

SAC.

1 LISSETE GARCIA, Counsel (SBN 211552)
2 Department of Real Estate
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FILED
OCT 20 2011
DEPARTMENT OF REAL ESTATE
By Cu

8 BEFORE THE DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of) DRE No. H-37289 LA
12) OAH No. L-2011091145
13 ORANGE COUNTY METRO REALTY, INC.,) FIRST AMENDED
14 ORANGE COUNTY METRO PROPERTIES,) ACCUSATION
15 DEREK WALTER MARKOVIC, individually)
16 and as former designated officer of Orange)
17 County Metro Realty, Inc.,)
18 BRENDA J. CABALLERO,)
19 INES P. SORIANO, and)
20 EZEQUIEL MARTIN PALOMINO,)
21 Respondents.)

19 This First Amended Accusation amends the Accusation filed on May 24, 2011.
20 The Complainant, Maria Suarez, a Deputy Real Estate Commissioner of the State of California,
21 for cause of Accusation against ORANGE COUNTY METRO REALTY, INC. ("OCMRI"),
22 ORANGE COUNTY METRO PROPERTIES ("OCMP"), DEREK WALTER MARKOVIC,
23 individually and as former designated officer of Orange County Metro Realty, Inc., BRENDA J.
24 CABALLERO ("CABALLERO"), INES P. SORIANO ("SORIANO"), and EZEQUIEL
25 MARTIN PALOMINO ("PALOMINO") (collectively "Respondents"), is informed and alleges
26 as follows:

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1.

The Complainant, Maria Suarez, a Deputy Real Estate Commissioner of the State of California, makes this Accusation in her official capacity.

2.

From January 24, 2008, through the present, Respondent OCMRI has been licensed as a real estate corporation. From June 27, 2008, through January 4, 2010, OCMRI was acting by and through Respondent MARKOVIC as its designated broker-officer pursuant to Business and Professions Code ("Code") Section 10159.2 to be responsible for ensuring compliance with the Real Estate Law. Joseph Alois Broderick ("Broderick") is the Chief Executive Officer, Director and President of Respondent OCMRI.

3.

From April 17, 2002, through April 16, 2010, Respondent OCMP was licensed as a real estate corporation. From April 17, 2006, through April 17, 2010, OCMP was acting by and through Broderick as its designated broker-officer pursuant to Code Section 10159.2 to be responsible for ensuring compliance with the Real Estate Law. Broderick is the Chief Executive Officer, Director and President of Respondent OCMP.

4.

From February 15, 1985, through February 14, 2009, Broderick was licensed as a real estate broker. Broderick's renewal rights have expired pursuant to Code Section 10201.

5.

From November 14, 1983, through the present, Respondent MARKOVIC has been individually licensed as a real estate broker. From June 27, 2008, through January 4, 2010, Respondent MARKOVIC was licensed as the broker-officer of Respondent OCMRI.

6.

From November 3, 1990, through the present, Respondent CABALLERO has been licensed as a real estate salesperson. From July 11, 2008, through January 3, 2010, Respondent CABALLERO was acting in the employ of Respondent OCMRI. From January 5,

1 2010, through April 17, 2010, Respondent CABALLERO was acting in the employ of
2 Respondent OCOMP.

3 7.

4 From May 3, 2007, through the present, SORIANO, formerly known as Ines
5 Onorio, has been licensed as a real estate salesperson. From July 15, 2008, through January 3,
6 2010, SORIANO was acting in the employ of Respondent OCMRI. From January 5, 2010,
7 through April 16, 2010, SORIANO was acting in the employ of Respondent OCOMP.

8 8.

9 From January 26, 2000, through the present, PALOMINO has been licensed as a
10 real estate salesperson. From July 15, 2008, through January 3, 2010, PALOMINO was acting in
11 the employ of Respondent OCMRI. From January 13, 2010, through April 26, 2010,
12 PALOMINO was acting in the employ of Respondent OCOMP.

13 9.

14 From February 14, 1996, through September 28, 2011, Juan Carlos Ferrufino
15 ("Ferrufino"), was licensed as a real estate salesperson. From July 23, 2009, through January 6,
16 2010, Ferrufino was acting in the employ of Respondent OCMRI. From January 7, 2010,
17 through April 16, 2010, Ferrufino was acting in the employ of Respondent OCOMP. The
18 Department revoked Ferrufino's real estate salesperson's license on September 28, 2011.

19 FIRST CAUSE OF ACCUSATION
20 (Advance Fee violations/Fraud/Dishonest Dealing)

21 10.

22 For an unknown period of time including July, 2008, through December, 2009,
23 Respondents and Broderick (while doing business as Re/Max Metro Realty, OCMRI, OCOMP,
24 Home Defenders Center, The Master Game or any other fictitious business names unknown at
25 this time) solicited foreclosure forbearance, short sale, loan modification and negotiation services
26 to homeowners in connection with loans secured directly by liens on real property within the
meaning of Code Sections 10131 (a) and (d). Respondents and Broderick charged and collected

1 advance fees for said services within the meaning of Code Section 10026. Respondents and
2 Broderick instructed homeowners to sign grant deeds conveying their properties to Linda K.
3 Rodgers as trustee for trusts created specifically for each homeowner's property. Respondents
4 and Broderick failed to provide copies of any written advance fee agreement to the homeowners.
5 Respondents and Broderick failed to deposit the homeowners' advance fees into a trust account.

6 11.

7 Alonso Godinez

8 On or about July 21, 2008, Alonso Godinez entered into a residential listing
9 agreement with broker OCMRI (doing business as Re/Max Metro Realty and Metro Escrow) for
10 a short sale of Mr. Godinez' real property located 3122 Cabernet Drive, Mira Loma, California
11 ("3122 Cabernet Drive property"). German Guzman signed the residential listing agreement as
12 the agent for OCMRI. Mr. Godinez met with OCMRI's agents including CABALLERO,
13 German Guzman, Lizardo Enrique Garcia, and Esperanza Salazar. OCMRI's agents induced Mr.
14 Godinez to sign several documents including what Mr. Godinez later discovered was a grant
15 deed conveying the 3122 Cabernet Drive property to Linda K. Rogers, as trustee of the 3122
16 Cabernet Drive Land Trust. Mr. Godinez was not given copies of the documents that he was
17 asked to sign for Respondent OCMRI. On July 30, 2008, Linda K. Rogers executed a Notice of
18 Default Purchase Agreement to purchase the 3122 Cabernet Drive property for \$175,000.

