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8
9 BEFORE THE DEPARTMENT OF BUSINESS OVERSIGHT
10 OF THE STATE OF CALIFORNIA

11 In the Matter of:) ESCROW LICENSE NO. 963-2676
12)
13 THE COMMISSIONER OF BUSINESS)
OVERSIGHT,)
14) NOTICE AND SUMMARY OF FINDINGS
Complainant,) PURSUANT TO FINANCIAL CODE
15) SECTION 17621
16 vs.)
17 AMERILINK ESCROW, INC.)
18 Respondent.)
19)

20 TO: AMERILINK ESCROW, INC.
21 16742 Gothard Street, Suite #214
22 Huntington Beach, CA 92647

23 UNION BANK
24 15377 Brookhurst Street
25 Westminster, CA 92683
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1 Please take notice that the Commissioner of Business Oversight finds:

2 1. Vinh C. Phan (Phan) is Amerilink Escrow, Inc.'s (Amerilink) president, sole
3 shareholder, and registered agent.

4 2. On or about June 12, 2017, a regulatory examination of the books and records of
5 Amerilink was commenced by the Commissioner of Business Oversight (Commissioner) and
6 continues through the present. To date, the regulatory examination has revealed that Amerilink has:
7 (1) knowingly or recklessly engaged in activity that constitutes theft or fraud in escrow transactions
8 in violation of Financial Code section 17414, subdivision (a)(1); (2) knowingly or recklessly made
9 or caused to be made material misstatements in escrow records in violation of Financial Code
10 section 17414, subdivision (a)(2); (3) made unauthorized disbursements of trust funds in violation
11 of Financial Code section 17414, subdivision (a)(1) and California Code of Regulations, title 10,
12 sections 1738 and 1738.2; (4) caused debit balances to exist in escrow accounts in violation of
13 California Code of Regulations, title 10, section 1738.1; and (5) failed to meet liquid asset and
14 tangible net worth requirements set forth in Financial Code section 17210, as more fully described
15 below.

16 a. In Escrow #14453-VP, Amerilink generated 8 escrow receipts evidencing
17 \$6,040,000.00 in total deposits from the buyer into the escrow and posted the receipts in the escrow
18 account. In fact, the buyer, a Limited Liability Company in which Phan was affiliated with, did not
19 deposit any money reflected on the 8 escrow receipts and the 8 escrow receipts generated by
20 Amerilink were escrow receipts for deposits in other escrow files unrelated to Escrow #14453-VP.
21 Amerilink's generation of false escrow receipts violates Financial Code section 17414, subdivisions
22 (a)(1) and (2). Furthermore, on February 14, 2017, Amerilink sent a letter to the lender of Escrow
23 #14453-VP misrepresenting to the lender that the 8 escrow receipts generated by Amerilink
24 evidenced the buyer's deposit of \$6,040,000.00 in funds into Escrow #14453-VP, in violation of
25 Financial Code section 17414, subdivisions (a)(1) and (2). Furthermore, pursuant to written
26 instructions, the seller in Escrow #14453-VP was due proceeds of \$5,153,508.29 at the close of
27 escrow; however, Amerilink closed Escrow #14453-VP despite lacking sufficient trust funds to
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1 disburse the \$5,153,508.29, resulting in a debit balance in Escrow #14453-VP in violation of
2 California Code of Regulations, title 10, section 1738.2. To date, the seller has only been able to
3 recover \$2,844,895.00 from Amerilink. As a result of Amerilink's actions set forth above, Escrow
4 #14453-VP has a trust shortage of \$2,308,613.29.

5 b. The Commissioner's review of Escrow #14453-VP also revealed that only 3 deposits
6 totaling \$418,750.00 in funds were actually receipted and posted into Escrow #14453-VP. However,
7 a review of the 3 escrow receipts revealed that one deposit in the amount of \$124,750.00 that was
8 receipted and posted into Escrow #14453-VP as a buyer deposit was actually a deposit that was
9 made by a principal in an unrelated escrow file, Escrow #14721-VP. In Escrow #14721-VP, the
10 buyer's deposit was receipted and posted in the escrow file, but the escrow receipt was subsequently
11 cancelled by Amerilink and reposted as a buyer deposit in Escrow #14453-VP. Amerilink's
12 generation of false escrow receipts violates Financial Code section 17414, subdivisions (a)(1) and
13 (2). Furthermore, Amerilink disbursed the buyer's deposit from Escrow #14721-VP to Escrow
14 #14453-VP despite there being no written instructions authorizing the disbursement, in violation of
15 Financial Code section 17414, subdivision (a)(1) and California Code of Regulations, title 10,
16 section 1738 and 1738.2.

