



On March 24, 2011, no Notice of Defense having been filed herein within the time prescribed by Section 11506 of the Government Code, Respondents BEST FUNDING HOME LOANS, INC. and MONICA VARGAS' default was entered herein.

2.

At all times mentioned herein, Respondent BEST FUNDING HOME LOANS, INC. ("BEST FUNDING") was licensed or had license rights issued by the Department of Real Estate ("Department") as a real estate corporation. Respondent BEST FUNDING was originally licensed as a real estate corporation on April 18, 2005. At all times relevant herein, Respondent BEST FUNDING was authorized to act by and through Respondent FERNANDO ARTURO PEREZ as its broker designated pursuant to Business and Professions Code ("Code") Section 10159.2 to be responsible for ensuring compliance with the Real Estate Law.

3.

At all times mentioned herein, Respondent MONICA VARGAS, formerly Monica Ortiz and also known as Monica O. Vargas ("VARGAS") was licensed or had license rights issued by the Department as a real estate salesperson. Respondent VARGAS was originally licensed as a real estate salesperson on January 26, 2007. On January 25, 2011, Respondent VARGAS' license expired. Respondent VARGAS has renewal rights pursuant to Code Section 10201. The Department retains jurisdiction pursuant to Code Section 10103.

4.

All further references to "Respondents" include Respondents VARGAS and BEST FUNDING, as well as its officers, agents and employees.

5.

At all times mentioned herein, in the State of California, Respondents engaged in the business of a real estate broker conducting activities requiring a real estate license within the meaning of Code Sections 10131(a), 10131(d), and 10131.2. Respondents engaged in operating a residential resale, mortgage loan, advance fee and loan modification service brokerage. For compensation or in expectation of compensation and for fees often collected in advance, Respondents contacted lenders on behalf of distressed homeowners seeking modification or forbearance of the terms of their home loans.

FIRST CAUSE OF ACCUSATION

(Advance Fee Violation/Deceit/Dishonest Dealing)

6.

At no time mentioned herein was "USMS" or "California Mortgage Relief Services" a real estate corporation, licensed by the Department or a licensed fictitious business name with the Department for any of the Respondents.

7.

At all times mentioned herein, in the State of California, Respondents engaged in the business of claiming, demanding, charging, receiving, collecting or contracting for the collection of advance fees, within the meaning of Code Section 10026 including, but not limited to, the following loan activities with respect to loans which were secured by liens on real property:

a. On or about February 24, 2009, Lucia Da Silva paid an advance fee totaling \$2,800 to Respondents who were doing business as "USMS." The advance fee was collected pursuant to the provisions of an agreement pertaining to loan solicitation, negotiation, and modification services to be provided by Respondents with respect to a loan secured by the real property located in the City of Hesperia, California. The agents authorized to negotiate with Lucia Da Silva's lender included Respondent VARGAS and Yessenia Rivas. Lucia Da Silva cancelled her agreement with Respondents and demanded a refund of her advance fee. Respondents refused to provide Lucia Da Silva with all or a part of said refund.

b. On or about March 13, 2009, Gloria De Leon paid an advance fee of \$3,590 to Respondents who were doing business as "USMS." The advance fee was collected pursuant to the provisions of an agreement pertaining to loan solicitation, negotiation, and modification services to be provided by Respondents with respect to a loan secured by real property located in the city of Los Angeles, California. Respondents VARGAS and BEST FUNDING were the agents authorized to negotiate Gloria De Leon's mortgage loan with her lender. Respondent VARGAS acted as agents for BEST FUNDING and demanded advance fees for the loan negotiation and modification for Gloria De Leon. Gloria De Leon cancelled her agreement with Respondents and demanded a refund of her

advance fee. Respondents refused to provide Gloria De Leon with all or a part of said refund.

c. At all times mentioned herein, Respondent VARGAS represented herself as an experienced realtor and agent affiliated with BEST FUNDING.

8.

Respondents charged and collected the advance fees described in Paragraph 7, above, for soliciting borrowers or lenders or negotiating loans secured by real property, which constitute an advance fee within the meaning of Code Section 10026.

9.