19 12.

20 Respondent OCMRI did not complete the short sale of the 3122 Cabernet Drive
21 property for Mr. Godinez. Mr. Godinez asked to have the title to his 3122 Cabernet Drive
22 property transferred back to his name. Respondent CABALLERO, while acting as manager for
23 Respondent OCMRI and Broderick, refused unless Mr. Godinez paid a \$2,500 fee to revoke the
24 trust and transfer title of the 3122 Cabernet Drive property back to his name.

25 13.

26 The conduct, acts and/or omissions of Respondents OCMRI, CABALLERO and
Broderick as alleged above, constitute making substantial misrepresentations, willful violations

1 of the Real Estate Law, fraud, dishonest dealing or negligence and are grounds for the
2 suspension or revocation of Respondents OCMRI, BRODERICK and CABALLERO's licenses
3 under Code Sections 10176(a), 10177(d), 10177(j) or 10177(g).

4 14.

5 Respondent MARKOVIC's failure to supervise the activities of Respondent
6 OCMRI to ensure compliance with the Real Estate Law, is in violation of Code Section 10159.2
7 and Section 2725 of the Regulations, Title 10, Chapter 6, California Code of Regulations
8 ("Regulations") and constitutes grounds to suspend or revoke Respondent MARKOVIC's license
9 and license rights pursuant to Code Sections 10177(h), 10177(d) or 10177(g).

10 15.

11 At no time mentioned herein has Home Defenders Center ever been licensed by
12 the Department in any capacity.

13 Maria Martinez and Antonio Manjarrez

14 16.

15 On or about February 16, 2009, SORIANO and PALOMINO, while acting on
16 behalf of Broderick and Respondents OCMP, OCMRI, and MARKOVIC (who were doing
17 business as Home Defenders Center) solicited loan negotiation and modification services to
18 Maria Martinez and Antonio Manjarrez in connection with a loan secured by liens on real
19 property located at 51721 Calle Torres Orduno, Coachella, California ("Calle Torres Orduno
20 property"). Ms. Martinez paid an advance fee totaling \$3,000 to Home Defenders Center for the
21 loan negotiation and modification services. SORIANO and PALOMINO failed to provide
22 copies of any written agreement or contract pertaining to the loan modification services for the
23 Calle Torres Orduno property. Home Defenders Center failed to perform the services promised
24 or to obtain any loans for the Calle Torres Orduno property on more favorable terms. Home
25 Defenders Center failed to refund the advance fee paid by Ms. Martinez.
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17.

The advance fee agreement used by Broderick and Respondents OCMP and OCMRI (while doing business as Home Defenders Center) had not been approved by the Department prior to use as is required under Code Section 10085 and Regulation Section 2970.

18.

The conduct, acts and/or omissions of Broderick and Respondents OCMP, OCMRI, as set forth above, in collecting advance fees, as defined under Code Section 10026, from prospective borrowers pursuant to a written fee agreement, which agreement was not submitted to the Department for review prior to use, was in violation of Code Section 10085 and Regulation Section 2970, and constitutes grounds for the suspension or revocation of the license and license rights of Respondents OCMP and OCMRI, pursuant to Code Sections 10177(d) or 10177(g).

19.

The advance fees collected by Broderick and Respondents OCMP and OCMRI (while doing business as Home Defenders Center) were not deposited in a trust account as required under Code Section 10146.

20.

The conduct, acts and/or omissions of Broderick and Respondents OCMP and OCMRI, as set forth above, in collecting advance fees from prospective borrowers and failing to deposit the advance fees into a trust account, is in violation of Code Section 10146 and constitutes grounds for the suspension or revocation of the license and license rights of Respondents OCMP and OCMRI pursuant to Code Sections 10177(d) and/or 10177(g).

21.

The conduct, acts and/or omissions of Respondents SORIANO and PALOMINO, as set forth above, in making substantial misrepresentations to borrowers in order to charge and collect advance fees for loan negotiation and modification services, and demonstrating negligence or incompetence in performing acts for which a real estate license is required,

1 constitutes grounds for the suspension or revocation of the license and license rights of
2 Respondents SORIANO and PALOMINO pursuant to Code Sections 10176(a), 10177(d) and/or
3 10177(g).

4 22.

5 Respondent MARKOVIC's failure to supervise the activities of Respondent
6 OCMRI to ensure compliance with the Real Estate Law, is in violation of Code Section 10159.2
7 and Regulation Section 2725 and constitutes grounds to suspend or revoke Respondent
8 MARKOVIC's license and license rights pursuant to Code Sections 10177(h), 10177(d) or
9 10177(g).

10 23.

11 Agustin and Lidia Enriquez

12 On or about March 18, 2009, SORIANO and PALOMINO, while acting on behalf
13 of Broderick and Respondents OCMP, OCMRI, and MARKOVIC (doing business as Home
14 Defenders Center) solicited loan negotiation and modification services to Agustin Enriquez and
15 Lidia Enriquez in connection with a loan secured by liens on real property located at 2794 Coral
16 Sea Ave, Salton City, California ("Coral Sea Ave. property"). Mr. Enriquez paid an advance fee
17 totaling \$3,000 to Respondents for the loan negotiation and modification services. SORIANO
18 and PALOMINO induced Mr. Enriquez to sign a durable power of attorney for Metro Escrow,
19 Re/Max Metro, Home Defenders Center, attorney Kevin Spainhour, and his employees and/or
20 associates. Mr. Enriquez never met with Kevin Spainhour. Respondents failed to perform the
21 services promised or to obtain any loans for the Coral Sea Ave. property on more favorable
22 terms. Respondents failed to provide Mr. Enriquez with an accounting of the advance fee trust
23 funds deposited in a trust account for Mr. Enriquez as the beneficiary. Respondents failed to
24 refund the advance fee paid by Mr. Enriquez.

