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9

10 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA  
11 FOR THE COUNTY OF MARIN  
12

13 THE PEOPLE OF THE STATE OF CALIFORNIA,

14 Plaintiff,

15 v.

16 CARMY MISHHELL MOSCOSO (aka CARMY  
MISHHELL MOSCOSO-HUERTA), MARIA  
17 MOSCOSO, AND DOES 1 THROUGH 10,

18 Defendants.  
19

CASE NO.:

**COMPLAINT FOR  
INJUNCTION, CIVIL  
PENALTIES, AND OTHER  
RELIEF**

Date: June 18, 2003  
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1 Plaintiff, the People of the State of California, by Bill Lockyer, Attorney General of the  
2 State of California, alleges the following on information and belief:

3 **PARTIES**

4 1. Defendant Carmy Mishell Moscoso (aka Carmy Mishell Moscoso-Huerta) is an  
5 individual. She engages in business under the names Moscoso Services and Moscoso Income  
6 Tax Service.

7 2. Defendant Maria Moscoso is an individual. She engages in business under the  
8 names Moscoso Services and Moscoso Income Tax Service.

9 3. Defendant Carmy Mishell Moscoso is not currently nor was she at any time  
10 referred to in this Complaint licensed to practice law in the State of California or authorized by  
11 federal law to represent persons before the Bureau of Citizenship and Immigration Services  
12 (formerly the Immigration and Naturalization Service) or the Immigration Courts and Board of  
13 Immigration Appeals.

14 4. Defendant Maria Moscoso is not currently nor was she at any time referred to in  
15 this Complaint licensed to practice law in the State of California or authorized by federal law to  
16 represent persons before the Bureau of Citizenship and Immigration Services (formerly the  
17 Immigration and Naturalization Service) or the Immigration Courts and Board of Immigration  
18 Appeals.

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

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

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

28 8. Any allegation about any acts of any corporate or other business defendant shall

1 mean that the corporation or other business did the acts alleged through its officers, directors,  
2 employees, agents and/or representatives while they were acting within the actual or ostensible  
3 scope of their authority.

4 9. The named defendants' principal place of business is located at 710 C Street, San  
5 Rafael, California.

6 10. The violations of law alleged in this Complaint occurred in the County of Marin  
7 and may also have occurred elsewhere in California.

8  
9 **FIRST CAUSE OF ACTION**

10 **VIOLATIONS OF BUSINESS AND PROFESSIONS CODE SECTION 17200**

11 **(UNLAWFUL BUSINESS ACTS OR PRACTICES)**

12 **(Against all Defendants)**

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

15 12. Defendants have engaged and are engaging in unfair competition as defined by  
16 California Business and Professions Code section 17200 by engaging in acts or practices  
17 including, but not necessarily limited to, violation of Business and Professions Code sections  
18 22443.3 and 17500.

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

24 It is unlawful for any person to disseminate by any means any statement  
25 indicating directly or by implication that the person engages in the business or acts  
26 in the capacity of an immigration consultant, unless the person has on file with the  
27 Secretary of State a bond, in the amount and subject to the terms described in  
28 Section 22443.1, that is maintained throughout the period covered by the

1 statement, such as, but not limited to the period of a yellow pages listing.

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

4 (a) . . . [E]ach person shall file with the Secretary of State a bond of fifty thousand  
5 (\$50,000) executed by a corporate surety admitted to do business in this state and  
6 conditioned upon compliance with this chapter. The total aggregate liability on  
7 the bond shall be limited to fifty thousand dollars (\$50,000). . . .

8 (b) The bond required by this section shall be in favor of, and payable to, the  
9 people of the State of California and shall be for the benefit of any person  
10 damaged by any fraud, misstatement, misrepresentation, unlawful act or omission,  
11 or failure to provide the services of the immigration consultant or the agents,  
12 representatives, or employees of the immigration consultant while acting within  
13 the scope of that employment or agency.

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

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

18 16. From a point on or after January 1, 2002, and continuing to the present,  
19 Defendants have disseminated and continue to disseminate statements indicating directly or by  
20 implication that they engage or propose to engage in the business, or act in the capacity or  
21 propose to act in the capacity, of an immigration consultant.

22 17. Defendants do not currently have on file with the Secretary of State, nor have they  
23 at any time referred to in this Complaint had on file with the Secretary of State, the requisite  
24 \$50,000 bond(s).

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

26 [It is] unlawful for any person . . . with intent directly or indirectly . . .  
27 to perform services . . . to make or disseminate or cause to be made or  
28 disseminated . . . in any newspaper or other publication . . . , or in any other

1 manner or means whatever, any statement, concerning such . . . services . . . which  
2 is untrue or misleading.

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

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

15 **SECOND CAUSE OF ACTION**

16 **VIOLATIONS OF BUSINESS AND PROFESSIONS CODE SECTION 22443.3**

17 **(FAILURE TO OBTAIN AND FILE SURETY BOND)**

18 **(Against all Defendants)**

19 21. The People reallege and incorporate by reference paragraphs 1 through 10 and 12  
20 through 20 of this Complaint.

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

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1 **THIRD CAUSE OF ACTION**

2 **VIOLATIONS OF BUSINESS AND PROFESSIONS CODE SECTION 17500**

3 **(UNTRUE OR MISLEADING ADVERTISING)**

4 **(Against all Defendants)**

5 23. The People reallege and incorporate by reference paragraphs 1 through 10, 12  
6 through 20, and 22 of this Complaint.

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

16  
17 WHEREFORE, Plaintiff prays for judgment as follows:

18 1. Pursuant to Business and Professions Code sections 17203, 22446.5 and 17535,  
19 that Defendants, their agents, employees, officers, representatives, successors, partners, assigns,  
20 and all persons acting in concert or participating with them, be permanently enjoined from  
21 violating Business and Professions Code sections 17200, 22443.3 and 17500, including but not  
22 limited to the violations alleged in this Complaint;

23 2. Pursuant to Business and Professions Code sections 17206, 22445, 22446.5 and  
24 17536, that the Court assess a civil penalty against each Defendant for each violation of Business  
25 and Professions Code section 17200, 22443.3 or 17500 alleged in the Complaint, as proved at  
26 trial, in the total amount of at least \$25,000.00;


27 3. That the People recover their costs of suit; and  
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4. That the Court grant such other and further relief as it may deem just and proper.

Dated: June 18, 2003

BILL LOCKYER,  
Attorney General  
HERSCHEL T. ELKINS,  
Senior Assistant Attorney General  
MARGARET REITER,  
Supervising Deputy Attorney General  
SETH E. MERMIN,  
Deputy Attorney General

By   
SETH E. MERMIN  
Attorneys for the Plaintiff,  
the People of the State of California

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The People of the State of California  
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10 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA  
11 FOR THE COUNTY OF MARIN

13 THE PEOPLE OF THE STATE OF CALIFORNIA,  
14 Plaintiff,  
15 v.  
16 CARMY MISHHELL MOSCOSO (aka CARMY  
MISHHELL MOSCOSO-HUERTA), MARIA  
17 MOSCOSO, AND DOES 1 THROUGH 10,  
18 Defendants.  
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CASE NO.:  
[Action filed on June 18, 2003]  
**PLAINTIFF'S EX PARTE  
APPLICATION FOR  
TEMPORARY RESTRAINING  
ORDER AND ORDER TO SHOW  
CAUSE RE PRELIMINARY  
INJUNCTION; MEMORANDUM  
OF POINTS & AUTHORITIES  
AND APPENDIX;  
DECLARATION OF  
ANDRIETTE GILLARD; AND  
DECLARATION RE NOTICE OF  
SETH E. MERMIN**  
Hearing Date: June 18, 2003  
Time:  
Dept.:



1 **EX PARTE APPLICATION FOR TEMPORARY RESTRAINING ORDER AND ORDER**  
2 **TO SHOW CAUSE RE PRELIMINARY INJUNCTION**

3  
4 **TO DEFENDANTS AND THEIR ATTORNEYS OF RECORD:**

5 Plaintiff, the People of the State of California, through Bill Lockyer, Attorney General, by  
6 Seth E. Mermin, Deputy Attorney General, applies to this Court for a temporary restraining order  
7 and an order to show cause why a preliminary injunction should not issue that would prevent the  
8 above-named defendants and their agents, employees, officers, representatives, successors,  
9 partners, assigns and all persons acting in concert or participating with them (collectively,  
10 “Defendants”), from:

11 (1) disseminating any statement indicating directly or by implication that they engage  
12 or propose to engage in the business or act or propose to act in the capacity of an immigration  
13 consultant, unless they obtain and maintain on file with the Secretary of State a bond in the  
14 amount and subject to the terms described in Business and Professions Code section 22443.1;

15 (2) otherwise violating the provisions of the Business and Professions Code relating  
16 to immigration consultants (Business and Professions Code section 22440 et seq.);

17 (3) disseminating any statement indicating directly or by implication that they  
18 lawfully provide lawful immigration consultant services in the absence of the requisite bond or  
19 otherwise violating the provisions of Business and Professions Code section 17500;

20 (4) otherwise committing unlawful, unfair and/or fraudulent business acts and  
21 practices in violation of the Unfair Competition Law (Business and Professions Code section  
22 17200 et seq.).

23 The specific injunctive language requested is set forth in the Proposed Order lodged with  
24 this application.

25 This application is made on the grounds that Defendants, without having secured the  
26 bond required by law to protect their clients, unlawfully solicit immigrants to purchase  
27 immigration services. Defendants advertise their services as immigration consultants but do not  
28 provide their clients the protections that persons offering non-attorney immigration services in

1 California are required by statute to furnish. Defendants therefore act in open violation of the  
2 law and jeopardize their clients. These practices violate Business and Professions Code section  
3 22440 et seq. (relating to immigration consultants), Business and Professions Code section  
4 17500 (untrue or misleading advertising), and, therefore, Business and Professions Code section  
5 17200 et seq. (the Unfair Competition Law (“UCL”)).

6 This application is based on the application itself, the complaint, the memorandum of  
7 points and authorities, the declaration of Andriette Gillard, the declaration regarding notice by  
8 Seth E. Mermin, the proposed order granting a temporary restraining order and order to show  
9 cause re preliminary injunction, and such evidence and argument as the Court may hear at the  
10 time of the hearing or of which the Court may take judicial notice. Plaintiff has not previously  
11 applied for similar relief.

12 Pursuant to California Rule of Court 379(b), the following names, addresses, and  
13 telephone numbers for the named defendants are known to Plaintiff:

- 14 1. Carmy Mishell Moscoso – 710 C Street, San Rafael, California, 94901.  
15 (415) 457-5908; (415) 457-5208.
- 16 2. Maria Moscoso – 710 C Street, San Rafael, California, 94901.  
17 (415) 457-5908; (415) 457-5208.

