

weintraub genshlea chediak
LAW CORPORATION

1 Joseph S. Genshlea, State Bar No. 36369
weintraub genshlea chediak
2 a law corporation
400 Capitol Mall, 11th Floor
3 Sacramento, CA 95814
(916) 558-6000 – Main
4 (916) 446-1611 – Facsimile

5 Mitchel H. Kider, State Bar No. 116479
Vanessa L. Tran, State Bar No. 223254
6 WEINER BRODSKY SIDMAN KIDER PC
1300 Nineteenth Street, NW, 5th Floor
7 Washington, DC 20036
(202) 628-2000 – Main
8 (202) 628-2011 – Facsimile

9 Attorneys for Plaintiff
DHI Mortgage Company, Ltd , LP

FILED
Superior Court Of California,
Sacramento
10/08/2009
avlaissalich
By _____, Deputy
Case Number:
34-2009-00060019

11
12 IN THE SUPERIOR COURT OF CALIFORNIA
13 IN AND FOR THE COUNTY OF SACRAMENTO

Department
Assignments
Case Management 43
Law and Motion 54
Minors Compromise 17

15 DHI MORTGAGE COMPANY, LTD., L.P.,
16 Plaintiff,
17 vs.
18 US LOAN AUDITORS, LLC, a California
limited liability company, US LEGAL
19 ADVISORS, LLC, a California limited liability
company; and DOES 1 through X, inclusive,
20 Defendant

Case No.

COMPLAINT FOR DEFAMATION,
INTENTIONAL INTERFERENCE WITH
CONTRACT, INTENTIONAL INTERFERENCE
WITH PROSPECTIVE ECONOMIC
ADVANTAGE, UNFAIR BUSINESS
PRACTICES, AND CIVIL CONSPIRACY

22 Plaintiff DHI MORTGAGE COMPANY, LTD , L.P , for its causes of action, alleges as
23 follows

24 BACKGROUND

25 1 Plaintiff DHI MORTGAGE COMPANY, LTD., L.P ("Plaintiff" or "DHI") is and at
26 all times relevant herein was, a Texas limited partnership licensed by the California Department
27 of Corporations. DHI is a mortgage lender specializing in making residential mortgage loans
28 for the purchase of new homes.

1 Development, and information gleaned from government records such as the identity of a
2 consumer's lender and the total loan amount.

3 9 The Mailing listed "US Loan Auditors" as "Investigator," implying that a
4 competent authority had appointed it as such, and omitting Defendant US Loan Auditors LLC's
5 corporate designation, to further mislead the recipients into believing that the notice was sent
6 by a government entity Defendants' very names (US Loan Auditors and US Legal Advisors) are
7 by their nature misleading, and their use in connection with this ruse was and is, upon
8 information and belief, designed to mislead recipients of the Mailing and lend credibility to the
9 defamatory statements therein.

10 10 The Mailing falsely and misleadingly states that "Dhi Mtg is currently under
11 investigation for predatory lending "

12 11 The Mailing falsely and misleadingly implies that Defendant US Loan Auditors is
13 or was conducting an official investigation of DHI and that DHI engaged in predatory lending

14 12 The Mailing, combined with Defendants' television advertisements, some of
15 which are available on corporate Defendants' websites ([http //www usloanauditors.com/](http://www.usloanauditors.com/) and
16 [http //www uslegaladvisors com/](http://www.uslegaladvisors.com/)), falsely communicate that certain of DHI's loan products,
17 such as adjustable rate mortgages, are by their nature predatory and therefore actionable

18 13 Defendants intended their conduct to cause injury to DHI and carried out their
19 scheme with a willful and conscious disregard of DHI's rights.

20 14. On September 4, 2009, DHI sent a letter, through counsel, to Defendant US
21 Loan Auditors LLC, and to James D Sandison, a principal of both corporate Defendants,
22 demanding that they cease and desist from defaming DHI and requesting a list of DHI's
23 customers to whom the Mailing was sent As of this date, DHI has not received a response.

