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COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF BANKING

PA DEPT OF BANKING

COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF BANKING, BUREAU  
OF COMPLIANCE, INVESTIGATION  
AND LICENSING,

Docket No. 09 0049 (ENF-CO)

v.

MAIN LINE CAPITAL INC. and

THOMAS P. GIRONE, individually

CONSENT AGREEMENT AND ORDER

The Commonwealth of Pennsylvania, acting through the Department of Banking (the "Department"), Bureau of Examinations, has conducted an examination of Main Line Capital Inc. d/b/a Main Line Capital and its officers, employees and directors including Thomas P. Girone (collectively "Main Line Capital"). Based on the results of the examination, the Bureau of Compliance, Investigation and Licensing (the "Bureau") believes that Main Line Capital operated in violation of 7 Pa.C.S. § 6101 et seq. (the "Mortgage Act"). The parties to the above captioned matter, in lieu of litigation, hereby stipulate that the following statements are true and correct in the settlement of the above-captioned matter and, intending to be legally bound, hereby agreed to the terms of this Consent Agreement and Order (the "Order").

BACKGROUND

1. The Department is the Commonwealth of Pennsylvania's administrative agency authorized and empowered to administer and enforce the Mortgage Act.
2. The Bureau is primarily responsible for administering and enforcing the Mortgage Act for the Department.

3. The Mortgage Act is the successor statute to Chapter 3 of the Mortgage Bankers and Brokers and Consumer Equity Protection Act (the "MBBCEPA"), 63 P.S. § 456.301 et seq., and the Secondary Mortgage Loan Act (the "SMLA"), 7 P.S. § 6601 et seq. On November 5, 2008, Chapter 3 of the MBBCEPA and the SMLA were repealed by operation of law and replaced by the Mortgage Act.

4. Main Line Capital was licensed as a First Mortgage Broker, license no. 4276, under the MBBCEPA and as a Secondary Mortgage Broker, license no. 1670, under the SMLA.

5. Main Line Capital was granted a conditional license pursuant to the Mortgage Act on November 5, 2008.

6. Main Line Capital has its principal place of business in Pennsylvania located at 1103 Mellien Dr, Downingtown, PA 19335-4053.

7. Main Line Capital's former principal place of business in Pennsylvania was located at 5022 West Chester Pike, Edgmont, PA 19028 (the "Former Principal Place").

8. Thomas P. Girone ("Thomas Girone") is listed as the 100% owner of Main Line Capital.

9. On April 7, 2008, examiners from the Department initiated an examination of Main Line Capital at the Former Principal Place (the "Examination").

#### Material Misstatement on Annual Report

10. The Examination revealed that Main Line Capital had provided material misstatements on its 2006 First and Secondary Mortgage Annual Reports which were submitted to the Department on April 25, 2007.

11. Question C.11 of the 2006 Annual Report asked "Do you have an affiliation with any title companies, realtors, builders and/or appraisers?"

12. Main Line Capital responded "No" to Question C.11.

13. In addition to owning Main Line Capital, Thomas P. Girone is also the President of REMAX Connection (a real estate company) and Village Land Transfer (a title company).

14. Section 6136(b) of the Mortgage Act (corresponding to Section 309(a)(2) of the MBBCEPA) provides, in relevant part, that a licensee shall not "[c]onduct any business other than any business regulated by the department in any place of business licensed pursuant to this chapter without at least 90 days' prior written notification to the department." 7 Pa.C.S. § 6136(b) (corresponding to 63 P.S. § 456.309(a)(2)).

15. Section 6139(a)(1) of the Mortgage Act (corresponding to Section 313(a)(1) of the MBBCEPA and Section 19(a)(1) of the SMLA) provides, in relevant part, that the Department may suspend, revoke or refuse to renew a license issued pursuant to the Mortgage Act if a licensee or a licensee's owner, officer, partner, or employee has "[m]ade a material misstatement in an application or any report or submission required by this chapter or any department regulation, statement of policy or order." 7 Pa. C.S. § 6139(a)(1) (corresponding to 63 P.S. § 456.313(a)(1) and 7 P.S. § 6619(a)(1)).