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24.

The advance fee agreement used by Broderick and Respondents OCMP and OCMRI (doing business as Home Defenders Center) had not been approved by the Department prior to use as is required under Code Section 10085 and Regulation Section 2970.

25.

The conduct, acts and/or omissions of Broderick and Respondents OCMP and OCMRI as set forth above, in collecting advance fees, as defined under Code Section 10026, from prospective borrowers pursuant to a written fee agreement, which agreement was not submitted to the Department for review prior to use was in violation of Code Section 10085 and Regulation Section 2970, and constitutes grounds for the suspension or revocation of the license and license rights of Respondents OCMP and OCMRI pursuant to Code Sections 10177(d) or 10177(g).

26.

The advance fees collected by Broderick and Respondents OCMP and OCMRI (doing business as Home Defenders Center) were not deposited in a trust account as required under Code Section 10146.

27.

The conduct, acts and/or omissions of Broderick and Respondents OCMP and OCMRI, as set forth above, in collecting advance fees from prospective borrowers and failing to deposit the advance fees into a trust account, is in violation of Code Section 10146 and constitutes grounds for the suspension or revocation of the license and license rights of Respondents OCMP and OCMRI pursuant to Code Sections 10177(d) and/or 10177(g).

28.

The conduct, acts and/or omissions of Respondents SORIANO and PALOMINO, as set forth above, in making substantial misrepresentations to borrowers in order to charge and collect advance fees for loan negotiation and modification services and demonstrating negligence or incompetence in performing acts for which a real estate license is required, constitutes

1 grounds for the suspension or revocation of the license and license rights of Respondents
2 SORIANO and PALOMINO pursuant to Code Sections 10176(a), 10177(d) and/or 10177(g).

3 29.

4 Respondent MARKOVIC's failure to supervise the activities of Respondent
5 OCMRI to ensure compliance with the Real Estate Law, is in violation of Code Section 10159.2
6 and Regulation Section 2725 and constitutes grounds to suspend or revoke Respondent
7 MARKOVIC's license and license rights pursuant to Code Sections 10177(h), 10177(d) or
8 10177(g).

9 30.

10 Manuel Navarro Elias

11 On or about August 22, 2009, Ferrufino, while acting on behalf of Broderick and
12 Respondents OCMRI and MARKOVIC (while they were doing business as Re/Max Metro)
13 solicited loan negotiation and modification services to Manuel Navarro Elias ("Mr. Navarro") in
14 connection with a loan secured by liens on real property located at 230 N. Peach Ave., Fresno,
15 California ("N. Peach Ave. property"). Ferrufino charged Mr. Navarro an advance fee of \$3,000
16 for the loan negotiation and modification services. Ferrufino collected an advance fee of \$1,500
17 from Mr. Navarro. Ferrufino failed to provide copies of any written agreement or contract
18 pertaining to the loan modification services for the N. Peach Ave. property. Broderick and
19 Respondent OCMRI failed to perform the services promised or to obtain any loans for the N.
20 Peach Ave. property on more favorable terms. Broderick and Respondent OCMRI failed to
21 refund the advance fee paid by Mr. Navarro.

22 31.

23 The advance fee agreement for loan negotiation and modification services used by
24 Respondents OCMRI and BRODERICK had not been approved by the Department prior to use
25 as is required under Code Section 10085 and Regulation Section 2970.
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32.

The conduct, acts and/or omissions of Broderick and Respondent OCMRI as set forth above, in collecting advance fees, as defined under Code Section 10026, from prospective borrowers pursuant to a written fee agreement, which agreement was not submitted to the Department for review prior to use, is in violation of Code Section 10085 and Regulation Section 2970, and constitutes grounds for the suspension or revocation of the license and license rights of Respondent OCMRI pursuant to Code Sections 10177(d) or 10177(g).

33.

The advance fees collected by Broderick and Respondent OCMRI were not deposited in a trust account as required under Code Section 10146.

34.

The conduct, acts and/or omissions of Broderick and Respondent OCMRI as set forth above, in collecting advance fees from prospective borrowers and failing to deposit the advance fees into a trust account, is in violation of Code Section 10146 and constitutes grounds for the suspension or revocation of the license and license rights of Respondent OCMRI pursuant to Code Sections 10177(d) and/or 10177(g).

35.

Respondent MARKOVIC's failure to supervise the activities of Respondent OCMRI to ensure compliance with the Real Estate Law, is in violation of Code Section 10159.2 and Regulation Section 2725 and constitutes grounds to suspend or revoke Respondent MARKOVIC's license and license rights pursuant to Code Sections 10177(h), 10177(d) or 10177(g).

36.

Guadalupe Roa

From on or about December 29, 2008, through July, 2009, Guadalupe Roa paid \$6,000 to Home Defender Center for loan modification and negotiations services in connection with a loan secured directly by liens on two real properties located Cathedral City, California.

1 PALOMINO while acting on behalf of Broderick and Respondent OCMRI (while doing business
2 as Re/Max Metro and Home Defender Center) solicited loan modification and negotiation
3 services to Guadalupe Roa. PALOMINO and SORIANO charged and collected advance fees
4 totaling \$6,000 for said loan negotiation and modification services. PALOMINO failed to
5 provide copies of any written agreement or contract pertaining to the loan modification services
6 for Guadalupe Roa's properties. Broderick and Respondent OCMRI failed to perform the
7 services promised or to obtain any loans for Guadalupe Roa's properties on more favorable
8 terms.

9 37.

10 The advance fee agreement for loan negotiation and modification services used by
11 Broderick and Respondent OCMRI had not been approved by the Department prior to use as is
12 required under Code Section 10085 and Regulation Section 2970.

13 38.