18  
19  
20 DATED: June 18, 2003

BILL LOCKYER  
Attorney General  
HERSCHEL T. ELKINS  
Senior Assistant Attorney General  
MARGARET REITER  
Supervising Deputy Attorney General  
SETH E. MERMIN  
Deputy Attorney General

21  
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24  
25 By:   
26 SETH E. MERMIN

27 Attorneys for Plaintiff,  
28 The People of the State of California

1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I. INTRODUCTION**

3 Defendants advertise and otherwise disseminate statements indicating that they provide  
4 immigration services. Defendants have not, however, complied with an explicit requirement of  
5 California law designed to protect vulnerable consumers of these services from unscrupulous or  
6 incompetent providers: the obtaining and filing of a bond with the Secretary of State. The  
7 People seek to restrain and enjoin Defendants' continuing unlawful practices pending the hearing  
8 on the order to show cause and during the pendency of this lawsuit in order to protect consumers  
9 who, if harmed by Defendants' services, may otherwise be left without recourse.

10 **II. BACKGROUND**

11 Section 22443.3 of the Business and Professions Code makes it unlawful for any person  
12 to disseminate a statement – including any form of advertisement – indicating that the person  
13 serves as an immigration consultant, or proposes to serve as an immigration consultant, unless  
14 the person has on file with the Secretary of State the bond described in section 22443.1.

15 Section 22443.1 specifies that the required bond be in the amount of fifty thousand  
16 dollars and be payable to the people of the State of California for the benefit of any person  
17 damaged by the immigration consultant's fraud, misstatements, misrepresentations, unlawful acts,  
18 omissions or failure to provide service.

19 The need for the bond is acute. When an immigration consultant fails to obtain the  
20 required bond, an injured client may have no recourse against that consultant because many  
21 consultants are either able to conceal their assets or are so mobile that they simply take their  
22 operations elsewhere. Thus, maintenance of a bond against which a defrauded or otherwise  
23 injured client may make a claim is an essential measure to protect vulnerable clients. The  
24 bonding requirement serves also to distinguish legitimate providers of immigration services from  
25 less scrupulous consultants who operate outside the law. (See Senate Floor Analysis, Assem.  
26 Bill 3137 (Reg. Sess. 1993-1994) (codified as Bus. & Prof. Code § 22443.1), at p. 3; Assem.  
27 Floor Analysis, Sen. Bill No. 1194 (2001-2002 Reg. Sess.) (codified as Bus. & Prof. Code §  
28 22443.3), at p. 3.) [Appendix, Exhs. A, B.]

1 Business and Professions Code section 17500 prohibits disseminating or causing to be  
2 disseminated statements in connection with the sale of a service that are, and that a person knows  
3 or should know are, untrue or misleading. By making statements concerning their ability to  
4 provide immigration consultant services, defendants have implicitly represented that they could  
5 do so lawfully. The statements are untrue and misleading because in the absence of a bond, as  
6 required by Business and Professions Code section 22443.3, Defendants cannot lawfully provide  
7 immigration consultant services.

8 Defendants here are in open violation of the law. As set forth below, the evidence shows  
9 that Defendants have violated and continue to violate sections 22443.3, 17500 and, therefore,  
10 section 17200 et seq. (the Unfair Competition Law (“UCL”). Thus, pursuant to Business and  
11 Professions Code sections 22446.5, 17535 and 17203, a temporary restraining order and,  
12 subsequently, a preliminary injunction should issue in order to protect particularly vulnerable  
13 consumers from further harm.

### 14 III. STATEMENT OF FACTS

#### 15 A. Defendants

16 The named defendants are two individuals, Carmy Mishell Moscoso and Maria Moscoso,  
17 doing business as Moscoso Services and Moscoso Income Tax Service.

#### 18 B. Bonding Requirement

19 A person advertising or otherwise disseminating statements that suggest that the person  
20 serves as an immigration consultant must be bonded:

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

28 (Bus. and Prof. Code § 22443.3.)

1 A person “engages in the business or acts in the capacity of an immigration consultant”  
2 when he or she gives nonlegal assistance or advice on an immigration matter. That nonlegal  
3 assistance or advice may include, for example, completing forms provided by federal or state  
4 agencies, translating a person’s answers to questions on those forms, securing supporting  
5 documents such as birth certificates, submitting forms at the request of a client to the  
6 Immigration and Naturalization Service, and referring people to others who are qualified to  
7 provide legal representation on an immigration matter. (Bus. & Prof. Code § 22441, subd. (a).)

8 The requisite surety bond must have a total aggregate liability of \$50,000 and must be  
9 filed with the Secretary of State. (Bus. & Prof. Code § 22443.1.) The bond is  
10 for the benefit of any person damaged by any fraud, misstatement,  
11 misrepresentation, unlawful act or omission, or failure to provide the services of  
12 the immigration consultant or the agents, representatives, or employees of the  
13 immigration consultant while acting within the scope of that employment or  
14 agency.

15 (*Ibid.*)

16 **C. Defendants' Conduct**

17 Defendants have disseminated statements that indicate directly or imply that Defendants  
18 engage or propose to engage in the business, or act or propose to act in the capacity, of an  
19 immigration consultant. The January 2003, February 2003, and March 2003 issues of the  
20 periodical *TV Español* contain an advertisement for “Moscoso Services” that advertises  
21 “Servicios de Asistencia Con Inmigracion” – that is, immigration assistance services.  
22 (Declaration of Andriette Gillard (“Gillard Decl.”), ¶¶ 3, 4, 5; Exhs. 2, 3, 4 [including certified  
23 translation].) Moreover, when contacted at the telephone number given in the *TV Español*  
24 listing, Defendants state that they assist people with immigration paperwork. (Gillard Decl., ¶  
25 11.)

26 Defendants have not filed any immigration consultant bond with the Secretary of State.  
27 (Gillard Decl., ¶ 6; Exhs. 5, 6, 7.) No exception to the requirements of the bonding statute  
28 excuses defendants' noncompliance. Neither Carmy Mishell Moscoso nor Maria Moscoso has

1 ever been licensed to practice law in California. (Gillard Decl., ¶ 8, Exhs. 9, 10.) Moreover,  
2 Carmy Mishell Moscoso and Maria Moscoso are not employees of a nonprofit, tax-exempt  
3 corporation, to whom the bonding requirement does not apply (Bus. & Prof. Code § 22443.1,  
4 subd. (e)), nor are they “persons authorized by federal law to represent persons before the Board  
5 of Immigration Appeals or the United States Immigration and Naturalization Service,” to whom  
6 the sections of the Business and Professions Code dealing specifically with immigration  
7 consultants (Bus. & Prof. Code § 22440 et seq.) do not apply. (Gillard Decl., ¶ 12, Exh. 13.)

#### 8 IV. DISCUSSION

9 Defendants are acting in overt and continuing defiance of the explicit dictates of  
10 California law. Accordingly, this Court should issue a temporary restraining order, and thereafter  
11 a preliminary injunction.

##### 12 A. A Temporary Restraining Order and Preliminary Injunction Should Issue in This 13 Case

14 Defendants’ conduct violates the provisions of the Business and Professions Code  
15 relating to immigration consultants (Bus. & Prof. Code § 22440 et seq.), untrue or misleading  
16 advertising (Bus. & Prof. Code § 17500), and unfair competition (Bus. & Prof. Code § 17200 et  
17 seq.). By advertising as immigration consultants without the required bond, Defendants have  
18 violated section 22443.3 of the Business and Professions Code. By advertising immigration  
19 consultant services, Defendants have implicitly represented that they could provide those services  
20 lawfully – statements that are untrue and misleading in the absence of a bond, and that therefore  
21 violate section 17500 of the Business and Professions Code. Defendants’ violations of sections  
22 22443.3 and 17500 also constitute violations of the Unfair Competition Law. “Unfair  
23 competition” is defined in section 17200 to include any unlawful, unfair or fraudulent business  
24 act or practice. An unlawful business act or practice includes any activity that is forbidden by  
25 law, “be it civil or criminal, federal, state or municipal, statutory or regulatory, or court-made  
26 [law].” (*Saunders v. Super. Ct.* (1994) 27 Cal. App. 4th 832, 838-839.) That is, section 17200  
27 “borrows” violations of other laws and makes them actionable as unlawful business practices.  
28 (*Stop Youth Addiction, Inc. v. Lucky Stores, Inc.* (1998) 17 Cal.4th 553, 566.) In addition,

1 Defendants' violation of Business and Professions Code section 17500 is by definition a  
2 violation of the UCL. (See Bus. & Prof. Code § 17200 ["unfair competition shall mean and  
3 include . . . any act prohibited by . . . Section 17500 . . ."].)

4 Generally, a court determining whether to issue a temporary restraining order or  
5 preliminary injunction analyzes (1) the likelihood that the plaintiff will succeed on the merits at  
6 trial and (2) the interim harm that the plaintiff will suffer if the injunction is not issued, compared  
7 to the interim harm that the defendant will suffer if it is. (6 Witkin, Cal. Procedure (4th ed. 1997  
8 & 2002 Supp.) Provisional Remedies, § 296, p. 236.) In a public action brought under the Unfair  
9 Competition Law, like this one, the prime consideration is whether there is a reasonable  
10 probability that the People will prevail on the merits. (*People v. Pacific Land Research Co.*  
11 (1977) 20 Cal.3d 10, 21.) The harm is presumed: Especially where, as here, a statute  
12 specifically provides for injunctive relief, "[o]nce a governmental entity establishes that it will  
13 probably succeed at trial, a presumption should arise that public harm will result if an injunction  
14 does not issue." (*IT Corp. v. County of Imperial* (1983) 35 Cal.3d 63, 72.) By authorizing  
15 injunctive relief to remedy a violation of the UCL, the law regulating immigration consultants, or  
16 the law regarding untrue and misleading advertising, the Legislature has already determined that  
17 such a violation harms the public interest and that an injunction is the proper way to protect  
18 against that harm. Thus, if the People show that it is reasonably probable that they will prevail  
19 on the merits, the People need not prove public harm. Instead, the burden is on the defendants to  
20 show that they would suffer irreparable harm. (*Ibid.*)

21 Here, it is more than reasonably probable that the People will prevail. Defendants'  
22 violation of the laws governing immigration consultants, untrue or misleading advertising, and  
23 unfair competition is overt and ongoing. Further, Defendants cannot point to any cognizable  
24 "harm" – much less irreparable harm – that they would suffer from simply being made to comply  
25 with the plain requirements of the law.

26 **1. Defendants Have Violated the Law Regulating Immigration Consultants**

27 Defendants have violated the plain directive of section 22443.3 of the Business and  
28 Professions Code. That provision of the Immigration Consultants Act makes it unlawful for any

1 person “to disseminate by any means any statement indicating directly or by implication that the  
2 person engages in the business or acts in the capacity of an immigration consultant, or proposes  
3 to engage in the business or act in the capacity of an immigration consultant” if that person does  
4 not have on file with the Secretary of State, throughout the period covered by the statement, a  
5 \$50,000 bond. “A person engages in the business of or acts in the capacity of an immigration  
6 consultant when that person gives nonlegal assistance or advice on an immigration matter.”  
7 (Bus. & Prof. Code § 22441, subd. (a).)

