

Sacko

1 Department of Real Estate  
2 320 West 4th Street, Ste. 350  
3 Los Angeles, California 90013-1105  
4 Telephone: (213) 576-6982 (office)

**FILED**

MAY 26 2010

DEPARTMENT OF REAL ESTATE  
BY: *[Signature]*

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 \* \* \*

11	In the Matter of the Accusation of	)	No. H-36243 LA
12	DEL SUR CORPORATION, doing	)	
13	business as Camino Real Mortgage	)	<u>STIPULATION</u>
14	Bankers; and <u>ALEX AGUILAR</u> ,	)	<u>AND</u>
15	individually and as designated	)	<u>AGREEMENT</u>
16	officer of Del Sur Corporation,	)	
	Respondents.	)	

17 It is hereby stipulated by and between Respondent  
18 ALEX AGUILAR (sometimes referred to as "Respondent"), represented  
19 by Michael A. Kale, Esq. and the Complainant, acting by and  
20 through Elliott Mac Lennan, Counsel for the Department of Real  
21 Estate, as follows for the purpose of settling and disposing of  
22 the Accusation ("Accusation") filed on September 17, 2009, in  
23 this matter:

- 24 1. All issues which were to be contested and all
- 25 evidence which was to be presented by Complainant and Respondent
- 26 at a formal hearing on the Accusation, which hearing was to be
- 27

1 held in accordance with the provisions of the Administrative  
2 Procedure Act ("APA"), shall instead and in place thereof be  
3 submitted solely on the basis of the provisions of this  
4 Stipulation and Agreement ("Stipulation").

5           2. Respondent has received, read and understands the  
6 Statement to Respondent, the Discovery Provisions of the APA and  
7 the Accusation filed by the Department of Real Estate in this  
8 proceeding.

9           3. Respondent timely filed a Notice of Defense  
10 pursuant to Section 11506 of the Government Code for the purpose  
11 of requesting a hearing on the allegations in the Accusation.  
12 Respondent hereby freely and voluntarily withdraws said Notice of  
13 Defense. Respondent acknowledges that he understands that by  
14 withdrawing said Notice of Defense he thereby waives his right to  
15 require the Commissioner to prove the allegations in the  
16 Accusation at a contested hearing held in accordance with the  
17 provisions of the APA and that he will waive other rights  
18 afforded to him in connection with the hearing such as the right  
19 to present evidence in his defense the right to cross-examine  
20 witnesses.  
21

22           4. This Stipulation is based on the factual  
23 allegations contained in the Accusation. In the interest of  
24 expedience and economy, Respondent chooses not to contest these  
25 allegations, but to remain silent and understands that, as a  
26 result thereof, these factual allegations, without being admitted.  
27

1 or denied, will serve as a prima facie basis for the disciplinary  
2 action stipulated to herein. The Real Estate Commissioner shall  
3 not be required to provide further evidence to prove said factual  
4 allegations.

5 5. This Stipulation is made for the purpose of  
6 reaching an agreed disposition of this proceeding and is  
7 expressly limited to this proceeding and any other proceeding or  
8 case in which the Department of Real Estate ("Department"), the  
9 state or federal government, or any agency of this state, another  
10 state or federal government is involved, and otherwise shall not  
11 be admissible in any other criminal or civil proceedings.

12 6. It is understood by the parties that the Real  
13 Estate Commissioner may adopt this Stipulation as his Decision in  
14 this matter thereby imposing the penalty and sanctions on  
15 Respondent's real estate licenses and license rights as set forth  
16 in the "Order" herein below. In the event that the Commissioner  
17 in his discretion does not adopt the Stipulation, it shall be  
18 void and of no effect and Respondent shall retain the right to a  
19 hearing and proceeding on the Accusation under the provisions of  
20 the APA and shall not be bound by any stipulation or waiver made  
21 herein.  
22

23 7. The Order or any subsequent Order of the Real  
24 Estate Commissioner made pursuant to this Stipulation shall not  
25 constitute an estoppel, merger or bar to any further  
26 administrative or civil proceedings by the Department of Real  
27

1 Estate with respect to any matters which were not specifically  
2 alleged to be causes for Accusation in this proceeding but do  
3 constitute a bar, estoppel and merger as to any allegations  
4 actually contained in the Accusations against Respondent herein.