14 The conduct, acts and/or omissions of Broderick and Respondent OCMRI as set
15 forth above, in collecting advance fees, as defined under Code Section 10026, from prospective
16 borrowers pursuant to a written fee agreement, which agreement was not submitted to the
17 Department for review prior to use, is in violation of Code Section 10085 and Regulation Section
18 2970, and constitutes grounds for the suspension or revocation of the license and license rights of
19 Respondent OCMRI pursuant to Code Sections 10177(d) or 10177(g).

20 39.

21 The advance fees collected by Broderick and Respondent OCMRI were not
22 deposited in a trust account as required under Code Section 10146.

23 40.

24 The conduct, acts and/or omissions of Broderick and Respondent OCMRI as set
25 forth above, in collecting advance fees from prospective borrowers and failing to deposit the
26 advance fees into a trust account, is in violation of Code Section 10146 and constitutes grounds
for the suspension or revocation of the license and license rights of Respondent OCMRI pursuant

1 to Code Sections 10177(d) and/or 10177(g).

2 41.

3 Respondent MARKOVIC's failure to supervise the activities of Respondent
4 OCMRI to ensure compliance with the Real Estate Law, is in violation of Code Section 10159.2
5 and Regulation Section 2725 and constitutes grounds to suspend or revoke Respondent
6 MARKOVIC's license and license rights pursuant to Code Sections 10177(h), 10177(d) or
7 10177(g).

8 SECOND CAUSE OF ACCUSATION
9 (Use of Unauthorized Fictitious Business Name)

10 42.

11 There is hereby incorporated in this Second, separate Cause of Accusation, all of
12 the allegations contained in Paragraphs 1 through 41 above, with the same force and effect as if
13 herein fully set forth.

14 43.

15 Use of a fictitious business name for activities requiring the issuance of a real
16 estate license requires the filing of an application for the use of such name with the Department
17 in accordance with the provisions of Code Section 10159.5.

18 44.

19 Broderick and Respondents OCMP and OCMRI acted without Department
20 authorization in using the fictitious business name Home Defenders Center to engage in
21 activities requiring the issuance of a real estate license.

22 45.

23 The conduct, acts and/or omissions of Broderick and Respondents OCMP and
24 OCMRI, as set forth in Paragraphs 43 and 44, above, violate Code Section 10159.5 and
25 Regulation Section 2731, and are cause for the suspension or revocation of the license and
26 license rights of Respondents OCMP and OCMRI pursuant to Code Sections 10177(d) and/or
10177(g).

1 46.

2 Respondent MARKOVIC's failure to supervise the activities of Respondent
3 OCMRI to ensure compliance with the Real Estate Law, is in violation of Code Section 10159.2
4 and Regulation Section 2725 and constitutes grounds to suspend or revoke Respondent
5 MARKOVIC's license and license rights pursuant to Code Sections 10177(h), 10177(d) or
6 10177(g).

7 THIRD CAUSE OF ACCUSATION
8 (Audits)

9 47.

10 There is hereby incorporated in this Third, separate Cause of Accusation, all of
11 the allegations contained in Paragraphs 1 through 46 above, with the same force and effect as if
12 herein fully set forth.

13 48.

14 A licensed real estate broker shall retain for three years copies of all listings,
15 deposit receipts, canceled checks, trust records, and other documents executed by him or her or
16 obtained by him or her in connection with any transactions for which a real estate broker license
17 is required, in accordance with the provisions of Code Section 10148.

18 49.

19 On June 3, 2010, the Department served a subpoena duces tecum to Respondent
20 OCMRI for copies of all documents in connection with licensed activity conducted between
21 June 7, 2007 and June 7, 2010.

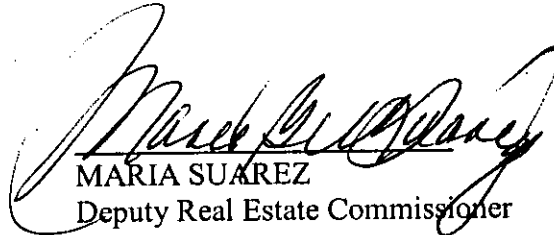
22 50.

23 After being given reasonable notice, Respondent OCMRI failed to retain records
24 in connection with its licensed activities requested by the Department, in violation of Code
25 Section 10148.
26

1 WHEREFORE, Complainant prays that a hearing be conducted on the allegations
2 of this Accusation and that upon proof thereof, a decision be rendered imposing disciplinary
3 action against all licenses and/or license rights of Respondents ORANGE COUNTY METRO
4 REALTY, INC., ORANGE COUNTY METRO PROPERTIES, DEREK WALTER
5 MARKOVIC, individually and as former designated officer of Orange County Metro Realty,
6 Inc., BRENDA J. CABALLERO, INES P. SORIANO, and EZEQUIEL MARTIN PALOMINO,
7 under the Real Estate Law (Part 1 of Division 4 of the California Business and Professions Code)
8 and for such other and further relief as may be proper under other applicable provisions of law.

9 Dated at Los Angeles, California.

10 this 18th day of October, 2011.

11
12
13 
14 MARIA SUAREZ
15 Deputy Real Estate Commissioner
16
17

18 cc: OAH
19 Orange County Metro Realty, Inc.
20 Orange County Metro Properties
21 Jane Grilliot Kearn, Esq.
22 Derek Walter Markovic
23 Carlos V. Yguico, Esq.
24 Brenda J. Caballero
25 Republic Realty Services, Inc.
26 Perry E. Rhoads, Esq.
Ines P. Soriano
Best Buy Real Estate
Ezequiel Martin Palomino
Robert L. Williams, Esq.
Maria Suarez
Sacto

On July 27, 2011, no Notice of Defense having been filed herein within the time prescribed by Section 11506 of the Government Code, Respondent JUAN CARLOS FERRUFINO's default was entered herein.

