

FILED

JUN 26 2010

DEPARTMENT OF REAL ESTATE
By *L. Frost*

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)	
)	NO. H-2411 FR
AMERILTY, INC., a California Corporation,)	
and VINCE AUGUSTINE DE LEON,)	
)	
Respondents.)	
_____)	

DECISION

This Decision is being issued in accordance with the provisions of Section 11520 of the Government Code, on evidence of compliance with Section 11505 of the Government Code and pursuant to the Order of Default filed on February 26, 2010, and the findings of fact set forth herein, which are based on one or more of the following: (1) Respondent's express admissions; (2) affidavits; and (3) other evidence.

I

FINDINGS OF FACT

1

The Complainant, JOHN W. SWEENEY, a Deputy Real Estate Commissioner of the State of California, made this Accusation against Respondents in his official capacity.

2

Respondents AMERILTY, INC., and VINCE AUGUSTINE DE LEON are presently licensed and/or have license rights under the Real Estate Law, Part 1 of Division 4 of the California Business and Professions Code (hereinafter "the Code").

3

At all times herein mentioned, Respondent AMERILTY, INC., (hereinafter "Respondent AMERILTY") was and is licensed by the Department of Real Estate (hereinafter "the Department") as a corporate real estate broker.

4

At all times herein mentioned, Respondent VINCE AUGUSTINE DE LEON (hereinafter "Respondent DE LEON") was and is licensed by the Department as an individual real estate broker.

5

At all times herein mentioned, Respondent DE LEON was licensed by the Department as the designated broker/officer of Respondent AMERILTY until July 21, 2008. As said designated broker/officer, Respondent DE LEON was at all times mentioned herein responsible pursuant to Sections 10159.2 and 10177(h) of the Code for the supervision of the activities of the officers, agents, real estate licensees and employees of Respondent AMERILTY for which a real estate license is required.

6

At no time mentioned herein did the Department license JAMES GUTIERREZ VALLE (hereinafter "VALLE") as either a real estate broker or as a real estate salesperson.

7

At all times herein mentioned, all acts or omissions of Respondent AMERILTY were deemed to be the acts and omissions of the officers, directors, employees, agents and real estate licensees employed by or associated with Respondent AMERILTY and such acts or omissions were committed while engaged in the furtherance of the business or operations of Respondent AMERILTY and while acting within the course and scope of their corporate authority and employment.

8

Within three years prior to the filing of the Accusation and at all times herein mentioned, Respondents engaged in the business of, acted in the capacity of, advertised, or assumed to act as a real estate broker within the State of California within the meaning of Section 10131(d) of the Code, including the operation of and conduct of a mortgage loan brokerage business with the public wherein lenders and borrowers were solicited for loans to be secured directly or collaterally by liens on real property, wherein such loans were arranged, negotiated, processed, and consummated on behalf of others for compensation or in expectation of compensation, and wherein such loans were serviced and payments thereon were collected on behalf of others.

FIRST CAUSE OF ACTON

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Within the three year period prior to the filing of the Accusation and at all times herein mentioned, Respondent AMERILTY employed VALLE to perform and engage in the activities set forth in Paragraph 8, above, for which a real estate license is required, for or in expectation of compensation.

10

Within the three year period prior to the filing of the Accusation and at all times herein mentioned, in the course of the activities described in Paragraphs 8 and 9, above, VALLE, while unlicensed, solicited borrowers and lenders and/or negotiated loans secured directly or collaterally by liens on real property, wherein such loans were brokered, arranged, processed, and/or consummated on behalf of others pursuant to Section 10131(d) of the Code, for or in expectation of compensation, including, but not limited to, the following transaction:

- 1.) Real property: 2891 Tenaya Avenue, Clovis, California
Clients/Borrowers: Daniel L. Hollender and Sheila R. Hollender
Lender: Washington Mutual Bank (now Chase Bank)
Application date: 4/12/07
Escrow: Financial Title Company, escrow #44095423-762 MCC
Closed: 5/9/07

SECOND CAUSE OF ACTION

11

Within the three year period prior to the filing of the Accusation and at all times herein mentioned, in connection with the loan brokerage business described in Paragraph 8, above, Respondent AMERILTY failed to provide and/or failed to retain for a period of three (3) years the "Mortgage Loan Disclosure Statement", as signed and dated by the borrowers and/or by the broker, as required by Section 10240 of the Code, containing all required information in conformance with Section 10241 of the Code, including, but not limited to, the following transaction:

- 1.) Real property: 2891 Tenaya Avenue, Clovis, California
Clients/Borrowers: Daniel L. Hollender and Sheila R. Hollender
Lender: Washington Mutual Bank (now Chase Bank)
Application date: 4/12/07
Escrow: Financial title Company, escrow #44095423-762 MCC
Closed: 5/9/07

THIRD CAUSE OF ACTION

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At all times herein mentioned, Respondent DE LEON was responsible, as the designated broker/officer of Respondent AMERILTY, for the supervision and control of the activities conducted on behalf of the corporation by its officers and employees. Respondent DE LEON failed to exercise reasonable supervision and control over the mortgage brokering activities of Respondent AMERILTY. In particular, Respondent DE LEON permitted, ratified and/or caused the conduct described in the First and Second Causes of Accusation, above, to occur, including but not limited to the employment of unlicensed persons to conduct licensed acts, failed to provide to borrowers and/or failed to maintain signed copies of the Mortgage Lender Disclosure Statement, and failed to take reasonable steps, including the implementation of policies, rules, procedures, and systems, to ensure the compliance of Respondent AMERILTY with the Real Estate Law.