On or about August 19, 2009, the Department issued a "no objection" letter of approval of the advance fee agreement and accounting format submitted by Respondent BEST FUNDING. Respondents violated Code Section 10085 and Regulation 2970 by failing to submit a written agreement or any written solicitation for loan negotiation and modification services, as described in Paragraph 7, above, to the Commissioner ten days before using it.

SECOND CAUSE OF ACCUSATION  
(Unlicensed Activity and Use of Unauthorized  
Fictitious Business Name)

10.

The activities described in Paragraph 7, supra, require a real estate license under Code Sections 10131(d) and 10131.2. Use of a fictitious business name for activities requiring the issuance of a real estate license requires the filing of an application for the use of such name with the Department in accordance with the provisions of Code Section 10159.5.

11.

Respondent BEST FUNDING acted without Department authorization in using the fictitious business name "USMS" and "California Mortgage Relief Services" to engage in activities requiring the issuance of a real estate license.

THIRD CAUSE OF ACCUSATION  
(Audit)

12.

On January 7, 2010, the Department completed an audit examination of the books and records of Respondent BEST FUNDING pertaining to the mortgage loan, advance fee and loan negotiation and modification service activities described in Paragraph 11, which require a real estate license. The audit examination covered a period of time beginning on November 1, 2006 to October 31, 2009. The audit examination revealed violations of the Code and the Regulations as set forth in the following paragraphs, and more fully discussed in Audit Report LA 090049 and the exhibits and work papers attached to said Audit Report.

Violations

13.

In the course of activities described in Paragraph 5, above, and during the examination period described in Paragraph 12, Respondent BEST FUNDING, acted in violation of the Code and the Regulations as follows:

(a) Received funds for credit fees at the close of loan transactions for borrowers David Parco, David and Cinthia French, Jose Arellano, and Daniel Farnham that had not yet been paid and failed to handle said credit fees through a trust account, in violation of Code Sections 10145(a) and 10176(e) and Regulation 2835(b).

(b) Failed to maintain a complete and accurate columnar record for trust funds that were received from escrow companies including, but not limited to, credit report fees for the loan transactions of borrowers David Parco, David and Cinthia French, Jose Arellano, and Daniel Farnham, in violation of Code Section 10145(a) and Regulation 2831.

(c) Failed to maintain a separate record for each beneficiary of trust funds that were received from escrow companies including, but not limited to, credit report fees for the loan transactions of borrowers David Parco, David and Cinthia French, Jose Arellano, and Daniel Farnham, in violation

of Code Section 10145(a) and Regulation 2831.1.

(d) From approximately November 1, 2006, through November 17, 2009, Respondent PEREZ allowed his wife Mireles Perez, a person not licensed in any capacity by the Department, to be a signer on BEST FUNDING's trust account without fidelity bond coverage, in violation of Code Section 10145 and Regulation 2834.

(e) Failed to provide proof within loan files of borrowers including, but not limited to, Daniel Farnham and Rick and Aileen Sorer, of disclosure of yield spread premium or rebates from lender as additional compensation for services rendered to said borrowers, in violation of Code Section 10240 and Regulation 2840.

(f) During the course of the audit period, failed to make available for inspection the original license certificates of Respondent MERCADO and Elvia De La Riva, in violation of Code Section 10160 and Regulation 2753.

DETERMINATION OF ISSUES

1.

The conduct of Respondent BEST FUNDING described in Paragraph 13, above, violated the Code and the Regulations as set forth below:

PARAGRAPH	PROVISIONS VIOLATED
13(a)	Code Sections <u>10145</u> , <u>10176(e)</u> and Regulation <u>2835(b)</u>
13(b)	Code Section <u>10145(a)</u> and Regulation <u>2831</u>
13(c)	Code Section 10145(a) and Regulation <u>2831.1</u>
13(d)	Code Section 10145 and Regulation <u>2834</u>
13(e)	Code Section <u>10240</u> and Regulation <u>2840</u>
13(f)	Code Section <u>10160</u> and Regulation <u>2753</u>

The foregoing violations constitute cause for the suspension or revocation of the real estate license and license rights of Respondent BEST FUNDING, as aforesaid, under the provisions of Code Sections 10176(e) for commingling, 10177(d) for violation of the Real Estate Law and 10177(g) for negligence.

2.