II

From February 14, 1996, through the present, Respondent JUAN CARLOS FERRUFINO ("FERRUFINO") has been licensed and/or has license rights under the Real Estate Law, Part 1 of Division 4 of the California Business and Professions Code ("Code") as a real estate salesperson. From July 23, 2009, through January 6, 2010, FERRUFINO was acting in the employ of ORANGE COUNTY METRO REALTY, INC. ("OCMRI"). From January 7, 2010, through April 16, 2010, FERRUFINO was acting in the employ of ORANGE COUNTY METRO PROPERTIES ("OCMP").

III

On or about August 22, 2009, FERRUFINO, while acting on behalf of OCMRI, doing business as Re/Max Metro, solicited loan negotiation and modification services to Manuel Navarro Elias ("Mr. Navarro") in connection with a loan secured by real property located at 230 N. Peach Ave., Fresno, California ("230 N. Peach Ave. property"). FERRUFINO charged Mr. Navarro an advance fee totaling \$3,000 for the loan negotiation and modification services. FERRUFINO collected an advance fee of \$1,500 from Mr. Navarro. FERRUFINO failed to provide copies of any written agreement or contract pertaining to the loan modification services for the 230 N. Peach Ave. property. OCMRI failed to perform the services promised or to obtain any loans for the 230 N. Peach Ave. property on more favorable terms. OCMRI failed to refund the advance fee paid by Mr. Navarro.

IV

The conduct, acts and/or omissions of Respondent FERRUFINO, as set forth above, in making substantial misrepresentations to borrowers in order to charge and collect advance fees for loan negotiation and modification services and demonstrating negligence or incompetence in performing acts for which a real estate license is required constitutes grounds for the suspension or revocation of the license and license rights of Respondent FERRUFINO pursuant to Code Sections 10176(a) and 10177(g).

DETERMINATION OF ISSUES

I

Cause for disciplinary action against Respondent JUAN CARLOS FERRUFINO exists pursuant to Business and Professions Code Sections 10176(a) and 10177(g).

II

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

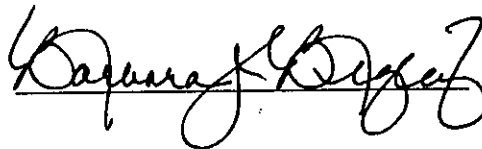
ORDER

The licenses and license rights of Respondent JUAN CARLOS FERRUFINO 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 Sept. 28, 2011.

DATED: 8/26, 2011.

BARBARA J. BIGBY
Acting Real Estate Commissioner



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

FILED
JUL 27 2011
DEPARTMENT OF REAL ESTATE

By C.B.

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8 STATE OF CALIFORNIA

9 * * * *

10 In the Matter of the Accusation of)
11 ORANGE COUNTY METRO REALTY, INC.,) NO. H-37289 LA
12 ORANGE COUNTY METRO PROPERTIES,) DEFAULT ORDER
13 DEREK WALER MARKOVIC, individually)
14 and as former designated officer)
15 of Orange County Metro Realty, Inc.,)
16 BRENDA J. CABALLERO, INES P. SORIANO,)
EZEQUIEL MARTIN PALOMINO, and)
JUAN CARLOS FERRUFINO,)
Respondents.)

17 Respondent, JUAN CARLOS FERRUFINO, having failed to
18 file a Notice of Defense within the time required by Section
19 11506 of the Government Code, is now in default. It is,
20 therefore, ordered that a default be entered on the record in
21 this matter as to JUAN CARLOS FERRUFINO.

22 IT IS SO ORDERED

July 27, 2011

23 BARBARA J. BIGBY
24 Acting Real Estate Commissioner

25
26 Dolores Weeks
27 By: DOLORES WEEKS
Regional Manager

SAC

1 LISSETE GARCIA, Counsel (SBN 211552)
2 Department of Real Estate
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4 Los Angeles, California 90013-1105
5 Telephone: (213) 576-6982
6 (Direct) (213) 576-6914

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9 STATE OF CALIFORNIA

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11 In the Matter of the Accusation of)
12) NO. H-37289 LA
13 ORANGE COUNTY METRO REALTY, INC.,)
14 ORANGE COUNTY METRO PROPERTIES,) ACCUSATION
15 DEREK WALTER MARKOVIC, individually)
16 and as former designated officer of Orange)
17 County Metro Realty, Inc.,)
18 BRENDA J. CABALLERO,)
19 INES P. SORIANO,)
EZEQUIEL MARTIN PALOMINO, and)
JUAN CARLOS FERRUFINO,)
Respondents.)

20 The Complainant, Maria Suarez, a Deputy Real Estate Commissioner of the State
21 of California, for cause of Accusation against ORANGE COUNTY METRO REALTY, INC.
22 ("OCMRP"), ORANGE COUNTY METRO PROPERTIES ("OCMP"), DEREK WALTER
23 MARKOVIC, individually and as former designated officer of Orange County Metro Realty,
24 Inc., BRENDA J. CABALLERO ("CABALLERO"), INES P. SORIANO ("SORIANO"),
25 EZEQUIEL MARTIN PALOMINO ("PALOMINO"), and JUAN CARLOS FERRUFINO
26 ("FERRUFINO"), (collectively "Respondents"), is informed and alleges as follows:

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1.

The Complainant, Maria Suarez, a Deputy Real Estate Commissioner of the State of California, makes this Accusation in her official capacity.

2.

From January 24, 2008, through the present, Respondent OCMRI has been licensed as a real estate corporation. From June 27, 2008, through January 4, 2010, OCMRI was acting by and through Respondent MARKOVIC as its designated broker-officer pursuant to Business and Professions Code ("Code") Section 10159.2 to be responsible for ensuring compliance with the Real Estate Law. Joseph Alois Broderick ("Broderick") is the Chief Executive Officer, Director and President of Respondent OCMRI.

3.

From April 17, 2002, through April 16, 2010, Respondent OCMP was licensed as a real estate corporation. From April 17, 2006, through April 17, 2010, OCMP was acting by and through Broderick as its designated broker-officer pursuant to Code Section 10159.2 to be responsible for ensuring compliance with the Real Estate Law. Broderick is the Chief Executive Officer, Director and President of Respondent OCMP.

4.

