

MARY ANN SMITH
Deputy Commissioner
SEAN ROONEY
Assistant Chief Counsel
JOHNNY VUONG (State Bar No. 249570)
Senior Counsel
Department of Business Oversight
320 W. 4th Street, Suite 750
Los Angeles, California 90013
Telephone: (213) 576-7585
Facsimile: (213) 576-7181

Attorneys for Complainant

BEFORE THE DEPARTMENT OF BUSINESS OVERSIGHT
OF THE STATE OF CALIFORNIA

In the Matter of:)	ESCROW LICENSE NO.: 963-2676
)	
THE COMMISSIONER OF BUSINESS OVERSIGHT,)	1) ORDER BARRING VINH PHAN AND QUANG PHAN, ALSO KNOWN AS ADAN PHAN, FROM ANY POSITION OF EMPLOYMENT, MANAGEMENT, AND CONTROL OF ANY ESCROW AGENT
Complainant,)	
vs.)	
AMERILINK ESCROW, INC., VINH PHAN AND QUANG PHAN, ALSO KNOWN AS, ADAN PHAN.)	2) ORDER REVOKING AMERILINK ESCROW, INC.'S ESCROW AGENT'S LICENSE
Respondents.)	

ORDERS BARRING VINH PHAN AND QUANG PHAN, ALSO KNOWN AS ADAN PHAN, FROM ANY POSITION OF EMPLOYMENT, MANAGEMENT, AND CONTROL OF ANY ESCROW AGENT AND REVOKING AMERILINK ESCROW, INC.'S ESCROW AGENT'S LICENSE

1 The Commissioner of Business Oversight (Commissioner) finds that:

2 1. Amerilink Escrow, Inc. (Amerilink) is an escrow agent licensed by the Commissioner
3 pursuant to the Escrow Law (Financial Code section 17000 et seq.), with its principal place of
4 business at 16742 Gothard Street, Suite #214, Huntington Beach, CA 92647.

5 2. Vinh Phan was, at all relevant times, President, registered agent, and escrow officer at
6 Amerilink.

7 3. Quang Phan, also known as Adan Phan (Adan Phan), was at all relevant times, an
8 employee and escrow assistant at Amerilink.

9 **I.**

10 **June 12, 2017 Examination**

11 4. On or about June 12, 2017, a regulatory examination of the books and records of
12 Amerilink was conducted by the Commissioner. The regulatory examination disclosed that
13 Amerilink, Vinh Phan and Adan Phan violated multiple provisions of the Escrow Law as detailed
14 below:

15 **A. Generating False Documents In Connection With Escrow Affairs**

16 5. Amerilink, Vinh Phan and Adan Phan generated false documents in connection with
17 escrow affairs, in violation of Financial Code section 17414, subdivision (a)(2), as follows:

18 **1. Escrow #14453-VP**

19 6. In Escrow #14453-VP, Adan Phan was the escrow officer. The buyer in Escrow
20 #14453-VP was JVS Development, LLC (JVS), a limited liability company in which Vinh Phan was
21 a member. The seller in Escrow #14453-VP was Brookhurst Town Center, LLC (Brookhurst). On
22 or about February 14, 2017, Amerilink received an escrow amendment signed only by JVS that
23 instructed Amerilink to show that \$6,040,000.00 in deposits were made by JVS in this transaction,
24 but the escrow amendment also acknowledged that no actual deposit was made.

25 7. On or about February 14, 2017, Adan Phan generated a letter to the lender of Escrow
26 #14453-VP, Artemis Realty Capital Advisors, LLC (Artemis), misrepresenting to Artemis that the 8

1 escrow receipts generated by Amerilink in the letter evidenced JVS' deposit of \$6,040,000.00 in
2 funds into Escrow #14453-VP, when in fact JVC never deposited any money into Amerilink for the
3 transaction. Furthermore, the 8 escrow receipts generated by Adan Phan and Vinh Phan that were
4 contained in the February 14, 2017 letter to Artemis belonged to other escrow files unrelated to
5 Escrow #14453-VP and were for different dates and amounts as follows:

6 a. Amerilink, Adan Phan and Vinh Phan represented to Artemis that escrow receipt
7 #2123 was issued on 8/5/16 to receipt JVS' deposit of \$500,000.00; in fact, receipt #2123 was issued
8 on 8/15/16 to receipt a deposit of \$32,999.09 in an unrelated escrow transaction, Escrow #14384-
9 VP;

10 b. Amerilink, Adan Phan and Vinh Phan represented to Artemis that escrow receipt
11 #2125 was issued on 8/9/16 to receipt JVS' deposit of \$1,000,000.00; in fact, receipt #2125 was
12 issued on 8/17/16 to receipt a deposit of \$61,383.45 in an unrelated escrow transaction, Escrow
13 #14397-VP;

