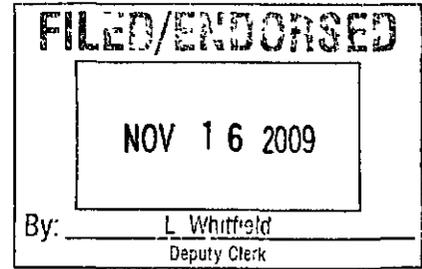


weintraub genshlea chediak
LAW CORPORATION

1 Joseph S. Genshlea, State Bar No. 36369
2 Lindsey Connor Hulse, State Bar No. 258514
3 weintraub genshlea chediak
4 a law corporation
5 400 Capitol Mall, 11th Floor
6 Sacramento, CA 95814
7 (916) 558-6000 – Main
8 (916) 446-1611 – Facsimile

9 Mitchel H. Kider, State Bar No. 116479
10 Vanessa L. Tran, State Bar No. 223254
11 WEINER BRODSKY SIDMAN KIDER PC
12 1300 Nineteenth Street, NW, 5th Floor
13 Washington, DC 20036
14 (202) 628-2000 – Main
15 (202) 628-2011 – Facsimile

16 Attorneys for Plaintiff
17 DHI Mortgage Company, Ltd., LP



18 IN THE SUPERIOR COURT OF CALIFORNIA
19 IN AND FOR THE COUNTY OF SACRAMENTO

20 DHI MORTGAGE COMPANY, LTD., L.P.,

21 Plaintiff,

22 vs.

23 US LOAN AUDITORS, LLC, a California
24 limited liability company; US LEGAL
25 ADVISORS, LLC, a California limited liability
26 company; and DOES 1 through X, inclusive,

27 Defendant.

Case No.: 34-2009-00060019

MEMORANDUM OF POINTS AND
AUTHORITIES IN SUPPORT OF PLAINTIFF'S
APPLICATION FOR A COURT ORDER
AUTHORIZING SERVICE OF SUMMONS
AND COMPLAINT ON DEFENDANTS BY
DELIVERY TO SECRETARY OF STATE

28 I. INTRODUCTION

Plaintiff DHI Mortgage Company, Ltd., L.P. ("DHI") seeks a court order authorizing the service of summons and complaint on Defendants US Loan Auditors, LLC ("US Loan") and US Legal Advisors, LLC ("US Legal") (jointly referred to as "Defendants") by delivery to the California Secretary of State. The service of process to the California Secretary of State is necessary because the agents designated for service of process by US Loan and US Legal

1 cannot be found after due diligence at the address stated in the company's statement of the
2 agent for service of process filed with the California Secretary of State.

3 II. FACTUAL AND PROCEDURAL SUMMARY

4 DHI is a mortgage lender specializing in making residential mortgage loans for the
5 purchase of new homes. In August 2009, Defendants sent a mailing misleadingly titled
6 "Lender Investigation Notification" (the "Mailing") to a substantial number of customers of DHI.
7 The Mailing was designed to appear as if it came from a government agency, with a supposed
8 form number ("Form 008-1"), a layout and font similar to that used by federal agencies
9 including the Internal Revenue Service and the Department of Housing and Urban
10 Development, and information gleaned from government records such as the identity of a
11 consumer's lender and the total loan amount. The Mailing further listed "US Loan Auditors" as
12 an "Investigator," implying that a competent authority had appointed it as such, and omitting
13 US Loan's corporate designation.

14 The Mailing falsely and misleadingly states that "Dhi Mtg is currently under investigation for
15 predatory lending" and falsely communicates that certain of DHI's loan products, such as
16 adjustable rate mortgages, are by their nature predatory and therefore actionable.

17 On October 8, 2009, DHI filed a Complaint for Defamation; Intentional Interference with
18 Contract; Intentional Interference with Business Advantage; Unfair Business Practices; and Civil
19 Conspiracy in the Sacramento County Superior Court.

20 The State of California's Business Portal statement for US Loan, updated on October 30,
21 2009, designates Jeff Pulvino as the agent for service of process, and the address for service of
22 process is listed as 5239 Buena Vista Drive, Fair Oaks, California, 95628. (See the State of
23 California's Business Portal statement for US Loan attached as Exhibit 1 to the Declaration of
24 Joseph S. Genshlea ("Genshlea Decl.") Similarly, the State of California's Business Portal
25 statement for US Legal, updated on October 30, 2009, designates James D. Sandison as the
26 agent for service of process, and the address for service of process is listed as 10837 Freeman
27 Road, Wilton, California 95693. (See the State of California's Business Portal statement for
28 US Legal attached as Exhibit 2 to Genshlea Decl.)

1 On October 14, 2009, service on US Loan was unsuccessfully attempted by One Legal at
2 5239 Buena Vista Drive, Fair Oaks, California 95628. (See Non-Service Report attached as
3 Exhibit 3 to Genshlea Decl.)

4 Service on US Legal was unsuccessfully attempted by One Legal at 10837 Freeman Road,
5 Wilton, California 95693 on October 13, 2009; October 16, 2009; October 19, 2009;
6 October 22, 2009; October 25, 2009; October 27, 2009; October 30, 2009; and October
7 31, 2009. (See Non-Service Report attached as Exhibit 4 to Genshlea Decl.)

8 US Loan and US Legal did not provide any further or additional information regarding its
9 agents for service of process apart from the names and addresses obtained by Plaintiff from the
10 California Secretary of State. (Genshlea Decl. ¶ 8.)

11 III. DISCUSSION

12 Pursuant to California Corporations Code section 1702, if the agent designated for the
13 service of process cannot be found with reasonable diligence at the address stated in the
14 designation, the court may authorize service on the corporation by hand delivering to the
15 Secretary of State, or to any person employed in the Secretary of State's office in the capacity of
16 assistant or deputy, a copy of the process for each defendant to be served, along with the
17 court's order authorizing such service. Service in this manner is deemed complete on the tenth
18 (10th) day after deliver of the process to the Secretary of State. (Corp. Code § 1702(a).)

19 DHI has diligently attempted to serve US Loan and US Legal through their agents for
20 service of process on the State of California's Business Portal statements for Defendants.
21 Despite its reasonable efforts and due diligence attempts to personally serve US Loan and US
22 Legal, DHI has been unable to locate either agent for service of process, Mr. Pulvino for US
23 Loan and Mr. Sandison for US Legal, at the address designated. When DHI attempted service
24 on Mr. Pulvino, the current occupant informed DHI that Mr. Pulvino did not live there and the
25 current occupant did not know who Mr. Pulvino was. There is no additional or different
26 information provided for US Loan's agent for service of process. (Genshlea Decl. ¶¶ 6, 8.)
27 Further, it appears that any additional efforts by DHI to serve US Legal at the designated
28 address will continue to be futile due to Mr. Sandison's attempts to evade service given that, on

1 more than one occasion, there were lights on in the home and a car outside, but no one would
2 answer the door when the process server attempted service. (Genshlea Decl. ¶ 7.)

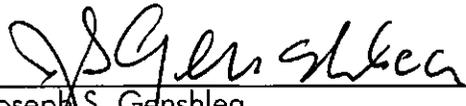
3 IV. CONCLUSION

4 Based on the foregoing, DHI respectfully requests that the Court grant an order authorizing
5 service of the summons and complaint on defendants US Loan and US Legal by hand delivery
6 to the California Secretary of State.

7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Dated: November __, 2009

weintraub genshlea chediak
a law corporation

By: 
Joseph S. Genshlea
Attorneys for Plaintiff,
DHI Mortgage Company, Ltd., L.P.