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FILED

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DEPARTMENT OF REAL ESTATE
By R. Mar

8 BEFORE THE DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of

12 DEL TORO LOAN SERVICING, INC.
13 and ANDREW S. LOUIS,

14 Respondents.

No. H-4347 SD

ACCUSATION

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17 The Complainant, VERONICA KILPATRICK, in her official capacity as a Deputy
18 Real Estate Commissioner of the State of California, for cause of Accusation against DEL TORO
19 LOAN SERVICING, INC. and ANDREW S. LOUIS (collectively referred to herein as
20 "Respondents"), is informed and alleges as follows:

21 1

22 Respondent DEL TORO LOAN SERVICING, INC. (hereinafter "DTLSI") is
23 presently licensed by the Department of Real Estate (hereinafter "the Department") and/or has
24 license rights under the Real Estate Law, Part 1 of Division 4 of the California Business and
25 Professions Code (hereafter "the Code"), as a corporate real estate broker and has a mortgage loan

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1 originator endorsement and endorsement rights issued by the Department. At all times relevant
2 herein, DTLSI is and was acting by and through ANDREW S. LOUIS as its designated officer
3 broker.

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5 At all times herein mentioned, DTLSI conducted business under its own licensed
6 name and the following fictitious business names registered with the Department: "Del Toro Loan
7 Servicing", and "Del Toro Private Lending".

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9 ANDREW S. LOUIS (hereinafter "LOUIS") is presently licensed by the
10 Department and/or has license rights under the Real Estate Law, Part 1 of Division 4 of the Code,
11 as a real estate broker and has a mortgage loan originator endorsement and endorsement rights
12 issued by the Department.

13 4

14 At all times relevant herein, LOUIS was licensed by the Department as the
15 designated officer broker of DTLSI. As the designated officer broker, LOUIS was responsible,
16 pursuant to Section 10159.2 of the Code, for the supervision of the activities of the officers, agents,
17 real estate licensees and employees of DTLSI for which a real estate license is required.

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19 Whenever reference is made in an allegation in this Accusation to an act or
20 omission of DTLSI, such allegation shall be deemed to mean that the employees, agents and real
21 estate licensees employed by or associated with DTLSI committed such act or omission while
22 engaged in furtherance of the business or operations of DTLSI and while acting within the course
23 and scope of their authority and employment.

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25 At all times relevant herein, DTLSI engaged in the business of, acted in the capacity
26 of, advertised, or assumed to act as a corporate real estate broker within the State of California on
27 behalf of others, for compensation or in expectation of compensation within the meaning of

1 Section 10131(d) of the Code, including the solicitation of borrowers or lenders for or negotiation
2 of loans or collection of payments or performance of services for borrowers or lenders or note
3 owners in connection with loans secured directly or collaterally by liens on real property or on a
4 business opportunity.

5 FIRST CAUSE OF ACTION

6 As Against DTLSI

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8 Each and every allegation in Paragraphs 1 through 6, inclusive, above, is
9 incorporated by this reference as if fully set forth herein.

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11 Beginning on or about February 8, 2011, and continuing intermittently until April
12 13, 2011, an audit was conducted at DTLSI's office location on Southport Way in National City,
13 California, wherein the Auditor examined DTLSI's records for the period of April 1, 2008 through
14 December 31, 2010 (hereinafter "the audit period").

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16 While acting as a corporate real estate broker as described in Paragraph 6, above,
17 and within the audit period, DTLSI accepted or received funds in trust (hereinafter "trust funds")
18 from or on behalf of borrowers, lenders, and/or others in connection with loans secured directly or
19 collaterally by liens on real property or on a business opportunity, for or in expectation of
20 compensation, as alleged herein, and thereafter from time-to-time made disbursements of said trust
21 funds.

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23 The trust funds accepted or received by DTLSI as described in Paragraph 9, above,
24 were deposited or caused to be deposited by DTLSI into two trust accounts which were maintained
25 by DTLSI for the handling of trust funds, and thereafter from time-to-time DTLSI made
26 disbursements of said trust funds, identified as follows:

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TRUST ACCOUNT # 1	
Bank Name and Location:	Bank of America, 235 E. 8 th Street, National City, CA 91950
Account No.:	Last 4 Digits: 5241
Entitled:	"Del Toro Loan Servicing, Inc. Loan Servicing Trust Account"
Signatories:	Andrew Louis (REB/DO) Elizabeth Louis
Withdrawal Requirements:	One signature.
Purpose:	Collection of payments and payoffs from borrowers for lenders/investors; taxes and other impounds from borrowers.

TRUST ACCOUNT # 2	
Bank Name and Location:	Bank of America, 235 E. 8 th Street, National City, CA 91950
Account No.:	Last 4 Digits: 5246
Entitled:	"Del Toro Loan Servicing, Inc. Funding Trust Account"
Signatories:	Andrew Louis (REB/DO) Elizabeth Louis
Withdrawal Requirements:	One signature.
Purpose:	Collection of investors' monies to fund loans; net amount collection from Title to fund loans.

