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THE PEOPLE OF THE STATE OF CALIFORNIA
ex rel. BILL LOCKYER, as Attorney General
of the State of California,

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SAN DIEGO

THE PEOPLE OF THE STATE OF CALIFORNIA ex rel. BILL LOCKYER, as Attorney General of the State of California, Plaintiff, v. LUPITA G. FERNANDEZ & ASSOCIATES, INC., GUADALUPE G. FERNANDEZ AND DOES 1 THROUGH 10, Defendants.	No.: **COMPLAINT FOR INJUNCTION, CIVIL PENALTIES, AND OTHER RELIEF**

Plaintiff, the People of the State of California, by Bill Lockyer, Attorney General of the State of California (hereinafter "People"), allege the following on information and belief:

PARTIES

1. Defendant GUADALUPE G. FERNANDEZ (hereinafter "FERNANDEZ") is an individual. She engages in business under the name LUPITA G. FERNANDEZ & ASSOCIATES, INC.

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2. Defendant LUPITA G. FERNANDEZ & ASSOCIATES, INC. ("F& A") is a California corporation that is doing and has done business at one or more locations, including but not limited to 325 East San Ysidro Blvd., San Diego, California and 590 Third Avenue, Suite 206, Chula Vista, California.

3. Defendant Fernandez is not currently, nor was she at any time referred to in this Complaint, licensed to practice law in the State of California or authorized by federal law to represent persons before the Immigration and Naturalization Service, the Bureau of Citizenship & Immigration Services or the Immigration Courts and Board of Immigration Appeals.

4. Defendant F& A, is not currently nor was it at any time referred to in this Complaint, a nonprofit, tax-exempt corporation.

5. The true names and capacities of defendants sued herein under the fictitious names Does 1 through 10 are unknown to the People. The People will seek leave of court to amend this Complaint to allege such names and capacities as soon as they are ascertained.

6. All references in this Complaint to any of the Defendants shall also include all of them, unless otherwise specified. Whenever reference is made in this Complaint to any act of Defendants, such allegation shall mean that each Defendant acted individually and jointly with the other Defendants.

7. At all relevant times, each Defendant has committed the acts, caused others to commit the acts, or permitted others to commit the acts alleged in this Complaint.

8. Any allegation about any acts of any corporate or other business Defendant shall mean that the corporation or other business did the acts alleged through its officers, directors, employees, agents, and/or representatives while they were acting within the actual or ostensible scope of their authority.

9. The named Defendants' principal place of business is located at Lupita G. Fernandez & Associates, 325 East San Ysidro Blvd., San Diego, California and 590 Third Avenue, Suite 206, Chula Vista, California.

10. The violations of law alleged in this Complaint occurred in the County of San Diego, and may also have occurred elsewhere in California.

FIRST CAUSE OF ACTION

VIOLATIONS OF BUSINESS AND PROFESSIONS CODE SECTION 17200 (UNLAWFUL BUSINESS ACTS OR PRACTICES) (Against all Defendants)

11. The People reallege and incorporate by reference paragraphs 1 through 10 of this Complaint.

12. Defendants have engaged and are engaging in unfair competition as defined by California Business and Professions Code section 17200 by engaging in acts or practices including, but not necessarily limited to, violation of Business and Professions Code sections 22443.3 and 17500.

13. Business and Professions Code section 22443.3 provides that any person making a statement indicating directly or by implication that the person serves as an immigration consultant must have on file with the Secretary of State a bond of $50,000. The measure, which is contained in the Immigration Consultants Act (Bus. & Prof. Code, § 22440 et seq.), provides:

> It is unlawful for any person to disseminate by any means any statement indicating directly or by implication that the person engages in the business or acts in the capacity of an immigration consultant, unless the person has on file with the Secretary of State a bond, in the amount and subject to the terms described in Section 22443.1, that is maintained throughout the period covered by the statement, such as, but not limited to the period of a yellow pages listing.

14. Section 22443.1 of the Business and Professions Code, describing the amount and terms of the required bond, provides in relevant part:

> (a) . . . [E]ach person shall file with the Secretary of State a bond of fifty thousand dollars ($50,000) executed by a corporate surety admitted to do business in this state and conditioned upon compliance with this chapter. The total aggregate liability on the bond shall be limited to fifty thousand dollars ($50,000) . . . .
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> (b) The bond required by this section shall be in favor of, and payable to, the people of the State of California and shall be for the benefit of any person damaged by any fraud, misstatement, misrepresentation, unlawful act or omission, or failure to provide the services of the immigration consultant or the agents, representatives, or employees of the immigration consultant while acting within the scope of that employment or agency.