14 c. Amerilink, Adan Phan and Vinh Phan represented to Artemis that escrow receipt
15 #2126 was issued on 8/10/16 to receipt JVS' deposit of \$1,000,000.00; in fact, receipt #2126 was
16 issued on 8/17/16 to receipt a deposit of \$10,809.46 in an unrelated escrow transaction, Escrow
17 #14387-VP;

18 d. Amerilink, Adan Phan and Vinh Phan represented to Artemis that escrow receipt
19 #2127 was issued on 8/18/16 to receipt JVS' deposit of \$500,000.00; in fact, Amerilink canceled this
20 escrow receipt and never deposited JVS' check into the trust account;

21 e. Amerilink, Adan Phan and Vinh Phan represented to Artemis that escrow receipt
22 #2132 was issued on 9/15/16 to receipt JVS' deposit of \$1,000,000.00; in fact, receipt #2132 was
23 issued on 8/19/16 to receipt a deposit of \$101,514.37 in an unrelated escrow transaction, Escrow
24 #14445-VP;

25 f. Amerilink, Adan Phan and Vinh Phan represented to Artemis that escrow receipt
26 #2143 was issued on 10/18/16 to receipt JVS' deposit of \$1,000,000.00; in fact, receipt #2143 was

1 issued on 8/26/16 to receipt a deposit of \$7,133.81 in an unrelated escrow transaction, Escrow
2 #14088-VP;

3 g. Amerilink, Adan Phan and Vinh Phan represented to Artemis that escrow receipt
4 #2146 was issued on 10/20/16 to receipt JVS' deposit of \$800,000.00; in fact, receipt #2146 was
5 issued on 8/29/16 to receipt a deposit of \$20,000.00 in an unrelated escrow transaction, Escrow
6 #13641-35812-VP; and

7 h. Amerilink, Adan Phan and Vinh Phan represented to Artemis that escrow receipt
8 #2207 was issued on 12/12/16 to receipt JVS' deposit of \$240,000.00; in fact, receipt #2207 was
9 issued on 9/26/16 to receipt a deposit of \$57,424.35 in an unrelated escrow transaction, Escrow
10 #14448-VP.

11 **2. Escrow #14762-VP**

12 8. In Escrow #14453-VP, the seller, Brookhurst, made a deposit of \$1,000,000.00 into
13 Escrow #14453-VP. However, Amerilink did not receipt Brookhurst's funds into Escrow #14453-
14 VP. Instead, \$700,000.00 of Brookhurst's \$1,000,000.00 deposit was instead receipted and posted as
15 a deposit from Vinh Phan in Escrow #14762-VP, an escrow transaction in which Vinh Phan is the
16 buyer. On February 22, 2017, escrow receipt #2500 was generated by Vinh Phan and Adan Phan to
17 represent a deposit of \$700,000.00 made by Vinh Phan into Escrow #14762-VP. Included in the
18 escrow file of Escrow #14762-VP was a fax wire confirmation dated February 22, 2017, that
19 evidenced that Vinh Phan wired \$700,000.00 into Amerilink's trust account. However, the February
20 22, 2017 fax wire confirmation was not an actual wire confirmation, but a document generated by
21 Vinh Phan and Adan Phan to falsify evidence of Vinh Phan's \$700,000.00 deposit. A review of
22 Amerilink's trust account bank records revealed that Amerilink never received a wire transfer from
23 Vinh Phan in the amount of \$700,000.00 on February 22, 2017.

24 **3. Escrow # 14721-VP**

25 9. In Escrow #14721-VP, the buyers made a deposit of \$124,750.00 into Amerilink
26 through wire transfer on December 7, 2016. The \$124,750.00 deposit was receipted by Vinh Phan on
27

1 December 8, 2016 and posted as escrow receipt #2382 in Escrow #14721-VP. However, a review of
2 the escrow file for Escrow #14721-VP did not contain a copy of escrow receipt #2382. Amerilink
3 subsequently produced a copy of escrow receipt #2382 to the Commissioner, which was a voided
4 receipt. A review of the escrow ledger for Escrow #14721-VP showed that escrow receipt #2382 was
5 cancelled by Vinh Phan and on December 20, 2016, posted into Escrow #14453-VP as escrow
6 receipt #2377, reflecting a \$124,750.00 deposit from the buyers of Escrow #14453-VP, when in fact
7 the deposit belonged to the buyers in Escrow #14721-VP.

