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11 IN THE UNITED STATES DISTRICT COURT  
 12 FOR THE NORTHERN DISTRICT OF CALIFORNIA  
 13 SAN FRANCISCO DIVISION

11	UNITED STATES OF AMERICA,	)	
12		)	Case No. C92-3093 M
13	Plaintiff,	)	
14	v.	)	
15	Richard Anthony Hernandez,	)	<b>WRIT OF CONTINUING</b>
16	Defendant,	)	<b>GARNISHMENT</b>
17	and	)	
18	Black and Associates,	)	
19	Garnishee.	)	

20 TO: Payroll Department  
 21 Black and Associates  
 22 920 First Street, Ste 205  
 23 Benicia, CA 94510

24 YOU ARE HEREBY COMMANDED TO GARNISH FOR THE BENEFIT OF  
 25 THE UNITED STATES OF AMERICA THE WAGES, SALARY, OR COMMISSION IN  
 26 YOUR CUSTODY, CONTROL, OR POSSESSION IN WHICH THE DEFENDANT-  
 27 JUDGMENT DEBTOR HAS AN OWNERSHIP INTEREST.

28 The name and last known address of the person who is the defendant-  
 judgment debtor (hereinafter "debtor") in this action and whose property is subject to

1 this Writ are as follows:

2 Richard Anthony Hernandez  
3 3101 Meadowbrook Dr.  
4 Concord, CA 94524

5 This Writ has been issued at the request of the United States of America to  
6 enforce the collection of a civil judgment entered in favor of the United States against  
7 the debtor for a defaulted student loan in the amount of \$5,968.36. There is a balance  
8 of \$11,453.64 due on the judgment, which amount includes costs and interest  
9 computed through 12/07/12.

10 The following are the steps that you must take to comply with this Writ. If you  
11 have any questions, you should consult with your attorney.

12 1. Pursuant to 28 U.S.C. § 3205(c)(2)(F), if you have in your custody, control,  
13 or possession any property of the debtor, including wages, salary, or commissions, in  
14 which the debtor has a substantial nonexempt interest, or if you obtain custody,  
15 control, or possession of such property while this Writ is in effect, you must  
16 immediately withhold such property from the debtor and retain it in your possession  
17 until you receive instructions from the Court which will tell you what to do with the  
18 property. The United States has requested that the sum of 25% of the debtor's  
19 disposable earnings, which under California law represents the nonexempt portion of  
20 the debtor's earnings, be withheld from the defendant's earnings.

21 2. Pursuant to 28 U.S.C. § 3205(c)(2)(E), you are required to answer this Writ  
22 within 10 days after service of this Writ upon you. You must answer the Writ even if  
23 you do not have in your custody, control, or possession any property of the debtor.  
24 Pursuant to 28 U.S.C. § 3205(c)(4), your answer must state, under oath, the following  
25 information:

26 a. Whether or not you have in your custody, control, or possession, any  
27 property owned by the debtor in which the debtor has a substantial  
28 nonexempt interest, including nonexempt, disposable earnings;

- 1           b.    a description of such property and the value of such property;
- 2           c.    a description of any previous garnishments to which such property is
- 3                   subject and the extent to which any remaining property is not exempt;
- 4                   and
- 5           d.    the amount of the funds you anticipate owing to the debtor in the future
- 6                   and whether the period for payment will be weekly or another specified
- 7                   period.

8 For your convenience, a form which addresses the above-requested information is

9 attached and may be used to Answer the Writ.

10           3. After you complete the answer under oath, pursuant to 28 U.S.C. §

11 3205(c)(2)(E) & (c)(4), within ten (10) days after service of this Writ upon you, you

12 must mail or deliver the original Answer bearing the original signature of the person

13 preparing the answer to the Court at the following address:

14                   Clerk, United States District Court

15                   450 Golden Gate Avenue, 16th Floor

16                   P. O. Box 36060

                      San Francisco, CA 94102

17 At the same time that you mail or deliver the original answer to the Court, you must

18 also mail or deliver a copy of the original Answer to both the debtor and attorney for

19 the United States at the following respective addresses:

20                   Richard Anthony Hernandez

21                   3101 Meadowbrook Dr.