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15. Section 22441, subdivision (a), of the Business and Professions Code provides:

> A person engages in the business of or acts in the capacity of an immigration consultant when that person gives nonlegal assistance or advice on an immigration matter.

16. In May 2004, and continuing to the present, Defendants and their employees have disseminated and continue to disseminate statements indicating directly or by implication that they engage or propose to engage in the business, or act in the capacity or propose to act in the capacity of an immigration consultant.

17. Defendants do not currently have on file with the Secretary of State, nor have they at any time referred to in this Complaint had on file with the Secretary of State, the requisite $50,000 bond.

18. Section 17500 of the Business and Professions Code provides:

> It is unlawful for any person . . . with intent directly or indirectly. . . to perform services . . . to make or disseminate or cause to be made or disseminated . . . in any newspaper or other publication . . ., or in any other manner or means whatever, any statement, concerning such . . . services . . . which is untrue or misleading.

19. A violation of Business and Professions Code section 17500 is by definition also a violation of Business and Professions Code section 17200, which provides that "unfair competition shall mean and include . . . any act prohibited by . . . Section 17500 . . ."

20. Defendants have violated and continue to violate Business and Professions Code section 17500 by making or causing to be made untrue or misleading statements, which they know or by the exercise of reasonable care should know are untrue or misleading, with the intent to induce members of the public to purchase Defendants' services. Defendants' violations of this section include, but are not limited to, the following: By disseminating or causing to be disseminated statements concerning their ability to provide immigration consulting services, Defendants have implicitly represented that they could do so lawfully. The statements are untrue and misleading because in the absence of a bond, as required by Business and Professions Code section 22443.3, Defendants cannot lawfully provide immigration consultant services.

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SECOND CAUSE OF ACTION

VIOLATIONS OF BUSINESS AND PROFESSIONS CODE SECTION 22443.3
(FAILURE TO OBTAIN AND FILE SURETY BOND)
(Against all Defendants)

21. The People reallege and incorporate by reference paragraphs 1 through 20 of this Complaint.

22. By disseminating statements indicating directly or by implication that they engage in the business or act in the capacity of an immigration consultant, without having on file with the Secretary of State the bond described in Business and Professions Code section 22443.1, Defendants have violated Business and Professions Code section 22443.3.

THIRD CAUSE OF ACTION

VIOLATIONS OF BUSINESS AND PROFESSIONS CODE SECTION 17500
(UNTRUE OR MISLEADING ADVERTISING)
(Against all Defendants)

23. The People reallege and incorporate by reference paragraphs 1 through 22 of this Complaint.

24. Defendants have violated and continue to violate Business and Professions Code section 17500 by making or causing to be made untrue or misleading statements, which they know or by the exercise of reasonable care should know are untrue or misleading, with the intent to induce members of the public to purchase Defendants' services. Defendants' violations of this section include, but are not limited to, the following: By disseminating or causing to be disseminated statements concerning their ability to provide immigration consultant services, Defendants have implicitly represented that they could do so lawfully. The statements are untrue and misleading because in the absence of a bond, as required by Business and Professions Code section 22443.3, Defendants cannot lawfully provide immigration consultant services.

PRAYER FOR RELIEF

WHEREFORE, the People pray for judgment as follows:

1. Pursuant to Business and Professions Code sections 17203, 22446.5, and 17535, that all Defendants, their agents, employees, officers, representatives, successors, partners, assigns, and all persons acting in concert or participating with them, be permanently enjoined

from violating Business and Professions Code sections 17200, 22443.3, and 17500, including, but not limited to, the violations alleged in this Complaint;

2. Pursuant to Business and Professions Code sections 17206, 17536, 22445, and 22446.5, that the Court assess a civil penalty against each Defendant for each violation of Business and Professions Code sections 17200, 17500, or 22443.3 alleged in the Complaint, as proved at trial, in the total amount of $100,000;

3. That the People recover their costs and reasonable attorneys fees pursuant to Code of Civil Procedure section 1021.8, subdivision (a); and

4. That the Court grant such other and further relief as it may deem just and proper.

DATED:

BILL LOCKYER
Attorney General of the State of California
SUZANNE M. AMBROSE
Supervising Deputy Attorney General

_____
GLORIA L. CASTRO
Deputy Attorney General

Attorneys for Plaintiff
THE PEOPLE OF THE STATE OF CALIFORNIA
ex rel. BILL LOCKYER, as Attorney General
of the State of California,