II

DETERMINATION OF ISSUES

13

The acts and/or omissions of Respondents AMERILTY and DE LEON set forth in the First Cause of Action, above, constitute cause for the suspension or revocation of the licenses and license rights of Respondents under Sections 10130 and 10137 of the Code in conjunction with Section 10177(d) the Code.

14

The acts and/or omissions of Respondent AMERILTY set forth in the Second Cause of Action, above, constitute cause for the suspension or revocation of the licenses and license rights of Respondent under Sections 10148, 10240 and 10241 of the Code in conjunction with Section 10177(d) of the Code.

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The facts set forth in the Third Cause of Action, above, are grounds for the suspension or revocation of the real estate broker license of Respondent DE LEON under the provisions of Section 10177(h) of the Code and/or Section 10159.2(a) of the Code in conjunction with Section 10177(d) of the Code.

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The standard of proof applied was clear and convincing proof to a reasonable certainty.

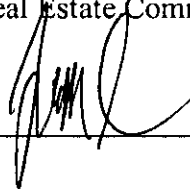
ORDER

All licenses and licensing rights of AMERILTY, INC., a California Corporation, and Respondent VINCE AUGUSTINE DE LEON, under the provisions of Part I of Division 4 of the Business and Professions Code, are revoked.

This Decision shall become effective at 12 o'clock noon on JUL 15 2010

DATED: 7-14-2010

JEFF DAVI
Real Estate Commissioner



PLG

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6
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FILED
AUG 05 2009
DEPARTMENT OF REAL ESTATE
By: *[Signature]*

8 BEFORE THE DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)
12) H-2411 FR
13 AMERILTY, INC., a California Corporation,) ACCUSATION
and VINCE AUGUSTINE DE LEON,)
14)
15 Respondents.)

16 The Complainant, JOHN W. SWEENEY, a Deputy Real Estate Commissioner of
17 the State of California, as and for an Accusation herein against AMERILTY, INC., a California
18 Corporation, doing business under the fictitious name of UNITED MORTGAGE & REALTY,
19 and VINCE AUGUSTINE DE LEON is informed and alleges as follows:

20 GENERAL ALLEGATIONS

21 1

22 The Complainant, JOHN W. SWEENEY, a Deputy Real Estate Commissioner of
23 the State of California, makes this Accusation against Respondents in his official capacity.

24 2

25 Respondents AMERILTY, INC., and VINCE AUGUSTINE DE LEON are
26 presently licensed and/or have license rights under the Real Estate Law, Part 1 of Division 4 of
27 the California Business and Professions Code (hereinafter "the Code").

At all times herein mentioned, Respondent AMERILTY, INC., (hereinafter "Respondent AMERILTY") was and is licensed by the Department of Real Estate (hereinafter "the Department") as a corporate real estate broker.

At all times herein mentioned, Respondent VINCE AUGUSTINE DE LEON (hereinafter "Respondent DE LEON") was and is licensed by the Department as an individual real estate broker.

At all times herein mentioned, Respondent DE LEON was licensed by the Department as the designated broker/officer of Respondent AMERILTY until July 21, 2008. As said designated Broker/Officer, Respondent DE LEON was at all times mentioned herein responsible pursuant to Sections 10159.2 and 10177(h) of the Code for the supervision of the activities of the officers, agents, real estate licensees and employees of Respondent AMERILTY for which a real estate license is required.

At no time mentioned herein did the Department license JAMES GUTIERREZ VALLE (hereinafter "VALLE") as either a real estate broker or as a real estate salesperson.

Whenever reference is made in an allegation in this Accusation to an act or omission of Respondent AMERILTY, such allegation shall be deemed to mean that the officers, directors, employees, agents and real estate licensees employed by or associated with Respondent AMERILTY committed such act or omission while engaged in the furtherance of the business or operations of Respondent AMERILTY and while acting within the course and scope of their corporate authority and employment.

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1
2 Within the three year prior to the filing of this Accusation and at all times herein
3 mentioned, Respondents engaged in the business of, acted in the capacity of, advertised, or
4 assumed to act as a real estate broker within the State of California within the meaning of
5 Section 10131(d) of the Code, including the operation of and conduct of a mortgage loan
6 brokerage business with the public wherein lenders and borrowers were solicited for loans to be
7 secured directly or collaterally by liens on real property, wherein such loans were arranged,
8 negotiated, processed, and consummated on behalf of others for compensation or in expectation
9 of compensation, and wherein such loans were serviced and payments thereon were collected on
10 behalf of others.