Respondent BEST FUNDING violated Code Section 10085 and Regulation 2970 by failing to submit a written agreement or any written solicitation for loan negotiation and modification services, as described in Paragraph 7, above, to the Commissioner ten days before using it. Said conduct, acts and/or omissions constitute cause for the suspension or revocation of the license and license rights of Respondent BEST FUNDING pursuant to Code Sections 10085, 10177(d) and 10177(g).

3.

The conduct, acts and/or omissions of Respondents BEST FUNDING and VARGAS as set forth in Paragraph 7 above, of making false and/or misleading representations in order to induce borrowers to enter into a loan modification or refinance agreement, and in otherwise engaging in fraudulent and dishonest dealing, constitutes cause for the suspension or revocation of the licenses and license rights of Respondents BEST FUNDING and VARGAS pursuant to Code Sections 10176(a), 10176(b) and 10176(i).

4.

The conduct, acts and/or omissions of Respondent BEST FUNDING as set forth in Paragraphs 10 and 11, above, violate Code Section 10159.5 and Regulation 2731, and are cause for the suspension or revocation of the license and license rights of Respondent pursuant to Code Sections 10177(d) and 10177(g).

5.

The standard of proof applied was clear and convincing proof to a reasonable certainty.

ORDER

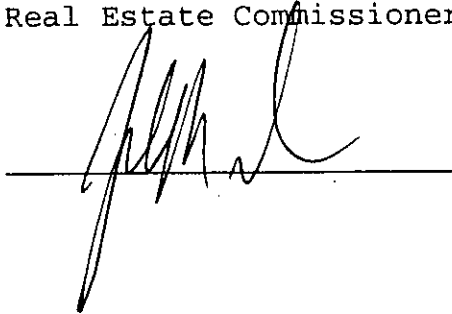
The licenses and license rights of Respondents BEST FUNDING HOME LOANS, INC. and MONICA VARGAS under the provisions of Part I of Division 4 of the Business and Professions Code are revoked.

Pursuant to Section 10148 of the Business and Professions Code, Respondent BEST FUNDING HOME LOANS, INC. shall pay the Commissioner's reasonable cost for the audit which led to this disciplinary action. The cost of the audit which led to this disciplinary action is \$3,674.95.

This Decision shall become effective at 12 o'clock noon May 24, 2011.

DATED: 4-25, 2011.

JEFF DAVI  
Real Estate Commissioner

A handwritten signature in black ink, appearing to read 'Jeff Davi', is written over a horizontal line. The signature is stylized and cursive.



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

**FILED**  
MAR 24 2011  
DEPARTMENT OF REAL ESTATE

By *[Signature]*

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BEFORE THE DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

\* \* \* \*

In the Matter of the Accusation of	)	
	)	NO. H-36896 LA
<u>BEST FUNDING HOME LOANS, INC.,</u>	)	
FERNANDO ARTURO PEREZ, individually	)	<u>DEFAULT ORDER</u>
and as designated officer of	)	
Best Funding Home Loans, Inc.;	)	
ARTURO MERCADO; RICARDO DELARIVA;	)	
and <u>MONICA VARGAS,</u>	)	
	)	
Respondents.	)	

Respondents, BEST FUNDING HOME LOANS, INC. and MONICA VARGAS, having failed to file a Notice of Defense within the time required by Section 11506 of the Government Code, are now in default. It is, therefore, ordered that a default be entered on the record in this matter.

IT IS SO ORDERED March 24, 2011

JEFF DAVI  
Real Estate Commissioner

*Dolores Weeks*  
By: DOLORES WEEKS  
Regional Manager



1 2.

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

4 3.

5 At all times mentioned herein, Respondent BEST FUNDING HOME LOANS,  
6 INC. ("BEST FUNDING") was licensed or had license rights issued by the Department of Real  
7 Estate ("Department") as a real estate corporation. Respondent BEST FUNDING was originally  
8 licensed as a real estate corporation on April 18, 2005. At all times relevant herein, Respondent  
9 BEST FUNDING was authorized to act by and through Respondent FERNANDO ARTURO  
10 PEREZ as its broker designated pursuant to Code Section 10159.2 to be responsible for ensuring  
11 compliance with the Real Estate Law.

12 4.

13 At all times mentioned herein, Respondent FERNANDO ARTURO PEREZ  
14 ("PEREZ") was licensed or had license rights issued by the Department as a real estate broker.  
15 Respondent PEREZ was originally licensed as a real estate broker on September 6, 2000.