                      Concord, CA 94524

22                   Michael Cosentino, Attorney at Law

23                   P.O. Box 129

                      Alameda, CA 94501

24 Please note that the attached form Answer contains a certificate of service which

25 needs to be completed by the person mailing the copies of the answer to the debtor

26 and the attorney for the United States, and which needs to be filed along with the

27 Answer.

28

1 IF YOU FAIL TO ANSWER THIS WRIT OR FAIL TO WITHHOLD PROPERTY  
2 IN ACCORDANCE WITH THIS WRIT, THE UNITED STATES MAY PETITION THE  
3 COURT FOR AN ORDER REQUIRING YOU TO APPEAR BEFORE THE COURT TO  
4 ANSWER THE WRIT AND TO WITHHOLD PROPERTY IN ACCORDANCE WITH  
5 THE WRIT BEFORE THE APPEARANCE DATE. IF YOU FAIL TO APPEAR OR DO  
6 APPEAR AND FAIL TO SHOW GOOD CAUSE WHY YOU FAILED TO COMPLY  
7 WITH THIS WRIT, THE COURT WILL ENTER A JUDGMENT AGAINST YOU FOR  
8 THE VALUE OF THE DEBTOR'S NONEXEMPT INTEREST IN SUCH PROPERTY  
9 (INCLUDING NONEXEMPT DISPOSABLE EARNINGS). THE COURT MAY ALSO  
10 AWARD A REASONABLE ATTORNEY'S FEE TO THE UNITED STATES AND  
11 AGAINST YOU IF THE WRIT IS NOT ANSWERED WITHIN THE TIME SPECIFIED  
12 HEREIN AND IF THE UNITED STATES FILES A PETITION REQUIRING YOU TO  
13 APPEAR.

14 RICHARD W. WIEKING, Clerk  
15 United States District Court  
16 for the Northern District of California

17 Dated: 1-3-13

By:   
Deputy Clerk

GLORIA ACEVEDO

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1 DO NOT WITHHOLD THE EXEMPT PORTION OF THE EMPLOYEE'S EARNINGS

2 1. Earnings include any money (whether called wages, salary, commissions,  
 3 bonuses, or anything else) paid for personal services, pension, or retirement.  
 4 Vacation or sick pay is earnings subject to withholding as it is *received* by the  
 5 employee.

6 2. Disposable earnings are different from gross pay or take-home pay. They  
 7 are the earnings left after deducting the part which state or federal law requires an  
 8 employer to withhold as mandatory deductions. Generally, these mandatory  
 9 deductions are federal income tax, social security (FICA) tax, state income tax, state  
 10 disability insurance, and payments to public employee retirement systems.  
 11 Disposable earnings can change from pay period to pay period, whenever gross pay  
 12 or required deductions change.

13 To determine earnings that<sup>1</sup> are eligible for withholding, and therefore must be  
 14 withheld, see the chart below.

15 USE THE CHART BELOW TO DETERMINE NONEXEMPT DISPOSABLE  
 16 EARNINGS AND THE APPLICABLE WITHHOLDING AMOUNT<sup>1</sup> :

17	18	19	20	21	22	23	24	25	26
Pay Period:	Weekly or oftener	Every 2 weeks	Twice a month	Once a month					
27	<b>Disposable earnings:</b>	\$ 0 to \$217.50	\$ 0 to \$435.00	\$ 0 to \$471.25	\$ 0 to \$942.50				
28	<b>Withhold:</b>	Nothing (entire earnings are exempt)							
29	<b>Disposable earnings:</b>	\$217.51 to \$290.00	\$435.01 to \$580.00	\$471.26 to \$628.33	\$942.51 to \$1,256.67				
30	<b>Withhold:</b>	Amt. over \$217.50	Amt. over \$435.00	Amt. over \$471.25	Amt. over \$942.50				
31	<b>Disposable earnings:</b>	\$290.01 or more	\$580.01 or more	\$628.34 or more	\$1,256.68 or more				
32	<b>Withhold:</b>	25% of disposable earnings (balance is exempt)							

<sup>1</sup>Based on the Federal Minimum Wage Earnings of \$7.25 an hour, effective 07/24/2009