

1 ARIZONA DEPARTMENT OF FINANCIAL INSTITUTIONS

2 In the Matter of the Unlicensed Loan Originator  
3 Activity of:

No. 14F-BD007-SBD

4 **MADEL ROSARIO BURCIAGA a/k/a MA**  
5 **DEL BURCIAGA**  
150 ½ South Dakota Street  
Chandler, AZ 85225

**ORDER TO CEASE AND DESIST;  
NOTICE OF OPPORTUNITY FOR  
HEARING; CONSENT TO ENTRY OF  
ORDER**

Respondent.

6  
7 The Superintendent of Financial Institutions for the State of Arizona (“Superintendent”),  
8 makes the following Findings of Fact and Conclusions of Law and enters the following Order  
9 pursuant to Arizona Revised Statutes (“A.R.S.”) § 6-137(A). Pursuant to Titles 6 and 41 of the  
10 Arizona Revised Statutes and Title 20, Chapter 4 of the Arizona Administrative Code (“A.A.C.”),  
11 Respondent is hereby notified that she is entitled to request a hearing to contest the allegations set  
12 forth in this Order. The Request for Hearing shall be filed with the Arizona Department of Financial  
13 Institutions (“Department”) pursuant to A.R.S. § 6-137(D) within **thirty (30) days** of service of this  
14 Order and shall identify with specificity the action or order being appealed in accordance with  
15 A.R.S. § 41-1092.03(B).

16 Pursuant to A.R.S. §§ 41-1092.01(D) and 41-1092.03(B), any person may appear on his or  
17 her own behalf or by counsel. If Respondent is represented by counsel, the information required by  
18 A.R.S. § 41-1092.03(B) shall be included in the Request for Hearing. Upon the filing of a Request  
19 for Hearing, the Department shall issue a Notice of Hearing scheduling the matter for hearing in  
20 accordance with A.R.S. § 41-1092.05. **Persons with disabilities may request reasonable**  
21 **accommodations such as interpreters, alternative formats, or assistance with physical**  
22 **accessibility.** Requests for special accommodations must be made as early as possible to allow time  
23 to arrange the accommodations. If accommodations are required, call the Office of Administrative  
24 Hearings at (602) 542-9826.

25 Respondent has the right to request an Informal Settlement Conference, pursuant to A.R.S. §  
26 41-1092.06, by filing a written request no later than **twenty (20) days** before the scheduled hearing.

1 The conference will be held within **fifteen (15) days** after receipt of your request. If an Informal  
2 Settlement Conference is requested, a person with the authority to act on behalf of the Department  
3 will be present (“Department Representative”). Please note that in requesting an Informal  
4 Settlement Conference, Respondent waives any right to object to the participation of the Department  
5 Representative in the final administrative decision of this matter, if it is not settled. In addition, any  
6 written or oral statement made by Respondent at such informal settlement conference, including  
7 written documentation created or expressed solely for purposes of settlement negotiations, are  
8 inadmissible in any subsequent administrative hearing. (*See* A.R.S. § 41-1092.06 for rules regarding  
9 informal settlement conferences.) Conversely, any written or oral statement made by Respondent  
10 outside an Informal Settlement Conference is not barred from being admitted by the Department in  
11 any subsequent hearing.

12 If Respondent does not request a hearing, this Order shall become final. If Respondent  
13 requests a hearing, the purpose of the hearing shall be to determine if grounds exist for: (1) the  
14 issuance of an order pursuant to A.R.S. § 6-137 directing Respondent to cease and desist from the  
15 violative conduct and to take the appropriate affirmative actions, within a reasonable period of time  
16 prescribed by the Superintendent, to correct the conditions resulting from the unlawful acts,  
17 practices, and transactions; (2) the imposition of a civil monetary penalty pursuant to A.R.S. § 6-  
18 132; and (3) an order or any other remedy necessary or proper for the enforcement of statutes and  
19 rules regulating loan originators pursuant to A.R.S. § 6-991 *et seq.*

#### 20 **FINDINGS OF FACT**

21 1. On or about October 24, 2012, the Department initiated examination of B&T  
22 Mortgage, Inc. (“BTMI”), a licensed mortgage broker, Mortgage Broker License No. MB-0017305.

23 2. In the course of the examination, it was revealed that Respondent Madel Rosario  
24 Burciaga, a/k/a Ma Del R. Burciaga (“Ms. Burciaga” or “Respondent”) was employed BTMI as a  
25 loan officer and that she acted as a loan originator by taking residential mortgage loan applications  
26 and/or offering or negotiating terms of a residential mortgage loan.

1           3.       Ms. Burciaga acted as a loan originator for compensation without the license required  
2 by A.R.S. § 6-991.03(A).

3           a.       Specifically, the examination of BTMI's two files (Thanay M. and Hilario C.)  
4 revealed at least three instances of Ms. Burciaga receiving commissions for her  
5 services as a loan originator:

6           i.       BTMI received the check (#79717) dated October 28, 2010 from Driggs Title  
7 Agency, Inc. in the amount of \$2,542.17 as compensation for closing the  
8 transaction. BTMI paid \$1,080.87 of this amount to Ms. Burciaga. Specifically,  
9 BTMI issued the check (#5976) dated November 1, 2010, which classified the  
10 payment to Ms. Burciaga of \$1,080.87 as a "commission" and showed that BTMI  
11 withheld federal tax, social security and Medicare, resulting in the net payment of  
12 \$998.19 to Ms. Burciaga.