11 FIRST CAUSE OF ACTION

13 There is hereby incorporated in this First, separate and distinct, Cause of Action,
14 all of the allegations contained in Paragraphs 1 through 8, inclusive, of the Accusation with the
15 same force and effect as if herein fully set forth.

17 Within the three year period next preceding to the filing of this Accusation and at
18 all times herein mentioned, Respondent AMERILTY employed VALLE to perform and engage
19 in the activities set forth in Paragraph 8, above, for which a real estate license is required, for or
20 in expectation of compensation.

22 Within the three year period next preceding to the filing of this Accusation and at
23 all times herein mentioned, in the course of the activities described in Paragraphs 8 and 10,
24 above, VALLE, while unlicensed, solicited borrowers and lenders and/or negotiated loans
25 secured directly or collaterally by liens on real property, wherein such loans were brokered,
26 arranged, processed, and/or consummated on behalf of others pursuant to Section 10131(d) of

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1 the Code, for or in expectation of compensation, including, but not limited to, the following
2 transaction:

- 3 1.) Real property: 2891 Tenaya Avenue, Clovis, California
4 Clients/Borrowers: Daniel L. Hollender and Sheila R. Hollender
5 Lender: Washington Mutual Bank (now Chase Bank)
6 Application date: 4/12/07
7 Escrow: Financial Title Company, escrow #44095423-762 MCC
8 Closed: 5/9/07

9 12

10 The facts alleged above constitute cause for the suspension or revocation of the
11 licenses and license rights of Respondents under Sections 10130 and 10137 of the Code in
12 conjunction with Section 10177(d) the Code.

13 SECOND CAUSE OF ACTION

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15 There is hereby incorporated in this Second, separate and distinct, Cause of
16 Action, all of the allegations contained in Paragraphs 1 through 12, inclusive, of the Accusation
17 with the same force and effect as if herein fully set forth.

18 14

19 Within the three year period prior to the filing of this Accusation and at all times
20 herein mentioned, in connection with the loan brokerage business described in Paragraph 8,
21 above, Respondent AMERILTY failed to provide and/or failed to retain for a period of three (3)
22 years the "Mortgage Loan Disclosure Statement", as signed and dated by the borrowers and/or
23 by the broker, as required by Section 10240 of the Code, containing all required information in
24 conformance with Section 10241 of the Code, including, but not limited to, the following
25 transaction:

- 26 1.) Real property: 2891 Tenaya Avenue, Clovis, California
27 Clients/Borrowers: Daniel L. Hollender and Sheila R. Hollender

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Lender: Washington Mutual Bank (now Chase Bank)

Application date: 4/12/07

Escrow: Financial Title Company, escrow #44095423-762 MCC

Closed: 5/9/07

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The acts and/or omissions of Respondent AMERILTY as alleged in Paragraph 14, above, constitute grounds for the revocation or suspension of Respondent's licenses and/or license rights under Sections 10148, 10240 and 10241 of the Code in conjunction with Section 10177(d) of the Code.

THIRD CAUSE OF ACTION

16

There is hereby incorporated in this Third, separate and distinct, Cause of Action, all of the allegations contained in Paragraphs 1 through 15, inclusive, of the Accusation with the same force and effect as if herein fully set forth.

17

At all times above mentioned, Respondent DE LEON was responsible, as the designated broker/officer of Respondent AMERILTY, for the supervision and control of the activities conducted on behalf of the corporation by its officers and employees. Respondent DE LEON failed to exercise reasonable supervision and control over the mortgage lending activities and employment activities of Respondent AMERILTY. In particular, Respondent DE LEON permitted, ratified and/or caused the conduct described in the First and Second Causes of Accusation, above, to occur, including but not limited to the employment of unlicensed persons to conduct licensed acts, and failed to provide to borrowers and/or failed to maintain signed copies of the Mortgage Lender Disclosure Statement, and failed to take reasonable steps, including the implementation of policies, rules, procedures, and systems, to ensure the compliance of Respondent AMERILTY with the Real Estate Law.

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The above acts and/or omissions of Respondent DE LEON constitute grounds for suspension or revocation of his real estate broker license under the provisions of Section 10177(h) of the Code and/or Section 10159.2(a) of the Code in conjunction with Section 10177(d) of the Code.

WHEREFORE, Complainant prays that a hearing be conducted on the allegations of this Accusation and that upon proof thereof a decision be rendered imposing disciplinary action against all licenses and license rights of Respondent under the Real Estate Law (Part 1 of Division 4 of the Business and Professions Code) and for such other and further relief as may be proper under other applicable provisions of law.


JOHN W. SWEENEY
Deputy Real Estate Commissioner

Dated at Fresno, California,
this 29th day of July, 2009.