8 As noted, Defendants have made “statements” indicating that they act as immigration  
9 consultants. The January, February and March 2003 editions of the periodical *TV Español* all  
10 contain an advertisement for “Moscoso Services” that offers “Servicios de Asistencia Con  
11 Inmigracion” – that is, immigration assistance services. (Declaration of Andriette Gillard  
12 (“Gillard Decl.”), ¶¶ 3, 4, 5; Exhs. 2, 3, 4 [including certified translation].) When telephoned at  
13 the number given in the *TV Español* listing, Defendants state that they assist people with  
14 immigration paperwork. (Gillard Decl., ¶ 11.) Accordingly, Defendants have disseminated, and  
15 continue to disseminate, “statement[s] indicating directly or by implication that [they] engage[]  
16 in the business or act[] in the capacity of an immigration consultant, or propose[] to engage in the  
17 business or act in the capacity of an immigration consultant.” (Bus. & Prof. Code § 22443.3.)

18 The California Secretary of State has no record, however, of any bond ever having been  
19 filed by or for Defendants. (Gillard Decl., ¶ 7; Exhs. 6, 7, 8.) And, as noted, Defendants do not  
20 come within any exception to the requirements of the bonding statute.

21 Defendants therefore have violated, and continue to violate, the plain directive of  
22 Business and Professions Code section 22443.3.

## 23 **2. Defendants Have Violated the Unfair Competition Law**

24 Defendants are in clear violation of the requirements of Business and Professions Code  
25 section 22443.3. Accordingly, they are also in violation of section 17200. In other words,  
26 because Defendants have disseminated and continue to disseminate statements suggesting that  
27 they serve as immigration consultants but have not filed the requisite bond permitting them to  
28 operate in that capacity – a violation of the Immigration Consultants Act – they have been and



1 remain in ongoing violation of the Unfair Competition Law as well. (See *State Farm Fire &*  
2 *Casualty Co. v. Super. Ct.* (1996) 45 Cal.App.4th 1093, 1102-1103.)

3 **3. Defendants Have Violated Business and Professions Code Section 17500**

4 Defendants hold themselves out to be lawful providers of immigration consultant  
5 services. Because they do not have on file with the Secretary of State the bond legally required  
6 of immigration consultants, however, Defendants cannot in fact lawfully offer immigration  
7 consultant services. Accordingly, their statements implying that their operations are lawful  
8 constitute “untrue or misleading” advertising, of whose falsity or deceptiveness Defendants knew  
9 or should have known by the exercise of reasonable care. (Bus. & Prof. Code § 17500; cf.  
10 *People v. Gentry* (1991) 234 Cal.App.3d 131,139 (even in criminal context of grand theft by  
11 false pretenses, the representation that one will provide something for a fee carries with it the  
12 implication that one will do so lawfully).

13 **B. An Injunction Should Issue Immediately To Prevent Further Harm**

14 The need for an injunction in this case is immediate and acute.

15 Business and Professions Code section 17203 specifically empowers a court to enjoin any  
16 act of unfair competition or the making of any untrue or misleading statements. This section  
17 provides that a court may issue such orders “as may be necessary to prevent the use or  
18 employment by any person of any practice which constitutes unfair competition.” Business and  
19 Professions Code section 22446.5 provides for injunctive relief to remedy a violation of the  
20 Immigration Consultants Act. Business and Professions Code section 17535 similarly provides  
21 for injunctive relief to remedy a violation of the law regarding untrue and misleading advertising.

22 Once a trial court invokes its equitable jurisdiction, it is within the court’s broad  
23 discretion to determine the scope or type of relief that should be granted. (*People ex rel. Mosk v.*  
24 *National Research Co. of Cal.* (1962) 201 Cal.App.2d 765, 775.) Such relief may be as “varied  
25 and diversified as the means that have been employed by the defendant to produce the grievance  
26 complained of.” (*Wickersham v. Crittenden* (1892) 93 Cal. 17, 32; see *Hirshfield v. Schwartz*  
27 (2001) 91 Cal.App.4th 749, 770.)

28 Defendants continue to hold themselves out as immigration consultants. Defendants’

1 ongoing violation of the law not only threatens their clients, but also disadvantages law-abiding  
2 immigration consultants. While such consultants comply with the law, incurring the cost of  
3 maintaining a bond in order to protect their clients, Defendants profit by flouting their legal  
4 obligations. Their continued operation in defiance of explicit statutory requirements should be  
5 brought to a halt.

6 As demonstrated, there exists compelling evidence that Defendants have violated and  
7 continue to violate Business and Professions Code sections 22443.3, 17200 and 17500. Based on  
8 this evidence, Defendants cannot plausibly argue that their interest in continuing to operate their  
9 illegal enterprise outweighs the interest of the general public in being protected from such  
10 unlawful business practices. Being made to follow the law cannot constitute a cognizable  
11 “harm” – and certainly not the “irreparable” harm required to overcome the presumption of  
12 public harm in this public action. (See *IT Corp.*, *supra*, 35 Cal.3d at p. 72.) What Plaintiff seeks  
13 is a temporary restraining order, followed by a preliminary injunction, that requires that  
14 Defendants come into compliance with the explicit requirements of California law. If  
15 Defendants are allowed to continue to operate unlawfully, the potential harm to the public, which  
16 is in any case presumed (*ibid.*), will be extensive and irreparable. People seeking immigration  
17 assistance will continue to pay money they can ill afford for services that are not secured by the  
18 bond that the Legislature has determined is necessary to protect these most vulnerable  
19 consumers.

20 **IV. CONCLUSION**

21 For the foregoing reasons, Plaintiff respectfully requests that the Court issue the proposed

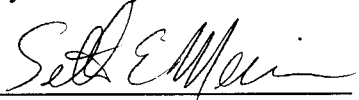
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1 order granting a temporary restraining order and an order to show cause why a preliminary  
2 injunction should not issue.

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Dated: June 18, 2003

BILL LOCKYER,  
Attorney General  
HERSCHEL T. ELKINS,  
Senior Assistant Attorney General  
MARGARET REITER,  
Supervising Deputy Attorney General  
SETH E. MERMIN,  
Deputy Attorney General

By   
SETH E. MERMIN  
Attorneys for the Plaintiff,  
the People of the State of California

APPENDIX  
**EXHIBIT A**

BILL ANALYSIS

AB 3137

Escutia (D)

8/23/94 in Senate

21

43-29, p. 6929, 5/26/94

SUBJECT: Immigration consultants

SOURCE: Author

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DIGEST: This bill requires immigration consultants to file a bond or a cash deposit with the Department of Consumer Affairs (DCA) and to provide clients with a copy of every document completed on behalf of the client. The bill requires the Secretary of State to charge a filing fee to cover the cost of filing the bond or deposit.

Senate Floor Amendments of 8/23/94:

1. Specify that the bond shall be payable to the people of the State of California.
2. Specify acts for which a person may recover damages from the bond.
3. Clarify that the Secretary of State shall enforce the bonding or deposit provisions.

ANALYSIS: Existing law provides for the regulation of immigration consultants, and makes no provision for persons acting as immigration consultants to register with any state agency, or to post a bond.

Existing law specifies that it is a misdemeanor for a person, acting as an immigration consultant, to do any of the following:

1. Act, for compensation, when not authorized.
2. Provide consultant services without providing a written contract to the client..

3. Retain the original documents of a client.
4. Make false or misleading statements to a client.
5. Make unfounded guarantees or promises to a client.
6. Make a statement to a client that special favors can be obtained from the United States Immigration and Naturalization Service.
7. Charge a client a fee for referral.

Existing law provides that additional violations of the above offenses is a felony, punishable by up to three years in state prison and a fine up to \$10,000.

This bill would require an immigration consultant to file a \$10,000 bond, or instead of a bond, a \$10,000 cash deposit with the Secretary of State. Specifies that the bond shall be 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 service.

The Secretary of State is required to charge a filing fee or specified deposit to cover the cost of filing the bond. The Secretary of State is authorized to retain the cash deposit for two years after the individual ceases activity as an immigration consultant.

The bill specifies that the bond or cash deposit does not apply to employees of nonprofit, tax-exempt corporations who help clients complete application forms in immigration matters, either free of charge or for a fee. Specifies that the fee charged may include reasonable costs and shall be consistent with fees authorized by the United States Immigration and Naturalization Service for qualified designated entities.

The bill would require an immigration consultant to give to a client a copy of each document or form completed on behalf of the client and to retain copies of all of a client's documents and forms for at least 3 years after the last service to the client.

The bill also would provide that damages from acts of immigration consulting may be recovered from the bond or cash deposit. In addition, whenever there is a claim against a bond or deposit, the consultant would be required to cease to conduct any business until the bond or deposit balance is brought up to the minimum amount required.

This bill sunsets January 1, 1998.

Related legislation:

CONTINUED

AB 3137  
Page 3

AB 2520 (Napolitano), in Senate Appropriations Committee, requires an immigration consultant to display in his/her office information including a statement that he/she is not an attorney. Also prohibits the consultant from literally translating words with the intent to mislead in specified written material.

FISCAL EFFECT: Appropriation: No Fiscal Committee: Yes Local: Yes

According to the Senate Appropriations Committee:

Fiscal Impact (in thousands)

Major Provisions	1994-95	1995-96	1996-97	Fund
SOS admin	25	25	25	General
revenue	25	25	25	General

The costs of this bill are offset by fee revenue.

SUPPORT: (Verified 8/23/94)

California Rural Legal Assistance Foundation (CRLA)  
 Refugee/Human Rights Clinic at the University of San Francisco  
 Kanter, Lehrman & Yun  
 Coalition for Immigrant & Refugee Rights & Services  
 Consumers Union

ARGUMENTS IN SUPPORT: According to the author's office, immigration consultants are not required to post any bond for the protection of their clients who are often at the mercy of unscrupulous operators.

Newspaper articles supplied by the author's office track a number of scams by immigration consultants:

1. Charging exorbitant fees for filing applications for benefits that the client is not eligible for.
2. Taking money but not filing paper work, or disappearing with the client's papers.
3. Selling fraudulent documents to clients who believe they are genuine.
4. Fraudulently posing as lawyers or claiming special influence with the Immigration and Naturalization Service.

Proponents state that mandatory bonding will go a long way toward deterring fraudulent representation and would encourage those who have been defrauded to take action.

The California Rural Legal Assistance Foundation (CRLA) states that in its work among rural and poor farmworkers, CRLA has handled over 500 calls a month from all over California, many of which concern fraud and other

CONTINUED

AB 3137  
Page 4

unfair business practices perpetrated by consultants or "notarios."

