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6 Attorneys for Complainant

7
8 BEFORE THE DEPARTMENT OF CORPORATIONS
9 OF THE STATE OF CALIFORNIA

10
11 In the Matter of the Accusation of) File No.: 963-2518
THE CALIFORNIA CORPORATIONS)
12 COMMISSIONER,) ACCUSATION TO ISSUE ORDER
13) BARRING FROM ANY POSITION OF
Complainant,) EMPLOYMENT, MANAGEMENT OR
14) CONTROL OF ANY ESCROW AGENT
15 vs.)
16 GREGORY KENNETH DELONG, SR. a.k.a.)
GREGORY K. DELONG,)
17)
18 Respondent.)
_____)

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20
21 The Complainant is informed and believes, and based upon such information and belief,
22 alleges and charges Respondent as follows:

23 **I**

24 1. Lenders Choice Escrow, Inc. (license no. 963-2518) (“Lenders Choice”), a
25 California corporation, is an escrow agent licensed by the California Department of Corporations
26 (“Department”) pursuant to the California Escrow Law (California Financial Code § 17000 et seq.).
27 Lenders Choice is located at 1400 S. Douglass Road, Suite 175, Anaheim, California 92806. Its
28 phone number is (714) 481-3434.

1 2. At all relevant times hereto, Ditech.com (“Ditech”) (license no. 8132004) was a
2 mortgage lender and fictitious business name of GMAC Mortgage Corporation (“GMAC”) licensed
3 by the Commissioner until on or about July 30, 2008. Its last known business address is 3200 Park
4 Center Drive, Suite 150, Costa Mesa, California 92626.

5 3. From at least December 1, 1999, to at least April 24, 2000, Gregory Kenneth
6 Delong, Sr., a.k.a. Gregory K. DeLong (“DeLong” or “Respondent”) was employed as a manager at
7 Ditech.

8 4. On January 17, 2012, the Department received from Lenders Choice a Statement of
9 Identity and Employment Application (“Application”) for Delong as its proposed escrow officer.
10 Delong executed the Application on January 5, 2012 under penalty of perjury.

11 5. Question #6 of the Application asks, “Have you ever been convicted of or pleaded
12 nolo contendere to a misdemeanor or felony other than traffic violations?” Delong answered,
13 “Yes,” and attached the Judgment Including Sentence Under the Sentencing Reform Act
14 (“Judgment”) filed in the case, United States v. Gregory Kenneth Delong (case no. 2:00-cr-00082-
15 RJC-2), which stated that on June 5, 2001 Delong pleaded guilty to Count 4, violation of 18 U.S.C.
16 § 1952, the Travel Act. The Judgment was filed on October 11, 2001, and sentenced Delong to
17 imprisonment for a term of two months, followed by supervised release for a term of two years. In
18 addition, Delong was ordered to pay a fine of \$1,000.00 and a special assessment of \$100.00.

19 6. Count 4 is referenced but not set forth in the Judgment. Hence on May 29, 2012, the
20 Department requested additional documentation regarding the case, United States v. Gregory
21 Kenneth Delong (case no. 2:00-cr-00082-RJC-2) to complete review of Delong’s Application.

22 7. On June 28, 2012, Delong responded via letter that the documents were unavailable
23 because the “case was sealed.” On July 1, 2012, Delong’s attorney reiterated that “none of the
24 documents you requested are available as the case has been sealed.” Nonetheless, on September 7,
25 2012, Delong wrote again to the Department stating, “I am pleased to report that although the case
26 was sealed, I was able to reach a Court Clerk and obtain most of the documents from the United
27 States District Court in Pennsylvania.” Attached thereto were the documents requested by the
28 Department.

1 8. In actuality, the documents requested by the Department are not sealed and have
2 always been available upon request made to the United States District Court in Pennsylvania.
3 Therefore Delong made this untrue statement of material fact in at least three reports filed with the
4 Department in response to an inquiry regarding his Application, and persisted in making the untrue
5 statement even after he produced the purportedly sealed, non-producible documents to the
6 Department.

