

1 CALIFORNIA DEPARTMENT OF INSURANCE
LEGAL DIVISION

2 Rebecca M. Westmore, Esq. SBN 148152
3 300 Capitol Mall, 16th Floor
4 Sacramento, California 95814
Telephone: 916 492-3500
Facsimile: 916 324-1883

5 Attorneys for Harry W. Low,
Insurance Commissioner

7 **BEFORE THE INSURANCE COMMISSIONER**
8 **OF THE STATE OF CALIFORNIA**
9 **SACRAMENTO**

11 In the Matter of

12 RADIANT GUARANTY, INC.,
13 AMERIN GUARANTY
14 CORPORATION, and
RADIANTEXPRESS.COM INC.,

15 Respondents.

ORDER TO CEASE AND DESIST and
NOTICE OF RIGHT TO HEARING
(Calif. Ins. Code § 12921.8)

File No. SF 15404-A

16 **JURISDICTION AND PARTIES**

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18 A. The California Department of Insurance, (hereafter "Department"), brings this
19 matter before the Insurance Commissioner of the State of California (hereafter "Insurance
20 Commissioner") pursuant to the provisions of California Insurance Code Section 12921.8.

21 B. Respondent, RADIANT GUARANTY, INC. (hereafter "RADIANT"), was and has
22 been since March 9, 1978, the holder of a Certificate of Authority issued by the Insurance
23 Commissioner to transact Mortgage Guaranty insurance in the State of California. RADIANT'S
24 license is limited to the ability to transact Mortgage Guaranty insurance.

25 C. Respondent AMERIN GUARANTY CORPORATION (hereafter "AMERIN"), was
26 and has been since December 1, 1980, the holder of a Certificate of Authority issued by the
27 Insurance Commissioner to transact Mortgage Guaranty insurance in the State of California.
28 AMERIN'S license is limited to the ability to transact Mortgage Guaranty insurance.

FINDINGS & AUTHORITY

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2 1. California Insurance Code Section 12921.8(a) authorizes the Insurance
3 Commissioner to issue a Cease and Desist Order against any person acting as, or holding himself,
4 herself, or itself out as, an insurance agent or broker without being so licensed, and against any
5 person holding out that person as transacting, or transacting, the business of insurance without
6 having been issued a Certificate of Authority; and,

7 2. California Insurance Code Section 12921.8(a) authorizes the Insurance
8 Commissioner to issue a Cease and Desist Order without holding a hearing prior to issuance of
9 said Order; and,

10 3. Respondent RADIAN is a Pennsylvania-domiciled insurer providing financial
11 guaranty, mortgage insurance, and mortgage services to financial and capital markets; and,

12 4. Respondent AMERIN merged with Respondent RADIAN effective June 9, 1999,
13 and provides financial guaranty, mortgage insurance, and mortgage services to financial and
14 capital markets; and,

15 5. Respondent RADIAN EXPRESS is not currently licensed by the Insurance
16 Commissioner to act in any capacity regarding the transaction of insurance; and,

17 6. California Insurance Code Section 12640.10 provides that an insurer which
18 anywhere transacts any class of insurance other than mortgage guaranty insurance is not eligible
19 for the issuance of a Certificate of Authority to transact mortgage guaranty insurance in this state;
20 and,

21 7. Respondents RADIAN, AMERIN, AND RADIAN EXPRESS have, and continue
22 to market, solicit, negotiate, and sell mortgage pool insurance policies (more commonly referred
23 to as the "Radian Lien Protection Program") to California lenders, insuring those lenders against
24 losses sustained as a result of undisclosed property liens. These policies are title policies pursuant
25 to California Insurance Code Section 12340.1; and,

26 8. California Insurance Code Section 12340.1(a) defines "Title Insurance" as
27 insuring, guaranteeing or indemnifying owners of real or personal property against loss or
28 damage suffered by reason of liens or encumbrances on, or defects in the title to said property,

1 invalidity or unenforceability of any liens or encumbrances thereon, or incorrectness of searches
2 relating to the title to real or personal property; and,

3 9. Pursuant to California Insurance Code Section 12340.1, coverage for losses
4 resulting from undisclosed property liens falls within the definition of title insurance; and,

5 10. California Insurance Code Section 12360 provides that title insurance coverage
6 may only be written by licensed monoline title insurers; and,

7 11. Respondents RADIAN, AMERIN, AND RADIAN EXPRESS are, and were
8 during relevant times herein, required to hold a Certificate of Authority, pursuant to California
9 Insurance Code Sections 12340.3, 12389.1, 12389.2, and 12389.5, to transact title insurance in
10 this State, and to perform any or all of the above referenced acts.

11
12 **ORDER TO CEASE AND DESIST**

13 NOW THEREFORE, RESPONDENTS, RADIAN, AMERIN, AND RADIAN EXPRESS
14 ARE HEREBY ORDERED to immediately CEASE AND DESIST from marketing, soliciting,
15 negotiating, and selling to California lenders insurance policies that provide coverage for
16 undisclosed property liens, and to immediately CEASE AND DESIST from the following:

17 a. Issuing or proposing to issue any title policy as insurer, guarantor, or
18 indemnitor, as defined pursuant to California Insurance Code Section 12340.3(a);

19 b. Transacting or proposing to transact any phase of title insurance, including
20 solicitation, negotiation preliminary to execution, or execution of a title policy, insuring
21 and transacting matters subsequent to the execution of a title policy and arising out of such
22 policy, excluding reinsurance. "Soliciting" means making any oral or written statement
23 with the intention or possible effect of provoking a person's interest in purchasing a title
24 insurance policy. "Negotiating" means having any discussion with the objective of
25 arranging the purchase or sale of title insurance for compensation of any kind;

26 c. Having any contact whatsoever with any other person, for the purpose of
27 soliciting, negotiating, arranging, discussing, or otherwise transacting title insurance in
28 any manner;

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NOTICE OF RIGHT TO HEARING

Insurance Code Section 12921.8(b), a copy of which is attached to this Cease and Desist Order, provides in part, as follows:

“A person to whom a cease and desist order is issued, may, within seven days after service of the order, request a hearing by filing a request for a hearing with the commissioner.”

If you desire a hearing in this matter, your written request for a hearing must be received within seven days after you are personally served with the Order. The seven days begins to run on the day after the day you are served, and if the seventh day falls on a weekend, the period in which your request must be filed is extended to Monday or the next business day if Monday is a holiday. Your written request for a hearing must be directed to: Rebecca M. Westmore, Staff Counsel, California Department of Insurance, 300 Capitol Mall, 16th Floor, Sacramento, California 95814.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed by official seal, this 19th day of June 2002.

HARRY W. LOW
Insurance Commissioner

By: _____
ERIKA E. LORENZ
Assistant Chief Counsel