ASSEMBLY FLOOR VOTE:

CP:lm 8/24/94 Senate Floor Analyses

CONTINUED



**APPENDIX  
EXHIBIT B**

SENATE THIRD READING  
SB 1194 (Romero)  
As Amended August 28, 2001  
Majority vote

SENATE VOTE :22-13

JUDICIARY	10-0	BUSINESS & PROFESSIONS
11-0		

Ayes: Steinberg, Robert	Ayes: Correa, John Campbell,
Pacheco, Bates, Corbett,	Bogh, Cedillo, Chavez,
Dutra, Harman, Jackson,	Corbett, Kelley, Koretz,
Longville, Shelley, Wayne	Matthews, Nation, Wesson

APPROPRIATIONS	21-0
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Ayes: Migden, Bates, Alquist,		
Aroner, Ashburn, Cedillo,		
Corbett, Correa, Daucher,		
Goldberg, Maldonado,		
Robert Pacheco, Papan,		
Pavley, Runner, Simitian,		
Thomson, Washington,		
Wiggins, Wright, Zettel		

SUMMARY : Creates new remedies in actions regarding the unauthorized practice of law and strengthens requirements for immigration consultants. Specifically, this bill :

- 1) In an enforcement action by a prosecuting attorney regarding the unauthorized practice of law, requires the court to consider the following relief to persons harmed by such practice: actual damages; restitution of all amounts paid; the amount of penalties and tax liabilities incurred in connection with the sale or transfer of assets to pay for any goods, services, or property; reasonable attorney's fees and costs expended to rectify errors; prejudgment interest at the legal rate from the date of loss to the date of judgment; and,

appropriate equitable relief, including the rescission of sales made in connection with a violation of law.

- 2) Provides that the newly authorized remedies shall not be construed to affect other claims, rights or remedies that may be held by a person or entity other than the Attorney General (AG), district attorney or city attorney.
- 3) Repeals existing provisions of law that permit an immigration consultant to make a cash deposit with the Secretary of State (SOS) in lieu of filing a bond as required by law.
- 4) Makes it unlawful for a person to disseminate any statement holding him or herself out as an immigration consultant unless the person has on file with the SOS the required bond for the entire period covered by any such statement.

FISCAL EFFECT : According to the Assembly Appropriations Committee, because any violation of statutory provisions regarding immigration consultants is a misdemeanor, cities and counties could incur non-reimbursable costs for enforcement, partially offset by fine revenue.

COMMENTS : This bill is intended to protect consumers from unscrupulous advisors in two situations. First, the bill provides improved remedies for individuals harmed by persons engaging in the unauthorized practice of law. Second, the bill strengthens the bonding requirements for persons who perform work as immigration consultants.

The Office of the AG, sponsor of the bill, states:

The unauthorized practice of law is at the core of a variety of consumer frauds?. In some cases, consumers have paid money for services and then had their rights harmed or lost altogether while they wait for the promised service that is never performed. In other cases, the unauthorized performance of legal services results in incompetent work that costs consumers their legal rights and the expense of hiring an attorney to rectify the problems. Moreover, while engaged in the unauthorized practice of law, the person performing the legal services may gain the consumer's trust and exploit that confidential relation to sell various types of goods, services and property. ?

SB 1194  
Page 3

Existing remedies, however, are insufficient to address the problems. In a recent case filed by the Attorney General, the court found that a living trust mill, which sold more than ten thousand living trusts, had engaged in the unauthorized practice of law and used the confidence established with senior citizens ? to sell more than \$200 million in investments ?. However, the court did not have the authority to order the defendants in that case to reimburse the victims for all of the damages they sustained ?.

This bill provides additional remedies where an enforcement action is brought by a prosecutor with regard to the unauthorized practice of law. The bill requires the court to consider specified relief to persons who obtained services, or purchased or sold any goods, services, or property, in connection with the unauthorized practice of law, including actual damages and restitution. Thus a victim of a person engaging in the unauthorized practice of law, where the case is publicly prosecuted, could gain relief in that action for losses suffered, without filing a separate civil suit. The bill provides that these remedies would be in addition to any remedies already available in such an action, and would not affect any other rights or remedies that the victims might have. To ensure that the remedies are paid to the individuals harmed, the bill specifies the award of the remedies to such individuals or, if impracticable to do so, as the court may direct.

Immigration consultants have come under scrutiny in recent years because of numerous complaints lodged by clients who believed they were receiving help from attorneys for their immigration problems when in reality they were not, or who were defrauded by unscrupulous "consultants" who took money but never did the paperwork promised. Current law requires that an immigration consultant file a bond of \$50,000 with the SOS. A person harmed by fraud, misrepresentations, or omissions by the immigration consultant may recover against the bond. In addition, if a person is awarded damages based on injuries caused by the acts of a person acting as an immigration consultant, the person can recover damages from the bond.

This bill would require an immigration consultant to maintain the \$50,000 bond filed with the SOS during the entire period that he or she advertises that he or she is conducting an

SB 1194  
Page 4

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immigration consulting business. The bill also deletes an obsolete provision allowing an immigration consultant to make a cash deposit with the SOS in lieu of filing bond.

Analysis Prepared by : Kathy Sher / JUD. / (916) 319-2334 FN:  
0002544

**Declaration of Andriette M. Gillard**

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Senior Assistant Attorney General  
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Supervising Deputy Attorney General  
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Deputy Attorney General  
5 State Bar No. 189194  
455 Golden Gate Avenue, Suite 11000  
6 San Francisco, CA 94102  
Telephone: (415) 703-5601  
7 Fax: (415) 703-5480

8 Attorneys for Plaintiff,  
The People of the State of California  
9

10 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA  
11 FOR THE COUNTY OF MARIN  
12

13 THE PEOPLE OF THE STATE OF CALIFORNIA,  
14 Plaintiff,  
15 v.  
16 CARMY MISHALL MOSCOSO (aka CARMY  
17 MISHALL MOSCOSO-HUERTA), MARIA  
MOSCOSO, AND DOES 1 THROUGH 10,  
18 Defendants.  
19

CASE NO.:  
**DECLARATION OF  
ANDRIETTE M. GILLARD**

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**DECLARATION OF ANDRIETTE M. GILLARD**

I, Andriette M. Gillard, declare the following:

1. I am employed by the California Department of Justice as an Associate Governmental Program Analyst with the Attorney General's Consumer Law Section.

2. On or about April 21, 2003, I received, via United States Postal Service from the Marin County Clerk's office, a certified Fictitious Business Name (FBN) Statement for "Moscoso Income Tax Service." The FBN statement was filed on November 26, 1997 and signed by Carmy Mishell Moscoso as an individual. The location of the business is listed as 710 - C Street, # 206, San Rafael, California, 94901. The statement form recites that the filing would be valid for five years. A true and correct copy of the certified FBN statement regarding Moscoso Income Tax Service is attached as Exhibit 1.

3. On or about January 6, 2003, I reviewed the January 2003 issue of "TV Español," a publication that states it is distributed widely in the greater San Francisco Bay Area, and located on page one hundred and forty-three an advertisement for "Moscoso Services" offering "Servicios de Asistencia Con Inmigracion" - that is, "Immigration Assistance Services" - at an office located in San Rafael, California. A true and correct copy of page 143, showing the advertisement for "Moscoso Services," is attached as Exhibit 2. A certified translation of the advertisement is included with Exhibit 2.

4. On or about March 7, 2003, I reviewed the February 2003 issue of "TV Español" and located on page one hundred and forty-three an advertisement for "Moscoso Services," offering "Servicios de Asistencia Con Inmigracion" - that is, "Immigration Assistance Services" - at an office located in San Rafael, California. A true and correct copy of page 143, showing the advertisement for "Moscoso Services," is attached as Exhibit 3. A certified translation of the advertisement is included with Exhibit 3.

5. On or about March 7, 2003, I reviewed the March 2003 issue of "TV Español" and located on page one hundred and forty-three an advertisement for "Moscoso Services," offering "Servicios de Asistencia con Inmigracion" - that is "Immigration Assistance Services" - at an office located in San Rafael, California. A true and correct copy of page 143, showing the advertisement for "Moscoso Services," is attached as Exhibit 4. A certified translation of the

1 advertisement is included with Exhibit 4.

2 6. I received, via the United States Postal Service, Certificates of Nonfiling from the  
3 California Secretary of State's office for the following:

4 a) Moscoso Income Tax Svc.

5 b) Maria Moscoso aka Maria Jose Moscoso

6 c) Carmy M Moscoso aka Carmy M Moscoso-Huerta

7 The certificates state that, as of February 27, 2003, the Secretary of State could find no record of  
8 the listed individual or entity having filed a bond as described and required in Section 22443.1 of  
9 the Business and Professional Code. Attached as Exhibit 5 is a true and correct copy of the  
10 certificate for Moscoso Income Tax Svc. Attached as Exhibit 6 is a true and correct copy of the  
11 certificate for Maria Moscoso aka Maria Jose Moscoso. Attached as Exhibit 7 is a true and  
12 correct copy of the certificate for Carmy M. Moscoso aka Carmy M. Moscoso-Huerta.

13 7. I received, via the United States Postal Service, a Certificate of Non-filing from the  
14 California Secretary of State's office for Moscoso Income Tax Service. The certificate states  
15 that, as of June 9, 2003, the Secretary of State could find no record of the listed individual or  
16 entity having filed a bond as described and required in Section 22443.1 of the Business and  
17 Professional Code. Attached as Exhibit 8 is a true and correct copy of the certificate for  
18 Moscoso Income Tax Service.

19 8. I received, via messenger delivery, certificates from Charlotte Blackford, Supervisor  
20 of Membership Records for the State Bar of California. The documents, dated March 6, 2003,  
21 certify that the State Bar of California has no records of membership for the following:

22 a) Maria Moscoso

23 b) Maria Jose Moscoso

24 c) Maria J. Moscoso

25 d) Josefina M. Moscoso

26 e) Maria J. Contreras

27 f) Carmy M. Moscoso

28 g) Carmy Moscoso-Huerta

A true and correct copy of the certificate regarding Maria Moscoso, Maria Jose Moscoso, Maria



1 J. Moscoso, Josefina M. Moscoso and Maria J. Contreras is attached as Exhibit 9. A true and  
2 correct copy of the certificate regarding Carmy M. Moscoso and Carmy Moscoso-Huerta is  
3 attached as Exhibit 10.

4 9. I received, via the United States Postal Service, a Certificate of Nonfiling Corporation  
5 dated March 4, 2003, from the Secretary of State's Office for Moscoso Income Tax Svc. A true  
6 and correct copy is attached as Exhibit 11.

7 10. I received, via the U.S. Postal Service, a Certificate of Nonfiling Limited Partnership  
8 dated March 5, 2003, for Moscoso Income Tax Svc. A true and correct copy is attached as  
9 Exhibit 12.

10 11. On June 4, 2003, I telephoned the number listed for "Moscoso Services" in the  
11 advertisements in "TV Espanol," (415) 457-5908. A woman answered the telephone,  
12 announcing that I had reached "Moscoso Services." I asked if Moscoso Services assisted people  
13 with obtaining legal residency in the United States. The woman stated that her sister, Mishell  
14 Moscoso, helps people with completion of their immigration paperwork. The woman told me to  
15 call and make an appointment with Mishell Moscoso for assistance with immigration-related  
16 paperwork.