#### Mortgage Commitments

16. The Examination revealed that Main Line Capital had issued mortgage loan commitments to borrowers on purchase money loans in at least eleven (11) instances.

17. Main Line Capital contends that the mortgage loan commitments were issued subsequent to receiving approval from the lender:

18. Section 6123(7) of the Mortgage Act (corresponding to Section 309(a)(5) of the MBBCEPA) provides, in relevant part that a *mortgage broker* licensee shall not "... commit to close or close mortgage loans in its own name, service mortgage loans, enter into lock-in

agreements or collect lock-in fees, provided, however, that a mortgage broker or mortgage originator can provide a lender's lock-in agreement to a consumer on behalf of that lender and collect lock-in fees payable to that lender on the lender's behalf." 7 Pa. C.S. § 6123(7) (corresponding to 63 P.S. § 456.309(a)(5)).

19. As a mortgage broker, Main Line Capital was not authorized to issue mortgage loan commitments in its own name.

#### Unlicensed Loan Originators

20. The Examination revealed that several employees of Main Line Capital that were acting as loan officers (the "Loan Officers") were being paid via IRS form 1099 and not as W-2 employees.

21. The Loan Officers were soliciting and negotiating mortgage loans on behalf of Main Line Capital.

22. Since the Loan Officers were not W-2 employees of Main Line Capital they were required to be individually licensed.<sup>1</sup>

23. The Loan Officers were not individually licensed pursuant to the MBBCEPA and/or the SMLA.

24. Main Line Capital and Thomas Girone claim that the employees in question were processing loans which did not require them to be paid on a W-2 basis.

25. Although one (1) of the Loan Officers in question was licensed by the Department, loans were being originated under Main Line Capital's licenses which meant that the Loan Officer would have needed to be a W-2 employee of Main Line Capital.

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<sup>1</sup> At the time of the violations, employees of a mortgage broker were not required to be individually licensed. See 63 P.S. § 456.303(b)(11).

26. Section 6111(a) of the Mortgage Act (corresponding to Section 303(a) of the MBBCEPA and Section 3(a)(1) of the SMLA) provides, in relevant part, that “no person shall engage in the mortgage loan business in this Commonwealth without being licensed as a mortgage broker, mortgage lender, mortgage loan correspondent or mortgage originator as provided under this chapter. . . .” 7 Pa.C.S. § 6111(a) (corresponding to 63 P.S. § 456.303(a) and 7 P.S. § 6603(a)(1)).

27. Section 6136(a)(1) of the Mortgage Act (corresponding to Section 309(a)(1) of the MBBCEPA and Section 11(1) of the SMLA) provides, in relevant part, that “[a] licensee cannot transact any business under this chapter under any name or names except those names designated in its license. . . .” 7 Pa.C.S. § 6136(a)(1) (corresponding to 63 P.S. § 456.309(a)(1) and 7 P.S. § 6611(1)).

#### Internal Controls

28. The examiner’s review of Main Line Capital’s mortgage loan files revealed a number of warning indicators representing that a Loan Officer conveyed false or misleading information to mortgage lenders. The warning indicators included the following issues:

- (a) altered documents; and
- (b) borrower signature inconsistencies.

29. During the Examination, the examiner reviewed the policies and procedures that Main Line Capital had in place to internally control and mitigate the dissemination of false or misleading information to first mortgage loan lenders.

30. The examiner’s review and subsequent interview with Thomas Girone concluded that Main Line Capital did not have internal controls in place to control and mitigate the dissemination of false or misleading information to first mortgage loan lenders.

31. Thomas Girone specifically stated that the warning indicators found by the examiner during the Examination were probably due to loan originator negligence.

32. Three (3) of the mortgage loan files reviewed during the Examination contained signatures on preliminary mortgage loan disclosures that were inconsistent with closed mortgage loan documents and had been materially altered.

33. As a result of the Examination, Thomas Girone agreed that the warning indicators that were found during the Examination were serious issues that were probably the result of a negligent loan officer.

34. As a result of the Examination and a subsequent meeting with the Bureau on November 18, 2008, Thomas Girone admitted that Main Line Capital did not have adequate internal controls in place to monitor the accuracy of information that was presented by loan originators to mortgage loan lenders.