17 c. Additionally, a \$1,000,000.00 deposit that was made by the seller in Escrow #14453-
18 VP, was not receipted and posted into Escrow #14453-VP in accordance with written instructions,
19 but instead receipted and posted into two separate unrelated escrow transactions, in violation of
20 Financial Code section 17414 (a)(1) and California Code of Regulations, title 10, sections 1738 and
21 1738.1. One of the unrelated escrow transactions that received a portion of the \$1,000,000.00
22 deposit, Escrow #14762-VP, was a transaction in which Phan was the buyer. In Escrow #14762-VP,
23 \$700,000.00 of the \$1,000,000.00 deposit made by the seller of Escrow #14453-VP, instead of being
24 receipted and posted into Escrow #14453-VP in accordance with written instructions, was instead
25 receipted and posted as a buyer deposit from Phan in Escrow #14762-VP. Amerilink's generation of
26 an escrow receipt that reflected that Phan had made a deposit into Escrow #14762-VP, when in fact,
27 the deposit was made by the seller of Escrow #14453-VP, is in violation of Financial Code section
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1 17414, subdivisions (a)(1) and (2). Furthermore, Amerilink disbursed the \$700,000 from Escrow
2 #14453-VP to Escrow #14762-VP despite there being no written authorization to do so, in violation
3 of Financial Code section 17414 (a)(1) and California Code of Regulations, title 10, sections 1738
4 and 1738.1.

5 3. A review of Amerilink's escrow trial balance as of May 2, 2017, reflects current
6 escrow liability of \$805,893.44. Despite having \$805,893.44 in trust liability, Amerilink's trust
7 account bank statement as of May 2, 2017 reflects a balance of only \$66,437.93.

8 4. Finally, a review of Amerilink's financials as of April 30, 2017, reveals that
9 Amerilink failed to meet the liquid asset and tangible net worth requirements under Financial Code
10 section 17210. Amerilink is deficient in meeting the liquid asset requirement by \$13,181.93 and the
11 tangible net worth requirement by \$4,030.54.

12 5. Financial Code section 17621 provides, in pertinent part:

13 Whenever it appears to the commissioner that any escrow
14 agent subject to this division:

15 (b) Is conducting escrow business in an unsafe or unauthorized
16 manner;

17 (c) Has violated its charter or any law of the State of
18 California;

19 (g) Any officer, director, stockholder, or trustee of such escrow
20 agent, or attorney in fact of such escrow agent has embezzled,
21 sequestered, or willfully diverted the assets or trust funds of such
22 escrow agent;

23 (h) Has permitted its tangible net worth to be lower than the
24 minimum required by law;

25 the commissioner shall dispatch a written notice and summary of
26 findings, as referred to in Section 17415, to the principal officer
27 of the escrow agent involved or to its manager of record; and such
28 escrow agent shall be afforded a reasonable opportunity to comply
or otherwise effect such remedies as the commissioner may deem
acceptable. However, should the escrow agent so notified fail to
comply within five days of receipt of the notice, or as soon as it
appears to the commissioner that no compliance is possible, or in
the event prompt delivery of the prescribed written notice
is impossible, the commissioner may forthwith take possession
of the property and business of such escrow agent and retain
possession until such escrow agent resumes business or its affairs

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be finally liquidated as provided in this chapter. The escrow agent, with the consent of the commissioner, may resume business upon such conditions as the commissioner may prescribe.

6. Based on the foregoing, the Commissioner finds that Amerilink Escrow, Inc. has violated Financial Code section 17414, subdivisions (a)(1) and (2) and California Code of Regulations, title 10, sections 1738, 1738.1 and 1738.2, is conducting escrow business in an unsafe and unauthorized manner and no compliance is possible.

Dated: August 16, 2017
Los Angeles, California

JAN LYNN OWEN
Commissioner of Business Oversight

By _____
MARY ANN SMITH
Deputy Commissioner
Enforcement Division