From February 15, 1985, through February 14, 2009, Broderick was licensed as a real estate broker. Broderick's renewal rights have expired pursuant to Code Section 10201.

5.

From November 14, 1983, through the present, Respondent MARKOVIC has been individually licensed as a real estate broker. From June 27, 2008, through January 4, 2010, Respondent MARKOVIC was licensed as the broker-officer of Respondent OCMRI.

6.

From November 3, 1990, through the present, Respondent CABALLERO has been licensed as a real estate salesperson. From July 11, 2008, through January 3, 2010, Respondent CABALLERO was acting in the employ of Respondent OCMRI. From January 5,

1 2010, through April 17, 2010, Respondent CABALLERO was acting in the employ of
2 Respondent OCMP.

3 7.

4 From May 3, 2007, through the present, SORIANO, formerly known as Ines
5 Onorio, has been licensed as a real estate salesperson. From July 15, 2008, through January 3,
6 2010, SORIANO was acting in the employ of Respondent OCMRI. From January 5, 2010,
7 through April 16, 2010, SORIANO was acting in the employ of Respondent OCMP.

8 8.

9 From January 26, 2000, through the present, PALOMINO has been licensed as a
10 real estate salesperson. From July 15, 2008, through January 3, 2010, PALOMINO was acting in
11 the employ of Respondent OCMRI. From January 13, 2010, through April 26, 2010,
12 PALOMINO was acting in the employ of Respondent OCMP.

13 9.

14 From February 14, 1996, through the present, FERRUFINO has been licensed as
15 a real estate salesperson. From July 23, 2009, through January 6, 2010, FERRUFINO was acting
16 in the employ of Respondent OCMRI. From January 7, 2010, through April 16, 2010,
17 FERRUFINO was acting in the employ of Respondent OCMP.

18 FIRST CAUSE OF ACCUSATION
19 (3122 Cabernet Drive property)

20 10.

21 On or about July 21, 2008, Alonso Godinez entered into a residential listing
22 agreement with broker OCMRI, while doing business as Re/Max Metro Realty and Metro
23 Escrow, to complete a short sale of Mr. Godinez' real property located 3122 Cabernet Drive,
24 Mira Loma, California ("3122 Cabernet Drive property"). The listing price of the 3122 Cabernet
25 Drive property was \$379,000. German Guzman signed the residential listing agreement as the
26 agent for OCMRI. Mr. Godinez met with Respondent OCMRI's agents including
CABALLERO, German Guzman, Lizardo Enrique Garcia, and Esperanza Salazar. OCMRI's

1 agents induced Mr. Godinez to sign several documents including what Mr. Godinez later
2 discovered was a grant deed conveying the 3122 Cabernet Drive property to Linda K. Rogers, as
3 trustee of the 3122 Cabernet Drive Land Trust. Mr. Godinez was not given copies of the
4 documents that he was asked to sign for Respondent OCMRI. On July 30, 2008, Linda K.
5 Rogers executed a Notice of Default Purchase Agreement to purchase the 3122 Cabernet Drive
6 property for \$175,000.

7 11.

8 Respondent OCMRI did not complete the short sale of the 3122 Cabernet Drive
9 property for Mr. Godinez. Mr. Godinez asked to have the title to his 3122 Cabernet Drive
10 property transferred back to his name. Respondent CABALLERO, while acting as manager for
11 Respondent OCMRI and Broderick, refused unless Mr. Godinez paid a \$2,500 fee to revoke the
12 trust and transfer title of the 3122 Cabernet Drive property back to his name.

13 12.

14 The conduct, acts and/or omissions of Respondents OCMRI and CABALLERO
15 as alleged above, constitute making substantial misrepresentations, willful violations of the Real
16 Estate Law, fraud, dishonest dealing or negligence and are grounds for the suspension or
17 revocation of Respondents OCMRI and CABALLERO's licenses under Code Sections 10176(a),
18 10177(d), 10177(j) or 10177(g).

19 13.

20 Respondent MARKOVIC's failure to supervise the activities of Respondent
21 OCMRI to ensure compliance with the Real Estate Law, is in violation of Code Section 10159.2
22 and Section 2725 of the Regulations, Title 10, Chapter 6, California Code of Regulations
23 ("Regulations") and constitutes grounds to suspend or revoke Respondent MARKOVIC's license
24 and license rights pursuant to Code Sections 10177(h), 10177(d) or 10177(g).

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1 SECOND CAUSE OF ACCUSATION
2 (51721 Calle Torres Orduno property)

3 14.

4 There is hereby incorporated in this second, separate Cause of Accusation, all of
5 the allegations contained in Paragraphs 1 though 13 above, with the same force and effect as if
6 herein fully set forth.

7 15.

8 At no time mentioned herein has Home Defenders Center ever been licensed by
9 the Department in any capacity.

10 16.

11 On or about February 16, 2009, SORIANO and PALOMINO, while acting on
12 behalf of Broderick and Respondents OCMP, OCMRI, and MARKOVIC, who were doing
13 business as Home Defenders Center, solicited loan negotiation and modification services to
14 Maria Martinez and Antonio Manjarrez in connection with a loan secured by real property
15 located at 51721 Calle Torres Orduno, Coachella, California ("51721 Calle Torres Orduno
16 property"). Ms. Martinez paid an advance fee totaling \$3,000 to Home Defenders Center for the
17 loan negotiation and modification services. SORIANO and PALOMINO failed to provide
18 copies of any written agreement or contract pertaining to the loan modification services for the
19 51721Calle Torres Orduno property. Home Defenders Center failed to perform the services
20 promised or to obtain any loans for the 51721 Calle Torres Orduno property on more favorable
21 terms. Home Defenders Center failed to refund the advance fee paid by Ms. Martinez.

22 17.

23 The advance fee agreement used by Broderick and Respondents OCMP and
24 OCMRI, while doing business as Home Defenders Center, had not been approved by the
25 Department prior to use as is required under Code Section 10085 and Regulation Section 2970.
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18.

