows:

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22 The Complainant makes this Accusation in his official capacity.

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24 At all times herein mentioned, HERNANDEZ was and now is licensed by the  
25 Department as a real estate broker. HERNANDEZ was at all times mentioned herein responsible  
26 for the supervision of the activities of the real estate licensees in his employ for which a real  
27 estate license is required.

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2 At all times herein mentioned, MACHADO was and now is licensed by the  
3 Department as a real estate salesperson and was in the employ of HERNANDEZ between about  
4 December 8, 2009 and February 19, 2010.

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6 At all times herein mentioned, Respondents engaged in the business of, acted in  
7 the capacity of, advertised, or assumed to act as real estate brokers within the State of California  
8 within the meaning of Section 10131(d) of the Business and Professions Code (herein "the  
9 Code"), including the operation and conduct of a mortgage loan brokerage with the public  
10 wherein, on behalf of others, for compensation or in expectation of compensation, Respondents  
11 solicited lenders or borrowers for or negotiated loans or collected payments or performed  
12 services for borrowers or lenders or note owners in connection with loans secured directly or  
13 collaterally by liens on real property or on a business opportunity.

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15 Between about November 21, 2008 and November 2, 2009, Respondent  
16 MACHADO induced the following homeowners to enter into advance fee agreements for loan  
17 modification services by promising to obtain affordable loan modifications, which included  
18 principal and interest reductions:

<u>Date</u>	<u>Homeowner</u>	<u>Advance Fee</u>	<u>Property</u>
11/21/08	Jose A. T.	\$3,345	7343 Houston Ave., Hanford, CA
2/18/09	Marisa A.	\$3,495	2227 E. Norwich Ave., Fresno, CA
3/31/09	Jose P.	\$3,150	2671 Peanut Dr., Madera, CA
7/23/09	Adolfo V.	\$3,500	2551 W. Soult's Dr., Tulare, CA
11/2/09	Enrique R.	\$7,000	5269 S. Chestnut, Fresno, CA and 4918 E. Burns Ave., Fresno, CA

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25 Between about December 8, 2009 and February 19, 2010, Respondent  
26 MACHADO entered into advance fee agreements for loan modification services with the  
27 following homeowners:

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Homeowner

Property

Alejandro D.	640 Barbara Court, Merced, CA
Jorge G.	3436 W. Iris St., Visalia, CA
Juan Carlos R.	1101 Hoag Ave., Sanger, CA
Eulalio E. S.	21393 S. Benedict Ave., Riverdale, CA
Raudel L.	1736 E. Brown Ave., Fresno, CA

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At all times herein mentioned, Respondent MACHADO failed to submit to the Department any or all materials used in advanced fee agreements, including but not limited to the contract form, any letters or cards used to solicit prospective sellers, and radio and television advertising, at least 10 calendar days before it was used in obtaining the advance fee agreements described in Paragraphs 5 and 6, above, in violation of Section of 10085 (advance fee agreements) of the Code and Section 2970 of Title 10, Chapter 6 of the California Code of Regulations (herein "the Regulations").

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At all times herein mentioned, Respondent MACHADO collected advance fees from the homeowners described in Paragraph 5, above, for performing services in connection with loans to be secured directly or collaterally by a lien on real property, before they became obligated to complete the loan, in violation of Section 10085.5 (collecting advance fees) of the Code.

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At all times herein mentioned, Respondent MACHADO, failed to obtain loan modifications for the homeowners described in Paragraph 5, above, contrary to the representations and promises made, in violation of Sections 10176(a) (substantial misrepresentation), (b) (making a false promise), and (i) (fraud or dishonest dealing) and/or 10177(g) (negligence) and/or (j) (fraud or dishonest dealing) of the Code.

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At all times mentioned herein, Respondent HERNANDEZ failed to exercise reasonable supervision over the acts of Respondent MACHADO in such a manner as to allow the

1 acts and omissions on the part of MACHADO, described in Paragraph 6, above, to occur, in  
2 violation of Sections 10177(g) and (h) (broker supervision) of the Code and Section 2725 (broker  
3 supervision) of the Regulations.

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5 The facts alleged above are grounds for the suspension or revocation of the  
6 licenses and license rights of Respondents under the following provisions of the Code and/or the  
7 Regulations:

8 (a) as to Paragraph 7, and Respondent MACHADO, under Section of 10085 of  
9 the Code and Section 2970 of Regulations, in conjunction with Section 10177(d) of the Code;

10 (b) as to Paragraph 8, and Respondent MACHADO, under Section of 10085.5  
11 of the Code, in conjunction with Section 10177(d) of the Code;

12 (c) as to Paragraph 9, and Respondent MACHADO, under Sections 10176(a),  
13 (b), and (i) and/or 10177(g) and/or (j) of the Code; and,

14 (d) as to Paragraph 10, and Respondent HERNANDEZ, under Section 10177(g)  
15 and (h) of the Code and Section 2725 of the Regulations, in conjunction with Section 10177(d)  
16 of the Code.

17 WHEREFORE, Complainant prays that a hearing be conducted on the allegations  
18 of this Accusation and that upon proof thereof a decision be rendered imposing disciplinary  
19 action against all licenses and license rights of Respondents under the Real Estate Law (Part 1 of  
20 Division 4 of the Business and Professions Code) and for such other and further relief as may be  
21 proper under other applicable provisions of law.

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24 LUKE MARTIN  
25 Deputy Real Estate Commissioner

26 Dated at Fresno, California,  
27 this 27<sup>th</sup> day of May, 2010.