13           ii.       BTMI received the check (#81344) dated November 30, 2010 from Driggs Title  
14 Agency, Inc. in the amount of \$1,896.26 as compensation for closing the  
15 transaction. BTMI used 30% of the received amount, \$568.87, to pay to Rosa  
16 Gadea, a loan processor, and the remaining 70%, or \$767.38, to pay Ms.  
17 Burciaga. Specifically, the licensee issued the check (#5991) dated December 3,  
18 2010, which classified the payment to Ms. Burciaga of \$767.38 as a  
19 "commission" and showed that BTMI withheld federal tax, social security and  
20 Medicare, resulting in the net payment of \$708.67 to Ms. Burciaga.

21           iii.       BTMI received the check (#81346) dated November 30, 2010 from Driggs Title  
22 Agency, Inc. in the amount of \$443.19 as reimbursement for "1st Half 2010  
23 Property Taxes" payment. BTMI used 30% of the received amount, \$132.95, to  
24 pay to Rosa Gadea, a loan processor, and the remaining 70%, or \$310.24, to pay  
25 Ms. Burciaga. Specifically, BTMI issued the check (#5990) dated December 3,  
26 2010, which classified the payment to Ms. Burciaga of \$310.24 as a

1 “commission” and showed that BTMI withheld federal tax, social security and  
2 Medicare, resulting in the net payment of \$286.5 to Ms. Burciaga. According to  
3 the check #5990, as of December 3, 2010, Ms. received gross compensation from  
4 BTMI in the amount of \$10,978.29.

5 b. When the Department’s examiner questioned BTMI about these payments to Ms.  
6 Burciaga, BTMI’s responsible individual, Morris Guy McAtee, Jr., stated that Ms.  
7 Burciaga was a Spanish-speaking loan originator employed by BTMI who engaged in  
8 the activities of taking residential mortgage loan applications and/or offering or  
9 negotiating terms of a residential mortgage loan.

10 4. Ms. Burciaga is not and was not, at any time material herein, authorized to act as a  
11 loan originator in Arizona.

12 5. Ms. Burciaga was not exempt from licensure as a loan originator pursuant to A.R.S. §  
13 6-991.01 at the time of her employment by BTMI.

14 6. A natural person is a “loan originator” if that person “for compensation or gain or in  
15 the expectation of compensation or gain does any of the following: (i) Takes a residential mortgage  
16 loan application. (ii) Offers or negotiates terms of a residential mortgage loan. (iii) On behalf of a  
17 borrower, negotiates with a lender or noteholder to obtain a temporary or permanent modification in  
18 an existing residential mortgage loan agreement.” A.R.S. § 6-991(12).

19 7. These Findings of Fact shall also serve as Conclusions of Law.

20 **CONCLUSIONS OF LAW**

21 1. Pursuant to A.R.S. § 6-991 *et seq.*, the Superintendent has the authority and duty to  
22 regulate all persons engaged in the activities of a loan originator and with the enforcement of  
23 statutes, rules and regulations relating to loan originators.

24 2. Respondent Madel Rosario Burciaga had engaged and/or is engaging in unlicensed  
25 activity as a loan originator.

26 3. By the conduct set forth in the Findings of Fact, Ms. Burciaga has violated A.R.S. §

1 6-991.03, by acting as a loan originator in Arizona without having first applied for and obtained a  
2 loan originator license.

3 4. The violations set forth above constitute grounds for: (1) the issuance of an order  
4 pursuant to A.R.S. § 6-137 directing Ms. Burciaga to cease and desist from the violative conduct and  
5 to take the appropriate affirmative actions, within a reasonable period of time prescribed by the  
6 Superintendent to correct the conditions resulting from the unlawful acts, practices, and transactions;  
7 (2) the imposition of a monetary civil penalty pursuant to A.R.S. § 6-132; and (3) an order or any  
8 other remedy necessary or proper for the enforcement of statutes and rules regulating loan  
9 originators pursuant to A.R.S. § 6-991 *et seq.*

10 **ORDER**

11 1. Respondent Madel Rosario Burciaga shall immediately stop the violations set forth in  
12 the Findings of Fact and Conclusions of Law.

13 2. Respondent shall immediately cease all activities as a loan originator in Arizona until  
14 such time as she has obtained a loan originator license from the Superintendent as prescribed by  
15 A.R.S. § 6-991 *et seq.*

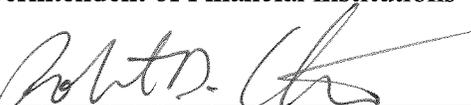
16 3. Respondent shall immediately pay to the Department a civil money penalty in the  
17 amount of **five hundred dollars (\$500.00)**.

18 4. The provisions of this Order shall be binding upon Respondent.

19 5. This Order shall become effective upon service, and shall remain effective and  
20 enforceable until such time as, and except to the extent that, it shall be stayed, modified, terminated  
21 or set aside.

22 SO ORDERED this 22nd day of July, 2013.

23 Lauren W. Kingry  
24 Superintendent of Financial Institutions

25 By:   
26 Robert D. Charlton  
Assistant Superintendent



1 COPY mailed/delivered same date to:  
Natalia A. Garrett, Assistant Attorney General  
2 Office of the Attorney General  
1275 W. Washington St.  
3 Phoenix, AZ 85007

4 Robert D. Charlton, Assistant Superintendent  
Neal Schafer, Examiner-in-Charge  
5 ATTN: Sabrina Zimmerman  
Arizona Department of Financial Institutions  
6 2910 N. 44th Street, Suite 310  
Phoenix, AZ 85018

7  
8 COPY MAILED SAME DATE by  
Certified Mail, Return Receipt Requested, to:

9 Madel Rosario Burciaga  
150 ½ South Dakota Street  
10 Chandler, AZ 85225  
Respondent

11  
12 By:   
# 3442551

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