17 12. I received a declaration, via overnight mail, from Christine Bredl Donley, Staff  
18 Assistant with the Executive Office for Immigration Review (EOIR) of the United States  
19 Department of Justice. Ms. Donley's declaration states that a June 5, 2003 search of her agency's  
20 records showed that EOIR has no record of the following as a recognized organization or  
21 accredited person authorized to appear before the United States Immigration and Naturalization  
22 Service or the Board of Immigration Appeals:

- 23 a) Moscoso Income Tax Service
- 24 b) Maria Moscoso aka Maria Jose Moscoso
- 25 c) Carmy M. Moscoso aka Carmy Moscoso-Huerta

26 A true and correct copy of Ms. Donley's declaration is attached as Exhibit 13.

27 I declare under penalty of perjury under the laws of the State of California that the facts  
28 set forth in this declaration are true and correct, that they are of my own personal knowledge, and  
that if called and sworn as a witness I could and would competently testify to the above facts.

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This declaration was executed on June 12, 2003 at San Francisco, California.

  
ANDRIETTE M. GILLARD

**Exhibit 1**

**FICTITIOUS BUSINESS NAME STATEMENT**  
 COUNTY OF MARIN-OFFICE OF THE COUNTY CLERK  
 ROOM 247, HALL OF JUSTICE-P.O. BOX "E"  
 SAN RAFAEL, CA 94913-3904

**FILED**  
 FOR OFFICE USE ONLY

NOV 26 1997

HOWARD HANSON  
 MARIN COUNTY CLERK

By A. Turner  
 DEPUTY

**FILING FEE:**

\$27.00 for one business name and one owner  
 \$ 7.00 for each additional registrant or business name.

PLEASE TYPE OR PRINT IN DARK INK. PRESS FIRMLY WITH  
 BALL POINT PEN. SEE REVERSE SIDE FOR INSTRUCTIONS.

1  First filing or  Renewal with changes (both must publish)  
 Newspaper for publication: PACIFIC SUN

Renewal filing. If there are no changes since last filing, publication  
 is not required.

2  Business or change started on: 12/01/97 or n/a.

File No. 176445  
 NOTICE: This statement expires on: 11-26-2002  
 A new FBN statement must be filed before the expiration date.  
 The filing of this statement does not of itself authorize the use in this state of a  
 fictitious business name in violation of the rights of another under federal, state  
 or common law. (See Sect. 14400 et. seq. B&P Code)

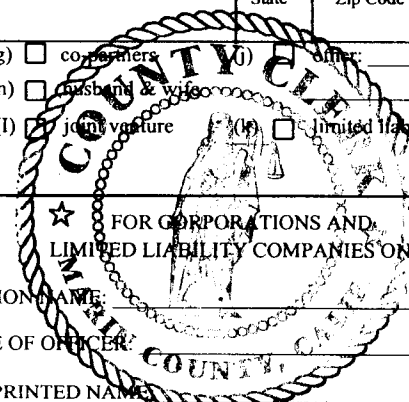
**THE FOLLOWING PERSON(S) IS (ARE) DOING BUSINESS AS:**

3 Fictitious Business Name(s)			Daytime Phone
<u>MOSCOSO INCOME TAX SERVICE</u>			<u>337-6457</u>
4 Street Address (P.O. Box not acceptable) <u>710-C STREET #206</u>	City <u>SAN RAFAEL</u>	State <u>CA</u>	Zip Code <u>94901</u>
NAME OF REGISTRANT			(If Corp., show state of incorporation)
5 Last: <u>MOSCOSO</u>	First: <u>CARMY</u>	MI <u>M.</u>	
Residence Address (P.O. Box not acceptable) <u>374-CAPITOL AVE</u>	City: <u>SAN FRANCISCO</u>	State <u>CA</u>	Zip Code <u>94112</u>
NAME OF REGISTRANT			(If corp., show state of incorporation)
6 Last:	First:	MI	
Residence Address (P.O. Box not acceptable)	City:	State	Zip Code
NAME OF REGISTRANT			(If corp., show state of incorporation)
7 Last:	First:	MI	
Residence Address (P.O. Box not acceptable)	City:	State	Zip Code
NAME OF REGISTRANT			(If corp., show state of incorporation)
8 Last:	First:	MI	
Residence Address (P.O. Box not acceptable)	City:	State	Zip Code

9 CHECK ONLY ONE (a)  an individual (d)  an unincorporated association (g)  co-partners (j)  other  
 This business is (b)  a general partnership other than a partnership (h)  husband & wife  
 conducted by: (c)  a limited partnership (e)  a corporation (i)  joint venture (k)  limited liability company  
 (f)  a business trust

10 SIGNATURE: [Signature]  
 TYPED OR PRINTED NAME: CARMY MISTHELL MOSCOSO  
 MAILING ADDRESS: 374-CAPITOL AVE  
SAN FRANCISCO, CA 94112

11 FOR CORPORATIONS AND LIMITED LIABILITY COMPANIES ONLY  
 CORPORATION NAME: \_\_\_\_\_  
 SIGNATURE OF OFFICER: \_\_\_\_\_  
 TYPED OR PRINTED NAME: \_\_\_\_\_  
 TITLE: \_\_\_\_\_



**FOR OFFICE USE ONLY**  
 CERTIFICATION: I hereby certify that the foregoing is a correct copy of the original on file in my office.

HOWARD HANSON, County Clerk By: A. Turner, Deputy County Clerk.

## **Exhibit 2**

# GRATIS ESPAÑOL

10 AÑOS  
CON  
ORGULLO

Ronaldo Feliz  
de Jugar Con  
el Real Madrid

EL TRIÁNGULO DE  
LAS BERMUDAS

"DIOS JUZGARÁ  
UN DÍA CON  
JUSTICIA"  
JUAN PABLO II

JUAN GABRIEL  
ROMPE EL SILENCIO  
Y ACUSA A SU  
EX MANAGER

¿Se Debe ir a  
La Guerra Contra  
Irak?

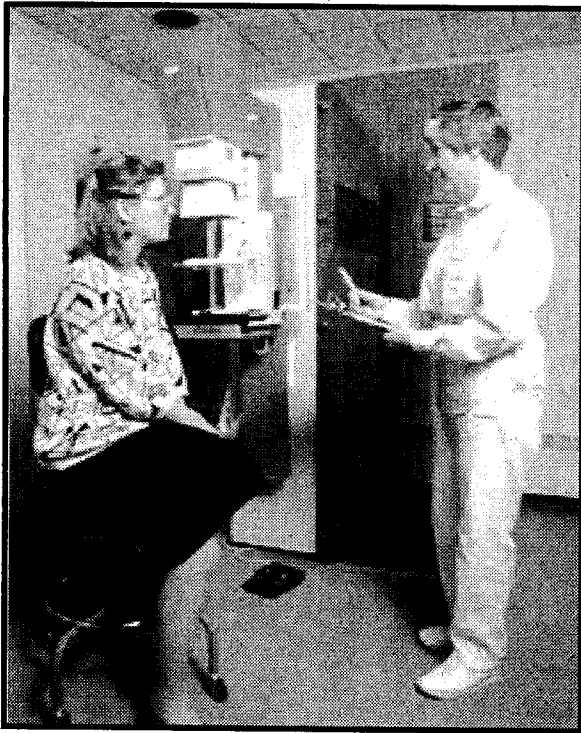
El Cuidado  
de su Rostro

SAUDI ARABIA



VIENE DE LA PÁG. # 142

**OFRECE BIOTECNOLOGÍA...**



“Eso amplía los conocimientos sobre el origen de dicha enfermedad y abre nuevas perspectivas de tratamiento”, dijo.

Agregó que la tecnología genética ofrece esperanzas para los pacientes con reuma, ya que en un futuro el diagnóstico del patrimonio hereditario se utilizará para llevar a cabo terapias individuales.

“Los marcadores genéticos ayudarán a identificar a los pacientes en quienes la enfermedad podría agravarse de forma agresiva, a fin de atenderlos de manera intensiva”, señaló Burmester.

Dijo que en el caso de pacientes que se someten a terapias con medicinas biológicas, se puede detectar si éstas son adecuadas para ellos”.

El experto precisó que los fármacos biológicos son preparados que impiden la propagación en el cuerpo de la sustancia “TNF-alpha”, que se considera uno de los principales causantes de infecciones agresivas.



PARA SUS COMPRAS VER PÁGS. #44 Y 45

**ATENCIÓN** CONTRA COSTA, MARIN, SONOMA Y SOLANO

**MOSCOSO SERVICES**

- Preparación de Impuestos
- Reembolsos Rápidos
- Contabilidad para Pequeños Negocios
- Planillas • Auditoría
- Trámites de Números Asignados
- Si no Tiene Seguro Social.
- Consolidación de Cuentas Por Años Anteriores
- Por Números.
- Notary Public: Permisos de Viajar, Tutela Temporal, Etc.
- Servicios de Asistencia Con Inmigración

**file**

Llame Para Hacer Una Cita al: **(415)457-5908**

**ESTAMOS UBICADOS EN EL CENTRO DE SAN RAFAEL**

**Dinora Jewelry**

*!!! Como Regalo Para su Ser Querido...  
...Su Foto en un Colgante Para Siempre!!!*

- Al Alcance de su Bolsillo
- Contra el Agua
- Disponible en Muchos Estilos
- Esto es un Recuerdo Único
- Joyería de 14 Kilates
- Toda Clase de Reparaciones

Además Vendemos Perfumes de Diferentes Marcas

**(415)821-2946**

**ESPECIAL DE ENERO**  
10% EN CUALQUIERA DE SUS COMPRAS DE DESCUENTO

3026 -24Th St., San Francisco, CA

**LA GRAN TAQUERIA CHIQUITA**

*Su Familia y Usted merecen nuestra atención.*

Los invitamos a probar los más exquisitos antojitos mexicanos hechos especialmente a su buen gusto.  
¡Estamos siempre a sus órdenes!

3503 International Blvd., Oakland, CA  
Tel. (510) 533-6484

TRANSLATION FROM SPANISH TO ENGLISH OF ATTACHED ADVERTISEMENT:  
 Upper right corner: Moscoso Services

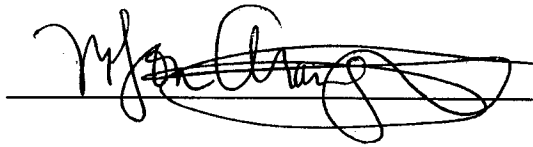
Translation by Mary Lou Aranguren, certification attached.

<i>Original Text</i>	<i>Translation of Spanish Text to English</i>
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## **Certified translation from Spanish to English**

I, Mary Lou Aranguren, declare under penalty of perjury, to the best of my knowledge and belief, that the attached documents are a true, accurate and complete translation into English of the original Spanish document before me. I further represent under penalty of perjury that I am a Certified Court Interpreter in the aforementioned languages certified by the Judicial Council of the State of California. I solemnly affirm under penalty of perjury, under the laws of the State of California that the foregoing is true and correct and that this document is executed at Alameda County in the State of California on the 11th day of March, 2003.