16 5.

17 At all times mentioned herein, Respondent ARTURO MERCADO  
18 ("MERCADO") was licensed or had license rights issued by the Department of as a real estate  
19 salesperson. Respondent MERCADO was originally licensed as a real estate salesperson on  
20 June 12, 2004.

21 6.

22 At all times mentioned herein, Respondent RICARDO DELARIVA  
23 ("DELARIVA") was licensed or had license rights issued by the Department as a real estate  
24 salesperson. Respondent DELARIVA was originally licensed as a real estate salesperson on  
25 September 2, 2004.

26 ///

27 ///

1 7.

2 At all times mentioned herein, Respondent MONICA VARGAS, formerly  
3 Monica Ortiz and also known as Monica O. Vargas ("VARGAS") was licensed or had license  
4 rights issued by the Department as a real estate salesperson. Respondent VARGAS was  
5 originally licensed as a real estate salesperson on January 26, 2007.

6 8.

7 All further references to "Respondents" include the parties listed in Paragraphs 1  
8 through 7, above, as well as the officers, agents and employees of the parties listed in Paragraphs  
9 1 through 7, above.

10 9.

11 At all times mentioned herein, in the State of California, Respondents engaged in  
12 the business of a real estate broker conducting activities requiring a real estate license within the  
13 meaning of Code Sections 10131(a), 10131(d), and 10131.2. Respondents engaged in operating  
14 a residential resale, mortgage loan, advance fee and loan modification service brokerage. For  
15 compensation or in expectation of compensation and for fees often collected in advance,  
16 Respondents contacted lenders on behalf of distressed homeowners seeking modification or  
17 forbearance of the terms of their home loans.

18 FIRST CAUSE OF ACCUSATION  
19 (Advance Fee Violation/Deceit/Dishonest Dealing)

20 10.

21 At no time mentioned herein was "USMS" or "California Mortgage Relief  
22 Services" a real estate corporation licensed by the Department or a licensed fictitious business  
23 name with the Department for any of the Respondents.

24 11.

25 At all times mentioned herein, in the State of California, Respondents engaged in  
26 the business of claiming, demanding, charging, receiving, collecting or contracting for the  
27 collection of advance fees, within the meaning of Code Section 10026 including, but not limited

1 to, the following loan activities with respect to loans which were secured by liens on real  
2 property:

3 a. On or about February 24, 2009, Lucia Da Silva paid an advance fee totaling  
4 \$2,800 to Respondents who were doing business as "USMS." The advance fee was collected  
5 pursuant to the provisions of an agreement pertaining to loan solicitation, negotiation, and  
6 modification services to be provided by Respondents with respect to a loan secured by the real  
7 property located in the City of Hesperia, California. The agents authorized to negotiate with  
8 Lucia Da Silva's lender were Respondents VARGAS, DELARIVA and Yessenia Rivas.  
9 Respondent MERCADO also acted as an agent for BEST FUNDING and demanded advance  
10 fees for the loan negotiation and modification for Lucia Da Silva. Lucia Da Silva cancelled her  
11 agreement with Respondents and demanded a refund of her advance fee. Respondents refused to  
12 provide Lucia Da Silva with all or a part of said refund.

13 b. On or about March 13, 2009, Gloria De Leon paid an advance fee of \$3,590 to  
14 Respondents who were doing business as "USMS." The advance fee was collected pursuant to  
15 the provisions of an agreement pertaining to loan solicitation, negotiation, and modification  
16 services to be provided by Respondents with respect to a loan secured by real property located in  
17 the city of Los Angeles, California. Respondents VARGAS and BEST FUNDING were the  
18 agents authorized to negotiate Gloria De Leon's mortgage loan with her lender. Respondents  
19 MERCADO, DELARIVA, and VARGAS acted as agents for BEST FUNDING and demanded  
20 advance fees for the loan negotiation and modification for Gloria De Leon. Gloria De Leon  
21 cancelled her agreement with Respondents and demanded a refund of her advance fee.  
22 Respondents refused to provide Gloria De Leon with all or a part of said refund.

23 c. At all times mentioned herein, Respondents MERCADO, DELARIVA and  
24 VARGAS represented themselves as experienced realtors and agents affiliated with BEST  
25 FUNDING.