5 8. Respondent understands that by agreeing to this  
6 Stipulation, Respondent shall be responsible to pay, jointly and  
7 severally with Del Sur Corporation, pursuant to Business and  
8 Professions Code Section 10148, the cost of original audit. The  
9 total amount of said cost is \$13,888.90.

10 9. Respondent further understands that by agreeing to  
11 this Stipulation, the findings set forth below in the  
12 Determination of Issues become final.

13 DETERMINATION OF ISSUES

14 By reason of the foregoing, it is stipulated and agreed  
15 that the following determination of issues shall be made:

16 The conduct of ALEX AGUILAR, as described in Paragraph  
17 4, above, constitutes violations of Business and Professions Code  
18 ("Code") Sections 10145 and 10240(c) and Sections 2834, 2950(h)  
19 and 2840 of Title 10, Chapter 6, California Code of Regulations.  
20 This conduct is a basis for discipline of Respondent's license  
21 pursuant to Code Section 10177(d).

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ORDER

I.

All licenses and licensing rights of Respondent ALEX AGUILAR under the Real Estate Law suspended for a period of thirty (30) days from the effective date of this Decision.

A. Provided, however, that if Respondent requests, said thirty day suspension (or a portion thereof) shall be stayed for one (1) year upon condition that:

1. Respondent pays a monetary penalty pursuant to Section 10175.2 of the Business and Professions Code at the rate of \$50.00 per day for each day of the thirty day suspension for a total monetary penalty of \$1,500.

2. Said payment shall be in the form of a cashier's check or certified check made payable to the Recovery Account of the Real Estate Fund. Said check must be received by the Department prior to the effective date of the Decision in this matter.

3. No further cause for disciplinary action against the real estate license of Respondent occurs within one (1) year from the effective date of the Decision in this matter.

4. If Respondent fails to pay the monetary penalty in accordance with the terms of the Decision, the Commissioner may, without a hearing, order the immediate execution of all or any part of the stayed suspension, in which event Respondent shall not be entitled to any repayment nor credit, prorated or

1 otherwise, for money paid to the Department under the terms of  
2 this Decision.

3           5. If Respondent pays the monetary penalty and if no  
4 further cause for disciplinary action against the real estate  
5 license of Respondent occurs within one (1) year from the  
6 effective date of the Decision, the stay hereby granted shall  
7 become permanent.

8   II.  
9

10           Pursuant to Section 10148 of the Business and  
11 Professions Code, Respondent ALEX AGUILAR shall be responsible to  
12 pay, jointly and severally with Del Sur Corporation, the  
13 Commissioner's reasonable cost for (a) the original audit which  
14 led to this disciplinary action. The cost of the audit which led  
15 to this disciplinary action is \$13,888.90.

16           Respondent shall pay such cost within 60 days of  
17 receiving an invoice from the Commissioner detailing the  
18 activities performed during the audit and the amount of time  
19 spent performing those activities.

20           The Commissioner may suspend the license of Respondent  
21 pending a hearing held in accordance with Section 11500, et seq.,  
22 of the Government Code, if payment is not timely made as provided  
23 for herein, or as provided for in a subsequent agreement between  
24 the Respondent and the Commissioner. The suspension shall remain  
25 in effect until payment is made in full or until Respondent  
26 enters into an agreement satisfactory to the Commissioner to  
27

1 provide for payment, or until a decision providing otherwise is  
2 adopted following a hearing held pursuant to this condition.