The conduct, acts and/or omissions of Respondents OCMP and OCMRI, as set forth above, in collecting advance fees, as defined under Code Section 10026, from prospective borrowers pursuant to a written fee agreement, which agreement was not submitted to the Department for review prior to use, was in violation of Code Section 10085 and Regulation Section 2970, and constitutes grounds for the suspension or revocation of the license and license rights of Respondents OCMP and OCMRI pursuant to Code Sections 10177(d) or 10177(g).

19.

The advance fees collected by Broderick and Respondents OCMP and OCMRI, while doing business as Home Defenders Center, were not deposited in a trust account as required under Code Section 10146.

20.

The conduct, acts and/or omissions of Respondents OCMP and OCMRI, as set forth above, in collecting advance fees from prospective borrowers and failing to deposit the advance fees into a trust account, was in violation of Code Section 10146 and constitutes grounds for the suspension or revocation of the license and license rights of Respondents OCMP and OCMRI pursuant to Code Sections 10177(d) and/or 10177(g).

21.

The conduct, acts and/or omissions of Respondents SORIANO and PALOMINO, as set forth above, in making substantial misrepresentations to borrowers in order to charge and collect advance fees for loan negotiation and modification services, and demonstrating negligence or incompetence in performing acts for which a real estate license is required, constitutes grounds for the suspension or revocation of the license and license rights of Respondents SORIANO and PALOMINO pursuant to Code Sections 10176(a) and/or 10177(g).

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22.

Respondent MARKOVIC's failure to supervise the activities of Respondent OCMRI, to ensure compliance with the Real Estate Law, is in violation of Code Section 10159.2 and Regulation Section 2725 and constitutes grounds to suspend or revoke Respondent MARKOVIC's license and license rights pursuant to Code Sections 10177(h), 10177(d) or 10177(g).

THIRD CAUSE OF ACCUSATION
(2794 Coral Sea Ave. property)

23.

There is hereby incorporated in this third, separate Cause of Accusation, all of the allegations contained in Paragraphs 1 through 22 above, with the same force and effect as if herein fully set forth.

24.

On or about March 18, 2009, SORIANO and PALOMINO, while acting on behalf of Broderick and Respondents OCMP, OCMRI, and MARKOVIC, who were doing business as Home Defenders Center, solicited loan negotiation and modification services to Agustin Enriquez and Lidia Enriquez in connection with a loan secured by real property located at 2794 Coral Sea Ave, Salton City, California ("2794 Coral Sea Ave. property"). Mr. Enriquez paid an advance fee totaling \$3,000 to Respondents for the loan negotiation and modification services. SORIANO and PALOMINO induced Mr. Enriquez to sign a durable power of attorney for Metro Escrow, Re/Max Metro, Home Defenders Center, attorney Kevin Spainhour, and his employees and/or associates. Mr. Enriquez never met with Kevin Spainhour. Respondents failed to perform the services promised or to obtain any loans for the 2794 Coral Sea Ave. property on more favorable terms. Respondents failed to provide Mr. Enriquez with an accounting of the advance fee trust funds deposited in a trust account for Mr. Enriquez as the beneficiary. Respondents failed to refund the advance fee paid by Mr. Enriquez.

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25.

The advance fee agreement used by Broderick and Respondents OCMP and OCMRI,, who were doing business as Home Defenders Center, had not been approved by the Department prior to use as is required under Code Section 10085 and Regulation Section 2970.

26.

The conduct, acts and/or omissions of Respondents OCMP and OCMRI, as set forth above, in collecting advance fees, as defined under Code Section 10026, from prospective borrowers pursuant to a written fee agreement, which agreement was not submitted to the Department for review prior to use was in violation of Code Section 10085 and Regulation Section 2970, and constitutes grounds for the suspension or revocation of the license and license rights of Respondents OCMP and OCMRI pursuant to Code Sections 10177(d) or 10177(g).

27.

The advance fees collected by Broderick and Respondents OCMP and OCMRI, while doing business as Home Defenders Center were not deposited in a trust account as required under Code Section 10146.

28.

The conduct, acts and/or omissions of Respondents OCMP and OCMRI, as set forth above, in collecting advance fees from prospective borrowers and failing to deposit the advance fees into a trust account, was in violation of Code Section 10146 and constitutes grounds for the suspension or revocation of the license and license rights of Respondents OCMP and OCMRI pursuant to Code Sections 10177(d) and/or 10177(g).

29.

The conduct, acts and/or omissions of Respondents SORIANO and PALOMINO, as set forth above, in making substantial misrepresentations to borrowers in order to charge and collect advance fees for loan negotiation and modification services and demonstrating negligence or incompetence in performing acts for which a real estate license is required, constitutes grounds for the suspension or revocation of the license and license rights of Respondents

1 SORIANO and PALOMINO pursuant to Code Sections 10176(a) and/or 10177(g).

2 30.

3 Respondent MARKOVIC's failure to supervise the activities of Respondent
4 OCMRI to ensure compliance with the Real Estate Law, is in violation of Code Section 10159.2
5 and Regulation Section 2725 and constitutes grounds to suspend or revoke Respondent
6 MARKOVIC's license and license rights pursuant to Code Sections 10177(h), 10177(d) or
7 10177(g).

8 FOURTH CAUSE OF ACCUSATION
9 (Use of Unauthorized Fictitious Business Name)

10 31.

11 There is hereby incorporated in this fourth, separate Cause of Accusation, all of
12 the allegations contained in Paragraphs 1 through 30 above, with the same force and effect as if
13 herein fully set forth.

14 32.

15 Use of a fictitious business name for activities requiring the issuance of a real
16 estate license requires the filing of an application for the use of such name with the Department
17 in accordance with the provisions of Code Section 10159.5.

18 33.

19 Broderick and Respondents OCMP and OCMRI, acted without Department
20 authorization in using the fictitious business name Home Defenders Center to engage in
21 activities requiring the issuance of a real estate license.

22 34.