26 ///

27 ///

12.

1 Respondents charged and collected the advance fees described in Paragraph 11,  
2 above, for soliciting borrowers or lenders or negotiating loans secured by real property, which  
3 constitute an advance fee within the meaning of Code Section 10026.  
4

13.

5  
6 On or about August 19, 2009, the Department issued a "no objection" letter of  
7 approval of the advance fee agreement and accounting format submitted by Respondents BEST  
8 FUNDING and PEREZ. Respondents violated Code Section 10085 and Regulation 2970 by  
9 failing to submit a written agreement or any written solicitation for loan negotiation and  
10 modification services, as described in Paragraph 11, above, to the Commissioner ten days before  
11 using it. Said conduct, acts and/or omissions constitute cause for the suspension or revocation of  
12 the licenses and license rights of Respondents pursuant to Code Sections 10085, 10177(d) and/or  
13 10177(g).

14.

14 The conduct, acts and/or omissions of Respondents as set forth in Paragraphs 11  
15 through 13, above, of making false and/or misleading representations in order to induce  
16 borrowers to enter into a loan modification or refinance agreement, and in otherwise engaging in  
17 fraudulent and dishonest dealing, constitutes cause for the suspension or revocation of the  
18 licenses and license rights of Respondents pursuant to Code Sections 10176(a), 10176(b),  
19 10176(i), and/or 10177(j).

20 SECOND CAUSE OF ACCUSATION

21 (Unlicensed Activity and Use of Unauthorized Fictitious Business Name)

22 15.

23 There is hereby incorporated in this Second, separate Cause of Accusation, all of  
24 the allegations contained in Paragraphs 1 through 14, above, with the same force and effect as if  
25 herein fully set forth.

26 16.

27 The activities described in Paragraph 11, supra, require a real estate license under  
Code Sections 10131(d) and 10131.2. Use of a fictitious business name for activities requiring

1 the issuance of a real estate license requires the filing of an application for the use of such name  
2 with the Department in accordance with the provisions of Code Section 10159.5.

3 17.

4 Respondents acted without Department authorization in using the fictitious  
5 business name "USMS" and "California Mortgage Relief Services" to engage in activities  
6 requiring the issuance of a real estate license.

7 18.

8 The conduct, acts and/or omissions of Respondents as set forth in Paragraphs 16  
9 and 17, above, violate Code Section 10159.5 and Regulation 2731, and are cause for the  
10 suspension or revocation of the licenses and license rights of Respondents pursuant to Code  
11 Sections 10177(d) and /or 10177(g).

12 THIRD CAUSE OF ACCUSATION

13 (Audit)

14 19.

15 There is hereby incorporated in this Third, separate Cause of Accusation, all of  
16 the allegations contained in Paragraphs 1 through 18, above, with the same force and effect as if  
17 herein fully set forth.

18 20.

19 On January 7, 2010, the Department completed an audit examination of the books  
20 and records of Respondent BEST FUNDING pertaining to the mortgage loan, advance fee and  
21 loan negotiation and modification service activities described in Paragraph 11, which require a  
22 real estate license. The audit examination covered a period of time beginning on November 1,  
23 2006 to October 31, 2009. The audit examination revealed violations of the Code and the  
24 Regulations as set forth in the following paragraphs, and more fully discussed in Audit Report  
25 LA 090049 and the exhibits and work papers attached to said Audit Report.

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27 ///

Violations

In the course of activities described in Paragraph 20, above, and during the examination period described in Paragraph 20, Respondents BEST FUNDING and PEREZ, acted in violation of the Code and the Regulations as follows:

(a) Received funds for credit fees at the close of loan transactions for borrowers David Parco, David and Cinthia French, Jose Arellano, and Daniel Farnham that had not yet been paid and failed to handle said credit fees through a trust account, in violation of Code Sections 10145(a) and 10176(e) and Regulation 2835(b).

(b) Failed to maintain a complete and accurate columnar record for trust funds that were received from escrow companies including, but not limited to, credit report fees for the loan transactions of borrowers David Parco, David and Cinthia French, Jose Arellano, and Daniel Farnham, in violation of Code Section 10145(a) and Regulation 2831.