3  
4  
5 DATED: 4-4-10 ELM  
6 ELLIOTT MAC LENNAN, Counsel for  
7 the Department of Real Estate

8 \* \* \*

9 EXECUTION OF THE STIPULATION

10 I have read the Stipulation and Agreement and discussed  
11 it with my counsel. Its terms are understood by me and are  
12 agreeable and acceptable to me. I understand that I am waiving  
13 rights given to me by the California Administrative Procedure Act  
14 (including but not limited to Sections 11506, 11508, 11509 and  
15 11513 of the Government Code), and I willingly, intelligently and  
16 voluntarily waive those rights, including the right of requiring  
17 the Commissioner to prove the allegations in the Accusation at a  
18 hearing at which I would have the right to cross-examine  
19 witnesses against me and to present evidence in defense and  
20 mitigation of the charges.

21 MAILING AND FACSIMILE

22 Respondent (1) shall mail the original signed signature  
23 page of the stipulation herein to Elliott Mac Lennan: Attention:  
24 Legal Section, Department of Real Estate, 320 W. Fourth St.,  
25 Suite 350, Los Angeles, California 90013-1105. Additionally,  
26 Respondent(s) shall also (2) facsimile a copy of signed signature  
27

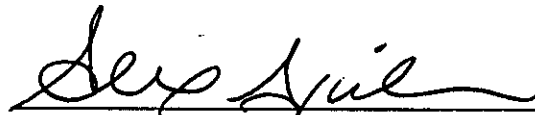
1 page, to the Department at the following telephone/fax number:  
2 (213) 576-6917, Attention: Elliott Mac Lennan.

3 A facsimile constitutes acceptance and approval of the  
4 terms and conditions of this stipulation. Respondent(s) agrees,  
5 acknowledges and understands that by electronically sending to  
6 the Department a facsimile copy of Respondent's actual signature  
7 as it appears on the stipulation, which receipt of the facsimile  
8 copy by the Department shall be as binding on Respondent(s) as if  
9 the Department had received the original signed stipulation.

10 III.

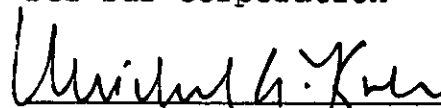
11 All licenses and licensing rights of Respondent ALEX  
12 AGUILAR are indefinitely suspended unless or until Respondent  
13 provides proof satisfactory to the Commissioner, of having taken  
14 and successfully completed the continuing education course on  
15 trust fund accounting and handling specified in paragraph (3) of  
16 subdivision (a) of Section 10170.5 of the Business and  
17 Professions Code. Proof of satisfaction of this requirement  
18 includes evidence that respondent has successfully completed the  
19 trust fund account and handling continuing education course  
20 within 120 days prior to the effective date of the Decision in  
21 this matter.

22 DATED: 4-8-10



ALEX AGUILAR, Respondent and  
former designated officer of  
Del Sur Corporation

25 DATED: 4/8/10



MICHAEL A. KALE, ESQ.  
Attorney for Alex Aguilar  
Approved as to form



\* \* \*

1  
2 The foregoing Stipulation and Agreement is hereby adopted  
3 as my Decision as to Respondent ALEX AGUILAR and shall become  
4 effective at 12 o'clock noon on June 25, 2010.

5  
6 IT IS SO ORDERED Slr, 2010.

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8 JEFF DAVI  
9 Real Estate Commissioner

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11 [Signature]  
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**FILED**

MAY 26 2010

DEPARTMENT OF REAL ESTATE  
BY: [Signature]

1 Department of Real Estate  
320 West 4th Street, Ste. 350  
2 Los Angeles, California 90013-1105  
3 Telephone: (213) 576-6982 (office)

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BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

\* \* \*

In the Matter of the Accusation of	)	No. H-36243 LA
	)	
<u>DEL SUR CORPORATION</u> , doing	)	
business as Camino Real Mortgage	)	<u>STIPULATION</u>
Bankers; and ALEX AGUILAR,	)	<u>AND</u>
individually and as designated	)	<u>AGREEMENT</u>
officer of Del Sur Corporation,	)	
	)	
Respondents.	)	

It is hereby stipulated by and between Respondent DEL SUR CORPORATION (sometimes referred to as "Respondent"), and the Complainant, acting by and through Elliott Mac Lennan, Counsel for the Department of Real Estate, as follows for the purpose of settling and disposing of the Accusation

("Accusation") filed on September 17, 2009, in this matter:

1. All issues which were to be contested and all evidence which was to be presented by Complainant and Respondent at a formal hearing on the Accusation, which hearing was to be held in accordance with the provisions of the Administrative

1 Procedure Act ("APA"), shall instead and in place thereof be  
2 submitted solely on the basis of the provisions of this  
3 Stipulation and Agreement ("Stipulation").