24 FIRST CAUSE OF ACTION
25 FOR DEFAMATION
(against all Defendants)

26 15 Plaintiff realleges and fully incorporates by reference herein paragraphs 1
27 through 14 of this Complaint

28 16 All Defendants, and each of them, published or caused to published, and upon

1 information and belief, continue to publish or cause to be published, false and unprivileged
2 statements, described above, regarding DHI.

3 17. These statements exposed and continue to expose DHI to hatred, contempt,
4 ridicule, and obloquy, and had and have a tendency to injure DHI in its occupation and
5 business

6 18 These statements constitute libel on their face.

7 19 Additionally, DHI has suffered special damage in respect to its business as a
8 result thereof, and has expended and will continue to expend money, in an amount to be
9 proven, as a result of this libel

10 WHEREFORE, Plaintiff prays for relief as hereinafter set forth

11 **SECOND CAUSE OF ACTION**
12 **FOR INTENTIONAL INTERFERENCE WITH CONTRACT**
(against all Defendants)

13 20. Plaintiff realleges and fully incorporates by reference herein paragraphs 1
14 through 19 of this Complaint.

15 21 DHI is informed and believes that there exist or existed valid contracts between
16 DHI and the recipients of the Mailing.

17 22. Defendants were at all relevant times aware of these contracts and in fact based
18 their conduct upon the existence of said contracts

19 23 Defendants' intentional acts, described above, were designed to induce a
20 breach or disruption of these contractual relationships.

21 24 DHI is informed and believes that in some cases, actual breach or disruption of
22 some of the contractual relationships occurred as a result thereof, resulting in damage to DHI.

23 WHEREFORE, Plaintiff prays for relief as hereinafter set forth

24 **THIRD CAUSE OF ACTION**
25 **FOR INTENTIONAL INTERFERENCE WITH BUSINESS ADVANTAGE**
(against all Defendants)

26 25 Plaintiff realleges and fully incorporates by reference herein paragraphs 1
27 through 24 of this Complaint

28 26 There existed and exists an economic relationship between DHI and the

1 recipients of the Mailing, which had and has the probability of bringing future economic
2 benefit to DHI

3 27. Defendants were aware of this relationship, and in fact based their actions upon
4 its existence.

5 28. Defendants committed and continue to commit intentional, wrongful acts,
6 described above, that were and are designed to disrupt the relationships between DHI and the
7 recipients of the Mailing, and Defendants knew that their actions were substantially certain to
8 cause interference with those relationships

9 29 DHI is informed and believes that Defendants' actions caused actual disruption
10 of said relationships, resulting in economic harm to DHI proximately caused by Defendants'
11 acts

12 WHEREFORE, Plaintiff prays for relief as hereinafter set forth.

13 **FOURTH CAUSE OF ACTION**
14 **FOR UNFAIR BUSINESS PRACTICES**
(against all Defendants)

15 30 Plaintiff realleges and fully incorporates by reference herein paragraphs 1
16 through 29 of this Complaint

17 31. The Mailing had the tendency and likelihood to deceive, and upon information
18 and belief, did in fact deceive the public as to the nature of Defendants' services, and the
19 activities of DHI

20 32 By reason of Defendants' false, fraudulent, deceptive, misleading, unfair
21 Mailing, and other wrongful conduct as herein alleged, Defendants, each and all of them,
22 have violated California Business and Professions Code § 17200, et seq., by consummating
23 an unlawful, unfair, and fraudulent business practice, designed to deprive DHI of its reputation
24 and its ability to do business

25 33. As a result, DHI has suffered and continues to suffer damages in a sum which is
26 as yet unascertained

27 WHEREFORE, Plaintiff prays for relief as hereinafter set forth

28 ///

FIFTH CAUSE OF ACTION
FOR CIVIL CONSPIRACY
(against all Defendants)

1
2
3 34 Plaintiff realleges and fully incorporates by reference herein paragraphs 1
4 through 33 of this Complaint.