7 9. After Delong’s June 28, 2012 letter but before September 7, 2012 when Delong
8 eventually produced the requested documents, the Department requested and obtained documents
9 filed in Case No. 2:00-cr-00082-RJC-2 from the United States District Court in Pennsylvania which
10 revealed the facts and circumstances leading up to Delong’s June 5, 2001 guilty plea.

11 10. According to the Superseding Indictment, filed on August 16, 2000, Ditech was a
12 mortgage lender located in Costa Mesa, California, and a subsidiary of GMAC, a mortgage lender
13 with offices throughout the United States. Delong was an employee of Ditech. ATM Corporation
14 of America (“ATM”), located in Pittsburgh, Pennsylvania, provided various services to mortgage
15 lenders throughout the United States, including Ditech. ATM’s mortgage services to Ditech, which
16 included equity reports, title insurance and notary closings on a fee per service basis, represented
17 approximately 20% of ATM’s total monthly sales.

18 11. The Superseding Indictment charges that beginning on or about December 1, 1999,
19 Delong, along with two other Ditech employees (“Defendant 1” and “Defendant 2”), engaged in a
20 series of meetings with an employee of ATM and solicited kickbacks from ATM, under the threat
21 that if the kickbacks were not agreed to and paid, that Ditech would stop using ATM’s mortgage
22 services. To assure that the kickbacks were paid, defendants promised that ATM would receive
23 substantially more business from Ditech. The kickbacks were to be paid to Defendant 1’s father-in-
24 law, who would be placed on the ATM payroll as an employee, but who would not perform any
25 work for ATM.

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1 12. According to the Superseding Indictment Memorandum, filed on August 16, 2000, a
2 federal grand jury returned the aforementioned four count Superseding Indictment against Delong,
3 Defendant 1 and Defendant 2, summarized as follows:

4 Count 1: Conspiracy on or about December 1, 1999, to on or about April 20, 2000 in
5 violation of 18 U.S.C. § 371 (conspiracy to commit offense or to defraud
6 United States);

7 Count 2: Hobbs Act on or about December 1, 1999, to on or about April 20, 2000 in
8 violation of 18 U.S.C. § 1951 (interference with commerce by threats or
9 violence);

10 Count 3: RESPA on or about December 1, 1999 to on or about April 20, 2000 in
11 violation of 12 U.S.C. § 2607(a) (prohibition against kickbacks and
12 unearned fees); and

13 Count 4: Travel Act on or about December 1, 1999 to on or about April 20, 2000 in
14 violation of 18 U.S.C. § 1952 (interstate and foreign travel or transportation
15 in aid of illegal business enterprise).

16 13. Delong pleaded guilty to only Count 4, and the court dismissed Counts 1, 2, and 3.
17 Count 4, as set forth in the Superseding Indictment, states in relevant part:

18 The grand jury further charges that:

19 1. The allegations of Paragraphs 1 through 8 of Count One are incorporated by
20 reference as though set forth herein.

21 2. From in or around December, 1999, to on or about April 24, 2000, in the
22 Western District of Pennsylvania and elsewhere, the defendants . . . [Defendant 1],
23 Gregory Kenneth DeLong and . . . [Defendant 2], did unlawfully and knowingly use
24 and cause to be used interstate wire communications, namely interstate wire
25 communications from Ditech’s Costa Mesa, California, office to ATM’s office in
26 Pittsburgh, Pennsylvania, with the intent to promote, carry on, and facilitate the
27 promotion and carrying on unlawful activity, to wit, the solicitation and acceptance
28 of commercial bribes, in violation of 18 Pa.C.S.A. Section 4108, and thereafter, did
perform and attempt to perform acts, to promote, carry on and facilitate the
promotion and carrying on of said unlawful activity, that is, the receipt of ATM
check no. 1629 [the first net payment to the defendants in the kickback scheme,
\$11,451.20].