4 2. Respondent has received, read and understands the  
5 Statement to Respondent, the Discovery Provisions of the APA and  
6 the Accusation filed by the Department of Real Estate in this  
7 proceeding.

8 3. Respondent timely filed a Notice of Defense  
9 pursuant to Section 11506 of the Government Code for the purpose  
10 of requesting a hearing on the allegations in the Accusation.  
11 Respondent hereby freely and voluntarily withdraws said Notice of  
12 Defense. Respondent acknowledges that it understands that by  
13 withdrawing said Notice of Defense it thereby waives its right to  
14 require the Commissioner to prove the allegations in the  
15 Accusation at a contested hearing held in accordance with the  
16 provisions of the APA and that it will waive other rights  
17 afforded to it in connection with the hearing such as the right  
18 to present evidence in its defense the right to cross-examine  
19 witnesses.  
20

21 4. This Stipulation is based on the factual  
22 allegations contained in the Accusation. In the interest of  
23 expedience and economy, Respondent chooses not to contest these  
24 allegations, but to remain silent and understands that, as a  
25 result thereof, these factual allegations, without being admitted  
26 or denied, will serve as a prima facie basis for the disciplinary  
27

1 action stipulated to herein. The Real Estate Commissioner shall  
2 not be required to provide further evidence to prove said factual  
3 allegations.

4 5. This Stipulation is made for the purpose of  
5 reaching an agreed disposition of this proceeding and is  
6 expressly limited to this proceeding and any other proceeding or  
7 case in which the Department of Real Estate ("Department"), the  
8 state or federal government, or any agency of this state, another  
9 state or federal government is involved, and otherwise shall not  
10 be admissible in any other criminal or civil proceedings.

11 6. It is understood by the parties that the Real  
12 Estate Commissioner may adopt this Stipulation as his Decision in  
13 this matter thereby imposing the penalty and sanctions on  
14 Respondent's real estate licenses and license rights as set forth  
15 in the "Order" herein below. In the event that the Commissioner  
16 in his discretion does not adopt the Stipulation, it shall be  
17 void and of no effect and Respondent shall retain the right to a  
18 hearing and proceeding on the Accusation under the provisions of  
19 the APA and shall not be bound by any stipulation or waiver made  
20 herein.  
21

22 7. The Order or any subsequent Order of the Real  
23 Estate Commissioner made pursuant to this Stipulation shall not  
24 constitute an estoppel, merger or bar to any further  
25 administrative or civil proceedings by the Department of Real  
26 Estate with respect to any matters which were not specifically  
27

1 alleged to be causes for Accusation in this proceeding but do  
2 constitute a bar, estoppel and merger as to any allegations  
3 actually contained in the Accusations against Respondent herein.

4 8. Respondent understands that by agreeing to this  
5 Stipulation, Respondent agrees to pay, pursuant to Business and  
6 Professions Code Section 10148, the cost of audit. The total  
7 amount of said cost is \$13,888.90.

8 9. Respondent has received, read, and understands the  
9 "Notice Concerning Costs of Subsequent Audit". Respondent  
10 further understands that by agreeing to this Stipulation, the  
11 findings set forth below in the Determination of Issues become  
12 final, and the Commissioner may charge Respondent for the cost of  
13 any subsequent audit conducted pursuant to Business and  
14 Professions Code Section 10148 to determine if the violations  
15 have been corrected. The maximum cost of the subsequent audit  
16 will not exceed \$13,888.90.