35. Since Thomas Girone admitted that no internal controls were in place at Main Line Capital that actively detected, reviewed, and halted the passing of inaccurate or fraudulent information to mortgage loan lenders, Main Line Capital demonstrated negligence and incompetence as provided in Section 6139(a)(10) of the Mortgage Act (corresponding to Section 313(a)(14) of the MBBCEPA).

Authority of the Department

36. Section 6138(a)(4) of the Mortgage Act (corresponding to Sections 310(a) of the MBBCEPA and 16(1) of the SMLA) grants the Department broad authority to issue orders for the enforcement of the Mortgage Act. 7 Pa.C.S. § 6138(a)(4) (corresponding to 63 P.S. § 456.310(a) and 7 P.S. § 6616(1)).

37. Section 6139(a)(10) of the Mortgage Act (corresponding to Section 313(a)(14) of the MBBCEPA) provides, in relevant part, that the Department may suspend, revoke or refuse to renew a license issued pursuant to the Mortgage Act if a licensee or director, officer, partner, employee or owner of a licensee has "[d]emonstrated negligence or incompetence in performing an act for which the licensee is required to hold a license under this chapter." 7 Pa.C.S. § 6139(a)(10) (corresponding to 63 P.S. § 456.313(a)(14)).

38. Section 6140(b) of the Mortgage Act (corresponding to Section 314(c) of the MBBCEPA and Section 22(b) of the SMLA) provides, in relevant part, that "[a] person licensed under this chapter or director, officer, owner, partner, employee or agent of a licensee who violates a provision of this chapter or who commits any action which would subject the licensee to suspension, revocation or nonrenewal under section 6139 may be fined by the department up to \$10,000 for each offense." 7 Pa.C.S. § 6140(b) (corresponding to 63 P.S. § 456.314(c) and 7 P.S. § 6622(b)).

#### VIOLATIONS

39. Main Line Capital is in violation of the following sections of the Mortgage Act:
- a. Section 6139 (a)(1) (corresponding to Section 313(a)(1) of the MBBCEPA) by providing a material misstatement on a report submitted to the Department;
  - b. Section 6137(7) of the Mortgage Act (corresponding to Section 309(a)(5) of the MBBCEPA) by committing to close loans while licensed as a broker;
  - c. Section 6102 of the Mortgage Act (corresponding to sections 303(a) and 314(c)) by allowing unlicensed Loan Officers to solicit and negotiate mortgage loans and not compensating the individuals on a W-2 basis thus consenting to violations; and

d. Section 6139(a)(10) of the Mortgage Act (corresponding to Section 313(a)(14) of the MBBCEPA) by allowing fraudulent information to be submitted by a loan originator to lenders thus demonstrating negligence and incompetence under the Mortgage Act.

#### RELIEF

40. License Surrender Within fifteen (15) days of the Effective Date of this Order, Main Line Capital and Thomas Girone agree to a surrender mortgage broker license no. 925963.

41. Re-Licensure. Upon submission for licensure in the future Main Line Capital and/or Thomas Girone (individually or as part of another company) shall submit an acceptable internal control plan (the "Plan") to the Bureau which discloses how policies and procedures will be implemented to actively detect warning indicators of fraud and/or misrepresentation, review those warning indicators, and mitigate the dissemination of inaccurate or fraudulent information to mortgage loan lenders. The Plan shall provide policies and procedures which include, but are not limited to: compliance with the Mortgage Act, the procurement and implementation of a third party vendor's services or equivalent software services devised for the early detection and mitigation of inaccurate mortgage loan information, the training of Main Line Capital's and/or Thomas Girone's employees and managers in fraud detection and the type and usage of background checks when hiring new employees.

The Bureau shall review the Plan and approve or refuse to approve the Plan within fifteen (15) days of the submission of the Plan. Approval of the Plan shall not be unreasonably withheld. If the Bureau does not approve the Plan, the Bureau shall provide comments on why the Plan is unacceptable and allow Main Line Capital and/or Thomas Girone the opportunity to

resubmit the Plan with the appropriate changes. The application process shall continue unless and until such time as the Bureau approves the Plan.