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

Mary Lou Aranguren  
California Certification No. 300394  
2503 Regent St., #2  
Berkeley, CA 94704

**Exhibit 3**

**GRATIS**

PRSR STD  
U.S. Postage PAID  
Wesco Graphics  
Tracy, CA

FEBRERO 2003

# LUPILLO RIVERA

UN ARTISTA EXTRAORDINARIO

**10 AÑOS  
AL SERVICIO  
DE LA  
COMUNIDAD**



**EL COLOR  
DEL CABELLO**

**EL GRAN MISTERIO  
DE LA PIRÁMIDE DE  
GIZA**



**RICARDO MAYORCA  
ESTREMECIÓ AL MUNDO  
DEL BOYEO**



**MUAMMAR GADAFI:  
LIBIA DA INFORMACIÓN  
A E.U.A. SOBRE LA RED  
AL-QAEDA**



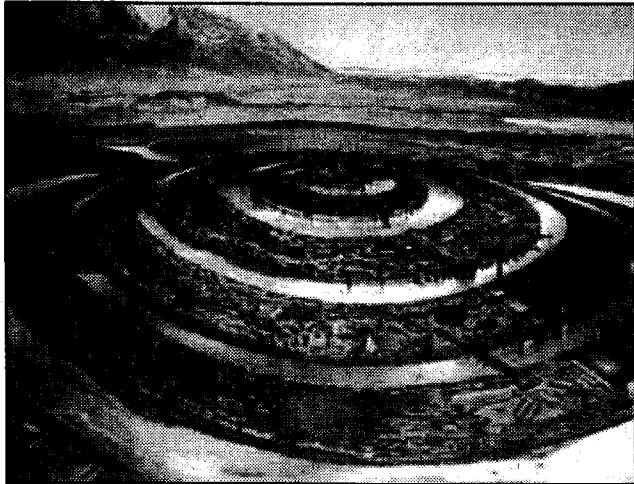
**INAUGURAN  
PLAYA PARA  
HOMOSEXUALES  
EN ARGENTINA**

## La Clonación y Sus Mitos



VIENE DE LA PAG #142

## LA ATLÁNTIDA,...



contemplaban la posibilidad de la conquista y un ejército ateniense partió hacia ese continente para contrarrestar los planes bélicos. La Atlántida ha sido ubicada en muchos lugares: México, Asia Central, el Sahara, España, Groenlandia, Terranova e incluso Gran Bretaña.

### La hipótesis de la isla de Thera

Y quizá más persuasivas. Puede reconocerse a la Creta de Minos como el asiento del imperio de la Atlántida y al volcán Thera como causa de su declinación? Esa posibilidad fue sugerida por primera vez en 1907 por el estudioso británico K. T. Frost. Las excavaciones de sir Arthur Evans, en Knossos, en la década de 1920 y el desciframiento del escrito Lineal B por parte de Michael Ventris y J. Chadwick, en 1960, han demostrado que la civilización minoica de Creta se derrumbó repentinamente en el punto más alto de su potencia y sin ninguna razón aparente hacia el año 1500 a. C. Significativamente, el volcán Thera que está a ciento cinco kilómetros al norte de Creta tuvo una erupción catastrófica en esa época.

Según una teoría, Creta fue hundida por una ola enorme causada por la erupción catastrófica del Thera. La fertilidad de su suelo se arruinó con los pesados depósitos de ceniza y pumita. La historia del desastre fue llevada por refugiados a Egipto donde, 900 años más tarde, fue narrada de manera poco exacta a Solón. Él tradujo el nombre egipcio de Keftui para Creta como Atlántida, derivado de la descripción de esa isla montañosa como "la tierra del pilar", sostenida en el cielo por el gigante Titán, Atlas. Ignaro

PASE A LA PAG # 144

PARA SUS COMPRAS VER PÁGS. #44 Y 45

## ATENCIÓN CONTRA COSTA, MARÍN, SONOMA Y SOLANO MOSCOSO SERVICES

- Preparación de Impuestos
- Reembolsos Rápidos
- Contabilidad para Pequeños Negocios
- Planillas • Auditoría
- Trámites de Números Asignados Si no Tiene Seguro Social.
- Consolidación de Cuentas Por Años Anteriores o Por Números.
- Notary Public: Permisos de Viajar, Tutela Temporal, Etc.
- Servicios de Asistencia Con Inmigración

IRS e-file



Llame Para Hacer Una Cita al: **(415)457-5908**

ESTAMOS UBICADOS EN EL CENTRO DE SAN RAFAEL

## Señor M. Gallegos Consejero

Preparación de Amuletos y Toda Clase de Artículos Religiosos

Tengo los 7 Bejotes Esenciales para levantar el espíritu

Se hacen Limpias y Cura el Mal de Ojo

¿Sufrir usted de una enfermedad desconocida? ¿Se siente cansado? ¿Tiene problemas de alcoholismo?

Ya deje de visitar a los curanderos, vengas a probar todos sus problemas

Reservado por M. Gallegos  
1900 California Street, San Francisco, CA 94133  
Tel. (415) 457-5728

## TAQUERIA LA GRAN CHIQUITA



Su Familia y Usted merecen nuestra atención.

Los invitamos a probar los más exquisitos antojitos mexicanos hechos especialmente a su buen gusto.  
¡Estamos siempre a sus órdenes!

3503 International Blvd., Oakland, CA  
Tel. (510) 533-6484

143 TV ESPAÑOL

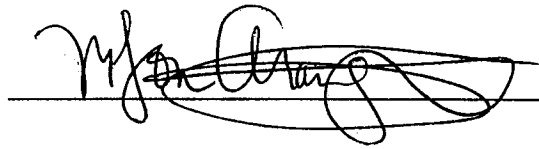
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 Upper right corner: Moscoso Services

Translation by Mary Lou Aranguren, certification attached.

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## **Certified translation from Spanish to English**

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A handwritten signature in black ink, appearing to read 'Mary Lou Aranguren', is written over a horizontal line. The signature is stylized and somewhat cursive.

Mary Lou Aranguren  
California Certification No. 300394  
2503 Regent St., #2  
Berkeley, CA 94704

## **Exhibit 4**

**GRATIS**

# ESPECIAL

MARZO 2003

**10 AÑOS  
AL SERVICIO  
DE LA  
COMUNIDAD**

**Es Probable Que  
Presuntos Terroristas  
en E.U.A. Entrarán  
Por México**

## La Tragedia del Columbia

**El Misterio  
de Los  
Círculos  
del Maíz**

**Cómo Mantener  
Unas Piernas  
Bellas y Sanas**

**Vinculan a Pandillas  
Juveniles Salvadoreñas  
Con el Crimen Organizado**

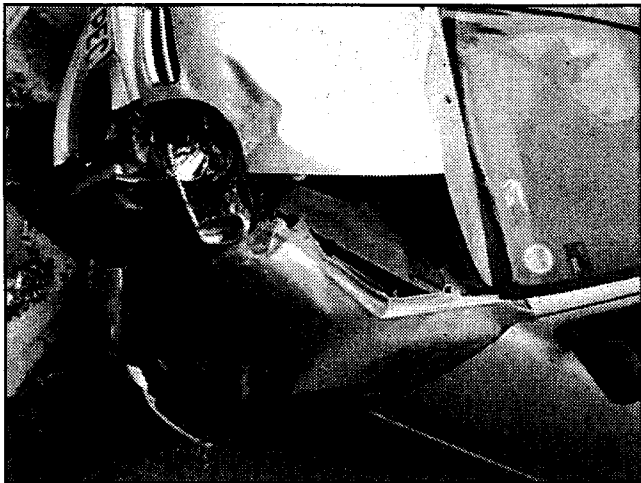
**JOSÉ JOSÉ  
Supera  
Enfermedad  
y Planea Dar  
Conciertos**

**Desiste Romário Por  
Un Equipo Extranjero**





# ¿Cómo buscar...?



La misma debe ser reconocida y confiable, al igual que sus agentes. Pregunte a amigos y familiares sobre sus experiencias con los seguros, es un servicio donde no conocemos los procesos de reclamación hasta que lo utilizamos.

## ¿Qué afecta el costo de las primas o enganches?

Las tarifas de los seguro se afectan por varias razones, especialmente el estilo de vida y el tipo de vehículo a asegurar.

- La edad, sexo, estado civil, antecedentes como conductor y reclamaciones anteriores determinan el nivel de riesgo y por lo tanto la prima a pagar. Por ejemplo hombres menores de 25 años y solteros representan mayor riesgo que mujeres casadas mayores de 25.

- El área de residencia influye especialmente si vive en un área urbana, donde hay mas tráfico y la probabilidad de accidentes es mayor.

- El vehículo a asegurar afecta la prima ya que existen autos donde las reclamaciones son mas frecuentes, como los deportivos. Autos de lujo y 4x4 aumentan las primas por ser mas altos los costos de reparación.

- Como se utiliza el vehículo también afecta las tarifas. Mientras más millas se utiliza el auto mayor la probabilidad de accidente. Muchas veces las millas de distancia entre la residencia y lugar de trabajo se utilizan para computar esta cifra.

PASE A LA PAG. # 144

**ATENCIÓN** **CONTRA COSTA, MARÍN, SONOMA Y SOLANO**

## MOSCO SO SERVICES

- Preparación de Impuestos
- Reembolsos Rápidos
- Contabilidad para Pequeños Negocios
- Planillas • Auditoria
- Trámites de Números Asignados
- Si no Tiene Seguro Social.
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- Notary Public: Permisos de Viajar, Tutela Temporal, Etc.
- Servicios de Asistencia Con Inmigración




Llame Para **(415)457-5908**  
Hacer Una Cita al:

**ESTAMOS UBICADOS EN EL CENTRO DE SAN RAFAEL**

## Señor M. Gallegos Consejero Espiritual

**Preparación de Amuletos y  
Toda Clase de Artículos Religiosos**

Tengo los 7 Baños Espirituales  
para Levantar su Espiritu



**Se Hacen Limpias y  
se Cura el Mal de Ojo**

*¿Sufrir usted de algun mal desconocido?*  
**¿Se siente cansado? ¿Tiene insomnio o sufre de alcoholismo?**

Ya deje de visitar a otros consejeros sin obtener resultados, venga ahora mismo y le garantizo resolver todos sus problemas por muy difíciles que sean.

**Pregunte por M. Gallegos**

519 Ellington Ave., San Francisco, CA 94112  
**Tel. (415) 337-5728**

# T A Q U E R I A

## LA GRAN CHIQUITA



*Su Familia y Usted  
merecen nuestra atención.*

Los invitamos a probar los más exquisitos  
antojitos mexicanos hechos especialmente  
a su buen gusto.

¡Estamos siempre a sus órdenes!