5 35. Plaintiff is informed and believes that, at an unknown time between January and
6 August 2009, all Defendants, and each of them, devised a scheme to send misleading and
7 defamatory mailings, described above, *en masse*, to owners of real property in the State of
8 California who had taken mortgages from DHI and other lenders whom they decided to target

9 36. Plaintiff is informed and believes that, at all relevant times, each Defendant and
10 all of them had knowledge of said scheme

11 37. Plaintiff is informed and believes that, at all relevant times, all Defendants, and
12 each of them, had the intent to interfere with the contracts and business relationships between
13 the recipients and DHI

14 38 Plaintiff is informed and believes that each Defendant, and all of them,
15 knowingly and willfully conspired and agreed among themselves to mislead and defraud the
16 recipients of the Mailing, and to defame DHI

17 39 Plaintiff is informed and believes that each action by each of the Defendants that
18 is described in this Complaint was undertaken in furtherance of the conspiracy and pursuant to
19 it

20 WHEREFORE, Plaintiff prays for relief as follows

21 For the First, Second, Third, Fourth and Fifth Causes of Action:

- 22 1. For general damages according to proof;
23 2. For special damages according to proof;
24 3. For punitive damages;
25 4 For costs of suit incurred,
26 5 For an order requiring Defendants, and each of them, to show cause why they
27 should not be enjoined as set forth below, during the pendency of this action,
28 6 For a preliminary injunction and a permanent injunction enjoining Defendants

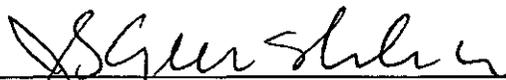
1 from making the false and defamatory statements described herein about Plaintiff, and
2 from distributing misleading advertising material regarding Plaintiff, and

3 7 For any further relief the court may deem proper
4
5

6 Dated: October 8, 2009

weintraub genshlea chediak
a law corporation

7
8
9 By.



Joseph S. Genshlea
Attorney for Plaintiff,
DHI Mortgage Company, Ltd , L.P

10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
weintraub genshlea chediak
LAW CORPORATION

EXHIBIT A

a. ID Number [REDACTED]		Lender Investigation Notification		Code 008-I
b. Investigator Contact Phone Number 888-55-AUDIT		Property County: [REDACTED]		
c. Investigator US Loan Auditors 2882 Prospect Park Drive, Suite 350 Rancho Cordova, CA 95670		Property Type: Residential		
		Notice Type: 008-I	Subject: INVESTIGATION NOTICE	
d. Addressee's Personal ID Number [REDACTED]		e. Property Address [REDACTED]		f. Property City, State and Zip [REDACTED]
g. Name, Address, and ZIP Code [REDACTED]		RE: PREDATORY LENDING INVESTIGATION		
State CA	Lender Investigation	Lender: Dhi Mtg	Total Loan Amount: \$ [REDACTED]	

Form **008-I** Lender Investigation Notification

2009

NOTICE REGARDING PREDATORY LENDING YOUR IMMEDIATE PARTICIPATION IS REQUIRED

PLEASE READ ENTIRE DOCUMENT CAREFULLY

Your lender Dhi Mtg is currently under investigation for predatory lending. Based on our information you may be a victim, and may qualify to participate in a law suit against them. As part of a law suit a homeowner can:

- Stop foreclosure proceedings
- Lower your monthly mortgage payments
- Lower the balance owed on your loan
- Repair their credit score
- Receive financial compensation

Previous attempts to contact you have been made and this will be the final notice that you receive. Due to statute of limitations laws, time to participate is very limited. It is extremely important that you contact us within the next 24 hours.

To qualify for participation you must call 888-55-AUDIT WITHIN 24 HOURS

If there is no answer, be sure to leave a message because time is limited

FAILURE TO RESPOND TO THIS NOTICE MAY AFFECT YOUR LEGAL RIGHTS