17  
18 DETERMINATION OF ISSUES

19 By reason of the foregoing, it is stipulated and agreed  
20 that the following determination of issues shall be made:

21 The conduct of DEL SUR CORPORATION, as described in  
22 Paragraph 4, above, constitutes violations of Business and  
23 Professions Code ("Code") Sections 10145 and 10240(c) and  
24 Sections 2834, 2950(h) and 2840 of Title 10, Chapter 6,  
25 California Code of Regulations. This conduct is a basis for  
26 discipline of Respondent's license pursuant to Code Section  
27 10177(d).

ORDER

I.

All licenses and licensing rights of Respondent DEL SUR CORPORATION under the Real Estate Law suspended for a period of thirty (30) days from the effective date of this Decision.

A. Provided, however, that if Respondent requests, said thirty day suspension (or a portion thereof) shall be stayed for two (2) years upon condition that:

1. Respondent pays a monetary penalty pursuant to Section 10175.2 of the Business and Professions Code at the rate of \$50.00 per day for each day of the thirty day suspension for a total monetary penalty of \$1,500.

2. Said payment shall be in the form of a cashier's check or certified check made payable to the Recovery Account of the Real Estate Fund. Said check must be received by the Department prior to the effective date of the Decision in this matter.

3. No further cause for disciplinary action against the real estate license of Respondent occurs within two (2) years from the effective date of the Decision in this matter.

4. If Respondent fails to pay the monetary penalty in accordance with the terms of the Decision, the Commissioner may, without a hearing, order the immediate execution of all or any part of the stayed suspension, in which event Respondent shall not be entitled to any repayment nor credit, prorated or

1 otherwise, for money paid to the Department under the terms of  
2 this Decision.

3           5. If Respondent pays the monetary penalty and if no  
4 further cause for disciplinary action against the real estate  
5 license of Respondent occurs within two (2) years from the  
6 effective date of the Decision, the stay hereby granted shall  
7 become permanent.

8  
9   II.

10           Pursuant to Section 10148 of the Business and  
11 Professions Code, Respondent DEL SUR CORPORATION shall pay the  
12 Commissioner's reasonable cost for (a) the audit which led to  
13 this disciplinary action (b) a subsequent audit to determine if  
14 Respondent is now in compliance with the Real Estate Law. The  
15 cost of the audit which led to this disciplinary action is  
16 \$13,888.90. In calculating the amount of the Commissioner's  
17 reasonable cost, the Commissioner may use the estimated average  
18 hourly salary for all persons performing audits of real estate  
19 brokers, and shall include an allocation for travel time to and  
20 from the auditor's place of work. Said amount for the prior and  
21 subsequent audits shall not exceed \$27,777.80.

22           Respondent shall pay such cost within 60 days of  
23 receiving an invoice from the Commissioner detailing the  
24 activities performed during the audit and the amount of time  
25 spent performing those activities.  
26  
27

1 The Commissioner may suspend the license of Respondent  
2 pending a hearing held in accordance with Section 11500, et seq.,  
3 of the Government Code, if payment is not timely made as provided  
4 for herein, or as provided for in a subsequent agreement between  
5 the Respondent and the Commissioner. The suspension shall remain  
6 in effect until payment is made in full or until Respondent  
7 enters into an agreement satisfactory to the Commissioner to  
8 provide for payment, or until a decision providing otherwise is  
9 adopted following a hearing held pursuant to this condition.  
10  
11

12 DATED:

3-24-10

EL

ELLIOTT MAC LENNAN, Counsel for  
the Department of Real Estate

14  
15 \* \* \*

16 EXECUTION OF THE STIPULATION

17 We have read the Stipulation and Agreement. Its terms  
18 are understood by us and are agreeable and acceptable to us. We  
19 understand that we are waiving rights given to us by the  
20 California Administrative Procedure Act (including but not  
21 limited to Sections 11506, 11508, 11509 and 11513 of the  
22 Government Code), and we willingly, intelligently and voluntarily  
23 waive those rights, including the right of requiring the  
24 Commissioner to prove the allegations in the Accusation at a  
25 hearing at which we would have the right to cross-examine  
26  
27



1 witnesses against us and to present evidence in defense and  
2 mitigation of the charges.