In violation of Title 18, United States Code, Sections 1952 and 2.

1 14. Count 4 incorporates by reference Paragraphs 1 through 8 of Count One in the
2 Superseding Indictment. Count One at Paragraph 6 states in relevant part: “Gregory Kenneth
3 DeLong . . . did unlawfully, willfully and knowingly combine, conspire, confederate and agree . . .
4 to extort funds through the threat of economic harm . . . to solicit and accept fees or kickbacks . . .

1 to use or cause to be used a facility in interstate commerce with intent to commit commercial
2 bribery. . . .”

3 15. The elements of Count 4 are stated in the Superseding Indictment Memorandum as
4 follows: “1. Interstate travel or use of an interstate facility; 2. With intent to promote an unlawful
5 activity; and 3. A subsequent overt act in furtherance of the unlawful activity.”

6 16. In his September 7, 2012 letter to the Department, DeLong opined that he played a
7 “minor role” in the scheme for which he was charged. However, the Tentative Findings and
8 Rulings in Sentencing Factors, filed on October 5, 2001, states: “[T]he parties’ submissions indicate
9 that Mr. DeLong was clearly aware of the full nature and scope of the scheme at least by March 9,
10 2000 . . . In sum, Mr. DeLong’s participation in the offense does not exhibit an individual less
11 culpable than the average participant.”

12 **II**

13 California Financial Code section 17423 provides in pertinent part:

14 a) The commissioner may, after appropriate notice and opportunity for hearing, by
15 order, censure or suspend for a period not exceeding 12 months, or bar from any
16 position of employment, management, or control any escrow agent, or any other
17 person, if the commissioner finds either of the following: . . .

18 (1) That the censure, suspension, or bar is in the public interest and that the person
19 has committed or caused a violation of this division or rule or order of the
20 commissioner, which violation was either known or should have been known by the
21 person committing or causing it or has caused material damage to the escrow agent
22 or to the public.

23 (2) That the person has been convicted of or pleaded nolo contendere to any crime .
24 . . if that crime . . . involved any offense specified in subdivision (b) of Section
25 17414.1, or any other offense reasonably related to the qualifications, functions, or
26 duties of a person engaged in the business in accordance with the provisions of this
27 division.

28 California Financial Code section 17414.1 subdivision (b) provides in pertinent part:

(7) Offenses involving robbery, burglary, theft, embezzlement, fraud, fraudulent
conversion or misappropriation of property, forgery, bookmaking, receiving stolen
property, counterfeiting, controlled substances, extortion, checks, credit cards, or
computer violations specified in Section 502 of the Penal Code.

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California Financial Code section 17702 provides:

It is unlawful for any person to willfully make any untrue statement of a material fact in any application, notice, or report filed with the commissioner under this division or the regulations issued thereunder, or to willfully omit any material fact which is required to be stated in any application, notice, or report.

IV

Complainant finds that, by reason of the foregoing, Delong has pleaded guilty to a crime involving an offense specified in subdivision (b) of Section 17414.1, or any other offense reasonably related to the qualifications, functions, or duties of a person engaged in the business in accordance with the provisions of this division, and pursuant to Financial Code section 17423 it is in the best interests of the public to bar Delong from any position of employment, management or control of any escrow agent. Moreover, Delong willingly made an untrue statement of a material fact in any application, notice, or report filed with the Commissioner or willfully omitted any material fact which is required to be stated in any application, notice, or report, in violation of Financial Code section 17702, and pursuant to section 17423 it is in the best interests of the public to bar Delong from any position of employment, management or control of any escrow agent.

WHEREFORE, IT IS PRAYED that pursuant to California Financial Code section 17423 Respondent Gregory Kenneth Delong, Sr. a.k.a. Gregory K. DeLong be barred from any position of employment, management or control of any escrow agent.

Dated: October 30, 2012
Los Angeles, CA

JAN LYNN OWEN
California Corporations Commissioner

By _____
Sophia C. Kim
Corporations Counsel