(c) Failed to maintain a separate record for each beneficiary of trust funds that were received from escrow companies including, but not limited to, credit report fees for the loan transactions of borrowers David Parco, David and Cinthia French, Jose Arellano, and Daniel Farnham, in violation of Code Section 10145(a) and Regulation 2831.1.

(d) From approximately November 1, 2006, through November 17, 2009, Respondent PEREZ allowed his wife Mireles Perez, a person not licensed in any capacity by the Department, to be a signer on BEST FUNDING's trust account without fidelity bond coverage, in violation of Code Section 10145 and Regulation 2834.

(e) Failed to provide proof within loan files of borrowers including, but not limited to, Daniel Farnham and Rick and Aileen Sorer, of disclosure of yield spread premium or rebates from lender as additional compensation for services rendered to said borrowers, in violation of Code Section 10240 and Regulation 2840.

(f) During the course of the audit period, failed to make available for inspection the original license certificates of Respondent MERCADO and Elvia De La Riva, in violation of



1 Code Section 10160 and Regulation 2753.

2 Disciplinary Statutes

3 22.

4 The conduct of Respondents BEST FUNDING and PEREZ described in  
5 Paragraph 21, above, violated the Code and the Regulations as set forth below:

6

7 PARAGRAPH	PROVISIONS VIOLATED
8 21(a)	Code Sections 10145, 10176(e) and Regulation 2835(b)
9 21(b)	Code Section 10145(a) and Regulation 2831
10 21(c)	Code Section 10145(a) and Regulation 2831.1
11 21(d)	Code Section 10145 and Regulation 2834
12 21(e)	Code Section 10240 and Regulation 2840
13 21(f)	Code Section 10160 and Regulation 2753

14

15 The foregoing violations constitute cause for the suspension or revocation of the  
16 real estate license and license rights of Respondent BEST FUNDING, as aforesaid, under the  
17 provisions of Code Sections 10176(e) for commingling, 10177(d) for violation of the Real Estate  
18 Law and/or 10177(g) for negligence.

19 23.

20 The overall conduct of Respondent BEST FUNDING constitutes negligence.  
21 This conduct and violations are cause for the suspension or revocation of the real estate license  
22 and license rights of said Respondent pursuant to the provisions of Code Section 10177(g).

23 FOURTH CAUSE OF ACCUSATION

24 (Failure to Supervise)  
25 (PEREZ)

26 24.

27 There is hereby incorporated in this Fourth, separate Cause of Accusation, all of  
the allegations contained in Paragraphs 1 through 23, above, with the same force and effect as if

1 herein fully set forth.

2 25.

3 The conduct, acts and/or omissions of Respondent PEREZ, in allowing  
4 Respondent BEST FUNDING to violate the Real Estate Law, as set forth above, constitutes a  
5 failure by Respondent PEREZ, as the officer designated by the corporate broker licensee, to  
6 exercise the supervision and control over the activities of Respondent BEST FUNDING, as  
7 required by Code Section 10159.2, and is cause to suspend or revoke the real estate licenses and  
8 license rights of Respondent PEREZ under Code Sections 10177(d), 10177(g) and/or 10177(h).

9 WHEREFORE, Complainant prays that a hearing be conducted on the allegations  
10 of this Accusation and that upon proof thereof, a decision be rendered imposing disciplinary  
11 action against the license and license rights of Respondents BEST FUNDING HOME LOANS,  
12 INC.; FERNANDO ARTURO PEREZ, individually and as designated officer of Best Funding  
13 Home Loans, Inc.; ARTURO MERCADO; RICARDO DELARIVA; and MONICA VARGAS  
14 under the Real Estate Law (Part 1 of Division 4 of the Business and Professions Code) and for  
15 such other and further relief as may be proper under other applicable provisions of law.

16 Dated at Los Angeles, California

17 this 29<sup>th</sup> day of October, 2010.

18  
19  
20   
21 MARIA SUAREZ  
22 Deputy Real Estate Commissioner

23 cc: Best Funding Home Loans, Inc.,  
24 Fernando Arturo Perez,  
25 Arturo Mercado  
26 Ricardo Delariva  
27 Monica Vargas  
California Citywide Real Estate Corporation  
Maria Suarez  
Sacto  
Audits -- Anna Hartoonian