3 MAILING AND FACSIMILE

4 Respondent(s) (1) shall mail the original signed  
5 signature page of the stipulation herein to Elliott Mac Lennan:  
6 Attention: Legal Section, Department of Real Estate, 320 W.  
7 Fourth St., Suite 350, Los Angeles, California 90013-1105.

8 Additionally, Respondent(s) shall also (2) facsimile a copy of  
9 signed signature page, to the Department at the following  
10 telephone/fax number: (213) 576-6917, Attention: Elliott Mac  
11 Lennan.

12 A facsimile constitutes acceptance and approval of the  
13 terms and conditions of this stipulation. Respondent(s) agrees,  
14 acknowledges and understands that by electronically sending to  
15 the Department a facsimile copy of Respondent's actual signature  
16 as it appears on the stipulation, which receipt of the facsimile  
17 copy by the Department shall be as binding on Respondent(s) as if  
18 the Department had received the original signed stipulation.  
19

20  
21  
22 DATED: 03/10/2010

  
23 DEL SUR CORPORATION, Respondent  
24 BY: RUBEN A. ROMERO, CEO/President

25  
26 ///

27 ///

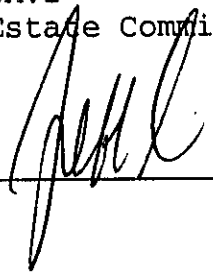
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\* \* \*

The foregoing Stipulation and Agreement is hereby adopted  
as my Decision as to Respondent DEL SUR CORPORATION and shall  
become effective at 12 o'clock noon on \_\_\_\_\_ JUNE 15 \_\_\_\_\_, 2010.

IT IS SO ORDERED \_\_\_\_\_ 6/18 \_\_\_\_\_, 2010.

JEFF DAVI  
Real Estate Commissioner

  
\_\_\_\_\_

*Handwritten initials*

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ELLIOTT MAC LENNAN, SBN 66674  
Department of Real Estate  
320 West 4th Street, Ste. 350  
Los Angeles, California 90013-1105

Telephone: (213) 576-6911 (direct)  
-or- (213) 576-6982 (office)

**FILED**

SEP 17 2009

DEPARTMENT OF REAL ESTATE

BY: *[Signature]*

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

\* \* \* \* \*

In the Matter of the Accusation of )  
 )  
DEL SUR CORPORATION, doing business )  
as Camino Real Mortgage Bankers; )  
and ALEX AGUILAR, individually )  
and as designated officer of )  
Del Sur Corporation, )  
 )  
Respondents. )

No. H-36243 LA

A C C U S A T I O N

The Complainant, Robin Trujillo, a Deputy Real Estate  
Commissioner of the State of California, for cause of Accusation  
against DEL SUR CORPORATION dba Camino Real Mortgage Bankers and  
ALEX AGUILAR, individually and as designated officer of Del Sur  
Corporation, alleges as follows:

///

///

1.

1           The Complainant, Robin Trujillo, acting in her official  
2 capacity as a Deputy Real Estate Commissioner of the State of  
3 California, makes this Accusation against DEL SUR CORPORATION  
4 (DEL SUR) and ALEX AGUILAR (AGUILAR).  
5

2.

6           All references to the "Code" are to the California  
7 Business and Professions Code and all references to "Regulations"  
8 are to Title 10, Chapter 6, California Code of Regulations.  
9

3.

10           A. At all times mentioned, DEL SUR and AGUILAR were  
11 licensed or had license rights issued by the Department of Real  
12 Estate (Department) as restricted real estate brokers.  
13

14           B. At all times material herein, DEL SUR was licensed  
15 by the Department as a corporate real estate broker by and  
16 through AGUILAR, pursuant to Code Sections 10211 and 10159.2 for  
17 supervising the activities requiring a real estate license  
18 conducted on behalf DEL SUR.  
19

20           Brokerage

4.