8 **B. Unauthorized Disbursements of Trust Funds**

9 10. Amerilink, Vinh Phan and Adan Phan knowingly or recklessly engaged in activity
10 that constitutes theft or fraud in escrow transactions in violation of Financial Code section 17414,
11 subdivision (a)(1) and made unauthorized disbursements of trust funds in violation of Financial
12 Code section 17414, subdivision (a)(1) and California Code of Regulations, title 10, sections 1738
13 and 1738.2 as follows:

14 (a) On or about December 7, 2016, the buyer in Escrow #14721-VP deposited
15 \$124,750.00 into Amerilink through wire transfer. Vinh Phan receipted the buyer's deposit and
16 posted the deposit in Escrow #14721-VP on or about December 9, 2016. On or about December 20,
17 2016, Vinh Phan cancelled the buyer's deposit in Escrow #14721-VP and reposted it as a buyer
18 deposit in Escrow #14453-VP despite receiving no written instructions from the buyer in Escrow #
19 14721-VP authorizing the disbursement of their deposit from Escrow #14721-VP into Escrow
20 #14453-VP for the use of the buyer in Escrow #14453-VP.

21 (b) On or about February 22, 2017, the seller in Escrow #14453-VP, Brookhurst,
22 deposited \$1,000,000.00 into Amerilink through a wire transfer. However, Amerilink did not receipt
23 Brookhurst's deposit into Escrow #14453-VP. Instead, \$700,000.00 of Brookhurst's deposit was
24 diverted into Escrow #14762-VP and receipted by Vinh Phan and Adan Phan as a \$700,000.00
25 deposit from Vinh Phan, who was the buyer in the Escrow #14762-VP. There were no written
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1 instructions from Brookhurst authorizing the disbursement of their deposit from Escrow #14453-VP
2 into Escrow #14762-VP for use by Vinh Phan.

3 **C. Debit Balances**

4 11. Amerilink caused debit balances to exist in escrow accounts in violation of California
5 Code of Regulations, title 10, section 1738.1 as follows:

6 (a) In Escrow #14453-VP, the seller was due proceeds of \$5,153,508.29 at the close of
7 escrow in accordance to written instructions; however, Amerilink closed Escrow #14453-VP despite
8 lacking sufficient trust funds to disburse the \$5,153,508.29, resulting in a debit balance in Escrow
9 #14453-VP. To date, the seller has only been able to recover \$2,844,895.00 from Amerilink. As a
10 result, Escrow #14453-VP has a debit balance of \$2,308,613.29.

11 (b) A review of Amerilink's escrow trial balance as of May 2, 2017, reflected current
12 escrow liability of \$805,893.44. Despite having \$805,893.44 in trust liability, Amerilink's trust
13 account bank statement as of May 2, 2017, reflected a balance of only \$66,437.93, resulting in a
14 debit balance of \$739,455.51.

15 **D. Liquid Asset and Tangible Net Worth Deficiency**

16 12. Pursuant to Financial Code section 17210, all licensees under the Escrow Law are
17 required to maintain, at all times, liquid assets in the amount of at least \$25,000.00 and a tangible net
18 worth of at least \$50,000.00. As of April 30, 2017, Amerilink was deficient in meeting the liquid
19 asset requirement by \$13,181.93 and the tangible net worth requirement by \$4,030.54.

20 **II.**

21 **Order Barring Vinh Phan and Quang Phan, also known as Adan Phan, From Any Position of**
22 **Employment, Management, and Control of Any Escrow Agent and Order Revoking Amerilink**
23 **Escrow, Inc.'s Escrow Agent's License**

24 13. On May 22, 2018, the Commissioner issued a Notice of Intention to Issue Order
25 Revoking Escrow Agent's License and to Issue Order Pursuant to Financial Code section 17423 (Bar
26 From Employment, Management, or Control of Any Escrow Agent), Accusation and accompanying
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1 documents (collectively Accusation) against Vinh Phan, Adan Phan, and Amerilink. Vinh Phan was
2 personally served with the Accusation on May 31, 2018, on behalf of himself and Amerilink. Adan
3 Phan was personally served with the Accusation on May 31, 2018.

4 14. There has been no request for a hearing received by the Commissioner in connection
5 with the Accusation and the statutory time period to request a hearing has expired.

6 15. The violations set forth in Section I above constitute grounds under Financial Code
7 section 17423 to bar a person from any position of employment, management, and control of any
8 escrow agent.

9 16. The violations set forth in Section I above also constitute grounds under Financial
10 Code section 17608 to revoke an escrow agent’s license.

11 THEREFORE, IT IS HEREBY ORDERED:

- 12 1) Vinh Phan is barred from any position of employment, management, and control of
13 any escrow agent;
- 14 2) Quang Phan, also known as Adan Phan, is barred from any position of employment,
15 management, and control of any escrow agent; and
- 16 3) Amerilink Escrow, Inc.’s escrow agent’s license is hereby revoked.

17 This Order is effective of the date hereof.

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19 Dated: July 2, 2018
20 Los Angeles, California

21 JAN LYNN OWEN
22 Commissioner of Business Oversight

23 By: _____
24 MARY ANN SMITH
25 Deputy Commissioner
26 Enforcement Division