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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)
Complainant,) ORDER TO DISCONTINUE ESCROW
15) ACTIVITIES PURSUANT TO FINANCIAL
vs.) CODE SECTION 17415
16)
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
Westminster, CA 92683
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1 THE COMMISSIONER OF BUSINESS OVERSIGHT FINDS THAT:

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
28 disburse the \$5,153,508.29, resulting in a debit balance in Escrow #14453-VP in violation of

1 California Code of Regulations, title 10, section 1738.2. To date, the seller has only been able to
2 recover \$2,844,895.00 from Amerilink. As a result of Amerilink's actions set forth above, Escrow
3 #14453-VP has a trust shortage of \$2,308,613.29.

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

16 c. Additionally, a \$1,000,000.00 deposit that was made by the seller in Escrow #14453-
17 VP, was not receipted and posted into Escrow #14453-VP in accordance with written instructions,
18 but instead receipted and posted into two separate unrelated escrow transactions, in violation of
19 Financial Code section 17414 (a)(1) and California Code of Regulations, title 10, sections 1738 and
20 1738.1. One of the unrelated escrow transactions that received a portion of the \$1,000,000.00
21 deposit, Escrow #14762-VP, was a transaction in which Phan was the buyer. In Escrow #14762-VP,
22 \$700,000.00 of the \$1,000,000.00 deposit made by the seller of Escrow #14453-VP, instead of being
23 receipted and posted into Escrow #14453-VP in accordance with written instructions, was instead
24 receipted and posted as a buyer deposit from Phan in Escrow #14762-VP. Amerilink's generation of
25 an escrow receipt that reflected that Phan had made a deposit into Escrow #14762-VP, when in fact,
26 the deposit was made by the seller of Escrow #14453-VP, is in violation of Financial Code section
27 17414, subdivisions (a)(1) and (2). Furthermore, Amerilink disbursed the \$700,000 from Escrow
28 #14453-VP to Escrow #14762-VP despite there being no written authorization to do so, in violation

1 of Financial Code section 17414 (a)(1) and California Code of Regulations, title 10, sections 1738
2 and 1738.1.

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

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

10 Based on the foregoing, Amerilink Escrow, Inc. is conducting escrow business in such an
11 unsafe and injurious manner as to render further operations hazardous to the public or to customers.

12 NOW BASED ON THE FOREGOING, AND GOOD CAUSE APPEARING THEREFORE,
13 under Financial Code section 17415, it is hereby ORDERED that:

14 Amerilink Escrow, Inc. and any person having in his or her possession any escrow funds or
15 trust funds discontinue immediately the receipt or disbursement of any escrow or joint control
16 money, documents, or other property in its possession, custody or control.

17 This Order is to remain in full force and effect until further order of the Commissioner.

18 Financial Code 17415 provides as follows:

19 17415. (a) If the commissioner, as a result of any examination or
20 from any report made to him or her, shall find that any person
21 subject to this division is in an insolvent condition, is conducting
22 escrow business in such an unsafe or injurious manner as to render
23 further operations hazardous to the public or to customers, has
24 failed to comply with the provisions of Section 17212.1 or 17414.1,
25 has permitted its tangible net worth to be lower than the minimum
26 required by law, has failed to maintain its liquid assets in excess
27 of current liabilities as set forth in Section 17210, or has failed
28 to comply with the bonding requirements of Chapter 2 (commencing with
Section 17200) of this division, the commissioner may, by an order
addressed to and served by registered or certified mail or by
personal service on such person and on any other person having in his
or her possession or control any escrowed funds, trust funds or
other property deposited in escrow with said person, direct
discontinuance of the disbursement of trust funds by the parties or
any of them, the receipt of trust funds, the delivery or recording of

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documents received in escrow, or other business operations. No person having in his or her possession any of these funds or documents shall be liable for failure to comply with the order unless he or she has received written notice of the order. Subject to subdivision (b), the order shall remain in effect until set aside by the commissioner in whole or in part, the person is the subject of an order for relief in bankruptcy, or pursuant to Chapter 6 (commencing with Section 17621) of this division the commissioner has assumed possession of the escrow agent.

(b) Within 15 days from the date of an order pursuant to subdivision (a), the person may request a hearing under the Administrative Procedure Act, Chapter 5 (commencing with Section 11500) of Division 3 of Title 2 of the Government Code. Upon receipt of a request, the matter shall be set for hearing to commence within 30 days after such receipt unless the person subject to this division consents to a later date. If no hearing is requested within 15 days after the mailing or service of such notice and none is ordered by the commissioner, the failure to request a hearing shall constitute a waiver of the right to a hearing. Neither the request for a hearing nor the hearing itself shall stay the order issued by the commissioner under subdivision (a).

Dated: August 16, 2017
Los Angeles, California

JAN LYNN OWEN
Commissioner of Business Oversight

By _____
MARY ANN SMITH
Deputy Commissioner
Enforcement Division