21           At all times mentioned, in the City of San Fernando,  
22 County of Los Angeles, DEL SUR and AGUILAR acted as real estate  
23 brokers and conducted licensed activities within the meaning of:  
24

25           A. Code Section 10131(d). DEL SUR dba Camino Real  
26 Mortgage Banker's operated a mortgage and loan brokerage engaging  
27 in activities with the public wherein lenders and borrowers were

1 solicited for loans secured directly or collaterally by liens on  
2 real property, wherein such loans were arranged, negotiated,  
3 processed and consummated on behalf of others for compensation or  
4 in expectation of compensation and for fees often collected in  
5 advance as well as at the conclusion of transactions; and

6 B. In addition, DEL SUR conducted broker-controlled  
7 escrows through its escrow division under the exemption set forth  
8 in California Financial Code Section 17006(a)(4) for real estate  
9 brokers performing escrows incidental to a real estate  
10 transaction where the broker is a party and where the broker is  
11 performing acts for which a real estate license is required.

12 FIRST CAUSE OF ACTION

13 Mortgage Loan Audit

14 5.

15 On April 30, 2009, the Department completed an audit  
16 examination of the books and records of DEL SUR pertaining to the  
17 mortgage loan activities described in Paragraph 4 that require a  
18 real estate license. The audit examination covered a period of  
19 time beginning on April 01, 2006 to October 31, 2008. The audit  
20 examination revealed violations of the Code and the Regulations  
21 as set forth in the following paragraphs, and more fully  
22 discussed in Audit Report LA 080102 and the exhibits and work  
23 papers attached to said audit report.  
24

25 ///

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1 Trust Account

2 6.

3 During the audit period a trust account was not kept.

4 Mortgage Loan Audit Violations

5 7.

6 In the course of activities described in Paragraph 4  
7 above, and during the examination period described in Paragraph  
8 5, Respondents DEL SUR and AGUILAR, acted in violation of the  
9 Code and the Regulations in that Respondents:

10 (a) Failed to retain a true and correct copy of  
11 Mortgage Loan Disclosure Statements and Good Faith Estimates that  
12 satisfies the requirements of the Real Estate Settlement  
13 Procedures Act of 1974 (12 U.S.C.A 2601 et seq.), that (1) sets  
14 forth the broker's real estate license number; and that (2)  
15 discloses the service release premiums by the lenders outside of  
16 closing for the following borrowers, in violation of Code Section  
17 10240(c) and Regulation 2840:  
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19

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Borrowers	Good Faith Estimate only
Jorge Cruz	Yes
Marivel Montalvo	Yes
Daniel Castellanos	Yes
Ramiro Acevedo	Yes
Gloria Castro	Yes

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1 Disciplinary Statues - Mortgage Loan Audit

2 8.

3 The conduct of Respondents DEL SUR and AGUILAR  
4 described in Paragraph 7, above, violated the Code and the  
5 Regulations as set forth below:

6

PARAGRAPH	PROVISIONS VIOLATED
7(a)	Code Section 10240(c) and Regulation 2840

7  
8  
9

10 The foregoing violations constitute cause for the suspension or  
11 revocation of the real estate license and license rights of DEL  
12 SUR and AGUILAR, under the provisions of Code Section 10177(d)  
13 and/or 10177(g).

14 SECOND CAUSE OF ACTION

15 Escrow Audit

16 9.

17 On May 29, 2009, the Department completed an audit  
18 examination of the books and records of DEL SUR pertaining to the  
19 broker-controlled escrow activities described in Paragraph 4 that  
20 require a real estate license. The audit examination covered a  
21 period of time beginning on March 26, 2007 to October 31, 2008.  
22 The audit examination revealed violations of the Code and the  
23 Regulations as set forth in the following paragraphs, and more  
24 fully discussed in Audit Report LA 080221 and the exhibits and  
25 work papers attached to said audit report.  
26  
27

Trust Account

10.