**3503 International Blvd., Oakland, CA  
Tel. (510) 533-6484**

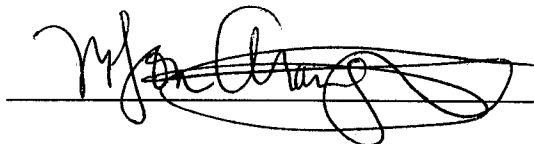
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Mary Lou Aranguren  
California Certification No. 300394  
2503 Regent St., #2  
Berkeley, CA 94704

## **Exhibit 5**

# State of California



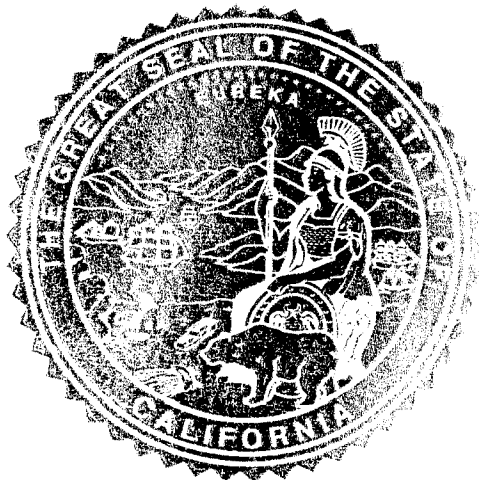
## SECRETARY OF STATE CERTIFICATE OF NON-FILING

I, KEVIN SHELLEY, Secretary of State of the State of California, hereby certify:

That I am the Official Custodian of records for the Office of the Secretary of State. In that capacity I have conducted a diligent search and have failed to find any records of a filing in this office in accordance with Section 22443.1 of the Business and Professions Code of the State of California for the following:

**Moscoso Income Tax Svc.**

IN WITNESS WHEREOF, I execute  
this certificate and affix the Great  
Seal of the State of California this  
27th day of February, 2003



*Kevin Shelley*

KEVIN SHELLEY  
Secretary of State

## **Exhibit 6**

# State of California



## SECRETARY OF STATE CERTIFICATE OF NON-FILING

I, KEVIN SHELLEY, Secretary of State of the State of California, hereby certify:

That I am the Official Custodian of records for the Office of the Secretary of State. In that capacity I have conducted a diligent search and have failed to find any records of a filing in this office in accordance with Section 22443.1 of the Business and Professions Code of the State of California for the following:

**Maria Moscoso aka Maria Jose Moscoso**

IN WITNESS WHEREOF, I execute this certificate and affix the Great Seal of the State of California this 27<sup>th</sup> day of February, 2003



*Kevin Shelley*

KEVIN SHELLEY  
Secretary of State

**Exhibit 7**



# State of California



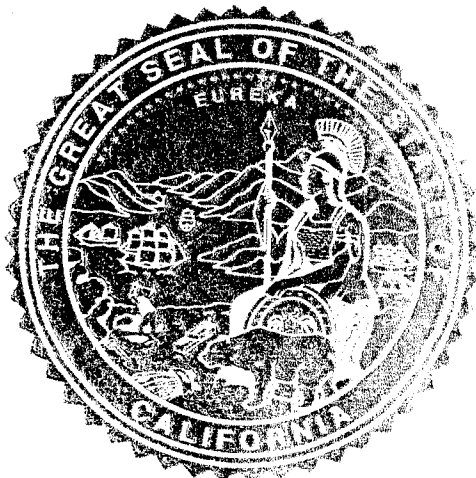
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I, KEVIN SHELLEY, Secretary of State of the State of California, hereby certify:

That I am the Official Custodian of records for the Office of the Secretary of State. In that capacity I have conducted a diligent search and have failed to find any records of a filing in this office in accordance with Section 22443.1 of the Business and Professions Code of the State of California for the following:

**Carmy M. Moscoso aka Carmy M. Mocosos-Huerta**

IN WITNESS WHEREOF, I execute  
this certificate and affix the Great  
Seal of the State of California this  
27th day of February, 2003



*Kevin Shelley*

KEVIN SHELLEY  
Secretary of State

## **Exhibit 8**

# State of California



SECRETARY OF STATE

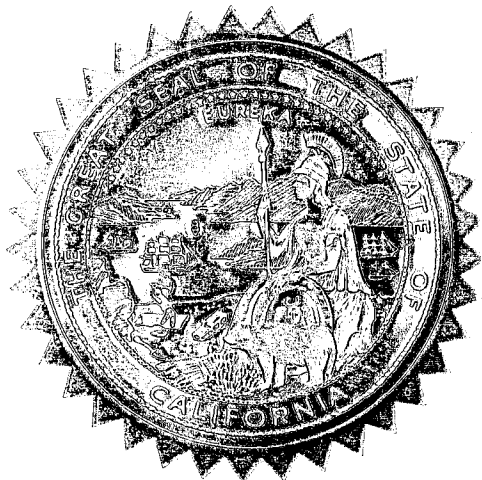
## CERTIFICATE OF NON-FILING

I, KEVIN SHELLEY, Secretary of State of the State of California, hereby certify:

That I am the Official Custodian of records for the Office of the Secretary of State. In that capacity I have conducted a diligent search and have failed to find any records of a filing in this office in accordance with Section 22443.1 of the Business and Professions Code of the State of California for the following:

**Moscoso Income Tax Service**

IN WITNESS WHEREOF, I execute  
this certificate and affix the Great  
Seal of the State of California this  
09th day of June, 2003



*Kevin Shelley*  
KEVIN SHELLEY  
Secretary of State

**Exhibit 9**



THE  
STATE BAR  
OF CALIFORNIA

180 HOWARD STREET  
SAN FRANCISCO, CALIFORNIA 94105-1639  
TELEPHONE (415) 538-2000

---

March 6, 2003

THIS IS TO CERTIFY:

That the undersigned is the Supervisor of Membership Records of the State Bar of California and a custodian of its membership records and files; that she has made a diligent search of the same; that she has failed to find any record showing that any person by any of the following names:

MARIA MOSCOSO  
MARIA JOSE MOSCOSO  
MARIA J. MOSCOSO  
JOSEFINA M. MOSCOSO  
MARIA J. CONTRERAS

has been admitted to the practice of law in this state, or has registered as a member of the State Bar of California, or has paid fees as an active or inactive member thereof from the date of the organization of the State Bar on July 29, 1927, to date hereof; and that although the State Bar has a complete record of those persons admitted since its organization, its record of those admitted prior thereto is not necessarily complete, as it has been assembled from various unrelated sources.

THE STATE BAR OF CALIFORNIA

  
Charlotte Blackford  
Supervisor  
Membership Records

**Exhibit 10**



THE  
STATE BAR  
OF CALIFORNIA

180 HOWARD STREET  
SAN FRANCISCO, CALIFORNIA 94105-1639  
TELEPHONE (415) 538-2000

---

March 6, 2003

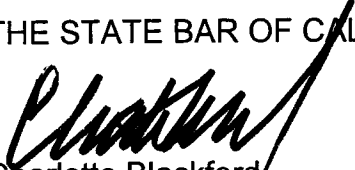
THIS IS TO CERTIFY:

That the undersigned is the Supervisor of Membership Records of the State Bar of California and a custodian of its membership records and files; that she has made a diligent search of the same; that she has failed to find any record showing that any person by any of the following names:

CARMY M. MOSCOSO  
CARMY MOSCOSO-HUERTA

has been admitted to the practice of law in this state, or has registered as a member of the State Bar of California, or has paid fees as an active or inactive member thereof from the date of the organization of the State Bar on July 29, 1927, to date hereof; and that although the State Bar has a complete record of those persons admitted since its organization, its record of those admitted prior thereto is not necessarily complete, as it has been assembled from various unrelated sources.

THE STATE BAR OF CALIFORNIA

  
Charlotte Blackford  
Supervisor  
Membership Records

**Exhibit 11**



# State of California



## SECRETARY OF STATE

### CERTIFICATE OF NONFILING CORPORATION

I, KEVIN SHELLEY, Secretary of State of the State of California, hereby certify:

That the Corporations Code of the State of California provides for the preparation and execution of Articles of Incorporation and their filing in the office of the Secretary of State in order to incorporate a California corporation; and

That the Corporations Code of the State of California provides for the filing in the office of the Secretary of State of a Statement and Designation and a Certificate of Good Standing (certified copy of Articles or Certificate of Incorporation as to a corporation qualified prior to September 18, 1959) in order to qualify a foreign corporation to transact intrastate business in this State.

I further certify that a diligent search has been made in the corporate files of this office and that there is no record of a California or foreign corporation, active or inactive, of the name: **MOSCOSO INCOME TAX SVC.**

IN WITNESS WHEREOF, I execute this certificate and affix the Great Seal of the State of California this day of March 4, 2003.



*Kevin Shelley*  
KEVIN SHELLEY  
Secretary of State

tm



**Exhibit 12**

# State of California



SECRETARY OF STATE

## CERTIFICATE OF NONFILING LIMITED PARTNERSHIP

*I, KEVIN SHELLEY, Secretary of State of the State of California hereby certify:*

*That, the Corporations Code of the State of California provides for the execution and acknowledgment of a Certificate of Limited Partnership and the subsequent filing in the office of the Secretary of State and,*

*That, the Corporations Code of the State of California provides for the filing in the office of the Secretary of State of an Application for Registration in order to register a foreign limited partnership to transact intrastate business in this State.*

*I further certify that there is no record in the limited partnership files of this office of a California or Foreign limited partnership, active or inactive, of the name:*

**MOSCOSO INCOME TAX SVC.**



**IN WITNESS WHEREOF, I execute  
this certificate and affix the Great  
Seal of the State of California this  
5th day of March, 2003.**

*Kevin Shelley*

KEVIN SHELLEY  
Secretary of State

**Exhibit 13**

1 BILL LOCKYER  
Attorney General  
2 HERSCHEL T. ELKINS  
Senior Assistant Attorney General  
3 MARGARET REITER  
Supervising Deputy Attorney General  
4 SETH E. MERMIN  
Deputy Attorney General  
5 State Bar No. 189194  
455 Golden Gate Avenue, Suite 11000  
6 San Francisco, CA 94102  
Telephone: (415) 703-5601  
7 Fax: (415) 703-5480

8 Attorneys for Plaintiff,  
The People of the State of California  
9

10 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA  
11 FOR THE COUNTY OF MARIN

13 THE PEOPLE OF THE STATE OF CALIFORNIA,  
14 Plaintiff,  
15 v.  
16 CARMY MISHHELL MOSCOSO (aka CARMY  
MISHHELL MOSCOSO-HUERTA), MARIA  
17 MOSCOSO, AND DOES 1 THROUGH 10,  
18 Defendants.

CASE NO.:

**DECLARATION OF  
CHRISTINE BREDL DONLEY**

19  
20  
21  
22  
23  
24  
25  
26  
27  
28

1 I, Christine Bredl Donley, declare the following:

2 1. I am employed by the Executive Office for Immigration Review of the United  
3 States Department of Justice in the position of Staff Assistant.

4 2. I am responsible for the logging of applications before the Board of Immigration  
5 Appeals involving requests for recognition and accreditation under the provisions of Title 8,  
6 section 292.2, of the Code of Federal Regulations. I am also responsible for maintaining, as  
7 custodian of records, the "Board of Immigration Appeals Roster of Recognized Organizations  
8 and Accredited Representatives." That roster contains, pursuant to 8 C.F.R. section 292.2, the  
9 names of those authorized to practice before (1) the Department of Homeland Security (formerly  
10 the Immigration and Naturalization Service or (2) both the Department and the Board of  
11 Immigration Appeals (including practice before the Immigration Court).

12 3. In the capacity stated in paragraph 2, I have conducted a diligent search and have  
13 not found any records in this office showing that MOSCOSO INCOME TAX SERVICE is an  
14 organization recognized by the Board of Immigration Appeals under the provisions of 8 C.F.R.  
15 section 292.2.