23 The conduct, acts and/or omissions of Respondents OCMP and OCMRI, as set
24 forth in Paragraphs 31 and 32, above, violate Code Section 10159.5 and Regulation Section
25 2731, and are cause for the suspension or revocation of the license and license rights of
26 Respondents OCMP and OCMRI pursuant to Code Sections 10177(d) and/or 10177(g).

1 35.

2 Respondent MARKOVIC's failure to supervise the activities of Respondent
3 OCMRI to ensure compliance with the Real Estate Law, is in violation of Code Section 10159.2
4 and Regulation Section 2725 and constitutes grounds to suspend or revoke Respondent
5 MARKOVIC's license and license rights pursuant to Code Sections 10177(h), 10177(d) or
6 10177(g).

7 FIFTH CAUSE OF ACCUSATION
8 (230 N. Peach Ave. property)

9 36.

10 There is hereby incorporated in this fifth, separate Cause of Accusation, all of the
11 allegations contained in Paragraphs 1 through 35 above, with the same force and effect as if
12 herein fully set forth.

13 37.

14 On or about August 22, 2009, FERRUFINO, while acting on behalf of Broderick
15 and Respondents OCMRI and MARKOVIC, while doing business as Re/Max Metro, solicited
16 loan negotiation and modification services to Manuel Navarro Elias ("Mr. Navarro") in
17 connection with a loan secured by real property located at 230 N. Peach Ave., Fresno, California
18 ("230 N. Peach Ave. property"). FERRUFINO charged Mr. Navarro an advance fee totaling
19 \$3,000 for the loan negotiation and modification services. FERRUFINO collected an advance
20 fee of \$1,500 from Mr. Navarro. FERRUFINO failed to provide copies of any written agreement
21 or contract pertaining to the loan modification services for the 230 N. Peach Ave. property.
22 Respondent OCMRI failed to perform the services promised or to obtain any loans for the 230 N.
23 Peach Ave. property on more favorable terms. Respondent OCMRI failed to refund the advance
24 fee paid by Mr. Navarro.

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38.

The advance fee agreement for loan negotiation and modification services used by Respondent OCMRI had not been approved by the Department prior to use as is required under Code Section 10085 and Regulation Section 2970.

39.

The conduct, acts and/or omissions of Respondent OCMRI as set forth above, in collecting advance fees, as defined under Code Section 10026, from prospective borrowers pursuant to a written fee agreement, which agreement was not submitted to the Department for review prior to use, was in violation of Code Section 10085 and Regulation Section 2970, and constitutes grounds for the suspension or revocation of the license and license rights of Respondent OCMRI pursuant to Code Sections 10177(d) or 10177(g).

40.

The advance fees collected by Respondent OCMRI were not deposited in a trust account as required under Code Section 10146.

41.

The conduct, acts and/or omissions of Respondent OCMRI as set forth above, in collecting advance fees from prospective borrowers and failing to deposit the advance fees into a trust account, was in violation of Code Section 10146 and constitutes grounds for the suspension or revocation of the license and license rights of Respondent OCMRI pursuant to Code Sections 10177(d) and/or 10177(g).

42.

The conduct, acts and/or omissions of Respondent FERRUFINO, as set forth above, in making substantial misrepresentations to borrowers in order to charge and collect advance fees for loan negotiation and modification services and demonstrating negligence or incompetence in performing acts for which a real estate license is required constitutes grounds for the suspension or revocation of the license and license rights of Respondent FERRUFINO pursuant to Code Sections 10176(a) and/or 10177(g).

1 43.

2 Respondent MARKOVIC's failure to supervise the activities of Respondent
3 OCMRI to ensure compliance with the Real Estate Law, is in violation of Code Section 10159.2
4 and Regulation Section 2725 and constitutes grounds to suspend or revoke Respondent
5 MARKOVIC's license and license rights pursuant to Code Sections 10177(h), 10177(d) or
6 10177(g).

7 SIXTH CAUSE OF ACCUSATION
8 (Audits)

9 44.

10 There is hereby incorporated in this sixth, separate Cause of Accusation, all of the
11 allegations contained in Paragraphs 1 through 43 above, with the same force and effect as if
12 herein fully set forth.

13 45.

14 A licensed real estate broker shall retain for three years copies of all listings,
15 deposit receipts, canceled checks, trust records, and other documents executed by him or her or
16 obtained by him or her in connection with any transactions for which a real estate broker license
17 is required, in accordance with the provisions of Code Section 10148.

18 46.

19 On June 3, 2010, the Department served a subpoena duces tecum to Respondent
20 OCMRI for copies of all documents in connection with licensed activity conducted between
21 June 7, 2007 and June 7, 2010.


22 47.

23 After being given reasonable notice, Respondent OCMRI failed to retain records
24 in connection with its licensed activities requested by the Department, in violation of Code
25 Section 10148:
26

1 WHEREFORE, Complainant prays that a hearing be conducted on the allegations
2 of this Accusation and that upon proof thereof, a decision be rendered imposing disciplinary
3 action against all licenses and/or license rights of Respondents ORANGE COUNTY METRO
4 REALTY, INC., ORANGE COUNTY METRO PROPERTIES, DEREK WALTER
5 MARKOVIC, individually and as former designated officer of Orange County Metro Realty,
6 Inc., BRENDA J. CABALLERO, INES P. SORIANO, EZEQUIEL MARTIN PALOMINO, and
7 JUAN CARLOS FERRUFINO, under the Real Estate Law (Part 1 of Division 4 of the California
8 Business and Professions Code) and for such other and further relief as may be proper under
9 other applicable provisions of law.

10 Dated at Los Angeles, California.

11 this 19th day of May, 2011.

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15 MARIA SUAREZ
16 Deputy Real Estate Commissioner
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19

20 cc: Orange County Metro Realty, Inc.
21 Orange County Metro Properties
22 Derek Walter Markovic
23 Brenda J. Caballero
24 Republic Realty Services, Inc.
25 Ines P. Soriano
26 Best Buy Real Estate
Ezequiel Martin Palomino
Juan Carlos Ferrufino
Maria Suarez
Sacto