42. Fine in Abeyance. Upon the date of application for licensure, Main Line Capital and/or Thomas Girone agree to pay the Department a fine in the amount of two thousand dollars (\$2,000). The fine payment shall be remitted by a certified check or money order made payable to the Department of Banking, and shall be sent to the Attention of the Non-Depository Institutions, Bureau of Compliance, Investigation and Licensing, 17 North Second Street, Suite 1300, Harrisburg, PA 17101. Main Line Capital and/or Thomas Girone agree that the fine shall be payable upon application for any type of license permitted by the Mortgage Act, including, but not limited to, mortgage broker, mortgage lender, mortgage loan correspondent or mortgage originator.

43. Corrective Measures. Upon the Effective Date of this Order, Main Line Capital and Thomas Girone agree to:

- a. provide accurate information on all future submissions to the Department;
- b. cease issuing commitments to borrowers unless and until such time that Main Line Capital becomes licensed as a mortgage banker;
- c. pay all employees on a W-2 tax basis; and
- d. adhere to the internal control plan as described in paragraph 42.

44. Abeyance. Main Line Capital and Thomas Girone agree that if the Bureau determines that Main Line Capital and/or Thomas Girone have violated this Order, the Bureau shall order an immediate prohibition of Main Line Capital's owners for a period of five (5) years.

## FURTHER PROVISIONS

45. Consent. Main Line Capital and Thomas Girone hereby knowingly, willingly, voluntarily and irrevocably consent to the entry of this Order pursuant to the Bureau's order authority under the Mortgage Act and agree that they understand all of the terms and conditions contained therein. Main Line Capital and Thomas Girone, by voluntarily entering into this Order, waive any right to a hearing or appeal concerning the terms, conditions and/or penalties set forth in this Order.

46. Publication. The Department will publish this Order pursuant to its authority in Section 302.A.(5) of the Department of Banking Code. 71 P.S. § 733-302.A.(5).

47. Entire Agreement. This Order contains the whole agreement between the parties. There are no other terms, obligations, covenants, representations, statements, conditions, or otherwise, of any kind whatsoever concerning this Order. This Order may be amended in writing by mutual agreement by the Bureau, Main Line Capital and Thomas Girone.

48. Binding Nature. The Department, Thomas Girone, Main Line Capital, and all officers, owners, directors, employees, heirs and assigns of Main Line Capital intend to be and are legally bound by the terms of this Order.

49. Counsel. This Order is entered into by the parties upon full opportunity for legal advice from legal counsel.

50. Effectiveness. Main Line Capital and Thomas Girone hereby stipulate and agree that the Order shall become effective on the date that the Bureau executes the Order (the "Effective Date").

51. Other Enforcement Action.

a. The Department reserves all of its rights, duties, and authority to enforce all statutes, rules and regulations under its jurisdiction against Main Line Capital and Thomas Girone in the future regarding all matters not resolved by this Order.

b. Main Line Capital and Thomas Girone acknowledge and agree that this Order is only binding upon the Department and not any other local, state or federal agency, department or office regarding matters within this Order.

52. Authorization. The parties below are authorized to execute this Order and legally bind their respective parties.

53. Counterparts. This Order may be executed in separate counterparts and by facsimile.

54. Titles. The titles used to identify the paragraphs of this document are for the convenience of reference only and do not control the interpretation of this document.

WHEREFORE, in consideration of the foregoing, including the recital paragraphs, the Department, Main Line Capital and Thomas Girone intending to be legally bound do hereby execute this Consent Agreement and Order.

FOR THE COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF BANKING  
BUREAU OF COMPLIANCE, INVESTIGATION  
AND LICENSING

\_\_\_\_\_  
Ryan M. Walsh, Administrator  
Bureau of Compliance, Investigation and Licensing  
Department of Banking

Date: April 7, 2009

FOR MAIN LINE CAPITAL, INC.

\_\_\_\_\_  
(Officer Signature)

\_\_\_\_\_  
(Print Officer Name)

\_\_\_\_\_  
(Title)

Date: 4-7-2009

FOR THOMAS P. GIRONE

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Print Name)

INDIVIDUAL  
(Title)

Date: 4-7-2009