16 4. In the capacity stated in paragraph 2, I have conducted a diligent search and have  
17 not found any records in this office showing that any of the following individuals is an accredited  
18 representative of any organization recognized by the Board of Immigration Appeals under the  
19 provisions of 8 C.F.R. section 292.2:

- 20 a) MARIA MOSCOSO  
21 b) MARIA JOSE MOSCOSO  
22 c) CARMY M. MOSCOSO  
23 d) CARMY M. MOSCOSO-HUERTA

24 5. The information provided herein is based on my review of the records maintained  
25 at the Executive Office for Immigration Review, Board of Immigration Appeals, and available to

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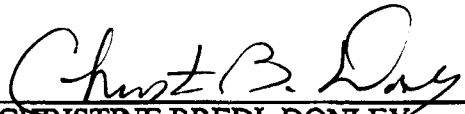
2 me in my official capacity.

3 I declare under penalty of perjury under the laws of the State of California that the  
4 foregoing is true and correct.

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6 June 5, 2003

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CHRISTINE BREDL DONLEY  
Executive Office for Immigration Review

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1 BILL LOCKYER  
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7 Fax: (415) 703-5480  
8 Attorneys for Plaintiff,  
The People of the State of California  
9

10 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA  
11 FOR THE COUNTY OF MARIN  
12

13 THE PEOPLE OF THE STATE OF CALIFORNIA,  
14 Plaintiff,  
15 v.  
16 CARMY MISHHELL MOSCOSO (aka CARMY  
MISHHELL MOSCOSO-HUERTA), MARIA  
17 MOSCOSO, AND DOES 1 THROUGH 10,  
18 Defendants.  
19

CASE NO.:

**[PROPOSED] TEMPORARY  
RESTRAINING ORDER AND  
ORDER TO SHOW CAUSE**

Date Action Filed: June 18, 2003  
Trial Date: None Set



1 On June 18, 2003, the Court heard the Ex Parte Application for Temporary Restraining  
2 Order and Order to Show Cause re Preliminary Injunction filed by Plaintiff, the People of the  
3 State of California. On reading the Application, the Memorandum of Points and Authorities and  
4 declarations submitted therewith, and the Complaint filed in the above-entitled action, and  
5 considering the arguments of counsel and good cause appearing therefor, the Court finds that it is  
6 reasonably probable that Plaintiff will prevail on the merits and that the potential harm to the  
7 public outweighs the potential harm to Defendants, and therefore:

8 **[ORDER TO SHOW CAUSE]**

9 IT IS ORDERED that Defendants appear in Department \_\_\_ of this Court, located at  
10 3501 Civic Center Drive, San Rafael, CA, on \_\_\_\_\_, 2003, at  
11 \_\_\_\_\_, or as soon thereafter as the matter may be heard, then and there to show cause, if  
12 any they have, why they and their agents, employees, officers, representatives, successors,  
13 partners, assigns, and all persons acting in concert or participating with them, should not be  
14 enjoined and restrained pursuant to Business and Professions Code sections 17203, 22446.5 and  
15 17535, during the pendency of this action, from:

16 (1) Making or disseminating any statement indicating directly or by implication that  
17 they engage in the business or act in the capacity of an immigration consultant, or propose to  
18 engage in the business or act in the capacity of an immigration consultant, unless and until they  
19 obtain and maintain with the Secretary of State a bond, as described in Business and Professions  
20 Code section 22443.1, for the duration of that statement. The prohibited statements include, but  
21 are not limited to:

- 22 (A) advertisements, listings, or other statements
- 23 (i) in newspapers, magazines, or other periodicals;
- 24 (ii) in print directories of any kind, including “yellow pages”;
- 25 (iii) on posters, fliers, mailings, leaflets, pamphlets or other handouts;
- 26 (iv) on the Internet, whether in on-line “yellow pages” directories or  
27 otherwise;
- 28 (v) on broadcast television or radio, or through cable, satellite or other

- 1 telecommunications media;
- 2 (vi) on business cards, office doors, or storefronts;
- 3 (B) spoken statements on the telephone or in a message on a telephone
- 4 answering machine, voice mail, or equivalent; and
- 5 (C) spoken statements in meetings with clients or potential clients or their
- 6 representatives;
- 7 (2) Engaging in the business or acting in the capacity of an immigration consultant by
- 8 giving nonlegal assistance or advice on an immigration matter, unless and until they obtain and
- 9 maintain with the Secretary of State a bond, as described in Business and Professions Code
- 10 section 22443.1. The prohibited activities include, but are not limited to:
- 11 (A) completing a form provided by a federal or state agency;
- 12 (B) translating a person's answers to questions posed in those forms;
- 13 (C) securing for a person supporting documents, such as birth certificates,
- 14 which, may be necessary to complete those forms;
- 15 (D) submitting completed forms on a person's behalf and at their request to the
- 16 Immigration and Naturalization Service; and
- 17 (E) making referrals to persons who could undertake legal representation
- 18 activities for a person in an immigration matter;
- 19 (3) Accepting any money for the provision of immigration consultant services, unless
- 20 and until they obtain and maintain with the Secretary of State a bond, as described in
- 21 Business and Professions Code section 22443.1;
- 22 (4) Spending, transferring, disbursing, encumbering, or otherwise dissipating any
- 23 money consumers have paid to Defendants for immigration consultant services at any time when
- 24 Defendants did not have on file the required bond, without first obtaining approval from this
- 25 Court after a hearing of which Plaintiff is given at least 21 days' advance written notice;
- 26 (5) Otherwise violating the provisions of the law relating to immigration consultants
- 27 (Business and Professions Code section 22440 et seq.);
- 28 (6) Disseminating any statement indicating directly or by implication that they

1 lawfully provide lawful immigration consultant services in the absence of the requisite bond, or  
2 otherwise violating the provisions of Business and Professions Code section 17500; and

3 (7) Otherwise committing unlawful, unfair and/or fraudulent business acts and  
4 practices in violation of the Unfair Competition Law (Business and Professions Code section  
5 17200 et seq.).

6 IT IS FURTHER ORDERED that Defendants, at the same hearing on the order to show  
7 cause, then and there show cause, if any they have, why they should not be ordered, pursuant to  
8 Business and Professions Code sections 17203, 22446.5, and 17535 to do the following:

9 (1) Inform all current clients about this lawsuit and provide them with a copy of the  
10 Complaint;

11 (2) Disconnect their telephone number listed in *TV Español* and the SBC Smartpages  
12 Yellow Pages, (415) 457-5908; or place an outgoing message on the answering system – whether  
13 answering machine, voice mail or the equivalent – of each business phone line used by  
14 Defendants, in English and any other language spoken by any of Defendants or their employees  
15 in the course of business, that states that Defendants do not provide immigration services of any  
16 kind. This message shall remain in place on all business phone lines used by Defendants unless  
17 and until they obtain and maintain a bond as described in Business and Professions Code section  
18 22443.1; if Defendants do not obtain such a bond, and instead cease to offer immigration  
19 consultant services, then the message shall remain in place until further order of the Court.

20 **[TEMPORARY RESTRAINING ORDER]**

21 IT IS FURTHER ORDERED that, pursuant to Business and Professions Code sections  
22 17203, 22446.5 and 17535, until the Court has entered its order on the proposed preliminary  
23 injunction, Defendants and their agents, employees, officers, representatives, successors,  
24 partners, assigns, and those acting in concert or participating with them, are enjoined from:

25 (1) Making or disseminating any further statements indicating directly or by  
26 implication that they engage in the business or act in the capacity of an immigration consultant,  
27 or propose to engage in the business or act in the capacity of an immigration consultant, unless  
28 and until they obtain and maintain with the Secretary of State a bond, as described in Business

1 and Professions Code section 22443.1, for the duration of that statement. The prohibited  
2 statements include, but are not limited to:

- 3 (A) advertisements, listings, or other statements
  - 4 (i) in newspapers, magazines, or other periodicals;
  - 5 (ii) in print directories of any kind, including “yellow pages” (beyond  
6 the current edition);
  - 7 (iii) on posters, fliers, mailings, leaflets, pamphlets or other handouts;
  - 8 (iv) on the Internet, whether in on-line “yellow pages”  
9 directories or otherwise;
  - 10 (v) on broadcast television or radio, or through cable, satellite or other  
11 telecommunications media;
  - 12 (vi) on business cards, office doors, or storefronts;
- 13 (B) spoken statements on the telephone or in a message on a telephone  
14 answering machine, voice mail, or equivalent; and
- 15 (C) spoken statements in meetings with clients or potential clients or their  
16 representatives;

17 (2) Engaging in the business or acting in the capacity of an immigration consultant by  
18 giving nonlegal assistance or advice on an immigration matter, unless and until they obtain and  
19 maintain with the Secretary of State a bond, as described in Business and Professions Code  
20 section 22443.1. The prohibited activities include, but are not limited to:

- 21 (A) completing a form provided by a federal or state agency;
- 22 (B) translating a person's answers to questions posed in those forms;
- 23 (C) securing for a person supporting documents, such as birth certificates,  
24 which may be necessary to complete those forms;
- 25 (D) submitting completed forms on a person's behalf and at their request to the  
26 Immigration and Naturalization Service; and
- 27 (E) making referrals to persons who could undertake legal representation  
28 activities for a person in an immigration matter;

1 (3) Accepting any money for the provision of immigration consultant services, unless  
2 and until they obtain and maintain with the Secretary of State a bond, as described in  
3 Business and Professions Code section 22443.1;

4 (4) Otherwise violating the provisions of the law relating to immigration consultants  
5 (Business and Professions Code section 22440 et seq.).

6 IT IS FURTHER ORDERED that pursuant to Business and Professions Code sections  
7 17203, 22446.5 and 17535, until the Court has entered its order on the proposed preliminary  
8 injunction, Defendants are ordered to:

9 Inform all current immigration clients about this lawsuit and provide them with a copy of  
10 the Complaint;

11 IT IS FURTHER ORDERED that:

12 (1) Plaintiff shall serve on Defendants this temporary restraining order and order to  
13 show cause, the application therefor, the Memorandum of Points and Authorities and  
14 declarations filed therewith, and the Complaint filed in this action, by the following  
15 date: \_\_\_\_\_, 2003.

16 (2) Proof of service must be delivered to the court hearing the order to show cause by  
17 \_\_\_\_\_, 2003, at \_\_\_\_\_.

18 (3) Defendants shall file and serve, by fax or personal service, their written return or  
19 opposition, if any, on or before \_\_\_\_\_, 2003.

20 (4) Plaintiff shall file and serve, by fax or personal service, its reply, if any, on or  
21 before \_\_\_\_\_, 2003.

22 (5) In accordance with Code of Civil Procedure section 995.220(a), no bond is  
23 required of Plaintiff.

24 (6) This Temporary Restraining Order and Order to Show Cause re Preliminary  
25 Injunction shall take effect immediately upon issuance.

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1           (7)     The Clerk is ordered to enter this Temporary Restraining Order and Order to  
2 Show Cause re Preliminary Injunction forthwith.

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Dated: June \_\_\_, 2003

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JUDGE OF THE SUPERIOR COURT