At all times mentioned, in connection with the activities described in Paragraph 4, above, DEL SUR accepted or received funds including funds in trust (hereinafter "trust funds") from or on behalf of actual or prospective parties, including lenders, borrowers and homeowners, to real estate transactions handled by DEL SUR and thereafter made deposits and or disbursements of such funds. From time to time herein mentioned during the audit period, said trust funds were deposited and/or maintained by DEL SUR in the bank account as follows:

"Del Sur Corporation Escrow Division Trust Account  
Account No. 13536716"  
City National Bank  
City of Commerce, CA 90040 (escrow trust account)

Escrow Audit Violations

11.

In the course of activities described in Paragraphs 4 and 10, above, and during the examination period described in Paragraph 9, Respondents DEL SUR and AGUILAR, acted in violation of the Code and the Regulations in that Respondents:

(a) Permitted salespersons Ruben A. Romero and Marlene L. Moretti, respectively DEL SUR's Chief Executive Officer and corporate Secretary, to be authorized signatories on the escrow trust account. AGUILAR was not a signatory on the escrow trust



1 account, in violation of Code Section 10145 and Regulations 2834,  
2 2950(d) and 2951.

3 (b) Failed to disburse from the escrow trust account  
4 broker's DEL SUR's funds totaling \$2,350.69, in violation of Code  
5 Section 10145 and Regulation 2835, 2950(d) and 2951.

6 (c) Failed to maintain an accurate and complete  
7 separate record for each beneficiary or transaction, thereby  
8 failing to account for all trust funds received, deposited and  
9 disbursed for the escrow trust account, in violation of Code  
10 Section 10145 and Regulation 2950(h) and 2951.

Borrowers	Escrow Number
Marivel Montalvo	99-241
Luis Rivera	99-215
Ramiro Acevedo	99-164
Daniel Castellanos	99-258
Raul Sanchez	99-250

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Disciplinary Statues - Escrow Audit

12.

The conduct of Respondents DEL SUR and AGUILAR described in Paragraph 11, above, violated the Code and the Regulations as set forth below:

PARAGRAPH	PROVISIONS VIOLATED
7(a)	Code Section 10145 and Regulations 2834, 2950(d) and 2951
7(b)	Code Section 10145 and Regulations 2835, 2950(d) and 2951
7(c)	Code Section 10145 and Regulation 2950(h) and 2951

The foregoing violations constitute cause for the suspension or revocation of the real estate license and license rights of DEL SUR and AGUILAR, under the provisions of Code Section 10177(d) and/or 10177(g).

13.

The overall conduct of Respondents DEL SUR and AGUILAR constitutes negligence or incompetence. This conduct and violation are cause for the suspension or revocation of the real estate license and license rights of Respondents DEL SUR and AGUILAR pursuant to Code Section 10177(g).

14.

The overall conduct of Respondent AGUILAR constitutes a failure on Respondent's part, as officer designated by a corporate broker licensee, to exercise the reasonable supervision

1 and control over the licensed activities of DEL SUR as required  
2 by Code Section 10159.2, and to keep DEL SUR in compliance with  
3 the Real Estate Law by not being a signatory on the escrow trust  
4 account and therefore did not exercise control over said account,  
5 and is cause for the suspension or revocation of the real estate  
6 license and license rights of AGUILAR pursuant to the provisions  
7 of Code Sections 10177(h), 10177(d) and/or 10177(g).

8 WHEREFORE, Complainant prays that a hearing be  
9 conducted on the allegations of this Accusation and that upon  
10 proof thereof, a decision be rendered imposing disciplinary  
11 action against the license and license rights of Respondents DEL  
12 SUR CORPORATION and ALEX AGUILAR, under the Real Estate Law (Part  
13 1 of Division 4 of the Business and Professions Code) and for  
14 such other and further relief as may be proper under other  
15 applicable provisions of law.

16 Dated at Los Angeles, California

17 this *26 day of August 2009*  
18 *Robin Trujillo*  
19 Deputy Real Estate Commissioner

20  
21  
22  
23  
24 cc: Del Sur Corporation  
25 c/o Alex Aguilar D.O.  
26 Robin Trujillo  
27 Sacto  
Audits - Surender Bhatia