



1 Affordable for the period September 30, 2011 to August 31, 2012. Each month, Affordable made four  
2 to five payments to AG Carrier totaling approximately \$10,000.

3 6. The examiner interviewed Herrera to determine why Affordable was paying what  
4 appeared to be excessive courier fees. Herrera told the examiner that she had hired AG Courier for  
5 many years to deliver documents and boxes on behalf of her escrow clients. She also stated that she  
6 was aware AG Carrier's fees were higher than other couriers but Herrera was willing to pay the fees  
7 because the company provided superior services. Herrera denied that there was an affiliation between  
8 Affordable and AG Carrier.

9 7. After reviewing the invoices the examiner noticed that some contained detailed  
10 charges while others did not. The examiner then separated the AG Carrier invoices into two  
11 categories, itemized invoices that had delivery detail, and "fictitious" invoices that contained no  
12 delivery detail. Again, the examiner approached Herrera to enquire about the differences between the  
13 two sets of AG Carrier invoices. Herrera could not explain why some of the invoices lacked delivery  
14 detail other than to say that those invoices represented "contract pricing." Shortly thereafter, Herrera  
15 admitted to the examiner that she was in a personal relationship with AG Carrier's owner, Andrew  
16 Gonzales ("Gonzales"), and that he was her "boyfriend." Herrera also confirmed that the detailed  
17 invoices were true invoices, while the invoices lacking delivery detail were fictitious invoices  
18 prepared for bookkeeping purposes only. Herrera told the examiner that she had paid high income  
19 taxes in the past and, in order to achieve tax savings, she had inflated messenger expenses by  
20 preparing fake invoices and transferring money to Gonzales. Herrera claimed to have engaged in this  
21 activity since at least 2008.

22 8. The examiner proceeded to review Affordable's escrow files to determine if the  
23 licensee had inflated its clients' courier fees. Based on a spot review of selected escrow files, the  
24 examiner concluded that the fees charged to the escrow principals were legitimate.

25 9. After having conducted her detailed review, the examiner identified itemized invoices  
26 totaling \$21,770 and "fictitious" or "contract pricing" invoices in the amount of \$105,267.24.

27 10. During her exit interview with the licensee, the examiner warned Herrera to stop  
28 inflating messenger fee expenses and Herrera agreed to discontinue the practice.

1           11.     On or about December 11, 2013, the examiner reviewed Affordable's most recent  
2 annual report for its fiscal year-end February 28, 2013. The messenger fees still appeared unusually  
3 high. The total messenger fee expenses listed on the annual report amounted to \$154,129 or  
4 approximately 34.78% of Affordable's total operating expenses of \$443,114. Affordable's CPA firm  
5 did not disclose any comment in the annual report concerning messenger fees.

6           12.     At the request of the Deputy Commissioner, on or about February 11, 2014, the  
7 examiner returned to Affordable's offices to perform a follow-up examination of the licensee's  
8 general account books and records. Based on her review, the examiner identified average monthly  
9 messenger payments of \$11,434.23 or 29.89% of the business' total operating expenses.

10          13.     When confronted with the examiner's findings, Herrera reported that the inflated  
11 messenger fees issue had been corrected. She claimed that the messenger fees Affordable paid in  
12 2013 were lower than the prior year's messenger fee expenses. According to Herrera, her CPA,  
13 accountant, and attorney all advised her that because she is Affordable's owner, she could pay  
14 whomever she wanted to pay and any amount she wanted to pay for messenger services.

15                 Financial Code section 17400 provides:

16                     The commissioner may from time to time make, amend, and rescind the  
17 rules, forms, and orders that are necessary to carry out the provisions of  
18 this division, and define any terms, whether or not used in this division,  
19 insofar as the definitions are not inconsistent with the provisions of this  
20 division. For the purpose of rules and forms, the commissioner may,  
21 among other things, classify persons and matters within the  
22 commissioner's jurisdiction and may prescribe different requirements  
23 for different classes. The commissioner may, in the commissioner's  
24 discretion, waive any requirement of any rule or form in situations  
25 where in his or her opinion the requirement is not necessary in the  
26 public interest or for the protection of the public.

23                 Financial Code section 17404 provides:

24                     Every person subject to this division shall keep and use in its business,  
25 books, accounts, and records which will properly enable the  
26 commissioner to determine whether the escrow functions performed by  
27 such person comply with the provisions of this division and with all  
28 rules made by the commissioner under this division.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

Financial Code section 17414 provides in relevant part:

(a) It is a violation for any person subject to this division or any director, stockholder, trustee, officer, agent, or employee of any such person to do any of the following:

...

(2) Knowingly or recklessly make or cause to be made any misstatement or omission to state a material fact, orally or in writing, in escrow books, accounts, files, reports, exhibits, statements, or any other document pertaining to an escrow or escrow affairs.

California Code of Regulations, title 10, section 1732 provides:

An escrow agent shall maintain its books, records and accounts in accordance with generally accepted accounting principles and good business practice.

By reason of the foregoing, Affordable has engaged in unsafe and injurious practices in violation of sections 17400, 17404, and 17414 of the Financial Code and section 1732 of title 10 of the California Code of Regulations.

Under Financial Code section 17603, Affordable Escrow, Inc. is hereby ordered to desist and refrain from paying inflated and falsely reported messenger service invoices for the purpose of evading taxes on company income. Affordable Escrow, Inc.'s manipulation of its books and financial results constitutes an unsafe and injurious practice.

This Order is necessary, in the public interest for the protection of the public, and consistent with the purposes, policies, and provisions of the Escrow Law.

Dated: October 16, 2014  
Los Angeles, California

JAN LYNN OWEN  
Commissioner of Business Oversight

By: \_\_\_\_\_  
MARY ANN SMITH  
Deputy Commissioner  
Enforcement Division