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In the course of the activities described in Paragraph 6, above, and within the audit period, DTLSE:

- (a) caused, suffered, or permitted the balance of funds in Trust Account #1 to be an amount which, as of December 31, 2010, was approximately \$3,845.95 in excess of the aggregate liability of Trust Account #1 to all owners of such funds, due to unidentified deposits, in violation of Section 10145 of the Code;

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- 1 (b) caused, suffered, or permitted the balance of funds in Trust Account #2 to
2 be an amount which, as of December 31, 2010, was approximately \$100.00
3 in excess of the aggregate liability of Trust Account #2 to all owners of such
4 funds, due to DTLSI's funds, in violation of Section 10145 of the Code;
- 5 (c) failed to maintain accurate and complete records of all trust funds received
6 and disbursed, including but not limited to information identifying loan
7 numbers and information that was readily traceable, for Trust Account #1,
8 in violation of Section 10145 of the Code and Section 2831 of the
9 Regulations;
- 10 (d) failed to maintain a separate beneficiary record for unidentified deposits
11 totaling \$3,845.95 in Trust Account #1, in violation of Section 10145 of the
12 Code and Section 2831.1 of the Regulations;
- 13 (e) failed to include a statement from purchasers in three (3) multi-lender loan
14 transactions (Loan #s 105024, 105030, and 105043D) regarding their
15 investment not exceeding 10% of their net income or adjusted gross income,
16 in violation of Section 10238(f) of the Code;
- 17 (f) failed to include a copy of an appraisal or broker's evaluation in at least
18 three (3) multi-lender loan transaction files, and provided no evidence that
19 DTLSI advised the lenders of their right to receive a copy of the appraisal or
20 broker's evaluation or that a copy was provided, in violation of Section
21 10238(h) of the Code; and
- 22 (g) failed to include statements regarding deposits, filing requests for notices of
23 default, and forwarding copies of notices in DTLSI's loan servicing
24 agreements, in violation of Section 10233(a) of the Code; and

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1 (h) failed to include a statement regarding DTLSI's requirement upon reaching
2 volume criteria, to have the trust accounts inspected by an independent
3 certified public accountant ("CPA") and that such CPA reports shall be
4 forwarded to the Department, in DTLSI's loan servicing agreements for
5 multi-lender loans, in violation of Section 10238(k) of the Code.

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7 The acts and/or omissions of DTLSI as alleged in Paragraph 11, above, constitute
8 grounds for discipline of all licenses and license rights of DTLSI pursuant to Sections 10177(d)
9 (Willful Disregard/Violation of Real Estate Law) and/or Section 10177(g)
10 (Negligence/Incompetence in Performing Act Requiring License) of the Code.

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12 The acts and/or omissions of DTLSI as alleged in Paragraph 11, above, entitle the
13 Department to reimbursement of the costs of its audit pursuant to Section 10148 (Reimbursement
14 for Cost of Audit for Trust Fund Handling Violation) of the Code.

15 SECOND CAUSE OF ACTION

16 As Against LOUIS

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18 Each and every allegation in Paragraphs 1 through 13, inclusive, above, is
19 incorporated by this reference as if fully set forth herein.

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21 LOUIS, as the designated officer broker of DTLSI, was required to exercise
22 reasonable supervision and control over the activities of DTLSI and its employees pursuant to
23 Section 10159.2 (Reasonable Supervision by Designated Officer) of the Code and Section 2725 of
24 the Regulations (Reasonable Supervision by Broker).

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26 LOUIS failed to exercise reasonable supervision over the acts and/or omissions of
27 DTLSI and its employees in such a manner as to allow the acts and/or omissions as described in

1 Paragraph 11, above, to occur, which constitutes cause for the suspension or revocation of the
2 licenses and license rights of LOUIS under Sections 10177(d) (Willful Disregard/Violation of Real
3 Estate Law) and/or 10177(g) (Negligence/Incompetence in Performing Act Requiring License) of
4 the Code, and Sections 10177(h) (Failure to Exercise Reasonable Supervision) and 10159.2
5 (Reasonable Supervision by Designated Officer) of the Code.

6 COST RECOVERY

7 Section 10106 of the Code provides, in pertinent part, that in any order issued in
8 resolution of a disciplinary proceeding before the Department, the Commissioner may request the
9 Administrative Law Judge to direct a licensee found to have committed a violation of this part to
10 pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

11 WHEREFORE, Complainant prays that a hearing be conducted on the allegations
12 of this Accusation and that upon proof thereof a decision be rendered imposing disciplinary action
13 against all licenses and license rights of all Respondents named herein under the Real Estate Law
14 (Part 1 of Division 4 of the Business and Professions Code), including the mortgage loan
15 originator endorsement and endorsement rights of all Respondents named herein, and for such
16 other and further relief as may be proper under other provisions of law.

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19 VERONICA KILPATRICK
20 Deputy Real Estate Commissioner

21 Dated at San Diego, California,
22 this 9 day of May, 2012.
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